

The money service business action plan

Introduction

1. The Money Service Business Action Plan is HM Revenue & Customs' (HMRC) strategy to contribute to the deterrence, disruption and detection of money laundering and terrorist financing. It is a direct response to HMT's publication of the Financial Challenge to Crime and Terrorism (February 2007) which highlighted the risk of abuse in the MSB sector.
2. Alongside having responsibility for supervising Money Service Businesses for compliance with the Money Laundering Regulations, HMRC also acts as a law enforcement agency. This action plan therefore lays out HMRC's response in **all** areas of operation in order to address the security concerns around MSBs while having as little impact as possible on the vitality and dynamism of the sector.
3. The goal of this action plan is to manage the risk of abuse of the MSB sector effectively and proportionately. The MSB sector is an integral part of the UK's financial system and must be protected accordingly, with more aggressive identification and pursuit of money laundering and non-compliance in the sector.
4. The Government's objective is to support a thriving MSB sector in the UK. Effective safeguards to protect MSBs' from criminal and terrorist abuse are an essential foundation for a thriving MSB sector, providing assurance to MSBs customers and to financial institutions which provide MSBs with payment services.

Summary

5. HMRC has a unique dual role in helping to tackle money laundering and terrorist financing:
 - As a **supervisor** under the Money Laundering Regulations 2007 and the Transfer of Funds Regulations 2007, HMRC will register all MSBs, subject them to a fit and proper test and seek to maximise their compliance with the Regulations.
 - As a **law enforcement agency** HMRC will seek to take appropriate and effective enforcement action against MSBs that fail to comply with the Regulations, or facilitate money laundering or terrorist financing.
6. HMRC will implement a programme of strategic measures designed to make the best use of supervisory and enforcement tools to make the MSB sector more secure.

7. In common with the Government's risk-based approach to money laundering and terrorist financing, the cornerstone of this plan is an enhanced picture of the risks to the MSB sector.
8. HMRC is also responsible for the supervision of high value dealers, trust or company service providers and accountancy service providers for compliance with the Money Laundering Regulations, as well as having a much wider law enforcement role. The measures laid out in this action plan will be implemented in the context of these other responsibilities, and may not apply to MSBs in isolation.

Illuminating money laundering and terrorist financing risks in the MSB sector

Understanding money laundering and terrorist financing risks

9. MSBs are a prominent cause for concern with regard to money laundering and terrorist financing accounting for one in five money laundering investigations and one in three terrorist finance investigations. There are two broad behaviours that give rise to this concern:
 - MSBs that are non-compliant with the Money Laundering Regulations, leading to them being targeted by criminal groups.
 - Some MSBs have been established or controlled by criminal elements for the purposes of ML/TF.
10. We will work with SOCA, law enforcement agencies, other supervisory bodies and industry representatives to identify, understand and address the risk of non-compliance in the MSB sector.
11. HMRC will work with Revenue & Customs Prosecutions Office and others to track progress in disrupting money laundering within the MSB sector by establishing systems that will identify those MSBs as well as any customers that have been prosecuted and associated recoveries of criminal assets. We will also track any resulting orders e.g. Financial Reporting Orders under Section 76 of the Serious Organised Crime and Police Act 2005 and Serious Crime Prevention Orders under the Serious Crime Act 2007. The systems will include the use of Centaur, PNC and other databases which are required to record such information.

Building intelligence: the role of the Criminal Intelligence Group, HMRC Risk & Intelligence Service

12. The Criminal Intelligence Group (CIG) has recently been created in HMRC's Risk & Intelligence Service Directorate. CIG is responsible for gathering, generating and providing intelligence to support HMRC's

intervention against criminal activity and frontier threats across all tax streams and trade commodities.

13. The specialist Money Laundering Regulations (MLR) Intelligence teams now operate within CIG and are responsible for leading the UK's efforts on building intelligence on MSBs. These teams draw upon a variety of primary and secondary sources:

- intelligence collected as a result of supervisory operations:
 - information from application forms
 - outcomes of compliance visits
 - the results of bespoke risk projects
- intelligence from other HMRC regimes
- intelligence from external law enforcement agencies
- suspicious activity reports.

14. The specialist MLR intelligence teams will generate useable and sanitised intelligence referrals for the MLR supervisory regime regarding non-compliance of registered businesses. These will mostly originate from external sources such as SOCA, Police and frontier activity. The team will concentrate on high level and sensitive intelligence that needs enhancement or sanitisation. Lower level non-compliance intelligence will be fed directly to HMRC MLR policy stakeholders. These teams will also act as liaison point for external agencies for on-going criminal casework.

