

The 5th Anti-Money
Laundering Directive is EU
legislation designed to
reduce financial crime.



It is presently being
transposed into national
law



Rising fraud and financial crime forces new EU Legislation



As of 2018, global financial crime is estimated to account for 1.4 billion in lost turnover with 47% of businesses a victim of financial crime in the last 12 months

Revealing the true cost of financial crime, Thomson Reuters, 2018



Fraud costs the UK economy £193 billion a year - equating to more than £6,000 lost per second every day.

UK Fraud Costs Measurement Committee, UKFCMC 2018



As of June 2018 in England and Wales,
you are now more likely to be a victim of
fraud than any other type of crime.

Office for National Statistics, Crime in England and Wales, 2018



The Financial Action Task Force is a group of people that define standards and guidelines to combat money laundering.



The 5th Anti-Money
Laundering Directive is the
EU Governmental response to
these guidelines.



The directive is chiefly concerned with transparency because money laundering requires anonymity and opacity to thrive.



Current revisions suggest it will require:

1. We decide who is responsible for compliance within our business
2. We can quickly respond to HMRC and Law Enforcement

Current revisions suggest it will require:

For any transaction over £8,000 – Bank transfer, card, cash, cheque and BitCoin – we're going to have to carry out Due Diligence on our transaction.



Due Diligence is not the
banks responsibility and you
may be required to carry out
your own.



The directive is going ahead,
regardless of Brexit



Currently being transposed
into national law, the
regulations will be
implemented no later than
20th January 2020.



What's Due Diligence?



A process designed to reduce
our risk when transacting
with another party.



What transactions present a risk to our businesses?



Any non face-to-face
transaction.

E.g. Phone, online, email,
WhatsApp or Instagram

Politically Exposed Persons

E.g. Someone with a prominent public function at risk of bribery or corruption

Clients purchasing from a
high risk country

E.g. Denmark, Iceland,
Slovenia (based on the FATF methodology)



Clients that can be connected to
businesses within industries that
are vulnerable to money laundering

E.g. Finance, Banking or
Real-Estate

Due Diligence means:
'Doing your homework'



Due Diligence is an
information gathering
exercise to answer:

Who is it I'm dealing with?



Know Your Customer (KYC)
means identifying your client.



Recommendations:

How might I identify my client?



Example:

Auctioneers require valid ID
before we bid.



Step 1:

We identify who is taking ownership of the art object upon completion of the transaction.



If we're selling to an individual -
such as a collector - we may want
to ask for identification.



If we're selling to a business -
such as a Private Limited
Company...



It would be beneficial to know
who within the business will own
the Art Object?

There may be more than one.



The person(s) taking ownership of the Art Object is called the Beneficial Owner(s).



Beneficial Ownership Register:

A list of known identities of
company owners



Important when dealing with businesses because:

1. Company structures act as a smokescreen
2. Financial, banking and real-estate industries are vulnerable to money-laundering



Step 2:

Does this individual present a risk?



1. Is our Beneficial Owner Politically Exposed?
2. Do they have connections to industries vulnerable to money-laundering?
3. Is the transaction face-to-face or not?
4. Are they from a high risk country?



Step 3:

Proof of Due Diligence



We may be required to keep an electronic record showing our due diligence.



What if we don't comply?



GOV.UK tells us HMRC could:

1. Charge civil penalties
2. Prosecute
3. Cancel registration
4. Apply for injunctions



HMRC can take legal action in the form of:

1. Management prohibitions and suspensions
2. Restrict a businesses ability to lawfully trade
3. 'Name and shame' by publishing details about non-compliant business



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