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AML - How to comply

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WHAT IS MONEY LAUNDERING?

Money laundering is the process of cleaning money which has been gained from criminal activity in order that it appears to have been legitimately acquired.

In the property sector it often involves purchases using the proceeds of crime and selling it on or renting it out to give the criminal an apparently legitimate source of funds. In the high value dealers sector, it can include purchases of items such as jewellery and cars.

It can also involve criminals using complex company structures and multiple bank accounts to disguise the real purpose of a transaction and hide the actual (beneficial) owner.



WHY IS IT RELEVANT TO AUCTIONEERS AND HIGH VALUE DEALERS?

The sheer size of the UK property market and the high value of property assets means that extremely large amounts of criminal funds can be 'cleaned' in a single transaction. This also applies to transactions involving high value dealers, particularly in items of a substantial cost.

The sales and lettings sectors, property auctioneers and high value dealers are all attractive targets. Businesses of any size in the industry are susceptible to criminal activity.

A high value dealer is a business (firm or sole trader), who or whose employees deal in goods or services and makes or accepts cash payments over the value of €10,000 (or its equivalent in another currency) whether that is in a single payment or a series of payments. Risk profiles differ in the various sub-sectors, but due to the value of single items (or propensity or other items) it means the sector is open to money laundering.

Whilst the sector remains largely unregulated, money laundering activity is a criminal offence and without minimum standards, the industry is vulnerable to attack.

Make sure you understand the rules, educate yourself about the risks and ensure criminal gangs or unscrupulous individuals are not using your business to exploit their ill-gotten gains.

WHAT DO AUCTION AND HIGH VALUE DEALER BUSINESSES NEED TO DO?

It's a criminal offence to trade as a high value dealer or an estate agency business (which includes property auctioneers) without being registered with Her Majesty's Revenue & Customs (HMRC) for money laundering supervision.

Register with HMRC:
[gov.uk/guidance/money-laundering-regulations-register-with-hmrc](https://www.gov.uk/guidance/money-laundering-regulations-register-with-hmrc)

All estate agents, including sole practitioners, property or land auctioneers, and firms whose employees carry out estate agency work in accordance with Section 1 of the Estate Agents Act 1979 (such as sending out property details and arranging viewings or providing a property valuation), are deemed to fall within what is known as the 'regulated sector'.

Property professionals and high value dealers are required to comply with the Money Laundering Regulations 2017 and be aware of the Proceeds of Crime Act 2002, which is the main money laundering legislation covering offences in the UK.

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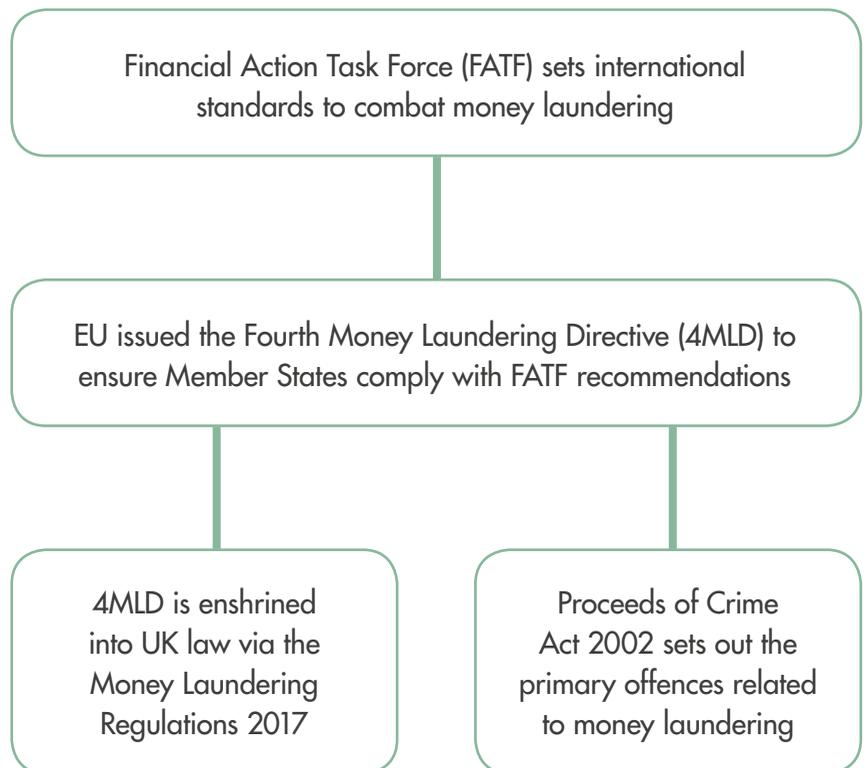
Disclaimer: This guide has been developed to help members comply with the rules. For more information you should refer to HMRC's publications Estate agency/High value dealers guidance for money laundering supervision and the NAVA PropertyMark legal helpline.

