



HM Treasury

Consultation on the transposition of the Fourth Money Laundering Directive

September 2016



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1 Introduction

Summary

1.1 This chapter sets out the context in which this consultation takes place. It provides relevant background on money laundering and terrorist financing, including its significance from both a UK, European and Financial Action Taskforce (FATF) perspective. It also covers the government's approach and plans for implementation of the Fourth Money Laundering Directive (4MLD or 'the directive'), and those aspects of the Fund Transfer Regulation (FTR) that need to be transposed into national law.

1.2 Finally, this chapter touches upon digital currencies, the Better Regulation Executive (BRE) review, the European Supervisory Authority (ESA) guidance and the Supranational Risk Assessment (SNRA) – all of which are subject to separate consultation and are important to note within the wider context of money laundering and terrorist financing.

The subject of this consultation

1.3 This consultation invites views and evidence on the steps that the government proposes to take, or should take, to meet the UK's obligation to transpose the directive and FTR into national law. It also seeks views and evidence on the potential costs and benefits of the changes considered.

1.4 This consultation also includes a consultation stage impact assessment for the proposed, or potential changes.

Background and existing regulation in the UK

1.5 Money laundering can undermine the integrity and stability of our financial markets and institutions. It is a global problem. However, both money laundering itself, and the criminality which drives the need to launder money, present a significant risk to the UK. The laundering of proceeds of overseas corruption into or through the UK fuels political instability in key partner countries. The National Crime Agency (NCA) judges that billions of pounds of suspected proceeds of corruption are laundered through the UK each year. Money laundering is also a key enabler of serious and organised crime, the social and economic costs of which are estimated to be £24 billion a year¹. Taken as a whole, money laundering represents a significant threat to the UK's national security.

1.6 There is a marked overlap between money laundering and terrorist financing – both criminals and terrorists use similar methods to store and move funds. However, the motive for generating and moving funds differs. Terrorists ultimately need money to commit terrorist attacks. Unlike criminal gangs, terrorist groups involve disparate individuals coming together through a shared motivation and ideology. The UK has a comprehensive anti-money laundering and counter-financing of terrorism (AML/CFT) regime and we are committed to ensuring our financial system is an increasingly hostile environment for money laundering and terrorist financing (ML/TF).

1.7 The international AML/CFT standards are set by the Financial Action Task Force (FATF). FATF is an inter-governmental body which promotes effective implementation of measures for combating money laundering and terrorist financing as well as other related threats to the

¹ 'Understanding organised crime: estimating the scale and the social and economic costs', Home Office, October 2013

integrity of the international financial system. It was established by the G7 in 1989 in Paris and today includes 36 member countries and a network of regional bodies which includes most countries in the world. The Treasury leads the UK delegation to FATF.

1.8 There are a number of businesses which are vulnerable to misuse by money launderers and those facilitating the movement of terrorist finance. International standards ensure that there are controls and procedures in place to combat the risk of money laundering and terrorist financing across a number of sectors. These sectors are currently covered by European (EU) measures through the Third Money Laundering Directive (3MLD) and the 2006 iteration of the Fund Transfer Regulation. 3MLD is implemented through various elements of UK law, predominantly the Money Laundering Regulations 2007² (MLR or ‘the Regulations’) for which the Treasury is responsible, and the Proceeds of Crime Act 2002³ (POCA) for which the Home Office is responsible. 3MLD is also reflected in the Terrorism Act 2000⁴ (TACT) for which the Home Office is again responsible. The 2006 FTR is an EU measure but unlike 3MLD, this has direct effect in UK law and those matters that require transposition are addressed in the Transfer of Funds (Information on the Payer) Regulation 2007⁵ for which the Treasury is responsible. These regulations and legislation place necessary and proportionate AML/CFT obligations on natural persons and businesses to help prevent misuse.

1.9 There are over 150,000 businesses covered under the Regulations. The Regulations require these businesses to know their customers and manage their ML/TF risks. The Regulations are deliberately not prescriptive, providing flexibility in order to promote a proportionate and effective risk-based approach. Relevant businesses must identify and assess their ML/TF risks and put in place systems and controls to manage and mitigate them.

1.10 The Treasury is responsible for appointing and removing AML/CFT supervisors – these supervisors are responsible for monitoring and ensuring the compliance of their members in their respective sectors with the Regulations and the legislation. There are currently 27 supervisors appointed in the UK. A full list of supervisors can be found at Annex A. Representatives of the regulated sector and supervisors provide industry specific guidance or best practice on how to comply with the Regulations and the legislation. If the guidance is given Treasury approval, it means that a court must consider whether the person followed the guidance when deciding whether they failed to comply with the Regulations or the legislation.

The directive and Fund Transfer Regulation

1.11 The Fourth Money Laundering Directive (4MLD or ‘the directive’) was published in the EU Official Journal⁶ on 5 June 2015. The directive seeks to give effect to the updated FATF standards⁷. It introduces a number of new requirements on relevant businesses and changes to some of the obligations under 3MLD. All EU Member States, including the UK, have two years to transpose the requirements of the directive into national law which will, where necessary, amend or replace the existing Regulations or legislation.

1.12 The new Fund Transfer Regulation⁸ (FTR) accompanies the directive and will come into force alongside the directive in all Member States. It updates the rules on information on payers and payees, accompanying transfers of funds, in any currency, for the purposes of preventing,

² http://www.legislation.gov.uk/uksi/2007/2157/pdfs/ukxi_20072157_en.pdf

³ http://www.legislation.gov.uk/ukpga/2002/29/pdfs/ukpga_20020029_en.pdf

⁴ http://www.legislation.gov.uk/ukpga/2000/11/pdfs/ukpga_20000011_en.pdf

⁵ http://www.legislation.gov.uk/uksi/2007/3298/pdfs/ukxi_20073298_en.pdf

⁶ http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=EN

⁷ http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

⁸ REGULATION (EU) 2015/847 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006; <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0847&from=EN>

detecting and investigating money laundering and terrorist financing, where at least one of the payment service providers involved in the transfer of funds is established in the EU. For example, among the changes in the information required, the regulation provides that a payment service provider must verify certain elements of information for a transaction of any value, where it has received the funds in cash, or in anonymous electronic money.

