

# Transposition of the Fifth Money Laundering Directive

Response from the BSA

Restricted  
10 June 2019



 Building  
Societies  
Association

The Building Societies Association is pleased to submit our response to the HM Consultation transposition of the Fifth Money laundering Directive (5MLD).

The Building Societies Association (BSA) represents all 43 UK building societies, as well as 5 credit unions. Building societies have total assets of £415 billion and, together with their subsidiaries, hold residential mortgages almost £330 billion, 23% of the total outstanding in the UK. They hold over £280 billion of retail deposits, accounting for 19% of all such deposits in the UK. Building societies account for 37% of all cash ISA balances. They employ approximately 42,500 full and part-time staff and operate through approximately 1,470 branches.

This response has been put forward based on feedback from BSA members and we would like to thank the building societies and credit unions that have contributed views and evidence to this consultation.

## Summary

- We support the proposals to extend the scope of AML regulation to address potential loopholes for laundered proceeds of crime but we are not in a position to comment on how this should work in practice for those sectors – except for letting agents where a BSA member with a letting agency as part of their service offering has submitted some comments.
- On customer due diligence an electronic ID, our strong preference would be for clarification via regulation rather than via guidance. Secure and independently verifiable electronic ID to provide online access to a range of services has so many potential benefits applicable to a range of public and private sectors of the UK economy that clarification of the basic process / standards required should come from Government and should be at a suitable level that can be adapted across a wide range of sectors. This will provide the credibility and consistency of approach that is so important for both organisations and consumers in wider adoption of digital ID.

We support extending CDD requirements to verify the identity of senior managing officials when the customer is a body corporate and the beneficial owner cannot be identified but on a risk-based approach.

- We are broadly supportive of the proposals on beneficial ownership of Obligated Entities as it will drive a consistent approach across the industry. It does, however, place pressure on a service that is known to have data quality challenges.
- We agree with the outlined approach on politically exposed persons / prominent public functions.
- We fully support the requirement for information on Obligated Entities held within Companies House to be accurate and have appropriate governance to assure this; however the consultation's proposed approach could have the effect of making the users of this data the means to try and enforce this. Additionally, it is unclear how the reported discrepancies would be validated. Without governance in this space the risk is that these changes may provide little benefit, or result in incorrect updates being made. For this to work, the 'bespoke reporting mechanism' would need to be simple, and not time consuming for firms to submit a report.
- we agree that building society accounts should be included in the register as their exclusion could incentivise the misuse of these accounts. But, the functionality of many

building society / credit union accounts is savings-based and limited in comparison to bank accounts and so could have much reduced value to law enforcement. Therefore, we would recommend an approach where the bank account register is proportionate in nature and excludes accounts that have limited payment functionality and/or are held as savings accounts.

- The cost to building societies / credit unions to generate and submit a weekly report and provide this information securely could be considerable – one larger building society has estimated that cost (including set up costs) “could be in excess of £500k” – assuming that the cost of setting up the register is funded by Government. If there are plans for an alternative funding model we would need details of that model before being able to assess the cost implications for our sector.
- We broadly agree with the consultation proposals on scope of information – though not all building society accounts will have passport, NI number etc. attached – and access to information included on the register.
- Feedback from BSA members is that a weekly update would be an acceptable compromise between keeping the register up to date for law enforcement to be able to access up to date data when needed with the costs of supplying that data. We recognise that the register will only be effective as a tool against terrorism or crime if it is as up to date as possible. But, a lot will depend on the capacity and capability of the organisation managing the national register to handle updates and the service levels that are set for updating the register will be as much as a driver in decisions on method and frequency of data submission than firm’s capability to supply updates.

### **UK approach to implementation of 5MLD**

This consultation states that “*The government intends that the new provisions will come into force in national law by 10 January 2020, in line with Article 4 of 5MLD*”. This is a reasonable objective from our point of view though obviously subject to matters beyond usual control.

