

2007 MONEY LAUNDERING ADVISORY COMMITTEE REVIEW

Part 1. Executive Summary

1. The Money Laundering Advisory Committee (MLAC) was established in 2002 to provide an official venue where industry, government, regulators, and law enforcement are able to address issues of mutual interest. It is chaired jointly by the Home Office and the Treasury and was also given the formal role of recommending guidance to be approved by Ministers. In 2005 the terms of reference were revised (see Annex B) and a number of sub groups were set up.

2. Since 2005 there have been a number of changes in the anti money laundering community, for example the creation of SOCA and the Suspicious Activity Reports (SARS) review, new supervisors under the Money Laundering Regulations 2007, and the publication in February of the Government's new Financial Crime Strategy. In the July 2007 MLAC meeting it was therefore proposed that we consider again the role, membership, processes, relationship to other committees and work programme of MLAC.

3. Over the summer Treasury officials have worked closely with their Home Office colleagues and met or spoken to all of the MLAC member organisations. Overall it was felt that the aims of MLAC are correct but improvements should be made to its membership, processes, and relationship with other groups and work programme so that it can successfully meet those aims. Part 2 of this paper summarises the views expressed in those discussions. Part 3 suggests a number of changes that might usefully be made to MLAC and its membership to ensure that it continues to be 'fit for purpose' and part 4 recommends topics for MLAC's future work programme.

4. In summary this paper makes the following recommendations.

Membership

- It is important for MLAC to be the representative forum of all interests in preventing money laundering. It is therefore proposed that membership of MLAC should be expanded to include some or all of the following
 - Office of Fair Trading (OFT), Crown Prosecution Service (CPS), private sector representatives from casinos, High Value Dealers (HVDs) and Money Service Business (MSBs) sectors
 - Members of SOCA's Criminal Finances and Profits Board (programme 4), see annex C.

What additional organisations should be invited to join MLAC?

Processes

- MLAC's secretariat, structure and processes should be improved to ensure that it acts as an effective forum for discussion and advising Ministers.
 - MLAC should continue to meet 3 times a year
 - One meeting a year should be attended by Ministers
 - The secretariat and its processes should be more formalised

Do members agree with the proposals on processes?

Relationship of MLAC to other groups

- There are a number of other committees and groups whose objectives overlap with MLAC. MLAC should ensure that it is joined up with those groups to promote a consistent policy approach and avoid duplication.

- The strategic part of SOCA's Criminal Finances and Profits Board (programme 4) should merge with MLAC. There should be a standing agenda item for SOCA to update members on the work of the tactical Criminal Finances and Profits Board, discusses implications for policy and potential new areas of work (See paragraphs 37-42 for further discussion)
- The chair of the supervisors forum should report on that groups work (although the forum will *not* become an official subgroup)

Do members agree with the proposals on the relationship of MLAC to other groups?

Thematic work programme

- MLAC should agree and report progress on a work programme that delivers the objectives of the Government's Financial Crime Strategy:
 - The guidance working party should continue
 - There should be new sub working groups set up and views are welcome on the priority areas that should be addressed. Topics include:
 - The appropriate response to new and emerging payment systems;
 - Correspondent banking and politically exposed persons; what are the desirable and practical approaches;
 - Communication; and
 - Duplicative checks in property transactions/better regulation.
- There should also be a number of standing agenda items, in particular on:
 - Implementation of the Government's Financial Crime Strategy;
 - International work, both the actions of FATF and other countries;
 - Update from the work of the Strategic Fraud Authority and implementation of the Fraud Strategy; and
 - Update on the work of the SARs Committee.

Do members agree with the proposals on thematic work programme?

5. Members are asked for their views on the proposals and questions within this paper. Following the MLAC discussion on 21st November it is proposed that the chairs update Ministers on the outcome of the review and MLAC members considers whether the current terms of reference need to be revised.

Part 2. Consultation views

MLAC – Overview

6. Respondents were generally supportive of MLAC, recognising that it fulfilled a useful role by:

- bringing government and private sector together;
- allowing the dissemination of information and debate;
- providing information on Government activities that can be disseminated further in the private sector;
- providing a venue in which other bilateral discussions can occur; and
- signing off industry guidance notes.

