

# **OFT Anti-Money Laundering Registration Policy**

Money Laundering Regulations 2007

February 2011

OFT1104

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# 1 INTRODUCTION

1.1 The registration policy set out in this document is based upon the supervisory functions that the Office of Fair Trading ('the OFT') has under the Money Laundering Regulations 2007 ('the Regulations')<sup>1</sup>. The purpose of the document is to help businesses supervised by the OFT understand:

- why they are required to register
- the registration process
- the registration fee and the refund policy
- the OFT's right to refuse to register a business or to cancel a business' registration, and
- the appeals process.

1.2 The OFT launched registration of businesses it supervises on 31 July 2009.

1.3 If you are carrying out estate agency work (not including those who only do lettings) or are a consumer credit financial institution (CCFI)<sup>2</sup> providing consumer credit, you are required to register with the OFT. If you are a CCFI and hold a consumer credit licence, you will still need to register with the OFT under the Regulations as this is separate to the requirement to be licensed. If you are in doubt about who your supervisory authority is, or for more information, see the Supervision FAQs on the OFT website: [www.offt.gov.uk/mlr](http://www.offt.gov.uk/mlr).

1.4 Our registration policy will be reviewed on an ongoing basis (at least annually) and may be subject to change in the future.

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<sup>1</sup> S.I.2007/2157.

<sup>2</sup> Consumer credit providers who are not supervised by HMRC for money services (such as third party cheque cashing) or authorised by the FSA

## 2 BACKGROUND

- 2.1 The Regulations came in to force on 15 December 2007. Their aim is to deter, detect and disrupt money laundering and the funding of terrorism. The Regulations seek to reduce the vulnerability of businesses being used to launder money or fund terrorist activities. They require businesses to take appropriate steps to prevent criminals using their business as a mechanism by which to do so, and to report suspicious activity to the Serious Organised Crime Agency (SOCA).
- 2.2 The OFT's function under the Regulations is regulatory in nature and therefore in carrying them out the OFT is subject to the statutory better regulation principles. The OFT has a duty to effectively monitor its supervised businesses and is expected to operate its compliance regime in accordance with a risk based approach to supervision.
- 2.3 Although the Regulations required HMRC to require certain types of businesses to register, other supervisory authorities such as the FSA and the OFT were given discretion to require registration by businesses they supervise. The Regulations provide that supervisory authorities such as the OFT may levy fees to cover the reasonable costs incurred in carrying out their supervisory functions. The costs of anti-money laundering (AML) supervision are not covered by the money allocated by Treasury for other OFT work, nor can the money received by OFT for AML be used to fund any other activity carried out by OFT.
- 2.4 The OFT decided to require businesses it supervises to register. This reduces the OFT's financial risks in operating a self funding regime, enabling the OFT to fund and carry out its statutory duty to supervise effectively. Registration also provides the OFT with better information on those businesses it supervises enabling it to:
- communicate obligations imposed by the Regulations
  - issue targeted guidance to business
  - monitor compliance, and
  - better investigate adverse intelligence.

### **3 REGISTRATION – WHAT BUSINESSES HAVE TO DO**

#### **Requirement to register**

- 3.1 Businesses supervised by the OFT are required to register and pay a registration fee. Once registered, businesses are also required to pay an annual fee for ongoing supervision.
- 3.2 Businesses are required to be registered before they can carry out the supervised activity. New businesses should submit their registration form in good time for completion as the OFT has 45 days in which to process applications.
- 3.3 A business supervised by the OFT, which continues to carry out supervised activity without being registered as required, will be in breach of the Regulations and may be subject to civil penalties or prosecution. For more information on penalties and the OFT approach to enforcement see the OFT Anti-Money Laundering Enforcement Principles 2009 (OFT 1094) and the OFT Interim Penalty Policy (OFT 1271) which can be found on our website at [www.of.gov.uk/mlr](http://www.of.gov.uk/mlr).

