

## Insights

# LETTING AGENTS: ANTI-MONEY LAUNDERING REQUIREMENTS

Feb 14, 2020

## Introduction

On 10 January 2020, [The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019](#) came into force. As a result, letting agents are now supervised by HMRC for anti-money laundering and counter-terrorist financing (AML/CTF) purposes if they rent out residential or commercial property for one month or more and at a rent which, during at least part of the term, is or is equivalent to a monthly rent of EUR 10,000.

The online registration system will open in May 2020, and businesses must register by 10 January 2021.

HMRC guidance on the regulations for letting agents is expected to be published and approved by HM Treasury “shortly” – reportedly by late February or early March. The HMRC letting agents guidance is likely to be similar to [HMRC estate agency guidance](#) for money laundering supervision.

Estate agents who also arrange lettings have been required to register with HMRC for AML/CTF purposes since the 2017 Money Laundering Regulations came into force. An estate agency business which also arranges lettings must, for example, already submit suspicious activity reports where suspicion arises within their lettings business.

## Approval

HMRC carries out approval checks when estate agency businesses register for money laundering supervision, similar to the fit and proper process for other sectors. The checks apply to owners and those in positions of authority such as senior managers, officers, directors, beneficial owners and sole practitioners. If a new responsible person joins the business after it has registered, their details can be supplied via the online service.

Every supervised business must have a nominated officer, no matter what size it is. Larger businesses must appoint a director or senior manager (compliance officer) as responsible for monitoring compliance and effectiveness, and this individual is recommended to be different from

the nominated officer. HMRC must be informed within 14 days of the names of the compliance and nominated officers.

Screening must be conducted on staff involved in the identification of risk, carrying out controls or procedures to reduce risk or are otherwise involved in compliance with the regulations including the receiving of documents from client. Screening involves assessing both the skills, knowledge and expertise of staff to carry out their functions effectively and, also, the conduct and integrity of the individual.

## **Guidance**

Current HMRC guidance for estate agents focuses on the following areas, and guidance for letting agents is likely to follow similar lines:

- documenting a risk assessment for the business (which may be requested by HMRC);
- written policies, controls and procedures, with regular reviews and audits;
- conducting (ongoing) customer due diligence. CDD must be conducted on all customers (and counterparties in a sale) and beneficial owners before entering into a business relationship or occasional transaction. The customers' identity and that of any beneficial owners, must be verified before entering into a business relationship or occasional transaction. For politically exposed persons, their family and close associates, their identity and source of wealth must be verified. The extent of customer due diligence measures depends on the degree of risk. Simplified due diligence may be permissible where the business relationship or transaction is considered low risk for AML/CTF. It can apply, with some exceptions, to any person you assess as low risk e.g. public authority, listed company, financial institution subject to equivalent AML supervision. Enhanced due diligence should be undertaken in situations assessed as high risk e.g. high risk third countries, politically exposed persons, complex transactions, super prime property;
- reporting suspicious activity. The nominated officer should make a suspicious activity report even if no transaction takes place. It is a criminal offence for anyone to do or say anything that 'tips off' another person that a disclosure has been made where the tip-off is likely to prejudice any investigation that might take place. If you wish to go ahead with the transaction or start a business relationship with the customer who you have made a report about, then you must ask for permission from the National Crime Agency to progress the transaction;
- record keeping requirements (generally for 5 years);
- staff awareness and regular training.

## **Certifying documents**

HMRC sets out detailed guidance in each of the above areas, which needs to be carefully considered and applied to the business. To take just one example, for supporting documentation to verify identity, if the original documents are not produced, or cannot be validated with the issuing source, then any certified document used for CDD must have:

- a statement that the document is 'Certified to be a true copy of the original seen by me' and where appropriate, 'This is a true likeness of the person' from a person who is competent at document inspection and impostor detection, such as a person from a regulated industry or in a position of trust;
- an official stamp of the person certifying and indication of professional status;
- been signed and dated with a printed name;
- the occupation and address or telephone number.

Checks must be made to make sure that the person certifying the copy exists and is an appropriate person to certify the document.

In addition to HMRC guidance, businesses also need to consult the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019.

## **Groups**

A parent company subject to the regulations must apply its policies, controls and procedures in all subsidiaries or branches, in or outside the UK, who are also carrying out regulated activities (i.e. if they are engaging in activity as stated within the Estate Agents Act for properties within the UK). A franchise business with substantial independence must register with HMRC in its own right.

## **Conclusion**

Letting agents which come within the scope of these Regulations and which were previously outside the anti-money laundering regulations applicable to estate agents and other sectors, should now be ready to conform with detailed rules. Preparatory compliance work should be started on compliance, if that has not already been undertaken, even though it will need to be revisited when HMRC's sectoral guidance is published in late February or early March.

## MEET THE TEAM



### **Mukul Chawla KC**

London

[mukul.chawla@bclplaw.com](mailto:mukul.chawla@bclplaw.com)

+44 (0) 20 3400 1000

---

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon ([kathrine.dixon@bclplaw.com](mailto:kathrine.dixon@bclplaw.com)) as the responsible attorney.