

MANAGEMENT LIABILITIES: HOW DO YOU MANAGE THE CRIMINAL FINANCES ACT?

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In our latest bulletin for CIOT/ATT members here, we look at the background to this Act long ago as and prompt some thought as to the risk management measures your practice might have in place so as not to fall foul of its onerous requirements.

Quick Facts

- The CFA creates new government powers to help investigate and tackle money laundering.
- The CFA requires corporations to prevent their staff facilitating tax evasion.
- The CFA authorises courts to issue Unexplained Wealth Orders.
- The CFA applies to property and individuals both within and outside of the UK.

The Criminal Finances Act (CFA) became effective on 30 September 2017. The CFA was adopted as part of a larger government initiative to encourage greater corporate social responsibility and transparency.

The CFA's objective is to 'create a more hostile place for those seeking to move, hide, or use the proceeds of crime and corruption'. The CFA accomplishes this by giving the government tools to discover, investigate and penalise money laundering, tax evasion, terrorist financing and other corrupt practises.

New Government Powers

The CFA creates new powers to enable law enforcement agencies and the private sector to investigate and fight corrupt practices. These new powers include the authority to:

- Seize and forfeit criminal activity proceeds that are stored in UK assets (including bank accounts and high-value property);
- Allow firms in the regulated sector to work together and share information to identify and counter money laundering;
- Issue unexplained wealth and disclosure orders; and;
- Hold corporations, not only employees, accountable for failing to prevent the facilitation of tax evasion



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Unexplained Wealth and Disclosure Orders
Unexplained Wealth and Disclosure orders are legal tools that provide stronger powers for UK enforcement agencies to discover, investigate, seize and repatriate corrupt proceeds.

The orders must be issued by a high court judge and require affected individuals to explain (or disclose) how they acquired the assets in question. Law enforcement personnel may use the responses to these orders against individuals that fail to respond or that provide an unsatisfactory answer.

Making false or misleading statements when responding to an order may result in criminal charges that carry a maximum penalty of two years imprisonment.

The orders may be issued to individuals not based in the United Kingdom and may be related to property outside of the United Kingdom.

Whilst this explains the background to the Act, we appreciate that members will already have in place appropriate procedures in order to manage their exposure.

However, is your Management Liability (also known as Directors' & Officers' Liability) Insurance cover sufficiently wide so as to respond to a regulatory investigation arising out of the Act should this investigation be made against the corporate entity and not the individual director(s) or officer(s)? To discuss in more detail, please contact MFL Professional as below.

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