7. Nevertheless, in general respondents believed both the organisation and agenda could be improved upon to deliver more value in terms of overseeing and directing policy.

Membership

8. Most respondents pointed to the obvious tension, between the value in keeping the group small and well focused, and pressures to expand membership to ensure that all of the sectors covered by the 2007 Money Laundering Regulations are appropriately represented.

9. Some respondents suggested that the public sector was over-represented but the majority view was that the balance was about right.

10. It was suggested that some private sector representation of the Casino and Money Transmission sectors might be appropriate. Others pointed out that High Value Dealers and Trust and Company Service Providers were not explicitly represented. The Crown Prosecution Service also made a case for joining MLAC, noting that prosecution is the one substantial area of law enforcement process not represented.

MLAC Process

11. Respondents agreed that the current frequency of meetings (three per year) works. The plenary and working group structure was also seen to work well.

12. Respondents felt that the committee needed a better functioning secretariat, that would lead to a fuller agenda as well as improvements in administration such as circulating the papers with a longer lead in time.

13. More direct Ministerial involvement was suggested.

14. One respondent proposed occasionally breaking with the pattern of holding meetings exclusively at the Home Office and Treasury to enliven debate and ensure private sector representatives in particular felt as comfortable as possible.

Relationship of MLAC to other groups

15. Several respondents drew attention to the existence of many groups involved in financial crime issues, frequently bringing together many of the same participants under different leadership, without, for example, any particular coordination of diaries or sharing of information discussed.

16. Separately the Criminal Finances and Profits Board (Programme 4) met recently and discussed the possibility of merging their strategic function with MLAC. This proposal is discussed in more detail in paras 37-42.

Thematic work

17. Respondents felt that MLAC has done useful thematic work in the past, on customer identification in particular. They believed however that a revitalised work programme would be beneficial.

18. A wide range of issues and topics were identified as possible subjects for further work. Briefly, these were:

- Proactively overseeing the implementation of the Government's Financial Crime Strategy. Updates against the action plan and commissioning of further work;
- Update of international activity and Government's views of how to respond, including on issues of extraterritoriality;
- Correspondence banking and PEPs; what are the desirable and practical approaches to implementing international and domestic requirements?
- The relationship between the Fraud Strategy and the anti money laundering regime;
- Continuing role in signing off industry/supervisory guidance on the Regulations;
- Communicating the need for anti money laundering controls and the achievements in fighting Money Laundering to both front line firms and consumers;
- Reducing duplicative checks in property transactions
- The appropriate regulatory response to new and emerging payment environments.
- The continuing need to balance the effectiveness of the regime, with the privacy concerns of the citizen, and the need for safeguards regarding information sharing;

Part 3. Conclusions and proposals

Membership

19. There is a balance to be made between expanding MLAC to be more inclusive, and keeping the committee focussed and manageable. Overall it is recommended that there should be some expansion in membership, but views are welcome on two broad options.

- Option a) increase in membership to include OFT, CPS, and nominated officials from (MSB, casino and HVD sectors)
- Option b) increase in membership to include the above, plus other law enforcement members of SOCA Criminal Finances and Profits (programme 4) board. This would include Department of Work and Pensions (DWP), Scottish

Drug Enforcement Agency (SDEA), Serious Fraud Office (SFO), Police Service Northern Ireland (PSNI), Metropolitan Police, Revenue and Customs Prosecution Office (RCPO)

20. Annex A sets out the current membership, analysed by sector and status and potential membership under different proposals. Paragraphs 39 to 44 set out the rationale for merging the strategic part of SOCA Criminal Finances and Profits Board (programme 4).

Crown Prosecution Service and OFT

21. It is recommended that the Crown Prosecution Service (CPS) should be invited to join MLAC. This would fill the current gap in law enforcement representation for prosecutors. It is recognised that the CPS do not cover all prosecution areas (for example Revenue and Customs Prosecution Office) it is believed that one organisation could provide adequate representation.