Proposed amendments to the directive

1.13 Following the terrorist attacks in the EU, and the leak of the 'Panama Papers', Member States agreed to revisit some areas of the directive, to further strengthen transparency and counter-terrorist provisions. The proposed amendments are outlined here: http://ec.europa.eu/justice/criminal/document/files/aml-factsheet_en.pdf. These are subject to negotiation and agreement between the 28 Member States and may, therefore, change in the coming months. This consultation is focused on the directive as agreed in June 2015 and there are no specific questions relating to the proposed amendments in this document, but the government very much welcomes your views on the proposed amendments where relevant.

UK approach to implementation of the directive and FTR

1.14 On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

1.15 This consultation will play a key role in deciding how best to transpose the directive and, where appropriate, the FTR into UK law in a way that appropriately balances the need for a proportionate approach which manages the burden on business, with the need for businesses ("obliged entities") to actively discourage ML and TF activity. Where appropriate, copy out of the directive will be used in the Regulations and legislation together with industry guidance.

1.16 The rules laid down in the FTR take effect alongside the directive - Article 17 onwards provides Member States with the ability to set rules on sanctions and measures for breaches. The government will need to consider the potential costs of the proposals for those affected in order to try and maintain a fair and proportionate AML/CFT regime and also ensure that the new regime does not put UK businesses at a competitive disadvantage compared with their European counterparts.

1.17 Following this consultation, we will review all submitted views and publish draft regulations for a further four week consultation. We will then make final policy decisions on how to transpose the Directive and the FTR. After this, the Treasury will explain why it has reached these policy decisions in the government response to this consultation.

1.18 New legislation will need to be made, and provision in existing legislation modified and amended. The government will only "gold-plate" (go further than) the directive or the FTR where there is good evidence that a material ML/TF risk exists that must be addressed. The government proposes to create a Money Laundering and Transfer of Funds (Information on the Payer) Regulations 2017 in order to transpose both the directive and the FTR. The current Money Laundering Regulations 2007 and Transfer of Funds Regulations 2007 would be revoked with appropriate transitional provision being made to the new Regulation. The government intends that the new provisions will come into force in national law by 26 June 2017, in line with Article 67 of the directive and Article 27 of the FTR.

European Supervisory Authorities guidance

1.19 The European Supervisory Authorities (ESAs⁹) have published draft joint guidelines on the characteristics of a risk-based approach and the steps to be taken when conducting supervision on a risk-sensitive basis. They have also published draft joint guidelines on simplified and enhanced customer due diligence and the factors that credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions. Elements of the draft guidance will assist relevant obliged entities and supervisors with how they can comply, and ensure compliance by members, with the directive.

1.20 The government encourages interested stakeholders to review the draft guidance which can be found at this link: <http://www.eba.europa.eu/-/eba-eiopa-and-esma-consult-on-anti-money-laundering-and-counteracting-the-financing-of-terrorism>.

Better Regulation Executive review

1.21 The government's AML/CFT regime has a clear aim: to make the UK financial system an increasingly hostile environment for illicit finances, whilst minimising the burden on legitimate businesses and reducing the overall burden of regulation. With this in mind, the government launched a review of the regime in August 2015 led by BEIS under the Cutting Red Tape Programme.

1.22 The review sought evidence of the impact on business of the current AML/CFT regime, and specifically the role of supervisors in that regime. It is seeking to identify any aspects of regulatory activity that could be made more efficient – both for those that operate the regime and are subject to it and for enforcing authorities. This includes impacts:

- on banks, financial institutions and other businesses that are affected directly by the regime
- on businesses who in their turn are asked to comply with the AML requirements of those banks and financial and other businesses

1.23 The review is examining the potential to improve compliance and efficiency, by identifying aspects of the supervisory regime that appear to businesses in the regulated sector to be unclear, unnecessarily cumbersome, conflicting or confusing. The review is not aiming to remove vital protections, but aims to strengthen the regime by making it more efficient and better able to focus resources on the areas of greatest risk. The call for evidence closed on 6 November 2015 and a report is expected in 2016.

National Risk Assessment

1.24 The Treasury and Home Office jointly published an assessment of the money laundering and terrorist financing risks faced by the UK on 15 October 2015¹⁰. The National Risk Assessment (NRA) serves as a stock-take of the collective knowledge of money laundering and terrorist financing, drawing on data from UK law enforcement and intelligence agencies, anti-money laundering supervisory agencies, government departments, industry bodies and private sector firms.

1.25 The findings of the NRA will shape the government's response to money laundering and terrorist financing, helping to ensure that the UK's AML/CFT regime remains robust,

⁹ The European Securities and Markets Agency (ESMA), the European Banking Agency (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA).

¹⁰ <https://www.gov.uk/government/news/government-publishes-anti-money-laundering-assessment-and-commits-to-action-plan>

proportionate and responsive to emerging threats. Further information regarding the NRA can be found on the GOV.UK website.

The Action Plan for anti-money laundering and counter-terrorist financing

1.26 Building on the work of the NRA, the government published an Action Plan on 21 April 2016¹¹. This sets out the steps that the UK will take to strengthen its response to money laundering and terrorist financing, to protect the safety of its citizens and the integrity of the UK financial system.

1.27 The Action Plan sets out changes that amount to the most significant reform to our anti-money laundering regime for over a decade, since the commencement of the Proceeds of Crime Act 2002. It will do this by building a stronger partnership with the private sector, enhancing the law enforcement response, improving the effectiveness of the supervisory regime and increasing our international reach.

Supranational Risk Assessment

1.28 As described in Article 6 of the directive, the European Commission is conducting an assessment, known as the Supranational Risk Assessment (SNRA), which identifies, analyses and evaluates the money laundering and terrorist financing risks affecting the internal market and relating to cross-border activities.

