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## MLR9 Registration Notice

### **Foreword:**

**The Money Laundering Regulations (MLRs) 2007 came into effect on the 15<sup>th</sup> December 2007.**

Under the new MLRs, HMRC is the supervisory authority for Money Service Businesses (MSBs), High Value Dealers (HVDs), Trust or Company Service Providers (TCSPs) and Accountancy Service Providers (ASPs).

This guidance has been updated for TCSPs and ASPs to reflect feedback from businesses in discussions with HM Treasury about the interpretation of the Money Laundering Regulations as they apply to TCSPs and ASPs.

This notice explains about who needs to register with HMRC and what the registration procedures are.

**It is your responsibility to decide whether the type of activity you undertake falls within the scope of the Money Laundering Regulations as described in this notice and therefore whether you need to register your business with HMRC. Although we can assist you in deciding whether you need to register your business, we will not give you written assurance that your business does not need to register.**

Other publications available to help you understand the MLRs and your responsibilities are:

- Public Notice MLR8
- MLR DVD

You can view the MLR8 notice and download all the MLR Registration forms including guidance on how to complete the forms on the HMRC internet site at <http://www.hmrc.gov.uk/mlr/index.htm>

You can request a copy of the MLR DVD from the National Advice Service on 0845 010 9000

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## 1. Glossary of terms

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Abbreviation/term	Meaning/explanation
AML	Anti Money Laundering
ASP	Accountancy Service Provider
BDC	Bureau De Change
CTF	Counter Terrorist Financing
f&p	Fit and Proper
FSA	Financial Services Authority
HMRC	HM Revenue and Customs
HVD	High Value Dealer
HVP	High Value Payment – a payment of 15,000 euros or more for goods, made in cash
MLRs	Money Laundering Regulations (collective reference to all Money Laundering Regulations including previous MLRs)
MLRs 2007	Money Laundering Regulations 2007
MSB	Money Service Business
NO	Nominated Officer
OFT	Office of Fair Trading
PSC	Personal Service Company
PoCA	Proceeds of Crime Act 2002
Relevant Business	Relevant business is business to which the Money Laundering Regulations apply, and for the purposes of this notice means MSB, HVD, TCSP and ASP
SOCA	Serious Organised Crime Agency
TA	Terrorism Act
TCSP	Trust or Company Service Provider

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## **2. Summary**

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### **2.1 The purpose of this notice**

This notice will help you find out;

- If you need to register with us
- When and how to register
- What fees you need to pay
- What the fit and proper test is for Money Service Businesses and Trust or Company Service Providers

### **2.2 Who should read this notice?**

- Money Service Businesses (MSBs);
- High Value Dealers (HVDs);
- Trust or Company Service Providers (TCSPs);
- Accountancy Service Providers (ASPs);

The glossary of terms in section 1 of this notice will help you understand the technical terms and abbreviations used.

### **2.3 What is in this notice?**

Section 3: Gives a brief overview of the role of HMRC as supervisors and a general overview of who may need to register.

Section 4: Explains the scope of the MLRs and how to register for **MSBs**.

Section 5: Explains the scope of the MLRs and how to register for **HVDs**.

Section 6: Explains the scope of the MLRs and how to register for **TCSPs**.

Section 7: Explains the scope of the MLRs and how to register for **ASPs**.

Section 8: Explains what to do if any of your business details change after you have registered.

Section 9: Explains about de-registration and HMRCs ability to cancel your registration under certain circumstances.

Section 10: Explains about your rights to seek an Appeal and to an independent Tribunal.

Appendix 1: Lists the supervisory authorities including professional bodies under the Money Laundering Regulations 2007.

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## 2.4 What other notices should I read?

If you decide that you need to register with us you will need to read our public notice **MLR8: Guidance for businesses on the prevention of money laundering and terrorist financing**. This notice explains what your legal responsibilities are once you are registered and the risk based anti money laundering controls, policies and procedures you need to have in place.

MLR 8 cancels and replaces the following notices;

- MSB2 (May 2002) - Anti Money Laundering Guide; and
- MLR7 (February 2004) - Anti Money Laundering Guide for High Value Dealers.

An abbreviated version of this guidance "MLR8 a quick guide" is also available to download.

## 2.5 Who can I contact for further advice?

By telephone:

**National Advice Service: 0845 010 9000 - For all general enquiries relating to the MLRs**

MLR Registration Team: 01702 366607 - For any queries which relate specifically to your registration circumstances, for example to check the status of your registration application or to arrange for a longer period of time to notify us of changes to your business. **The MLR Registration team cannot answer general queries about the MLRs.**

By post:

**Written Enquiries Team:** For all general queries relating to the MLRs requiring a written response.

HMRC National Advice Service  
Written Enquiries Section  
Alexander House  
21 Victoria Avenue  
Southend on Sea  
Essex  
SS99 1BD

**MLR Registration Team:** To send your registration application, fit and proper application (if applicable) and appropriate fees to, and for notifying us of any changes to your registration details.

The MLR Registration Team  
9<sup>th</sup> Floor  
Alexander House  
21 Victoria Avenue

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Southend on Sea  
Essex  
SS99 1AG

By e-mail: [Enquiries.estn@hmrc.gsi.gov.uk](mailto:Enquiries.estn@hmrc.gsi.gov.uk)

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### **3. Registering with HMRC: General**

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#### **3.1 The role of HMRC**

Under the Money Laundering Regulations (MLRs), HMRC is the supervisory authority for MSBs, HVDs, and some TCSPs and ASPs.

Our role is to maintain a register of MSBs, HVDs, TCSPs and ASPs and ensure that these businesses are aware of and comply with the requirements of the Money Laundering Regulations 2007 by having appropriate risk based anti money laundering controls in place.

#### **3.2 What pieces of legislation do I need to be aware of?**

The main pieces of UK legislation for AML/CTF are:

- The Money Laundering Regulations 2007;
- The Proceeds of Crime Act (PoCA) 2002 Part 7;
- The Terrorism Act 2000 (as amended by the Anti-terrorism, Crime and Security Act 2001) (TA).

Money Transmitters also need to be aware of additional obligations placed on them by the EU Payments Regulation (EC) No 1781/2006 and the Transfer of Funds (information on the Payer) Regulations 2007. Further information on this can be found in the MLR8 public notice.

#### **3.3 Do I need to register with HMRC?**

Yes, you may need to register if you carry out any of the following activities by way of business and you are not already supervised for the purposes of the Money Laundering Regulations 2007 by one of the supervisory authorities listed in Appendix 1 of this notice

- Money Service Business
- High Value Dealer
- Trust or Company Service Provider
- Accountancy Service Provider

In the course of this guidance we may refer to these activities as relevant business.

If you are a HVD and supervised by the FSA you should contact us for further advice by providing information about all your business activities that fall within the scope of the MLRs.

You can do this by emailing [Enquiries.estn@hmrc.gsi.gov.uk](mailto:Enquiries.estn@hmrc.gsi.gov.uk) or by writing to the following address:

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Written Enquiries Team  
10th Floor  
Alexander House  
Southend on Sea  
SS99 1AG

### **3.4 What do you mean by “by way of business”?**

In most cases you will know if you are carrying out a relevant business by way of business, but there may be some circumstances where you might not be sure.

When deciding whether you are acting by way of business, you need to consider the following questions:

- Have you set up the business with the intention of undertaking relevant activity?
- Do you advertise or publicise the provision of your relevant activity or receive referrals from other businesses?
- Is the relevant activity carried out with a view to profit?
- Is the relevant activity actively pursued with reasonable or recognisable continuity?

If the answer to all of these questions is ‘yes’, then you are carrying out the activity by way of business and you will need to register.

If the answer to all of these questions is no, then you are not carrying out the activity by way of business and you will therefore not need to register.

If you can only answer ‘no’ to some of these questions, and you are still unsure whether you are carrying out relevant activities by way of business , you should contact us by e-mail or in writing providing answers to all the questions above for a decision.

You can do this by emailing us at [Enquiries.estn@hmrc.gsi.gov.uk](mailto:Enquiries.estn@hmrc.gsi.gov.uk)

Or write to us at the following address:

Written Enquiries Team  
10th Floor  
Alexander House  
Southend on Sea  
SS99 1AG

### **3.5 Are charities or public sector bodies required to register**

TCSP, MSB and ASP activities supplied by the following bodies are not within the scope of the MLRs because they are not carried out “by way of business”

- Registered charities (in furtherance of their charitable objectives), where the services are provided free or for a nominal charge.
- Public authorities serving members of the public free or for a fee to cover the expense of providing the service only.
- Public authorities as part of their statutory duties where a fee is charged.

