MIP AML compliance report 2010/2011

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53
reviews of members in practice in 2010.

30%
of members in practice reviewed required an action plan on identification of non-compliance.

191
disciplinary cases were dealt with by the Conduct and Compliance team involving members in practice in 2010.

50%
of disciplinary cases related to failure to renew a practice licence.

7%
of the disciplinary cases were a result of complaints from clients.

83%
of disciplinary cases required no further disciplinary order.

10%
of the disciplinary cases required an expulsion.

2%
of disciplinary cases were issued a reprimand.

338
delegates attended ten free money laundering road show events

73
delegates attended two paid for master classes.

3
number of AML consultations.

3031
individuals and firms are supervised under the Money Laundering Regulations 2007

Introduction

Anti money laundering compliance remains one of the most topical issues for AAT members in practice (MIPs). Since being included within the regulated framework for money laundering compliance in 2007, AAT has devoted significant resources to understanding the issues faced by MIPs in their bid to comply with the legislation and also to ensure that MIPs have access to tailored resources and support to help them fulfil their responsibility under the law.

Background to AML Supervision

AAT was given supervisory status under Part II of Schedule 3 of the Money Laundering Regulations 2007. Our supervised population consists of MIPs, of whom as at the end of 2010 there were 187 firms and 2,844 individual members.

The supervised population is spread geographically across the UK with the majority located in England providing services across 16 licensed areas. Some members provide services in all licensed areas while others operate on a smaller part time basis operating from home and offering only bookkeeping services.

It is estimated that the total income of the supervised audience is around £60 million which represents a significant contribution to UK PLC. Some of the top earning members run large full service accountancy practices with incomes exceeding £1million, while other smaller practices might only earn a couple of hundred pounds annually. Some of the smaller practices might also be fully engaged in paid employment and run their self-employed businesses on a part time basis.

AML supervision is integrated within existing quality assurance activities. AAT review visit activity includes money laundering compliance section where our trained representatives carry out assurance reviews of members' internal systems and controls. The representatives assess members' compliance with the Money Laundering Regulations, AAT's AML guidance and give advice and guidance where necessary to help members achieve compliance.

Compliance with anti money laundering responsibilities is mandated through a number of internal regulations and policies and reflected as one of the primary objectives in *AAT's Memorandum and Articles of Association* which all members agree to comply with when elected to membership. Specifically, the **Code of Professional Ethics**, which applies to all members, sets the level of expectations in relation to compliance with AML responsibilities. The **guidelines and regulations for members in practice** outline the requirements in relation to members we actively monitor for AML compliance. These high level documents are supported by a number of working policies including AAT's AML guidance.

Responsibility for the daily administration of supervision arrangements rests with the Conduct and Compliance and Members in Practice teams, under powers delegated by Council through the Regulations and Compliance Board.

In order to become a member in practice, an individual must be an AAT member and demonstrate their competency in each of the areas they wish to be licensed in. Currently, prerequisites for membership are successful completion of the AAT Accounting Qualification or equivalent, along with evidence of 52 weeks of relevant work experience and a professional nomination. Additionally to be approved for a members in practice licence, applicants must advise of their client base and profile of their clients, prove that they have Professional Indemnity Insurance (PII) and comply with AAT's policy on continuing professional development (CPD).

Members in practice must renew their license on an annual basis. It is by the renewal process that we ensure that the information held on record is up to date. Members are also required to inform AAT at the earliest opportunity of any changes to their circumstances.

AAT do not permit any of our full members to be in practice if they do not hold a licence. Doing so constitutes a breach of our Disciplinary Regulations and the Regulations for members in practice, and is therefore a disciplinary offence. There are a number of mechanisms to identify the potential 'unsupervised population'.

To ensure that all members are aware of the obligation to be registered on the scheme for members in practice, we run regular campaigns to promote the scheme and also raise awareness of our money laundering supervision arrangements.

AML advice and guidance available to MIPs

We communicate with, and educate the membership on anti-money laundering, primarily through master classes, the branch network and the website. There are also a number of in-house publications through which relevant articles are published. In particular we rely on *The Professional*, the monthly newsletter for MIPs to convey key messages. Periodic updates are posted on an area of the website dedicated to MIPs. We have also produced a comprehensive Money Laundering toolkit which was designed to address practical AML issues faced by small businesses. It provides template forms and good practice tips on how to comply with responsibilities under the regime. The toolkit is provided to all AAT members in practice supervised by us at no direct cost to them. This is part of the benefits of the AML supervision fee.

In addition to the above, MIPs have access to advice and support by telephone, and a dedicated email address **antimoneylaundering@aat.org.uk**.

As a measure of the level of AML engagement with MIPs in 2010, 12 events were organised across the UK. Ten free to attend roadshows were organised in collaboration with our branch network and two paid for master classes. These events were delivered with support from representatives of the Financial Intelligence Unit Dialogue team of the Serious Organised Crime Agency (SOCA), as part of their outreach programme. Our AML events in 2010 attracted over 400 delegates in total.

The branch network also regularly covers AML as part of their learning and development agenda. In 2010, the network held 19 AML themed events attracting over 580 member delegates.

Three regulatory and compliance open session events for MIPs have been successfully piloted in the first half of 2011. Based on the initial feedback received from delegates, these events will be added to the list of free to attend events available to MIPs in the future.

In addition to the traditional avenues for providing advice and guidance to members, we have also expanded the approach to AML engagement to provide online resources, in particular downloadable podcasts on selected AML topics. Initial feedback suggests these have been well received by members.

AML inspections and visits

AAT uses review visit activity primarily to promote best practice with licensed members, to identify areas of non-compliance and then in those circumstances support members to achieve compliance. Anti money laundering reviews are integrated into this process.

During a review and in addition to the standard practice assurance elements of the review, AAT representatives will review the members compliance with AML procedures and also the member's client account and business(where one is operated) to check for any unusual transactions.

In relation to anti money laundering procedures, the following areas are explored with members:

- supervision arrangements
- policies relating to AML
- risk assessment/management strategy (or equivalent)
- •customer due diligence
- record keeping
- •reporting of suspicions (procedurally)
- staff training
- client accounts.

Any deficiencies identified are reported back to the Conduct and Compliance team for follow up action. The report is shared with the member being reviewed for their consideration. There are a number of options available to follow up on deficiencies. This can be done informally, via a telephone call from the Conduct and Compliance team to discuss action taken by the firm since receipt of the report; or formally via an action plan with timescale for compliance. In these circumstances we may conduct a follow up review visit. In cases of serious, repeated non-compliance or blatant disregard for the legislation, disciplinary action is put in place to enforce compliance.

