



Joint Money Laundering Steering Group Consultation – ‘Guidance on Pooled Client Accounts’

**A response by
The Chartered Institute of Legal Executives**

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1. Introduction

- 1.1. The Chartered Institute of Legal Executives (CILEx) is the professional association and governing body for Chartered Legal Executive lawyers, other legal practitioners and paralegals. CILEx represents around 20,000 members, which includes approximately 7,500 fully qualified Chartered Legal Executive lawyers.
- 1.2. CILEx is the Professional Body Supervisor (PBS) listed in the Money Laundering Regulations 2017 for Chartered Legal Executives in England and Wales. CILEx has, however, delegated the responsibility of the application of money laundering-related rules to its independent regulator CILEx Regulation Ltd (CRL).
- 1.3. This is because CILEx is a designated Approved Regulator under the Legal Services Act 2007. A requirement under the Legal Services Act 2007 is to ensure that representation and regulatory matters are separated so that regulation can be carried out independently. CILEx Regulation is the independent regulator of members of CILEx, those who are not members, but who are authorised to undertake reserved legal activities, and who do so in their own entities.
- 1.4. Although CILEx is also a member of the AML Legal Sector Affinity Group and the AML Supervisors Forum, it is therefore CRL who actually regulates authorised entities and a small number of individuals working as sole practitioners who are supervised for money laundering compliance. CILEx's comments here are therefore limited to the likely impact on its members in practice rather than the underlying regulatory arrangements which are CRL's domain.
- 1.5. CILEx is keen to continue to highlight these regulatory arrangements and the practical consequences which apply to us, and other Supervisory Authorities in the legal sector, through the Legal Services Act, as well as the regulatory approach and its prevailing direction in the sector. The Professional Body

Supervisors (PBSs) vary in structure, size of regulated community and modus operandi, as reflects their relative size and actual level of regulatory risk.

2. General points

- 2.1. CILEx appreciates the good sense in having clear guidance in place that supports the operation of pooled client accounts (PCAs) which enables the prevention of money laundering activity in a way that is proportionate to the assessed level of risk.
- 2.2. However, CILEx is keen that this does not create an excessive or disproportionate regulatory burden on those regulated. This is a particular risk in this scenario where there are a number of regulatory parties at play: CRL, as legal services regulator rather than a financial one, is supervising/regulating its community for financial issues associated with anti-money-laundering; as well as this, that community is also subject to CRL's Accounts Rules; the financial institutions/banks involved in creation and maintenance of accounts for its clients will, of course, also be subject to supervision by its AML supervisor¹.
- 2.3. This consultation would therefore, we believe, have benefitted either from a clear presentation of that greater context and/or actual discussion between all these parties, facilitated by the JMLSG. This would have ensured mutual understanding of the respective supervision and due diligence practices respectively undertaken and, potentially, identified opportunities for partnership working which would make a proportionate approach more likely and mitigate the risk possible heavy or even double-regulation.
- 2.4. In fact, CILEx believes that, without enabling this shared understanding, there is a risk that it will appear to practitioners that they have imposed upon them a virtually second set of supervisory requirements by a second AML supervisor. Whilst enhanced supervisory requirements may be appropriate in some

¹ The FCA

circumstances, it will not be the case for most and many of the measures the guidance recommends should be undertaken, we believe CILEx practitioners will already be doing as part of their CRL supervision requirements.

Potentially, the banks themselves may be unsighted on the details of that in much the same way that the legal services sector will lack the detailed knowledge of the banks' processes. Following on from this...

3. Specific Points

Purpose and Risk Assessment

- 3.1. That the banks will want assurance and clarity that firms will understand and document the purpose and content of PCAs is accepted but, as mentioned earlier, it is not clear what checks are made or information is currently gathered by the banks now. It may be that the processes CILEx members are currently required to undertake meet those requirements already.
- 3.2. Similarly, information as to what the banks currently do now in relation to their checks and CDD would be helpful in understanding the extent to which (or not) that CRL's current risk assessment requirements are appropriate or in need of enhancement. This is particularly the case when bearing in mind that there will be a good proportion of activity which does not engage the Money Laundering Regulations.

Written Agreement

- 3.3. The requirements referenced in the 'written agreement' section has potential to become burdensome on firms. Whilst the guidance talks about its application in a manner that is proportionate to risk, this would again benefit from discussion and shared understanding to ensure that that assessment is at a level that is objectively acceptable to all parties.

4. End Points

- 4.1 CILEx recognises the need and potential benefit in having clear guidance in place that supports the operation of pooled client accounts (PCAs) which enables the prevention of money laundering activity in a way that is proportionate to the assessed level of risk.
- 4.2 However, we believe that the guidance would have benefitted from pre-discussion, could encourage better levels of shared understanding and promote partnership working. This may also improve the guidance content which could, for example, be enhanced by the inclusion of agreed scenario examples which would acknowledge and differentiate the content from what each respective supervisor (legal and financial) requires and thus mitigate the risk that they are requirements of an additional supervisor.

For further details

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further
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