



FLA RESPONSE TO THE EUROPEAN COMMISSION WORKING
DOCUMENT ON THIRD MONEY LAUNDERING DIRECTIVE
IMPLEMENTING MEASURES

1. INTRODUCTION

FLA (Finance & Leasing Association) welcomes the opportunity to comment on the Commission's working document on the Third Money Laundering Directive implementing measures.

FLA is the main representative organisation for the UK consumer credit, motor finance and asset finance sectors, and the largest organisation of its type in Europe. Our members comprise banks, subsidiaries of banks and building societies, the finance arms of leading retailers and manufacturing companies, and a range of independent firms. The facilities they provide include finance leasing, operating leasing, hire purchase, conditional sale, personal contract purchase plans, personal lease plans, secured and unsecured personal loans, credit cards and store card facilities.

FLA members provided £68.4 billion (€100.1 billion¹) worth of new finance to the consumer sector in 2004, which represented 29.6% of all unsecured lending in the UK. In the above total is £18.3 billion (€26.8 billion) of finance provided to the motor sector. FLA members financed at least 50% of all new car registrations in the UK in 2004.

FLA members provided asset finance to business of £25 billion (€36.6 billion) in 2004, representing over a quarter of all fixed capital investment in plant, machinery, vehicles, ships and aircraft in the UK.



¹ Based on the Bank of England quarterly average spot exchange rate for Q3 2005: €1.4635/£

Insurance Premium Funding

UK insurers require that motor, home and businesses insurance premiums are paid in full at the beginning of the insurance period. Lenders are prepared to advance the full premium amount to the insurance broker or insurer and the individuals or businesses repay the loan by instalments. Should the insurance be cancelled and therefore the loan, any return of premium due is repaid to the lender; not to the individual or business that takes out the insurance. The loan is linked to the premium and the money laundering risk is very low.

The generic nature of this product is that firstly no monies are due to the borrower because the contract only exists so long as the borrower pays by regular instalments and secondly the monies are only channelled between the insurer and the lender via the broker i.e. the borrower cannot benefit from money laundering activity because they have no recourse to the funds. Furthermore, no cash is transacted at any stage. All payments and collections are strictly undertaken by the BACS process and in exceptional circumstances monies are transferred by CHAPS or cheque.

We believe that the total market funded by Premium Funders in the UK at present is circa £5 billion (€7.3 billion). As far as we are aware, the Republic of Ireland is the only other Member State to offer such a product.

2. SPECIFIC COMMENTS

We seek confirmation that under the terms of the Third Money Laundering Directive, insurance premium funding operates within a low risk classification based on the cumulative technical criteria for customers. We have made the assumption that premium funders' "customers" are the introducing brokers and not the borrowers themselves, and considered the first set of cumulative technical criteria for Customers (p. 5 of the working document)

The technical Criteria are as follows:

For customers

(I) The first set of (cumulative) technical criteria:

(1) The customer is an entity which is itself subject to the obligations of national legislation pursuant to the Third Directive, including entities caught under national legislation in the case foreseen in Article 4. This criterion should only apply to the customer, not to its subsidiaries, unless they also fulfil the criteria on their own.

(2) The customer's identity is publicly available, transparent and certain.

(3) The customer is subject to mandatory licence by law and licensing may be refused if competent authorities are not satisfied that the persons who effectively direct or will direct the business of such entity or its beneficial owner are fit and proper persons. The activity conducted by the customer is supervised by competent authorities.

(4) The customer is subject to supervision by competent authorities as regards the compliance with the national legislation pursuant to the Third Directive obligations and, where applicable, additional obligations under national legislation. This criterion is key for assessing whether the customer could qualify as low risk.

(5) Lack of compliance with these obligations may be subject to effective, proportionate and dissuasive sanctions including the possibility to take appropriate administrative measures or impose administrative sanctions.

(6) Additionally, it could be considered to add a further criterion: the only material source of income is known, stable and of impeccable repute.

Taking each of these points in turn:-

- (1) Insurance premium funders' customers – the brokers – are governed by the FSA.
- (2) Insurance premium funders will only deal with brokers who carry an FSA registration; those who do are listed on the FSA web site and they are checked against this to authenticate before they open a broker agency.
- (3) The same logic applies as regards the FSA.
- (4) The same logic applies as regards the FSA.
- (5) If brokers do not follow FSA regulations then they will be struck off and will be unable to trade.
- (6) Premium funders only take monthly premiums by direct debit from bank accounts and the funds that are paid to brokers have to be maintained in 'client' designated accounts.

As the Premium Funders in our estimation meet the above criteria then it would follow that must operate within a low risk environment. We therefore seek confirmation that they fall into a low risk category as per article 11(5) of the unofficial text dated 9 August 2005 adopted by the Council and European Parliament.

3. FLA CONTACT DETAILS

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