

# **OFT Anti Money Laundering Registration Policy**

Money Laundering Regulations 2007

July 2009

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 (OFT) has under the Money Laundering Regulations 2007 (the Regulations).<sup>1</sup>

1.2 The purpose of this policy note is to help businesses supervised by the OFT under the Regulations, understand:

- why they are being asked to register
- when they will have to register and the statutory time limit for registration
- the registration process
- the registration fee and the refund policy, and
- the right to refuse to register a business or to cancel a business' registration, and
- the appeals process.

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

1.4 If you are carrying out estate agency work<sup>2</sup> or are a consumer credit financial institution (CCFI)<sup>3</sup>, you are required to register with the OFT. If you are a CCFI and hold a category A consumer credit licence for providing consumer credit, you will still need to register with the OFT under the Regulations as this is separate to the requirement to hold a

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

<sup>2</sup> Not those who only do lettings work.

<sup>3</sup> Consumer credit providers who are neither supervised by HMRC for money services (such as third party cheque cashing) or authorised by the FSA.

credit licence. If you are in doubt about who your supervisory authority is, see our flowchart at Annex A. For more information, see the Supervision FAQs on the OFT website: [www.offt.gov.uk/mlr](http://www.offt.gov.uk/mlr).

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

## 2 BACKGROUND

- 2.1 The Money Laundering 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 that businesses take appropriate steps to prevent criminals using their business as a mechanism by which to do so and report suspicious activity to the Serious Organised Crime Agency (SOCA).
- 2.2 The OFT's functions under the Regulations are 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 The Regulations require some supervisory authorities to require businesses to register and gives others such as the FSA and the OFT discretion to require registration by businesses they supervise. The regulations provide that supervisory authorities such as the OFT levy fees to cover the reasonable costs incurred in carrying out their supervisory functions. The costs of AML supervision are not covered by the money allocated by Treasury for other OFT work.
- 2.4 The OFT has decided to require businesses it supervises to register. This will enable the OFT to fund and carry out its statutory duty to supervise effectively. Registration should provide the OFT with better information on those supervised enabling it to:
- communicate obligations imposed by the Regulations
  - issue targeted guidance to business
  - monitor compliance
  - better investigate adverse intelligence, and
  - recover the costs of running the self funding regime.

### **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. The OFT plans to carry out a formal public consultation on our future supervisory approach and fees later in the year. More information on fees can be found on our website at [www.offt.gov.uk/mlr](http://www.offt.gov.uk/mlr).
- 3.2 There is a statutory timeframe of six months in which a business has to register with the supervisory authority from the date upon which a register is first established. This means that businesses will have to be registered by 31 January 2010. They should apply in good time for completion as the OFT has 45 days to process applications. If the bulk of applications are received in the last few weeks of the registration period this will impact on the OFT's ability to confirm registration in less than 45 days.
- 3.3 After 31 January 2010 date new businesses will have to be registered before they can carry out the supervised activity.
- 3.4 A business supervised by the OFT which continues to trade without being registered will be in breach of the Regulations and may be subject to civil penalties or prosecution. For more information on penalties and OFT approach to enforcement see the OFT Anti-Money Laundering Enforcement Principles 2009 (OFT 1094) which can be found on our website at [www.offt.gov.uk/mlr](http://www.offt.gov.uk/mlr).

#### **Information Required**

- 3.5 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.

3.6 The information requested will enable 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 raising awareness and monitoring work.

### **Applying for registration**

3.7 Supervised businesses should:

- complete the PDF application form on the OFT website at [www.offt.gov.uk/amlregistration](http://www.offt.gov.uk/amlregistration) , print it off, sign and return it, together with the appropriate fee to the OFT, or
- If a business is unable to complete the form on-line or to download it, a hard copy is available on request and can be obtained by ringing the OFT's Anti-Money Laundering helpline<sup>4</sup>.

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

3.8 This is a new function for the OFT so we cannot say at this stage how long it will take us to process applications. The busiest period for applications is expected to be in January 2010. Earlier applications will help us process your application more quickly. The OFT must make a decision on registration applications within 45 days of receipt. The OFT has a duty to notify businesses within 45 days<sup>5</sup> of receiving the

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<sup>4</sup> OFT AML Helpline 020 7211 8200.

<sup>5</sup> This 45 day period may be extended where the OFT has not received all the information on the applicants registration form it requires to complete the application process (see paragraph 3.10).

application that their application has either been accepted or that the OFT is minded not to register the business. More information on refusing to register a business or cancelling the registration of a business can be found in chapter five of this document.

3.9 At any time after receiving the application, the OFT may require the applicant to provide further information within 21 days in order to reach a decision. In this case the 45 days for processing the application does not begin until the information requested has been received or if no information is received, the time for providing the information has expired.

3.10 If the OFT receives an incomplete application, partial payment of fees, or a payment that does not clear successfully then it will take the following steps:

- contact the business usually by telephone or email:
  - to verify the information on the application or request missing information, and
  - to request any missing fee.

The aim of this contact is to speed up the process of getting the missing information or fee.

- If the requested information is not received, the OFT will formally notify the business in writing stating that they have 21 days to provide the missing information. A reminder letter will be sent to the business after 14 days.
- If the correct payment is not received following initial contacts, the OFT will write to the business requesting payment by a set date.
- 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.

