

Money Laundering 2007 – The New Regime

By Geoffrey Dearing

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Disclaimer

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Introduction

IN MARCH 2004, the legal profession and other professionals faced for the first time the risk of criminal penalties for failing to comply with anti-money laundering regulations. Prior to March 2004, there was less focus or awareness among the professions in respect of money laundering, except for those firms who may have been directly affected. Solicitors filed a mere 50 suspicious activity reports in March 2003; however, the changes brought about in March 2004 resulted in 1,500 reports being filed by solicitors in that month alone. In the period since 2004, focus and awareness among the legal profession has increased considerably and money laundering has received a substantial amount of publicity, both with regard to organised criminal activity and terrorist financing.

All those involved in 'relevant business' and 'regulated activity', which will catch most solicitors, have had to come to terms with establishing proper records, procedures and systems within their offices, and the request for identification of new clients is now routine. However, the burden of administration has been considerable and many question whether the legislation is truly proportionate bearing in mind the burdens placed on every professional firm. Statistics would seem to support the lack of focus and reports in other jurisdictions compared with the United Kingdom and there is some concern expressed by many that the solutions introduced are 'gold plated'.

Whatever the individual views of practitioners, recent decisions in the Court of Appeal have made it abundantly clear that the need to comply with the legislation is absolute and the consequences of failure to do so potentially catastrophic for the individual.

The Third Directive has resulted in the Money Laundering Regulations 2007, which at first glance appear to raise the bar in terms of the requirements on all professionals affected by the money laundering legislation. It remains to be seen how the combination of the guidance issued by the Law Society and the Regulations will operate in practice; however, the need for good systems, awareness and compliance is clear and it is hoped that this Report will assist all those dealing with the new Regulations and guidelines at the sharp end.

Geoffrey Dearing
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