ANTI-MONEY LAUNDERING LEGISLATIVE FRAMEWORK

On 26 June 2017, the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 came into force in the UK.

The new rules are more commonly referred to as the Money Laundering Regulations 2017. They replace the Money Laundering Regulations 2007.

The Regulations aim to ensure that property auctioneers and high value dealers have sufficient information to know who their customers are.



The **Criminal Finances Act 2017** extends the powers of law enforcement to recover the proceeds of crime, tackle money laundering, tax evasion and corruption, and combat the financing of terrorism.

MANAGING RISK

Property auctioneers and high value dealers must put in place procedures to anticipate and prevent money laundering and help reduce the risk that criminals may exploit your business for financial crime.

Senior managers (director, manager, company secretary, chief executive, member of the management board) are personally liable if they do not take steps necessary to protect their business from money laundering and terrorist financing.

KEY POINTERS

- Develop a written, up-to-date risk assessment of the location you operate in, the customers you have and the value of transactions you are undertaking.
- Prepare a written policy statement and procedures to show how your business will manage the risks of money laundering.
- Train and support staff to understand and implement these policies.
- Ensure that procedures and audit processes are applied to all branches in or outside the UK.
- Appoint a nominated officer (Money Laundering Reporting Officer - MLRO) to report suspicious activity to the National Crime Agency (NCA).
- Ensure suitable control measures are in place.



See page 12 for tools to help you comply with the rules.

POLICIES AND PROCEDURES

High value dealers directly handle large sums of money within their businesses. Often lack of knowledge implicates low levels of compliance, which means that the sector is vulnerable to money laundering. They are key facilitators to sales and are, therefore, in a good position to identify suspicious activity.

Property bought at auction is open to abuse from criminal operators. They act on behalf of sellers, buyers and bidders. Due to the volume of customers within an auction room, it makes the task of additional checks of customers arguably more difficult than in other areas.

Those in customer facing roles need to be aware of what to look for, as well as ensuring all areas are covered in the vetting of customers.

Are you able to show how you will...?

- 1 Do Customer Due Diligence checks on sellers and buyers and carry out ongoing monitoring.
- 2 Screen staff and prospective staff to ensure effectiveness in carrying out relevant functions with good conduct and integrity.
- 3 Identify when a seller, buyer or beneficial owner is a politically exposed person (or a family member or close associate of one) and undertake Enhanced Due Diligence.
- 4 Appoint a MLRO to receive reports of suspicious activity from staff and make Suspicious Activity Reports (SAR) to the National Crime Agency (NCA) and make clear how reports are to be made in their absence.
- 5 Ensure staff are trained regularly to recognise money laundering and terrorist financing risks and understand what they should do to manage these, including the importance of reporting suspicious activity to the nominated officer.
- 6 Maintain accurate, up-to-date record keeping and retention of records for five years from the end of a business relationship.

Keep all policies, procedures, risk assessments and controls in writing and up-to-date. They must be given to HMRC if they ask for them.

KNOW YOUR CUSTOMER

CUSTOMER DUE
DILIGENCE

ENHANCED DUE
DILIGENCE

POLITICALLY
EXPOSED PERSONS

Under the Money Laundering Regulations 2017, property auctioneers and high value dealers have a legal responsibility to undertake Customer Due Diligence on the buyer, as well as the seller, before the establishment of a business relationship or the carrying out of a transaction.

The level of due diligence will depend on your risk assessment of each customer.

