propertymark

HM Treasury: Consultation - Improving the effectiveness of the Money Laundering Regulations

Response from Propertymark

July 2024

Background

1. Propertymark is the UK's leading professional body of property agents, with over 18,000 members representing over 12,800 branches. We are member-led with a Board which is made up of practicing agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development[1].

Consultation Overview

2. Since 2017, estate agents have been supervised by HM Revenue and Customs (HMRC) to prevent money laundering and terrorist financing under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. In 2020, this requirement was extended to letting agents with at least one rented property with monthly rents of 10,000 euros or more (or the equivalent amount in a Member State of the European Union). Several years on, a 2022 review of the UK's anti-money laundering and counter terrorist financing regulatory and supervisory regime, along with the Economic Crime Plan 2023/26 highlighted key areas where the existing regime could be improved. This consultation seeks to understand exactly how the existing money laundering regulations (MLRs) could be improved to increase compliance and improve effectiveness of the MLRs.

Propertymark response – summary

3. Propertymark welcomes the opportunity to respond to HM Treasury's consultation on Improving the Effectiveness of the Money Laundering Regulations. Propertymark regularly produces materials and training for our members who must comply with MLRs, with best practice suggesting that all property agents, including letting agents who do not meet the 10,000-euro threshold, carry out some form of customer due diligence. There has however been some confusion from the sector as to how to carry out customer due diligence, as much of the guidance provided by HMRC

[1] https://www.propertymark.co.uk/

focuses on when to carry out checks on potential customers and clients and not necessarily how customer due diligence can be carried out effectively. In order to gain a full understanding of the issues property agents face when meeting their requirements under the MLRs, we issued a survey to our members which received over 150 responses. We will make it clear when the results of this survey have been used to inform our positions. During our response we refer to letting agent and estate agent activities separately in some cases. For clarity, we define an estate agent as an agent who supports with the sale of a property and a letting agent as someone who assists in the renting or management of a rented property on behalf of a landlord.

4. There are four key methods that HM Treasury should consider that would improve the existing MLRs:

- **Agents require more prescriptive guidance with practical examples, so they better understand their responsibilities –** from member feedback we know that over 95% of estate agents carry out customer due diligence on every new client, additionally, even though they are not legally required to, over two-thirds of letting agents carry out customer due diligence on every new landlord and 78% for every new tenant who signs up with the agent. Agents understand their AML duties, what they struggle with is exactly how to, especially for more difficult requirements such as identifying beneficial owners and sources of funds. Furthermore, 96% of surveyed members welcomed more prescriptive guidance.

- **Remove the 10,000 euro threshold for letting agents –** removing the threshold will ensure that all letting agents have to carry out customer due diligence. This removes potential opportunities for criminals to launder money through agents who are not legally required to carry out customer due diligence. At the same time, it helps provide reassurances to financial institutions who believe that letting agents pose a money laundering risk, leading to fewer pooled client account closures.

- **The closure of pooled client accounts requires more than new guidance for financial firms –** of all surveyed members who had their pooled client account closed, 96% stated the bank either provided no reason or that they were closing all pooled client accounts held by letting agents. It is clear to Propertymark that banks are not closing accounts due to any perceived risk and are actively ignoring existing guidance. Therefore, any new guidance will have little

effect unless the threshold is removed and all letting agents are supervised for anti-money laundering.

- **Establish mechanisms to enable firms to carry out more simplified due diligence where very few risks are apparent –** this will enable more property agents to focus their time on clients, landlords and tenants who present a higher risk, reducing the administrative burden for property agents and helping agents to identify more potential cases of economic crime.

Questions

5. For the purposes of our response, we have omitted the questions that specifically refer to financial institutions and where property agents are not affected.

Question 1: Are the customer due diligence triggers in regulation 27 sufficiently clear?

6. Yes, it is generally clear when estate agents should carry out customer due diligence as current best practice is that customer due diligence should be carried out during every property transaction. This is backed up by our member survey, with over 66% of letting agents stating they carry out customer due diligence on every new landlord who they enter a business relationship with. Only 5% of letting agents never carried out customer due diligence on landlords. Similarly, over 78% of letting agents carried out customer due diligence on every new tenant who signs up with the agent. We saw similar results for estate agents, over 95% of agents stating that they carried out a form of customer due diligence on every new client. Additionally, 100% of estate agents confirmed that they understood the need to verify the identity and financial means of both the buyer and the seller, which agents have not always found clear.

