

**MONEY LAUNDERING SOURCEBOOK INSTRUMENT 2001**

- A. The Financial Services Authority makes the rules and gives the guidance in the Annex to this instrument ("ML") in the exercise of the powers listed in Schedule 4 to ML (Powers exercised).
- B. This instrument shall come into force at the beginning of the day on which section 19 (The general prohibition) of the Financial Services and Markets Act 2000 (the "Act") comes into force.
- C. The provisions of the Act relevant to making rules and listed in Schedule 4 to ML (Powers exercised) are specified for the purpose of section 153(2) of the Act (Rule-making instruments).
- D. This instrument may be cited as the Money Laundering Sourcebook Instrument 2001.
- E. The Annex to this instrument (including its Schedules) may be cited as the Money Laundering sourcebook (or ML).

By order of the Board  
21 June 2001

# ANNEX



# Contents

Transitional provisions

Text of ML:

- 1 Application and purpose
- 2 General money laundering duties
- 3 Identification of the client
- 4 Reporting
- 5 Using national and international findings on material deficiencies
- 6 Awareness of and training for staff
- 7 The money laundering reporting officer and other arrangements
- 8 Sole traders and authorised professional firms

Schedule 1: Record keeping requirements

Schedule 2: Notification requirements

Schedule 3: Fees and other required payments

Schedule 4: Powers exercised

Schedule 5: Rights of action for damages

Schedule 6: Rules that can be waived

Derivations

Destinations

# Handbook Modules

## Schedule

1 Table Transitional Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook-provision: coming into force
1	ML 2.1.1R ML 7.1.5R	R	<p><b>(1) Paragraph (2) applies where, immediately before the commencement, there is in a relevant firm an individual who was appointed by the relevant firm before that date to act for it in connection with its responsibilities in relation to money laundering.</b></p> <p><b>(2) If, on commencement, the individual in (1) is approved to perform the money laundering function, nothing in ML 2.1.1R or ML 7.1.5R requires the relevant firm to reappoint that individual as its MLRO.</b></p>	From commencement	Commencement
2	ML 3	R	<p><b>Where, immediately before commencement, a relevant firm already has an established client relationship with any person, nothing in ML 3 requires the relevant firm to establish the identity of that client.</b></p>	From commencement	Commencement
	ML	G	<p><b>General transitional provisions</b></p> <p>GEN contains some technical transitional provisions that apply throughout the Handbook and which are designed to ensure a smooth transition at commencement. These include transitional provisions relevant to record keeping.</p>	From commencement	Commencement

# Chapter 1

## Application and Purpose

## 1.1 Application

- 1.1.1** **R** /1 (1) This sourcebook applies to every *relevant firm* (see *ML 1.1.2 R*) with respect to its *relevant regulated activities* (see *ML 1.1.4 R*), but there are special provisions in *ML 8.1 R* and *ML 8.2 R* for *sole traders* with no *employees* and *authorised professional firms*.
- (2) Some provisions also relate to the *money laundering reporting officer* of a *relevant firm* in his capacity as an *approved person* (see *ML 7.1*).

### Who?

- 1.1.2** **R** /1 (1) In this sourcebook, "*relevant firm*" means every *firm*, except:
- (a) a *firm* whose only *regulated activities* are those specified in *ML 1.1.4 R* (1) to (4);
- (b) a *UCITS qualifier*.
- (2) An *incoming firm* is a *relevant firm*, but only to the extent that it is conducting activities from an establishment in the *United Kingdom*.

- 1.1.3** **G** /1 The scope of this sourcebook is very wide. It includes all *firms* except those within the limited exception for *firms* concerned only with certain insurance activities and *UCITS qualifiers* (see *ML 1.1.2 R*). In this respect, the chapter follows article 1 of the *Money Laundering Directive* (No91/308/EEC). The scope extends to *incoming firms* (such as branches of institutions established elsewhere in the *EEA*), except those providing only *cross border services* in the *United Kingdom*. This is because the Directive is designed to apply on a "*Host State*" basis.

### What?

- 1.1.4** **R** /1 In this sourcebook, "*relevant regulated activities*" means any *regulated activity* apart from:
- (1) *general insurance business*;
- (2) *long-term insurance business* which is outside the *First Life Directive* (and is not otherwise a *relevant regulated activity*);

- (3) business relating to contracts which are within the *Regulated Activities Order* only because they fall within paragraph (e) of the definition of "contract of insurance" in article 3 of that Order (see the *Glossary*); and
- (4) (a) arranging, by the *Society of Lloyd's*, of deals in *general insurance contracts* written at Lloyd's; and
- (b) *managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyds.*

#### Where?

---

1.1.5

**R**

/1

This sourcebook applies only in relation to activities carried on from an establishment maintained by the *firm* (or its *appointed representative*) in the *United Kingdom*.