1.29 The SNRA will cover at least the following:

- the areas of the internal market that are of greatest risk
- the risks associated with each relevant sector
- the most widespread means used by criminals to launder illicit funds

1.30 In drawing up the SNRA, the Commission will take into account the joint opinions by the European Supervisory Authorities (ESAs) and will involve each Member State's experts (including the UK) in the area of anti-money laundering and counter-terrorist financing, representatives from Financial Intelligence Units (FIUs) and other EU level bodies where appropriate.

1.31 The SNRA seeks to assist Member States and obliged entities to identify, understand, manage and mitigate the risk of ML/TF, and enable other stakeholders such as national legislators, the European Parliament, the ESAs and representatives of FIUs to better understand the risks. This should help Member States to make Europe an increasingly hostile environment for illicit finances.

1.32 The Commission has consulted on the SNRA and the UK government has been an active participant in discussions.

¹¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517992/6-2118-Action_Plan_for_Anti-Money_Laundering__web_.pdf

2 Consultation proposals

Summary

2.1 This consultation identifies and explains the changes to, and the new requirements of, the Fourth Money Laundering Directive ('the directive'). Where EU Member States are given the discretion to make decisions on certain aspects of the directive and Fund Transfer Regulations (FTR), this consultation outlines the government's proposals or issues to be addressed for transposing them into UK law and seeks your views.

2.2 The objective of transposition is to ensure that the UK's AML/CFT regime is kept up to date, effective and proportionate. This consultation exercise will provide an opportunity for comments, evidence and views from stakeholders. Responses to this consultation will then be used to inform final government decisions on transposition. The government's final policy decisions will be implemented through legislation to come into force by June 2017.

2.3 A full list of the consultation questions can be found at Annex A and a list of acronyms used throughout this consultation can be found at Annex D.

Who do the proposals affect?

2.4 The proposals will be especially of interest to:

- banks and other credit institutions
- providers of gambling services
- estate agents
- letting agents
- those classified as, or doing business with, Politically Exposed Persons (PEPs)
- providers of electronic money services
- the accountancy sector
- the legal sector
- high value dealers
- money service businesses
- trust or company service providers
- law enforcement
- members of the AML supervisory regime

Responding to the consultation

2.5 The government welcomes your views in response to the questions posed in this document and would be keen to hear of practical examples of how the proposed changes may help or hinder the AML/CFT regime in the UK. This will help ensure evidence-based policy decisions in these areas.

2.6 Some consultation questions ask for stakeholders to provide evidence to support their responses, for example, in relation to the potential risk of money laundering or terrorist financing that may exist within a particular sector. The government encourages stakeholders to provide as much evidence as possible where requested in order to help inform the government's response to transposition of the directive.

2.7 The government will be running a series of events during the consultation period where stakeholders will be given the opportunity to take part in interactive discussions about the proposals and issues in this document.

2.8 Electronic responses are preferred and should be sent to: aml@hmtreasury.gsi.gov.uk.

2.9 Questions or enquiries specifically relating to this consultation should also be sent to the above email address. Please include the words CONSULTATION VIEWS or CONSULTATION ENQUIRY (as appropriate) in your email subject. **If you do not wish your views to be published** alongside the government response to this consultation, please **clearly** specify this in your email.

2.10 Hard copy responses may be submitted to:

Consultation on Transposition of 4MLD
Sanctions and Illicit Finance Team
1 Blue, HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Confidentiality and Disclosure policy

2.11 Information provided in response to this consultation, including personal information, might be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice that public authorities must comply with and which deals, amongst other things, with obligations of confidence.

2.12 In view of this it would be helpful if you could explain to the Treasury why you regard the information you have provided as confidential. If government receives a request for disclosure of the information, the Treasury will take full account of your explanation, but it cannot give an assurance that confidentiality will be maintained in all circumstances.

2.13 An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Treasury. Your personal data will be processed in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed.

Timetable

2.14 The closing date for comments to be submitted is 10 November 2016.

2.15 The requirements of the directive and FTR must come into effect through national law by 26 June 2017 in line with Article 67 of the directive and Article 27 of the FTR.

3 Who is covered by the directive?

Summary

3.1 This chapter describes money laundering for the purposes of the directive. It sets out the relevant businesses ('obliged entities') that fall within scope of the directive, and also those persons who must comply with the requirements that are provided in UK law. Finally, it sets out the terms of Article 2(3) of the directive which identifies financial activity on an occasional or very limited basis such that it would not come within the requirements of the directive.

What is money laundering?

3.2 Money laundering falls into 4 main categories. When committed intentionally, the following is regarded as money laundering under the directive:

- converting or transferring property, knowing that the property is derived from criminal activity or from participating in criminal activity in order to conceal or disguise the illicit origin of the property or of assisting any person who is involved in the commission of criminal activity to evade the legal consequences of their actions
- concealing or disguising the true nature, source, location, disposition, movement, rights with respect to, or ownership, of property knowing that such property is derived from criminal activity or from participating in criminal activity
- acquiring, possessing or using property, knowing (at the time of receipt) that the property was derived from criminal activity or from participating in criminal activity
- participating in, association to commit, attempting to commit and aiding, abetting, facilitating and counselling the commission of any of the actions referred to above

3.3 Even where the activities which generated the property to be laundered were carried out in the territory of another Member State or in that of a third country, it could still be regarded as money laundering.

What is terrorist financing?