Question 2: In your view, is additional guidance or detail needed to help firms understand when to carry out 'source of funds' checks under regulation 28(11)(a)? If so, in what form would this guidance be most helpful?

7. No, we do not believe additional guidance or detail is needed to help firms understand when to carry out 'source of funds' checks under regulation 28(11)(a). As previously stated, most property agents will carry out some form of checks with every property transaction. However, some agents have raised with Propertymark that understanding how to carry out source of funds checks can be difficult. This has been confirmed within our survey, where just under a third of respondents did

not believe existing guidance on how to carry out source of funds checks is sufficient. The majority of those who did not find the guidance sufficient often cited that the guidance was overly complicated and did not provide practical guidance on how to carry out source of funds checks. Considering this, we would recommend more prescriptive guidance on how businesses can carry out source of funds checks rather than when they would need to carry out these checks. The need for prescriptive guidance was supported by 96% of surveyed members.

Question 3: Do you think the wording in regulation 28(10) on necessary due diligence on persons acting on behalf of a customer is sufficiently clear? If not, what could help provide further clarity?

8. Similarly to question 2, around 30% of agents found the guidance was not clear, with similar issues with the guidance. Additional guidance on how to verify the person is acting on behalf of the customer would help property agents carry out their due diligence. Additionally, on a similar topic, we would welcome additional guidance on how to uncover beneficial owners or key signs to look out for that suggests the person buying the property is acting on someone else's behalf without disclosing this to the agent.

Question 4: What information would you like to see included in published digital identity guidance, focused on the use of digital identities in meeting MLR requirements? Please include reference to the level of detail, sources or types of information to support your answer.

9. Some members expressed the potential for bad actors to fake or falsify a digital identity, using "Artificial Intelligence" or hacking into someone's account to pass it off as their own. Any guidance would have to support agents in identifying fake digital identities and how to proceed if they had any doubts as to the validity of the digital identity. Others suggested that guidance should recommend that agents should still physically meet their clients/tenants in order to verify the identity. Any guidance should also be specifically written for property agents rather than provide a broad overview for multiple sectors. This would further provide confidence in the use of digital identities from the property sector.

Question 5: Do you currently accept digital identity when carrying out identity checks? Do you think comprehensive guidance will provide you with the confidence to accept digital identity, either more frequently, or at all?

10. Half of Propertymark members who responded to our survey did not use digital identities to meet MLR requirements. However, 84% of respondents stated that guidance would give them the confidence to use digital identities in meeting MLR requirements. Those who did not believe it would provide them with confidence often cited that they had difficulties entrusting third-party providers, that everyone has a form of physical identity and that physical checks were a lower-cost solution.

Question 6: Do you think the government should go further than issuing guidance on this issue? If so, what should we do?

11. Yes, based on member feedback there is one key method that would increase the number of agents who would use digital identities. Several members stated that a central database where the identify can be verified would help prevent fake digital identities from being used. This would provide more agents with the confidence to use digital identities. However, it should be noted that not everyone will have the ability nor would like to establish a digital identity, especially if they are able to prove their identity with physical documents.

Question 9: (If relevant to you) Have you ever identified suspicious activity through enhanced due diligence checks, as a result of the risk factors listed above? (Regulations 33(6)(a)(vii), 33(6)(a)(viii) and 33(6)(b)(vii)). Can you share any anonymised examples of this?

12. Yes, although only a minority of agents reported that they had identified suspicious activity through enhanced due diligence checks. Some key examples of suspicious activity include not viewing the property and not being able to supply identity checks or financial information. One was a suspicious seller with inconsistent addresses who was convicted for tax evasion.

Question 10: Do you think that any of the risk factors listed above should be retained in the MLRs?

13. Yes, we have no issues with these specific risk factors, which include:
    - Where the customer is the beneficiary of a life insurance policy

- Where the customer is a third country national applying for residence rights in or citizenship of a state in exchange for transfers of capital, purchase of a property, government bonds or investment in corporate entities in that state
- Where there is a transaction related to oil, arms, precious metals, tobacco products, cultural artefacts, ivory or other items related to protected species, or other items of archaeological historical, cultural or religious significance or rare scientific value

14. Additionally, only 22% of agents who had identified suspicious activity due to these factors believed they should not be retained. Therefore, the risk factors listed above should be retained.

