

Money Laundering Regulations 2017

This guidance note aims to summarise some of the changes to anti-money laundering requirements introduced by the [Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (MLR 2017), with reference to the [Legal Sector Anti-Money Laundering Guidance](#).

MLR 2017 came into effect on 26 June 2017 and whilst much of the Money Laundering Regulations 2007 (MLR 2007) remain relevant, there are many amendments and additions. The most relevant changes for CLC-regulated practices to be aware of are summarised below.

The [Legal Sector Anti-Money Laundering Guidance](#) was prepared by the AML Legal Supervisors and was approved by HM Treasury in March 2018. The AML Legal Supervisors comprise the CLC, along with other legal sector regulators and representative bodies.

This guidance note is not intended to provide a comprehensive overview of your anti-money laundering obligations and assumes prior knowledge of the requirements of the MLR 2007.

Risk Assessment [\[Regulation 18 MLR 2017\]](#)

CLC Practices are required to carry out and maintain a documented practice-wide risk assessment to identify and assess the risk of money laundering and terrorist financing.

You must also have written policies, controls and procedures that enable you to effectively manage, monitor and mitigate the risks that you have identified.

Your Regulatory Supervision Manager is able to provide you with a risk assessment template should you require any assistance.

More information about risk assessments can be found in Chapter 2 of the Legal Sector Anti-Money Laundering Guidance.

Policies, controls and procedures [\[Regulation 19 MLR 2017\]](#)

CLC Practices must have written policies, controls and procedures in place to mitigate and manage the AML and CTF risks identified in the practice's risk assessment. These need to be proportionate to the size and nature of your practice.

Practices must ensure they have policies, controls and procedures which address:

1. Risk management.
2. Internal controls.
3. CDD controls.
4. Reliance and record keeping.
5. Disclosures to the NCA (and decisions not to make disclosures to the NCA).
6. The monitoring and management of compliance with the policies, controls and procedures.

The policies, controls and procedures must be:

- (a) approved by senior management.

- (b) available to all relevant members of staff.
- (c) maintained in writing. Any changes made as a result of reviews and the steps taken to communicate them within the practice should also be documented.

Parent undertakings need to have group-wide AML policies and controls that are available to all their subsidiaries [[Regulation 20 MLR 2017](#)].

More information about policies, controls and procedures can be found in Chapter 3 of the Legal Sector Anti-Money Laundering Guidance.

Internal controls [[Regulation 21 MLR 2017](#)]

Regulation 21(1) sets out the internal controls which practices are required to adopt 'with regard to the size and nature of its business'.

CLC Practices are required to:

- (a) appoint a member of board or management with responsibility for compliance with MLR 2017;
- (b) notify the CLC within 14 days of the appointment of the member of board or management and of the nominated officer (and any subsequent appointments);
- (c) screen employees that carry out work relevant to firm's AML procedures prior to and during the course of their employment in relation to their skills and knowledge and their conduct and integrity;
- (d) establish independent audit function to examine and evaluate adequacy and effectiveness of the practice's policies, controls and procedures, make recommendations and monitor compliance with those recommendations;
- (e) have systems in place which enable it to respond fully and rapidly to enquiries from financial investigators and any law enforcement authority about business relationships with any person.

More information about internal controls can be found in Chapter 3.4.2 of the Legal Sector Anti-Money Laundering Guidance.

Training [[Regulation 24 MLR 2017](#)]

Your staff members are the most effective defence against money launderers. Regulation 24 requires that you ensure relevant employees:

- Are made aware of the law relating to money laundering, terrorist financing and the requirements of data protection which are relevant to the implementation of the MLR 2017, and
- Are regularly provided with training in how to recognise and deal with transactions and other activities which may be related to money laundering or terrorist financing.

CLC Practices must keep a record in writing of the steps taken to make employees aware of AML requirements and the training given.

More information about training can be found in Chapter 3.7 of the Legal Sector Anti-Money Laundering Guidance.

Customer Due Diligence (CDD) [Regulations [27](#) & [28](#) MLR 2017]

You are in a better position to identify suspicious transactions if you know your customer and understand the reasoning behind the instructions they give you.

Regulation 27 requires you to apply CDD when:

- establishing a business relationship;
- carrying out an occasional transaction that amounts to 15,000 Euros or more, whether it is executed in a single operation or in several operations which appear to be linked.

Regulation 28 requires you to:

- identify the client and verify their identity on the basis of documents or information obtained from the client or a reliable source;
- identify where there is a beneficial owner who is not the client and take reasonable measures to verify their identity;
- assess and where appropriate obtain information on the purpose and intended nature of the business relationship or transaction.

CDD must be completed before establishing a business relationship or starting work for the client [[30\(2\) MLR 2017](#)]. [Regulation 31](#) provides that if you are unable to complete CDD in time, you cannot carry out a transaction with or for the client.

CDD records must be kept for 5 years and destroyed at end of that period [[40\(3\) MLR 2017](#)] unless required by statute, for the purpose of court proceedings or agreed otherwise with client [[40\(5\) MLR 2017](#)]. You should also consider your obligations under the General Data Protection Regulation.

More information about CDD, including ID verification, can be found in Chapter 4 of the Legal Sector Anti-Money Laundering Guidance.

Enhanced Due Diligence (EDD) [[Regulation 33 MLR 2017](#)]

You will need to apply EDD on a risk-sensitive basis where:

- your risk assessment identifies the case as being high risk of money laundering or terrorist financing;
- the client is a politically exposed person (PEP) [[35 MLR 2017](#)], or a family member or known close associate of a PEP. This has now been extended to include local and domestic PEPs [[35\(14\)](#)]. CLC Practices must have the approval of senior management to continue the business relationship with a PEP, a family member or known close associate of a PEP [[35\(5\)\(a\)](#)];
- the client or transaction is in a high-risk overseas country.

EDD is no longer mandatory if you do not see your client face to face, although it is listed as a risk factors [[33\(6\)\(b\)\(iii\)](#)].



More information about EDD and PEPs can be found in Chapter 4.12 of the Legal Sector Anti-Money Laundering Guidance.

Simplified Due Diligence (SDD) [\[Regulation 37 MLR 2017\]](#)

You may undertake SDD where your risk assessment determines that the business relationship or transaction presents a low risk of money laundering or terrorist financing.

When assessing whether there is a lower risk of money laundering or terrorist financing, you must take into account the client, the product, service, transaction or delivery channel risk factors and the geographical risk factors based on where the client is established.

More information about SDD can be found in Chapter 4.11 of the Legal Sector Anti-Money Laundering Guidance.

Criminality checks [\[Regulation 26 MLR 2017\]](#)

The CLC as a supervisory authority, is required to approve beneficial owners, officers or managers, or sole practitioners of practices licensed by the CLC in order to be satisfied that none of these individuals have been convicted of a relevant offence.

The CLC will grant approval unless an individual has been convicted of an offence listed in Schedule 3 MLR 2017.

All the necessary checks were made by the CLC by the deadline of 26 June 2018.

Trust or company service providers (TCSP) [\[Regulation 56 MLR 2017\]](#)

A CLC Practice must not act as a TCSP unless it has been registered with HMRC and notified the CLC.

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