3.11 If at any point in time after registration there are material<sup>6</sup> changes to the information supplied or it becomes apparent that there is a significant inaccuracy in the details provided, the business must within 30 days (or an agreed period) of the changes being made or the inaccuracy discovered, inform the OFT. 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.

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<sup>6</sup> Information required by the OFT to process the application would be considered material.

## 4 FEES AND REFUND POLICY

### Fee Policy

- 4.1 The OFT recognises the difficult circumstances in which businesses are currently trading, but our anti-money laundering supervisory work has to be self-funding. We have tried to keep our costs, and the fee, to a minimum but businesses supervised by the OFT must register and pay a registration fee.
- 4.2 The fee for registration has been calculated on the basis of the number of premises business operate from. There is a cap on the maximum fee your business will be required to pay. This will be based on a fee for a maximum number of 20 premises in order to best reflect the costs associated with registering large businesses and avoid disproportionate charges being made against those businesses.
- 4.3 If your business is non – face to face only, for instance, because it is internet based, then you will only pay the fee for one premise.
- 4.4 Premises include any location where the regulated business trades from (carrying out its regulated activity). Therefore it will include domestic premises, for example, the home of a trader when business is carried on there. However, it will not include for example storage warehouses, empty premises, 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 businesses premises, for instance in a customer's home.
- 4.5 The appropriate amount must be paid in full to the OFT when submitting the application form. The fees, the fee calculator and relevant information on capped amounts can be found on the OFT website at [www.offt.gov.uk/amlregistration](http://www.offt.gov.uk/amlregistration).

## Refund Policy

- 4.6 If a business believes an overpayment has been made or wants to withdraw their application and receive a refund of the fee they need to send in a request for a refund to the OFT<sup>7</sup>. The business should quote the AML reference number from the application form and give details of any incorrect information that it received which led to the overpayment and/or to its application being made erroneously.
- 4.7 The OFT will refund in full an overpayment of the fees. The OFT may contact the business to review the information given in the application form. Once the OFT has satisfied itself that the information in the application is correct and that an overpayment has been made, it will notify the business in writing and a refund will be issued.
- 4.8 In general the OFT will consider all other applications for a refund on a case by case basis. However, it 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 instance, in written guidance or correspondence relating to the applicant's need to register
  - where a business makes a duplicate application in error, and
  - if an application is withdrawn within three working days of being received by the OFT.
- 4.9 The OFT will refund 50 per cent of the registration fee when an application is withdrawn between three to fifteen working days of being received by the OFT.
- 4.10 The OFT will not refund registration fees where an application is refused.

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<sup>7</sup> The AML Finance Manager, Office of Fair Trading, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX.

- 4.11 Refunds for overpayments will be processed following confirmation of registration of the business. Other refunds will be made as soon as it is practical to do so.

## **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's registration from the register 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 comply with the requirements for registration either in completing the process or in the supply of information
- information which is false or misleading in a material particular has been provided in connection with the application, and
- the business has failed to pay the registration fee.

5.3 If the OFT is minded to refuse an application for registration, it will issue a notice within 45 days<sup>8</sup> of receiving the application stating that:

- it is minded not to register the business
- the reasons for the proposed decision, and
- the right to make representations within 28 days<sup>9</sup> to the OFT.

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<sup>8</sup> Where all the information has been supplied to the OFT, it will notify the business within 45 days. Where there is incomplete or missing information the OFT will notify the business accordingly and follow the process for incomplete information.

<sup>9</sup> In the majority of cases business will have 28 days in which to make representations to the OFT. In individual cases where there are difficult or unusual issues we will extend this time as necessary.

5.4 If the OFT proposes to cancel a registration it will issue a notice stating that:

- it proposes to cancel the registration
- the reasons for the proposed action, and
- the right to make representations within 28 days to the OFT.

5.5 When the OFT has issued a notice proposing either not to register the business or cancel the business's registration, it must then reach its decision within a reasonable period of time and notify the business it will:

- register the business, or
- not register the business
  - with the reasons for its decision, and
  - the right to appeal to the Consumer Credit Appeals Tribunal
- not cancel the business's registration, or
- cancel the business's registration
  - with the reasons for its decision
  - the date from which the cancellation takes effect, and
  - the right to appeal to the Consumer Credit Appeals Tribunal.

5.6 Where the OFT proposes to cancel a business's 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.

5.7 It is an offence under the Regulations to carry on a business that requires supervision by the OFT after 31 January 2010 without being registered with the OFT. If a business has its registration cancelled after

that date 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 Enforcement Principles: [www.of.gov.uk/mlr](http://www.of.gov.uk/mlr).

## 6 WHERE CAN I 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 Money Laundering Regulations 2007 which came into force on 15 December 2007:

- AML Registration- Guidance on completion of the Registration Form

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

- FAQs on Supervision: Who is my Supervisor 2009?

The OFT has produced a list of frequently asked questions in order to help businesses identify their anti-money laundering supervisor.

- Money Laundering summary for estate agents and CCFIs

The OFT has produced this information sheet to give business an overview of their obligations under the Money Laundering Regulations 2007(the Regulations)

- OFT Core Guidance on Money Laundering Regulations 2007 (OFT 954)

The purpose of this guidance is to provide businesses with advice on how to comply with their obligations under the Money Laundering Regulations 2007 (the Regulations) which came into force on 15 December 2007.

- OFT Enforcement Principles on the Money Laundering Regulations 2007

This document sets out the OFT's approach to enforcement, and how it will enforce the Money Laundering Regulations 2007.