

Processes should be reviewed ahead of new UK financial crime law coming in 2017

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Financial services providers must start adapting and expanding compliance procedures to deal with the new UK failure to prevent the facilitation of tax evasion offence that is set to come into force next year, says Ogier's Head of Regulatory Services.

Partner Nick Williams says that the law – included in last month's Criminal Finances Bill and expected to be in force by next Autumn – will cover any business that deals with UK taxpayers or has a connection with the UK, and demands personal engagement in the prevention of tax evasion by top level managers.

The new strict liability offence, which targets companies and partnerships that do not have reasonable procedures to stop employees and other people associated with the business from facilitating underlying tax evasion, was developed to address perceived difficulties in prosecuting companies under existing legislation.

More sector-specific guidance is expected before the law comes into force, but Nick says that because the legislation demands separate compliance procedures over and above existing AML and CFT rules, the review and reform of procedures should start to be considered now.

"This law is going to be a reality and financial services businesses need to have it firmly on their agendas," he said, after addressing a seminar for financial services professionals at the Jersey International Business School.

"The law specifically requires top level management to be integrally engaged, and in the words of the guidance issued so far, to actively 'foster a culture where actions intended to facilitate tax evasion are considered unacceptable'.

"It also requires specific consideration of tax evasion issues in risk assessments and due diligence checks – on this point the guidance is clear, it will not be sufficient to rely on existing procedures and checks, more will need to be done."

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