15. The specialist MLR intelligence teams will conduct bespoke projects to address gaps in our knowledge and understanding of the MSB sector. The projects will also help to identify emerging trends in non-compliance, and to act as a debriefing resource. The team will act as a flexible intelligence resource to HMRC MLR policy owners. They will also have the capacity to monitor individuals who have been excluded from the register at application, or because of persistent non-compliance.

Examples

A project to utilise available IT and intelligence resources in order to identify unregistered MSBs (see [Policing the Perimeter](#)).

A project to examine trends in those who fail the fit and proper test.

A project to look for geographical areas of non-compliance – “hot spotting” – to feed into the risk programme.

A project to identify any displacement caused by the new registration requirements of MLR 2007.

16. The specialist MLR intelligence teams will act as the MLR gateway between HMRC MLR supervisory regime and Criminal Investigation. They will escalate cases of MLR regulatory offences by referring them to Criminal Investigation for appropriate action and possible prosecution in a manner that is consistent with current legislation and policies. (see [Enforcement: tackling criminality](#))

The fit and proper test

17. Those in positions of ownership or control of MSBs will be subject to a new **fit and proper test**. This objective, negative-criteria test is required by the EU law and has been developed in order to disrupt access to the sector by individuals that present the highest risk with regard to money laundering and terrorist financing.

18. The criteria for failure of the test are laid down in the Money Laundering Regulations. HMRC will take steps to implement this test by:

- requiring individuals to apply for fit and proper tests as a part of registration
- verifying the identity of these individuals
- checking a range of systems to ensure that none of the failure criteria apply to the individual
- building fit and proper test checks into compliance visits to make sure that all relevant individuals have applied for the fit and proper test.

19. A specialist MLR intelligence team has been established to conduct necessary checks. HMRC will check details from its own databases to ensure that the applicants satisfy the fit and proper test. In addition, applicants' details will be checked against several external systems to ensure they can be registered.

20. Applicants who fail the test will be refused registration or, if they are already on the register, will have their registration cancelled.

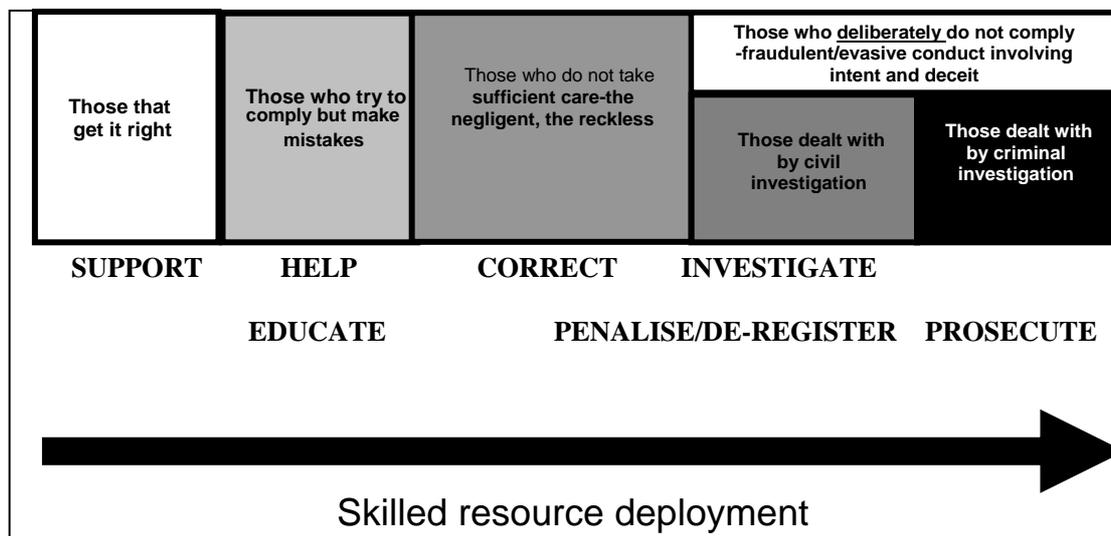
21. The fit and proper test also gives HMRC the opportunity to cancel the registration of any business that consistently fails to comply with the Money Laundering Regulations. [Paragraph 39](#) explains how we will use this power as an integral component of our compliance strategy.

22. For MSBs that are trading when the failure of the fit and proper test comes to light, HMRC has the power to cancel registration with immediate effect if it is deemed to be in the public interest. We will work with law enforcement colleagues in HMRC to deal with such cases, especially where there is a perception of collusion in money laundering or terrorist financing.

Risk-based and intelligence-led supervision and enforcement

Supervision: Addressing MLR non-compliance

Compliance strategy



23. The main aim of our compliance strategy is to achieve a behavioural shift in non-compliant businesses and to help those who follow the rules to remain compliant.

