

Money Laundering Regulations 2017: Consultation

Response from NAEA Propertymark

April 2017

Background

1. NAEA Propertymark (National Association of Estate Agents) is the UK's leading professional body for estate agency personnel; representing more than 10,000 offices from across the UK property sector. These include residential and commercial sales and lettings, property management, business transfer, auctioneering and land.
2. NAEA Propertymark is dedicated to the goal of professionalism and by appointing an NAEA Propertymark agent to represent them consumers will receive in return the highest level of integrity and service for all property matters. NAEA Propertymark agents are bound by a vigorously enforced Code of Practice and adhere to professional Rules of Conduct. Failure to do so can result in heavy financial penalties and possible expulsion from the organisation.

Questions

1. The Government is interested in views on its approach to one-off company formation, including under which circumstances it might be appropriate, as part of the risk-based approach, for a trust or company service provider to apply simplified due diligence where it concerns the formation of a single company.

3. It will be appropriate for agents engaged in Block Management to apply simplified due diligence where it concerns the formation of a single company. This is because a property manager (be it an individual or a firm) may look after individual properties or a group of properties such as a block of flats on behalf of a management company.
4. This is significant because it is an unintended consequence of the original legislation where agents involved in block management who provide a registered address for a Resident's Management Company or act as a Director of a Resident's Management Company, are caught under the definition of Trust and Company Service Provider; consequently they are required to register with the HMRC for anti-money laundering purposes.

2. The government welcomes views on its approach to allow SDD only when firms providing pooled client accounts are low risk.

5. NAEA Propertymark cautiously welcomes the Government's approach to allow Simplified Due Diligence only when firms providing pooled clients are low risk. On the one hand it will be beneficial to our members who practice both sales and lettings but

on the other there will be implications for agents who just carry out lettings work now that the Government has decided not to include letting agents in the scope of the legislation.

6. As we outlined in our response to HM Treasury's consultation on the transposition of the Fourth Money Laundering Directive, when an estate agent receives or holds a clients' money this is required to be kept in a separate client bank or building society account or accounts. Because estate agents are caught under the scope of the regulations banks will have confidence that checks are being carried on the agent's client. However, letting agents do not fall under the regulation and may find resistance from the banks in being able to open client accounts because they won't have the reassurance they need in order to know that the checks are being policed correctly and where the money is coming from.

3. The government would welcome views on whether the reference to “at the latest two working days” should be included, and if not, how long third parties should be given to provide this information.

7. We have no objection to “at the latest two working days” being included as the set time of how long third parties have to provide copies of identification documents to help identify the customer or its beneficial owner. This should allow enough time for third parties to provide the relevant documentation of information that they essentially already hold.

4. The government would welcome views from the sector on the requirement for the policies, controls and procedures to be documented.

8. NAEA Propertymark believes that documented policies, controls and procedures must be in writing. Only by having these documents written down can our members evidence that they have them in place. The 2007 Money Laundering Regulations did not say that policies and procedures had to be in writing and the new regulations should be updated to reflect this.
9. Furthermore, written documented policies and procedures are important as they ensure that the systems are applied consistently and they enable a business to demonstrate its knowledge of, and compliance with, the Money Laundering Regulations and relevant legislation. Written procedures also provide an audit-trail on the action taken relating to different types of transaction. Ultimately, Anti-Money Laundering supervisors may ask to see a firm's policies and procedures, but unless these documents are written down they will be unable to prove that they have them in place.