

Note of the Money Laundering Advisory Committee meeting, 2nd December 2004 at HM Treasury

PRESENT

- Chair: HM Treasury
- Home Office
- Financial Services Authority
- National Criminal Intelligence Service
- Association of Chief Police Officers
- City of London Police
- Metropolitan Police
- Joint Money Laundering Steering Group and British Bankers' Association
- The Law Society
- Representative of large retail financial institutions
- Representative of the Consultative Committee of Accountancy Bodies
- Representative of wholesale financial institutions and investment banks
- Representative of insurance product providers
- Representative of financial intermediaries
- Representative of building societies and small retail banks
- Gaming Board for Great Britain
- Royal Institution of Chartered Surveyors
- Foreign and Commonwealth Office
- HM Customs and Excise
- US Treasury

The chair welcomed the group, in particular its new members – representatives from the Gaming Board of Great Britain, the Royal Institution of Chartered Surveyors, the National Association of Estate Agents and HM Customs and Excise, as regulator/supervisor of High Value Dealers and Money Service Businesses.

MAIN AGENDA ITEMS

Anti-Money Laundering Strategy Document

2. HMT thanked members of the group who had provided feedback on the Strategy Document, published on October 26. Reaction had been very positive.

3. They then outlined the joined-up approach that public sector organisations had taken with the strategy. The document had been jointly published by HM Treasury, the Home Office and the Foreign and Commonwealth Office, and in association with a wide range of other agencies and bodies.

4. HMT explained that it was planned that the Assets Recovery Agency would attend the next MLAC meeting to talk about the communication strategy. The representatives of large retail financial institutions and the JMLSG said that progress was needed on this. There was agreement that a greater sense of urgency from Government on this issue would be beneficial, and that it was important to engage with the public on money laundering. Gaps in the CICFA communications strategy needed to be identified and dealt with.

Future of MLAC

5. HMT explained that the Better Regulation Task Force report "Regulatory Creep" and the Government's Anti-Money Laundering Strategy both refer to the need for effective engagement with the regulated sector. They presented a paper, agreed with the Home Office, considering the effectiveness and efficiency of the existing consultative arrangements and looking at the options for reform.

6. In summary, the paper suggests that MLAC become the primary consultative forum for money laundering issues, joint chaired by the Treasury and the Home Office. This would mean that:

- The remit of MLAC would be widened to include reporting and feedback issues for which the Home Office is responsible;
- A more joined up government approach to resolving regulated sector concerns would be achieved; and
- There would be less duplication between Treasury and Home Office groups in terms of discussion.

7. Officials were considering the establishment of a series of Working Groups to report to MLAC on some of the more detailed issues requiring closer examination – in particular Identity, Guidance Notes and Reporting and Feedback.

8. HMT requested that any comments on the proposals be provided by December 17.

9. The Home Office reinforced the point that there is currently some overlap in the current working group structure. It would therefore be more efficient to join things up under a single group, which would then be better placed to see the wider money laundering picture. The Home Office intended that the Money Laundering Reporting Task Force and the Regulated Sector Discussion Forum should be replaced by a Reporting and Feedback Working Group reporting to MLAC.

10. The following points were raised in the discussion:

- The representative of large retail financial institutions asked how often MLAC would meet under the proposal. He felt that, under the current arrangements, it has not met enough. HMT said that the issue of frequency of meetings could be addressed as part of the consultation.
- The FSA suggested that MLAC should help the Treasury develop the anti-money laundering strategy. HMT said that while MLAC should be strategic it was not intended for MLAC to programme manage the regime.
- The representative of large retail financial institutions said that it was important that the new group look at the way the legislation is bedding down. The Home Office agreed.
- He also raised the point that MLAC did not spend much time reviewing the efficiency and effectiveness of the UK's anti-money laundering strategy, as attributed to it in the proposal paper. The Group needed to consider whether this was part of its role. It was also important that members' comments and views were not lost.
- NCIS said that all interested parties have their own lines of accountability and that the group should not seek to replace these. There was agreement on this.
- The JMLSG reminded the group that MLAC's original purpose has been to advise Ministers on industry guidance notes. He welcomed the movement towards wider ranging responsibilities. He suggested that, under the proposals, a fourth subgroup could look at communication strategy.

11. HMT requested that MLAC members provide feedback on the objectives and priorities of the group, as well as the new proposed structure.