Members' compliance with the terms of action plans is routinely reviewed and, where appropriate, evidence of actions taken to address noncompliance will be required. Where a member does not comply with the terms of an action plan, disciplinary proceedings can be initiated. Under the *Disciplinary Regulations*, it is conclusive proof of misconduct for a member to fail to comply with the MLR and/or AAT's AML guidance.

In 2010, 56 reviews were conducted; 28 on site review visits and 28 telephone reviews. Although a small number of members reviewed in the previous year have been selected for further review in 2011, to obtain assurance that agreed procedures are being implemented, there was no follow up review visit activity required in 2010.

Approach to AML compliance activities

We are keen to support members in complying with their duties under the Money Laundering Regulations and associated legislation. In common with other supervisors, during the initial years of the Regulations, an educational approach to compliance was adopted. However, as the Regulations are now embedded within all professional activities, where it becomes apparent that the approach of education and support is not working, disciplinary proceedings will be implemented to enforce compliance or deter future non-compliance.

Disciplinary investigations are conducted under AAT's *Disciplinary Regulations* for members because non-compliance with the Money Laundering Regulations is considered to be conclusive proof of misconduct.

There are a number of sanctions available under the *Disciplinary Regulations*, including:

- expulsion
- suspension
- withdrawal of a practising license
- removal of fellow status
- severe reprimand
- reprimand
- fine.

Depending on the nature of the non-compliance any or a number of these sanctions could be applied.

In addition to the formal sanctions available under the disciplinary procedures, we also use formal action plans to enforce a desired outcome. This mainly originates where non-compliance has been identified during our review visit process. Action plans are used to support compliance by identifying the non-compliance in question, the regulatory requirement breached, the steps required to ensure compliance and a date by which evidence of compliance should be provided to us.

Action plans are not used where there is evidence of actual facilitation of money laundering, or where we have evidence that a member has blatantly disregarded a requirement of the legislation. During the 2010 review activities, action plans were put in to place for 16 of the members reviewed representing 28% of the reviewed population. All members issued with an action plan responded with evidence of steps taken to rectify the identified non-compliance within the time frame allowed. There was no cause to take further formal disciplinary action in 2010.

The high level of compliance with requirements of action plans demonstrates the value perceived from members. The engagement with various initiatives including our training events and the enquiry services shows a positive trend judging from the nature of queries and feedback received from our supervised population.

Consultations

To ensure that the views of our members continue to be appropriately represented within the accountancy profession and the wider regulatory environment, we are committed to responding to relevant consultations where we have an opinion or where the subject matter affects MIPs.

In January 2011, we responded to the Financial Action Task Force (FATF) consultation on the review of money laundering standards in preparation for the fourth round of mutual evaluations. The FATF standards form the basis of global anti money laundering standards and are a major influence on the UK's AML regime. The consultation was publicised to MIPs via *The Professional* and members were invited to respond. We did not receive a direct response, although it is possible some respondents may have sent their responses directly to the FATF. The majority of the issues raised within the consultation have already been implemented in the UK by provisions of the Proceeds of Crime Act 2002, however the consultation presented us with an opportunity to contribute to the global discourse on some key proposals being considered by the FATF.

The most significant of these are the proposals relating to conducting client due diligence on family members of politically exposed persons (PEPs) and the extension of regulated activities to cover other non-financial activities. We welcomed the proposal to simplify the process for due diligence on family members and associates of PEPs, and limit the extent of due diligence required to only cover family members who have a business relationship with the firm. This will clarify a key area of confusion for practitioners including MIPs. Similarly, we expressed the views that while the proposal to extend the regulated audience to cover some non-financial institutions is welcome, certain organisations (for example, professional membership bodies like AAT who hold a consumer credit licence solely for the purpose of allowing members to pay their subscription by instalment) should be

excluded from the regulated sector. A full copy of our response to the first round of consultations is available **here**. You can also read our response to the second round of consultations **here**.

AAT also responded to HM Treasury review of the MLR 2007 and proposals for consultation. This was an important exercise that could lead to some key changes to the UK MLR. Our full response to the consultation is available **here**.

Where appropriate, we will continue to draw our members' attention to key consultations that may have an impact on their areas of work. We will also take a stand by responding to consultations and lobbying to ensure that compliance with regulations does not become unduly burdensome for MIPs. We will ensure that MIPs have an opportunity to contribute their views to key regulatory discussions by consulting with them prior to responding to external consultations.

We actively participate on the AML Supervisor's Forum, and its subgroup, the Accountants Affinity Group. Through these meetings, we share best practice with other supervisors, bring potential issues to discuss in a group environment and identify where appropriate situations where consensus is required to maintain and enhance our supervisory approach. This is particularly relevant for accountants, where a number of professional bodies take on the role, in addition to HMRC, as default supervisor.

Looking ahead

It is anticipated that 2012 will be a busy year due to both internal and external changes occurring in the AML environment. The Government has concluded its consultation on proposed changes to the UK MLR and we will closely watch how the consultation will affect the future of the legislation. It is likely that the outcome of the consultation will be a revision of the UK's money laundering laws. We are committed to ensuring that any changes affecting our MIPs are promptly identified and communicated to MIPs. We are also committed to helping MIPs understand their compliance responsibilities and taking a risk-based approach to compliance.

Financial Action Task Force

AAT Response to the Review of the FATF Standards – Preparation for the 4th Round of Mutual Evaluations

Introduction

The AAT is a professional body and recognised as the money laundering supervisory authority (SA) for accounting technicians under Schedule 3 of the UK Money Laundering Regulations 2007. Established in 1980 to provide a recognised professional qualification and membership regulatory body for accounting technicians, the AAT is now well-established and respected worldwide, with more than 120,000 members, including qualified accountants and students.

The AAT is sponsored and supported by the four main UK chartered accountancy bodies, each of which has three nominated members on the AAT Council:

- Chartered Institute of Public Finance and Accountancy (CIPFA)
- Institute of Chartered Accountants in England and Wales (ICAEW)
- Chartered Institute of Management Accountants (CIMA)
- Institute of Accountants of Scotland (ICAS)

AAT 'membership' consists of students and qualified accountants. Students are officially classified as members for very limited purposes of the AAT's Articles and Memorandum of Association. They are not regulated by the AAT and are prohibited from describing themselves as members, associates of, or otherwise publicising their relationship with the AAT when engaging in self employed accountancy work.

Qualified members act as internal and external accountants. The internal accountants are employed by commercial entities or by Government bodies, such as the NHS and local government. Approximately 3000 members are external accountants within the meaning of the Money Laundering Regulations 2007. Individual members who act as external accountants are referred to by the AAT as Members in Practice (whether they are sole traders or principals of firms). Their practice profiles vary, from part-time sole practitioners performing purely bookkeeping services, to highly successful group practices dealing with complex matters.

