

From: Morris Robert (BRE)
Sent: 02 September 2015 11:55
To: ICSA
Subject: BIS launches review to improve the effectiveness of the Anti-Money Laundering regime

Dear colleague,

We are writing to you as a representative of the ICSA to let you know about a review that the Government [has just launched](#) looking at ways in which we can enhance the effectiveness of the Anti-Money Laundering and Terrorist Financing regime - from the perspective of both directly regulated businesses and their customers. This is one of six “Cutting Red Tape” reviews announced on 10 July in the Government’s Productivity Plan, which you can access [here](#).

We should be clear that it is not the intention of the review to weaken or undermine very necessary controls. However, if there are aspects of the regime that appear to business to be unclear, unnecessarily cumbersome, conflicting or confusing this in itself can harm compliance as well as wasting business time. It can also divert resource from a focus on areas of genuine concern. We have also been told that that legitimate customers of directly regulated businesses are sometimes asked to undertake unnecessary activity or provide evidence in unnecessarily burdensome ways. If this is the case, this too can waste time and money while diverting attention from areas of real concern.

Please find the full scope of the review below, which you can also find on the [Cutting Red Tape website](#). In short, it will gather evidence from affected businesses and other interested parties on the way in which the regime operates – for example, asking for evidence about whether advice and guidance are clear, and for example, whether action to meet one set of requirements or regulations leads to conflict with, or additional needs to meet, another set of requirements or regulations. We will gather evidence through the [website](#) and face to face meetings with business.

We should be delighted if you were able to bring the review to the attention of the members of the ICSA and we would welcome the opportunity to hear from you and your members in whatever way is most helpful – by receiving private e-mails, through round tables or visits by us to companies. We have also made provision for companies to submit evidence on an anonymous basis. The evidence-gathering phase of this review will run until October 23.

Best regards,

Cutting red tape team
cuttingredtape@bis.gsi.gov.uk

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The Scope of the BIS Review of Anti-Money Laundering and Counter Terrorist Finance

This Review is seeking evidence of the impact on business of the current anti-money laundering and terrorist finance regime, and specifically the role of supervisors in that regime. The aim is to examine the potential to improve compliance and efficiency, by identifying aspects of the supervisory regime that appear to businesses in the regulated sector to be unclear, unnecessarily cumbersome, conflicting or confusing.

The Government's domestic objective on anti-money laundering and terrorist financing is to protect the integrity and stability of the financial system, through effective and proportionate anti-money laundering, counter-terrorist and proliferation finance measures.

The government will not abrogate its international commitments and EU obligations as a result of the review. UK legislation generally follows on from EU Directives, the most recent of which was published in June this year, and which the UK now intends to bring into domestic law through updated money laundering regulations by June 2017. EU Directives seek to give effect to the Financial Action Taskforce Global standards on anti-money laundering and terrorist financing, and set out that banks, financial institutions and other businesses should carry out appropriate due diligence focused on where risk is greatest.

The Government's clear policy is that businesses' approach to money laundering and terrorist financing should be risk-based. This means that businesses are expected to form their own judgment of where the risks fall in a given case and how best to comply with the relevant legislation and sectoral guidance. This is the clear position of the international and EU community and is not open to review. However, the team would be interested to receive evidence on how implementation of this policy in practice might be improved.

The Review will seek evidence in relation to the role of all supervisors in the implementation of the current Money Laundering Regulations (2007). It will seek to identify any aspects of regulatory activity that could be made more efficient - both for those that operate the regime and are subject to it and for enforcing authorities. In seeking evidence of the impacts on business of meeting their regulatory obligations, this includes impacts:

- on banks, financial institutions and other businesses that are affected directly by the regime; and
- on businesses who in their turn are asked to comply with the anti-money laundering requirements of those banks and financial and other businesses.

The review is seeking evidence of ineffective requirements imposed on business through legislation or its implementation. In respect of the law, the key legislative provisions are listed below.