Action point:

12. MLAC members to respond to the Secretariat before Christmas.

Guidance Notes

13. HMT explained that they had been focusing on four sets of guidance notes over recent months:

- i) JMLSG 2003
- ii) JMLSG 2004
- iii) Auditing Practices Board
- iv) Society of Scrivener Notaries

14. The JMLSG representative outlined the state of play with the JMLSG Guidance. On the 2004 Guidance he explained that the JMLSG aims to issue the Guidance for public consultation early in 2005. The FSA said that it was important that the public sector positioned itself so that it did not delay the JMLSG from publication.

15. HMT said that it was important to get the approval of Treasury Ministers for the 2003 Guidance. MLAC members made no further comments on the guidance, meaning it can be submitted to the Financial Secretary for approval. [Note – the Financial Secretary has now approved JMSLG's 2003 Guidance Notes. Thanks to all those who have helped with this].

16. ACPO said that the forthcoming Serious and Organised Crime and Police Bill would have implications for the drafting of guidance. HMT reminded the group to provide comments on the guidance of the Auditing Practice Board.

Action point:

16. MLAC members to provide comments on the Auditors' guidance by 14 December.

Law enforcement issues

17. NCIS provided an update. NCIS had received 133,000 Suspicious Activity Reports (SARs) in the current calendar year. The final number for the year is likely to be around 145,000. The average time for requests for consent is down from 2.6 days, as at the time of the last meeting, to 1.4 days.

18. On the dissemination of SARs, as of February 2005 accredited personnel within eight of NCIS' major customer organisations will have access to the Elmer database as part of a pilot test. If this is successful, it will be rolled out to others after Easter. On the input side he underlined that the number of reports coming in the correct form, which would allow them to be processed quickly, is small. The inputting of a number of minor reports is in the process of being outsourced.

19. NCIS is working on a public access system to allow those making reports to submit them on-line. The Home office said that the Government is keen to prescribe both the form and manner of submitting SARs, and that ample consultation had taken place on these issues. The CCAB said that many of the small firms that she represented are not set up to make reports electronically and that therefore they should not be required to do so. NCIS and the Home Office said that in certain circumstances there could be exceptions from the requirements. The Home Office is committed to prescribing the form summer 2005.

20. John Bennett said that sometimes it is necessary to report very complicated transactions for which the prescribed form might not be suitable. Andrew Sladen said that law enforcement would be likely to contact the reporter to discuss the matter, if it were not clear.

21. The insurance product providers representative asked whether there was any scope for NCIS to provide guidance on what kind of SARs are useful. NCIS replied that this was not possible as the basis of the report must be the suspicion of the reporter. However, ACPO mentioned a Home Office funded piece of work on the use of SARs by law enforcement – in particular the Police - which could be provided to MLAC members, and might help meet the underlying demand raised by the insurance products providers representative.

22. ACPO introduced the joint HM Inspectorate Report 'Payback Time', on assets recovery. Although the report is critical in part of law enforcement, it is a positive incentive tool to encourage organisations to use their powers better.

23. The representative of financial intermediaries noted that after firms receive a letter from NCIS acknowledging a SAR, they receive no further feedback, and asked whether it would be possible to improve on this. NCIS said that this was because of the numbers involved, and because NCIS is not in contact with investigations. They also said that some sectors specifically do not want any further communication from NCIS after the letter. However, NCIS is committed to providing generic feedback on trends and typologies, for which industry can see NCIS Threat Assessments.

24. The building societies and small retail banks representative noted that NCIS had improved their level of service, which was welcomed by industry.

Criminal Procedure and Investigations Act (CPIA) and SARs

25. NCIS said that they had taken on board comments on the issue of the confidentiality in criminal trials of those making SARs, but these comments were on occasion contradictory. A paper, distributed to MLAC, had been sent to law enforcement. They hoped that this provided

reassurance to industry that there is a procedure in place for dealing with SARs confidentially, as far as possible.

26. The Law Society said that some of the ways that confidentiality could be breached were not dealt with in the paper. The building societies and small retail banks representative and the JMLSG said that a breach of confidentiality could have a serious impact on the effectiveness of the anti-money laundering reporting regime. The Law Society stressed the seriousness of this issue because of the potential for detrimental impact on individuals who have submitted reports. MLAC members were invited to respond in writing with their concerns over SARs being made available to the defence and members of staff having to appear in court.

US Treasury

27. HMT welcomed members of the US Treasury. They provided MLAC with their view on progress in the international fight against terrorism and money laundering.

Third EU Money Laundering Directive

28. HMT said that, whilst there had been no time to cover this, as planned, MLAC members would be invited to the forthcoming industry roundtable on the Directive and that she would write to MLAC members with details of recent developments. [Note; Letter sent to MLAC on 10 December 2004].