Members in Practice are strictly governed by the AAT, and are obliged to comply with rigorous professional and ethical standards encoded in the document *Regulation and Guidelines for Members in Practice*, available at www.aat.org.uk. AAT monitors quality control and regulatory compliance of members' practices through annual returns and review visit activities. In particular, the AAT has dedicated significant resources to understanding the anti-money laundering and counter terrorism legislation as it relates to AAT members' practices and has developed detailed guidance and Continued Professional Development events to assist AAT members' compliance with their legal obligations within the context of their practices.

Our members in practice can be licensed in all or any of the following areas, following demonstration of their competence:

- Book keeping
- Financial Accounting and Accounts Preparation
- Budgeting & Forecasting

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AAT Chief Executive: Jane Scott Paul. AAT is sponsored by CIPFA, ICAEW, CIMA and ICAS

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- Management Accounting
- Payroll
- Independent Examination
- Limited Assurance Engagement
- Taxation *(VAT,Personal, Business, Corporation,Capital Gains, Inheritance)*
- Business Plans
- Computerised Accountancy Systems
- Company Secretarial Services.

Our members are not permitted to undertake self employed work in the areas of audit or insolvency unless they are additionally regulated by another regulatory body in these areas. Some of our student members are self employed providing accountancy services. They explicitly fall outside the AAT's jurisdiction for AML supervision because they are not entitled to register on the AAT's scheme for members in practice, and are directed toward HMRC for supervision.

The AAT has profession-long contact with its members, including:

- awarding its NVQ accountancy qualification
- providing CPD for members
- supporting a network of regional branches
- issuing practising certificates
- providing practice support
- conducting quality control review visits
- conducting Anti Money Laundering/Counter Terrorist Financing (AML/CTF) reviews

It is the policy of AAT to respond to public consultations where we have an opinion or where the issues are directly relevant to AAT members or a sub category of members. Our comments on the relevant sections of this consultation reflects the views of our members as evidenced in feedback received on the relevant sections of the 3rd Money Laundering Directive as implemented in the UK Money Laundering Regulations 2007 and as part of our contribution towards our object of promoting the sound administration of law for the public benefit. We have limited our response to the issues raised in this consultation which will affect our members in public practice and in industry.

The Risk Based Approach

1. Recommendation 5 and its Interpretative Notes

AAT welcomes the move to incorporate a single comprehensive statement on the RBA into the FATF standards as a New Interpretative Note. AAT members' niche within the wider accountancy profession is, in the main, providing low-complexity, low-turnover accountancy and taxation services. The introduction of a single statement on the RBA by FATF will go a long way in removing the perceived ambiguity inherent in the definition of a RBA and also its practical application by members when verifying the identity of their clients, applying the RBA to ongoing monitoring and enhanced CDD and establishing and maintaining appropriate AML policies for their firms. The adoption of uniform criteria will also assist AAT when producing interpretative guidance to its members. The AAT believes that the development of basic principles and objectives of RBA will address the challenge faced by members in applying the RBA particularly to due diligence which has always been the determination of the extent of verification to apply. The provision of a detailed balanced list of examples of lower/high risk factors as well as simplified enhanced due diligence measures will not only assist firms in drafting their internal policies but also assist supervisors when producing guidance on money laundering controls. It is however important that such lists are clearly drafted to indicate that they are only frameworks to avoid a situation where firms revert to adopting a tick box approach to compliance. This can be achieved by providing clear positive and negative indicators and principles of risk factors that

practitioners need to take into account when determining appropriate risk mitigation measures. It is important that an element of flexibility and subjectivity is maintained as they facilitate risk analysis.

AAT believes that the introduction of RBA to the AML/CFT regime as introduced by the 3rd Directive was a positive step and introduced a proportionate approach to the application of AML legislation. The RBA in practice ensures that firms are able to focus their resources on transactions and individuals/entities that are considered as high risk.

AAT supports the proposal to maintain the requirement for firms and individuals within the regulated sector to identify and assess the money laundering risks they face and also to apply enhanced due diligence to high risk transactions and entities. AAT also supports the proposal to maintain the supervisory responsibilities for competent authorities and SRO's. The expansion of this responsibility to include the monitoring of firm risk assessment is welcome. AAT currently monitors firm risk assessments as part of the money laundering compliance review exercise which covers a percentile of members selected annually, however if the new FATF proposal is implemented, there is the scope to include the provision of firm risk assessment information during the licence application or renewal process.

The proposal to apply simplified due diligence in low risk cases is important to our members who routinely provide low complexity accountancy services and to a predominantly UK based clientele. The introduction of exemptions in proven low risk situations is a welcome addition to the FATF standards as this approach will provide flexibility for firms to make risk based decisions when deciding which aspect of the implemented standards are applicable in certain situations.

2. Recommendation 8: new technologies and non face to face business

Regulations 14 (2) of the UK Money Laundering Regulations 2007 mandates the application of enhanced due diligence measures to non face to face customers and identifies these types of business relationships as high risk. Verification measures are recommended to mitigate the higher risk posed by such transactions. These measures highlight the risk of impersonation and obscuring of ownership inherent in such relationships. AAT welcomes the proposal to incorporate the issue of non face to face business into the Interpretative Notes for the RBA.

Due to the nature of accountant/client relationships, majority of our regulated audience will as a matter of course have to meet their clients at the initial stage to obtain full instructions. However, as more products are offered electronically, firms may chose to adapt their business models to allow for online client engagement. For example, there has been a noted increase in firms providing online bookkeeping services to clients and this may become normal practice in future. AAT therefore supports the proposals on making more explicit risk based requirements to firms on developing new business practices and methods of delivery.

3. Recommendation 20: other non-financial businesses and professions

The implementation of recommendation 20 within the UK Money Laundering Regulations 2007 has seen the expansion of the definition of regulated activities and relevant persons to cover non financial businesses. This was a welcome development which addressed the perceived shortcoming of the regime to cover businesses which may not engage in core financial services but may provide avenues for criminals to launder the proceeds of crime. It is AAT's view that including other types of financial institutions within the remits of the FATF recommendations would be a welcome development and will address the imbalance between the professions. However, the implementation of such extension of coverage should not create additional burden on businesses that may only provide nominal financial services to their customers. For instance in the UK, holders of a consumer credit licence under the Consumer Credit Act 1974 must be registered with the Office of Fair Trading for money laundering supervision and are deemed to fall within the regulated sector. While the rationale for this requirement is sound particularly as it relates to businesses that offer credit and lend money, it has resulted in a

situation where membership bodies like AAT who only hold the licence to allow members pay their membership subscription by instalment are required to apply the full provisions of the 2007 Regulations. This may create an undue compliance burden on such businesses and discourage compliance. In reviewing recommendation 20, the FATF should consider whether membership bodies that do not engage in financial activities offering credit or lending money should remain within the remits of AML regime. It is the view of AAT that this is unnecessary as the instalment payment of professional subscription fees does not pose a heightened risk of money laundering or terrorist finance since in most cases the fees are nominal and fixed in advance.