3.4 As outlined in the directive, terrorist financing means the provision or collection of funds, by any means, directly or indirectly, with the intention that they be used or in the knowledge that they are to be used, in full or in part, in order to carry out at least the offences within the meaning of Articles 1 to 4 of Council Framework Decision 2002/475/JHA on combating terrorism¹². For example, actions which may seriously damage a country or an international organisation where committed with the aim of seriously intimidating a population, or unduly compelling a government or international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

¹² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002F0475&from=EN>

Entities covered by the directive

3.5 The requirements of the directive apply to the following obliged entities:

- 1 credit institutions
- 2 financial institutions (including money service businesses)
- 3 the following natural or legal persons when carrying out their professional activities:
 - auditors, external accountants and tax advisors
 - notaries and other independent legal professionals that act on behalf of and for their client in any financial or real estate transaction, or by assisting in the planning or carrying out of transactions for their client concerning the:
 - a buying and selling of real property or business entities
 - b managing of client money, securities or other assets
 - c opening or management of bank, savings or securities accounts
 - d organisation of contributions necessary for the creation, operation or management of companies
 - e creation, operation or management of trusts, companies, foundations, or similar structures
- 4 trust or company service providers
- 5 estate agents
- 6 other persons trading in goods through payments that are made or received in cash amounting to £8,361 (EUR 10,000)¹³ or more - whether the transaction is carried out in a single operation or several operations that appear to be linked
- 7 providers of gambling services

3.6 Note that where this consultation uses the terms 'obliged entities' or 'relevant businesses', stakeholders should take this to mean those individuals or businesses that are covered by the directive and listed at paragraph 3.5.

3.7 Each of the requirements under the directive will require different actions. This is explained in further detail under the appropriate chapter headings of this consultation document. For example, Chapter 5 discusses in detail how the gambling industry falls under the directive and poses a number of consultation questions for interested stakeholders to respond to. Note that not all changes are being consulted on due to the fact that the directive imposes the change as a minimum standard and there are some requirements that must be adopted by all Member States.

What has changed in the entities covered?

3.8 One important change applies to persons trading goods, where the threshold for eligible transactions in cash (or a series of transactions that appear to be linked) will come down from £12,544 (EUR 15,000) to £8,361 (EUR 10,000); and will be extended to receiving as well as

¹³ In this consultation these values have been converted to Pounds Sterling based on the standard conversion rate at the time of writing.

making payments in cash. The government plans to implement this change in full as it is a requirement of the directive.

Financial activity that may be exempt from the directive

3.9 Where there is little risk of money laundering or terrorist financing, the government has the discretion to exempt some persons, engaging in financial activity on an occasional or very limited basis, from the requirements under the directive. Note, however, that the activity of money remittance¹⁴ cannot benefit from this exemption. In order for financial activity to be exempt, **all of the following criteria must be met:**

- the financial activity is limited in absolute terms [see paragraph 3.11 to 3.13]
- the financial activity is limited on a transaction basis [see paragraph 3.14 to 3.15]
- the financial activity is **not** the main activity of such persons
- the financial activity is ancillary and directly related to the main activity of such persons
- the main activity of such persons is **not** an activity referred to in Article 2(1)(3)(a) to (d) or 2(1)(3)(f) of the directive¹⁵
- the financial activity is provided only to the customers of the main activity of such persons and is not generally offered to the public

3.10 The directive defines each relevant activity as a person acting in the exercise of their professional activities, therefore people engaging in activity that is not by way of professional activity are already outside the scope of the directive. This could, for example, cover the non-professional activities of people providing free assistance to friends and family.

Absolute turnover threshold

3.11 The government has decided to adopt one turnover threshold across all financial activities in order to take a fair and consistent approach. The proposed value balances the need to deter criminals from attempting to exploit this exemption to launder money with reducing the regulatory burdens on small, legitimate businesses.

3.12 Schedule 2 paragraph (1)(a) of the current Regulations specifies a total annual turnover limit of £64,000. This value reflects the then VAT registration threshold. If the government were to maintain this link to the VAT registration threshold, the limit would be set at around £82,000 by implementation in 2017. The government proposes to remove this link, and set a higher figure of £100,000.

3.13 The VAT registration threshold cannot be increased (aside from maintaining its value in line with inflation). Therefore, removing the link to the VAT registration threshold would give government more flexibility in setting a total annual turnover limit that better reflects the UK's aim regarding the AML/CFT. Increasing the total annual turnover limit to £100,000 would reduce the administrative burden whilst retaining a "sufficiently low" figure as required by the directive. **Of course, all the other criteria specified at para 3.9 would need to be met** to qualify for an exemption.

¹⁴ http://ec.europa.eu/finance/payments/crossborder/index_en.htm

¹⁵ http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=EN

Financial activity limited on a transaction basis

3.14 Financial activity must have a maximum threshold per customer and per single transaction in order to qualify for an exemption from the requirements of the directive. The transaction threshold applies to both a single operation and to several operations which appear to be linked. The maximum transaction threshold per customer and single transaction is currently EUR 1,000 in the Regulations and the government has decided not to amend this. The directive allows stricter thresholds depending on the type of financial activity. However the government proposes to maintain the same threshold for all financial activities in order to adopt a fair and consistent approach.

3.15 The government's view is that £836 (EUR 1,000) remains a sufficiently low enough value to ensure that the types of transactions in question are an impractical and inefficient method for money laundering and/or terrorist financing. It also strikes the right balance in ensuring that the regulations are not a regulatory burden for small, legitimate businesses. As with the absolute turnover threshold, **all the other criteria specified at paragraph 3.9 would need to be met to qualify for an exemption** under the directive.

Box 3.A: Consultation Questions - Setting an absolute turnover threshold

Question 1: Do you agree with the proposed turnover threshold of financial activity being set at £100,000 as one of the criteria to comply with in order to be exempt from the directive? Please provide credible, cogent and open-source evidence (where necessary) to support your response.

Question 2: The government would welcome views on whether a maximum transaction threshold per customer and single transaction should remain at £836 (EUR 1,000). Please provide credible, cogent and open-source evidence (where necessary) to support your response.

4 The due diligence requirements and reliance

Summary

4.1 The obliged entities that fall within scope of the directive will need to apply different levels of due diligence measures to manage the risk of money laundering and terrorist financing. This may entail either customer due diligence (CDD), simplified due diligence (SDD) or enhanced due diligence (EDD).

