

## **Note of the Money Laundering Advisory Committee meeting, 25th November 2003 at HM Treasury**

### **Present**

- Chair: HM Treasury
- Home Office
- Financial Services Authority
- Association of Chief Police Officers
- Foreign and Commonwealth Office
- National Criminal Intelligence Service
- Joint Money Laundering Steering Group and British Bankers' Association
- Law Society
- Representative of large retail financial institutions
- Consultative Committee of Accountancy Bodies
- Representative of building societies and small retail financial institutions
- Representative of wholesale financial intermediaries
- Representative of investment and insurance product providers
- Representative of financial intermediaries

### **3rd EU money laundering directive**

1. HMT provided an update on the European Commission's timetable for developing the proposed 3rd EU money laundering directive.

2. Given the pressure of the timetable, HMT proposed the formation of a group of stakeholders who are able to provide input on the content of the proposals for a 3rd directive at short notice and on an informal basis.

3. In the discussion the following points were made:

- There was common concern that the timetable was very tight; this should be conveyed to the Commission.
- It is too soon to be introducing further legislation and it would be better to let the Money Laundering Regulations 2003 bed down first.
- The UK should nevertheless be pragmatic and work with the Commission to achieve a sensible directive.
- It is important to keep the directive as high level as possible.
- There was some concern raised regarding the extent of implementation of the directives in other Member States and that attention should be paid to how implementation could be monitored across the EU.
- In light of this, DG Internal Market's apparent determination to focus on the implementation of money laundering directives across Member States is warmly welcomed.
- It was noted that there are two Directorate Generals involved with this directive – DG Internal Market and DG Justice and Home Affairs – and that the UK should make every effort to work effectively with both.
- The proposal for a 'rapid response group' of stakeholders was welcomed; CCAB, JMLSG, Law Society and the large retail financial institutions representative indicated their desire to participate in such a group.

4. Action points:

- Participants agreed that they would provide HMT with any information they had on what progress had been made in other countries in terms of implementation of the directives.
- Any stakeholders who had not yet submitted to HMT their initial views on the costs and benefits of proposals for a 3rd EU money laundering directive, were requested to do so by 10th December.

- Interested participants agreed to let HMT know by 10th December if they wished to participate in the 'rapid response group'.

## **Implementation of Know Your Customer requirements**

5. The JMLSG representative discussed the identification and verification procedures that are meeting with criticism from customers and the media. Banks were undertaking more identification and verification work and staff training, for the reasons outlined in the recently published Treasury/FSA/NCIS-sponsored leaflet. He stressed the difficult position that firms and their staff are facing in terms of both complying with the law and not unnecessarily upsetting customers. However, he felt that customer dissatisfaction might ebb once the backlog of checks on existing customers is overcome.

6. On the issue of financial exclusion, he highlighted the good work that is being done by financial institutions to address this problem. This includes new guidance on financial exclusion, expected to be published shortly. Amended JMLSG guidance notes to be issued in 2004 will comprise a core document that is relevant to all parts of the financial services industry with other sections that are relevant to specific parts of the industry.

7. The FSA representative described their recent progress in this area. He highlighted the dynamism of financial services and the importance of adapting practice to address the varied and changing risks. However, he stressed that there have been positive developments and that the FSA hopes for useful results from their discussion paper on the implementation of Know Your Customer (KYC) and monitoring requirements.

8. In discussion, the following points were made:

- Getting the risk-based approach right is key to the success of KYC requirements, but this is not an easy task.
- The different interpretation of KYC requirements between institutions meant that customers and even the institutions themselves are sometimes confused.
- KYC requirements are actually working better than was commonly thought and it would be wrong to take our feet off the pedal at this stage.
- More should be done to communicate to the public the importance of tackling money laundering.
- The phenomenon of identity theft is relevant to any review of KYC requirements.
- Third parties who undertake reviews of firms' anti-money laundering controls should be kept abreast of any KYC developments to ensure their processes best reflect current working practices.

Action point:

9. It was agreed that JMLSG and FSA would facilitate further discussion of these issues.

## **Approval of industry guidance**

10. The HMT representative pointed out that new money laundering regulations may lead to an increase in industry-produced guidance. She set out the legal position that while HMT may approve guidance, it cannot interpret the law or endorse another's interpretation of the law. She emphasised, however, that HMT is keen to support industry guidance and best practice and would consider whether to approve guidance on a case-by-case basis.

11. She referred to an HMT paper which discussed the possibility of setting up an MLAC working group to discuss new guidance. She suggested that the working group might serve to consider guidance produced by different bodies, provide suggestions for improvements and to indicate to MLAC whether it was felt a particular piece of guidance should be recommended to HMT for approval. She proposed that HMT and the Home Office should have observer status on such a working group, to maintain the industry-led nature of the guidance.

12. In discussion the following points were made:

- It was suggested that the greater the scope of the guidance that the Treasury approved, the more comfort it would bring the staff of financial institutions. The nature of the Treasury approval that was now envisaged appeared to be different from what was envisaged when the Proceeds of Crime Act was being drafted.
- HMT affirmed that the position has always been that industry can ask for Treasury approval for its guidance, but that it is not HMT's role to produce the guidance or to endorse another's interpretation of the law.
- A working group would reduce the otherwise heavy burden on MLAC itself. The question of who should provide the secretariat was raised.
- The criteria for evaluating new guidance could be the same as that used for the JMLSG guidance.
- It would be good to facilitate access to new guidance by distributing it 'at cost'.

Action point:

13. Participants agreed to provide HMT with comments on the guidance paper and thoughts on how such a working group might function, by 5th December.

### **Other issues:**

14. HMT provided an update on the implementation of FATF Special Recommendation 8 relating to wire transfers. The EU's new legislative framework on payments, which included proposals on wire transfers, should be published very soon. HMT will consult with industry on the proposals.

15. The Home Office representative provided an update on the work of their Money Laundering Reporting Taskforce, set up following the publication of the KPMG report on the suspicious activity reporting regime. She noted that NCIS had undertaken some very positive changes, in response to the report's recommendations.

16. HMT explained that the publication of the UK anti-money laundering strategy had been held up because of the delay in the 2003 money laundering regulations. The Financial Secretary would shortly consider the most appropriate time and manner for publishing the strategy paper.