

Money Laundering Regulations 2017: What they mean for housing providers

Estate agency business is regulated under the Money Laundering Regulations 2017 (“MLR”), and housing providers who carry out these activities must comply with these regulations.

The first question to answer is whether any of the activities you carry out constitute estate agency business.

This is defined in detail in the Estate Agents Act 1979, but includes the introduction of anyone seeking to dispose of or acquire an interest in property to a customer.

If a housing provider is marketing and selling units which it owns or has constructed itself then it will be acting as a principal and not as an agent. This sort of sales activity will not constitute estate agency business, and is not presently regulated under the MLR.

Letting is also excluded from the scope of the MLR, unless a premium is involved, in which case the activity will be treated as selling.

Examples of activities which would constitute estate agency business, and which therefore would be regulated under the MLR, include:

- acting for a flat or house owner in resale transactions
- arranging the sale of a property in a part-exchange transaction
- arranging sales on behalf of another group company which owns or has constructed the units
- arranging sales on behalf of a joint venture partner or other third party

It does not matter if these activities are only carried out incidentally to the provider’s main business – they will still be regulated.

If you do carry out any of these activities, you will need to:

- comply with the MLR
- register with HMRC, which in most cases will be the relevant regulatory body

If you have to comply with the MLR you will need to:

- comply with the legal requirement to report suspicions of money laundering contained in the Proceeds of Crime Act 2002
- make sure you have appointed a Money Laundering Reporting Officer, or MLRO
- for most organisations, appoint an AML Compliance Officer
- have appropriate policies, controls and procedures (PCPs) in place which accord with the MLR
- where applicable, ensure your PCPs are applied across your group structure
- ensure you have appropriate internal controls and audit systems in place
- carry out a risk assessment of your activities
- make sure you are complying with the new rules relating to Customer Due Diligence requirements as and when appropriate
- carry out appropriate screening and training of relevant staff and record keeping

There are also reporting duties relating to suspicions relating to terrorist financing and terrorist activity generally under the Terrorism Act 2000 which you will need to comply with.

If you have PCPs in place already, you will need to review these to ensure that they comply with the requirements about PCPs contained in the new MLR which are more detailed than the old rules.

There are a number of other new features in the new MLR which were not in the previous 2007 regulations. These include a new requirement that anyone carrying out estate agency business must identify buyers as well as seller clients. Some of you may already do this as a risk management measure but it is now a statutory requirement to do so in the manner prescribed in the MLR.

You must familiarise yourself, and ensure that your staff are familiar with the guidance produced by HMRC for estate agency businesses and which is now available on the HMRC section of the government website.

Even if you don't carry out any regulated estate agency business and don't have to register with HMRC for regulatory supervision purposes, you must still make sure that you don't become concerned in any transactions which involve money laundering or terrorist financing. These are offences which can be committed by anyone, not just those carrying out regulated business.

Please contact us if you would like to discuss any of this in more detail or you would like to find out more about what we can do to help with;

- reviewing your policies, controls and procedures
- your training needs
- advice on the MLR and the law relating to money laundering and terrorist financing generally

For further information, please contact:



Simon Livesey | Partner

T: 020 7593 5060

E: slivesey@wslaw.co.uk



Jon Baldwin | Partner

T: 020 7593 0384

E: jbaldwin@wslaw.co.uk