

GUIDANCE NOTES: MONEY LAUNDERING (AVOIDING/DISCLOSING)
COSTS LAWYERS

Regulator: Costs Lawyer Standards Board

Effective date: 31 October 2011

These notes have been based on legal advice and seek to offer an understanding of what money laundering is to enable you to be aware of warning signs, to reinforce your duty as a Costs Lawyer not to be involved in such activities and to report any suspicions you may have about such activities.

What is Money Laundering?

There are various definitions available which describe the phrase 'money laundering'. Article 1 of the draft European Communities (EC) Directive of March 1990 defines it as *"the conversion or transfer of property, knowing that such property is derived from serious crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of his action, and the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from serious crime"*.

A more simple definition is that it is the process by which large amounts of illegally obtained money (from drug trafficking, terrorist activity or other serious crimes) is given the appearance of having originated from a legitimate source.

Money laundering allows criminals to maintain control over their proceeds and ultimately to provide a legitimate cover for their source of income.

A "money mule" is a term used to describe someone who is recruited by criminals needing to launder funds they have obtained illegally.

What are my obligations as a Costs Lawyer?

Your obligations as a Costs Lawyer are set out in the Costs Lawyer Code of Conduct. You must ensure you do not facilitate money laundering even when money does not pass through the accounts of your firm.

Am I required to put in place due diligence provisions e.g. identity checks, as required under the Regulations?

You are a sole practitioner: No.

You work for a firm of Costs Lawyers: No, provided the firm is not registered as an ABS.
You work for a firm of Solicitors: Yes, you will be obliged to comply with SRA requirements.
These requirements can be established via the SRA or discussion with your employer.

What are the consequences of a Costs Lawyer involving themselves in money laundering?

- Disciplinary action by CLSB, and/or
- criminal prosecution

Would I commit the offence of “tipping off” if I were to raise money laundering concerns with the CLSB?

No.

What do I do if I have any money laundering concerns?

Consider making an official disclosure to the Serious Organised Crime Agency (SOCA), it is at your discretion as to whether you seek legal advice before doing so.

An email can be sent by registering on their secure site at www.ukciu.gov.uk/saroline.aspx
Alternatively, they can be contacted 24/7 by phone on 0370 496 7622 or by post at:

Serious Organised Crime Agency
PO Box 8000
London
SE11 5EN