Question 11: Are there any other risk factors for enhanced due diligence, set out in regulation 33 of the MLRs, which you consider to be not useful at identifying suspicious behaviour?

15. No, we do not believe that there are any risk factors for enhanced due diligence which we consider to be not useful at identifying suspicious behaviour. The vast majority of our members find all existing factors useful at identifying suspicious behaviour.

Question 12: In your view, are there any additional risk factors that could usefully be added to, for example, regulation 33, which might help firms identify suspicious activity?

16. Only 3% of surveyed members believed there are any additional risk factors. Of those who expanded on their answer, a common risk factor was people purchasing property under a company name. We agree that this should be considered a risk factor as it could potentially indicate that beneficial owner is being hidden from the transaction.

Questions 13-15 concern financial institutions and thus have been omitted from our response.

Question 16: Would removing the list of checks at regulation 33(3A), or making the list non-mandatory, reduce the current burdens (cost and time etc.) currently placed on regulated firms by the HRTC rules? How?

17. Yes, we agree that making the list non-mandatory would reduce administrative burdens for agents. Agents would be able to look at each case on an individual basis and provide their own due diligence checks rather than proceeding on the assumption that the individual automatically presents a higher risk based on their country of origin. This would enable agents to spend more

time on cases where risks are more apparent, rather than what several members have reported as unnecessary checks where non-enhanced customer due diligence has already identified the client/customer as low risk. Additionally, some agents expressed that they did not always have the expertise to carry out enhanced customer due diligence and that AML checks should be carried out by more qualified professionals such as solicitors.

18. Additionally, Propertymark agents have raised the issue of whether the source of funds or the individual customer should be taken into account when considering if they present a high-risk. For example, if the source of funds from a UK citizen has come from revenues from a business or property sale in a high-risk country, should that be considered high-risk? Conversely, should someone from a high-risk country whose funds have come from a UK-based business be considered high-risk? HM Treasury and HMRC will need to clarify this.

Question 17: Can you see any issues or problems arising from the removal of regulation 33(3A) or making this list non-mandatory?

19. Yes, despite a potential reduction in administrative burdens, 64% of surveyed members ultimately did not support a move away from mandatory enhanced due diligence checks. There were two main reasons for this. Firstly, there was general acknowledgement of the importance in carrying out enhanced customer due diligence checks on high-risk countries in order to prevent money laundering. Secondly, a significant number of respondents expressed frustrations with carrying out customer due diligence checks on every client/customer, arguing that agents should focus their time on cases that presented a higher risk. However, some respondents expressed the need to mandate due diligence checks on all clients/customers.

20. We agree with the position of the majority of our members, that carrying out enhanced due diligence is important to minimise the risk of economic crime. If these checks are not mandated, with significant repercussions for those who fail to carry them out, it provides an opportunity for criminals to identify agents who do not carry out checks and to seek them out. We do however accept that agents can find the process frustrating and time consuming. As a compromise we would recommend the following two measures that can help reduce administrative burdens. Firstly, the requirement to carry out enhanced due diligence should be removed if an agent can evidence that the client/customer does not present any risk after carrying out customer due diligence. Secondly, we would recommend that HM Treasury should provide additional

prescriptive guidance that will help agents better be able to carry out enhanced due diligence on a practical level.

Question 18: Are there any High Risk Third Country-established customers or transactions where you think the current requirement to 33 carry out EDD is not proportionate to the risk they present? Please provide examples of these and indicate, where you can, whether this represents a significant proportion of customers/transactions.

21. Yes, some survey respondents recommended the following countries that present a risk but were not on the current FATF list of high-risk countries:
    - Russia
    - Somalia
    - Columbia
    - China

22. Some survey respondents recommended the following countries that are on the current FATF list of high-risk countries which should be removed:
    - Croatia
    - Jamaica
    - Philippines
    - South Africa
    - Bulgaria

Question 19: If you answered yes to the above question, what changes, if any, could enable firms to take a more proportionate approach? What impact would this have?