For our members, and indeed all other stakeholders across the UK public and private sectors, the key question is the length of the timetable between transposition into UK law and the start of full compliance with all the measures proposed. We would prefer a long – possibly phased - implementation period. There is a substantial amount of work for the UK to do – including Government, regulators and individual firms – before we will be ready for full compliance:

- Service providers in areas coming under the cope of AML regulation for the first time – and their regulators – will need time to set up and test appropriate AML systems and controls and supervision arrangements.
- Creating a national bank account register for the UK is a massively complex undertaking in itself. Given that it will hold so much sensitive personal data and therefore requires the highest security regime it is vitally important that this project is given an appropriate timescale for delivery including ample time to set up and test thoroughly operational systems and processes and governance, data transfer, information security, operational resilience, access control and cyber resilience arrangements.
- Building societies and others will need time to prepare internal systems and controls to be able to supply the register with appropriate data updates – though starting that

work is dependent on decisions made elsewhere. The shorter the implementation timetable the greater the cost and opportunity cost impact will be – particularly for smaller firms where it will be disproportionately higher.

- All stakeholders – Government included – will be balancing implementation of 5MLD with other priorities, known and unknown.
- We fully support the requirement for information held within Companies House to be accurate and have appropriate governance to assure this; however the proposed approach could have the effect of making the users of this data the means to try and enforce this. Additionally, it is unclear how the reported discrepancies would be validated. Without governance in this space the risk is that these changes may provide little benefit, or result in incorrect updates being made. For this to work, the ‘bespoke reporting mechanism’ would need to be simple, and not time consuming for firms to submit a report.
- We agree that building society accounts should be included in a UK national register of bank accounts as their exclusion could incentivise the misuse of these accounts. But, the functionality of many building society / credit union accounts is savings-based and limited in comparison to bank accounts and so could have much reduced value to law enforcement. Therefore, we would recommend an approach where the bank account register is proportionate in nature and excludes accounts that have limited payment functionality and/or are held as savings accounts.

We note that the timetable for implementation of 4MLD in the UK was impaired by the 2017 General Election - which prevented HM Treasury, FCA and other stakeholders from being able to complete guidance for firms within the envisaged timetable. It seems to us that, in the present political climate, a similar interruption is highly likely and that any proposed timetable should take this risk into account.

## **Responses to specific consultation questions**

### **Expanding the scope in relation to tax matters/ electronic money / crypto-assets / art intermediaries**

We agree that all of the above services should be included within scope so as to address potential loopholes for laundered proceeds of crime but we are not in a position to comment on how this should work in practice for those sectors.

### **Letting agents**

The following comments come from a BSA member that includes a letting agency as part of its subsidiaries:

*4. What are your views on the ML/TF risks within the letting agents sector? What are your views on the risks in the private landlord sector, especially comparing landlord-tenant to agent-landlord-tenant relationships? Please explain your reasons and provide evidence where possible.*

Within the Society, agents are treated the same as private customers and as such, have the same CDD requirements. We do not see a difference in the risks

We see the following general potential risks as linked with money laundering / terrorism financing:

- Overseas landlords (require EDD and are subject to country assessments)
- Lettings have less known Source of Funds
- There is a risk of unknown sublets
- Drugs/slaves/chemicals etc. in property if unchecked
- Risk –in cash rent payments
- Single bank account rent when number of tenants in property

*5. What other types of lettings activity exist? What activities do you think should be included or excluded in the definition of letting agency activity? Please explain your reasons and provide evidence where possible.*

We think the following should be included: Residential, Commercial Property, Corporates.  
Excluded: Non housing act tenancies (e.g. Short term holiday lets)

*6. Should the government choose a monthly rent threshold lower than EUR 10,000 for letting agents? What would the impact be, including costs and benefits, of a lower threshold? Should the threshold be set in euros or sterling? Please explain your reasoning.*

It is doubtful this would affect the Society. We are unsure if a limit should be set as it could lead to us seeing rents paid of €9,999 instead to avoid the extra checks. It is felt if there is a threshold, this should be set in sterling rather than Euros for UK rental contracts.. If payments are over the threshold, EDD should be applied rather than CDD.

*7. Do letting agents carry out CDD checks on both contracting parties (tenants and landlords) when acting as estate agents in a transaction?*

The Society does carry out CDD on both contracting parties.