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- Public authorities funded by the Exchequer or council tax payers and not by the person receiving the accountancy service.
- Public authorities or joint ventures where 50% or more of the shares are owned by the public body and where the only customers are also public authorities
- Public authorities and joint ventures (as defined above) to a firm authorised by a public authority to act on their behalf, such as a housing association

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## **4. Money Service Businesses:**

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### **4.1 Who needs to register?**

#### **4.1.1 What is a Money Service Business?**

Money Service Business (MSB) is the term used in the MLRs to describe the following business activities;

- acting as a bureau de change;
- transmitting money or any representation of money by any means (including businesses issued with a small e-money issuers exemption certificate issued by the FSA);
- cashing cheques payable to your customer.

You must not act as an MSB until you are registered with us, unless you are already supervised by the FSA for the purposes of the MLRs.

#### **4.1.2 Are there any registration exemptions?**

If you carry out currency exchange or cheque cashing on an occasional or very limited basis and you meet **all** of the following conditions:

- That the total annual turnover in respect of the relevant business does not exceed £64,000; and
- That the annual turnover in respect of the relevant business does not exceed 5% of the total annual turnover of the business; and
- That the relevant business is limited to no more than one transaction exceeding €1,000 by any one customer whether it is carried out as one transaction or a series of transactions which appear to be linked; and
- That the relevant business is ancillary and directly related to your main activity; and
- That the relevant business is provided only to customers of your main activity and is not offered to the public; and
- You do not already carry on business as a Trust or Company Service Provider or Accountancy Service Provider;

then you do not need to register with us as an MSB.

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**4.1.3 Do I need to register if I offer BDC services on board a ship that isn't always located in UK territorial waters?**

Yes, you have to register if you carry out BDC activity within UK territorial waters and we will supervise you for this business.

**4.1.4 Does 'transmitting money.....by any means' include acting as a cash courier?**

No. if you collect money from your customers and deliver the money to the end recipient, you are not transmitting money and therefore do not need to register with us for this activity..

**4.1.5 What if I am not a money transmitter 'by way of business'?**

If you don't operate 'by way of business' as described in section 3 of this notice, then you do not need to register with us.

**4.1.6 I am a pawnbroker and an MSB; do I need to register?**

If you are a pawnbroker and also operate as an MSB you need to register with us, and we will supervise you for both businesses.

If you are a pawnbroker and not operating as an MSB you will need to register with the OFT.

**4.1.7 I am a pawn broker registered with you as an MSB. What do I need to do?**

We will supervise you for both businesses so you will need to make sure that your pawn broking activities are included in your anti money laundering policies and procedures. You can find out more information about anti money laundering policies and procedures in public notice MLR8.

**4.1.8 When do I need to register?**

You will need to apply to register and apply for the fit and proper (f&p) test before you begin carrying on business as an MSB. The following paragraphs explain about how to register.

**4.2 Registration and fees**

**4.2.1 How do I register?**

You need to complete registration form MLR100.

You must make sure you provide all the information requested in the application form, otherwise we cannot process your application or register your business. There are guidance notes available to help you complete the form.

You will also need to submit form MLR101 for the fit and proper test which you can find out more about later on in this section. Once completed, you should return the forms along with the appropriate fees to:

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The MLR Registration team  
9<sup>th</sup> Floor  
Alexander House  
21 Victoria Avenue  
Southend on Sea  
Essex  
SS99 1AG

**NOTE: We may ask for additional information after receiving your registration application. In this case we will notify you of what additional information we need and why.**

#### **4.2.2 Do I have to pay a registration fee?**

Yes. The MLRs allow us to charge a registration fee, which is payable at the time of your application to register and will be payable annually on the anniversary of your date of registration.

The registration fee for year commencing June 2008 is £95 per premises. **The registration fee is reviewed annually so if you are applying to register after 31st May 2009 you should check the fee on the HMRC internet site, or contact the National Advice Service.** You can find out more information about how to calculate how much you should pay later on in this section.

The fee that we charge is to cover the cost of carrying out our role as a supervisor. These costs include registering new businesses, carrying out visits to premises, and producing guidance and information for businesses.

#### **4.2.3 Will I have to pay a fee for the f&p test?**

Yes. The current fee is £50 per individual subject to the test. More information about the f&p test can be found later on in this section.

#### **4.2.4 How do I pay the fees?**

When you first apply to register, you will need to pay your registration and f&p fees by cheque. You may include all the fees in one cheque payable to HM Revenue & Customs.

Once you are registered, you can pay your renewal fees either:

- by cheque
- by BACS quoting your MLR Registration number
- by CHAPS quoting your MLR Registration number

You can find out about making payments by BACS or CHAPS by contacting the MLR Registration Team in Southend on 01702 366607.

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**4.2.5 Will registration fees be refunded if you decide not to register me?**

Yes. If we decide not to register your business on any of the grounds covered in this notice we will refund your registration fee.

**4.2.6 Will I receive a registration certificate?**

Yes. You will receive a certificate of registration which is notification of your MLR registration number and confirms the details we have for your business.

It is important to note that being registered is not an endorsement by HMRC of the business practices of a registered business.

**4.2.7 Do I have to renew my registration annually?**

Yes. You will have to pay an annual renewal fee for each of your premises.

**4.2.8 Will I receive reminders to pay my annual renewal fee?**

Yes. We will send a reminder letter towards the end of your registration year. The reminder will show the registration details we hold for your business, and tell you how much you will need to pay.

If you do not need your registration to continue you will should notify us in order for us to remove you from the register.

**4.2.9 What if I don't pay my annual renewal fee?**

If you do not pay your fee on time, we will cancel your registration. We will notify you if this is the case.

If we cancel your registration, you can apply to re-register. However, your application may take up to 45 days to process, during which you cannot carry out activity as an MSB. You do not have to re-apply for the f&p test.

**4.2.10 What are my obligations under the MLRs once I am registered?**

We have produced a public notice MLR8: Guidance for businesses on the prevention of money laundering and terrorist financing, which explains in detail all your obligations under the MLRs and gives practical guidance as to how you can meet them. It also explains our powers to impose penalties and prosecute for failing to comply. You can download this notice from the HMRC internet site.

**4.2.11 What happens if I don't register under the Regulations?**

If you act as an MSB and are not registered with us as required by the MLRs, you are committing an offence.

We may impose penalties for;

- Failure to register relevant business. This includes;
  - (a) carrying on business as an MSB without first being registered

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(b) continuing to carry on business as a MSB after de-registering or having your registration cancelled

#### 4.2.12 How much will a penalty be?

The amount will depend on your individual case. We will take a number of things into consideration when deciding this, for example;

- Your reasons for not registering
- The length of time you carried on relevant business without being registered
- The number of premises that were not registered

These are only examples and we may take other things into consideration.

### 4.3 Calculating fees

#### 4.3.1 How do I calculate what fees I must pay?

You will need to pay a registration fee for each set of premises you include on your application form. The current registration fee is £95 per premises. You must decide which premises you are responsible for registering, include the details in your registration application, and pay £95 for each.

If you are in a Principal/Agent or Franchise/Franchisee relationship see paragraph 4.3.7.

If you do not operate your business from premises and carry out this activity at premises belonging to someone else, you will need to pay a fee for your principal contact address. Your principal contact address is the address through which we can contact you and make arrangements to visit you.

#### 4.3.2 What do you mean by premises?

Premises means any place from which you carry on business as an MSB.

**Examples** may include;

- Offices
- Shops
- Call centres
- Cruise ships (if operating in UK territorial waters)
- Domestic premises

#### 4.3.3 Do I have to register each of my premises separately?

No. You must include details of all the premises through which you carry on business as an MSB in your registration application, and you will need to pay a fee for each.

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#### 4.3.4 What if I provide my services from my home address?

You will need to register and pay a fee for your home address as the premises from which you carry on business as an MSB.

#### 4.3.5 What if I provide my services door to door?

You will need to register and pay a fee for your principal contact address.

#### 4.3.6 Are there any premises which I do not need to include in my registration application?

Yes. You do not need to register any premises;

- From which you do not carry on business as an MSB, for example premises solely used for -

- Storage of business records
- employee training
- General management of employees

This does not include any premises from which you carry out **any** element of the processing of transactions. For example where a transaction is carried out at a customers premises and the paperwork is completed at a central office, the office will need to be registered and a fee is payable.

- Which are outside the UK

#### 4.3.7 I am a Principal/Franchisor. Do I need to include premises run by my agents/franchisees in my registration application?

It depends on the business agreement you have in place with your agents/franchisees. If you determine the business practices and set in place the anti money laundering controls, policies and procedures in respect of business carried out with customers on your behalf, then you will need to include details of these premises in your registration.

However, if you only have limited control of your agents/franchisees business practices and anti money laundering controls, policies and procedures you will not need to include these premises in your registration, and the agent/franchisee will need to apply to register individually.

