

# Consultation response

**Ref: 5709**

## Response to HM Treasury Review of the Money Laundering Regulations 2007 A Call for Evidence (Part B)

December 2009

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HM Treasury is undertaking a post implementation review of the Money Laundering Regulations 2007 which implemented the EU's Third Money Laundering Directive in the UK and replaced the 2003 legislation with a simplified, more risk based approach.

The Call for Evidence seeks information to support a review of HM Treasury's Money Laundering Regulations 2007.

## Key points and recommendations

1. The experience of older people who have come into contact with the Regulations is disappointing. Age Concern and Help the Aged still receive complaints regarding unreasonable barriers faced by older people who are asked to prove their identity by a financial services company.
2. We believe that the burdens placed on older people, in terms of cost, delay and distress, are not reasonable given their risk profile and business relationship. These burdens also affect friends, family and advice agencies who support older people.
3. Currently 6% of people aged 85 and over have no bank account. There is a risk that those without may be deterred from accessing financial products due to difficulties in proving their identity.
4. We also receive reports of difficulties where customers have had a long-standing relationship with the firm. Where customers have already provided non standard forms of identification in the past and had it accepted by the firm, more should be done to ensure that they do not face unnecessary barriers with the same firm at a later date.
5. Although the banking sector seems to be the main source of difficulties for older people based on our experience, we also receive reports of problems in relation to other financial transactions, including purchasing an annuity, moving house, or transferring a utility account into a different name on bereavement.
6. There is a clear lack of consistency in how the regulations are applied across the industry and within firms. Where firms do have flexible policies in place to allow alternative forms of identification, these are often not translated into practice at local level. Guidance to consumers on proving identity, such as the Toynbee Hall ID Guide, should be provided within branches.
7. The review of the Regulations should look at the role of staff in implementing the Regulations. Staff should be trained and empowered to

deal with customers themselves, recommend alternatives where possible and explain why the requirements are in place.

8. The FSA should conduct a review of how the way in which firms' implementation of the money laundering regulation impacts on consumers, either thematically or as part of their normal supervisory relationship with firms.

# 1. Introduction

Age Concern England and Help the Aged are pleased to have the opportunity to respond to the review's call for evidence. In preparing the submission we have considered evidence that reaches us through our advice line and through our local information and advice services; we may also supply further evidence following this submission.

Age Concern England and Help the Aged work at local and national level with an interest in older people and ageing issues.

Through our national information line, which receives over 250,000 telephone, postal and email enquiries per year and the information services offered by local Age Concern and Help the Aged organisations, we are in day to day contact with older people and their concerns.

Many older people regularly come into contact with the Money Laundering Regulations. These require financial services companies to satisfy themselves that their customers are who they claim to be, on first opening an account, on undertaking certain transactions (e.g. for large amounts) or, sometimes, during the course of the customer relationship.

Guidance has been agreed with the financial services industry on how customers can prove their identity, usually by showing various documents. This can cause problems for groups without the relevant documentation, for example people without existing financial products, people living in accommodation not held in their own name, and newcomers to the country. Although the difficulties experienced by these groups when opening a new bank account also exist for older people, the Regulations may also cause problems for older people who have long-standing relationships with their bank or other financial service provider, for example because it is not uncommon for older people who have large amounts of money deposited with firms to be asked to prove their identity.

Currently 6% of people aged 85 and over have no bank account. There is a risk that those without may be deterred from accessing financial products by onerous identity requirements.

## 2. Questions

### **Q31. How satisfactory is your experience in situations where you believe you have come into contact with the Regulations?**

The experience of our service users who have come into contact with the regulations remains disappointing. We continue to receive complaints regarding the difficulties that older people have had with their banks and other financial service providers. The requirement to provide photo identification to prove identity is one the main areas of grievance for older people as many do not

have the standard forms such as driving licences and passports. We also receive complaints regarding repeat requests for information from the same firm where the customer already has an ongoing relationship.