## 1.2 Purpose

- 1.2.1** **G**<sub>/1</sub> The purpose of this sourcebook is to require *relevant firms* to have effective anti-*money laundering* systems and controls, in order to reduce the opportunities for *money laundering* in relation to *relevant firms*. It is also to require *relevant firms* to ensure that *approved persons* exercise appropriate responsibilities in relation to these anti-*money laundering* systems and controls.
- 1.2.2** **G**<sub>/1</sub> Section 2 of the *Act* (The Authority's general duties) sets out the *regulatory objectives* of promoting market confidence and public awareness, protecting *consumers* and reducing *financial crime*. The reduction of *financial crime* objective is the most important to this sourcebook. One aspect of the reduction of *financial crime* objective is the risk of the businesses of *relevant firms* being used in connection with offences which involve handling the proceeds of crime. It follows that an effective and proportionate regulatory regime is important in reducing the extent to which it is possible for the businesses carried on by *relevant firms* to be used for *money laundering*. These *rules* and compliance with them will also help the *FSA* to meet the objective of maintaining market confidence, by reducing the risks posed to the financial community by *money laundering*. As to the public awareness objective, this sourcebook is designed to assist *relevant firms* and, through them, the public at large, to be better informed about the safeguards for the *financial system* provided by effective anti-*money laundering* systems and controls. *Consumers* are better protected if *relevant firms* are able to protect themselves against criminal activity and to record the steps they have taken for that purpose.
- 1.2.3** **G**<sub>/1</sub> This sourcebook provides support, in relation to *money laundering*, for certain other parts of the *Handbook*, mainly:
- (1) the *Principles (PRIN)*, especially *PRIN 3*;
  - (2) the *Statements of Principles and Code of Practice for Approved Persons (APER)*, in particular *Statements of Principle 2* and *7*;
  - (3) *Senior Management Arrangements, Systems and Controls (SYSC)*, in particular *SYSC 3*; and
  - (4) the *Training and Competence sourcebook (TC)*.
- 1.2.4** **G**<sub>/1</sub> This sourcebook relates to regulatory requirements, as opposed to requirements imposed by the criminal law. It is therefore not relevant regulatory or supervisory *guidance* for the purposes of regulation 5(3) of the *Money Laundering Regulations*.

## Chapter 2

2

# General money laundering duties



## 2.1 Duty to have arrangements and to appoint a money laundering reporting officer

**2.1.1** **R** <sup>/1</sup> A *relevant firm* must set up and operate arrangements, including the appointment of a *money laundering reporting officer (MLRO)* in accordance with the duty in *ML 7*, which are designed to ensure that it, and any *appointed representatives* that act on its behalf, are able to comply, and do comply, with the *rules* in this sourcebook.

**2.1.2** **G** <sup>/1</sup> The duties of the *MLRO* are set out in full in *ML 7*. The *MLRO* is responsible for the oversight of the *relevant firm's* anti-money laundering activities and is the key *person* in the *relevant firm's* implementation of anti-money laundering strategies and policies.

**2.1.3** **G** <sup>/1</sup> If a *relevant firm* permits or requires an *appointed representative* to carry on particular *relevant regulated activities* on its behalf, the *relevant firm's* duty to comply with this sourcebook and the *MLRO's* duties set out in *ML 7* also apply to the activities of those *appointed representatives*.

## Chapter 3

# Identification of the client



## 3.1 The duty

### Purpose and meaning of "client"

3.1.1

G  
/1

The purpose of this chapter is to ensure that *relevant firms* carry out the identification of *clients*. The chapter also makes clear that *relevant firms* must not, in general, carry out *relevant regulated activities*, or agree to do so, for a *client* or potential *client* unless the *relevant firm* has taken reasonable steps to check that *client's* identity. In this sourcebook "client" is defined differently from elsewhere in the *Handbook* and *relevant firms* should take care to ensure that they use the correct definition. There are special provisions in this chapter for cases where the *person* with whom the *relevant firm* has contact is acting for another. Broadly, the *relevant firm* has to enquire into the identity of both *persons*, unless a relevant exemption enables it to focus solely on the *person* it is actually in contact with.

### Meaning of "transaction"

3.1.2

G  
/1

"Transaction" in this sourcebook includes the giving of advice, and thus has a wide meaning throughout this sourcebook. Certain sorts of *transaction* are exempted from these requirements. These include cases where the *transaction* is of relatively small value or the *person* has been vouched for by another *person* who can be relied on to have carried out these checks himself. But the various exemptions from the requirement are all subject to the overriding condition that there is nothing in place to put the *relevant firm* on enquiry ("knowledge or suspicion") in the *money laundering* context.

### Identification of the client: the duty

3.1.3

R  
/1

- (1) **A *relevant firm* must take reasonable steps to find out who its *client* is by obtaining sufficient evidence of the identity of any *client* who comes into contact with the *relevant firm* to be able to show that the *client* is who he claims to be.**
- (2) **If the *client* with whom a *relevant firm* has contact is, or appears to be, acting on behalf of another, the obligation in (1) is to obtain sufficient evidence of both their identities.**
- (3) **This *rule* is subject to the exceptions in *ML* 3.2.**

3.1.4

G  
/1

In assessing a *relevant firm's* compliance with its duty to identify a *client* in accordance with *ML* 3.1.3 R, the *FSA* will have regard to the *relevant firm's*

compliance with the Joint Money Laundering Steering Group's Guidance Notes for the Financial Sector and with the *guidance* on financial exclusion in *ML 3.1.5 G*.

