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The new Money Laundering Regulations will be coming into force in 2017.

If your business makes or received cash above £8k you will be affected.

The European Commission published the text of the 4th Anti Money Laundering Directive on the 5th June 2015. EU Governments now have 2 years to implement the changes and the UK already has a number of working groups progressing this. Even with the referendum result for Brexit it is unlikely that these requirements will be reduced and if anything the requirements will only be increased. It is likely that these new requirements will be in place before June 2017.

How does this impact me?

If you take or receive cash payments above €10,000 you will need to be registered as a High Value Dealer. This includes any VAT on any cash payments. A high value payment is currently a payment in any currency equivalent to €15,000 which is made either in a single transaction or in several instalments which are linked. Cash payments made to you in person or

directly into a bank account are high value payments if they meet the following criteria.

In 2017 High Value Payments limits will be reduced and defined as:

- A single cash payment of €10,000 or more
- Several cash payments totalling €10,000 or more, including a series of payments and payments on account
- Cash paid by a customer totalling €10,000 or more in any 90 day period
- Cash payments totalling €10,000 or more which appear to have been broken down into smaller amounts to come below the High Value Payment limit

What other changes are there?

- **Taking and accepting cash**
Currently only businesses that accept HVP's need to be registered but the new directive will require that that persons trading in goods

through payments that are both **MADE OR RECEIVED** in cash amounting to c£8,300*/€10,000 (*correct as of exchange Nov 2017) or more - whether the transaction is carried out in a single operation or several operations that appear to be linked will be High Value Dealers. This means that any cash totalling over £8,300* from a single supplier on the course of one project would require HVD registration to be made. If you exclude VAT the net figure is c£6600.

- **Customer due diligence (CDD) requirements increase**

The new Regulations tighten the rules on simplified due diligence (SDD) and do not allow for exemptions. Decisions on when and how to carry out SDD have to be justified on the basis of risk and you will be required to show clear evidenced processes and policies. For most High Value Dealers (HVD)

most cash transactions will qualify as higher risk and so all customers

should be subject to enhanced due diligence (EDD) checks.

- **Implements a mandatory Risk-based approach**

The new Regulations recognise that use of a risk-based approach is an effective way to identify and mitigate money laundering and terrorist financing risks. Firms are obliged to take appropriate steps to identify and assess money laundering and terrorist financing risks, to document their risk assessments and keep them up-to-date.

- **Possible Criminality tests**

The UK government has proposed an additional test above the requirements contained in the EU directive. A specific consideration to apply a criminality test to HVD's has been suggested. This would essentially mean that no one with a history of particular offences that

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would include Fraud and related MLR offences would be able to hold a management position in a company that takes HVP's. There is also concern that HMRC have proposed extending the criminality tests to 'associates' of those convicted of MLR offences. This would mean that potential family members of a convicted individual would be automatically considered higher risk and could be refused permission to operate a business that takes HVP's.

What should I do?

- Review your policies and processes. If you will qualify as a HVD under the new regulations, start the process of registering with HMRC in order to continue accepting Cash from customers.
- Refine your risk assessments and ensure your continuous monitoring is up to date.
- Check you have had adequate training as the penalties for non or incorrect compliance are substantial.

HMRC conduct business checks on companies registered for MLR and these are detailed meetings. Bank statements, check book stubs etc are all checked and required to ensure a clear audit trail to show the level of cash moving through business is recorded.

What if I haven't done this?

MLR offences carry both criminal and civil penalties with previous breaches counting against your company in the future. Not only does this mean that criminal and civil penalties could be issued against the company but you could face a prison sentence and financial penalties personally. This is not limited to directors, senior managers can also face these charges. It is very important that you know and understand the risks to both you and your company.

Altion Law can help implement clear policies and processes across your business to ensure compliance with the Money Laundering Regulations in the UK.

About Altion Law

For expert legal advice call us on 01908 414990 or contact us online at www.Altion-law.co.uk and we'll be happy to help you.

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