There are a number of situations where older peoples' experience with the Regulations is often unsatisfactory:

- Opening a new account for the first time
- Opening a new account to receive Direct Payments for care
- Withdrawal/Deposit of large amounts of money
- Moving home
- Those who are bereaved
- Those who suffer from a disability

Age Concern and Help the Aged also receive complaints from employees and volunteers regarding inconsistencies in how different banks and staff within banks understand and apply guidelines for identification verification where the individual lacks the standard forms. For example, firms often have policies in place at national level setting out what alternative options people have to verify their identity, however in many cases these policies are not understood or applied at local level. Where flexible policies for identification are already in place, further training is required to communicate these policies to local staff. Even where local employees have followed the British Bankers' Association (BBA) guidance on (for example) allowing letters from care home managers who vouch for the client, applications may then be declined when being passed to head office for secondary approval.<sup>1</sup>

### **Q32. How easy is it to provide acceptable forms of identification to the business you deal with?**

Although the British Bankers' Association has issued guidance on identification requirements, Age Concern and Help the Aged still receive reports of difficulties that older people have in supplying the relevant documents to verify their identity. Older people are less likely to have the standard types of identification documents including passports, driving licences and utility bills. Utility and council tax bills are a particular problem for those living in care homes or using a pre paid utility card. Older women in particular tend to encounter problems in verifying their identity as utility bills are often held in their partner's name.

*A 96 year old female who was partially sighted and suffered from short term memory loss was unable to provide the required photo identification including a passport or driving licence when carrying out a number of transactions with her bank. The customer had to visit a lawyer in order to get an alternative photo*

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<sup>1</sup> Age Concern – An inclusive approach to financial products – the views of Age Concern forums  
[http://www.ageconcern.org.uk/AgeConcern/Documents/Beyond\\_Financial\\_Inclusion\\_Annex\\_2.pdf](http://www.ageconcern.org.uk/AgeConcern/Documents/Beyond_Financial_Inclusion_Annex_2.pdf)

*identification card (a taxi-card). The bank reluctantly accepted the card as identification after a long delay.*

The above case is a typical example of the types of complaints we receive. The delays experienced by customers cause significant distress for the customer both psychologically and financially. It also causes problems for family members, friends or carers and may also result in burdens on local advice centres or advice lines run by organisations such as Age Concern and Help the Aged.

Such delays also often have a disproportionate effect on older people as it is not uncommon to be moving large amounts of money to fund care, move house or downsize for example. Those who struggle with mobility problems or other disabilities may be forced to seek help from friends and family members to deliver documents on their behalf, therefore the impact can be more widespread than solely on the customer involved.

Age Concern and Help the Aged also receive complaints from those who have recently lost a partner or where their partner has become disabled and therefore may need to provide proof of their identity for the first time in a number of years. Many may struggle to provide the required documentation as utilities and other bills are listed in their partner's name.

Although the rules do allow more flexibility in what documentation is suitable, this does not seem to translate into practice for many who come into contact with the regulations. Indeed, the majority of queries and complaints which Age Concern and Help the Aged receive in relation to money laundering regulations specifically relate to inflexible requirements when being asked to prove their identity. Even where the guidelines are being applied, experiences do not seem to be consistent across sectors and even within firms.

Further training is therefore required for local staff on what alternative forms of identification can be accepted and why the regulations are in place. Appropriate measures need to be put in place to ensure that the identification procedures do not unreasonably deny access to services to customers who cannot reasonably be expected to produce the standard forms of identity.

It is also important that staff at local level are empowered to make decisions themselves regarding the suitability of identification in order to reduce delays. Staff appear to be very willing to adhere to a rules-based approach when applying the regulations, however it would be more appropriate to foster a principles based approach in line with the regulations which would allow staff more discretion when dealing with non-standard cases.

**Q33. How often and in what context have you been asked to provide repeat information to businesses with which you have an ongoing relationship?**

Age Concern and Help the Aged still receive reports from older people regarding the identify requirements when dealing with firms with whom they already have an ongoing relationship, possibly lasting many years. This type of conduct does not always appear to be commensurate to the degree of potential risk given the circumstances (i.e. the type of transaction involved and the clients risk profile). For older people in particular, who may be more likely to move large amounts of money more frequently than others to fund their retirement, this can cause significant difficulties.

*An older gentleman wanted to open a new bank account with a firm with which he already had a long standing relationship - the only photo identification he had available was a taxi card which the bank refused to accept despite him providing the same document to the same firm in the past and having it accepted. The gentleman did not understand why the ID was declined considering it had been accepted in the past.*

The approach adopted by the bank in the case above demonstrates the confusion that can be caused by the inconsistencies in the way in which banks deal with the requirements.

Training is required to allow staff to better understand the options available for those with non standard forms of ID and also to explain why the requirements are in place to customers. Staff should also be empowered to make decisions about what is suitable themselves to avoid unnecessary delays.

More should be done to ensure that older people who already have an ongoing relationship with firms do not regularly face barriers in verifying their identity. Where firms have previously accepted non standard forms of identity from a customer, they should ensure a clear record is kept of what form of identity was accepted in order to avoid unnecessary barriers at a later date.