4.2 This chapter explains what the due diligence requirements entail and when obliged entities may rely on third parties. It also covers a change for pooled client accounts since the Third Money Laundering Directive and how obliged entities must put in place risk assessments and controls to prevent money laundering and terrorist financing.

Customer due diligence

4.3 Obligated entities are required to apply CDD measures in the following instances:

- when establishing a business relationship
- when carrying out an occasional transaction that:
 - amounts to £12,544 (EUR 15,000) or more, whether that transaction is carried out in a single operation or in several operations which appear to be linked; or
 - constitutes a transfer of funds¹⁶, exceeding £836 (EUR 1,000)
- in the case of persons trading in goods, when carrying out occasional transactions in cash amounting to £8,361 (EUR 10,000) or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked
- for providers of gambling services, upon the collection of winnings, the wagering of a stake, or both, when carrying out transactions amounting to £1,672 (EUR 2,000) or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked
- when there is suspicion of money laundering or terrorist financing, **regardless** of the situation on derogations, exemptions or thresholds
- when there are doubts about the veracity or adequacy of previously obtained customer identification information

4.4 Recently the Advocate General issued an opinion on the way in which the due diligence measures are to be applied in the Spanish case of Safe Interenvios (Case C-235/14).

4.5 When carrying out CDD, the measures involve:

- 1 identifying and verifying the customer's identity, through documents, data or information obtained from a reliable and independent source

¹⁶ See article 3(9) of Reg 2015/847

- 2 identifying the beneficial owner and taking reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is, including as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer
- 3 assessing and, where appropriate, obtaining information on the purpose and intended nature of the business relationship
- 4 conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the obliged entity's knowledge of the customer, the business and risk profile, including where necessary the source of funds and ensuring that the documents, data or information held are kept up-to-date

4.6 When performing the measures referred to at points **1** and **2**, obliged entities must also verify that any person claiming to act on behalf of the customer, is authorised to do so and verify the identity of that person.

4.7 Obligated entities must carry out each of the CDD measures although they may determine the extent of those measures using a risk-based approach. Obligated entities must take into account certain variables when assessing risk (e.g. Annex I of the directive) and be able to demonstrate that the measures taken are appropriate in view of the ML/TF risks that have been identified.

4.8 In the case of verifying the identity of a customer and the beneficial owner, the directive requires that this take place **before** establishing a business relationship or the carrying out of a transaction. However, the timing of the verification can be altered: (i) where there is little ML/TF risk and it is necessary so as not to interrupt the normal conduct of business, then verification can be carried out **during** the establishment of a business relationship - although it **shall still be completed as soon as practicable after initial contact**; and (ii) an account may be opened with certain institutions **provided there are adequate safeguards in place** to ensure transactions are not carried out by the customer or on its behalf until the necessary CDD measures are completed.

4.9 Where an obliged entity is unable to comply with the CDD requirements (**1**, **2** and **3**), it shall not establish a business relationship or carry out any transaction and the entity shall terminate the business relationship. The entity must also consider making a suspicious transaction report to the Financial Intelligence Unit (FIU) in relation to the customer. The National Crime Agency (NCA) houses the FIU. See Chapter 11 of this consultation for more details on the UK's FIU.

4.10 The directive also requires obliged entities to apply CDD measures to existing customers at appropriate times, using a risk-based approach, as well as to new customers. In particular, such measures should be applied when the circumstances of a customer change.

4.11 The current Money Laundering Regulations (2007) use Euro values (directly from the directive) as opposed to Pounds Sterling. In this consultation these values have been converted to Pounds Sterling based on the standard conversion rate at the time of writing.

Box 4.A: Consultation questions – CDD measures

Question 3: When do you think CDD measures should apply to existing customers while using a risk-based approach?

Question 4: What changes to circumstances do you think should warrant obliged entities applying CDD measures to their existing customers? E.g. name, address, vocation, marital status etc.

Question 5: How much does it cost your business to carry out CDD checks? Please provide credible, cogent and open-source evidence to support your response.

Question 6: We welcome responses setting out how you have converted the Euro thresholds into GBP under the existing Money Laundering Regulations, for example, is the currency exchange the subject of a set policy? We would also welcome your views on what would be helpful to you when dealing with a conversion from Euro to GBP.

Life and investment-related insurance businesses

4.12 In addition to the CDD measures required for the customer and beneficial owner, credit and financial institutions will need to conduct these additional CDD measures on the beneficiaries of life insurance and other investment-related insurance policies, as soon as the beneficiaries are identified or designated:

- in the case of beneficiaries that are identified as specifically named persons or legal arrangements, taking the name of the person
- in the case of beneficiaries that are designated by characteristics or by class or by other means, obtaining sufficient information concerning those beneficiaries to satisfy the credit institution or financial institution that it will be able to establish the identity of the beneficiary at the time of the payout

Bearer shares

4.13 The directive requires prevention of the misuse of bearer shares. Following legislation last year, UK companies are no longer allowed to issue bearer shares, and existing bearer shares are being phased out. Obligated entities will still need to consider bearer shares carefully as part of CDD in relation to non-UK companies.

Simplified customer due diligence

4.14 Member States may allow obliged entities to apply simplified customer due diligence (SDD) measures for areas of lower risk, considering types of customers, geographic areas, and particular products, services, transactions or delivery channels as set out in Annex II of the directive.

4.15 The directive sets out a non-exhaustive list (Annex II) of factors that should be considered when deciding whether SDD is appropriate. In any case, obliged entities are required to carry out adequate monitoring of the transactions and business relationships in order to be able to detect unusual or suspicious transactions. The government proposes removing the list of products that could be subject to SDD currently set out in Article 13 of the Regulations and adhering to the non-exhaustive list of factors outlined in Annex II.

