

The Rt Hon Jeremy Hunt MP
Chancellor of the Exchequer
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Dear Chancellor,

Re: Banking firms closing letting agents' undesignated client accounts

Following high profile cases of banks closing bank accounts being reported in the news, I wanted to write to you to highlight ongoing issues relating to banks closing undesignated or pooled client accounts of letting agents.

Propertymark is the UK leading professional body for property agents, with over 17,500 members representing 12,800 branches across the country and many of our members are being impacted by banks closing undesignated client accounts. Simply put, banks do not understand the legal requirements for letting agents to adhere to the Client Money Protection rules which require property agents to hold client's money in an account with a bank or building society authorised by the Financial Conduct Authority and the Money Laundering and Terrorist Financing (Amendment) Regulations 2019.

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 require letting agents who manage properties with monthly rental incomes of €10,000 or more (or equivalent amount in a Member State) to comply with anti-money laundering regulations and register with HMRC for anti-money laundering supervision. Despite how these regulations only affect a minority of letting agents, many agents continue to face challenges from banks with maintaining their undesignated client accounts because banks are asking letting agents to carry out Customer Due Diligence to the level as set out in the Money Laundering Regulations when all letting agents are not legally required to do so. This is against the guidance issued by the Joint Money Laundering Steering Group and does not allow letting agents to meet their legal obligations under the Client Money Protection rules. Furthermore, where letting agents hold a tenancy deposit and can't put that money into an undesignated or pooled client account, they are in breach of Tenancy Deposit legislation.

Consequently, what we are seeing is banks taking the stance to de-risk themselves to a point where they are refusing to open new client accounts or maintain existing accounts, some of which have been open for decades without issue. The decisions behind which agents have been allowed to keep their accounts has often been made at the local branch-level, with some banks being less willing to allow agents to keep their accounts than others. This has made it difficult to establish a consistent approach across all bank branches. The removal of undesignated client accounts poses a serious threat to an agent's business. It is not uncommon for letting agents to manage hundreds of properties, yet many

banks have now requested the agent hold an individual account per property. Even if banks allow the agent to hold that number of individual accounts (which is not guaranteed), it is infeasible to manage that many accounts.

While Propertymark continues to work with banks to limit the number of accounts that are closed, more action is needed from the UK Government to ensure banks understand the legal obligations of letting agents and the anti-money laundering supervision rules. Additionally, Propertymark has long called for the regulation of property agents and for the UK Government to bring letting agents under the scope of Money Laundering Regulations, remove the monthly rent threshold, which would provide banks with the reassurance they need, that the property sector is being policed correctly and clarity on where the money is coming from. Consequently, this would reduce a barrier that can make it hard for estate agents and letting agents to operate.

I have attached a briefing which explains the situation in more detail, and I would be extremely grateful for an opportunity to meet you and your officials to discuss the issue and find solutions that reduce barriers for letting agents to operate. Your office can liaise with Timothy Douglas, Head of Policy at Propertymark via email timothydouglas@propertymark.co.uk and telephone 07920 588936.

I look forward to hearing from you.

Best wishes,



Nathan Emerson MNAEA MARLA MNAEA(Comm.)
Chief Executive Officer
Propertymark

Propertymark briefing for Rt Hon Jeremy Hunt MP, Chancellor of the Exchequer
on Pooled Client Accounts
August 2023

BACKGROUND

There are two pieces of legislation that effect the work of letting agents in relation to pooled client accounts. Firstly, the Money Laundering and Terrorist Financing (Amendment) Regulations 2019.¹ Secondly, Client Money Protection rules.²

- Under the Money Laundering Regulations, the scope of regulated businesses in the property agency sector was expanded in January 2020 to only include the letting agency sector for high value transactions with a monthly rent of 10,000 euros (or equivalent amount in a Member State) or more.
- Under the legislation introduced by the UK Government, Scottish Government and Welsh Government all letting agents in England, Wales and Scotland must adhere to Client Money Protection rules.