**Q35. How does your customer experience compare across different sectors, between different sized firms and internationally?**

Although the banking sector seems to be the main source of difficulties for many, it needs to be recognised that the problems do not lie solely within the banking sector. For example; traditionally, annuities have been purchased from an individual's pension provider, however with the open market option, individuals are encouraged to shop around to get the most competitive annuity rates available. This means that individuals may be required to provide identification verification to a firm where they do not already have an ongoing relationship which can often be difficult for older people who may not have the standard types of identification.

*One lady wished to purchase an immediate needs annuity to fund the cost of her care. The insurance company required photo identification which the client did not have. The client was able to get an alternative form of photo identification, which the firm agreed would be suitable however the firm was still cautious to accept it and the decision had to be referred to head office. The delay caused significant financial distress for the client as she had to fund the cost of care by other means.*

Age Concern and Help the Aged have also received reports regarding problems with providing identification to an estate agent when moving house or downsizing in retirement.

**Q36. How easy do you find it to check what information is needed from you and it is clear to you why the information is needed?**

Based on the anecdotal evidence that Age Concern and Help the Aged receive, consumers do not seem to understand (or have explained to them) what is required of them and why the information is needed. Although information is available such as the BBA guidance and other leaflets in branches which set out why the identity requirements are in place and what documents are required, this relies on an individual proactively seeking the information. However, in our experience, many individuals do not seem to be aware of what information is needed and why.

We heard from one of our volunteers who said:

*'It's a 32-mile round trip for me to visit my client – you need to make it clear before hand what documents I should bring in. When you ring up to ask they stop you and say "we can't do this on the phone"'*

There also appears to be some confusion as to why the identification is necessary. For example we understand that some customers are told that the Regulations are in place as a result of the Data Protection Act.

Training is needed to enable branch staff to better provide this information to customers. Bank staff should be aware of why the regulations are in place and be able to communicate this to its customers. Firms should also be encouraged to empower branch staff to make decisions themselves as to what is appropriate identification based on their own policies as opposed to relying on head office or more senior management to make the decision.

Where consumers do not have the standard forms of identity, more should be done to ensure that information is provided on what alternative options are available. Age Concern and Help the Aged believe that firms should provide specific, detailed guidance on how to prove identity, for example by making the Toybee Hall ID Guide accessible in branches.

**Q37. Overall, based on what you understand about why the Regulations exist, and the kind of procedures Regulated Firms have in place, do you feel that burdens they impose on you are reasonable?**

Age Concern and Help the Aged believe that the burdens imposed on older people as a result of the Regulations are not reasonable given their risk profile and business relationship. The regulations appear to affect older people (some of whom have a long standing relationship with the firm) disproportionately as they often do not have the required documents and the implications of this are often great. Many older people will also suffer as a result of delayed action both financially and psychologically.

One case we received concerned a couple who wanted to move their money in order to fund their retirement. The bank asked for photo identification which they did not have and they did not want to renew their passport due to the costs involved. Bank staff were unable to recommend alternatives that could be used, the couple were told to contact head office by telephone which was difficult and resulted in a long delay and caused significant inconvenience.

Training and empowering staff would allow them to deal with customers themselves, recommend alternatives where possible and explain why the requirements are in place. This would reduce inconsistencies, avoid unnecessary delays and allow flexibility for customers who may not have the standard forms of ID.

Senior management has overall responsibility for the establishment of effective anti money laundering systems and controls; therefore it would be disappointing if bank staff felt personally accountable for the application of the regulations. Although staff should be empowered to make decisions about non standard forms of identification, in line with the firm's policy, we also accept there is a tension between empowering employees and recognising that they are not personally accountable for the application of the Regulations.

With the increased focus of the Financial Services Authority on assessing the outcomes for consumers and the recent introduction of the Banking Conduct of Business rules (which include requirements for the firm to ensure prompt, efficient and fair post sale service including switching and closing accounts) Age Concern and Help the Aged believe there is scope for the FSA to conduct a review either thematically or part of their normal supervisory relationship with firms, specifically in relation to the consumer impact of the money laundering regulations and the outcomes for consumers.

The FSA handbook states that a firm should have appropriate measures in place to ensure that procedures for identification of customers do not deny access to its services for those who cannot reasonably be expected to produce detailed evidence of identity. With this in mind, the FSA could consider focusing their firm risk assessments not only on the adequacy of the anti money

laundering systems and controls that firms have in place but also on how these translate into outcomes for consumers.