*8. The government would welcome views on whom CDD should be carried out and by what point? Should CDD be carried out before a relevant transaction takes place (if so, what transaction) or before a business relationship has been established? Please explain your reasoning.*

The Society carries out CDD before on boarding (looking for Sanctions etc.) and before any potentially suspicious transactions.

*9. The default supervisor of relevant letting agents will be HMRC, but professional bodies can apply to OPBAS to be a professional body supervisor. Are you a member of a professional body, and would this body be an appropriate supervisor? If this body would be an appropriate supervisor, please state which professional body you are referring to.*

We feel the supervisor should be either HMRC or the FCA. There are also a number of other supervisors to consider: ARLA Property Mark (Acc of Residential Letting Agent) and NAEA (National Acc of EA)

*10. What do you see as the main monetary and non-monetary costs to your business of complying with the MLRs (e.g. carrying out CDD, training staff etc.)? Please provide figures (even if estimates) if possible.*

The Society already conducts CDD so there would be no additional costs in this area. The only additional costs we can see would be in potential fees (HMRC, TPO).

*11. Should the government extend approval checks under regulation 26 of the MLRs to letting agents? Should there be a “transition period” to give the supervisor and businesses time to complete approval checks of the appropriate existing persons (beneficial owners, managers and officers)?*

Yes, we feel it should be the equivalent of Estate Agencies.

*12. Is there anything else that government should consider in relation to including letting agents under the MLRs?*

Other things the Society thinks that should be considered are: Non-traditional lettings (disguised lettings, sub lettings, hotel rents, long term hotel lets, Airbnb etc., storage facilities, driveway, garages, moorings)

### **Customer due diligence**

*44. Is there a need for additional clarification in the regulations as to what constitutes “secure” electronic identification processes, or can additional details be set out in guidance?*

Our strong preference would be for clarification via regulation rather than via guidance. Secure and independently verifiable electronic ID to provide online access to a range of services has so many potential benefits applicable to a range of public and private sectors of the UK economy that clarification of the basic process / standards required should come from Government and should be at a suitable level that can be adapted across a wide range of sectors. This will provide the credibility and consistency of approach that is so important for both organisations and consumers in wider adoption of digital ID.

Government is also the right overseer for issues around exclusion from digital ID –enabled services due to lack of digital profile etc. – another theme that will cross all sectors wanting to invest in digital ID.

We note that where existing guidance works best it is usually because Government have some role in supporting it – for example, JMLSG anti-money laundering guidance is known to be endorsed by HM Treasury. Guidance also works best when it is sector-specific whereas digital ID needs basic requirements on secure identification standards / processes that have cross-sector application at this stage. The Government has already laid the groundwork for this.

*45 Do you agree that standards on an electronic identification process set out in Treasury-approved guidance would constitute implicit recognition, approval or acceptance by a national competent authority?*

We do not agree – it would be better if Government explicitly set standards for digital ID.

Joint Money Laundering Steering Group (JMLSG) guidance would be a particularly inappropriate route for issuing standards on an electronic identification process:

- JMLSG guidance is designed to cover the financial services sector only – and is approved by HM Treasury on that basis. While current guidance is heavily referenced by other regulators and firms in the AML regulated sector it has to be adapted by each sector to cover their specific AML risk profile.

- It would be inappropriate to expect JMLSG to create guidance for other regulated sectors and JMLSG doesn't have the relevant experience to work outside of financial services.
- It would be even more so for them to create guidance on electronic ID standards that will apply to non-AML-regulated sectors who are looking to capitalise on the availability of electronic ID such as retailing, online retailing, the NHS, local government and Government itself.

For the same reason, it would be inappropriate for any particular sector regulator such as the FCA to provide guidance on electronic ID outside of the context of its own sector.

*46 Is this change likely to encourage firms to make more use of electronic means of identification? If so, is this likely to lead to savings for financial institutions when compared to traditional customer on-boarding? Are there any additional measures government could introduce to further encourage the use of electronic means of identification?*

If Government were to be able to provide clarification on the standards of electronic ID that Government considers to be independent and verifiable as required by the 5<sup>th</sup> Money Laundering Directive and other regulation this would remove a significant barrier to greater use of electronic ID by financial services.