#### Financial exclusion

3.1.5

**G**  
/1

The *guidance* in *ML 3.1.5 G* to *ML 3.1.7 G* aims to help *relevant firms* ensure that, where people cannot reasonably be expected to produce detailed evidence of identity, they are not denied access to financial services. Although a *relevant firm* must always take reasonable steps to check who its *client* is, *relevant firms* will sometimes be approached by *clients* who are at a disadvantage, or who otherwise cannot reasonably be expected to produce detailed evidence that helps to confirm identity. An example could be where a *person* does not have a passport or driving licence, and whose name does not appear on utility bills.

3.1.6

**G**  
/1

If a *relevant firm* has reasonable grounds to conclude that an individual *client* is not able to produce detailed evidence of his identity and cannot reasonably be expected to do so, the *relevant firm* may accept as identification evidence a letter or statement from a *person* in a position of responsibility who knows the *client* that tends to show that the *client* is who he says he is, and to confirm his permanent address if he has one.

3.1.7

**G**  
/1

Examples of *persons* in a position of responsibility include solicitors, doctors, ministers of religion, teachers, hostel managers and social workers.

#### Identification of the client: timing

3.1.8

**R**  
/1

(1) A *relevant firm* must comply with the obligation in *ML 3.1.3 R (1)* as soon as reasonably practicable after it has contact with a *client* with a view to:

- (a) agreeing with the *client* to carry out an initial *transaction*; or
- (b) reaching an understanding (whether binding or not) with the *client* that it may carry out future transactions.

(2) If the *client* does not supply evidence of identity within the time scale in (1), the *relevant firm* must:

- (a) discontinue any *regulated activity* it is conducting for him; and
- (b) bring to an end any understanding it has reached with him;

unless in either case the *relevant firm* has informed the National Criminal Intelligence Service (NCIS).

3.1.9

**R**  
/1

Nothing in *ML 3.1.8. R (2)* requires a *relevant firm* to continue with a *transaction* which conflicts with its obligations, if any, in relation to rights of a third party.

## 3.2 The exceptions

### 3.2.1

**R**

/1

(1) This section sets out circumstances in which:

- (a) the duty in *ML 3.1.3 R (1)* (Identification of the client: the duty) need not be complied with; or
- (b) the *relevant firm* is entitled to regard the evidence it has as sufficient evidence;

but none of the *rules* in this section applies if the *relevant firm* knows or suspects, in accordance with (2), that the *client* or the *person* on whose behalf he is or appears to be acting is engaged in *money laundering*.

(2) The *relevant firm* is taken to have the knowledge or suspicion referred to in (1) if any member of the staff handling the *transaction* or potential *transaction* or managerially responsible for it has the knowledge or suspicion.

#### When the duty to identify does not apply

### 3.2.2

**R**

/1

The duty in *ML 3.1.3 R (1)* (Identification of the client: the duty) does not apply if:

- (1) the *client* is also a *credit institution* or financial institution covered by the *Money Laundering Directive*; or
- (2) the *transaction* is:
  - (a) a one-off *transaction* with a value of less than euro 15,000; or
  - (b) is one of a number of *transactions* which are related and, when taken together, have a value of less than euro 15,000; or
- (3) with a view to carrying out a one-off *transaction*, the *client* is introduced to the *relevant firm* by a *person* who has given the *relevant firm* a written assurance that in all such cases he obtains and records identification evidence, and:

- (a) the *person* who has given the written assurance is covered by the *Money Laundering Directive*; or
- (b) the *person* is subject to regulatory oversight exercised by a relevant overseas regulatory authority (see *ML 3.2.7 R*), and to legislation at least equivalent to that required by the *Money Laundering Directive*; or
- (4) the proceeds of a one-off *transaction*;
  - (a) are to be payable to the *client* but are then to be invested on his behalf;
  - (b) are to be the subject of a record; and
  - (c) can thereafter only be reinvested on his behalf or paid directly to him; or
- (5) when the *transaction* concerns a *long-term insurance contract*:
  - (a) taken out in connection with a *pension scheme* relating to the *client's* employment or occupation, if the *policy* contains no surrender clause and cannot be used as security for a loan; or
  - (b) where the *premium* is a single payment of no more than euro 2,500; or
  - (c) where the *premium* payments do not exceed euro 1,000 in any calendar year.

3.2.3

**G**  
/1

A *relevant firm* is expected to take reasonable steps to determine whether or not the *client* falls within the exceptions in *ML 3.2.2 R* (1) and *ML 3.2.2 R* (3)(b).