OFT

22. It is recommended that the Office of Fair Trading (OFT) should be invited to join MLAC. OFT is currently the only statutory supervisor not represented at MLAC

Self-regulatory bodies

23. It is recommended that Institute of Chartered Accountants for England and Wales (on behalf of the Consultative Committee of Accountancy Bodies) should ensure their respective professional and regulatory interests are represented in MLAC. Views are also welcome on the inclusion of other self-regulatory organisations in Schedule 3 of the 2007 Regulations to attend¹.

24. Under the Money Laundering Regulations 2007 there are a large number of self-regulatory bodies, in particular for accountants. ICAEW currently disseminate information to the wider CCAB group. Views are welcome on whether other self-regulatory bodies such as those for solicitors or notaries should have representation on MLAC.

Other private sector representation

25. Views are welcome on whether representatives of the, Money Service Businesses, High Value Dealers, Trust and Company Service Providers and Casino sectors should be invited to attend MLAC.

26. There need for a balance between private and public sector bodies represented, means that there should be more private sector members of MLAC, taken from those currently not represented. As MLAC increases in size the omission of certain sectors becomes more noticeable. It should be noted, however, that all of these sectors have a number of different trade bodies and organisations for each sector, which do not necessarily represent the majority.

Overlap between Criminal Finances and Profits board (Programme 4) and MLAC

27. Views are welcome on the merging of MLAC and SOCA Programme 4's strategic group membership. See option b) in annex A and discussion in paras 37-42 for further background. This merging would lead to the inclusion of Department of Work and Pensions (DWP), Scottish Drug Enforcement Agency (SDEA), Serious

¹ All Schedule 3 Supervisors, of whom there are currently 21, have an opportunity to attend the Supervisors Forum

Fraud Office (SFO), Police Service Northern Ireland (PSNI), Metropolitan Police, Revenue and Customs Prosecution Office (RCPO). The inclusion of such persons would provide a useful opportunity for direct communication with and feedback from operational leads. Members will want to consider, however, whether they are happy with such an increase in law enforcement representation at the plenary.

MLAC Processes

Timing and frequency of meetings

28. It is recommended that MLAC continues to meet three times a year.

Arrangements for meetings

29. It is recommended that, subject to the agenda Home Office and Treasury Ministers be invited to attend all or part of one MLAC meeting each year. Views are also welcome on whether MLAC should also report to Ministers on progress and areas of interest once a year.

30. MLAC is responsible for advising Ministers on money laundering policy and respondents to the review felt that this link should be strengthened, in particular allowing MLAC members to have direct discussions with Ministers on the anti-money laundering regime. This is consistent with the UK's FATF presidency objective of increasing ministerial accountability.

Secretariat

31. It is recommended that the secretariat calls for private sector papers or contributions, and circulates final papers in good time before the plenary meeting. It is also recommended that HM Treasury and the Home Office formalise their secretariat functions, ensuring that adequate resources are put towards this.

32. Respondents commented that they would prefer as long as possible to prepare for MLAC meetings to ensure that they can fully engage in the discussions.

Working Groups

33. It is recommended that the guidance virtual working party remains and other working groups be set up adhoc depending on the agreed strategic work programme.

34. The current structure of working groups and a plenary is beneficial in terms of allowing sufficient time for both technical and strategic discussions on matters of interest.

Relationship of MLAC to other groups

Supervisors forum

35. It is recommended that, although the supervisory forum remains independent of MLAC, the chair of the supervisory forum should be invited to regularly report to MLAC on its work programme. The chair does not, however, automatically become a member of MLAC. If MLAC agrees to the recommendation, the chairs will formally ask the supervisory forum.

36. As the strategic group for money laundering policy, MLAC has an interest in the work of those supervising for compliance with the Money Laundering Regulations 2007. The supervisory forum was announced in November 2006 and has met 3 times. The current chair is the FSA.