Most building societies still do new account opening via a branch with electronic ID as a back up check rather than a replacement for traditional document-based ID verification so there would not be any particular savings to be made. However, building societies and others who open new accounts via remote channels could make significant savings by greater use of sanctioned electronic ID.

*47 To what extent would removing 'reasonable measures' from regulation 28(3)(b) and (4)(c) be a substantial change? If so, would it create any risks or have significant unintended consequences?*

Feedback from a BSA member - *Either way the regulation is quite subjective. Without a view being provided through JMLSG on the right steps to take in order to 'understand the ownership and control structure', my view would be that it is still a subjective statement measured by individuals' view separate views of what it means to 'understand'. Further guidance is required to drive consistency in this area.*

*48 Do you have any views on extending CDD requirements to verify the identity of senior managing officials when the customer is a body corporate and the beneficial owner cannot be identified? What would be the impact of this additional requirement?*

If the ultimate beneficial owner cannot be identified there would be a case extending CDD - depending on the reasons why they cannot be found, though this would generate more complexity into an already complex area of the regulation. However if this could be applied using a risk based approach, we would be supportive of this. Bringing in this requirement would support the proposal for the central register, and also the direction of trying to improve the quality of Companies House records. It would do this by promoting the verification of the senior managers where there is an increased level of inherent risk associated with the body corporate. Adopting an RBA would also help firms to manage the operational and commercial costs associated.

The impact of extending CDD requirements would be additional cost and delay for the building society / bank concerned. In practice, building societies' UK retail focus means that they have limited relationships with corporate bodies where the ultimate beneficial owner is not relatively easy to identify so the actual impact on our sector would be small. It is likely to be much more significant for other banking sectors.

*49 Do related ML/TF risks justify introducing an explicit CDD requirement for relevant persons to understand the ownership and control structure of customers? To what extent do you already gather this information as part of CDD obligations?*

There are already regulations around identifying UBO and making this more explicit would help. This would also help with customer expectations in that transparency in providing material to allow verification of the ultimate business owner would become standard business practice in order to minimise delay.

*50 Do respondents agree we should clarify that the requirements of regulation 31 extend to when the additional CDD measures in regulation 29 and the EDD measures in regulations 33-35 cannot be applied?*

Yes –we agree that this should extend to where EDD can't be sufficiently completed. There is more subjectivity to EDD so it is important to make this distinction. There may be a need to take a different approach on a new relationship, compared to an existing relationship. The application of EDD on an existing relationship may be triggered by something other than the customer risk assessment as part of CDD; for this reason it is important that firms are able to apply some level of discretion around how they apply these requirements.

*51 How do respondents believe extending regulation 31 to include when EDD measures cannot be applied could be reflected in the regulations? 52 Do respondents agree the requirements of regulation 31 should not be extended to the EDD measures which already have their own 'in-built' follow up actions?*

It is important that firms get some discretion on how this is applied, using a sensible RBA, for example, based on the materiality of the EDD that is unable to be completed, as long as the firm has completed CDD records in place to satisfy regulation 28 it may not be necessary to cease transactions.

### **Obligated entities: beneficial ownership requirements**

*53 Do respondents agree with the envisaged approach for obliged entities checking registers, as set out in this chapter (for companies) and chapter 9 (for trusts)?*

We are broadly supportive of this approach. It will drive a consistent approach across the industry. It does, however, place pressure on a service that is known to have data quality challenges. BSA members have also asked for information of a more practical nature on the registers;

- Who will look after the registers?
- Is it open access or requires subscription?
- How secure are they?
- How often to update?
- Timescale for it being set up and for firms to do checks against them?

*54 Do you have any views on the government's interpretation of the scope of 'legal duty'? 55 Do you have any comments regarding the envisaged approach on requiring ongoing CDD?*

We have no comments on the above questions.

### **Enhanced due diligence**

*56 Are there any key issues that the government should consider when defining what constitutes a business relationship or transaction involving a high-risk third country?*

While some BSA members are content that this is fairly well defined in the current regulations others have suggested greater clarity on some areas is required:

- The term 'transaction' needs to be defined (cash, crypto, rent, FP etc.)
- How many steps are meant by 'involving'
- The point at which the business relationship commences
- High risk country list – this list should be stated as to which open to review
- Also defining of the word 'involving': e.g. Where the transaction is involved, where mobile phones are registered etc.