**When evidence of identify may be regarded as sufficient**

3.2.4

**R**  
/1

A *relevant firm* may regard evidence as sufficient evidence for the purposes of *ML 3.1.3 R* (Identification of the client: the duty) if it establishes that:

- (1) the relevant payment for the *transaction* was made or is to be made from the *client's* account held at an institution which is:
  - (a) a *relevant firm* with *permission* to accept *deposits*; or
  - (b) an *incoming relevant firm* which is a *credit institution*; or
  - (c) a *credit institution*;
- (2) the payment has been or will be sent or confirmed by post or electronically;



- (3) it was or is reasonable for the payment to be sent or confirmed in that way; and
- (4) the payment is not made to open an account from which onward payment may be made to someone other than the *client*.

3.2.5

**R**  
/1

A *relevant firm* may regard evidence as sufficient for the purposes of ML 3.1.3 R (Identification of the client: the duty) if it establishes that the *client*:

- (1) is bound by this sourcebook or by the *Money Laundering Regulations* or is otherwise covered by the *Money Laundering Directive*; or
- (2) is acting on behalf of another *person*, and has given a written assurance that he has obtained and recorded evidence of the identity of the *person* on whose behalf he is acting, and is subject to regulatory oversight exercised by a relevant overseas regulatory authority (see ML 3.2.7 R) and to legislation at least equivalent to that required by the *Money Laundering Directive*.

3.2.6

**G**  
/1

A *relevant firm* is expected to take reasonable steps to determine whether or not the *client* falls within the exemption in ML 3.2.5 R (2).

**Relevant overseas regulatory authorities**

3.2.7

**R**  
/1

An overseas regulatory authority is relevant for the purposes of ML 3.2.2 R (3)(b) and ML 3.2.5 R (2) if it falls within section 82 of the Companies Act 1989 (Request for assistance by overseas regulatory authority), in so far as it exercises the kind of regulatory functions described in that section.

# Chapter 4

## Reporting



## 4.1 Internal reporting

- 4.1.1** **G** /1 This section deals with the reporting to the *firm's MLRO* of knowledge or suspicions within the *relevant firm* about *money laundering*.
- 4.1.2** **R** /1 (1) **A *relevant firm* must take reasonable steps to ensure that any member of staff who handles, or is managerially responsible for handling, *transactions* which may involve *money laundering* makes a report promptly to the *MLRO* if he knows or suspects that a *client*, or the *person* on whose behalf the *client* is acting, is engaged in *money laundering*.**
- (2) **The steps to be taken under (1) include establishing and maintaining arrangements for disciplining any member of staff who fails, without reasonable excuse, to make a report of the kind envisaged in this section.**
- 4.1.3** **G** /1 **A *relevant firm* may wish to set up internal systems that allow its staff to consult with their line manager before sending a report to the *MLRO*. If a *relevant firm* sets up such systems, it should ensure that they are not used to prevent reports reaching the *MLRO* whenever staff have stated that they have knowledge or suspicion that a *transaction* may involve *money laundering*.**



## 4.2 MLRO access to know your business information

4.2.1

**R**

/1

- (1) A *relevant firm* must take reasonable steps to give its *MLRO*, or any *person* to whom the *MLRO*'s duties have been delegated, access to any *know your business information* it has.
- (2) *Know your business information* in (1) is information about:
  - (a) the financial circumstances of a *client* or any *person* on whose behalf the *client* has been acting or is acting; and
  - (b) the features of the *transactions* which the *relevant firm* has entered into with or for the *client* (or that *person*).

4.2.2

**G**

/1

In order to do his job properly, the *MLRO* has to decide whether to make a report to *NCIS*. In most cases, before taking the decision to make a report, the *MLRO* is likely to need access to a *relevant firm's know your business information*.

4.2.3

**G**

/1

A *relevant firm* is not required to increase the amount of information it gathers and keeps about its *clients* in the normal course of its business. Rather, a *relevant firm* should use its existing *client* information effectively by making such information readily available to its *MLRO*.

## 4.3 External reporting

### 4.3.1

**G**  
/1

The purpose of this section is to ensure that reports made to the *MLRO* are considered and that, where appropriate, a report is made available to *NCIS*. The duty to make external reports is one of the functions that some *groups* or larger *relevant firms* may decide can be delegated by their *MLRO* to suitably qualified staff, as described in *ML 7.1.3 G*.

### 4.3.2

**R**  
/1

**A *relevant firm* must take reasonable steps to ensure that any report required by *ML 4.1.2 R (1)*(Internal reporting) is considered by the *MLRO*, or his duly authorised delegate, and that if, having considered the report and any relevant *know your business information* to which he has sought access, the *MLRO*, or his duly authorised delegate, suspects that a *person* has been engaged in *money laundering*, he reports promptly to *NCIS*.**

### 4.3.3

**E**  
/1

- (1) To take reasonable steps as required by *ML 4.3.2 R*, the *relevant firm* should:
  - (a) require the *MLRO* to consider a report under *ML 4.1.2 R (1)* in the light of all relevant information accessible to or reasonably obtainable by the *MLRO*;
  - (b) permit the *MLRO* to have access to any information, including *know your business information*, in the *relevant firm's* possession which could be relevant; and
  - (c) ensure that where the *MLRO*, or his duly authorised delegate, suspects that a *person* has been engaged in *money laundering*, he makes a report which is not subject to the consent or approval of any other *person*.
- (2) Contravention of (1) may be relied on as tending to establish contravention of *ML 4.3.2 R*.
- (3) Compliance with (1) may be relied on as tending to establish compliance with *ML 4.3.2 R*.

