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**ANTI-MONEY LAUNDERING: How will the upcoming changes affect estate agents**

Even though it has not been that long ago that the Fourth Money Laundering Directive was implemented into national law around the European Union, the European Parliament announced back in April 2018 that it adopted the Fifth Money Laundering Directive (5AMLD), with the final text published in June 2018. The UK, along with other EU members were given 18 months to transpose the Fifth Directive into national law meaning we should see changes come into play in January 2020. Regardless of whether the UK is within the EU or in an agreed transitional period, it will need to implement the new Directive.

The Guild’s Compliance Manager, Paul Offley, discussed the matter with the Head of Sales at Credas, Nick Huntley, and what the upcoming changes to Anti-Money Laundering regulations could mean for estate agents.

**Understanding 5AMLD means looking at 4AMLD**

According to Huntley, the Fifth Directive enhances the requirements set out in the Fourth Directive, rather than providing an extensive set of changes so agents need to be familiar with the current requirements of the Fourth Directive if they want to ensure they are compliant and ready for the additional obligations the Fifth will bring. Agents have until January 2020 to ensure they have the processes in place to be compliant.

**Lettings agency**

While 4AMLD had considerably tightened up the regimes for estate agency, lettings agency was left reasonably out of scope. “To a large extent everybody thought lettings hasn’t been affected by the money laundering legislation. The Right to Rent rules required agents capture ID, however, not much else. While the Fifth Directive will not bring all lettings agency into the regime it will focus on landlords who are earning over €10,000 per month, which equates to around £8,858,” Huntley explains.

He adds the checks will also apply to tenants who wish to rent high-value property rentals. If a rental property is over the €10,000 threshold both the landlord and the tenant will be subject to AML checks. “While this will have a big impact on the high-value lettings market, it is important to remember that it is the accumulative amount that the landlord earns per month, so regardless of whether the landlord is earning over €10,000 from one property or a portfolio of properties the AML checks will apply,” adds Huntley.

**Enhanced due diligence**

For some agents, the Fifth Directive will involve a considerable amount of extra effort as they will not only have to consider the identity of the tenants but also get evidence of the source of the funds being used to pay the rental. Another consideration will be whether the tenant is a Politically Exposed Person (PEP) who may have obtained funds illicitly as a result of their position.

**Ultimate beneficial ownership**

For agents who are dealing with trusts or companies, as many companies or trusts could be landlords or buyers or sellers of property, they will have to carry out checks to understand who the ultimate beneficial owners are within that company or trust. The agent will need to identify the individuals are who have a controlling stake in the company or trust (25% ownership or more) and have open access to the information to any person with a legitimate interest. While it is commonplace for higher value property in the UK to be owned via a trust or company to disguise the identity of the actual owners, under the Fifth Directive this will no longer be possible. Trusts will be required to meet greater transparency obligations. In certain situations where an entity poses a substantial money laundering risk, the 25% threshold for identifying beneficial ownership may be reduced to 10%.

“Currently it is possible to check the owners of a company through Companies House, Credas is currently developing a solution to allow the process of checking companies and the individuals as streamlined as possible, as well as the other checks that need to be done by agents to simplify the process for them,” says Huntley.

According to Offley, the key will be for agents to prepare themselves as much as they can before January 2020 and start implementing processes now that will make the transition and compliance of the new Directive as easy as possible. “Many estate agencies have been fined for non-compliance since the inception of 4AMLD, so it is vital estate agents make it a priority to prepare for the upcoming changes in the new year,” he concludes.

**Editors’ Notes**

**The Guild of Property Professionals (The Guild)**

The Guild is a network of over 800 of the best independent estate agents from across the UK. The Guild is a sign of professional excellence that agents can use to differentiate themselves from their competitors and assure clients that they will act with knowledge and integrity to achieve results, the three core values of The Guild. To allow agents to perform a superior service, The Guild offers marketing, business and technology services to its members.

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