



Anti-Money Laundering Seminar

3 April 2019

Craig Weston
Senior Associate Barrister
Regulatory and Criminal Investigations Group
Irwin Mitchell LLP

0207 421 3976 / 07501 229485
craig.weston@irwinmitchell.com

What is money laundering?

- Concealing the source of the proceeds of criminal activity to disguise their illegal origin, through hiding, transferring and/or recycling illicit money or other currency through one or more transactions, or converting criminal proceeds into seemingly legitimate property.



Money laundering generally

- Money laundering is illegal. Must be vigilant for it inside and outside your organisation, with clients and third parties. Have procedures in place to identify, monitor, report and prevent it.
- Laundered money is often 'layered' via single or series of transactions.
- #FlagItUp

RICS professional statement

- To address the risk of real estate to money laundering, proactive action needs to be taken by the profession to strengthen standards.
- RICS professional standards and guidance – countering bribery and corruption, money laundering and terrorist financing.
- Effective from 1 September 2019.
- Applies to all RICS members and regulated firms.

Overview

- Professional statement divided into three parts:-
 - Mandatory requirements.
 - Guidance.
 - Supplementary guidance.

Mandatory requirements

- In relation to money laundering, RICS-regulated firms **must:-**
 - Not facilitate or be complicit in money laundering.
 - Have systems and training in place.
 - Report any suspicions.
 - Evaluate and review risks prospective and existing business relationships present.
 - Ensure responses to identified risks are appropriate
 - Use reliance only when there is appropriate level of confidence in quality of information from third party.

Mandatory requirements (cont'd)

- Take measures to understand client and purpose of transaction.
 - Verify identity of client.
 - Record and retain information detailing compliance with professional statement.
-
- In relation to money laundering, members **must:-**
 - Not facilitate or be complicit in money laundering.
 - Report any suspicions.

Guidance

- In relation to money laundering, RICS-regulated firms **should:-**
 - Have a written policy addressing money laundering risks.
 - Have appropriate governance and systems controls in place.
 - Provide training for staff.
 - Keep reports of suspicion confidential.
 - Identify beneficial owner of company/client in transaction
 - Appoint senior person to ensure policies are in place and complied with.

Guidance (cont'd)

- In relation to money laundering, members **should:-**
 - Keep up to date with training.
 - Comply with employer's policies and processes.
 - Keep reports of suspicion confidential.
 - If in a senior management position, take a leadership role in attempting to ensure employer has appropriate regime in place for addressing risks.

Supplementary guidance

- Know who you are doing business with.
- CDD will vary, but a risk-based approach is encouraged:-
 - Who do I act for?
 - What am I doing?
 - Why am I being asked to do something?
- Other professionals involved in transaction may also be targets for money launderers.
- Ultimate responsibility for the risk assessment of the client and resultant actions taken by the firm can never be outsourced.

Supplementary guidance (cont'd)

- 'Red flags' should not be ignored.
- Provision of practical training.
- Document and review money laundering policies.
- Be wary of 'tipping off'.
- Compliance with legislation, regulation or court order takes precedence.

Due diligence

- Customer due diligence: identify transacting party/parties, verify ID is valid and carry out an additional checks.
- For each firm to set up and apply its approach to CDD.
- Simplified due diligence: means full CDD not needed.
- Enhanced due diligence: must be applied in situations where more checking or monitoring is required to complete client profile.
- Understand source of funds / source of wealth - 'red flag' indicators.
- Consider refreshing CDD on existing clients periodically.

Politically exposed persons

- Present a higher risk for potential involvement in money laundering due to holding positions of influence.
- Have a policy to detect PEPs.
- Adopt EDD approach.
- Decisions must be documented.

Beneficial owners

- Person who benefits from ownership of security or property, who may / may not be recorded as the owner.
- Identify any beneficial owner.
- Have a policy to detect beneficial owners.
- Adopt EDD approach.
- Decisions must be documented.

Whistleblowing

- Consider having policy dealing with whistleblowing.
- No formal requirement, but should seriously be considered.

Next steps

- Countdown to 1 September 2019 – familiarise yourself with the professional statement.
- Any queries? Contact regulation@rics.org
- Further training? <https://academy.rics.org/e-learning/countering-bribery-and-corruption-money-laundering-and-terrorist-financing>
- Any questions?