*57 Are there any other views that the government should consider when transposing these Enhanced Due Diligence measures to ensure that they are proportionate and effective in combatting money laundering and terrorist financing?*

We have no comment on the above questions – building societies are UK-based and UK-focussed for their business so interaction with counterparties in high-risk third countries is rare.

*58 Do related ML/TF risks justify introducing 'beneficiary of a life insurance policy' as a relevant risk factor in regulation 33(6)? To what extent is greater clarity on relevant risk factors for applying EDD beneficial?*

We have no comments on this specialist area.

### **Politically exposed persons: prominent public functions**

*59 Do you agree that the UK functions identified in the FCA's existing guidance on PEPs, and restated above, are the UK functions that should be treated as prominent public functions?*

We agree that the UK functions identified by the FCA should be treated as prominent public functions.

*60 Do you agree with the government's envisaged approach to requesting UK-headquartered intergovernmental organisations to issue and keep up to date a list of prominent public functions within their organisation?*

We support this approach.

### **Mechanisms to report discrepancies in beneficial ownership information**

*61 Do you have any views on the proposal to require obliged entities to directly inform Companies House of any discrepancies between the beneficial ownership information they hold, and information held on the public register at Companies House?*

We fully support the requirement for information held within Companies House to be accurate and have appropriate governance to assure this; however the proposed approach could have the effect of making the users of this data the means to try and enforce this. Additionally, it is unclear how the reported discrepancies would be validated. Without governance in this space the risk is that these changes may provide little benefit, or result in incorrect updates being made. For this to work, the ‘bespoke reporting mechanism’ would need to be simple, and not time consuming for firms to submit a report.

This could add effort into a CDD process that is already quite time consuming. In particular, when discrepancies are found, what do institutions do in the meantime while CH are looking into it? Do they contact the customer/companies and tell them that there are discrepancies? Do the institutions get feedback once CH has concluded their investigation and how long will these take? ‘Are obliged entities required to proactively check for discrepancies?’

The scope of “discrepancies” also needs clarification – for example, is a difference in spelling a material discrepancy?

*62 Do you have any views on the proposal to require competent authorities to directly inform Companies House of any discrepancies between the beneficial ownership information they hold, and information held on the public register at Companies House?*

We agree that this could be useful, the extent of this would rely on the timeliness of the communication and updates to ensure Companies House maintain accurate data. Additionally, effective governance is required over the original reports of discrepancies to ensure these are true and not malicious.

*63 How should discrepancies in beneficial ownership information be handled and resolved, and would a public warning on the register be appropriate? Could this create tipping off issues?*

As long as there is no reference to any links to AML investigation within the warning, tipping off risk could be limited. Companies House could manage this risk with a generic communication around ongoing identification of discrepancies. With this approach we do not see how highlighting these records could:

- A. Alert the individual to an ongoing AML investigation; or
- B. Prejudice such investigation.

### **Trust registration service**

We have no comments on this area.

### **National register of bank account ownership**

82 Do you agree with, or have any comments upon, the envisaged minimum scope of application of the national register of bank account ownership?

A national register of bank account ownership will represent a substantial amount of personal data on almost all data subjects in the United Kingdom. While the benefits of being able to cross reference account and beneficiary information represents an opportunity to identify criminal assets across all providers there are likely to be privacy concerns on the amount of data being held and processed ‘in case’ of financial crime, and whether that is a proportional approach. The register is required to hold and be searchable by “persons purporting to act on

behalf of the customer” – feasibly this could be data subject that we have not given a privacy notice to, and would not be aware that their data is being processed in this manner.

Given the nature of the personal data being shared security in transmission and also in storage needs to be a primary focus – the register would be a prime target for cyber-crime.

If some providers were out of scope of the register, this might incentivise misuse as a way of avoiding assets being identified on the central register. That the register definition is restricted to payment accounts may also provide an opportunity for other account types to be targeted for misuse. For that reason, we agree that building society accounts should be included in the register as their exclusion could incentivise the misuse of these accounts.