### 4.3.4

**R**  
/1

**A *sole trader* with no *employees* who knows or suspects that a *client* of his, or the *person* on whose behalf the *client* is acting, is or has been engaged in *money laundering* must make a report promptly to *NCIS*.**

## Chapter 5

# Using national and international findings on material deficiencies



## 5.1 Government and Financial Action Task Force findings

**5.1.1** **G**<sup>/1</sup> The purpose of this chapter is to enable government and *Financial Action Task Force* findings of inadequacy, concerning the approach to *money laundering* of individual countries or jurisdictions, to be brought to bear on *relevant firms'* decisions and arrangements.

**5.1.2** **R**<sup>/1</sup> (1) *A relevant firm* must take reasonable steps whenever this *rule* applies to ensure that it:

- (a) obtains; and
- (b) makes proper use of;

any government or *Financial Action Task Force* findings of the kind referred to in *ML 5.1.3 R*.

(2) "Proper use" in (1) includes:

- (a) applying the information in the circumstances envisaged by *ML 3.2.2 R (3)(b)* (introduction of client for one-off transaction) or *ML 3.2.5 R (2)* (introduction by client of a person on whose behalf he is acting);
- (b) applying the information whenever first obtained to *know your business information*;
- (c) Disseminating the information in the course of dealing with awareness and training under *ML 6*.

**5.1.3** **R**<sup>/1</sup> The findings in *ML 5.1.2 R (1)* are any published notices:

- (1) which are issued:
  - (a) by the government of the *United Kingdom*, or any government department in the *United Kingdom*; or
  - (b) by the *Financial Action Task Force*; and
- (2) which contain a finding or other conclusion on the part of the government or a government department or the *Financial Action Task Force*:

- (a) that it has examined the arrangements for restraining *money laundering* in a particular State or jurisdiction other than the *United Kingdom*; and
- (b) that it has found those arrangements to be materially deficient in comparison with one or more of the relevant, internationally accepted, standards, including any recommendations published by the *Financial Action Task Force*, required of or recommended to States and jurisdictions.

5.1.4

**G**

<sup>/1</sup>

In order to assist *relevant firms*, the FSA will, from time to time, publish any government, government department or *Financial Action Task Force* findings, of the kind referred to in *ML 5.1.3 R*, on the FSA website ([www.fsa.gov.uk](http://www.fsa.gov.uk)). All *relevant firms* should check this information regularly to ensure that they keep up to date with current findings.



# Chapter 6

## Awareness of and training for staff





## 6.1 Purpose

### 6.1.1

**G**

<sup>/1</sup>

The purpose of this chapter is to ensure that staff in *relevant firms* are:

- (1) made aware of; and
- (2) given regular training about;

what is expected of them in relation to prevention of *money laundering*, and what the consequences are for the *relevant firm* and for them if they fall short of that expectation.

## 6.2 Awareness

- 6.2.1** **R** <sup>/1</sup> A *relevant firm* must take reasonable steps to ensure that staff who handle, or are managerially responsible for the handling of, *transactions* which may involve *money laundering* are aware of:
- (1) their responsibilities under the *relevant firm's* arrangements made under this sourcebook, including those for obtaining sufficient evidence of identity, recognising and reporting knowledge or suspicion of *money laundering* and use of findings of material deficiencies;
  - (2) the identity and responsibilities of the *MLRO*;
  - (3) the law relating to *money laundering*, including *the Money Laundering Regulations* and this sourcebook; and
  - (4) the potential effect, on the *relevant firm*, on its *employees* and its *clients*, of any breach of that law.
- 6.2.2** **E** <sup>/1</sup> (1) A *relevant firm* should provide information, whether recorded in writing or otherwise, which:
- (a) covers the matters in *ML 6.2.1 R*;
  - (b) is brought to the attention of any member of staff who starts to work in any capacity within a *relevant firm* which is covered by this sourcebook; and
  - (c) remains available to that *person* so long as he works for that *relevant firm* in that capacity.
- (2) Contravention of (1) may be relied on as tending to establish contravention of *ML 6.2.1 R*.
- (3) Compliance with (1) may be relied on as tending to establish compliance with *ML 6.2.1 R*.
- 6.2.3** **G** <sup>/1</sup> Staff need to have an awareness of anti-*money laundering* legislation in the *United Kingdom*, including a clear understanding of their own potential criminal liability.
- 6.2.4** **G** <sup>/1</sup> Staff are likely to need information about the ways in which their *clients'* involvement in *money laundering* may affect bank and other accounts and other assets, in particular if a *relevant firm* decides it is unable to process *transactions*,

because of the risk of committing a *money laundering* offence. They are also likely to need information about the ways in which the *relevant firm* may itself be at risk if (without the consent of *NCIS*) it processes *transactions* which involve the proceeds of crime.