Property auctioneers and high value dealers must be able to prove the identity of both parties (and any beneficial owner of the customer) to the sale.

The beneficial owner is the person who is behind the customer and who owns or controls the customer. It may also be the person on whose behalf a transaction or activity is carried out.

The level of due diligence is down to the individual employee to decide. However, if auctioneers or dealers are in any doubt they should discuss the matter with their MLRO who can then consider referring the matter to a senior partner of the firm.

If you have doubts about a customer's identity, you must cease activities with them until doubts are resolved.



CUSTOMER DUE DILIGENCE

Customer Due Diligence means taking steps to identify your customers and checking they are who they say they are. It is a cumulative process and means obtaining the customers':

- Full name
- Official documentation which confirms their identity (preferably a form of photo ID)
- Residential address and date of birth
- Details of any resulting beneficial owners

Produce a risk level analysis for each transaction and monitor and update throughout.

Have a system for keeping copies of Customer Due Diligence and supporting records and ensure the information is up-to-date.

ENHANCED DUE DILIGENCE

Enhanced Due Diligence applies in situations where there is a higher risk of money laundering or terrorist finance. You must do this when:

- The transaction is complex or unusually large.
- A person is a Politically Exposed Person.
- Your risk assessment has identified that there is a high risk of money laundering.
- A seller or buyer is from a high risk country as identified by the UK Government.
- You have been notified that a situation is high risk.

Consider what additional identification needs to be obtained, whether aspects of the customer's identity need to be verified and you can establish the source of wealth and any beneficial owner.



POLITICALLY EXPOSED PERSONS

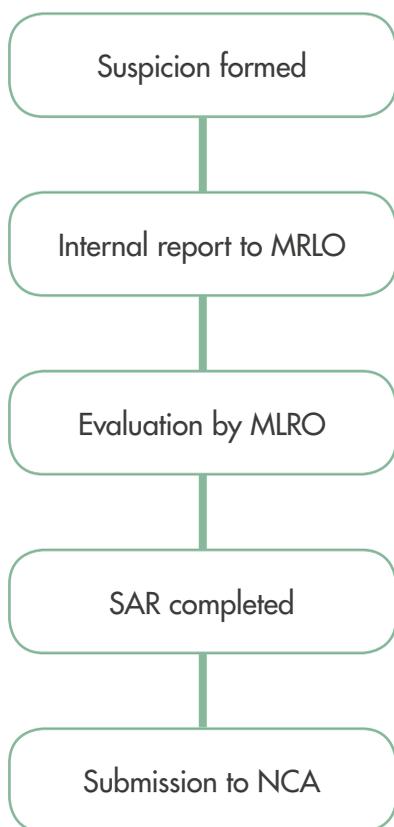
Auctioneers and dealers must also apply Enhanced Due Diligence on Politically Exposed Persons. These are individuals that are entrusted with prominent public functions (senior political figures or their immediate family and close associates), held in the UK or abroad. Their position may make them vulnerable to corruption.

There is no central database for checking Politically Exposed Persons. However, information is available in the public domain (such as internet searches, news websites, government and parliament websites) to help identify Politically Exposed Persons.

IDENTIFYING SUSPICIOUS ACTIVITY

Once an auctioneer or dealer has suspicion or knowledge; or reasonable ground to suspect that money laundering is taking place by their customer; or a transaction or relationship their client is concerned with, they should notify the MLRO immediately through a written internal report. There is no set template for an internal report and each business will need to develop their own procedure for internal reporting.

The MLRO should conduct their own investigations into the information provided. The MLRO must avoid telling other parties, which would represent tipping off. This will include verification of the Customer Due Diligence already provided as well as any further internal enquiries that will assist the decision-making process and whether to refer the matter to the National Crime Agency (NCA).



EXAMPLES OF WHEN YOU MAY CONSIDER SUBMITTING A SUSPICIOUS ACTIVITY REPORT (SAR)

- Checking the seller or buyers' identity is difficult and they are reluctant to provide details.
- Their lifestyle does not appear to be consistent with your knowledge of their income.
- Their income is not from a legitimate source.
- Part or full settlement in cash or foreign currency.
- You are unable to identify whether there are any beneficial owners.
- For regular and existing customers, the transaction is different from their normal business or the customer cannot explain a significant change in their financial circumstances.