In respect of supervision, implementation and enforcement by authorities, the review is seeking evidence of the impact on businesses, for example:

- The effectiveness and proportionality of the supervisors' approach to supervision and enforcement, and how could this be improved, specifically in relation to the bodies listed below
- How and where businesses access information about their compliance, and how effective and proportionate is AML/CTF guidance (for example FCA and JMLSG guidance).
- Evidence of over-implementation (given that due diligence on customers should be proportionate to the risks posed), and on the range of tools to address this and how are they used
- Whether self-regulation supports an effective and proportionate AML/CTF regime

- Good practice examples of activity or approaches taken by supervisors to support business compliance, which could be replicated elsewhere
- Evidence of the supervisory regimes in other countries that we can learn from, or that impacts on businesses in the UK

Evidence gathered by the review will be shared with relevant Government Departments, authorities and regulators (although businesses may request to have their evidence shared on an anonymous basis). Relevant findings from this exercise will be fed into the analysis of responses received through other forthcoming consultations such as that due later in the year on the implementation of the 4th EU Money Laundering Directive and the Regulation on information accompanying transfers of funds.

Any issues concerning the regulation of systemic financial risk fall outside the scope of the review. This review will not cover the burdens associated with the requirement to report suspicious activity to the National Crime Agency through the Suspicious Activity Report regime.

A call for evidence will run for 8 weeks until Friday 23 October, during which businesses are encouraged to submit their views on the Cutting Red Tape website, or via email to cuttingredtape@BIS.gsi.gov.uk.

The following are a series of links to key pieces of legislation, guidance and policy documents

- Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (4th AML directive)
<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32015L0849>
- The Money Laundering Regulations 2007
<http://www.legislation.gov.uk/ukxi/2007/2157/contents/made>
- Regulation (EU) 2015/847 on information accompanying transfers of funds (the Wire Transfer Regulations)
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.141.01.0001.01.ENG
- The FCA issued reviewed guidance on anti-money laundering in April 2015
- <https://fshandbook.info/FS/html/FCA/FC>
- <https://www.gov.uk/government/publications/preventing-money-laundering/preventing-money-laundering>
- http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/aml_hmt_approved_guidance.pdf
- <https://www.gov.uk/money-laundering-regulations-introduction>
- <http://www.lawsociety.org.uk/support-services/risk-compliance/anti-money-laundering/>
- <http://www.icaew.com/en/technical/legal-and-regulatory/money-laundering>
- <http://www.gamblingcommission.gov.uk/Gambling-sectors/Casinos/Operating-licence-holders/Key-information/Prevention-of-money-laundering.aspx>
- <https://www.gov.uk/government/publications/money-laundering-regulations-2007-for-insolvency-practitioners>

Background

This is one of a series of reviews as part of the new *Cutting Red Tape* programme. The new Programme builds on the success of the previous *Red Tape Challenge* and *Focus on Enforcement* initiative. These initiatives looked respectively at all aspects of the law and its impact on business and all aspects of how compliance with and enforcement of the law as it impacts on businesses in specific sectors.

Annex A: Supervisors under the existing 2007 Regulations

Financial Conduct Authority
HMRC
Gambling Commission
Department for Business Innovation & Skills
Department of Enterprise, Trade and Investment in Northern Ireland
Association of Accounting Technicians
Association of Chartered Certified Accountants
Association of International Accountants
Association of Taxation Technicians
Chartered Institute of Legal Executives
Chartered Institute of Management Accountants
Chartered Institute of Taxation
Council for Licensed Conveyors
Faculty of Advocates
Faculty Office of the Archbishop of Canterbury
General Council of the Bar
General Council of the Bar of Northern Ireland
Insolvency Practitioners Association
Institute of Certified Bookkeepers
Institute of Chartered Accountants in England and Wales
Institute of Chartered Accountants in Ireland
Institute of Chartered Accountants of Scotland
Institute of Financial Accountants
International Association of Book-keepers
Law Society
Law Society of Scotland
Law Society of Northern Ireland