UK Organised Crime Control Strategy Programme 4: Criminal Finances & Profits board

37. It is recommended that the strategic part of the Criminal Finances and Profits board be merged with MLAC.

38. The overall aim of Organised Crime Control Strategy (OCCS) Programme of Activity 4 is to reduce harm by deterring, detecting and disrupting the finances and profitability of serious organised crime, in order to make it less attractive to criminals, and ultimately uneconomical. The aim of the criminal finances & profits (CFP) board is to *“ensure that the Programme’s aims and objectives, including harm reduction, are met; to initiate and ensure delivery of projects and operations in pursuit of Programme objectives; and to improve understanding, activity and collaboration against criminal finances and profits, driving a step change in performance on asset recovery”*.

39. The most recent CFP board meeting agreed to divide the board along “Strategic” and “Tactical” lines.

- The tactical grouping would include the operational members of the current board (for example SOCA, HMRC, ACPO, SCDEA, PSNI, MPS, City of London Police, CPS, and RCPO). Government bodies, regulators and industry would attend by invitation if specific issues required specialist input or joint work. The objective would be to maximise intelligence sharing and co-ordinate activity on CFP work impacting on organised crime, and develop new projects or operations to respond to identified need; in essence to become a “FIN-NET” of sorts for criminal finances and profits issues involving organised crime.
- The strategic group would focus on the policy issues providing the framework for operational activity (e.g. harm reduction, legislative issues, Government targets, emerging typologies, etc). The tactical group would be expected to update the strategic group on its activity (to an appropriate level of detail). Similarly the strategic group should ensure that developments of wider significance are brought to the attention of the tactical group.

40. One option that the CFP board agreed to consider further was that the strategic side be merged with MLAC. A merged group could coordinate the different strategic pressures on the AML community (including the Government’s financial crime strategy, FATF analysis, new ML Regulations, and the OCCS) more effectively.

41. In practical terms a merger would mean the following:

- A regular agenda item, updating MLAC on the work of the tactical group and discussing future projects and areas of wider significance to the work. This item would be led by SOCA, which provides the Senior Reporting Officer for OCCS Programme 4 (David Armond).
- Increase in membership, see para 27 and annex A

42. Performance management and oversight of Organised Crime Control Strategy objectives would remain with SOCA rather than MLAC.

Part 4. Work Programme

Recommendations for specific sub working groups

43. The following are proposals for sub working groups. It is recommended that at 3 to 4 sub-working groups be maintained, including the guidance working group. Views are welcome on which of the suggestions are priorities.

Guidance working group

44. It is recommended that the guidance-working group continue its function of peer review before recommending guidance to be cleared by MLAC. The approval of guidance is one of the key tasks of MLAC.

The appropriate response to new and emerging payment environments

45. Views are welcome on the proposal for a subgroup to consider and recommend policy responses to new and emerging technologies, such as new payment methods, e-gold etc.

46. The FATF standards recommend that the AML regime in the UK should be kept up to date with new technologies. Payment technologies and the regulatory environment for payment systems are both rapidly evolving. The aim of a MLAC sub group could be to understand such new technologies and discuss whether there should be a specific policy response.

Correspondent banking and Politically Exposed Persons (PEPs); what are the desirable and practical approaches?

47. Views are welcome on the proposal for a subgroup to co-ordinate and discuss, the regulatory and law enforcement response to the international and domestic requirements on Politically Exposed Persons and correspondent banking

48. From the discussions with MLAC members these two topics were mentioned as new regulatory requirements that respondents believe needed further attention. The aims of the working group could be to:

- Confirm legal requirements and supervisory views on compliance
- Discuss practical implementation issues and suggest possible solutions
- Work with law enforcement use of SARs and feedback on specific threats.

Communication

49. Views are welcome on the proposal that the Communications sub group be restarted.

50. Communication was widely regarded as an important area that MLAC should make progress on. In particular the aims of the communication group could include:

- Communication to firms on new regulatory requirements and guidance;
- Communication of rationale for i.d requirements etc; and
- Communication of SARs, law enforcement and prosecution actions.

Duplicative checks in property transactions/better regulation

51. Views are welcome on the proposal that a specific subgroup look at the concerns of estate agents on reducing duplicative check in property transactions. Views are welcome on whether the group look specifically at this issue, or more widely at better regulation solutions.