#### **Information required**

- 3.4 Under the Regulations supervisory authorities can request information that they reasonably consider necessary to enable them to determine applications. The information required by the OFT is minimal. There is no fitness test and therefore no questions about convictions, insolvencies relating to the business or individuals involved in the business.
- 3.5 The information requested enables the OFT to:
  - verify the identity of its supervised population
  - assess fees due
  - start to assess the level of risk the business is at of being targeted for money laundering and terrorist financing, or how likely it is to be compliant with the Regulations, and
  - target its awareness-raising and monitoring work.

## Applying for registration

3.6 Supervised businesses should complete the PDF application form on the OFT website at [www.oft.gov.uk/amlregistration](http://www.oft.gov.uk/amlregistration), print off and sign it, and return the form to the OFT together with the appropriate fee in the form of a cheque, postal order or banker's draft. Address details can be found on page five of the application form.

## How long will it take for the OFT to confirm you are registered?

3.7 The OFT has a duty to notify businesses within 45 days of receiving an application that their application has either been accepted or that the OFT is minded not to register the business.

3.8 If the OFT receives an incomplete application, partial payment of fees, or a payment that does not clear successfully then it will contact the business, usually by telephone or e-mail, to seek the missing information or payment.

- If the requested information and/or fee is not received within the specified time frame (usually five days), the OFT will contact the business in writing and give 21 days to provide the missing information and/or fee. If necessary, a formal reminder letter will also be sent to the business after 14 days. The formal notification sent by the OFT will clearly state the date by which the missing information and/or fee due must be received.
- If the requested information, or missing payment, is not received within the time set it is likely that the OFT will issue a Notice stating that it is minded not to register the business.

3.9 Under the Regulations the OFT can refuse to register a business where there are grounds to do so or subsequently cancel a business' registration if at any time after registration it appears that there were grounds for refusing to register the business. More information on refusing or cancelling a business registration can be found in chapter five of this document.

3.10 If at any time after registration there are material changes to the information supplied as part of the application, or it becomes apparent that there is a significant inaccuracy in the details provided, the business must notify the OFT within 30 days of the changes occurring or the inaccuracy being discovered. If a business does not notify the OFT of any material changes or inaccuracies in the details provided for registration, it will be in breach of the Regulations and may be subject to civil penalties or prosecution.

3.11 Material information includes:

- business' legal structure and status (for example limited company, active) and any changes to this structure or status<sup>3</sup>
- partners (for partnerships) or officers (for bodies corporate)
- Nominated Officer and their contact details
- registered office address
- principal place of business address
- establishment of new or closure of existing trading premises where supervised activity is carried out
- trading name(s)
- franchise information (if applicable)
- whether or not you carry out non face-to-face activity or activity outside the EEA
- type of business (estate agent or CCFI) and business activity (type of estate agency work conducted or type of consumer credit lending conducted)

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<sup>3</sup> Changes to legal structure may require a business to submit a new registration application if the supervised activities are to be carried out by a different or newly formed entity

## **4 FEES**

- 4.1 The OFT's AML supervisory work has to be self-funding. Our costs and the fees have been kept to a minimum but businesses carrying out activities supervised by the OFT under the Regulations must register and pay registration and annual fees.

### **Calculation**

- 4.2 The fee for registration and the annual fee have been calculated on the basis of the number of premises the business operates from, with a cap applied at 20 premises. This allows the OFT to reflect the costs associated with registering and supervising medium and large businesses whilst avoiding disproportionate charges being made against those businesses.
- 4.3 Premises include any location where the supervised activity is carried out. Therefore it will include domestic premises - for example, a trader's home - when business is carried on there. It will not include storage warehouses, empty offices, or registered offices (where those offices are those of a solicitor, accountant or company registration agent only which the business does not trade from). Nor will it include any place where business takes place away from the business' premises, for instance in a customer's home.

### **Timing**

- 4.4 Fees are payable when you apply for AML registration (the registration fee) and additionally, on an annual basis<sup>4</sup> when requested by the OFT (the annual fee). The registration fee is a one-off fee and reflects the OFT's cost of processing the registration application itself. The annual fee reflects the cost of supervision over a given year.