If you are not sure which premises you will need to include in your registration application, or you are an agent/franchisee and are not sure whether you need to register yourself, you can telephone the National Advice Service on 0845 010 9000.

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#### **4.4 The fit and proper test:**

##### **4.4.1 What is the fit and proper test?**

The f&p test is a legal requirement for MSBs and is part of the registration process. It is not subject to an annual renewal process or renewal fee. If once you are registered, any new individuals become part of the registered business who are subject to the f&p test, they will need to complete the f&p test also.

##### **4.4.2 Who needs to apply for the f&p test?**

The following individuals within the business will need to apply for the test:

- The registration applicant (in the case of a sole proprietor or partner);
- Any person who effectively directs or will direct the business including all company directors and shadow directors whether UK based or overseas;
- Any beneficial owners of the business
- A nominated officer, if applicable.

##### **4.4.3 What is a beneficial owner?**

In the case of a body corporate a beneficial owner is any individual who:

- In the case of a body other than a company listed on a regulated market, ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer shareholdings) more than 25% of the shares or voting rights in the body; or
- In the case of a body corporate exercises control over the management of the body.

In the case of a partnership beneficial owner means any individual who:

- Is entitled to or controls more than 25% of the capital or profits of the partnership or more than 25% of the voting rights; or
- Otherwise exercises control over the management of the partnership.

In the case of a complicated company structure where more than 25% of the shares are controlled by another company, it will be necessary to check that no single individual controls more than 50% of the shares of that company. Provided that no individual exercises that level of control there is no need to extend the f&p test beyond the registered business.

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#### 4.4.4 Is there a fee?

Yes. There is a one off fee **for each applicant**, payable at the time of submitting the f&p application form. The current fee is £50. This may be subject to change, so if you are not sure what the fee is when you, or a relevant individual within your business are applying for the f&p test you should check on the HMRC internet site, or contact the National Advice Service on 0845 010 9000.

#### 4.4.5 Will f&p fees be refunded if an applicant fails the test?

No. The fee pays for the f&p test to be carried out. If a person fails the test, the fee cannot be refunded.

#### 4.4.6 How do I apply for the f&p test?

Each applicant will need to complete the f&p application form (**MLR 101**).

The applicant will need to sign their form, and you as the business applying to register will then need to return the form/s with the appropriate fee/s.

**It is a criminal offence to make a false statement in order to register. Businesses will not be registered if the information provided by f&p applicants is found to be false or misleading.**

If you become aware of any changes to the information provided in a f&p application you must notify the MLR Registration Team either by writing to the address earlier on in this section or by telephone on 01702 366607 within 30 days of the change.

#### 4.4.7 How will f&p applications be processed?

On receipt of a f&p application, we will undertake a number of checks to confirm the accuracy of the information provided.

This will include checking details against information held by us, other regulatory authorities, government and law enforcement agencies..

In some cases we may ask applicants to attend one of our offices to answer any questions concerning the application before completing the process. Written notice will be sent to applicants in this case, stating where and when this will take place.

We will notify you within 45 days of receiving your application of our decision to either register your business or refuse registration. If we ask for any additional information this 45 day period may be extended.

In the event that we decide not to register your business there is a right to a review, and an appeal to the Vat & Duties Tribunal. You can find more information about this at section 10.

#### 4.4.8 Under what circumstances would an applicant fail the f&p test?

For the purposes of the MLRs 2007, a person is not a f&p person if they:

- have been convicted of-

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- (i) an offence under the Terrorism Act 2000;
- (ii) an offence under paragraph 7(2) or (3) of Schedule 3 to the Anti-Terrorism, Crime and Security Act 2001;
- (iii) An offence under the Terrorism Act 2006;
- (iv) an offence under Part 7 of PoCA 2002;
- (v) an offence listed in Schedule 2, 4 or 5 of PoCA 2002;
- (vi) an offence under the Fraud Act 2006
- (vii) an offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994
- (viii) cheating the public revenue;
- have been adjudged bankrupt or in respect of whom sequestration of his estate has been awarded and (in either case) has not been discharged;
- are subject to a disqualification order under the Company Directors Disqualification Act 1986(a), or has effectively directed a business which has consistently failed to comply with the requirements of the Act;
- are or have been subject to a confiscation order or recovery order under PoCA 2002;
- have consistently failed to comply with the requirements of the MLRs;
- have consistently failed to comply with the requirements of regulation 2006/1781/EC of the EU Payments Regulation;
- have effectively directed a business which has consistently failed to comply with the requirements of the Money Laundering Regulations and/or the Payments Regulation.
- are otherwise not a fit and proper person with regard to the risk of money laundering or terrorist financing.

#### 4.4.9 What happens if one or more applicants within my business fail to pass the f&p test?

We will not process your registration application and will notify you of that decision. You have the right to appeal this decision. More information about this can be found at section 10.

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**4.4.10 If I have already passed the f&p test for my current job and want to change jobs and work for a different MSB, do I have to re-apply for the test?**

No, as long as your circumstances haven't changed to the extent that you would no longer meet the criteria for the f&p test. You should inform your new employer that you have already passed the test and provide them with the MLR Registration Number of the business for which you were given f&p status.

**4.4.11 How do I confirm the f&p status of a new employee claiming to have passed the f&p test for a previous employer?**

You can write to the MLR Registration Team at the address given earlier in this section, giving details of the individual and the MLR Registration number of the business for which they were given f&p status. The MLR Registration Team will write back and confirm if the individual is on our f&p list.

**4.4.12 I have f&p status from another supervisory authority. Can I be credited for this?**

No.

**4.4.13 Will my f&p status be monitored by HMRC to make sure my circumstances don't change?**

Yes, we will monitor your f&p status to ensure that you continue to meet the criteria set out earlier in this section.

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## **5. High Value Dealers;**

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### **5.1 Who needs to register?**

#### **5.1.1 What is a High Value Dealer?**

A High Value Dealer (HVD) is any business prepared to accept high value payments. A high value payment (HVP) is a payment of at least €15,000 (or equivalent in any currency) in cash for goods, whether it be in a single transaction or in several instalments. Examples of HVDs may include auctioneers, car dealers, jewellers, antique dealers etc.

If you intend to accept such payments (this includes circumstances where your customer deposits cash directly into your bank account), then you will need to register. You must not carry on business as a HVD unless you are included on our register.

If you do not intend to accept HVPs, you should consider having a written policy to this effect and ensure that your employees are aware of this policy.

#### **5.1.2 Do I have to register as a HVD if I accept?**

- **High value payments for provision of services?**
  - No
- **A single high value payment for a large quantity of low value goods?**
  - Yes
- **High value wholesale transactions?**
  - Yes
- **High value retail transactions?**
  - Yes
- **High value payments by credit/debit card or cheque?**
  - No
- **High value payments in other currencies**
  - Yes, if paid in cash
- **A single high value transaction paid in instalments**
  - Yes

#### **5.1.3 Am I dealing in goods if:**

- **I am an agent/auctioneer who does not take title to the goods?**
  - Yes

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- **The goods do not change ownership at the time of the transaction (eg sale or return)?**
  - Yes
- **I accept orders for goods over the internet?**
  - Yes
- **The transaction involves both goods and services?**
  - If, in the course of providing a service, you supply goods which are ancillary to that service, you will not be dealing in goods unless the open market value of the goods is €15,000 or more. For example fitting a kitchen or bathroom.

## 5.2 Registration and fees

### 5.2.1 Registration as a HVD

If you were already registered with us as a HVD before the 15<sup>th</sup> December you will need to apply to re-register. At the time of your annual renewal, you will be asked to complete a new simplified HVD registration form and pay your annual renewal fee.

If you intend to carry on business as a **new** HVD you will need to apply to register as soon as you make a decision that you would be prepared to accept HVPs.

If you carry on business as a HVD and you are not registered, you could face penalties.

### 5.2.2 How do I register?

You need to complete registration form MLR100.

You must make sure you provide all the information requested in the application form, otherwise we cannot process your application or register your business. There are guidance notes available to help you complete the form.

Once completed, you should return your form along with the appropriate fees to:

The MLR Registration team

9<sup>th</sup> Floor

Alexander House

21 Victoria Avenue

Southend on Sea

Essex

SS99 1AG

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**NOTE: We may ask for additional information after receiving your registration application. In this case we will notify you of what additional information we need and why.**

**5.2.3 Do I have to pay a registration fee?**

Yes. The MLRs allow us to charge a registration fee, which is payable at the time of your application to register and will be payable annually on the anniversary of your date of registration. The fee enables us to cover the cost of carrying out our role as supervisors. These costs include registering new businesses, carrying out visits to premises, and producing guidance and information for businesses.

You must pay the fee for each premises through which you carry on business as a HVD.