Once the appropriate level of suspicion or knowledge has been formed that the firm is concerned with a money laundering issue, you must complete a Suspicious Activity Report (SAR) and send to the National Crime Agency (NCA).

HOW TO MAKE A SUSPICIOUS ACTIVITY REPORT (SAR)

Suspicious Activity Report (SAR) is the name given to a report sent to the National Crime Agency (NCA). The report identifies individuals who you, or an employee suspects may be involved in laundering money.

The suspicion is that the funds or property or item involved in the transaction is the proceeds of crime or is linked to terrorist activity.

The SAR will detail the exact nature of the customer relationship and the transaction or activity that has given rise to the suspicion of money laundering.



ONLINE REPORTING

The simplest way to submit a SAR is with the SAR online system. SAR online provides an instant acknowledgement and reference number (manual reporting does not).

To register for SAR online go to the NCA website: nationalcrimeagency.gov.uk and click on 'Reporting SARs'.

CONTACT

For more information or assistance with submitting SARs or SAR online enquiries contact the NCA UK Financial Intelligence Unit (UKFIU).

020 7238 8282

When contacting the UKFIU have your SAR reference number to hand. *Press 2* for general SAR enquiries or *Press 3* for the SAR online help desk.

For general questions about financial crime email: ukfiusars@nca.x.gsi.gov.uk



MANUAL REPORTING

Where a decision is made to not report electronically, there are several forms that need to be downloaded from the NCA website, including SAR guidance notes on what to include.

Download the forms at: nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/ukfiu/how-to-report-sars

RECORD KEEPING

Property auctioneers and high value dealers must keep records of Customer Due Diligence checks and business transactions including:

- 1 Copies of the evidence obtained of a seller and buyer's identity for five years after the end of the business relationship.
- 2 Details of transactions for five years from the date of the transaction.
- 3 Details of actions taken in respect of internal and external suspicion reports.
- 4 Details of information considered by the nominated officer in respect of an internal report, including where the MLRO does not make a Suspicious Activity Report (SAR).
- 5 Training of all staff and specified learning outcomes.

Auctioneers and dealers must also maintain a written record of your risk assessment and a written record of your policies, controls and procedures.

The AML Guidance for Estate Agents (which includes property auctioneers), as well as the specific Guidance for High Value Dealers, published by HMRC states that auctioneers and dealers can keep records as original documents, and photocopies of original documents, in either hard copy or electronic format. Records stored electronically must be backed up off-site.

HM REVENUE & CUSTOMS

ENFORCEMENT

If a person or business fails to comply with the Money Laundering Regulations 2017, they may face civil penalties or criminal prosecution. This could result in unlimited fines and/or a prison term of up to two years.

It is a criminal offence to provide estate agency or property auctioneer services without being registered with HMRC.

A civil penalty can be imposed for providing services without being registered with HMRC

for AML supervision.

It's also an offence if you fail to update information for registration and renewals.

The possible penalties are:

- On summary conviction, a fine up to the statutory maximum of £5,000.
- On conviction on indictment, a prison sentence of up to two years and an unlimited fine, or both.

TO HELP YOU COMPLY



AML TRAINING COURSE

Get up to speed by booking yourself on our foundation introductory online course, intermediate day course or advanced AML day course for MLROs.

Book online at: naea.co.uk/training-qualifications/sales

WORKSHOPS

NAEA Propertymark host interactive workshops around the country to keep members up-to-date with changes in legislation. As a NAVA Propertymark member you can attend these events for free. Find your next workshop at: naea.co.uk/events

CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

Don't forget events and courses count towards your annual 12 hours' CPD activity requirement. To log your attendance as CPD go to: nava.org.uk/members/cpd



IDENTITY VERIFICATION FORM

We have created an Identity Verification Form to assist members in collecting important information they need about the vendor and the property or land to be sold.