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<sup>4</sup> Including the annual fee for the year of registration. This may be charged at the time of registration, or later in the year.

- 4.5 The appropriate amount must be paid in full to the OFT when submitting the application form or when making an annual fee payment. Details of the current fees can be found on the OFT website: [www.offt.gov.uk/mlr](http://www.offt.gov.uk/mlr).

## **REFUNDS**

### **Overpayments**

- 4.6 The OFT will refund any overpayment of the registration or annual fee.

### **Registration fee refunds**

- 4.7 The OFT will give a full refund of the registration fee in the following circumstances:

- if an applicant has been given misleading information by the OFT, for example, in written guidance or correspondence relating to the business's need to register
- where a business makes a duplicate application in error, and
- if an application is withdrawn within two working days of being received by the OFT.

- 4.8 The OFT will refund 50 per cent of the registration fee when an application is withdrawn between three and fifteen working days of being received by the OFT.

- 4.9 The OFT will not refund registration fees where an application is refused.

### **Annual fee refunds**

- 4.10 Annual fees will not be refunded where a business exits the supervised population partway through the year covered by the fee paid.

## **5 REFUSAL TO REGISTER AND CANCELLATION FROM THE REGISTER**

5.1 Under the Regulations the OFT can refuse to register a business where there are grounds to do so, or cancel a business' registration if at any time after registration it appears that there were grounds for refusing to register the business.

5.2 The grounds upon which the OFT may refuse an application for registration are:

- that the business has failed to provide information required on the OFT's registration form or required by the OFT subsequently,
- where it appears to the OFT that any information provided on the application form or subsequently is false or misleading in a material particular, or
- where the business has failed to pay its registration fee.

5.3 If the OFT is minded to refuse or cancel an application for registration, it will issue a notice setting out:

- the reasons for the proposed decision to refuse or cancel the registration, and
- the right to make representations to the OFT.

5.4 When the OFT has issued a notice stating that it is minded either not to register a business or to cancel a business' registration, it must then reach its decision within a reasonable period of time (usually a period of 28 days) and notify the business accordingly.

5.5 Where the OFT proposes to cancel a business' registration, cancellation can take immediate effect if the OFT decides it is in the public interest for it to do so. The notice to the business of the proposal to cancel must state that this is the case and the reasons why.

5.6 It is an offence under the Regulations to carry on a business that requires supervision by the OFT without being registered with the OFT. If a business has its registration cancelled or refused, it should not continue to carry on such a business. In the event of a breach, the Regulations provide for the imposition of civil penalties and prosecution. For more information on sanctions under the Regulations and the OFT enforcement approach see the OFT Anti-Money Laundering Enforcement Principles and the OFT Interim Penalty Policy at [www.oft.gov.uk/mlr](http://www.oft.gov.uk/mlr).

## 6 WHERE TO FIND MORE INFORMATION

6.1 More information is available on the OFT website at [www.of.gov.uk/mlr](http://www.of.gov.uk/mlr).

6.2 The following documents have been produced by the OFT for businesses supervised by under the Regulations:

- Anti-Money Laundering Registration Guidance

The OFT has produced this document to assist businesses in completing the registration form. We suggest that you read this before completing the form.

- Anti-Money Laundering Supervision FAQs

The OFT has produced a list of frequently asked questions in order to help businesses identify their anti-money laundering supervisor and to give information on how registered businesses will be supervised.

- Money Laundering Regulations 2007 - Core Guidance (OFT 954) (May 2009)

The purpose of this guidance is to provide businesses with advice on how to comply with their obligations under the Regulations.

- OFT Anti-Money Laundering Enforcement Principles - Money Laundering Regulations 2007 (OFT 1094) (May 2009)

This document sets out the OFT's approach to enforcement, and how it will enforce the Regulations.

- OFT Money Laundering Regulations 2007: Interim Penalty Policy for trading while unregistered (OFT 1271) (September 2010)

This document sets out the OFT's interim penalty policy which may be applied to businesses supervised by the OFT which continue to trade without being registered.