The registration fee for year commencing June 2008 is £95 per premises. **The registration fee is reviewed annually so if you are applying to register after 31st May 2009 you should check the fee on the HMRC internet site, or contact the National Advice Service.** You can find out more information about how to calculate how much you should pay later on in this section.

**5.2.4 Will I have to apply for a fit and proper test as part of my registration application?**

No. The f&p test only applies to MSBs and TCSPs.

**5.2.5 How do I pay the fees?**

When you first apply to register, you will need to pay your registration fees by cheque payable to HM Revenue & Customs.

Once you are registered, you can pay your renewal fees either:

- by cheque
- by BACS quoting your MLR Registration number
- by CHAPS quoting your MLR Registration number

You can find out about making payments by BACS or CHAPS by contacting the MLR Registration Team in Southend on 01702 366607.

**5.2.6 Will registration fees be refunded if you decide not to register me?**

Yes. If we refuse your application to register on any of the grounds covered in this notice we will refund your registration fee.

**5.2.7 Will I receive a registration certificate?**

Yes. You will receive a certificate of registration which is notification of your MLR registration number and confirms the details we have for your business.

It is important to note that being registered is not an endorsement by HMRC of the business practices of a registered business.

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#### 5.2.8 Do I have to renew my registration annually?

Yes. You will have to pay an annual renewal fee for each of your premises.

#### 5.2.9 Will I receive reminders to pay my annual renewal fee?

Yes. We will send a reminder letter towards the end of your registration year. The reminder will show the registration details we hold for your business, and tell you how much you will need to pay.

If you do not need your registration to continue you should notify us in order for us to remove you from the register.

#### 5.2.10 What if I don't pay my annual renewal fee?

If you do not pay your fee on time, we may cancel your registration. We will notify you if this is the case.

If we cancel your registration, you can apply to re-register. However, your application may take up to 45 days to process, during which you cannot accept HVPs.

#### 5.2.11 What are my obligations under the MLRs once I am registered?

We have produced a public notice MLR8: Guidance for businesses on the prevention of money laundering and terrorist financing, which explains in detail all your obligations under the MLRs and gives practical guidance as to how you can meet them. It also explains our powers to impose penalties and prosecute for failing to comply. You can download this notice from the HMRC internet site.

#### 5.2.12 What happens if I don't register under the MLRs?

If you carry on business as a HVD and are not registered with us, you are committing an offence.

We may impose penalties for;

- Failure to register relevant business. This includes the following
  - (a) Accepting a HVP without first being registered as a HVD
  - (b) Continuing to accept HVPs after de-registering or having your registration cancelled

#### 5.2.13 How much will a penalty be?

The amount will depend on your individual case. We will take a number of things into consideration when deciding this, for example;

- Your reasons for not being registered
- The number of HVPs you have accepted without being registered
- The number of premises that were not registered

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These are only examples and we may take other things into consideration.

### **5.3 Calculating fees**

#### **5.3.1 How do I calculate the fees I must pay?**

You will need to pay a registration fee for each set of premises included on your application form. The current registration fee is £95 per premises. You must decide which premises you are responsible for registering, include the details in your registration application, and pay £95 for each.

If you are in a Principal/Agent or Franchise/Franchisee relationship see paragraph 5.6.

If you do not operate your business from your own premises and carry out this activity at premises belonging to someone else, you will need to pay a fee for your principal contact address. Your principal contact address is the address through which we can contact you and make arrangements to visit you.

#### **5.3.2 What do you mean by premises?**

Premises means any place through which you carry on business as a HVD. **Examples** may include;

- Offices
- Shops
- Auction houses

#### **5.3.3 Do I have to register all my premises if I have a policy of only accepting HVPs at some of them?**

No. If you have a policy in place which means that you only carry on business as a HVD in some of your premises, then you only need to include those premises in your registration application.

### **5.4 Do I have to register each of my premises separately?**

No. You must include details of all the premises from which you carry on business as a HVD in your registration application, and you will need to pay a fee for each.

### **5.5 Are there any premises which I do not need to include in my registration application?**

Yes. You do not need to register any premises;

- In which you have a policy of not carrying on business as a HVD
- Which are temporary sites for example auction venues not belonging to your business
- Which are outside the UK

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## **5.6 I am a Principal/Franchisor. Do I need to include premises run by my agents/franchisees in my registration application?**

It depends on the business agreement you have in place with your agents/franchisees. If you determine the business practices and set in place the anti money laundering controls, policies and procedures in respect of business carried out with customers on your behalf, then you will need to include details of these premises in your registration.

However, if you only have limited control of your agents/franchisees business practices and anti money laundering controls, policies and procedures you will not need to include these premises in your registration, and the agent/franchisee will need to apply to register individually.

If you are not sure which premises you will need to include in your registration application, or you are an agent/franchisee and are not sure whether you need to register yourself, you can telephone the National Advice Service on 0845 010 9000.

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## 6. Trust or Company Service Providers

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### 6.1 Who needs to register?

#### 6.1.1 What is a Trust or Company Service Provider (TCSP)?

A Trust or Company Service Provider is any firm or sole practitioner who by way of business provides any of the following services to third parties:

- (a) forming companies or other legal persons
- (b) acting or arranging for another person to act;
  - (i) as a director or secretary of a company
  - (ii) as a partner of a partnership; or
  - (iii) in a similar position in relation to other legal persons
- (c) Providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- (d) Acting or arranging for another person to act as;
  - (i) a trustee of an express trust or similar legal arrangement; or
  - (ii) a nominee shareholder for another person other than a company listed on a regulated market which is subject to disclosure requirements consistent with Community legislation or equivalent international standards.

#### 6.1.2 What does 'arranging' mean?

In the context of paragraphs (b) and (d) above, 'arranging' has a narrow meaning. It means the act of putting in order, providing for another person to act as a company director, company secretary, partner, nominee shareholder or trustee.

An example of arranging would be providing clients with a company director, which involves finding the person, selecting them without any further assessment by or consultation with the client, and completing some or all of the formalities associated with their appointment to that position.

Examples of activities that are not considered to be arranging in the context of sub-paragraphs (b) and (d) can be found in paragraph 6.1.16..

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#### 6.1.3 What is meant by ‘director’?

“Director” is defined in the Companies Act 2006. If you are formally appointed a director, your name should be contained in the company’s register available for inspection at the registered office and registered at Companies House. If you are not formally appointed but are called a director, you would not be a director within the Companies Act definition, but you may fall within the scope of the regulations as a shadow director.

A shadow director is a person who is not a named director but who does direct or control the business.

#### 6.1.4 What is an express trust?

An express trust is an arrangement where there is a clear and expressed intention to create a trust. In a trust, ownership is divided between the trustees and the beneficiaries: the trustee is given the legal title to the property which gives them the duty to manage and control the property for the benefit of the beneficiaries who are exclusively entitled to the benefit of the property. A trustee can also be a beneficiary of the trust.

#### 6.1.5 What types of businesses will be covered?

- Company Formation Agents
- Providers of registered offices, business addresses, accommodation or correspondence addresses for businesses other than sole proprietors
- Any individual or firm providing nominee director, nominee company secretary or nominee shareholder services or other similar services designed to ensure the confidentiality of the true ownership or control of a company or corporate body, or to act in these roles on behalf of another person or firm
- Any individual or firm arranging for another person to act as a director, company secretary, partner or professional trustee (in the way described in the example in 6.1.2)
- Any individual or firm offering professional trustee services, unless they relate to certain low risk trusts ( as specified in 6.1.19)
- Any individual or firm providing their services as nominee shareholder (unless they are acting for a company whose securities are listed on a regulated market)
- Any firm providing their services as a company director, company secretary, or partner to another firm unless the client firm is a member of the same group as the firm providing the service

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- Any individual providing their service
  - as nominee director or nominee company secretary or
  - as company director, company secretary or partner to a firm carrying out business in the following high risk areas;
    - within a high risk jurisdiction (see sub-para 6.1.13)
    - within a high risk sector (see sub-para 6.1.14)

unless the firm is

- already supervised under the MLRs or
- a public authority or
- a firm authorised by a public authority to act on their behalf where the only customers are also public authorities

#### 6.1.6 I operate through a Personal Service Company(PSC). Do I fall within scope as a firm or as an individual?

A PSC supplying the services of an individual will only fall within scope to the extent that the individual they represent falls within scope and providing that the PSC:

- only supplies the services of that individual and
- that individual owns or controls at least 50% of the business and the sole business purpose of the company is to provide the services of that individual.

#### 6.1.7 I operate through a PSC. Do I have to register both my PSC and myself as an individual?

No. You will only have to register your PSC unless you also invoice for relevant business as an individual.

#### 6.1.8 Am I required to register my PSC if I am already supervised as an individual by FSA or a professional body listed in Appendix 1?

You will need to check with your supervisor whether your PSC is also supervised by them. If it is not you will need to register your PSC as a TCSP with HMRC.

