The Money Laundering Directives 91/308/EEC, 2001/97/EC and 2005/60/EC

Cost - £134m (Open Europe)

Talking Points

Criminal law made on vague definitions

The Society of Trust and Estate Practitioners had grave concerns that the definition of 'beneficial owner' is too vague to pinpoint on one individual engaged with trust activity. The criminal penalties, with the chance of extensive jail sentences, would be made on poor definitions of individuals involved in trust affairs.

Costly

With existing industry led regulation on ensuring due diligence with trust, trustees and companies, excessive red tape from Brussels will hinder the UK's competitiveness with foreign companies and countries.

Accumulation of sectors

With each new money laundering directive, it has placed more burdens on industries that have successfully self-regulated for long period of time, adding to costs and making the UK uncompetitive.

What is it?

A directive to prevent money laundering activities within the European Union. Subsequent Directives have sought to crack down on money laundering for the purposes of terrorist activities.

Initially these regulations affected “professionals from a wide range of sectors, including tax advisers, accountants, auditors, insolvency practitioners and legal advisers. These obligations relate to the need of such professionals to make reports to the authorities on money laundering and the need to have systems in place to train staff and keep records” (Source)

It places requirements on all financial organisations to rigorously check those who they engage in transactions with. Chapter II of the third directive compels financial agents to:

- Verify the customer with reliable identification.
- Obtain information about the purpose and intended nature of the business relationship.
- Continue to monitor the business relationship including scrutiny of transactions and to ensure the agent has knowledge and understanding of the transactions.

The latest Directive put a particular focus on trusts, vastly widening the scope of the regulations. Those covered by the third Directive include:

- International Trust business which uses UK based investment, banking, legal and accountancy services and which could easily use alternative financial centres
- Families who use trusts for legitimate estate planning and wealth and savings management purposes ,
- The beneficiaries of trusts which arise from wills and intestacies,
- Charities
- Investment products (e.g. life company products written on trust)

Third Party Opinions

The society of Trust and Estate Practitioners had grave concerns that the Directive would “Have little effect on preventing money laundering; Paralyse some trust transactions; Increase costs and; Undermine privacy.” Source.