4.16 The European Supervisory Authorities (ESAs) are required, by June 2017, to issue guidelines for supervisors and the credit and financial institutions on the risk factors to be taken into

consideration and the measures to be taken in situations where SDD measures are appropriate. The ESAs launched a consultation on 21 October 2015 on draft joint guidelines on simplified and enhanced customer due diligence and the factors supervisors and credit and financial institutions should consider when assessing the money laundering and terrorist financing risk associated with individual business relationships and occasional transactions. The consultation closed on 22 January 2016¹⁷. The government encourages obliged entities and other interested stakeholders to review this draft guidance.

Box 4.B: Consultation question – SDD measures

Question 7: Do you agree that the government should remove the list of products subject to SDD as currently set out in Article 13 of the Money Laundering Regulations (2007)? If not, which products would you include in the list? Please provide credible, cogent and open-source evidence to support inclusion. What are the advantages and disadvantages of retaining this list?

SDD and pooled client accounts

4.17 The position has changed for pooled client accounts in relation to SDD. The Third Money Laundering Directive (3MLD) has derogations from CDD, including for beneficial owners of pooled accounts held by notaries and other independent legal professionals. This express derogation no longer appears in the Fourth Money Laundering Directive.

4.18 In general, pooled client accounts, or PCAs, are accounts held by legal professionals and notaries with financial institutions to hold money on trust or for a purpose designated by a client. Professional rules often cover the management of client accounts, e.g. rules around how and when fees may be deducted from the client account, and rules often stipulate that the account name includes the word 'client.' Money in lawyers client accounts can belong to clients or counterparties to clients' transactions.

What has changed?

4.19 Under the Third directive there was express provision for the application of simplified due diligence to PCAs. Article 11 (2)b of 3MLD said:

“beneficial owners of pooled accounts held by notaries and other independent legal professionals from the Member States, or from third countries provided that they are subject to requirements to combat money laundering or terrorist financing consistent with international standards and are supervised for compliance with those requirements and provided that the information on the identity of the beneficial owner is available, on request, to the institutions that act as depository institutions for the pooled accounts.”

4.20 The express provision is no longer repeated in the directive. Although Member States may allow obliged entities to apply simplified due diligence measures (SDD), pooled client accounts are not mentioned in Annex II of the directive which contains a “non-exhaustive list of factors and types of evidence of potentially lower risk”.

4.21 There is no longer any express wording for pooled client accounts in the revised FATF Recommendations. The new FATF low risk criteria provides that where a customer is subject to, and has implemented money laundering requirements consistent with the FATF standards, it is

¹⁷ <http://www.eba.europa.eu/-/eba-eiopa-and-esma-consult-on-anti-money-laundering-and-counteracting-the-financing-of-terrorism>.

an indicator of low risk (interpretive note to Recommendation 10, paragraph 17a of the FATF standards).

4.22 As explained above, the ESAs have issued a consultation on the risk factors to be taken into consideration when it is appropriate to apply SDD measures. The ESAs consultation covers situations where SDD measures could be applied to pooled client accounts in chapter 2.

Box 4.C: Consultation questions – pooled client accounts

Question 8: What are the money laundering and terrorist financing risks related to pooled client accounts and what mitigating actions might you take? Please provide credible, cogent and open-source evidence to support your response.

Question 9: What would be the effect of the removal of SDD measures on pooled client accounts? Please provide credible, cogent and open-source evidence to support your response.

Question 10: What are your views on the retention of SDD measures on pooled client accounts? Please provide credible, cogent and open-source evidence to support your response.

Question 11: What are your views on the situations described by the ESAs where SDD may be appropriate on pooled client accounts? Please provide credible, cogent and open-source evidence to support your answer.

4.23 When assessing whether SDD should be applied, there must be a consideration of the factors of potentially lower risk situations set out in Annex II of the directive (non-exhaustive) and any list issued in the new Regulations (if provided).

Box 4.D: Consultation question – simplified due diligence (SDD)

Question 12: Are there any other factors and types of evidence of potentially lower risk situations, aside from those listed in Annex II of the directive, that you think should be considered when deciding to apply SDD? Please provide credible, cogent and open-source evidence to support your response.

Enhanced customer due diligence

4.24 In cases of higher risk, obliged entities must apply enhanced customer due diligence (EDD) measures to manage and mitigate those risks. Further details on the specific EDD measures to be applied to correspondent banking relationships and Politically Exposed Persons (PEPs) can be found in Chapters 8 and 9 of this consultation. Under the directive, there are certain situations that will always trigger the application of EDD and there are other circumstances that will trigger EDD measures in a given case. Those other circumstances are identified (non-exhaustively) in Annex III to the directive. Further, following a careful consideration of the background and purpose of complex and unusually large transactions, and unusual patterns of transactions, which have no apparent economic or lawful purpose, obliged entities are to increase the degree and nature of monitoring of the business relationship in order to determine whether these transactions or activities appear suspicious.

4.26 As set out in the directive, the European Commission is compiling a list of high-risk third countries with strategic deficiencies in their AML/CFT regimes. This list will closely mirror FATF's black, dark grey and grey lists. To ensure that Member States take a coordinated approach to these countries, the Commission's list will prescribe EDD measures that obliged entities should apply to individuals and businesses that are established in the country in question.

4.27 The ESAs consultation provides draft guidance on what EDD measures may be appropriate to apply in high risk situations, including on establishing the source of wealth and funds and how obliged entities may choose to monitor transactions in high-risk relationships. The government encourages stakeholders to review the ESAs consultation.

Box 4.E: Consultation questions – EDD

Question 13: Are there any other products, factors and types of evidence of potentially higher risk situations, aside from those listed in Annex III of the directive, which you think should be considered when assessing ML/TF risks in respect of EDD? Please support your response with credible, cogent and open-source evidence where possible.

Question 14: Are there any high-risk products from sectors other than the Financial Services sector that you think should be included in the Regulations?

Question 15: What EDD measures do you currently apply to clients operating in high-risk third countries, including those on FATF's black, dark grey and grey lists?