#### 6.1.9 I am a company director /company secretary for the company that employs me; am I a TCSP?

No, you are not a TCSP because you are an employee and are not carrying these activities out by way of business so you will not be required to register.

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#### **6.1.10 What are nominee services?**

Nominee services are used for a number of reasons. One reason is to ensure the confidentiality of persons running or owning limited and other companies from public disclosure requirements that exist in the UK and other jurisdictions. They preserve the secrecy of persons who would rather not disclose their direct relationship with a particular corporate body.

#### **6.1.11 What do nominee directors or secretaries do?**

Nominee directors fulfil the legal or nominal requirements of the role but either have little actual involvement in the management or administration of the company or if they have any active role they will exercise it on the instructions of another person.

#### **6.1.12 What is a nominee shareholder?**

A nominee shareholder is an individual or company that holds shares and other securities on behalf of investors. Nominee shareholders are used for administrative or legal reasons or to ensure the confidentiality of the beneficial owner of a company.

#### **6.1.13 What is a high risk jurisdiction?**

This will include a jurisdiction noted by the Financial Action Task Force as having weak anti money laundering systems. Guidance on high risk jurisdictions can be found on the financial crime pages of HM treasury website at ;

[http://www.hm-treasury.gov.uk/documents/financial\\_services/money/fin\\_crime\\_policy.cfm](http://www.hm-treasury.gov.uk/documents/financial_services/money/fin_crime_policy.cfm)

#### **6.1.14 What is a high risk sector?**

- A firm carrying out frequent cash transactions of €15,000 or more
- A company operating within the UK but incorporated outside the UK in a non-equivalent jurisdiction
- A company with a holding interest in their capital held in the form of unregistered bearer shares

#### **6.1.15 What is an equivalent jurisdiction?**

This is a country with anti money laundering systems/countering terrorist finance regimes of similar quality to those of the EU. The Treasury's financial crime page contains a list of countries considered to have equivalent anti money laundering and countering terrorist financing regimes.

[http://www.hm-treasury.gov.uk/documents/financial\\_services/money/fin\\_crime\\_policy.cfm](http://www.hm-treasury.gov.uk/documents/financial_services/money/fin_crime_policy.cfm)

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### **6.1.16 What businesses will not be Trust or Company Service Providers?**

Some officers of companies or partners of partnerships:

- Individuals providing their services as company director, company secretary or partner provided they are not specified above including;
- Any individual providing company director , company secretary or partner services to:
  - i. A firm already supervised under the MLRs 2007, or
  - ii. A public authority, or
  - iii. a firm authorised by a public authority to act on their behalf where the only customers are public authorities

Some Trustees

- Sole practitioners and firms who only provide professional trustee services limited to the following low risk trusts;
  - i. Straightforward express testamentary trusts such as those creating life interests for spouses or partners, trusts for persons under 25, dependents or persons under a disability or those that make provision for a charity.
  - ii. Express lifetime trusts created to manage the affairs of a person under a disability;
  - iii. Occupational pension schemes and employee share schemes

Recruiters and employment agencies

- Firms and sole practitioners that only offer to their clients, in relation to the appointment of persons to act as a company director, company secretary, partner or professional trustee, the normal business services of employment agencies and employment businesses including the activities of;
  - i. Advertising for, headhunting or otherwise searching for suitable candidates for these positions (whether permanent or temporary)
  - ii. The analysis of applications by such candidates and referring CVs to potential employers
  - iii. Conducting preliminary and other interviews of such candidates
  - iv. Checking qualifications or references of such candidates

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- v. Drawing up short lists of such candidates and making recommendations to clients about such candidates which stop short of actually selecting the final candidate
- vi. Supplying employers with a company director, company secretary, partner or professional trustee, (including temporary ones) so long as the employment agency or business does not itself provide for a person's appointment to a relevant position in the way described in the example in paragraph 6.1.2.

Other exclusions

- Will writing

#### 6.1.17 What is a public authority?

This is a body within the EU (including the UK) that fulfils the conditions in para 2 of schedule 2 of the MLRs and includes Government departments, local authorities, NHS Trusts and public corporations, executives and advisory bodies.

#### 6.1.18 Are discretionary trusts low risk trusts?

No.

#### 6.1.19 I am a director of the trustee company of a low risk trust. Am I a TCSP?

No. If you are a director of a company that exclusively acts as trustee for a low risk trust specified in sub-para 6.1.16 you will not be a TCSP.

#### 6.1.20 I provide company services to businesses by forwarding their mail. Will I be required to register?

Yes, if you undertake these activities on behalf of a company or partnership.

## **6.2 Registration and fees:**

### 6.2.1 Registration as a TCSP

If you were in business as a TCSP before 15<sup>th</sup> December, you must apply to register with us before the **30<sup>th</sup> September 2008**. If you have not applied to register by then, then you may be subject to a civil penalty if you carry on relevant activity.

If you are setting up in business as a **new** TCSP you will need to be registered before carrying on that business.

### 6.2.2 How do I register?

You need to complete registration form MLR100.

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You must make sure you provide all the information requested in the application form, otherwise we cannot process your application or register your business. There are guidance notes available to help you complete the form.

You will also need to submit form MLR101 for the fit and proper test. More information about this test can be found later on in this section. Once completed, you should return the forms along with the appropriate fees to:

The MLR Registration team

9<sup>th</sup> Floor

Alexander House

21 Victoria Avenue

Southend on Sea

Essex

SS99 1AG

**NOTE: We may ask for additional information after receiving your registration application. In this case we will notify you of what additional information we need and why.**

#### **6.2.3 Do I have to pay a registration fee?**

Yes. The MLRs allow us to charge a registration fee, which is payable at the time of your application to register and will be payable annually from your date of registration. You must pay the fee for each premises through which you carry on business as a TCSP. If you do not operate your business from premises, you will need to pay a fee for your principal contact address. Your principal contact address is the address through which we can contact you and make arrangements to visit you.

The MLRs allow us to charge an annual registration fee to cover the cost of carrying out our role as supervisors. These costs include registering new businesses, carrying out visits to premises, and producing guidance and information for businesses.

The registration fee for year commencing June 2008 is £95 per premises. **The registration fee is reviewed annually** so if you are applying to register after 31<sup>st</sup> May 2009 you should check the fee on the HMRC internet site, or contact the National Advice Service. You can find out more information about how to calculate how much you should pay later on in this section.

#### **6.2.4 Will I have to apply for a fit and proper test as part of my registration application?**

Yes. More information about the f&p test can be found later on in this section.

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#### **6.2.5 Will I have to pay a fee for the fit and proper test?**

Yes. The current fee is £50 per individual subject to the test. More information about the f&p test can be found later on in this section.

#### **6.2.6 How do I pay the fees?**

When you first apply to register, you will need to pay your registration and f&p fees by cheque payable to HM Revenue & Customs. You may include all the fees in one cheque.

Once you are registered, you can pay your renewal fees either:

- by cheque
- by BACS quoting your MLR Registration number
- by CHAPS quoting your MLR Registration number

You can find out about making payments by BACS or CHAPS by contacting the MLR Registration Team in Southend on 01702 366607.

#### **6.2.7 Will registration fees be refunded if you decide not to register me?**

Yes. If we decide not to register you on any of the grounds covered in this notice we will refund your registration fee.

#### **6.2.8 Will I receive a registration certificate?**

Yes. You will receive a certificate of registration which is notification of your MLR registration number and confirms the details we have for your business.

It is important to note that being registered is not an endorsement from HMRC of the business practices of a registered business.

#### **6.2.9 Do I have to renew my registration annually?**

Yes. You will have to pay an annual renewal fee for each of your premises.

#### **6.2.10 Will I receive reminders to pay my annual renewal fee?**

Yes. We will send a reminder letter towards the end of your registration year. The reminder will show the registration details we hold for your business, and tell you how much you will need to pay.

If you do not need your registration to continue you should notify us in order for us to remove you from the register.

#### **6.2.11 What if I don't pay my annual renewal fee?**

If you do not pay your fee on time, we may cancel your registration. We will notify you if this is the case.

If we cancel your registration, you can apply to re-register. However, your application may take up to 45 days to process, during which you cannot carry on business as a TCSP. You do not have to re-apply for the f&p test.

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#### 6.2.12 What are my obligations under the MLRs 2007 once I am registered?

We have produced a public notice MLR8: Guidance for businesses on the prevention of money laundering and terrorist financing, which explains in detail all your obligations under the MLRs and gives practical guidance as to how you can meet them. It also explains our powers to impose penalties and prosecute for failing to comply. You can download this notice from the HMRC internet site.

#### 6.2.13 What happens if I don't register under the Regulations?

If you carry on business as a TCSP and are not registered with us, you are committing an offence.

