

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

Lead department	HM Treasury
Summary of measure	The Money Laundering Regulations 2017 (MLRs), sought to transpose European Commission Anti-Money Laundering Directives (AMLDs) into UK law, to help make the UK a hostile place for illicit finance, whilst seeking to ensure legitimate business activity was impacted as little as possible.
Submission type	Post-implementation review
Implementation date	26 June 2017
Department recommendation	Amend
RPC reference	RPC-HMT-5199(1)
Opinion type	Formal
Date of issue	28 June 2022

RPC opinion

Rating ¹	RPC opinion
Fit for purpose	The RPC considers the post-implementation review (PIR) to be fit for purpose and the evaluation to be proportionate to the scale of impact of the measures. The department has collated a range of evidence from various stakeholders to inform the recommendation, as well as that gathered through the recent call for evidence. The PIR clearly establishes the objectives of the regulations and discusses the current status of delivering these. The department use feedback gathered through engagement to identify both areas of weakness in the regulations, as well as unintended consequences.

¹ The RPC opinion rating is based on whether the evidence in the PIR is sufficiently robust to support the departmental recommendation, as set out in the [better regulation framework](#). The RPC rating will be fit for purpose or not fit for purpose.

RPC summary

Category	Quality²	RPC comments
Recommendation	Green	The evidence that the department has considered, is relevant to the regulations. The review notes that while the regulations are necessary, from the evidence gathered, there are clear deficiencies with the regulations as they stand and therefore should be amended.
Monitoring and implementation	Satisfactory	The department has gathered a range of evidence, including directly from supervisor produced reports, independently produced research and a call for evidence undertaken by the department. While the RPC notes the difficulties in obtaining evidence on the costs of the MLRs, the department would benefit from discussing what actions were taken to improve the evidence and understanding of the costs and impacts.
Evaluation	Satisfactory	The department uses a range of evidence collated to determine that while there have been some improvements in combating money laundering (ML) and terrorist financing (TF), there are several areas that require improvement. The areas for improvement are acknowledged alongside the notion that the MLRs are a constant 'work in progress', due to the nature of how unlawful activity constantly adapting. The review also notes that businesses 'de-risking' has been an unintended consequence of the MLRs. The review would be improved by a more thorough assessment of the accuracy of the original assumptions and the resulting impacts, as well as exploring further the specific issues faced by smaller firms, e.g., for service providers limiting their ability to comply with the MLRs and for clients who may face additional barriers in securing investment.

² The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

Summary of proposal

The MLRs were the vehicle through which the UK government sought to transpose European Commission AMLDs into UK law. This was to help make the UK a hostile place for illicit finance, whilst also seeking to ensure that legitimate business activity was impacted as little as possible. The primary policy objectives noted by the Department were to ensure:

- the regulated sector acts to identify, prevent and report suspicious activity;
- supervisors take a risk-based approach to monitoring compliance and make proportionate and dissuasive use of their powers and enforcement tools; and
- accurate and up-to-date Beneficial Ownership information is collected, maintained and made available to competent authorities so as to prevent the exploitation of UK corporate vehicles and other forms of legal personality.

While the review also discusses the inclusion of a secondary objective:

- The regulated sector work in partnership with supervisors and the government to improve collective understanding of the ML/TF threat, which in turn ensures compliance activity is focussed on the highest risks and the regulated sector provides valuable information to law enforcement.

Recommendation

While the department notes that the regulations have been somewhat successful in combating ML and TF, it recognises that this is a complex area in which regulation will need to adapt to feedback as evidence on both the effects of regulation and the underlying problems themselves change. The PIR recommends amending the regulations to address this challenge. The department's reasoning for making this recommendation is driven by the various findings identifying areas of weakness and deficiency with the regulations in their current form. The review also identifies some unintended effects of the regulations which provides a further rationale for amending the regulation. Therefore, the department's recommendation is appropriately supported by evidence.

Monitoring and implementation

Range of evidence

The department has provided extensive detail of the scope of evidence gathered, ranging from engagement directly with affected sectors and supervisors, the collation and synthesising of findings from key independent reports, and the information gathered by the department during the call for evidence. While the review does cover a wide range of evidence, from a range of sources, the presentation of this evidence is brief in places. The review would benefit from more detail being included on each source used, perhaps expanding upon the scope of what was considered, and the full criteria that were assessed. If possible, it would also be useful to provide more international context to better illustrate where the UK currently stands relative to its international peer group on combating ML and TF, and to anticipate whether the UK

has retained the top ranking amongst the 40 countries that were assessed in the 2018 evaluation conducted by the Financial Action Task Force (FATF).

Gaps in evidence justified

The department attempt to explain the gaps in the evidence base, noting the difficulties faced in gathering physical data. However, the review would benefit from providing detail on the actions the department has taken, as well as alternative sources considered, to source potential substitute or proxy data.

Evaluation

Policy objectives considered

The review provides clear explanation of the main aim of the regulations (i.e., to successfully transpose the AIMDs), as well as the overall objectives as discussed in the summary above. The review would benefit from more clearly discussing the mechanism through which the policy outcomes feed through into assessing the success in achieving the policy objectives. The department clearly discusses how the weaknesses and shortcomings identified through the evidence gathering have limited the policy from fully delivering against its objectives. The review could have provided a clearer indication of what elements of the MLRs were strengthened ('gold-plated') over and above the FATF standards in order to comply with EU Directives, and how successful these elements were.

Unintended effects

The review identifies that some businesses have been moving to 'de-risk' themselves, through opting not to enter into business activities and relationships in specific sectors and/or countries. The PIR notes that this may have led to the unintended effect of restricting or denying service availability to legitimate businesses in the sectors and/or countries that are avoided, to the detriment of both service providers and client firms. Since one of the policy objectives is to ensure legitimate business activity is not overburdened by the regulations, this gives cause for concern. The RPC welcomes the department's consideration of actions to both reduce de-risking and mitigate the negative impacts associated with de-risking that may occur, and thereby to improve the ability of the regulation to target the specific activity that it is ultimately designed to discourage.

In addition to the de-risking impacts, as part of the discussion of the evidence gathered, the review notes several areas of weakness or improvement that there are within specific aspects of the MLRs. However, the department presents these more as an assessment of whether the policy has worked and the review would benefit from some commentary as to whether these areas of weakness were expected or not.

Original assumptions

The department notes some original key assumptions as being those relating to the cost of undertaking customer due diligence and the rate of employee turnover for in scope businesses. However, the review would benefit from testing these

assumptions further. While the RPC acknowledges the challenges that the department may face in measuring the impact of the MLRs, the review should still address whether there had been any qualitative evidence to support, or counter, these assumptions, and the resulting implications for the overall burden on business. Given these assumptions relate to costs to business and one of the objectives was to ensure that the burden to business remained small, any qualitative consideration would help to support assessing whether this has been achieved.

SMBs

The department makes occasional references throughout the PIR to evidence gathered on the awareness of, and compliance with, the MLRs by smaller businesses. Generally, the findings of this evidence appear to be that smaller firms are less likely than their larger counterparts to be both aware of and to comply with the regulations, for example because they are less likely to have in place the compliance infrastructure that a large firm might have. The PIR should discuss what measures could be taken to better support small and microbusinesses with complying with the regulations, as well as the issues that smaller firms who are (potential) clients of investors may face, due to being more difficult for service providers to assess their suitability for investment.

Future impacts considered

While the department identifies areas for improvement and commits to amending the regulations to improve them, the review would benefit from including consideration of the impacts of both the potential areas of improvement, and the impacts from those that may be retained unchanged.

Regulatory Policy Committee

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