

Criminal Finances Act Policy

Scope

This document considers the application of the Criminal Finances Act 2017 to Broadway Leasing Limited and stands as our risk assessment.

Our commitment

We are committed to ensuring that our procedures do not allow staff, suppliers or clients (together associated persons) to engage in the criminal facilitation of tax evasion. This document sits alongside our Anti-Bribery Policy.

Zero tolerance

This policy applies to all directors and all staff without exception. We have a zero tolerance approach to breaches of the Criminal Finances Act. Everyone is required to act with integrity in performing their role. We will use all reasonable endeavours to conduct our business to ensure that no-one engages in or facilitates any form of illegality. We prohibit all forms of corruption.

Reporting

All directors and staff may make confidential reports to the managing director concerning any matters about which they have tax evasion concerns. Reports made in good faith will be treated confidentially and seriously and are encouraged. The managing director is responsible for making reports to the appropriate law enforcement.

The offence in overview

Businesses can be liable for the acts of associated persons if those acts facilitate tax evasion. We are not required to prevent our client's criminal acts; we are required to have procedures in place which avoid us assisting them.

We are liable for failing to prevent criminal acts of employees even if senior management do not know about those acts.

The defence is having reasonable procedures in place and this document sets those out.

The penalty is exposure to unlimited fines, FCA enquiry and sanction and brand risk.

The offence in detail

The offence has three stages:

- The criminal evasion of UK tax
- Criminal facilitation of the offence
- Failure by the firm to prevent facilitation

UK tax evasion offences

- fraudulent evasion of VAT, income tax or NI
- false accounting or
- cheating the public revenue.

Facilitation

A tax evasion facilitation offence will be committed where an associated person

- is knowingly concerned in, or takes steps with a view to, the fraudulent evasion of a tax by another person
- aids, abets, counsels or procures the commission of a UK tax evasion offence by another person or
- is involved in the commission of an offence consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of a tax
- active knowing dishonesty is required.

Defence

The offence can only be committed by the firm, not by an individual; it is strict liability. A firm only has a defence if

- it has in place reasonable prevention procedures or
- those procedures were not required.

Associated person

Can be

- an individual or an entity
- An employee
- An agent
- A person performing services for our firm as third party or contractor

Six principles

- Risk assessment. Firms must assess the nature and extent of their exposure to the risk of persons associated with them engaging in activity to facilitate tax evasion
- Proportionality of risk-based prevention procedures. Reasonable procedures will be proportionate to the risk of an associated person committing tax evasion facilitation offences and on the level of control and supervision that a firm is able to exercise over associated persons and the proximity of those persons to the firm
- Top-level commitment. Senior management should be committed to preventing facilitation of tax evasion and should foster a culture in which facilitation of tax evasion is never acceptable
- Due diligence. Firms should apply due diligence procedures, taking an appropriate and risk-based approach in respect of associated persons, in order to mitigate identified risks.
- Communication. Firms must seek to ensure that their prevention policies and procedures are communicated, embedded and understood throughout the firm, through internal and external communication.
- Monitoring and review. Firms must monitor and review prevention procedures and make improvements where necessary.

Risk assessment

We are a UK based firm and introduce/refer clients to funders/lenders for the purpose of obtaining finance.

Our most obvious associated entities are directors, staff and consultants. Next come our clients and finally suppliers.

The best way to assess areas of highest risk is to analyse the work areas undertaken in the firm.

We have considered

- Client demographic
- Services provided
- Retainer risks
- Firm risks
- Tax risks
- Other

Applying the six risk factors to our client base

- Demographic – we have no areas in which we have exposure to clients who are active in high risk jurisdictions; if such clients instruct us we would monitor them and focus training there; we have very low exposure to PEPs
- Services provided – we do not make payments to third parties, payments in cash, funds from overseas.
- Retainer risks – clear commercial rationale, no unwarranted secrecy, no evasiveness
- Firm risks – geographically we are low risk.
- Tax risks – we do not invoice clients and therefore are not concerned with risks associated with requests to readdress invoices.
- Other – typically poor policies, poor training or poor supervision. We address those factors in our structure and through our risk and compliance programme.

Prevention procedures

- This risk assessment
- The commitment embodied in this document
- Training
- Audit

Due diligence on associated persons

- Staff – all new staff are required on induction to certify they have read and understood our policy. All staff certify at annual appraisal that they have read and understand and follow our policy.
- Clients – our standard terms and conditions include a commitment to relevant legislation.
- Suppliers – we require suppliers to confirm they abide by their obligations to avoid facilitating criminal tax evasion

Communication/training/monitoring

Communication and training is evidenced by this policy and its dissemination, the requirement for staff to sign up on induction and at appraisal and compliance training.

Monitoring

- Annual review of this policy and the firm's risk profile
- Audit – our internal function will review risk factors and mitigation steps

Incident management

Any breach of this policy will be reported to the managing director and recorded.

Any event which any member of staff is concerned about will be discussed. Records of all references are kept for regulator and other inspection.