We may impose penalties for:

- Failure to register relevant business. This includes the following
  - (a) Carrying on business as a TCSP without being registered
  - (b) Continuing to carry on business as a TCSP after de-registering or having your registration cancelled

#### 6.2.14 How much will a penalty be?

The amount will depend on your individual case. We will take a number of things into consideration when deciding this, for example;

- Your reasons for not being registered
- The length of time you carried on business as a TCSP without being registered
- The number of premises that were not registered

These are only examples and we may take other things into consideration.

### **6.3 Calculating fees:**

#### 6.3.1 How do I calculate the registration fees I must pay?

You will need to pay a registration fee for each set of premises you include on your application form.. The current registration fee is £95 per premises from which you carry on business as a TCSP. You must decide which premises you are responsible for registering, include the details in your registration application, and pay £95 for each.

#### 6.3.2 What do you mean by premises?

Premises means any place from which you carry on business as a TCSP.

**Examples** may include;

- Offices

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- Shops
- Principal contact Address

#### 6.3.3 Do I have to register each of my premises separately?

No. You must include details of all the premises through which you carry on business as a TCSP in your registration application, and you will need to pay a fee for each.

#### 6.3.4 Are there any premises which I do not need to include in my registration application?

Yes. You do not need to register any premises;

- From which you do not carry on business as a TCSP, for example premises solely used for -

- Storage of business records
  - employee training
  - General management of employees

This does not include any premises from which you carry out **any** element of the processing of transactions. For example where a transaction is carried out at a customers premises and the paperwork is completed at a central office, the office will need to be registered and a fee is payable.

- Which do not belong to you but which you may attend in order to carry out some of your relevant activity, for example, clients addresses.
- Which are outside the UK

#### 6.3.5 I am a Principal/Franchisor. Do I need to include premises run by my agents/franchisees in my registration application?

It depends on the business agreement you have in place with your agents/franchisees. If you determine the business practices and set in place the anti money laundering controls, policies and procedures in respect of business carried out with customers on your behalf, then you will need to include details of these premises in your registration.

However, if you only have limited control of your agents/franchisees business practices and anti money laundering controls, policies and procedures you will not need to include these premises in your registration, and the agent/franchisee will need to apply to register individually.

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If you are not sure which premises you will need to include in your registration application, or you are an agent/franchisee and are not sure whether you need to register, you can telephone the National Advice Service on 0845 010 9000.

#### **6.4 The fit and proper test.**

##### **6.4.1 Who needs to apply for the f&p test?**

Any relevant individuals within your business will need to apply for the test.

The f&p test is part of the registration process and is undertaken at the time of registration. It is not subject to an annual renewal process or renewal fee.

##### **6.4.2 Who are the relevant individuals within my business?**

The following individuals within the business will need to apply for the test:

- The registration applicant (in the case of a sole proprietor or partner);
- Any person who effectively directs or will direct the business including all partners, company directors and shadow directors whether in the UK or overseas;
- Any beneficial owners of the business
- A nominated officer, if applicable.

##### **6.4.3 What does 'beneficial owner' mean?**

In the case of a body corporate a beneficial owner is any individual who:

- In the case of a body other than a company listed on a regulated market, ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer shareholdings) more than 25% of the shares or voting rights in the body; or
- In the case of a body corporate exercises control over the management of the body.

In the case of a partnership beneficial owner means any individual who:

- Is entitled to or controls more than 25% of the capital or profits of the partnership or more than 25% of the voting rights; or
- Otherwise exercises control over the management of the partnership.

In the case of a complicated company structure where more than 25% of the shares are controlled by another company, it will be necessary to check that no single individual controls more than 50% of the shares of that company. Provided that no individual exercises that level of control there is no need to extend the f&p test beyond the registered business.

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#### 6.4.4 Is there a fee?

Yes. There is a one off fee **for each applicant**, payable at the time of the f&p application. The current fee is £50. This may be subject to change, so if you are not sure what the fee is when you, or a relevant individual within your business are applying for the f&p test you should check on the HMRC internet site, or contact the National Advice Service on 0845 010 9000.

#### 6.4.5 Will f&p fees be refunded if an applicant fails the test?

No. The fee pays for the f&p test to be carried out. If a person fails the test, the fee cannot be refunded.

#### 6.4.6 How do I apply for the f&p test?

Each applicant will need to complete the f&p application form (**MLR 101**).

The applicant will need to sign their form, and you as the business applying to register will then need to return the form/s with the appropriate fee/s.

**It is a criminal offence to make a false statement in order to register. Businesses will not be registered if the information provided by f&p applicants is found to be false or misleading.**

If you become aware of any changes to the information provided in a f&p application you must notify the MLR Registration Team either in writing at the address given earlier on in this section or by telephone on 01702 366607 within 30 days of the change.

#### 6.4.7 How will f&p applications be processed?

On receipt of a f&p application, we will undertake a number of checks to confirm the accuracy of the information provided.

This will include checking details against information held by us, other regulatory authorities, government and law enforcement agencies and other commercial organisations.

In some cases we may ask applicants to attend one of our offices to answer any questions concerning the application before completing the process. Written notice will be sent to applicants in this case, stating where and when this will take place.

We will notify you within 45 days of receiving your application of our decision to either register your business or refuse registration. If we ask for any additional information this 45 day period will be extended.

In the event that we decide not to register your business there is a right to a review, and an appeal to the Vat & Duties Tribunal. You can find more information about this at section 10.

#### 6.4.8 Under what circumstances would an applicant fail the f&p test?

For the purposes of the MLRs 2007, a person is not a f&p person if they:

- have been convicted of-

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(a) an offence under the Terrorism Act 2000;

- (i) an offence under paragraph 7(2) or (3) of Schedule 3 to the Anti-Terrorism, Crime and Security Act 2001;
- (ii) An offence under the Terrorism Act 2006;
- (iii) an offence under Part 7 of PoCA 2002;
- (iv) an offence listed in Schedule 2, 4 or 5 of PoCA 2002;
- (v) an offence under the Fraud Act 2006
- (vi) an offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994
- (vii) cheating the public revenue;
- have been adjudged bankrupt or in respect of whom sequestration of his estate has been awarded and (in either case) has not been discharged;
- are subject to a disqualification order under the Company Directors Disqualification Act 1986(a), or has effectively directed a business which has consistently failed to comply with the requirements of the Act;
- are or have been subject to a confiscation order or recovery order under PoCA 2002;
- have consistently failed to comply with the requirements of the MLRs;
- have consistently failed to comply with the requirements of regulation 2006/1781/EC of the EU Payments Regulation;
- have effectively directed a business which has consistently failed to comply with the requirements of the Money Laundering Regulations and/or the Payments Regulation.
- are otherwise not a fit and proper person with regard to the risk of money laundering or terrorist financing.

#### 6.4.9 What happens if one or more applicants within my business fail to pass the f&p test?

We will not process your registration application and will notify you of that decision. You have the right to appeal this decision. More information about this can be found at section 10.

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6.4.10 If I have already passed the f&p test for my current job and want to change jobs and work for a different MSB/TCSP, do I have to re-apply for the test?

No, as long as your circumstances haven't changed to the extent that you would no longer meet the criteria for the f&p test. You should inform your new employer that you have already passed the test and provide them with the MLR Registration Number of the business for which you were given f&p status.

6.4.11 How do I confirm the f&p status of a new employee claiming to have passed the f&p test for a previous employer?

You can write to the MLR Registration Team at the address earlier on in this section giving details of the individual and the MLR Registration number of the business for which they were given f&p status. The MLR Registration Team will write back and confirm if the individual is on our f&p list.

6.4.12 I have f&p status from another supervisory authority. Can I be credited for this?

No.

6.4.13 Will my f&p status be monitored by you to make sure my circumstances don't change?

Yes, we will monitor your f&p status to ensure that you continue to meet the criteria set out earlier on in this section.

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## 7. Accountancy Service Providers

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### 7.1 Who needs to register?

#### 7.1.1 What is an Accountancy Service Provider?

Accountancy Service Providers (ASPs) is the term used by us for auditors, external accountants and tax advisers

- An auditor is any person who is a statutory auditor within the meaning of Part 42 of the Companies Act 2006, when carrying out statutory audit work.
- An external accountant is any firm or sole practitioner who by way of business provides accountancy services to other persons.
- A tax adviser is any firm or sole practitioner who by way of business provides advice about the tax affairs of another person.

#### 7.1.2 What are Accountancy Services?

Accountancy services include the recording, review, analysis, calculation or reporting of financial information and covers professional bookkeeping services, preparing or signing accounts or certificates of financial information concerning a person's or organisation's financial affairs, and advising on tax.

