

MONEY LAUNDERING ADVISORY COMMITTEE

SECOND MEETING

WEDNESDAY 20th NOVEMBER 2002

HM Treasury

Attendees

- CHAIR: *HM Treasury*
- *MLAC Secretary*
- *Home Office*
- *National Criminal Intelligence Service*
- *Metropolitan Police*
- *Financial Services Authority*
- *Consultative Committee of Accountancy Bodies*
- *Peters & Peters, representing the Law Society*

- *British Bankers' Association and Chairman, Joint Money Laundering Steering Group*
- *Arbuthnot Latham and JMLSG, representing building societies and small retail financial institutions*
- *AXA Investment Managers and JMLSG, representing investment and insurance product providers*
- *Morgan Stanley Quilter and JMLSG, representing financial intermediaries*
- *UBS AG and JMLSG, representing wholesale financial institutions)*
- *Lloyds TSB and JMLSG, representing large retail financial institutions*
- *British Bankers' Association*

Apologies

- Apologies were received from the Financial Services Consumer Panel.

1. Review of FATF 40 recommendations (Paper MLAC 2/02)

- **The Chair** invited comments, including on the questions posed in the paper. Written comments should be sent to the Treasury by the end of November 2002, in order that they can be incorporated in discussions at the next

Financial Action Task Force (FATF) working group meeting in early December.

- **The FSA** commented that the FATF, in its review, has not included evidence that it has taken a risk-based approach, nor evidence that cost-benefit analyses of the recommendations have been carried out. The FSA further noted that cost benefit analyses should be a normal part of the assessment of recommendations, and offered assistance, through the Treasury, to the FATF in this regard.
- **The FSA** informed the Committee that it would be issuing a consultation paper on whether those parts of the financial services industry that had not yet done so should begin a risk-based current customer review, using filtering to identify risks. [Current customer reviews are being carried out by six major banks, which are checking the identities of customers who joined the banks before 1994 (when customer identification requirements were introduced).] The FSA will be carrying out cost benefit analyses of this approach, and has received a positive response to its risk-based approach.
- **The British Bankers' Association (BBA)** noted that its members were using a risk-based approach in the current customer review. It was noted that the FSA is meeting ten banks which are not conducting current customer reviews, with a view to extending the current customer review to them.
- **The Chair** suggested that arguments could have more force with FATF if industry views were represented collectively through representative organisations, perhaps internationally, and if common positions could be agreed. In response, the **Law Society** noted that an international organisation of lawyers was active in commenting on EC Directives and FATF consultations and would be responding to the current consultation on the review of the FATF 40 recommendations. **The Law Society** further noted that there are different views internationally on the extent to which lawyers should become involved in measures to combat money laundering, particularly reporting of suspicions, and explained that the UK leads the way in its reporting obligations for lawyers. **The Consultative Committee of Accountancy Bodies (CCAB)** also noted that the UK is ahead of international counterparts in terms of reporting requirements. CCAB suggested that it would be easier to persuade accountants of the importance of their involvement in anti-money laundering measures if a risk-based approach is used, but anti-money laundering is not currently a priority for international accountancy bodies.
- In a general discussion on the issues raised in opening remarks, the following points were made:
 - the insurance industry is not co-ordinated to be able to respond internationally;
 - the asset management industry does co-ordinate at the international level, but anti-money laundering is not often discussed;
 - Guidance Notes were considered to be useful because they are flexible and mutually beneficial to the industry and the regulator. They require

firms to use their judgement in applying the rules and guidance to individual cases.

- In summing up the discussion, **the Chair**:
 - requested written comments on the FATF review of its 40 recommendations by the end of November 2002;
 - suggested that industry could usefully co-operate internationally when responding to the consultation; and
 - noted that FATF prefers recommendations sufficiently precise to assess countries' compliance.