## 6.3 Training

- 6.3.1** **R** <sup>/1</sup> *A relevant firm must take reasonable care to provide appropriate anti-money laundering training for its staff who handle, or are managerially responsible for the handling of, transactions which may involve money laundering.*
- 6.3.2** **E** <sup>/1</sup>
- (1) In taking reasonable care for the purposes of *ML 6.3.1 R*, the *relevant firm* should provide training which:
    - (a) deals with the law on *money laundering*, and the responsibilities of staff under the *relevant firm's* arrangements;
    - (b) is applicable to all staff who handle, or are managerially responsible for the handling of, *transactions* which may involve *money laundering* (see *ML 6.2.1 R*); and
    - (c) takes place with sufficient frequency to ensure that within any period of 24 months it is given to substantially all of the staff referred to in (b).
  - (2) Contravention of (1) may be relied on as tending to establish contravention with *ML 6.3.1 R*.
  - (3) Compliance with (1) may be relied on as tending to establish compliance of *ML 6.3.1 R*.
- 6.3.3** **G** <sup>/1</sup> These requirements do not preclude a rolling programme of training, under which training on different subjects takes place on different dates.

## Chapter 7

# The money laundering reporting officer and other arrangements



## 7.1 The money laundering reporting officer

### MLRO: approval by the FSA and role

7.1.1

**G**  
/1

A *relevant firm* has to appoint an individual as its *MLRO* (see *ML 7.1.5 R*). Under section 59 of the *Act*, the function of acting in the capacity of the *MLRO* has been specified as a *controlled function* (see *SUP 10.1.13 R*). As a consequence, any individual invited to perform that function must be individually approved by the *FSA*, on the application of the *relevant firm*, before performing the function. The job of the *MLRO* is to act as the focal point within the *relevant firm* for the oversight of all activity relating to anti-money laundering. He needs to be senior, to be free to act on his own authority and to be informed of any relevant knowledge or suspicion in the *relevant firm*. In turn he has to pass on issues to *NCIS* as he thinks appropriate. He can be expected to liaise with *NCIS* on any question whether to proceed with a *transaction* in the circumstances.

### Firms within a group

7.1.2

**G**  
/1

If a *relevant firm* is part of a *group*, it may choose to appoint as its *MLRO* an individual who performs that function for another *relevant firm* within the *group*.

### Delegation by the MLRO to others

7.1.3

**G**  
/1

If a *relevant firm* that is a member of a *group* chooses the approach in *ML 7.1.2 G*, it may wish to permit the *MLRO* to delegate anti-money laundering duties to other suitably qualified individuals within the *relevant firm*. Similarly some *relevant firms*, particularly those with a number of branches or offices in different locations, may wish to permit the *MLRO* to delegate such duties within the *relevant firm*. Where anti-money laundering tasks are delegated by a *relevant firm's MLRO*, the *FSA* will expect the *MLRO* to take ultimate managerial responsibility for ensuring that the duties imposed on the *MLRO* by this sourcebook are complied with. The responsibilities to be discharged by the *MLRO* are set out in *ML 7.1.11 R*.

### MLRO as "appropriate person" under Money Laundering Regulations

7.1.4

**G**  
/1

If convenient, a *relevant firm* may decide that the same *person* can carry out the responsibilities of the *MLRO* and of the "appropriate person" under the *Money Laundering Regulations*. "Appropriate person", under those Regulations, means a *person* appointed to handle the internal and external reporting required by the Regulations (see Regulation 14).

**Duty to appoint MLRO**

**7.1.5** **R** <sup>/1</sup> *A relevant firm* must appoint an individual as its *MLRO* and operate arrangements that are designed to ensure that it and the *MLRO* comply with the relevant obligations of this chapter.

**7.1.6** **R** <sup>/1</sup> When a *relevant firm* appoints an individual to be its *MLRO*, it must choose someone who is *employed* within the *relevant firm*, or within another *relevant firm* in the same *group*, whether as part of its governing body, management or staff.

**Qualifications and resources of MLRO**

**7.1.7** **R** <sup>/1</sup> So that he can carry out his *controlled function* effectively, a *relevant firm* must ensure that its *MLRO*:

- (1) has a sufficient level of seniority within the *relevant firm*; and
- (2) has sufficient resources, including sufficient time and (if necessary) support staff.

**7.1.8** **G** <sup>/1</sup> "Sufficient resources" should include arrangements to apply in any temporary absence of the *MLRO*, who should take reasonable steps to ensure the adequacy of such arrangements. An individual who performs the role of *MLRO* for a period of less than 12 weeks in a consecutive 12 month period does not need approval by the *FSA* (see *SUP* 10.5.5 R (periods of less than 12 weeks)).

**7.1.9** **R** <sup>/1</sup> *A relevant firm* must ensure that its *MLRO* is able to:

- (1) monitor the day-to-day operation of its *anti-money laundering* policies; and
- (2) respond promptly to any reasonable request for information made by the *FSA*.

