



THE LAW SOCIETY
of SCOTLAND
www.lawscot.org.uk

Conveyancing and ARTL Conference 2007

Money Laundering Regulations 2007

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Third Directive and Money Laundering Regulations 2007

- The Money Laundering Regulations 2007, which implement the Third Money Laundering directive, are due to come into force on 15th December 2007. www.hm-treasury.gov.uk
- The Society is the Regulator for Scottish solicitors in terms of the Regulations
- Guidance issued by the Society, subject to Treasury approval, will be taken into account in determining compliance with the Regulations



What's different from the current regulations?

One major change is the approach which is:

- Risk based, appropriate and proportionate systems to prevent and detect money laundering
- A move away from a tick box, rigid and possibly mechanical compliance regime



What Guidance will be issued?

- **The Society is a member of the Regulators Forum.**
- **The aim of the Forum is to ensure a coherent and effective approach to anti-money laundering supervision in the UK**
- **One current task is to ensure guidance is provided before 15th December and that it is consistent across all sectors.**
- **The Society is working with other regulators to achieve this.**



Guidance

- **The Society has decided to adopt Part 1 of the JMLSG Guidance rather than reinvent the wheel in areas which are common to our members.**
- **We have also decided to refer to the JMLSG Guidance as a document rather than extract sections into our own guidance to prevent issues being taken out of context.**



Guidance

- The Regulations run to some 48 pages while Part 1 of the JMLSG Guidance is three times that size. However the guidance is extremely well ordered and indexed making it simple to access the information you require.



Guidance

- **The Society acknowledges the generosity of the JMLSG and thanks them for allowing the Society and its members to adopt Part 1 as the basis for the Society's guidance.**
- **In addition to the JMLSG Guidance the Society is producing guidance on areas specific to Scottish Solicitors, such as legal professional privilege.**



How do I implement customer due diligence?

- Identity– upscale but do not downscale
- Beneficial ownership– who is in control/whose money is it
- Business relationship – does it make sense
- Existing customers – refreshing data after 1, 3 and 5 years



Risk Sensitive

- A simple example, specified by the regulations, is of clients who you do not meet face to face. They are high risk and require enhanced CDD
- Transactions carried out using cash would also be a typical indicator of a high risk of money laundering



How does the risk basis work?

- Training is essential – all staff must understand their obligations
- Building some sort of risks score into your client identification process
- Use the risk basis to upscale but not to downscale checks
- Have the courage to turn away certain types of business
- Empower your MLRO



How do I deal with the tougher cases?

- **Noncompliance – identify and do not proceed**
- **Simplified due diligence – ensure everyone understands the limited scope**
- **Enhanced due diligence – consider requiring such cases be referred to MLRO**
- **Politically exposed persons – Google?**



How important it is record keeping?

- Reliance on third parties for identity – limit scope
- Records and procedures – your first line of defence
- Training – untrained staff are a potential liability, a breach of the Regulations, and may effectively have “a get out of jail free card”
- Corporate responsibility – you can no longer be behind behind the MLRO



What do I do next?

- Book a place at the Society's money-laundering Roadshows in December
- Visit the JMLSG website in early December
- Visit the Law Society website in early December
- Develop a plan and implement it