



10th October 2016

Dear Sir

**Re: Fourth EU Money Laundering Directive Transposition - CONSULTATION VIEWS**

I present below the views of [AIPP](#) to your consultation on the transposition into national law of the Fourth Money Laundering Directive.

About AIPP - Association of International Property Professionals (Office: Westminster, London)

AIPP is the industry body for all trade professionals active in helping (mainly) British residents buy a foreign property.

Our members include; Estate Agents, Property Developers, Lawyers, Financial Services companies and other specialist companies

We offer consumer education & Protection and work to improve commercial standards in foreign property sales.

Funded by member subscription, we are a not-for-profit

Our services are completely free to property buyers & owners.

Our comments cover section 7, Estate Agency businesses.

**Question 40:**

What are your views on the regulation of lettings agents?

**AIPP response:**

We agree that lettings agents should be subjected to the same anti-money laundering regulations as estate agents. Many estate agency businesses also cover property management and lettings and so will already be complying with the Money Laundering Regulations. Real estate is an attractive medium for criminals to launder money and so all transactions involving property and the businesses that are involved in those transactions should be subjected to the same money laundering regulations.

**Question 41:**

What other types of lettings activity exist, aside from those mentioned at paragraph 7.9? Of these activities, which do you think should be included in letting agency activity?

**AIPP response:**

No comments to this question

**Question 42:**

Do you think HMRC alone or HMRC and self-regulatory bodies should be appointed supervisors of estate agents and lettings agents?

**AIPP response:**

We believe HMRC alone should be appointed supervisors of estate agents and lettings agents with self-regulatory bodies providing assistance in the process.

The Property sector is unregulated, so registration with self-regulatory bodies is voluntary. As a consequence there will be a flux between businesses joining or leaving bodies at any time and a risk some are missed for AML supervision. It would be more secure to leave the supervision of the industry with one organisation only.

The capabilities and resources of self-regulatory bodies are insufficient to provide a level of supervision that HMRC would be able to rely upon. Inevitably this would create a concern of the potential for challenge or even litigation from either their members or HMRC.

However, we believe self-regulatory bodies can play a role to support HMRC in the process of supervision by:

- i. Providing lists of members to HMRC
- ii. Issuing HMRC AML guidance to membership
- iii. Requesting annual certification by members on renewal and incorporate in reporting to HMRC
- iv. Assisting HMRC to resolve issues with its members

**Question 43:**

Do you think that letting agents should apply CDD to both contracting parties?

**AIPP response:**

Please refer to the response provided to question 45.

**Question 44:** The government would welcome views on when the establishment of a business relationship should commence with a) the tenant and b) the landlord (in regards to lettings activity).

**AIPP response:**

In both cases, a business relationship is established on the appointment of the agent by the client on signature of an agreement or acceptance of instructions by the agent.

**Question 45:**

Should estate agency businesses apply CDD to both contracting parties in a transaction in which they act as intermediaries?

**AIPP response:**

This response applies to lettings agents and should be read in conjunction with question 43.

CDD should be undertaken on the client of the estate agent. The estate agent should make it clear who they represent as their client.

If CDD is applied to both parties in a transaction this will amplify the potential confusion over who the estate agent is acting for and for a conflict of interest to arise. It is clear that if any suspicious activity is suspected of the other party, then the estate agent should undertake due diligence on that party or report the activity as required in legislation or withdraw from the transaction.

In cross border property transactions, one party inevitably will be resident overseas where different due diligence procedures or levels of documentation may be required. This might make it challenging or even impossible to meet UK requirements. Furthermore, there is the complication in requesting and then interpreting/ understanding foreign documentation to ensure they are appropriate, valid and in date (e.g. how easy would it be to read and validate a Chinese passport?)

It would also seem unfair on estate agents to be required to undertake two sided due diligence when this is not the requirement of other professions.

**Question 46:**

Should sub-agents be able to rely on principal estate agents (see 7.16)?

**AIPP response:**

CDD applies to all parties acting under instruction from a client. Sub-agents must therefore carry out CDD. They should be allowed to rely on the CDD performed by the principal estate agent provided certain conditions are met. These would include:

- The sub-agent continues to bear the ultimate responsibility in meeting CDD obligations
- The information received from the principal estate agent is that which the sub-agent would normally collect if undertaking CDD as a principal. This information is not a substitute for the sub-agent's normal CDD process but can form a part of the process
- The sub-agent should request and receive immediately the due diligence requirements of the principal agent the documentation that the principal agent has procured to identify and verify the client or beneficial owner
- The sub-agent should be not rely on CDD carried out by principal agents that are based in high risk countries or where the sub-agent becomes aware of any suspicious activity

**Question 47:**

How much does it cost your business to apply CDD checks and what would the cost be if you were to apply them to both contracting parties in a transaction?

**AIPP response:**

Costs of CDD will vary between estate agents depending on the location of the property and their client. Estate agent members of AIPP are typically involved with the overseas property transactions and their client may be resident in the UK or overseas, both factors which might increase CDD costs. Individual estate agencies are best placed to provide a full response to this question and we have previously urged our members to do so directly with HMRC.

Yours sincerely  
Peter Robinson  
CEO