But, the functionality of many building society / credit union accounts is savings-based and limited in comparison to bank accounts and so could have much reduced value to law enforcement. Therefore, we would recommend an approach where the bank account register is proportionate in nature and excludes accounts that have limited payment functionality and/or are held as savings accounts.

*83 Can you provide any evidence of the benefits to law enforcement authorities, or of the additional costs to firms, that would follow from credit cards and/or prepaid cards issued by e-money firms; and/or accounts issued by credit unions and building societies that are not identifiable by IBAN, being in scope of the national register of bank account ownership?*

We cannot provide any direct evidence to law enforcement of credit cards / prepaid cards / non-IBAN accounts within a national register – though we recognise the importance of quickly available terrorism financing intelligence in investigating actual / potential terrorist activity.

The cost to building societies / credit unions to generate and submit a weekly report and provide this information securely could be considerable – one larger building society has estimated that cost (including set up costs) “could be in excess of £500k”

If an API based model is chosen, the costs will be cheaper for those societies that have already built the PSD2/TPP infrastructure that this would need. Most building societies / credit unions have simpler savings products so have not needed to invest in PSD2/TPP - there may not be the skills or resource within a smaller provider to build the required technology, which will add cost as they recruit or go external for expert resource in order to comply. That cost could be significant were a large number of building societies, banks, credit card providers etc. to have to compete for a limited pool of expert resource to meet a challenging timetable.

*84 Do you agree with, or have any comments upon, the envisaged scope of information to be included on the national register of bank account ownership, across different categories of account/product?*

The scope of information is reasonable, however, as referenced above, the proportionality of it being available on all accounts should be considered.

For example, building societies / credit unions don't always hold passport information or National Insurance Numbers, and for some instances of historic and dormant accounts, may not hold the date of birth so the proposals to include unique identifiers such as passport

numbers and/or national insurance numbers for natural persons has practical implications as follows:

- Use of passport numbers would be impractical as they are not universally held.
- Currently (other than for ISA's) building societies don't collect National Insurance Numbers per-se.
- A requirement to collect either of these for all individuals (whether account holders or beneficial owners) would involve changes to account on-boarding processes, and would involve systems changes. Would there also be an expectation to collect this information retrospectively? If so, the scale and cost of this change could be significant.

Clarification is needed on one aspect of account ownership not covered in this consultation – what would be the requirement where an attorney, Court of Protection Deputy etc. has been added to the account to run the affairs of the natural account holder?

*85 Do you agree with, or have any comments upon, the envisaged approach to access to information included on the national register of bank account ownership?*

We broadly agree with the consultation proposals on access to information included on the register

One concern that BSA members have raised is that this information will be available to FIUs without need for a court order to access it - and while those searching the register have to give a reason for their access but it is unclear what, if any, governance will be put in place around use and preventing misuse of data.

*86 Do you have any additional comments on the envisaged approach to establishing the national register of bank account ownership, including particularly on the likely costs of submitting information to the register, or of its benefits to law enforcement authorities?*

This is difficult to answer without full knowledge of plans for funding the set up and ongoing operation of the national bank account register. On the assumption that the register will be funded by Government, costs for building societies are set out in Q83.

If there are plans for an alternative funding model we would need details of that model before being able to assess the cost implications for our sector.

*87 Do you agree with, or have any comments upon, the envisaged frequency with which firms will be required to update information contained on the register? Do you have any comments on the advantages/disadvantages of the register being established via a 'submission' mechanism, rather than as a 'retrieval' mechanism?*

Feedback from BSA members is that a weekly update would be an acceptable compromise between keeping the register up to date for law enforcement to be able to access up to date data when needed with the costs of supplying that data. We recognise that the register will only be effective as a tool against terrorism or crime if it is as up to date as possible.

We also recognise that a lot will depend on the capacity and capability of the organisation managing the national register to handle updates and the service levels that are set for

updating the register will be as much as a driver in decisions on method and frequency of data submission than firm's capability to supply updates.

See Q.83 for the advantages and disadvantages of submission vs. retrieval. Given the diversity of business models and banking arrangements within UK financial services, we believe it likely that the register would have to deal with a mixture of submission and retrieval at launch.