Question 16: How much does it cost your business to apply EDD measures? Please provide credible, cogent and open-source evidence to support your response.

Reliance on third parties

4.28 Obligated entities may, in certain circumstances, rely on third parties to meet the CDD requirements set out at paragraph 4.5 (1) (2) and (3) of this document. However, the ultimate responsibility for meeting those requirements remains with the obliged entity that relies on the third party.

4.29 The directive describes the third parties that may be relied on and generally the position is that there can be no reliance on third parties established in high-risk third countries.

4.30 In respect of the third parties that are not based in a high-risk third country, the directive permits reliance on:

- certain obliged entities
- the member organisations or federations of those obliged entities
- other institutions or persons situated in an EU Member State or third country that applies customer due diligence and record-keeping requirements consistent with those in the directive and have their compliance with the requirements of the directive supervised in an appropriate manner

4.31 The ability to rely on the member organisations or federations of those obliged entities is new, and a change from 3MLD. The government welcomes views on the impact of this change and whether the Regulations should give effect to these provisions.

4.32 Where third parties are relied on, the obliged entity must obtain the necessary information concerning the CDD requirements from that third party. The obliged entity must take adequate steps to ensure the third party provides, immediately on request, relevant copies of identification

and verification data, as well as other relevant documentation on the identity of the customer or the beneficial owner.

4.33 If an outsourcing service provider or agent, on the basis of a contractual arrangement, is considered to be part of the obliged entity then the obliged entity itself has undertaken CDD. This is not a reliance situation. The government welcome responses from this sector on the questions we pose in Box 4.F below.

Box 4.F: Consultation questions – reliance on third parties

Question 17: What are your views on the meaning of a 'member organisation'? Please provide evidence in support of your answer.

Question 18: What are your views on the meaning of 'federation'? Please provide evidence in support of your answer.

Question 19: If you are a financial institution, are there any additional institutions or persons situated in a Member State or third country that you think could be relied upon in order to help reduce the regulatory burden on businesses - e.g. the third party applies due diligence and record-keeping requirements and are also appropriately supervised in accordance with the directive?

Question 20: Do you rely on third parties to meet some CDD requirements? How much does this cost your business? Please provide credible, cogent and open-source evidence to support your answer.

Assessment of risks and controls

4.34 Obligated entities must take appropriate steps to identify and assess the ML/TF risks, taking into account risk factors including those relating to their customers, countries or geographic areas, products, services, transaction or delivery channels. Those steps must be proportionate to the nature and size of the obliged entities and any risk assessments shall be documented, kept up-to-date and made available to the relevant supervisory authority.

4.35 The controls must include:

- 1 the development of internal policies, controls and procedures, including risk management practices, customer due diligence, reporting, record-keeping, internal control, compliance management, including – where appropriate in terms of the nature and size of the business – the appointment of a compliance officer at management level, and screening employees
- 2 where appropriate in relation to the size and nature of the business, an independent audit function to test the internal policies, controls and procedures referred to in point (1)
- 3 approval from senior management for the policies, controls and procedures that are put in place, including monitoring and enhancing the measures taken, where appropriate

4.36 Senior management is defined in the directive as *"an officer or employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and*

sufficient seniority to take decisions affecting its risk exposure, and need not, in all cases, be a member of the board of directors”.

4.37 Article 46 of the directive requires obliged entities to make sure employees are aware of how to comply with the requirements in the directive. Measures could include ongoing training programmes for employees to help them notice when operations and transactions may be related to ML/TF and how to deal with the issue.

Box 4.G: Consultation questions – assessment of risks and controls

Question 21: Should the government set a threshold of the size and nature of the business for the appointment of a compliance officer and employee screening? If so, what should the government take into account?

Question 22: What should be taken into account when screening an employee?

Question 23: Should the government set a threshold for the size and nature of the business that requires an independent audit function? If so, what should the government take into account?

Question 24: What do you think constitutes an “independent audit function”?

Question 25: How many of the controls listed at paragraph 4.34 are you already carrying out and what is your assessment of the likely costs of these procedures?

5 Gambling providers

Summary

5.1 The Fourth Money Laundering Directive widens its scope to cover all gambling providers. Only holders of a casino operating licence are currently subject to the requirements under the current Regulations and therefore this represents a significant change.

5.2 The government may exempt, in full or in part, providers of certain gambling services (physical and remote providers, except for casinos) from the requirements laid down in the directive on the basis of *proven low risk posed by the nature and scale of operations*. Any exemption will need to take account of a risk assessment that includes factors such as the degree of vulnerability of the transaction and the payment methods used as well as a reflection of any findings on the risks of money laundering and terrorist financing (ML/TF) affecting the internal market and relating to cross-border activities¹⁸. The government must also notify the European Commission of any exemptions along with the justification for them on the basis of the risk assessment, which will be communicated to other EU Member States.

5.3 This chapter explains what controls the gambling providers will have to put in place if they are covered by the Regulations. It also seeks evidence from interested stakeholders on the risk of money laundering and terrorist financing that gambling poses to the UK's economy and views on which gambling providers should be exempt from the directive on the basis of proven low risk.

The Gambling Act 2005

5.4 Gambling firms operating in, or selling to consumers in, Great Britain are licensed by the Gambling Commission under the Gambling Act 2005 ("the Act"). The Act sets out three licensing objectives the first of which is to prevent gambling from being a source of crime or disorder, being associated with crime and disorder, or being used to support crime. To support compliance with the Act, the Gambling Commission has in place a range of conditions, and publishes guidance and advice to gambling operators, including requirements in relation to Money Laundering. It is introducing a new consolidated principal anti-money laundering requirement into its licence conditions and codes of practice later in 2016. Further information on the role of the Gambling Commission can be found on their website at www.gamblingcommission.gov.uk.

What will the gambling sector have to do in order to comply with the directive?