4. Legal persons and arrangements customers and beneficial owners

AAT welcomes the proposals to clarify the information required to identify and verify the identity of customers who are legal persons or arrangements. The nature of our members' professional responsibilities mean that they will often have to deal with corporate entities and there has always been some confusion on how to apply CDD measures to legal persons. Regulation 5(b) of the UK Money Laundering Regulations 2007 stipulates that in the case of a legal person, trusts or other arrangements, regulated persons must put in place measures to understand the ownership structure of the legal person, trust or other arrangement. Regulation 6 goes on to explain the meaning of beneficial owner in detail.

The AAT is of the view that the FATF proposal to clarify the extent of verification when dealing with legal entities and also to clarify that firms ought to be confirming that individuals who act on behalf of legal persons have appropriate authority to act will standardise requirements across the FATF jurisdiction.

Politically Exposed Persons

5. Recommendation 6 and its Interpretative Notes

AAT have been asked on a number of occasions by our regulated audience to explain the reasoning behind the exclusion of local politicians including UK members of the European Parliament and their associates/family members from the definition of Politically Exposed Persons in Regulation 14(5) which implements recommendation 6 of the FATF recommendations. Some of the queries we have received have suggested that if the intention of the Regulation is to identify potentially corrupt politicians, there is no justification for excluding local politicians who may be exposed to the same threats of corruption and money laundering. .AAT does not express any views on the appropriateness of including local politicians within the definition of PEP's and our general advice to members has been that adopting the risk based approach should mean that a UK politician can still be subject to Enhanced Due Diligence checks if factors exists that heightens the risk of money laundering and/or terrorist finance on a risk sensitive basis.

Our views are reflected in the proposed FATF approach in dealing with PEPs. AAT believes that providing clear provisions for assessing the risks of money laundering posed by PEPs whether domestic or foreign will remove the perceived ambiguity on the application of CDD measures to PEPs although we suspect that firms in the UK are already following this approach as best practice as it is consistent with industry guidance.

Applying CDD measures to family members of PEPs have always presented a challenge to firms. Feedback received from our supervised audience suggests that firms struggle to assess the extent of CDD measures to apply and to whom. The current regulation stipulates a blanket application of enhanced due diligence measures to family members and associates of PEPs without providing a clear definition of who falls within these categories. The proposal to limit enhanced due diligence requirements to family members and close associates of PEPs who have a business relationship with firms and where it is suspected that the PEP is the beneficial owner of the funds will provide adequate and clear guidance to firms on applying enhanced due diligence when entering into a business relationship with a PEP.

Third Party Reliance

6. Sectoral coverage: who can rely on a third party and who can be relied upon?

AAT welcomes the proposal to maintain the requirements on who can rely on a third party. Informal feedback from members suggests that at times undertaking CDD when working to tight deadlines can be difficult and in such cases being able to rely on CDD carried out by a third party can be an effective tool in ensuring continuity of business relationships. However, in the UK, the implementation of recommendation 9 means that a distinction has been drawn between firms who are supervised by a competent authority in part I and II of Schedule 3 of the 2007 Regulations. This means that while firms supervised by part I authorities can be relied on, firms that fall under part II supervision cannot be relied on for the purpose of Regulations 17. Our experience of being a statutory supervisor is that such a distinction is unnecessary and cannot be justified using the RBA. It should be sufficient that a firm is subject to effective supervision and monitoring and an extension of the application of reliance by virtue of removing the distinction between part I and part II supervisors may support the ease of any transitional relationships, bearing in mind that in normal circumstances an accounting technician would send a professional clearance letter to a former accountant in line with ethical requirements. AAT maintains robust supervision arrangements for our members in practice similar to that of part I supervisors and the proposal to extend the scope of who can be relied on to include other types of businesses and professions subject to effective monitoring and supervision is particularly welcome.

7. Delineation between third party reliance and outsourcing or agency

Although majority of our members in practice operate in a low complexity business environment without the need to outsource due diligence or engage in agency relationships, AAT welcomes the proposals to better delineate what constitutes third party reliance through a functional definition. AAT understands the confusion inherent in the present provisions relating to third party reliance. The proposal to introduce clear positive and negative indicators which are characteristic of a third party reliance relationship will help address issues faced by members when acting as sub contractors to other accountants or when engaging the services of sub contractors. The feedback we have received from our members suggests that there is still an element of confusion regarding which entity is responsible for CDD and whether an accountant can rely on the CDD of a sub contractor. This may arise in cases where our members have been engaged to provide bookkeeping services or accounts preparation work and the full accounts and auditing work will be carried out by another firm of accountants.

Tax crimes as a predicate offence for money laundering

AAT welcomes the opportunity to comment on the FATF proposals relating to the status of tax crimes within the wider AML/CFT regime. This is an aspect of the regime which is directly relevant to our members in practice who assist members of the public with filing tax returns to HMRC and general tax planning. The AAT is of the view that expressly including tax crimes in the global standards will unify practices across FATF jurisdictions. For instance in the UK, the Proceeds of Crime Act 2002 expands the predicate offences which triggers money laundering to include all criminal offences wherever committed. The interpretation given to this section of the legislation is that tax offences will trigger a money laundering offence and are reportable to the Serious Organised Crime Agency (SOCA). This has been the consistent guidance given to our members and the Consultative Committee of Accountancy Bodies (CCAB) guidance on money laundering (our guidance is closely modelled on this) has an extensive section for tax practitioners.

There is clear evidence to suggest that money laundering is sometimes used to disguise the proceeds of direct and indirect tax evasion. AAT believes that unifying the standards across FATF jurisdictions will remove the potential that money launderers will chose to launder the proceeds of tax evasion using the services of professionals in jurisdictions that do not have a similar legislation to the UK

Proceeds of Crime Act 2002. The implementation of this proposal will also ensure healthy competition between the professions across jurisdictions.

Usefulness of mutual evaluation reports

In response to the specific consultation questions:

- Do you use FATF reports and how?

AAT as a statutory money laundering supervisor uses the FATF reports to keep up to date with global trends and methodologies of money launderers. This informs our guidance to members in practice on particular emerging themes and money laundering standards in overseas jurisdictions. Also as an organisation that engages in business relationships in overseas jurisdictions, the FATF high risk jurisdiction report also assists our business decision making when assessing the money laundering and financial crimes risks inherent in doing business in certain jurisdictions.