23. Our members recommend that firms should take an individual approach to enhanced due diligence. Enhanced customer due diligence should be carried out regardless of country if an agent has reason to believe that the individual presents a potential money laundering risk after carrying out customer due diligence. This would prevent potential money launderers and criminals from slipping through the cracks of checks if they are not from a high-risk country. Additionally, this would reduce administrative burdens for agents if they can evidence that the individual does not present a money laundering risk, even if they are from a high-risk country.

Question 20: Do you agree that the government should expand the list of customer-related low-risk factors as suggested above?

24. Yes, we agree that the UK Government should expand the list of customer-related low-risk factors in order to prevent further closures of pooled client accounts. However, we do not think that this alone would resolve the issue of closing pooled client accounts because this does not address that financial organisations are in many cases ignoring the existing guidance on closing pooled client accounts. This stance has been reflected in our survey to our members. 1/8 of all survey respondents reported that they had been asked to close their pooled client account, with the most common reasons cited by banks being that the bank was closing all pooled client accounts belonging to letting agents (50%) or that no reason was provided (44%). When asked if the reason for account closure was that the bank was not satisfied with the member's AML procedures or any evidence submitted, all agents surveyed said this was not the case. This confirms our understanding of the situation when we have previously engaged with members on an individual basis, that individual bank branches are not closing pooled client accounts due to any due diligence they are carrying out but are closing accounts in bulk without providing a reasonable explanation why and against existing guidance. Considering this, we fear that any updated guidance will also be ignored.

Question 21: Do you agree that as well as (or instead of) any change to the list of customer-related low-risk factors, the government should clarify that SDD can be carried out when providing pooled client accounts to non-AML/CTF regulated customers, provided the business relationship presents a low risk of money laundering or terrorist financing?

25. Yes, we agree that the UK Government should clarify that simplified due diligence can be carried out when providing pooled client accounts to non-AML regulated customers, as this establishes that non-AML/CTF regulated customers should not be rejected outright. However, we do not believe that this alone will prevent the closure of pooled client accounts for two reasons. Firstly, we have seen that some estate agents have been asked to have their pooled client accounts closed, where guidance against closing these accounts is even clearer since estate agents fall under AML supervision. Therefore, we disagree that the issue solely lies with non-AML/CTF businesses and any action to tackle this issue will need to acknowledge this. Secondly, as mentioned in our answer to question 20, we disagree that additional guidance and clarity around carrying out simplified or other customer due diligence will be effective in this case. Based on the experience of our

members, it is clear to us that financial institutions are not basing their decision on whether or not to close pooled client accounts on any due diligence on real risk that letting and sales agents present.

Question 22: In circumstances where banks apply SDD in offering PCAs to low-risk businesses, information on the identity of the persons on whose behalf funds are held in the PCA must be made available on request to the bank. How effective and/or proportionate do you think this risk mitigation factor is? Should this requirement be retained in the MLRs?

26. We do not have the knowledge to understand if financial institutions believe that this is an effective or proportionate mitigation factor. Should this be a requirement that banks need in order to maintain pooled client accounts, then we agree that it should be retained in the MLRs. However, some agents may be concerned that this would breach GDPR rules, therefore, when banks are allowed to request this and the legality of sharing this information should be clarified to agents and other firms through new guidance. That being said, we are sceptical as to the impact this will have, considering our experiences lead us to believe financial institutions who asked for pooled clients to be closed are doing so with little regard to the risk property agents pose.

Question 23: What other mitigations, if any, should firms consider when offering PCAs? Should these be mandatory under the MLRs?

27. There are three mitigations that firms should consider when offering pooled client accounts which we believe should be mandatory under the MLRs:

- Firstly, firms should consider if the organisation is a member of a professional body such as Propertymark and take note of the body's membership rules and procedures. This would provide confidence to the financial institution that the business is subject to greater scrutiny than they would be if they were not signed up to the professional body.

- Secondly, the firm's AML practices should be considered, with accounts not unreasonably closed if the firm could evidence, they carry out a form of customer due diligence on their clients/customers. This ensures that even non-AML/CTF supervised firms can maintain pooled client accounts if they carry out procedures that reduce ML risks. This would also

have the benefit of encouraging more non-AML/CTF supervised organisations to introduce procedures that would tackle economic crime.

- Thirdly, financial institutions should not be able to close accounts if doing so would mean that the business whose account is being closed would breach other legislative requirements. For example, in England, a pooled client account is required in order to comply with client money protection requirements[2]. The consequence of the existing situation is that letting agents find themselves forced to switch banks or operate illegally which cannot continue.

