

Identification of trusts and beneficial owners

David Broadway

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Identification - legal requirements

- MLR 5 - Meaning of customer due diligence measures
- Customer
 - identify
 - verify on the basis of documents, data or information from a reliable and independent source
- Beneficial owner other than the customer
 - identify
 - verify; taking adequate measures, on a risk sensitive basis
 - to be satisfied as to who they are
 - to understand the control structure



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Definitions

- "Customer"
 - not defined in MLRs
 - JMLSG 5.3.181
 - trustees who establish the relationship
- "Beneficial owner"
 - MLR 6(3) - 6(5)
 - individual who is entitled to a specified interest in at least 25% of the capital of the trust property
 - class of persons in whose interest the trust operates
 - any individual who has control over the trust
 - includes other trustees



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In practice

- Trustees who establish the relationship
 - identify and undertake full verification
 - confirm the existence of the trust [5.3.189]
- Other trustees and named beneficiaries
 - identify and undertake risk-based verification
 - low risk: can rely on "customer" confirmation [5.3.11]
 - high risk: full verification; other information (settlers etc.)
- Classes of beneficiary
 - look at the "class" as a whole
 - no individual identification/verification



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Simplified due diligence

- Certain customers when acting as trustees, eg:
 - regulated credit and financial institutions
 - nominee entities owned by regulated firms [JMLSG 5.3.192]
 - listed companies
 - UK/EU public authorities
- Some approved pension schemes [JMLSG 5.3.152/5.4.4]
- Solicitors' client accounts
- Standard SDD procedures apply
 - check eligibility of customer
 - other CDD requirements waived [MLR 13(1)]