#### 7.1.3 What is tax advice?

Advice is widely interpreted and includes tax compliance services such as assisting in the completion and submission of tax or duty returns. Businesses assisting in the completion and submission of tax returns in relation to any tax will fall within the scope of the Regulations. Businesses providing advice relating to the liability of a particular commodity to a tax or duty or the amount of tax or duty due will also fall within the scope.

#### 7.1.4 What is the difference between tax advice and tax information

When you give a client information about tax and it is the same for everyone – so their particular situation is not looked at, this is tax information. For example: the rate of customs duty is ----% or the rate of inheritance tax is ---%,

When you give tax advice you will have studied a client's particular circumstances, and assessed and recommended a particular course of action or product that is suitable for them. For example: If you do this, your tax or duty liability will be X . If you do that, your tax liability will be Y.

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#### 7.1.5 What types of businesses will be covered?

Businesses covered include;

- Accountants
- Auditors
- Tax Advisers
- Book-keepers
- Payroll Agents
- Tax consultants
- Customs Practitioners
- Interim managers undertaking any of the activities of the businesses listed above

Unless you are already supervised by a professional body listed in Appendix 1 for the purposes of the MLRs 2007.

#### 7.1.6 Will insolvency practitioners need to register with HMRC?

No. The Secretary of State (in practice the Insolvency Service) is the default supervisor for insolvency practitioners.

#### 7.1.7 What ASPs are subject to the MLRs but do not need to register?

Although they carry on relevant business and are required to follow anti money laundering policies and procedures ASPs falling within the category below are not required to register with us.

Firms or sole practitioners acting as ASPs, when all their customers are ASPs that are supervised by HMRC or a professional body listed in Appendix 1, providing:

- They do not contract directly with the customer of the supervised firm(s)
- They are included within the scope of the AML procedures of the supervised firm(s), including suspicion reporting procedures and appropriate training; and
- Both businesses provide evidence in the form of a written contract to confirm that the arrangement covers compliance with all the AML requirements in respect of the entire customer relationship.

#### 7.1.8 What businesses are not ASPs?

Businesses providing tax advice or accountancy services in the circumstances below are not within the scope of the regulations because they are not considered to be carried out “by way of business”;

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- in house and not to a third party
- within a group for another member or part of that group, or otherwise to a related party, on a non-commercial basis.

**7.1.9 I deduct tax from payments I make to third parties; am I providing accountancy services or tax advice?**

If you are required to deduct tax from payments or file returns in order to fulfil a legal duty that falls upon you or your business and you make no charge for this service, then this is not being carried out by way of business and you will not be required to register as an ASP.

**7.1.10 Won't all statutory auditors be supervised already?**

Most statutory auditors will already be supervised, but not all of them so please ask your professional body or check to see whether your professional body is listed in Appendix 1. If you are not already supervised you will need to apply for registration with us as an ASP.

**7.1.11 I am not a statutory auditor but I audit records - Do I need to register?**

Many people carry out "audit" work which is not regulated by statute such as auditing the accounts of a partnership or a sports club. If you are not a "statutory auditor" within the meaning of Part 42 of the Companies Act 2006, but audit records by way of business, you will fall within the scope of the regulations as an external accountant. First check to see if you are already supervised by checking whether your professional body is listed in Appendix 1. If you are not already supervised you will be required to register with us as an ASP.

**7.1.12 Are all payroll providers covered by the MLRs?**

Businesses will generally fall within the scope of the MLRs as ASPs when they undertake payroll functions for a third party. This is because the activities involved in carrying out payroll functions include accountancy services and tax advice as described earlier on in this section.

**7.1.13 What are payroll functions?**

These will include calculating tax liability, earnings or payments made to a business's employees or deemed employees/sub-contractors.

**7.1.14 What businesses providing payroll functions will not be within the scope of the MLRs as ASPs?**

Businesses will not fall within the scope when they:

- Provide software or hardware service support that enables the processing of payroll information providing they do not analyse or prepare financial information.

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- Undertake payroll functions in relation to temporary workers they supply to or manage for a third party.
- Pay invoiced service fees to self-employed individuals, umbrella companies, partnerships or other corporate service providers.
- Are umbrella companies, managed service companies, or similar bodies and undertake payroll functions for employees working on assignments for end user clients
- Provide recruitment or human resources management services (such as employment businesses supplying or managing temporary or contract workers) where payroll functions are incidentally undertaken as part of the provider's overall business.

**7.1.15 I supply contractors to third parties and pay the contractors service fees gross of tax and NICs on the basis of the invoices I receive from them. Am I an ASP?**

No. These service fees paid to contractors (or to self-employed individuals, umbrella companies, partnerships or other corporate service providers) are payments for invoiced services and not for accountancy services.

**7.1.16 Are all Customs representatives covered by the MLRs?**

Customs practitioners, freight forwarders, Customs representatives and similar businesses that complete, process and submit import and export documentation, including Customs entries and declarations, and arrange for the payment of import duty and VAT on behalf of clients will fall within the scope of the regulations when they carry out accountancy services including tax advice.

**7.1.17 What Customs practitioners, freight forwarders and related professionals are outside the scope of the MLRs?**

Customs practitioners, freight forwarders, Customs representatives and similar businesses providing the following services in relation to process only and not providing tax advice or accountancy services will fall outside the scope of the Regulations:

- Assisting their clients with the classification or valuation of exported or imported goods for customs purposes, including questions relating to Tariff measures such as quotas.
- Assisting clients to comply with Customs and other procedures, such as the use of duty reliefs, preferences, simplified declaration procedures or facilities such as warehousing.
- Assisting clients to use import or export licensing procedures.

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- Paying duties, taxes and levies on behalf of importers.
- Submitting import and export declarations and any related documentation on behalf of their clients for the purposes of complying with official procedures

## 7.2 Registration and fees

### 7.2.1 Registration as an Accountancy Service Provider

If you carry on business as an ASP you must be registered with HMRC before the 1<sup>st</sup> January 2009. In order for us to be able to process your application on time you will need to complete and send your application form with the appropriate registration fees to us by the 30th September 2008.

If you are setting up in business as a new ASP you must be registered with HMRC before the 1<sup>st</sup> January 2009.

### 7.2.2 How do I register?

You need to complete registration form MLR100.

You must make sure you provide all the information requested in the application form, otherwise we cannot process your application or register your business. There are guidance notes available to help you complete the form.

Once completed, you should return the forms along with the appropriate fees to:

The MLR Registration team

9<sup>th</sup> Floor

Alexander House

21 Victoria Avenue

Southend on Sea

Essex

SS99 1AG

**NOTE: We may ask for additional information after receiving your registration application. In this case we will notify you of what additional information we need and why.**

### 7.2.3 Do I have to pay a registration fee?

The MLRs allow us to charge a registration fee, which is payable at the time of your application to register and will be payable annually from your date of registration. You must pay the fee for each premises through which you carry on business as an ASP.

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If you are in a Principal/Agent or Franchise/Franchisee relationship see paragraph 7.4.

If you do not carry on your business from premises and carry on this activity at premises belonging to someone else, you will need to pay a fee for your principal contact address. Your principal contact address is the address through which we can contact you and make arrangements to visit you at.

The registration fee covers the cost of carrying out our role as supervisors. These costs include registering new businesses, carrying out visits to premises, and producing guidance and information for businesses.

The registration fee for year commencing June 2008 is £95 per premises. **The registration fee is reviewed annually** so if you are applying to register after 31<sup>st</sup> May 2009 you should check the fee on the HMRC internet site, or contact the National Advice Service. You can find out more information about how to calculate how much you should pay later on in this section.

#### 7.2.4 Do I need to apply for the fit and proper test?

No. The f&p test only applies to MSBs and TCSPs.

#### 7.2.5 How do I pay the fees?

When you first apply to register, you will need to pay your registration fees by cheque payable to HM Revenue & Customs.

Once you are registered, you can pay your renewal fees either:

- by cheque
- by BACS quoting your MLR Registration number
- by CHAPS quoting your MLR Registration number

You can find out about making payments by BACS or CHAPS by contacting the MLR Registration Team in Southend on 01702 366607.

#### 7.2.6 Will registration fees be refunded if you decide not to register me?

Yes. If we refuse your application to register on any of the grounds covered in this notice we will refund your registration fee.

#### 7.2.7 Will I receive a registration certificate?

You will receive a certificate of registration which is notification of your MLR registration number and confirms the details we have for your business.

It is important to note that being registered is not an endorsement by HMRC of the business practices of a registered business.

#### 7.2.8 Do I have to renew my registration annually?

Yes. You will have to pay an annual renewal fee for each of your premises.

---

#### 7.2.9 Will I receive reminders to pay my annual renewal fee?

Yes. We will send a reminder letter towards the end of your registration year. The reminder will show the registration details we hold for your business, and tell you how much you will need to pay.

If you do not need your registration to continue you should notify us on the form, in order for us to remove you from the register.