Question 24: Do you agree that we should expand the regulation on reliance on others to permit reliance in respect of ongoing monitoring for PCA and equivalent scenarios?

28. We have no opinion on this.

Question 25: Are there any other changes to the MLRs we should consider to support proportionate, risk-based application of due diligence in relation to PCAs?

29. Yes, there are four additional solutions that we would recommend which would help to resolve the issue of firms having their pooled client accounts closed:

- Firstly, all letting agents should come under AML supervision, removing the 10,000 euro threshold entirely. This would better establish letting agents as trusted companies which should not be disregarded as being inherently high-risk organisations. This measure was widely supported by 79% of respondents, a considerable figure especially since this would increase the workload letting agents and that not all have faced pooled client account closures.

- Secondly, we would recommend an appeal process to be established where firms, with prioritisation given to regulated firms, can appeal their account closure with their supervisory body in partnership with the Financial Conduct Authority (FCA). As part of this process, the FCA, HM Treasury and sector supervisory bodies should establish clear requirements to maintain a pooled client account which should be referenced during appeals procedures. This would ensure that firms that meet their AML requirements are not having their pooled client

[2] Protecting clients' money if you're a property agent - GOV.UK (www.gov.uk)

accounts closed and establish a clear set of rules for firms to refer to during disputes for banks before accounts are closed. For firms where their accounts were closed for reasons approved by the FCA and their supervisory body, the firm in question should be provided with a clear reason why their accounts have been closed which will enable the firm to put in effective AML procedures in place and regain access to their accounts.

- Thirdly, we would recommend greater collaboration between HMRC and FCA, facilitated by HM Treasury to raise awareness of how letting and estate agents operate. This will ensure that any legislation or guidance introduced is effective at maintaining pooled client accounts across the industry.

30. Fourthly, HM Treasury needs to intervene in cases where pooled client accounts are closed without a clear cause or where it can be proven the firm posed no money laundering risk. The lack of repercussions for financial institutions have partly led to the situation we are currently experiencing. Financial penalties for closing pooled client accounts was favoured by 76% of surveyed Propertymark members.

Question 26: Do you agree that we should amend the MLRs to permit the FCA to share relevant information with the Financial Regulators Complaints Commissioner?

31. Yes, we agree that the Financial Regulators Complaints Commissioner (FRCC) should be able to investigate complaints made against the FCA. This would help to improve the ability of the FRCC to carry out its duties, which would complement additional requirements that Propertymark is calling for, such as greater collaboration between the FCA and other supervisory bodies. If the FCA is not meeting its new requirements to cooperate, we would expect that new powers for the FRCC to investigate complaints can help with this.

Question 27: Should we consider extending the information-sharing gateway in regulation 52(1A) to other public bodies in order to support system coordination? If so, which public bodies? Please explain your reasons.

32. Yes, we would recommend that the information-sharing gateway be accessible to all public bodies that would come into contact with criminals engaging in money laundering activity. As part of this, there should be a mechanism for public bodies to report criminal activity that can be shared across

the FCA and Professional Body Supervisors, with an easily accessible list of suspicious or convicted individuals and organisations that would be freely available to all supervised firms. This could be implemented into regular customer due diligence activities, making checks of suspected money laundering easier, quicker and more effective across all supervised sectors.

Question 28: Should we consider any further changes to the information-sharing gateways in the MLRs in order to support system coordination? Are there any remaining barriers to the effective operationalisation of regulation 52?

33. Yes, we would like to see the information-sharing gateways facilitate greater cooperation between bodies when the AML measures of one sector has directly impacted another. For example, the issue with pooled client accounts which has been driven by the misunderstanding of the financial sector and has disrupted a large portion of the housing and other sectors. We would welcome amendments that establish a route to issue a review of existing industry practices that can be issued to OPBAS, where one supervised industry can present a case that the AML measures of one industry has negatively impacted another. OPBAS would then be required to review the case against the other body and to facilitate cooperation between the two bodies to resolve any outstanding issues. This would help prevent a situation similar to the closure of pooled client accounts from arising again or for lasting as long as it has.

Question 29: Do you agree that regulation 50 should be amended to include the Registrar for Companies House and the Secretary of State in so far as responsible for Companies House?

