

## REAL BENEFITS

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31 Aug 2016

**It was perhaps inevitable that the Mossack Fonseca Panama Papers scandal would prompt change. What many working with finance need to know is what that change means to them.**

The huge leaks from the Panamanian law firm have now been followed by the European Commission's (EC) proposals for tougher anti-money laundering rules. These include public registries of owners of companies and trusts – designed to prevent offshore laundering - and a raft of measures to make business more transparent.

No one could argue against transparency in business and the need to combat money laundering. But if you are an accountant, auditor, independent financial advisor or other finance professional, the anti-money laundering changes could increase the risk of you being prosecuted if you endorse your client's unlawful behaviour after taking inadequate precautions.

Brexit may have put political distance between the UK and Europe but if you commit an offence within the EC's jurisdiction you will be prosecuted for it.

### Definition

#### So what is money laundering?

Money laundering is the hiding or disguising of the origins of money (or other assets) so it cannot be identified as the proceeds of crime. The Proceeds of Crime Act 2002 makes it an offence for a person to launder their own criminal proceeds or have someone do it for them.

Section 327 of POCA makes it an offence to conceal, disguise, convert, transfer or remove criminal property from the jurisdiction, Section 328 forbids the entering into or becoming concerned with an arrangement to acquire, retain or use the proceeds of crime while Section 329 makes it an offence to possess criminal property.

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While the above three sections are arguably the most used elements of POCA when it comes to money laundering, Sections 330 to 332 are also hugely significant for those handling large amounts of money. These sections make it an offence to fail to disclose any knowledge or suspicion of money laundering – placing a large obligation on financial professionals to know the origins of the money they are handling, receiving or investing on behalf of a client or employer.

## Suspicion

Investigators who suspect money laundering will usually look first at the accountant or other financial expert. They, it is argued, are most likely to have had the knowledge or suspicion that the money was the proceeds of crime. After all, they are at the hub of most deals, authorising the handling and movement of the money in question.

Suspicion for the purposes of money laundering is defined in Da Silva (2006) as “a possibility, which is more than fanciful, that the relevant facts exist”. The new regulations make it more important than ever that the money men are alert to the potential for money laundering. They are functioning in an era where money laundering is not only a feature of POCA: the Terrorism Act 2000, Anti-Terrorism, Crime and Security Act 2001, Serious Organised Crime and Police Act 2005 and the Money Laundering Regulations all relate to money laundering.

If we are being honest, the new EC regulations could be seen as a wake-up call to anyone who has been sleepwalking through business unaware of money laundering risks – but everyone should, by now, be alert to the dangers.

## Penalties

This means that there can be no excuse of ignorance or misjudgment regarding the proceeds of crime law. With penalties of up to 14 years imprisonment for money laundering, failing to spot and report money laundering can prove costly. A glance at news pages and websites will often yield a regular supply of reports of convictions for money laundering; indicating that this is an offence that the authorities can and do pursue with vigour.

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Your task, if you are in any way involved in finance, therefore, is to make sure you know exactly where the money you handle has come from – and where it has been. But how is this done? For a start, you need to be looking for what could be tell-tale signs. A vagueness about the precise details of a deal and the money and people involved, strange conditions attached to a movement of money or a deal, sudden requests for financial work to be carried out or changed and deals that do not appear to make commercial sense can all indicate that the true purpose is money laundering.

## **Procedures**

As the acknowledged experts, it falls on the accountants, IFA's and other financial professionals to be looking for these signs. But many believe their expertise lies elsewhere, meaning they are not adequately equipped to seek or investigate them. As a firm that carries out corporate internal investigations, we can identify the warning signs and introduce procedures to prevent a company being vulnerable to money laundering.

Any procedures introduced have to design out the potential for money laundering. Restrictions on cash deals, close analysis of funding sources and restrictions on how (and by who) company accounts are used can all make money laundering more difficult.

There is no quick fix to the risk of money laundering. But a thoughtful and thorough approach can help avert danger.

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