52. Responses from RICS and NAEA, believed that this issue still needed to be resolved. A specific group to look at this could be set up and chaired by RICS/NAEA.

53. The Government has committed to reducing administrative and policy burdens on firms from Regulations and supervisory practices. An alternative option would be to set up a group with the remit to consider and recommend better regulation initiatives for financial crime. This could include the particular concerns of duplicative checks in property transactions.

Regular Items on the agenda

54. As well as setting up 3-4 sub groups it is recommended that there also be regular topics for discussion on the agenda.

Implementation of the Government's financial crime strategy

55. It is recommended that MLAC regularly reviews and discusses progress against the Financial Crime Strategy's action plan, in particular the parts on money laundering.

56. The Financial Crime Strategy is the Government's view on actions that need to be taken over the next few years to deter, detect and disrupt money laundering and terrorist financing. While the Terrorist Financing Action Group will oversee the parts specifically relating to terrorist financing. It is recommended that MLAC proactively monitors implementation of the other parts of the Strategy.

Update of international activity and Government's views of how to respond, especially on issues of extraterritoriality;

57. It is recommended that MLAC regularly discusses international activity, both FATF work and actions by other Governments

58. It is important that MLAC keeps up to date with international developments and MLAC discussions inform the UK's view in FATF and position in light of actions by other countries.

Activity of the SARs committee

59. It is recommended that SOCA continue to provide an update of the work of the SARs Committee

60. The committee oversees the implementation of the Lander Review and produce the annual SARS report. The information from this committee and its work is key to informing policy.

The relationship between the wider fraud strategy and the AML regime

61. It is recommended that that MLAC remains focussed on money laundering rather than the wider fraud strategy but that a standing agenda item is added to report on implementation of the fraud review, to discuss any synergies.

62. Some members were concerned that Government is treating fraud separately from Money Laundering, despite the number of synergies in policy aims, and practical implementation. It is Government's view that separate structures are useful in focusing attention and resources on both agendas, but agrees that links should be made between the two. It is therefore recommended that Home Office officials, who sit on both the implementation of the Fraud Review Committee and MLAC update

MLAC members of progress against the fraud strategy and there is a regular chance to debate matters of concern to MLAC.

Balancing the effectiveness of the regime, with the privacy concerns of the citizen, and the need for safeguards regarding information sharing

63. It is recommended that MLAC keeps a 'watching brief' on the debate on how best to balance privacy concerns and safeguards regarding information sharing with the effectiveness of the regime.

64. One member suggested the need to continually assess whether the balance between privacy concerns and the effectiveness of the regime. The Financial Crime Strategy made a number of recommendations on this front and therefore another proactive review is not recommended. But it is recommended that MLAC keeps a 'watching brief' on this matter.

ANNEX A: MLAC membership

Main members shown thus
Shaded cells = not applicable

Current MLAC plenary membership- 19 members

| Sectors² | Govt. Depts/Law Enforcement | Public AML Regulator | Self regulatory body | Firms / Trade bodies |
|---|--|-----------------------------|-----------------------------|--|
| Credit institutions | | FSA | | RBOS/Barclays Coventry Building Society L&G UBS |
| Financial Institutions | HM Treasury | FSA HMRC (for MSBs) | | |
| Auditors/accountants etc³ | | HMRC | ICAEW | |
| Legal professionals | | | | Law Society |
| T & C SP | | HMRC | | |
| Estate Agents | | | | RICS NAEA |
| High value dealers | | HMRC | | RICS NAEA |
| Casinos | | Gambling Commission | | |
| Other members | | | | |
| Law Enforcement | Home Office SOCA ACPO City of London Police | | | |
| Other Govt. | FCO | | | |
| Guidance | | | | JMLSG |