POOLED CLIENT ACCOUNTS

Pooled client accounts, sometimes referred to as undesignated client accounts, enable agents to hold a single account that they use to process the funds that belong to the landlords they work with. Holding funds this way prevents the need for agents to hold individual accounts for each landlord. Even for smaller agents with few clients, this can significantly increase admin time and be unfeasible.

MAIN CONCERNS

- De-risking by banks, in response to the Money Laundering Regulations is preventing a growing number of estate and letting agents from opening client accounts and existing agents with comprehensive trading history are having accounts closed.
- Conversely, letting agents in England, Wales and Scotland must adhere to Client Money Protection rules that require estate and letting agents to hold client money in a correctly designated client account. This is putting businesses at a disadvantage and making it harder for them to operate.
- Furthermore, the Client Money Protection providers require client accounts to safeguard themselves in the event a business goes into administration, but the client account remains intact. This is important because the bank or administrators can offset the businesses' losses from client funds in a business account but cannot if the funds are in a client account. This increases the risks to the Client Money Protection schemes and therefore the schemes will only accept agents with the client funds held in Pooled Client Accounts.

IMPACT ON PROPERTY AGENTS

It is very common for letting agents to manage hundreds of properties. If they are required to open a single account for each property, the administration work required would be extremely difficult and may cause the letting agent's business to fail. That's if they are allowed to open hundreds of individual

¹ <https://www.legislation.gov.uk/uksi/2019/1511/contents/made>

² <https://www.gov.uk/client-money-protection-scheme-property-agents>

accounts, since many banks will only allow letting agents to open a limited number. The impact therefore is often the letting agent has to find a new bank which is a stressful and costly process or close down because they are unable to operate without a pooled client account.

ACTION TAKEN BY PROPERTYMARK

Improving the Joint Money Laundering Steering Group (JMLSG) guidance³ - Propertymark has successfully lobbied the Joint Money Laundering Steering Group to produce guidance with the aim of showing banks that their actions were not in line with AML regulations. In September 2020, the guidance was updated and it's imperative that it is continually conveyed to staff in branch:

- Outline the distinction between regulated and non-regulated letting agent businesses for Anti-Money Laundering supervision.
- Explain to staff that for those letting agents not regulated for Anti-Money Laundering supervision it is only best practice that they carry out due diligence on all their customers. Consequently, many letting agents will not be able to 'sufficiently enhance their practices so that the firm is satisfied that the customer can provide, upon request, evidence of the identity of the owners of funds in the Pooled Client Accounts.'
- Clarify to banks that whilst the current legislative framework means that a majority of letting agents do not fall within the regulated sector for Anti-Money Laundering supervision they must be deemed as low-risk customers.

Lobbying the UK Government for changes to the Money Laundering Regulations - the Regulations should include all letting agents and landlords to reduce the risk of cash payments being used to 'clean' dirty money. The UK Government should remove the EUR 10,000 monthly rent threshold and set this at zero to create consistency and cover all tenancies let in the private rented sector.

Taking on individual cases for members - for members who have been notified by banks that client accounts will be closed, we have written to individual branches to explain the situation and outlining that they are not complying with current industry guidance and best practice, and that letting agents cannot function without a pooled client account.

Offering alternative solutions - additionally, we have offered alternative solutions for members who cannot find a high street bank who would open a pooled client account for their business. One such solution is the use of a Client Accounting Service Provider (CASP), which is a third-party organisation that manages client money on behalf of the agent. A CASP provides several benefits compared to an agent managing client money through a high street bank, the greatest of which is that a CASP provides a solution for agents who can no longer open undesignated client accounts with high street banks. However, there are risks and there are certain requirements for using a CASP.

PROPERTYMARK

Propertymark is the UK's largest professional body of property agents with over 17,000 members representing 12,8000 branches in letting, sales, auctions and commercial property. We are member-led with an executive Board of practicing agents who we work closely with to ensure that we uphold high-standards of professionalism and remain at the forefront of issues affecting the sector. For further information and to arrange a meeting please contact Timothy Douglas, Head of Policy & Campaigns Officer via timothydouglas@propertymark.co.uk or telephone 07920 588936.

³ <https://www.jmlsg.org.uk/guidance/current-guidance/>