



# **Verification of professional attorneys and trustees**



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## Introduction

The purpose of this paper is to provide a standard for the verification of attorneys and trustees acting in a professional capacity. Private individuals acting personally should be verified in line with firms' risk-based approach.

Professional capacity may be defined as:

- an approved person as defined by the FCA;
- a practising Solicitor/Lawyer authorised by the Law Society of England and Wales or equivalent;
- a practising accountant who is regulated/a member of a professional accountancy body; or
- an appointee of a local authority.

Within the UK, Schedule 1 of *The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017*<sup>1</sup> ('MLR 2017') sets out, at Schedule 1, a list of 22 professional bodies which may be used to simplify the due diligence verification for those acting in professional capacity. However, firms should consider whether both the professional body and the individual is captured adequately under the regulations.

## Verification of Professional attorneys and trustees

When undertaking verification of attorneys or trustees that are either regulated or professional body members, firms should consider if:

- the professional person is captured under MLR2017;
- the attorney or trustee is acting in relation to investment(s) in a lower risk product<sup>2</sup>;
- the customer or beneficial owner the attorney or trustee is acting for presents as a higher risk;
- the customer or beneficial owner the attorney or trustee is acting for is a PEP or a family member or close known associate pursuant to MLR 2017;
- the customer or beneficial owner is physically present in the UK; or
- the professional person holds a number of authorities across multiple accounts<sup>3</sup>

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<sup>1</sup> [http://www.legislation.gov.uk/uksi/2017/692/pdfs/uksi\\_20170692\\_en.pdf](http://www.legislation.gov.uk/uksi/2017/692/pdfs/uksi_20170692_en.pdf) or refer to Schedule 1 appended to this paper

<sup>2</sup> As defined in a firm's risk profiling

<sup>3</sup> Multiple authorities may indicate impersonation risk or other questionable behaviour



- Where the product represents a lower risk, with a firm assessing the parties involved, verification may be established by obtaining evidence of the authority authorising the person to act; and
- verification via the appropriate professional register<sup>4</sup>. For Attorneys who are acting under a General Power of Attorney or Lasting Power of Attorney<sup>5</sup>, verification may be undertaken by referring to the above procedure but only if the firm has an appropriate record of the steps taken to use this method of verification.

Where a third party is working in a professional capacity, but their registered address is also their home address, firms should consider enhancing the due diligence requirement by, for example, making appropriate enquiries with the individual's professional body to establish if the person is duly authorised.

Where a professional individual is acting in their personal capacity, as a trustee for example, identity should be verified consistent with that used for any other private individual<sup>6</sup>.

## Non-standard verification

The verification model above is designed to be used for low risk products and low risk relationships, where considered appropriate.

Where a firm's assessment of a relationship is higher risk, and the professional person is not regulated in the UK, EU or an assessed lower risk jurisdiction, the verification of the professional person should be increased/enhanced, with verification comprising:

- evidence of the regulatory authority authorising the person to act;
- verification via the appropriate professional register; and
- identity and address verification to the standard for a private individual.

Firms may apply the above process to ensure the controller(s) of the assets are verified accordingly and in line with relevant risk. Should there be any doubt, firms should ensure standard CDD is obtained and documented.

If, during the course of a relationship, a firm is required to verify a person categorised as a suitable person but one not captured under MLR 2017, for example, a doctor, carer or similar, firms should apply the standard verification requirements based on risk and in line with JMLSG. Should there be any deviation from standard, this must be clearly documented, with the rationale approved by senior management.

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<sup>4</sup> Where the individual is not captured by a public register, firms should address the risk accordingly

<sup>5</sup> Previously Enduring Power of Attorneys

<sup>6</sup> JMLSG P1 5.3.139



## Payment Risk

On all occasions, where an account is assigned to a professional person, redemption payments should only ever be made in line with a firm's obligations, for example:

- to an account in the name of the legal owner;
- to an account that is, for an example held as "Trustees of John Smith";
- "John Smith on behalf of John Jones"; and
- "John Smith as Attorney for John Jones"

Consideration must also be given to any documents relied upon and the potential that these may be forged. In addition, should documents be presented in a foreign language, appropriate steps must be taken to ensure firms might be reasonably be satisfied that the documents in fact provide evidence of the individual's authority to act. At all times, the services of a professional translation service should be considered, unless firms are able to demonstrate in-house translation capabilities sufficient to address their own governance frameworks.



## Schedule 1

### Professional Bodies

1. Association of Accounting Technicians
2. Association of Chartered Certified Accountants
3. Association of International Accountants
4. Association of Taxation Technicians
5. Chartered Institute of Legal Executives
6. Chartered Institute of Management Accountants
7. Chartered Institute of Taxation
8. Council for Licensed Conveyancers
9. Faculty of Advocates
10. Faculty Office of the Archbishop of Canterbury
11. General Council of the Bar
12. General Council of the Bar of Northern Ireland
13. Insolvency Practitioners Association
14. Institute of Certified Bookkeepers
15. Institute of Chartered Accountants in England and Wales
16. Institute of Chartered Accountants in Ireland
17. Institute of Chartered Accountants of Scotland
18. Institute of Financial Accountants
19. International Association of Bookkeepers
20. Law Society
21. Law Society of Northern Ireland
22. Law Society of Scotland