24. Our strategy will combine support and education for those businesses who want to get it right combined with penalties, prosecution and de-registration for those who do not comply. We also need to take steps to ensure that those who choose to remain outside the regulatory environment altogether are identified and dealt with through a separate range of interventions to penalise their illegal activity. Therefore we will work with stakeholders to achieve an end to end programme of compliance.

Risk-based and intelligence-led supervision

25. The **MLR Risk Targeting Team (RTT)** will be responsible for making an assessment of the risk of non-compliance of a business and directing the appropriate compliance intervention. This assessment of risk will be based upon:

- An assessment of the likelihood that a business will be non-compliant with the Money Laundering Regulations.

- An assessment of the impact of such non-compliance with regard to the potential for money laundering and/or terrorist financing.
26. In making this assessment, the MLR RTT will draw upon intelligence, risk assessments and other information flowing from the specialist MLR intelligence teams.
27. We will assess the effectiveness of our supervisory regime by developing effective monitoring mechanisms which record measures from the compliance programme based on feedback from internal and external stakeholders. This will in turn inform us on the impact of our work on overall levels of compliance.

Guidance

28. HMRC has provided guidance to MSBs to help them effectively establish anti-money laundering systems and controls. This guidance has been prepared with the involvement and assistance of each sub-sector of the MSB industry. This joint working means we are able to publish specific guidance notes for money transmitters, bureaux de change and third party cheque cashers. We have also produced an *aide memoire* aimed at the small independent end of the MSB sector highlighting the key elements of the risk-based approach to AML systems and controls.
29. The new guidance fully reflects the requirements of the new Money Laundering Regulations and, in particular, the new requirement on firms to take a risk-based approach.
30. In addition, HMRC has published explanatory leaflets in a number of languages aimed at MSB customers stressing the necessity of customer due diligence checks and their importance in the fight against money laundering and terrorist financing. This is intended to help MSBs when requiring identification from customers and to win public support for the AML strategy.

Education, enabling and leverage

31. HMRC will continue to conduct a programme of seminars and surgeries around the UK to help businesses to understand their obligations under the Money Laundering Regulations. We will also continue to work with SOCA in delivering Sector Specific Seminars on money laundering and terrorist financing to the MSB community.
32. We recently engaged industry in the making of an educational DVD that again is sector specific and geared towards ensuring compliance with Money Laundering Regulations.

33. It is imperative that as far as possible we help businesses to remain compliant. Leverage through correspondence is an efficient and effective way to communicate with large numbers of businesses alerting them to current thinking and issues around money laundering that they need to be aware of in their specific sector. The power of the leverage letter is that it is a non-invasive method of preventing adverse behavioural shifts through re-affirming HMRC support.

Direct interventions

34. HMRC will continue to visit businesses where necessary to check for compliance with the Regulations. As our most effective supervisory tool, visits will be targeted at businesses that present the highest risk with regard to MLR non-compliance.
35. Working within the spirit of the Varney review concerning links with large business we will use computer-based audits for large businesses to minimise the time spent at a visit, reviewing records and questioning. This will allow HMRC to check on the quality of AML systems and controls in an efficient and effective manner.

Sanctions

36. HMRC will impose sanctions on those MSBs who seriously, wilfully or repeatedly fail to comply with the requirements of the MLRs. We are prepared to use the full range of sanctions and interventions provided in law to tackle non-compliance.
37. The new Money Laundering Regulations introduce the scope for **unlimited civil penalties**. We will introduce a new penalty regime that takes into account the underlying behaviour and intention of the MSB alongside the potential impact of their non-compliance with regard to money laundering and terrorist financing. Such penalties will be proportionate, targeted and fair, and we will use them as a lever to change non-compliant behaviour.
38. The fit and proper test (see **fit and proper** test) gives us the new tool of **deregistration for non-compliance** with the Money Laundering Regulations. De-registration will be used where civil penalties have no effect on changing the non-compliant behaviour of registered businesses. We will carefully consider the effect of civil penalties on such businesses through case conferences but will de-register when we are convinced that the business cannot be persuaded to change its behaviour. We will publish and regularly update the register to enable businesses and law enforcement authorities to check the bona fides of their MSB customers / suppliers.
39. In addition, we will seek to deal with the most serious breaches of the Regulations through **criminal enforcement action**. Working with the specialist MLR Intelligence teams, Compliance Officers will help

identify potential prosecutions and earmark potential cases for enforcement action. (see [next section](#))

Enforcement: Tackling criminality

Risk-based and intelligence-led enforcement

40. HMRC will maintain and further develop a proactive risk-based and intelligence-led approach to its enforcement functions, having regard to the public interest by concentrating risk and intelligence activity on the most problematic areas in order to maximise enforcement effectiveness. This activity will minimise burdens on compliant traders. Success will be measured by the production of tangible pieces of work and the ensuing feedback/results.