**7.1.10** **E** <sup>/1</sup> (1) *A relevant firm* should ensure that its *MLRO* is based in the *United Kingdom*.

(2) Contravention of (1) may be relied on as tending to establish contravention of *ML* 7.1.9 R

**Responsibilities of the MLRO**

**7.1.11** **R** <sup>/1</sup> *A relevant firm* must make its *MLRO* responsible for:

- (1) receiving internal reports under *ML* 4.1;
- (2) taking reasonable steps to access any relevant *know your business information*;



- (3) making external reports to *NCIS* under *ML 4.2*;
- (4) obtaining and using national and international findings under *ML 5*;
- (5) taking reasonable steps to establish and maintain adequate arrangements for awareness and training (whether by himself or someone else) under *ML 6*; and
- (6) making annual reports to the *relevant firm's* senior management under *ML 7.2*.

7.1.12

**G**  
/1

*APER 4.7.2 E* and *APER 4.7.9 E* make provisions about the conduct of the *MLRO*, to help determine whether the *MLRO's* conduct complies with *Statement of Principle 7* concerning the conduct expected of the *MLRO* as an *approved person*.

**Duty to appoint MLRO when position vacant**

---

7.1.13

**R**  
/1

If the position of *MLRO* falls vacant, the *relevant firm* must appoint another individual as its *MLRO*.

7.1.14

**G**  
/1

The obligation on a *relevant firm* to appoint an *MLRO* is in *ML 2.1.1 R*. That provision is limited to *relevant firms* and does not apply:

- (1) if the *relevant firm* is a *sole trader* with no *employees*; or
- (2) if the *relevant firm* is an *incoming firm* which is only providing *cross border services* (as opposed to operating through an established *branch*) in the *United Kingdom*.



## 7.2 Compliance monitoring

7.2.1



/1

SYSC 3.2.6 R (Compliance) requires a *relevant firm* to take reasonable care to establish and maintain appropriate systems and *controls* for compliance with its regulatory obligations and to counter the risk that it might be used to further *financial crime*. This section amplifies this requirement.

7.2.2



/1

(1) A *relevant firm* should establish and maintain arrangements under SYSC 3.2.6 R which include requirements that:

- (a) at least once in each calendar year, the *relevant firm* commission a report from its *MLRO* which:
  - (i) assesses the *relevant firm's* compliance with this sourcebook;
  - (ii) indicates, in particular, the way in which new findings under *ML 5* (Using national and international findings) have been used during the year; and
  - (iii) gives the number of reports made in accordance with *ML 4.1* (Internal reporting) by staff of the *relevant firm*, dealing separately, if appropriate, with different parts of the *relevant firm's* business;
- (b) the *relevant firm's* senior management consider the report; and
- (c) they take any necessary action to remedy deficiencies identified by the report.

(2) Contravention of (1) may be relied on as tending to establish contravention of SYSC 3.2.6 R.

7.2.3



/1

Figures for internal reports should be broken down, if appropriate, in the *MLRO's* report. The purpose of the report is to enable a *relevant firm's* senior management to assess whether internal reports are being made whenever required by *ML 4.1.2 R*, and that an overall figure which seems satisfactory does not conceal inadequate reporting in a particular part of the *relevant firm's* business. *Relevant firms* will need to use their judgement how the *MLRO* should be required to break down the figures in order to achieve this aim.

## 7.3 Record keeping arrangements

**7.3.1** **G**<sub>/1</sub> SYSC 3.2.20 R (Records) requires a *relevant firm* to take reasonable care to make and retain adequate records (including accounting records). This section amplifies this requirement.

**7.3.2** **R**<sub>/1</sub> (1) A *relevant firm* must make and retain, for the periods specified in (2), the following records:

- (a) in relation to evidence of identity:
- (i) a copy of the evidence of identity obtained under *ML 3*; or
  - (ii) a record of where a copy of the evidence of identity can be obtained; or
  - (iii) when it is not reasonably practicable to comply with (i) or (ii), a record of how the details of the evidence of identity can be obtained; and
- when it has concluded it should treat a *client* as financially excluded *ML 3.1.5 G* to *ML 3.1.7 G* (Financial exclusion), a record of the reasons for doing so;
- (b) a record containing details of every *transaction* carried out by the *relevant firm* with or for the *client* in the course of *regulated activity*;
- (c) when a *relevant firm's client* has become *insolvent*, and it has taken steps to recover all or part of a debt owed to it by the *client*, a record of the grounds and those steps;
- (d) records of action taken under *ML 4.1* (Internal reporting) and *ML 4.3* (External reporting); and
- (e) when an *MLRO* has considered information or other matter concerning knowledge or suspicion that another *person* has engaged in *money laundering*, but has not made a report to *NCIS* under *ML 4.3*, a record of that information or other matter.

(2) The specified periods are:

- (a) in relation to evidence of identity, five years from the end of the *relevant firm's* relationship with the *client*;
  - (b) in relation to *transactions* within (1)(b), five years from the date when the *transaction* was completed;
  - (c) in relation to (1)(c), five years from the date of the insolvency; and
  - (d) in any other case, five years from the obtaining of the information or the creation of the record.
- (3) '*Transaction*' in (2) does not include advice given to a *client* unless such advice is followed by a *transaction* with monetary value.