#### 7.2.10 What if I don't pay my annual renewal fee?

If you do not pay your fee on time, we will cancel your registration. We will notify you if this is the case.

If we cancel your registration, you can apply to re-register. However, your application may take up to 45 days to process, during which you cannot carry on business as an ASP.

#### 7.2.11 What are my obligations under the MLRs 2007 once I am registered?

We have produced a public notice MLR8: Guidance for businesses on the prevention of money laundering and terrorist financing, which explains in detail your obligations under the MLRs and gives practical guidance as to how you can meet them. It also explains our powers to impose penalties and prosecute for failing to comply. You can download this notice from the HMRC internet site.

#### 7.2.12 What happens if I don't register under the Regulations?

If you carry on relevant business and are not registered with HMRC as required by the MLRs, you are committing an offence.

We may impose penalties for;

- Failure to register relevant business. This includes the following
  - (a) Carrying on business as an ASP without first being registered
  - (b) Continuing to carry on business as an ASP after de-registering or having your registration cancelled

#### 7.2.13 How much will a penalty be?

The amount will depend on your individual case. We will take a number of things into consideration when deciding this, for example;

- Your reasons for not being registered
- The length of time you carried on relevant business without being registered
- The number of premises that were not registered

These are only examples and we may take other things into consideration.

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### 7.3 Calculating fees

#### 7.3.1 How do I calculate what fees I must pay?

You will need to pay a registration fee for each set of premises you include on your application form. If you do not carry on your business you're your own premises and carry on this activity at premises belonging to someone else, you will need to pay a fee for your principal contact address. Your principal contact address is the address through which we can contact you and make arrangements to visit you at.

The current registration fee is £95 per premises. You must decide which premises you are responsible for registering, include the details in your registration application, and pay £95 for each.

#### 7.3.2 What do you mean by premises?

Premises means any place from which you carry on business as an ASP.

**Examples** may include;

- Offices
- Shops
- Call centres
- Principal contact Address

#### 7.3.3 Do I have to register each of my premises separately?

No. You must include details of all the premises through which you carry on business as an ASP in your registration application, and you will need to pay a fee for each.

#### 7.3.4 Are there any premises which I do not need to include in my registration application?

Yes. You do not need to register any premises;

- That do not carry on business as an ASP, for example premises solely used for -
  - Storage of business records
  - employee training
  - General management of employees

This does not include any premises from which you carry out **any** element of the processing of transactions. For example where a transaction is carried out at a customers premises and the paperwork is completed at a central office, the office will need to be registered and a fee is payable

- Which belong to clients whom you visit in order to carry out your relevant activity
- Which are outside the UK

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**7.4 I am a Principal/Franchisor. Do I need to include premises run by my agents/franchisees in my registration application?**

It depends on the business agreement you have in place with your agents/franchisees. If you determine the business practices and set in place the anti money laundering controls, policies and procedures in respect of business carried out with customers on your behalf, then you will need to include details of these premises in your registration.

However, if you only have limited control of your agents/franchisees business practices and anti money laundering controls, policies and procedures you will not need to include these premises in your registration, and the agent/franchisee will need to apply to register individually.

If you are not sure which premises you will need to include in your registration application, or you are an agent/franchisee and are not sure whether you need to register yourself, you can telephone the National Advice Service on 0845 010 9000.

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## **8. Reporting Changes**

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### **8.1 What if any of my business details change after I have registered?**

You need to inform us if any of your registration details change or are incorrect within 30 days of the change or of discovering the inaccuracy.

### **8.2 How do I tell you about changes?**

You can either complete form MLR112 or write a letter giving your registration number and details of the changes to the MLR Registration Team in Southend.

### **8.3 What if I can't tell you about changes within 30 days?**

You need to contact the MLR Registration Team in Southend for a specific agreement from us to a longer period of time. You can telephone them on 01702 366607.

### **8.4 What changes do I need to tell you about?**

The types of changes that you need to tell us about are:

- Changes of address, trading name, telephone number
- Change of legal entity
- Any new/additional premises
- Any premises to be de-registered
- Change in Nominated Officer
- Change of franchisee or agency status
- Any criminal convictions for money laundering within your business
- Changes of personnel within your business with f&p status
- Changes affecting an individuals f&p status to the extent that they would no longer meet the f&p criteria as described in this notice
- Change of partners
- Notification that you wish to de-register on the grounds that you no longer carry on relevant business

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## **8.5 What happens if I tell you about changes after 30 days?**

We may impose penalties for failing to notify changes within 30 days of the change occurring, unless you have specific agreement from the MLR Registration Team in Southend to a longer period.

## **8.6 How much will a penalty be?**

The amount will depend on your individual case. We will take a number of things into account when deciding this, for example;

- Your reasons for not telling us of changes within the 30 days
- The nature of the changes
- The length of time over the 30 days it took for you to inform us of the changes

These are only examples and we may take other things into consideration.

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## **9. De-registration and cancellation of a registration**

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### **9.1 How do I de-register if I stop trading?**

You must inform the MLR Registration Team in writing that you wish to be removed from the register and the date from which you wish your registration to be cancelled. This will be the date from which you will no longer carry on relevant business.

### **9.2 Can you cancel my registration?**

Yes. We may cancel a registration if we are satisfied that

- information provided to us in the registration process is false or misleading; or
- Circumstances relating to an individual/s fit and proper status, have changed and the individual/s is/are no longer considered to be fit and proper

In the event that we decide to cancel a registration we will give notice in writing of the following matters:

- Our decision to cancel your registration
- The date from which your registration is cancelled
- The reasons for our decision; and
- Your right to request a review / appeal.

### **9.3 If my registration is cancelled part way through a year, will I get a refund of some of the fee/s I paid?**

No.

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## **10. Reviews and Appeals**

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### **10.1 What can I do if I disagree with your decision to impose a penalty/refuse my application to register/cancel my registration?**

Where we decide to:

- impose a penalty; or
- refuse to register an applicant; or
- cancel the registration of a registered person

we will inform you immediately in writing of that decision.

If you disagree with our decision you may ask in writing for a review of that decision

You may then appeal if you are not satisfied with the outcome of a review.

Complete information on this process can be found in **Public Notice 990 – Excise and Customs Appeals** which you can download from the HMRC internet site or request from the National Advice Service.

### **10.2 Can I continue trading during a review of your decision not to register me or to cancel my registration?**

No. Once your application to register has been refused, or if we have cancelled your registration you must not carry on that business.

### **10.3 Complaints about HMRC and putting things right**

You are entitled to expect that we will deal with your affairs promptly and fairly. If you feel that you have been unfairly treated you can make a formal complaint. Complete information on how to do this and what you can expect from us can be found in our **HMRC fact sheet – complaints and putting things right**, which you can download from the HMRC internet site by accessing the 'contact us' page, or request a copy from our National Advice Service.

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## **11. Where can I find out more information**

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**11.1 If after reading this notice you have any queries, would like further advice or would like to request copies of other HMRC publications mentioned in this notice, you can contact the HMRC National Advice Service by;**

- telephone on 0845 010 9000
- e-mail – [Enquiries.estn@hmrc.gsi.gov.uk](mailto:Enquiries.estn@hmrc.gsi.gov.uk)
- post – HMRC National Advice Service, Written Enquiries Section, Alexander House, 21 Victoria Avenue, Southend on Sea, Essex, SS99 1BD.

If they are unable to answer your query directly, they will be able to pass your query on to the relevant section.

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## **12. Appendix 1: List of Supervisory Authorities including Professional Bodies named in the Money Laundering Regulations 2007**

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**The Supervisory authorities which include the professional bodies are:**

- The Financial Services Authority (FSA);
- The Office of Fair Trading (OFT);
- The Commissioners of Her Majesty's Revenue & Customs (HMRC);
- The Gambling Commission of Great Britain;
- The Department of Enterprise, Trade and Investment in Northern Ireland (DETI); and
- The Department for Business, Enterprise and Regulatory Reform (BERR).

**The Professional Bodies are:**

- Association of Chartered Certified Accountants
- General Council of the Bar
- General Council of the Bar of Northern Ireland
- Council for Licensed Conveyors
- Faculty of Advocates
- Institute of Chartered Accountants in England and Wales
- Institute of Chartered Accountants in Ireland
- Institute of Chartered Accountants of Scotland
- Law Society
- Law Society of Scotland
- Law Society of Northern Ireland
- Association of Accounting Technicians
- Association of International Accountants
- Association of Taxation Technicians
- Chartered Institute of Management Accountants
- Chartered Institute of Public Finance and Accountancy
- Chartered Institute of Taxation
- Faculty Office of the Archbishop of Canterbury
- Insolvency Practitioners Association
- The International Association of Book Keepers
- Institute of Financial Accountants
- Institute of Certified Book Keepers