### **Other changes required by 5MLD**

*89 Are you content that the existing powers for FIUs and competent authorities to access information on owners of real estate satisfies the requirements in Article 32b of 4MLD as amended?*

We have no comments to make on this subject.

*90 Are you content that the government's existing approach to protecting whistle-blowers satisfies the requirements in Article 38 of 4MLD as amended?*

We support the Government's existing approach.

### **Pooled client accounts**

We have no comments on this area. The practicalities of administering pooled client account versus requirements to grant building society membership to individual savings account holders make this an inappropriate service for building societies to provide.

### **Additional technical amendments to the MLRs**

*94 Do you agree with our proposed changes to enforcement powers under regulations 25 & 60?*

We agree with these changes.

*95 Do you agree with our proposed amendment to the definition of "officer"?*

We would like further definition of the term "manager" which has a wide application across building societies – for example, would a building society branch or call centre manager be a "manager" under the amended definition. It would make sense for the definition to be restricted to senior positions – perhaps linked to roles identified by the PRA / FCA Senior Management Regime for firms that they regulate.

*96 Do you agree with our proposed changes to information-sharing powers of regulations 51,52?*

We agree with this proposal.

*97 Do you have any views on this proposed new requirement to cooperate?*

We agree with this proposal.

*98 Do you agree with our proposed changes to regulations 56? 99 Does your sector have networks of principals, agents and sub-agents?*

The building society sector uses agencies – firms that host and man basic account transaction facilities on their premises – and mortgage intermediaries – firms that introduce mortgage business to societies from their client base. We are uncertain as to whether other would be considered an “Agent” under regulation 56 and more clarification would be useful.

*100 Do complex network structures result in those who deliver the business to customers not being subject to the training requirements under the MLRs?*

Both agencies and mortgage intermediaries are integrated into building societies’ AML policy and procedures – the building society has ultimate responsibility for their compliance with these.

*101 Do complex network structures result in the principal only satisfying himself or herself about the fitness and propriety of the owners, officers and managers of his or her directly contracted agents, and not extending this to sub-agents delivering the business?*

Building societies do not use sub-agents for delivering business to customers.

*102 If you operate a network of agents, do you already provide the relevant training to employees? Do you ensure the agents who deliver the service of your regulated business are ‘fit and proper’?*

Building societies already provide relevant AML training to their agencies and availability of personnel for regular AML training will be part of the agency agreement.

*103 What would be the costs and benefits to your business of the regulations clarifying intention to extend requirements to layers of agents and subagents?*

For building societies, costs should be unchanged.

*104 Do the proposed requirements sufficiently mitigate the risk of criminals acting in regulated roles?*

We have no comment on this question.

*105 Should regulation 19(4)(c) be amended to explicitly require financial institutions to undertake risk assessments prior to the launch or use of new products, new business practices and delivery mechanisms? Would this change impose any additional burdens?*

AML risk assessments as part of development of new products, business practices, delivery mechanisms etc. are already common practice within the building society sector.

*106 Should regulation 20(1)(b) be amended to specifically require relevant persons to have policies relating to the provision of customer, account and transaction information from branches and subsidiaries of financial groups? What additional benefits or costs would this entail?*

We agree with this proposal – it should already be in place where building societies and other FCA regulated firms have subsidiaries providing services generating potential AML risk.

## **Heading 2**

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By James O'Sullivan  
Policy Manager  
james.osullivan@bsa.org.uk  
02075205916

York House  
23 Kingsway  
London WC2B 6UJ

020 7520 5900  
@BSABuildingSocs  
www.bsa.org.uk

BSA EU Transparency Register No: 924933110421-64

[www.bsa.org.uk](http://www.bsa.org.uk)

The Building Societies Association (BSA) is the voice of the UK's building societies and also represents a number of credit unions.

We fulfil two key roles. We provide our members with information to help them run their businesses. We also represent their interests to audiences including the Financial Conduct Authority, Prudential Regulation Authority and other regulators, the Government and Parliament, the Bank of England, the media and other opinion formers, and the general public.

Our members have total assets of over £400 billion, and account for 23% of the UK mortgage market and 19% of the UK savings market.