



## **AML/CFT Explanatory Note: Involvement of bookkeepers in financial transactions**

The Department has received a number of questions from bookkeepers seeking clarification on when involvement in financial transactions on behalf of their clients is captured by the AML/CFT Act.

The Department's view is that maintaining records of a client's income and expenditure as part of a bookkeeping service is not ordinarily covered by the AML/CFT Act. However bookkeepers may also provide other services, such as authorising or processing financial transactions on behalf of a bookkeeping client, which will be captured. The activities in the AML/CFT Act that are most likely to be relevant to bookkeepers involved in financial transactions are:

- Managing client funds, accounts, securities or other assets (paragraph (a)(iv) of the definition of designated non-financial business or profession (DNFBP));
- Engaging in or giving instructions for a transaction on behalf a customer in relation to creating, operating, and managing a legal person or other legal arrangement (paragraph (a)(vi)(E) of the definition of DNFBP) (**engaging in/giving instructions**).

### **Managing client funds**

For authorising or processing a financial transaction to be captured as managing client funds, the key determining factor is whether a bookkeeper has control over the flow of the funds. This may include, but is not limited to, the following circumstances:

- Having authority over a client's bank account and making payments from that account on behalf of a client, for example payroll or other business expenses.
- Handling and banking cash takings belonging to a client.

### **Engaging in/giving instructions**

Engaging in/giving instructions includes situations where a reporting entity only provides instructions without necessarily having control over the flow of funds. This activity is only covered by the AML/CFT Act where the transaction relates to the creating, operating or managing a legal person (for example, a company) or other legal arrangement (and **not** a natural person).

For authorising or processing a financial transaction on behalf of a bookkeeping client to be captured as engaging in/giving instructions, the following criteria must be met:

- engaging in the transaction or giving instruction on behalf of a customer to another person to engage in the transaction
- the transaction must be a deposit, withdrawal, exchange or transfer of funds in cash, by cheque (or similar) or by electronic or other non-physical means
- the transaction must be on behalf of a customer
- the transaction must relate to creating, operating or managing a legal person (e.g. company) or other legal arrangement (trust, partnership or charitable entity)

### **Why is 'engaging in or giving instructions' (in addition to 'managing client funds') captured for transactions involving legal persons or legal arrangements?**

Legal persons and legal arrangements may be misused by criminals to conceal beneficial ownership and the natural persons on whose behalf a financial transaction is conducted. Capturing 'engaging in or giving instructions' for these financial transactions reflects this ML/FT risk.

This explanatory note is provided for information only and cannot be relied on as evidence of complying with the requirements of the AML/CFT Act. It does not constitute legal advice and cannot be relied on as such. After reading this explanatory note, if you do not fully understand your obligations you should seek legal advice or contact your AML/CFT supervisor.