- Which elements of current reports are most useful?

AAT finds the methods and trends, high risk and non-cooperative jurisdictions elements most useful. The high risk jurisdictions report is particularly useful when advising members on the risk assessment measures to put in place when establishing business relationships with overseas clients.

- How would you like to see the FATF report improved?

AAT commends the efforts made by the FATF in setting global policy and standards on money laundering. However, the feedback from our members is that the standards and the regime focuses heavily on core financial institutions and this sometimes makes it difficult for other professionals particularly smaller entities to understand how they are affected by certain provisions of the standards. To ensure that all sectors involved in the anti money laundering efforts continue to be engaged with anti money laundering and anti terrorist finance efforts, it is important to provide more content that can be easily understood and applied to smaller entities that fall within the regulated sector.

Ayo Salam
Members in Practice Compliance Manager
AAT
t: +44 (0)20 7397 3158
f: +44 (0)20 7397 3009
e: ayo.salam@aat.org.uk
w: www.aat.org.uk

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AAT Chief Executive: Jane Scott Paul. AAT is sponsored by CIPFA, ICAEW, CIMA and ICAS
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AAT Response to the Review of the FATF Standards – Preparation for the 4th Round of Mutual Evaluations

Second Public Consultation

June 2011

AAT is a registered charity. No. 1050724

Introduction

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It is the policy of AAT to respond to public consultations where we have an opinion or where the issues are directly relevant to AAT members or a sub category of members. Our comments on this consultation reflect the views of our members as evidenced in feedback received on the relevant sections of the 3rd EU Directive as implemented in the UK Money Laundering Regulations 2007 and as part of a contribution towards our object of promoting the sound administration of law for the public benefit. As with our responses to the first public consultation, we have limited our comments to issues raised in this consultation which will affect our members in public practice and in industry.

Beneficial Ownership: Recommendations 5, 33, and 34

1. Recommendation 5

We welcome the proposal to specify more clearly the types of measures that regulated entities should undertake in order to (a) identify and verify the identity of customers that are legal persons or legal arrangements, and (b) understand the nature of their business and their ownership and control structure. We believe providing such clarity will assist regulated practitioners when deciding the extent of due

diligence measures to apply to their clients. The proposed information requirement is consistent with industry guidance produced in the UK, for example the JMLSG guidance, and it is our view that specifying these requirements in the FATF standards will ensure consistency of approach across jurisdictions resulting in simplified procedures for practitioners. It is however important that these are set as minimum information requirements, as the extent of verification to apply to entities must continue to be risk-informed.

We welcome the proposal to clarify the identification and verification measures required for beneficial owners. The proposals are consistent with the provisions of the UK Money Laundering Regulations 2007 and guidance issued in the UK. It is our view that specifying these requirements in the FATF standards will ensure consistency of approach across FATF jurisdictions.

2. **Recommendation 33 and 34**

The wide variances in the nature and quality of trusted publicly available information across different jurisdictions have always proved a challenge for practitioners conducting due diligence on legal persons. For instance in the UK all incorporated companies must register with Companies House and a quick search of the Companies House website will reveal basic information about the company including company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers (e.g. memorandum & articles of association) and a list of directors. Many of the professional bodies in the UK also keep a publicly searchable database of their members. However, in our experience practitioners trying to obtain similar information from other jurisdictions (including some FATF countries) have found this to be almost impossible or only available after incurring significant expense. This means that such practitioners will either have to decline the engagement or bear the additional costs for obtaining the information, thereby increasing their operating costs. It is our view that the proposals being considered will ensure consistency across jurisdictions and in the long term reduce a key compliance burden for practitioners.

We agree that requiring companies to hold basic information and information about beneficial ownership will assist with the above. However, it should also be required that such information is available from an independent public body like the Registrar of Companies to enable practitioners conducting enhanced due diligence access such information from a trusted and independent source.

We agree with the suggestion that certain entities could be exempt from the information requirements.

Data protection and privacy: Recommendation 4

3. **Recommendation 4**

We agree with the proposal to add a general requirement to recommendation 4 on transfer of data. In the UK for example, there is a general prohibition on the transfer of personal data outside the EEA except in very limited circumstances). We agree that there should be closer cooperation between authorities responsible for AML/CFT and those responsible for data protection.

Other Issues included in the revision of the FATF Standards

4. **Risk-based approach in supervision**

We welcome the proposal to apply a risk-based approach to supervision of financial institutions and DNFBPs. However, we note that this has been the approach adopted by UK supervisors since the implementation of the 3rd EU Directive. The risk-based approach to supervision is also enshrined in the

UK Regulators Compliance Code which applies to all UK regulators carrying out a statutory regulatory function. Compliance monitoring on a risk-based approach enables supervisors to allocate resources effectively and also reduces the compliance burden on businesses. This is particularly of relevance when making decisions on when and how to carry out compliance reviews (visits).

We are of the view that consideration should be given to whether it will be appropriate for FATF to provide a list of compliance risk indicators/behaviours that supervisors should take into consideration when carrying out their risk assessments. The benefit of such a list will be a consistent application of the risk based approach to supervision across FATF jurisdictions.

Ayo Salam
Members in Practice Compliance Manager
AAT
t: +44 (0)20 7397 3158
f: +44 (0)20 7397 3009
e: ayo.salam@aat.org.uk
w: www.aat.org.uk

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HM Treasury review of the MLR 2007 and proposals for consultation - 2011

AAT is a registered charity. No. 1050724

1. About AAT

AAT is a professional body and money laundering supervisory authority (SA) for accounting technicians. Established in 1980 to provide a recognised professional qualification and membership regulatory body for accounting technicians, AAT is now well-established and respected worldwide, with more than 120,000 members, including qualified accountants and students.

AAT is a registered charity. Our charitable objects and primary purpose are:

- to advance public education and promote the study of the practice, theory and techniques of accountancy
- to prevent crime
- to promote the sound administration of the law for the public benefit by promoting and enforcing standards of professional conduct amongst those engaged in accountancy, monitoring and supervising their compliance with money laundering legislation.

Our strategy for achieving these objectives is to promote excellence in accounting by providing relevant qualifications in conjunction with a membership programme designed to develop and maintain a high standard of professional conduct.

AAT was given supervisory status under Part II of Schedule 3 of the Money Laundering Regulations (MLR) 2007. The supervised population consists of our self employed members, referred to as members in practice, who provide accountancy services to the public. We currently supervise 195 firms and 2949 individual members in practice. Our members in practice profiles vary, from part-time sole practitioners performing purely bookkeeping services, to highly successful group practices dealing with complex matters.