34. Yes, we have no concerns regarding the amendment of regulation 50 to include the Registrar for Companies House and the Secretary of State. We see this as a positive amendment, as Companies House will be able to contribute to the creation of a suspicious activity database and the dissemination of individuals and organisations who are likely to or have been proven to launder money or fund terrorism. This would help supervised firms make a more informed decision during customer due diligence checks.

Question 30: Do you consider there to be any unintended consequences of making this change in the way described? Please explain your reasons

35. We are unaware of any potential unintended consequences.

Question 31: In your view, what impact would this amendment have on supervisors, both in terms of costs and wider impacts? Please provide evidence where possible.

36. We do not believe that the impact will be more than marginal.

Question 32: Do you think the MLRs are sufficiently clear on how MLR-regulated firms should complete and use their own risk assessment? If not, what more could we do?

37. Currently, our members find it difficult to complete and use their own risk assessments. Over 51% of surveyed members found it difficult, with only 8% finding it easy or very easy. The majority of members reported that unclear guidance and a lack of practical examples to draw from were the reasons behind why they found it difficult to complete and use their risk assessment.

Question 33: Do you think the MLRs are sufficiently clear on the sources of information MLR-regulated firms should use to inform their risk assessment (including the NRA)? If not, what more can we do?

38. No, the MLRs are not sufficiently clear on the sources of information that MLR-regulated firms should use to inform their risk assessment. What would benefit the property sector significantly is a series of practical examples of risk assessments that represent best practice, where it can be explained which sources were used. Our members have made it clear that existing guidance does not go far enough as it does not clearly show the end-point of what a risk assessment should look like.

Question 34: One possible policy option is to redraft the MLRs to require regulated firms to have a direct regard for the NRA. How do you think this will impact the activity of: a) firms b) supervisors? Is there anything this obligation should or should not do?

39. We agree that this option would help make it clearer for property agents that they should draw from the NRA, which can help them identify the language used and the wider risks associated with the property industry. The obligation should identify how the NRA should be used and what exactly an agent should expand upon so that their risk assessment is suitable for their particular business. For example, we would like to see a short-list of what should be included to expand upon the NRA,

such as individual factors that impact your individual business, that can be tailored to each supervised sector. For estate agents, this could include the percentage of high-value property they sell or if they attract a large number of overseas buyers. For letting agents, this would include a large number of properties that are over the 10,000 euro threshold or if they operate in a location highly valued by investors. This would provide agents with a clearer understanding of what they need to include and consider for their risk assessment.

Question 35: What role do you think the NRA versus system prioritisation should play in the allocation of regulated firms' resources and design of their AML/ CTF programmes?

40. We are concerned that a move towards system prioritisation may have negative unintended consequences for the following three reasons:

- Firstly, a sector-wide commitment could undermine efforts to ensure that all bodies are empowered to tackle the risks relevant to their sector. For example, if there is a significant risk for one sector, but this is not considered part of the single view of threats across the economic crime system, efforts to tackle these sector-specific threats could be undermined or ignored in favour of national threats.

- Secondly, many Propertymark members have expressed frustration that existing guidance does not always reflect current ML threats or working practices within, and specific to the property industry. A movement towards tackling national threats risks further watering down existing guidance to become applicable for all regulated firms, making it more difficult to utilise by individual sectors.

- Thirdly, part of the existing barriers to effective collaboration is the lack of communication and understanding of how individual sectors operate at a fundamental level, which has led to the current pooled client accounts issue among others. We are concerned that a system prioritisation will further emphasise national threats away from the sector-specific approach which could undermine efforts to ensure that AML/CTF programmes reflect how individual sectors operate.

Question 36: In your view, are there any reasons why the government should retain references to euros in the MLRs?

41. Generally, we do not see any reason why the UK Government should retain references to euros in the MLRs. Changing the threshold to GBP would help make it clear when property meets the threshold and would no longer be dependent on the exchange rate which could make some properties move in and out of the threshold.

Question 37: To what extent does the inclusion of euros in the MLRs cause you/your firm administrative burdens? Please be specific and provide evidence of the scale where possible.

42. 43% of surveyed Propertymark letting agents stated that the inclusion of euros does provide administrative burdens, however, only 14% stated that the administrative burdens were significant. While the majority (57%) of surveyed members stated that they experienced no administrative burdens, this could indicate that they did not have any properties with a rental value of 10,000 euros or higher. Despite the low scale of administrative burdens, we would still recommend that the inclusion of euros was changed to GBP as we see no reason why it should be retained in euros.