2. Guidance Notes

- On behalf of HM Customs and Excise, **the Treasury** informed the Committee that Customs would welcome comments on their draft guidance for money service businesses, which had been circulated to members in August, and comments on their video 'Money for Nothing?'. **The Treasury** will inform members of the deadline for comments after the meeting.
- **The JMLSG** reported that a draft of the updated guidance will be available on its website from late November. [*The draft was subsequently issued on 29 November*]. Comments will be invited, with a view to completing the guidance in mid February 2003 and publishing the guidance at the end of March 2003. JMLSG recognised that it would be difficult to finalise the guidance until the Money Laundering Regulations 2003 (which are currently out for consultation) had been laid before Parliament. The Regulations are not expected to be laid before Parliament until March 2003. After publication, JMLSG plans to put the guidance to the MLAC for its approval, with a view to seeking approval by Treasury Ministers.
- As the next MLAC meeting is not scheduled until May 2003, **the Chair** suggested that approval of the 2003 version of the JMLSG guidance by MLAC members could, if necessary, be conducted by correspondence, so that Treasury Minister's approval could be sought sooner. It would, however, also be important to allow sufficient time for MLAC members who had not been closely involved in the drafting to absorb and comment on the proposals. The **MLAC Secretary** will agree dates with JMLSG for agreement by correspondence.
- **The JMLSG** reported on the update of its guidance. The 2004 update will include a restructuring of the guidance documents so that overarching principles are followed by subsets of industry-orientated guidance. The JMLSG is establishing an editorial panel to oversee the guidance. It was also reported that the 2004 edition of the guidance will be available at no charge on the JMLSG website. This is based on a funding agreement reached with 16 trade associations.
- **The FSA** noted that Part VII of the Proceeds of Crime Act 2002 (which relates to money laundering) would come into effect in early 2003, and

pointed out that the gap between this date and the guidance being published should be as short as possible.

- In response to a suggestion that a sub-group of MLAC be established to consider draft guidance, the **BBA** noted that the JMLSG guidance editorial panel will have a flexible membership and will be able to draw on members of JMLSG bodies.
- **CCAB** has discussed the methods by which guidance could be prepared for its members and has discussed the possibility of joining the JMLSG. There are specific considerations for auditors, over and above those covered by guidance relating to the general provision of accountancy services, for which the JMLSG guidance might be appropriate. The Auditing Practices Board will consider whether guidance for auditors to cover these matters is required.
- **The Law Society** noted that it had formed a Money Laundering Reporting Officer group and would keep members of the group informed of JMLSG guidance.

3. EC Second Money Laundering Directive

- **The Chair** noted that a consultation document and draft regulations to implement the Second EC Money Laundering Directive had been issued the previous week, for responses by 14 February 2003. Members of the working group were thanked for their contributions. The Chair highlighted the question of whether or not to include the 45,000 book keepers who are not members of professional bodies within the scope of the Regulations, a number which includes many individuals and small firms. This had been left open.
- In response, **the CCAB**, pointed out that money laundering risks exist in relation to both professional accountants and non-professional accountants. Professional accountants - many of whom are also sole practitioners or small firms - will be professionally trained and will operate under codes of conduct, so may present a lower money laundering risk than accountants who are not members of professional bodies. CCAB argued that the problems of enforcing regulation in the non-professional sector should not prevent government from addressing these risks – in particular, they noted the potential to extend Customs' new supervisory role into this area.
- In summing up, the Committee was reminded of the deadline for comments.

4. Any other business

- **The Chair** gave a brief update of progress on the IMF's Financial Sector Assessment Programme (FSAP) review of the UK, particularly the anti-money laundering section.

- **The MLAC Secretary** reported on the May 2002 consultation on (i) regulation of money service businesses in FSA regulated firms, and (ii) inclusion of originator information on wire transfers. On the first issue, all respondents to the consultation who expressed a preference agreed with the Government's proposal that the FSA should be informed of the money service business activities of the firms they supervise. This provision is included in the draft Money Laundering Regulations 2003, which were issued for consultation on 15 November. On the second issue, the FATF has published a draft interpretative note for consultation. The Government will decide how to implement the recommendation that originator information be included on wire transfers, once the FATF has finalised its interpretative note.
- **The National Criminal Intelligence Service (NCIS)** reported that a review of the suspicious transaction reporting (STR) regime would be carried out by KPMG, and that KPMG would be contacting some MLAC members to discuss the review with them.

Next meeting

- The next meeting will be held in May 2003. *[Following the meeting, the date was set for 2 May 2003].*