Group practices in which members practise can consist either exclusively of AAT members or of individuals belonging to a variety of professional bodies.

AML supervision is integrated within existing quality assurance activities. Our review visit activity includes a money laundering compliance focus where our trained representatives carry out assurance reviews of members' internal systems and controls. The representatives assess members' compliance with the Money Laundering Regulations and also AAT's AML guidance and give advice and guidance where necessary to support members in achieving and maintaining compliance.

AAT welcomes the opportunity to comment on the proposals for consultation. We are participating in this consultation as part of our contribution towards our object of promoting the sound administration of law for the public benefit. The proposals in this consultation will directly impact our wider membership in particular our members in practice. To assist our response to this consultation, AAT commissioned an online survey aimed at over 3500 of our members in practice. The survey asked respondents to comment on a range of issues but particularly the perceived regulatory burden they face in their bid to comply with the MLR 2007. Our response to this consultation incorporates the views expressed by our members and our own experience of statutory supervision.

For clarity, we will adopt a numbered approach when responding to the relevant questions in the proposals for consultation in part 3 of the consultation document. Our comments on other matters arising from the HM Treasury response to the earlier call for evidence will be made later on.

2. Should the existing criminal sanctions be wholly or partly repealed? (part 3.50-3.60)

AAT welcomes the opportunity to reflect on the continued need for criminal sanctions as provided for in Regulation 45 of the MLR 2007. AAT commends HM Treasury for the efforts made to understand the impact of this Regulation on businesses and agrees that the issues raised are complex.

In our experience of being a statutory supervisor, we understand the effect of having criminal sanctions in place to engender compliant behaviour and also know that the threat of a criminal sanction at least in the early years of the MLR had been a very effective tool used by middle managers to influence senior managers and staff to take their responsibilities seriously. We are aware that some businesses due to the fear of getting administrative procedures wrong and the attendant criminal sanction ignore the risk based approach provisions of the MLR and revert to a tick box approach to give them a degree of comfort that if they have gone above and beyond the requirements of the MLR then they cannot be exposed to the threat of criminal sanctions. Whilst perhaps the rationale is understandable, the practice is counter-intuitive to the spirit of the regulations with the resultant impact of increased administrative burden on the client and the regulated sector.

Our view on this is that certain criminal offence provisions under the MLR are required to ensure that the UK anti money laundering regime remains effective and the public is assured that the UK Government continues to take responsibilities under the EU Directive seriously. For example, the requirement to be supervised under Regulation 26 and 33 provides for an effective method of sanctions for businesses who may not belong to a professional body or who temporarily fall outside the disciplinary or sanctioning remits of such bodies for example, for failing to renew their membership. In our experience, the ability to instigate the possibility of criminal sanctions ensures that key messages around the requirement to be registered for supervision are effective. Registration for supervision is the cornerstone of effective supervision and AAT believes that by retaining criminal sanctions in this area, UK Government will be sending a strong message to businesses who wilfully avoid being registered for supervision thereby removing any potential for a competitive advantage particularly in the ASP sector where a sizeable proportion of practitioners do not have professional membership.

AAT has carefully considered the other provisions of the MLR where non compliance triggers a criminal offence. AAT is of the view that these requirements can be effectively monitored by regulatory powers of supervisors. For example the CDD requirements in Regulations 7 to 16 of the MLR rests mainly on the expectation that businesses will apply a risk based approach. To therefore attach criminal liability to such requirements appears to undermine the spirit of the MLR 2007 which is to promote a risk based approach among businesses. This contrast has resulted in a situation where businesses will for example request additional CDD information from their clients without any consideration or analysis of the risk of money laundering posed by the individual client or the service they are offering. Many of our members in practice act as tax agents for family members or in equally low risk situations where they either know the identity of the client very well or the transaction represents a very low risk of actual money laundering and we have received feedback that suggests that some of these practitioners will insist on having copies of identification documents, fearful that if they get it wrong, they may be sent to prison.

AAT believes that by retaining the criminal sanctions for failure to be supervised under the MLR and decriminalising the other offences, UK Government will be sending a reassuring message to businesses that the risk based approach continues to be the most effective method of tackling financial crime and that businesses can conduct their own risk assessments without the fear of criminal sanction if their risk assessment is deemed inconsistent with that of law enforcement, and therefore their CDD considered to be in breach of the Regulations, which is a big fear among firms.

AAT recognises that decriminalising certain offences under the MLR may lead to public perception issues regarding UK Government's approach and remove some of the existing deterrent messages present under the current MLR. However, the criminal sanctions under the POCA 2002 which carry far tougher penalties should mean that businesses who actively participate in money laundering and other financial crimes or who wilfully turn a blind eye to such crimes will still be caught by the law.

3. Should new powers be granted to supervisors to allow them to order or require actions by businesses to mitigate the potential negative impacts from the loss of criminal sanctions?

While AAT welcomes the proposal to decriminalise certain offences under the MLR, we recognise that some of the existing enforcement powers currently available to supervisors are limited. For instance, regulation 36 which grants powers to designated authorities excludes the professional bodies listed under Schedule 3 of the MLR. This means that under the letters of the MLR, the bodies listed in Schedule 3 do not have powers to require information from, enter premises or inspect the documents of a relevant person. Although many professional bodies will already have these powers written into the rules and regulations of their bodies, AAT is of the view that these powers should be expressly granted in the MLR with appropriate sanctions for failure by a relevant person to cooperate with such requests.

At AAT, our *Regulations for members in practice* grants us powers to require information and request documents which are related to a member's practice. Members in practice also consent to cooperate with AAT during a review visit. Whilst having not experienced the issue of members not consenting to our preferred approach, AAT believes that granting supervisors powers to order or require information under the MLR would mitigate against the risk of a member disengaging during a money laundering compliance review, which we understand has been experienced by other bodies.

4. Do you agree that the current distinction between Parts I and II of Schedule 3, for example, for reliance purposes should now be removed?

AAT strongly endorses UK Government's observation on the value of reliance to reduce the administrative burden of due diligence in the majority of relationships and transactions where there is a low risk of money laundering or terrorist financing. The MLR as currently drafted inhibits the potential effectiveness of reliance to achieve a reduction in the administrative burden and associated cost to the regulated sector in discharging their CDD obligations, due to the barrier in utilising the provisions detailed within Regulation 17 across the two parts of Schedule 3.

On this basis, AAT strongly supports the proposal to remove the distinction between parts I and II.