Question 38: How can the UK best comply with threshold requirements set by the FATF?

43. This requirement is set for financial institutions and dealers in precious metals, therefore falls outside of the scope of Propertymark.

Question 39: If the government were to change all references to euros in the MLRs to pound sterling which of the above conversion methods (Option A or Option B) do you think would be best course of action?

44. Following our member survey, 74% of members opted for Option A, that the threshold should be £10,000. We agree with our members on this, however ideally, the threshold should be removed for letting agents entirely. This was agreed by 86% of surveyed letting agents who did not see any benefit to maintaining the threshold. For the majority of Propertymark members to observe best industry practice, customer due diligence checks are conducted on the majority of clients, landlords and tenants. Removing the threshold entirely will help to establish clearer expectations of letting agents and ensure that all property agents come under supervision, preventing any gaps in supervision that can be exploited by criminals. A minority of agents were concerned over

increased workloads; however, this can be mitigated if the MLRs were amended to ensure that supervised bodies could focus on potential clients, tenants and

Question 40: Please explain your choice and outline with evidence, where possible, any expected impact that either option would have on the scope of regulated activity.

45. We have explained our reasoning within our answer to question 39.

Questions 41-43 concern Trust and Company Service Provides and have thus been omitted from our response.

Questions 44-48 concern financial institutions and crypto assets and have thus been omitted from our response.

Question 49: Does the proposal to make these trusts that acquired UK land before 6 October 2020 register on TRS cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

46. We do not think there will be any negative unintended consequences from our perspective. Propertymark agrees with proposals to make trusts that acquired UK land before 6 October 2020 register on the Trust Registration Service (TRS). As long as the register is freely and easily available, this could prove a useful resource for agents to identify beneficial owners when conducting their customer due diligence checks.

Question 50: Does the proposal to change the TRS data sharing rules to include these trusts cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

47. We do not think there will be any negative unintended consequences for the reasons shared in our response to question 49.

Question 51: Do the proposals to exclude these trusts for two years from the date of death cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

48. Yes, while we accept that the risk of money laundering and terrorist financing is low, the exclusion of the trust from being registered with the TRS for two years will make it more difficult for property agents to verify the identity of beneficial owners and trustees once the trust is created by deed of variation. This would have the significant consequence of leaving the estate vulnerable to be sold by criminals or even one owner if the property is owned by multiple beneficiaries. This is because the full details as to the ownership of the estate would not be freely available, which could make it easier for any criminal to falsify their ownership of the estate. Registration on the TRS would help to agents to clarify ownership of the estate, making it more difficult for criminals to falsify their ownership.

Question 52: Does the proposal to exclude Scottish survivorship destination trusts cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

49. We disagree with the proposals to exclude Scottish survivorship destination trusts from TRS registration for the same reason as detailed in our answer to question 51.

Question 53: Does the proposal to create a de minimis level for registration cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

50. Yes, establishing a de minimis level for registration may help to hide trusts that are intending to launder money through a high-value property transaction, using the de minimis to hide the beneficial owner of the property to undermine customer due diligence. For example, a criminal or individual facing sanctions could launder money through the trust. Since the trust is not registered, there would be no way for the estate agent carrying out customer due diligence to identify that said individual is connected or a member of the trust. Additionally, very little detail about the trust would be difficult to verify. This would only be made apparent after the property transaction, when the trust registers with TRS. As a consequence, we would recommend issuing guidance for estate agents that engaging with trusts that are not registered should be considered a red flag and qualify for enhanced customer due diligence. Alternatively, we would caution against the de minimis rule.

Question 54: Do you have any views on the proposed de minimis criteria?

51. We agree that, if a de minimis rule is established, the current criteria is reasonable.

Question 55: Do you have any proposals regarding what controls could be put in place to ensure that there is no opportunity to use the de minimis exemption to evade registration on TRS?

52. We would welcome the following three controls to be put in place. Firstly, a limit on the number of trusts that someone can be part of without registering. Secondly, exemptions for Politically Exposed Persons. Thirdly, exemptions for those who have been convicted of any offence related to economic crime from the de minimis rule.