Download both forms here: nava.org.uk/industry-info/money-laundering-regulations

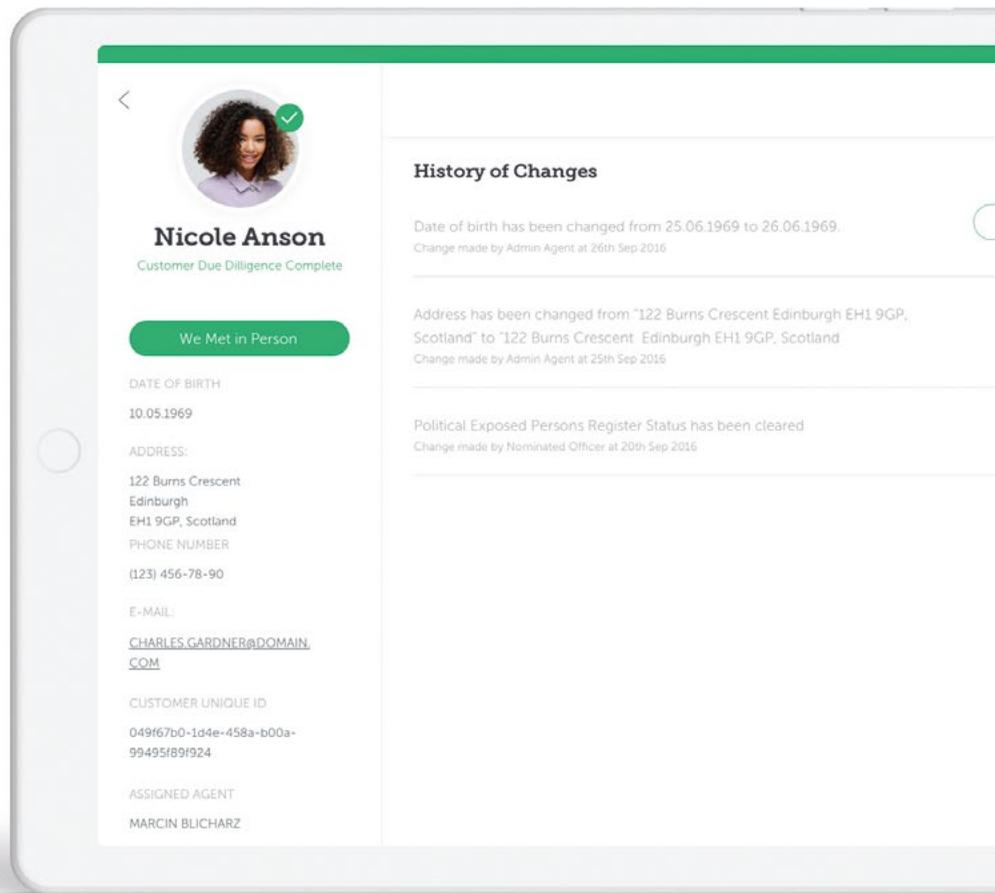
AML QUESTIONNAIRE

We have also developed an AML and Counter Financing of Terrorism Questionnaire for Principal, Partner or Director members to highlight possible areas for improvement in their business.



LEGAL HELPLINE

England and Wales: 01926 338 882
Scotland: 01413 329 988
Northern Ireland: 02890 445 436



PROPERTYMARK PASSPORT

In February 2018, we launched Propertymark Passport, which is only available to our members.

Propertymark Passport is an app which uses artificial intelligence with biometrics to help confirm someone's identity, and report issues and concerns of money laundering. It supports agents in assessing the authenticity of ID documents, regardless of their type or country of origin. Checks cost between £1 and £3 each, an introductory price which will last until at least the end of 2019. The app streamlines the verification process, increasing the agent's ability to spot issues during identity checks.

Developed with TrustStamp, Propertymark Passport does not replace face-to-face checks but enhances them, giving agents more tools to ensure they consistently comply with the Money Laundering Regulations 2017.

Download the app today
propertymark.pro

propertymark

PASSPORT

Verify customer identities and support compliance with HMRC guidance around Anti Money Laundering



SEND A LINK

Send a link to your customer before you meet.



VERIFY CUSTOMER

The customer provides a selfie, photos of their identity, address documents and then completes a short online form.



CREATE A REPORT

You verify the data provided and a report is created and stored for your organisation.

up to **£3** per report

Register now at:

propertymark.pro