One of the main queries received by AAT in exercising our supervisory function has been whether AAT members may be relied upon in accordance with the provisions of Regulation 17. AAT has been certain to clarify the position to those who have called to enquire, but the residual risk remains that there may be members of the wider regulated sector who are inadvertently and unnecessarily in breach of their duties under the MLR by relying on the CDD of a Part II supervised firm in good faith, unaware of this as a nuance of the Regulations. There is no distinction in the due diligence requirements under the MLR between the two parts. This brings to the fore the fact that the distinction creates an unnecessary, arbitrary and artificial barrier to reliance.

Supervisors should encourage and guide their supervised population to decide whether it would be appropriate to rely on the CDD of another firm on a risk sensitive basis, and not on the basis of the distinction detailed in Schedule 3, which is an arbitrary measure, currently acting as a barrier to effectiveness.

AAT advocates that the rationale for inclusion of supervisors within two distinct parts on the basis of the inexperience of Part II supervisors in undertaking a supervisory role under the MLR 2007 is no longer sustainable given that all supervisors have had the opportunity to prove themselves in the four years since the MLR came into force. On this basis, AAT suggests that all supervisors are detailed within Schedule 3, and the parts are withdrawn to avoid confusion within the regulated sector and for the wider public.

5. Should there be a general de-minimis exclusion for very small businesses (for example those with below €15,000 VAT- exclusive turnover per annum), or a reduction in the requirements placed on such businesses?

As a supervisor for an audience whose niche within the wider accountancy market is generally the provision of low complexity accountancy services to the public, this is an issue that is very relevant to our audience. To ensure that we fully understand the perceived compliance burden created by the MLR, we commissioned an online survey open to all our members. It is important to state that the total responses represent a relatively small proportion of our total supervised audience. However this has provided useful insight to the challenges faced by businesses we supervise.

AAT is committed to helping our members understand the MLR and one of our objectives in this regard is ensuring that members do not do more than is proportionate and necessary under the law. As a supervisor we are committed to the risk based approach and this has formed the basis of our AML education programmes. We understand the challenges faced by smaller practitioners especially semi-retired accountants and bookkeepers and particularly the perceived cost burden of complying with the MLR.

However as a supervisor we are not convinced that the solution to these challenges is the introduction of *de-minimis* exclusion. While we agree that there may be benefits in this approach, we are of the view that the long term negative impact will outweigh any short term benefit gained. During our survey, we asked our members how much additional costs they had incurred in the last 12 months as a result of complying with the MLR. 35% of respondents had incurred costs below £100, 26% had incurred costs between £100 and £500 and 29% said they had incurred no costs at all. Most of these costs would have been the cost of supervision and the costs of training courses. While we recognise that any additional costs of regulation will have an impact on profitability for a small business particularly in the current economic climate, we are of the view that such costs are not disproportionate when viewed against the background of the benefits to businesses.

To ensure that our supervision fees reflect the diverse range of our members' businesses, AAT currently has a two tier money laundering fee structure with members earning over £6,000 paying an £80 annual fee for supervision and members earning under that amount paying £20. The introduction fee which is payable in the first year of supervision is £60 for annual earnings over £6,000 and £15 under that amount.

AAT is concerned that by excluding these businesses from the scope of the MLR, they are left exposed to the risk of criminal sanctions for POCA offences, in particular entering into an arrangement under section 328. This is because in complying with the systems and controls requirements under the MLR, firms in the regulated sector proactively take steps to prevent criminals from accessing financial systems. The MLR encourages them to take risk sensitive steps to avoid finding themselves in the position of having committed an offence under section 327, 328 or 329 of POCA.

Our online survey revealed that one of the main benefits of supervision as perceived by businesses is the provision of CPD courses, template documents, compliance visits and simplified tailored guidance by supervisors. Should small businesses be excluded from the MLR, supervisors may be unable to continue these services to businesses that will fall outside the scope of regulation. This means that the first time such businesses will become aware that they have breached the law may be when they receive a visit from law enforcement for a breach of the POCA. AAT feels this risk is higher than the perceived burden under the current arrangement.

As identified in the Government's consultation, there is clear evidence that criminals target smaller practitioners with perceived weaker systems and controls to detect money laundering. Excluding these small businesses from the scope of the MLR will only increase such targeting increasing the vulnerability of the small practitioner to the threat of being used for the purposes of money laundering.

Excluding some businesses from regulation will create an administrative challenge for supervisors which may lead to an increase to the costs of supervision for those businesses that are above the threshold. For example, supervisors will have to invest resource in "policing the parameters of the threshold" by monitoring businesses as their fee income fluctuates and ensuring that those in scope are registered for supervision. This will be a complex time consuming exercise with little benefit given that the income of the businesses we supervise are subject to regular fluctuation. There will also be the additional issue of funding the supervision arrangements for members who earn above the threshold. While the intention of the proposal is to reduce the burden of regulation, it may have an unintended consequence of increasing the costs throughout the regulated sector in the long term.

Supervisors in common with relevant persons have a duty to apply a risk based approach under the MLR. In practice, this should mean that businesses identified as presenting a lower risk of money laundering should not be required to do more than necessary in accordance with the risk assessment. AAT is of the view that supervisors can assist small businesses in reducing the burden of compliance by offering simplified procedures and supporting them with easy to understand procedures and possibly template policies which should reduce the need for such businesses incurring additional expense when sourcing policies and procedures. Obviously, the risk of this approach is that businesses may revert to a tick box approach. However, coupled with proactive learning resources and CPD materials, supervisors will be better placed to reinforce the message of adopting a risk based approach.

6. Should supervisors be given new powers to impose penalties for the unreasonable failure to allow a supervisor to enter their business premises?

AAT does not currently experience issues with the supervised population resisting attempts to access their premises, but would welcome the proposal to statutorily provide supervisors with powers to enter premises when conducting compliance visits or reviews. As mentioned above, AAT currently grants itself powers to request information and document relevant to a members' practice within our *Regulations for Members in Practice*. This right can only be exercised with the members' consent and in theory it is possible that a member can refuse entry although this will trigger our disciplinary proceedings for failure to cooperate with a review. This is a responsibility we take very seriously and as required by the *Regulators Compliance Code*, we take every care to ensure that such visits are conducted proportionately, fairly and with minimal interruption to our member's business. With the prospect that certain offences under the MLR will be decriminalised, AAT is of the view that specific powers of entry to business premises will complement existing powers of supervisors and assist with ensuring that the supervised audience are effectively discharging their responsibilities under the MLR, although we do not anticipate this being a widely used power in light of our experience to date.

7. Should there be penalties for the unreasonable failure to provide information?

As mentioned above, AAT through its disciplinary procedures has powers to commence proceedings where a member unreasonably fails to provide information requested either as part of a compliance review or as part of a disciplinary investigation. AAT welcomes the proposal to create specific statutory penalties for the unreasonable failure to provide information during a MLR review or compliance visit.