7.3.3

G

<sup>1</sup>

Records kept under SYSC 3.2.20 R should include the dates when anti-*money laundering* training was given, the nature of the training, and the names of the staff who received training; and (in relation to anti-*money laundering* monitoring) reports by the *MLRO* made in accordance with *ML* 4.3, and records of consideration of those reports and of any action taken as a consequence.

# Chapter 8

## Sole traders and authorised professional firms



## 8.1 Application of this sourcebook

### Sole traders

8.1.1 **R** The only provisions of this sourcebook which apply to a *sole trader* with no *employees* are those specified in ML 8.1.2.  
/1

8.1.2 **R** Table Application to certain sole traders (see ML 8.1.1 R)  
/1

Chapter	Subject matter	Parts applicable to a sole trader with no employees
ML 1	Application and purpose	The whole chapter
ML 2	The general money laundering duties	The whole chapter
ML 3	Identification of the client	The whole chapter
ML 4	Reporting	Only ML 4.3.4R applies
ML 5	Findings of deficiencies	The whole chapter
ML 6	Awareness and training	The whole chapter except ML 6.2.1(2)R
ML 7	The MLRO and other arrangements	Only ML 7.2 Except 7.2.2E(1)(a) and (b) and (2) ML 7.3 Except 7.3.2E(1)(d) and (e)
ML 8	Sole traders and authorised professional firms	The whole chapter

### Authorised professional firms

8.1.3 **R** This sourcebook does not apply to *authorised professional firms* when carrying on *non-mainstream regulated activities*.  
/1

## Handbook Modules

### Schedule1 Record keeping requirements G

- 1 The aim of the guidance in the following table is to give the reader a quick over-all view of the relevant record keeping requirements.
- 2 It is not a complete statement of those requirements and should not be relied on as if it were.
- 3 

Table	Record keeping requirements
-------	-----------------------------

<b>Handbook reference</b>	<b>Subject of record</b>	<b>Contents of record</b>	<b>When record must be made</b>	<b>Retention period</b>
<i>ML 7.3.2 R (1)(a)</i>	Customer identification	Full details of evidence of identity	As soon as reasonably practicable after first contact	5 years from end of relationship with <i>client</i>
<i>ML 7.3.2 R (1)(b)</i>	<i>Transactions</i>	Full details	On effecting the transaction	5 years from the date when the <i>transaction</i> was completed
<i>ML 7.3.2 R (1)(c)</i>	<i>Insolvent client</i>	Grounds for insolvency and details of steps taken to recover the debt	When firm becomes aware of event and takes steps	5 years from date of insolvency
<i>ML 7.3.2 R (1)(d)</i>	Internal and external reporting	Full details of actions taken	Once actions have been taken	5 years from the creation of the record
<i>ML 7.3.2 R (1)(e)</i>	Information not acted upon	Full details of information considered by the <i>MLRO</i> but not made an external report	Once decision not to report has been made	5 years from the obtaining of the information

## Handbook Modules

### Schedule2 Notification requirements G

- 1 There are no requirements to notify or report to the FSA in ML.



## Handbook Modules

### Schedule3 Fees and other required payments G

- 1 There are no requirements for fees or other payments in ML.

## Handbook Modules

### Schedule4 Powers exercised G

- 1 The following powers and related provisions in the Act have been exercised by the FSA to make the rules in ML:
  - (a) Section 138 (General rule making power)
  - (b) Section 146 (Money laundering rules)
  - (c) Section 149 (Evidential provisions)
  - (d) Section 156 (General supplementary powers)
- 2 The following power in the Act has been exercised by the FSA to give the guidance in ML:
  - (a) Section 157(1) (Guidance)

# Handbook Modules

## Schedule5 Rights of action for damages G

- 1 The table below sets out the rules in ML contravention of which by an authorised person may be actionable under section 150 of the Act (Actions for damages) by a person who suffers loss as a result of the contravention.
- 2 If a "Yes" appears in the column headed "For private person?", the rule may be actionable by a "private person" under section 150 (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (rights of Action) Regulations 2001 (SI 2001 No 2256)). A "Yes" in the column headed "Removed" indicates that the FSA has removed the right action under section 150(2) of the Act. If so, a reference to the rule in which it is removed is also given.
- 3 The Column headed "For other person?" indicates whether the rule may be actionable by a person other than a private person (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of person by whom the rule may be actionable is given.
- 4 Table Actions for damages: Money Laundering Sourcebook

Chapter/ Appendix	Section/ Annex	Paragraph	Right of action under s150			
			For			For other Person?
			Private person?	Removed		
<i>Rules in ML with the status letter "R"</i>			Yes	No		No
<i>Rules in ML with the status letter "E"</i>			No	No		No

## Handbook Modules

### Schedule6 Rules that can be waived G

- 1 The rules in ML can be waived by the FSA under section 148 of the Act (Modifications or waiver of rules).

## Handbook Modules

### Schedule1 Derivations G

- 1 There is no table of derivations for ML.

## Handbook Modules

### Schedule1 Destinations G

- 1 There is no table of destinations for ML.