

HM Treasury Advisory Notice: High-Risk Third Countries

Requirement to apply Enhanced Due Diligence for higher risk jurisdictions

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the 'MLRs') require the UK regulated sector to apply enhanced customer due diligence in relation to high-risk countries.

Regulation 33(1)(b) of the MLRs requires regulated businesses ("relevant persons") to apply enhanced customer due diligence measures and enhanced ongoing monitoring in any business relationship with a person established in a high-risk third country or in relation to any relevant transaction where either of the parties to the transaction is established in a high-risk third country. A high-risk third country is defined for the purposes of the MLRs as a country specified in Schedule 3ZA.

The Money Laundering and Terrorist Financing (Amendment)(No.2)(High-Risk Countries) Regulations 2021 substitutes the list of high-risk third countries specified in Schedule 3ZA of the MLRs with a new list. This list replicates those countries listed by the Financial Action Task Force (FATF) in their 'Jurisdictions under Increased Monitoring' and 'High-Risk Jurisdictions subject to a Call for Action' public documents.

For these purposes, *regulation 33(3)* of the MLRs explains that:

- a relevant transaction means a transaction in relation to which the relevant person is required to apply customer due diligence measures under *regulation 27*;
- being established in a country means:
 - in the case of a legal person, being incorporated in or having its principal place of business in that country, or, in the case of a financial institution or a credit institution, having its principal regulatory authority in that country; and
 - in the case of an individual, being resident in that country, but not merely having been born in that country.

Regulation (33)(6)(c) of the MLRs requires that relevant persons take into account "geographical risk factors" when assessing risk and the extent of measures which should be taken to manage and mitigate that risk. These risk factors are stated as including whether a country is identified by a credible source, including reports published by the FATF, as not implementing requirements to counter money laundering and terrorist financing that are consistent with FATF recommendations.