8. Should supervisors be given additional powers to enforce the payment of fees or charges payable under a supervisory arrangement, for example by ensuring all supervisors have powers to de-register a business where there is sustained non-payment?

As a professional membership body, AAT has existing powers under our Articles of Association to withdraw membership in the event of non-payment of any or all membership fees. Our money laundering supervision arrangement fees form part of our members in practice licence application process. Failure by an applicant to pay these fees where they have indicated that they wish to be supervised by AAT will mean that the licence application will be rejected and such a member will be referred to our disciplinary procedure for providing self-employed accountancy services without being licensed.

As a membership body, AAT may not be in a position to enforce the payment of fees outside of our disciplinary procedures. This is because a member is at liberty to terminate their membership at any time. To

ensure that such businesses do not continue in business without supervision, it is important that adequate systems are in place to refer such businesses to HMRC, the default supervisor.

9. Should supervisors be given strengthened powers to de-register a business, where a registration has been obtained by other than bona fide means, or no longer serves the public interest?

AAT supervises all its members in practice unless they elect to arrange supervision with another statutory supervisor. Only AAT members are eligible to obtain AML supervision and the process forms part of the wider licence application process. Where a member obtains a licence by providing misleading or inaccurate information, we reserve the right to withdraw the licence and automatically this revokes any supervision rights previously granted. The right to revoke the licence is derived from our Articles of Association. While we have not experienced any particular issues with the current approach, we welcome the proposal to give strengthened powers to supervisors where a business has obtained registration other than by bona fide means.

10. Should supervisors have clear powers to make enquiries of persons who reasonably appear to be relevant persons?

Again as a membership body with our own internal rules and regulations, this has not proved to be an area where we have faced any challenges. There is a clear requirement for our members who are self-employed to be licensed as a member in practice and supervised for anti money laundering compliance. Our student members are allowed to provide self-employed services but we do not regulate them or supervise them for MLR and they are advised to register with HMRC. Where we have reasons to believe that a member is in practice without a licence, we have systems in place to make enquiries, investigate and if necessary refer such members to the disciplinary process.

11. Should the ability of supervisors to exchange information with each other for the purposes of discharging their AML supervisory functions be strengthened, if necessary by the creation of new 'gateways' to allow for the exchange of information?

AAT welcomes the proposals to create new information gateways for information sharing between supervisors. We are of the view that this will minimise the burden on businesses when they move supervisors and also ensure that supervisors are able to share negative information with each other. This is relevant to our supervision arrangements as due to the numbers of professional bodies in the accountancy sphere it is common for accountants to progress from one to the other based on their needs at the time. It is also common for members who have been expelled from one body to move to another. The ability to share information relevant to AML supervision will assist supervisors in conducting their own due diligence on the business and may form part of their risk assessment of the business.

12. Should HMRC or other supervisors have powers to limit or prescribe the language used by regulated businesses to describe their relationship with their AML supervisor (for example to make it clear that supervision applies only to money laundering compliance)?

AAT prescribes strict wordings for our members in practice to use when promoting their licence status to the public. This does not currently include references to money laundering supervision and we do not plan to include this in future. However, our members have reported instances where other accountants supervised by HMRC often non-qualified, use various wordings in an attempt to gain some legitimacy and engender disproportionate public confidence in their services when competing for clients. Where we have identified such practices, we have passed on information to HMRC about such businesses but understand that they may have limited powers to address the issue. AAT therefore welcomes the proposal to limit or prescribe the language used by businesses to describe their relationship with their AML supervisor although we wonder whether this is an issue for legislation or one which supervisors can influence via written agreements with businesses they supervise.

Other matters raised by the Government's response to the call for evidence

1. Non lending credit institutions

AAT is pleased with the Government's to proposal to exempt non lending credit institutions from the scope of the MLR. As a professional membership body that holds a consumer credit licence under the Consumer Credit Act 1974 we have fallen under the scope of the MLR for the simple reason that we allow our members to pay their annual subscription by instalment. We do not offer any lending facilities but have had to implement systems to ensure that we are complying with responsibilities under the law including being supervised by OFT.

2. Written policies and procedures

AAT welcomes the opportunity to comment on the proposal to require businesses to have written money laundering policies. We currently encourage our members in practice to have some written policies in place as this gives AML prominence within their businesses and facilitate discussion during compliance visits. To ensure that members do not incur additional expense when sourcing policy documents, we have produced simple policy templates which can be adapted for small and medium sized businesses. These templates formed part of a wider toolkit we produced and sent to our members in practice who we supervise in 2010 at no direct cost to them. We have received positive feedback on this toolkit, however, do not believe that a statutory requirement for a written policy is necessary at this time and it may well be contrary to the risk based approach message. We are of the view that supervisors are best placed to identify practices that will benefit from a written policy as a result of reviews and compliance monitoring.

3. Retention of copy documentation

AAT is pleased to note that the Government will not be proposing a change to the current approach regarding retaining CDD information. We are of the view that allowing businesses to decide the best method of keeping documentation will ensure that they are able to make what is primarily a commercial decision without fear of breaching the law.

4. Risk based approach

AAT welcomes the opportunity to work with the Government in understanding the challenges inherent in the application of the RBA by businesses. As a supervisor of a diverse range of businesses, we are committed to the RBA as it remains an effective way for businesses to understand their compliance risks and allocate resources accordingly. We have committed significant resources to educating our members on the application of the RBA and will continue to work with them in ensuring that they do not do more than is necessary under the law.

Confidential

General questions

1. Do you agree that the options are compatible with our international commitments (the FSTF Recommendations and EU Directive); and they are otherwise free of legal difficulty?

We have not identified any inconsistencies with international commitments in these proposals. However, we are mindful of the ongoing EU review and FATF consultation but trust that these proposals will be tested against those commitments prior implementation.

2. In policy terms, are the options appropriate and consistent with our broader priorities for an effective and proportionate AML regime?

We are of the view that options are appropriate and consistent with HMT's priorities for an effective and proportionate AML regime.

3. Will the proposals result in more or less costs for businesses and other interested parties?

We are of the view that providing clearer guidance and simplification procedures to businesses will in the long term result in less costs for businesses and other interested parties in addition to increased confidence and therefore effectiveness of the anti money laundering regime.

If further information is required on this response, please contact either:

Tania Hayes
Head of Conduct and Compliance
AAT
t: +44 (0) 20 7397 3051
e: tania.hayes@aat.org.uk

Ayo Salam
Members in Practice Compliance Manager
AAT
t: +44 (0) 20 7397 3158
e: ayo.salam@aat.org.uk