

Certificates of Probity - A Solution to the Compliance Chaos?

British business is being driven to distraction by the latest escalations from the compliance departments of the Financial Institutions, with their ever increasing procedural demands that businesses and their professional advisers Know Your Client/ Customer and undertake repetitive due diligence, to satisfy their different interpretations of the Money Laundering Regulations.

What more perfect examples of Parkinson's Law in operation today are there than the compliance departments? The fastest growing departments across the entire financial services industry, yet invariably ineffectual and pointless.

Ineffectual, because the provision of a false passport, a forged driving licence and a doctored utility bill, whilst beyond the skills of an honest toiling businessman or advising professional, is child's play to a professional criminal.

Pointless, because provision of this documentation is endlessly repeating what the hapless Client has already provided to his solicitor, his accountant, his bank manager, his pension adviser, his mortgage provider, et al, in all probability, several times over.

In every UK property transaction no buyer can make the purchase without having a Solicitor to process the conveyance; an accountant to deal with tax issues; a bank account, containing the purchasing funds; a mortgage facility, should he be using external finance; and a surveyor, should he be taking advice on the purchase. Every one of these parties will, by law, have put their Client through their Know Your Customer procedures.

The Vendor, of course, has also been put through these procedures, and the consequential duplication of manpower is a crippling cost on British business.

In the latest bout of this insanity, respected professionals now find themselves being repeatedly put through this process, regardless of the standing of their firm, or the longevity of the business relationship with the financial institution.

The several years of training required to qualify as a solicitor, an accountant, an architect, a surveyor, or a provider of financial services, and the strict codes of behaviour all their professional bodies impose, are completely disregarded, to be superseded by box ticking and form filling, scrutinised by the cheapest labour that an institution can employ to carry out this brainless work.

The UK's largest bank is so panic stricken to avoid further draconian American penalties, or worse - the loss of its lucrative American banking licence, that it is imposing on its British customers of long standing, ridiculous levels of certification to satisfy American regulators, regardless of whether or not their customers have any American business connection. This currently comprises an eleven page form of incomprehensible American business jargon

(FACTA) and its completion is being demanded for every new and existing business bank account, no matter how many years standing the latter may have.

Now the banks are seeking not just to know their own customers, but to also know their customer's customers, HM Treasury have confirmed this is not required under current MLR rules.

Where will this latest lunacy end? If a professional adviser is required to show all his compliance documentation on his Clients to his bank, every time a transaction take place, utility bill refreshment will be required on a quarterly basis. Will our shopkeepers be required to ID all their customers, to ensure that the Bank will accept their takings each week!

How can we arrest this madness, close down these burgeoning compliance departments, and put those people back into productive employment?

Firstly, respect must be restored to the professional classes, whose common sense and judgement should suffice to confirm their client/customer's fiscal probity, as was always the case for countless years, before wisdom and experience was barred from the KYC/ MLR process, albeit with draconian penalties on a corrupt professional, or for a serious error of judgement.

The current repetitive paper chase should be replaced by a single Certificate of Probity, which can be provided to an established client or customer by his solicitor, accountant, or other recognised professional person, for a modest regulated fee, and requiring renewal every five years.

This certificate should then be legally acceptable to all financial institutions and other relevant parties, thereby enabling business to be conducted without the unnecessary delays, disruptions and costs that a huge section of the business community is presently being put to.

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