Tackling MLR non-compliance

41. We will identify for possible criminal action a selection of cases where the risk to public interest from non-compliance is significant, and/or the level/degree of non-compliance is serious and/or persistent, and where warning letters and civil penalties have elicited no improvement in compliance. This will be done through the specialist MLR intelligence teams (see [Para 16](#)).

42. Cases identified in accordance with paragraph 41 will be progressed to criminal investigation standards and serious cases referred to the Revenue and Customs Prosecution Office (RCPO) for a decision to be made in accordance with the Code for Crown Prosecutors whether there is a realistic prospect of conviction and whether it is in the public interest to prosecute. All such cases will be recorded on the online case tracking system and be fully compliant with HMRC policy regarding criminal justice and enforcement standards.

43. We will work with RCPO to build an understanding of successful prosecutions by identifying those aggravating features and other public interest considerations which will generally result in a case being successfully progressed to criminal investigation and prosecution.

44. We will further work with RCPO to progress cases which meet the criteria to a criminal court by having all the relevant material and appropriate investigatory support to enable prosecution, and achieve a wider impact of deterrence. This activity is supported by the current MOU between HMRC and RCPO.

Tackling money laundering and terrorist financing

45. HMRC will work with RCPO and other Law Enforcement agencies such as SOCA and the inter-agency National Terrorist Financial Investigation Unit (NTFIU) to robustly investigate and prosecute those MSBs which commit or facilitate money laundering and terrorist

financing offences.

46. We will deal with such offenders and persistent offenders by referring them for criminal action in order to send a strong deterrent message or when the conduct involved is such that only a criminal sanction is appropriate. HMRC reserves complete discretion to conduct a criminal investigation in any case and to carry out these investigations across a range of offences.
47. We will work with RCPO to set the take-on criteria for such cases and place the use of criminal prosecutions within a range of other sanctions and interventions designed to tackle money laundering and terrorist financing.
48. We will work with RCPO to actively prosecute such criminal cases that meet the criteria and this will achieve a wider impact of deterrence upon their successful conclusion. We will work with RCPO to ensure that these cases have all the relevant material and appropriate investigatory support.

Engaging the private sector

49. HMRC will take a number of steps to work alongside the private sector to boost MLR compliance, prevent money laundering and terrorist financing and tackle criminality among MSBs:

- We will continue to consult with the **Money Service Business Forum**, a grouping of trade representatives and large businesses from the MSB sector, to seek out new ways to work together to boost compliance.
- We will consult with each **sub-sector of the MSB industry** in drawing up guidance and advice to businesses, and in order to monitor the impact of regulation. This will include the Remittances Task Force.
- We will work through the **AML Supervisors' Forum** to ensure HMRC's oversight of MSBs is coordinated with wider AML supervisory efforts.
- We will **publish the register of Money Service Businesses by 2009**. This will enable compliant businesses and members of the public to help us root out unregistered businesses (See [policing the perimeter](#)) and to help them make more informed risk assessments of the MSBs they deal with.
- HMRC will seek to improve the application by the financial sector of risk-based judgments in dealing with the MSB sector by working with SOCA and others to identify the best channels

for providing the private sector with **assessments of the nature and scale of abuse in the MSB sector.**

Collaboration and sharing of financial intelligence

50. HMRC, in conjunction with SOCA and other agencies as appropriate, will produce intelligence assessments of risks in the MSB sector. To track progress in managing identified risks, assessments will be accompanied by indicators such as the level and quality of Suspicious Activity Reports (SARs) made on or by the sector.
51. Specialist MLR intelligence teams will continue their important external liaison with other law enforcement agencies to pro-actively generate intelligence regarding non-compliance that can be fed into assurance or enforcement action as necessary. These teams will continue to work closely with front line HMRC staff in specific business areas (e.g. local compliance and cash detection teams) to consider the relevance of any information they receive against MSB compliance.

Policing the perimeter: tackling unregistered MSBs

52. We recognise the importance of success in policing the perimeter.
- We need to have all trading businesses on the register in order to be able to supervise them effectively.
 - We need to be able to underpin our deregistration sanction by tackling those who continue to trade without registration.
53. To that end, we will publish the register of Money Service Businesses online by 2009. This will allow MSBs and MSB customers to recognise unregistered businesses and to report them to HMRC. We will use the existing Customs Confidential intelligence hotline for handling such reports and will act on any reports received.
54. The specialist MLR intelligence teams will run projects to identify unregistered MSBs utilising HMRC and external IT systems. (see **para 15**)