

Clive Morgan



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Fiona Woolf CBE
President
The Law Society
113 Chancery Lane
London WC2A 1PL



27

June 2007

Dear Fiona

Money Laundering Regulations 2007

Thank you for your letter to me dated 18th June regarding the definition of beneficial ownership. I would like to set out our response to your comments. I would also like to take this opportunity to respond to a letter from the Law Society dated 22nd June regarding Home Information Packs.

On the matter of beneficial ownership I am pleased that both you and STEP agree that the definition provides clarity with regard to the obligations for trusts. This is also the response we received from other stakeholders who we consulted on this matter. You both note, however, that our policy of taking a complete definition of control may lead to unintended consequences by catching beneficiaries who may in certain circumstances act collectively and therefore exercise control under our definition. I agree that such unintended consequences would not be proportionate and therefore I have asked my officials to investigate what can be done to address the three situations you list, either within the Regulations or Treasury approved guidance. My aim would be to keep the principle that control with other persons should be caught, but make any necessary provision to avoid the specific consequences you describe.

You also argue that there is a lack of clarity over the obligation to identify beneficial ownership of companies. Whilst we agree that there may be scope for a more restricted definition of the word "shares", this is not possible without further consultation with other members states, the Commission and other stakeholders. Other member states will also be considering this issue and we would like, where possible, to seek a consistent solution. Further, any definition we provide within our Regulations must be capable of being applied to both UK and foreign companies who will seek the services of persons in the UK regulated sector. We do, however, believe that the current draft is clear that the voting rights must be currently exercisable, not exercisable only if triggered by a future event. We would be happy to confirm this point in guidance submitted for Treasury approval.



On the matter of whether legal professionals preparing home information packs are subject to the Money Laundering Regulations, we do not believe that this activity is subject to the Regulations as the preparation of a HIP is a step that is only assisting in the marketing of a property, not its eventual sale (although that may happen as a consequence). Therefore this activity is not caught by the Regulations and again we would be happy to confirm this point in any guidance submitted for Treasury approval.

As I have written before, industry guidance will be crucial in providing practical assistance to firms on these and other issues. I encourage you to continue to work closely with Treasury and other members of the Money Laundering Advisory Committee in producing guidance for approval later this year.

I hope you find my comments helpful. I would like to thank you for your reassurance that our definition now provides clarity and for your ongoing involvement in this matter.

Yours sincerely, *Ed Balls*

A handwritten signature in black ink, appearing to be "Ed Balls".

ED BALLS MP