

## The Third EU Money Laundering Directive – Key points

The Third EU Money Laundering Directive becomes operative on 15<sup>th</sup> December 2007. For those firms already acting in accordance with the current anti-money laundering guidance, the new regulations will not entail much change. However there are some changes of which you should be aware:

- firms will need to have a risk assessment in place
- firms need to conduct their client due diligence on the basis of that assessment
- firms will need to continuously monitor their clients, including existing ones.

### Customer Due Diligence

Simplified customer due diligence measures are allowed under the new regulations, but only for certain clients; in these cases it is no longer necessary to complete full “KYC” (know your client) procedures. You may feel that it is sensible to complete your normal or enhanced procedures in these cases, on a risk sensitive basis.

Customer due diligence measures must be applied when:

- Establishing a business relationship.
- Carrying out transactions of EUR 15,000 or more.
- There is any suspicion of money laundering/terrorist financing.

Enhanced customer due diligence is required for all of your higher risk clients. Clients that fall into this category include:

- Public Officials from outside the EU for which you should:
  - Gather information to understand their business.
  - Assess their AML (Anti Money Laundering) and ATF (Anti Terrorist Financing) controls.
  - Get approval from senior management.
  - Document the responsibilities of each institution.
- Clients you do not physically meet for which you should:
  - Ensure the customer ID is established by additional documents.
  - Employ extra measures to verify/certify documents supplied.
  - Ensure that the first payment of operations is carried out through the account opened in the customers name with a credit institution.

- PEPs (Politically exposed persons) for which you should:
  - Have appropriate risk-based procedures to determine if a person is a politically exposed person.
  - Have senior management approval.
  - Take adequate measures to establish the sources of wealth and funds.
  - Have enhanced monitoring of business relationship.

### **Monitoring existing clients**

Another element to the Directive is that firms will be required to monitor continually their relationship with each client and have evidence of their identity in place. This extends to your established clients who may have been on your books for many years.

You should note, however, that the Directive does not request that you must immediately request identification information from all your well established clients. Existing clients will in most cases be well known to the firm, so only limited extra evidence of their identity will be required. This can come in the form of a copy of some bank correspondence, or copies of a tax return which will probably already be with the firm.

Rather than immediately requesting identification information from all of your established clients, it would be advisable to review the information you already have during the course of the next engagement for the client, and if necessary add any additional information required. This will ensure that you will meet with any necessary client due diligence procedures.

### **Anonymous accounts**

You will no longer be allowed to keep anonymous accounts or anonymous passbooks. The owners/beneficiaries of existing anonymous accounts may be made the subject of customer due diligence.

### **Record Keeping**

You must ensure that copies or references of evidence required for five years after the end of the relationship, and supporting evidence of business relationships and transactions that could stand up in Court for at least five years after the end of the relationship are all kept. There must also be systems in place that enable you to respond fully and rapidly to enquiries from the FIU (Financial Intelligence Unit) and other authorities.

## Dates to note

**October/November 2007** – FSA opens the doors to registration applications for previously unregulated businesses.

**15<sup>th</sup> December 2007** – The Third EU money Laundering directive takes effect.

**15<sup>th</sup> January 2008** – Deadline for additional information from FSA authorised firms (All new and updated systems and controls must be in place. All documentation of risk management policies, ID documents and any required extra information must be in place).

**15<sup>th</sup> June 2008** – Registration deadline for all unregulated businesses.

*Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing*

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