² As per Regulation 3 (1) of the 2007 Regulations

³ Auditors, insolvency practitioners, external accountants and tax advisers

Option a) MLAC membership - 25 members

| Sectors ⁴ | Govt. Depts/Law Enforcement | Public AML Regulator | Self regulatory body | Firms / Trade bodies |
|---------------------------------------|--|------------------------------|----------------------|--|
| Credit institutions | | FSA | | RBOS/Barclays |
| Financial Institutions | HM Treasury | FSA HMRC (MSBs) OFT | | Coventry BS L&G UBS [nominated MSB] |
| Auditors/accountants etc ⁵ | | HMRC | ICAEW | |
| Legal professionals | | | | Law Society |
| T & C SP | | HMRC | | [nominated body] |
| Estate Agents | | OFT | | RICS/NAEA |
| High value dealers | | HMRC | | RICS /NAEA [nominated body] |
| Casinos | | Gambling Commission | | [nominated body] |
| Other members | | | | |
| Law Enforcement | Home Office SOCA ACPO City of London Police Crown Prosecution Service | | | |
| Other Govt. | FCO | | | |
| Guidance | | | | JMLSG |

⁴ As per Regulation 3 (1) of the 2007 Regulations

⁵ Auditors, insolvency practitioners, external accountants and tax advisers

Option b) MLAC membership if merged with strategic part of the SOCA criminal and finances board. - 31 members

| Sectors⁶ | Govt. Depts/Law Enforcement | Public AML Regulator | Self regulatory body | Firms Trade bodies / |
|---|---|-------------------------------------|-----------------------------|--|
| Credit institutions | | FSA | | RBOS |
| Financial Institutions | HM Treasury | FSA HMRC (MSBs) OFT | | Coventry BS L&G UBS <i>Barclays</i> [nominated MSB] |
| Auditors/accountants etc⁷ | | HMRC | ICAEW | |
| Legal professionals | | | | Law Society |
| T & C SP | | HMRC | | [Nominated Body] |
| Estate Agents | | OFT | | RICS/NAEA |
| High value dealers | | HMRC | | RICS /NAEA [Nominated Body] |
| Casinos | | Gambling Commission | | [nominated body] |
| Other members | | | | |
| Law Enforcement | Home Office SOCA ACPO City of London Police Crown Prosecution Service Metropolitan Police Service PSNI SDEA SFO RCPO DWP | | | |
| Other Govt. | FCO | | | |
| Guidance | | | | JMLSG |

⁶ As per Regulation 3 (1) of the 2007 Regulations

⁷ Auditors, insolvency practitioners, external accountants and tax advisers

Annex B: MLAC Terms of Reference

Terms of reference (last revised June 2005)

Terms of reference:

- High-level public/private sector discussion forum, making recommendations to inform department's advice to Ministers, and taking strategic decisions on three key workstreams currently identified. The detail of these workstreams will be dealt with in dedicated working parties. Those identified at this point are:
 - Reporting and Feedback,
 - ID
 - Guidance Notes.
- The working parties may be time-limited to trouble shoot technical issues, e. g ID.

Other specific tasks:

- Provide a forum for key stakeholders to comment on the UK's anti-money laundering regime (including effectiveness, proportionality and engagement);
- Provide a forum in which key stakeholders can comment and advise on the appropriate UK response to international anti-money laundering developments;
- Where consensus is reached on issues, make recommendations to inform advice to Ministers;
- Provide feedback on the Government's communication strategy and activities;
- Oversee MLAC working parties, including providing feedback on issues of strategic importance that arise in those groups; and
- Formally recommend guidance to Treasury Ministers for approval.

Frequency:

3 times a year

Membership

CHAIR (HM Treasury or Home Office senior official)

HM Treasury

Home Office

Serious Organised Crime Agency

Association of Chief Police Officers

City of London Police

Financial Services Authority

The Consultative Committee of Accountancy Bodies

The Law Society

The Chairman of the Joint Money Laundering Steering Group (JMLSG)

Representative of investment banks (to be appointed by the JMLSG)

Representative of large retail financial institutions (to be appointed by the JMLSG)

Representative of small banks and building societies (to be appointed by the JMLSG)

Representative of financial intermediaries (to be appointed by the JMLSG)

Representative of product providers (to be appointed by the JMLSG)