5.5 Providers of gambling services that do not benefit from the exemption (e.g. they are not proven low risk) will need to apply customer due diligence (CDD) measures in the following instances:

- when establishing a business relationship
- upon the collection of winnings or the wagering of stake (including by the purchase and exchange of gambling chips), or both, and when any transaction amounts to £1,672 (EUR 2,000) or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked

¹⁸ Article 6 of the Directive (the supranational risk assessment).

- when there is suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold
- when there are doubts about the accuracy or adequacy of previously obtained customer identification information

5.6 The CDD measures involve:

- 1 identifying and verifying the customer's identity - through documents, data or information obtained from a reliable and independent source
- 2 identifying the beneficial owner and taking reasonable measures to verify that person's identity so that the gambling provider is satisfied that it knows who the beneficial owner is, including as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer
- 3 assessing and, where appropriate, obtaining information on the purpose and intended nature of the business relationship
- 4 conducting ongoing monitoring of the business relationship to ensure that the transactions being carried out are consistent with the gambling provider's knowledge of the customer, the business and risk profile, including where necessary the source of the customer's funds and making sure that the documents, data or information held are kept up-to-date

5.7 When performing the measures referred to at points **1** and **2**, gambling providers must also verify that any person claiming to act on behalf of the customer, is authorised to do so and verify the identity of that person. Gambling providers must take into account certain variables when assessing risk (e.g. Annex I of the directive) and be able to demonstrate that the measures taken are appropriate in view of the ML/TF risks that have been identified. Gambling providers must also apply each of the CDD measures listed at 5.6, however **they can determine how in-depth the measures should be, using a risk-based approach**. For further information on CDD, please see Chapter 4. Where gambling providers are unable to comply with CDD measures (1), (2) or (3) they shall not establish a business relationship or carry out any transaction and shall terminate the business relationship. The gambling provider must also consider making a suspicious transaction report to the Financial Intelligence Unit (FIU) in relation to the customer. See Chapter 11 of this consultation for more details on the UK's FIU. Casinos already are, and will continue to be, subject to these requirements.

Evidence

5.8 It is extremely important that the government make evidence-based decisions on which, if any, providers of gambling services may benefit from the exemption in the directive. As such, the government seeks your views on the money laundering and terrorist financing risks that exist in relation to (i) the following sectors in the gambling industry; and (ii) the different gambling services offered by each of the providers:

- betting (including on-course and off-course bookmakers)
- the remote sector¹⁹ (the majority of this is online and includes betting, bingo, casino or lotteries, where offered through remote means)

¹⁹ Remote gambling means gambling in which persons participate by the use of remote communication, defined as communication using – (a) the internet (b) telephone (c) television (d) radio or (e) any other kind of electronic or other technology for facilitating communication – Gambling Act 2005

- bingo
- adult gaming centres (amusement arcades)
- lotteries (including the national lottery)
- public houses and clubs that offer gaming machines, under licence from the Local Authority rather than the Gambling Commission

5.9 As mentioned at paragraph 5.2 and Chapter 1 of this consultation, when establishing any exemption for gambling services the government will need to take into account factors such as the degree of vulnerability of the transactions used as well as the ML/TF risks affecting the internal market and relating to cross-border activities, through the supranational risk assessment.

5.10 When submitting your response on the risks for each of the providers and the risks attached to the different gambling services (or activities) provided by a provider, the government requests that you submit credible, cogent and open-source evidence to support your claims. In addition, where a number of gambling activities are provided, for example within the retail betting sector, which includes over-the-counter betting and machine play, it would be helpful for your response to consider the risk *per activity*.

5.11 Please consider factors such as:

- how often STRs or SARs have been submitted
- the number of prosecutions (including regulatory action) that have occurred
- the volume of transactions overall and the typical size (£) of transactions
- the current controls in place to mitigate against money laundering and terrorist financing
- how practical it could be to attempt to launder money and finance terrorism
- other factors that you believe are relevant in supporting the position

5.12 The government is keen to understand the impacts on the gambling sector of not exempting these providers or activities. Therefore it would be helpful for your response to also cover potential costs to the industry.

Assessment of options

5.13 Following assessment of the evidence provided to us through this consultation, the government will exempt only gambling providers which are proven low risk. If, for example, the UK were to make no changes to the Regulations around gambling (i.e. only casinos are regulated), the decision would need a very strong evidence base since the directive requires Member States to explain their conclusions to the Commission who will share this with other Member States. An exemption and explanation is also susceptible to the scrutiny of the courts.

How could the exemptions apply?

5.14 Only those services that are **not** proven low risk will have to engage the CDD measures. There may be some flexibility in terms of how the exemption applies. For example, although the government may not be able to exempt an entire sector, it could be permissible to exempt certain gambling services (*activities*). For instance, if there are certain gaming machines present within a provider or across various providers where the evidence suggests that they are proven to be low risk, it may be permissible in those circumstances to exempt that particular activity.

The government welcomes your views on such an approach. Further detail on the different *activities* within sectors are provided at Annex C.

5.15 As Member States will need to notify the European Commission of any exemptions along with the justification on the basis of the risk assessment, it is extremely important for the responses provided to the consultation questions in this chapter to come from a firm evidence base that takes into account criminal spend and makes reference to how the data has been obtained. If the evidence provided cannot be considered reliable, then the government cannot engage the exemption.

Box 5.A: Consultation questions - gambling providers

Question 26: Do you think that the government should consider exempting proven low risk providers of gambling services from the Regulations based on the gambling *activity* or by a complete sector (see the list at paragraph 5.8 or Annex C for information on how the sectors are split up) or both? Please explain the reasons behind your response.

Question 27: Which gambling providers or activities do you think should be classified as having 'proven' low risk and therefore should be **exempt** from the Regulations? Please provide credible, cogent and open-source evidence to support your response.

Question 28: Should CDD requirements for the gambling providers or activities take place: (i) on the wagering of a stake; (ii) on the collection of winnings; (iii) on the collection of winnings and the wagering of a stake; or (iv) or whichever is the latter? Please explain the reasons behind your response.

Question 29: What do you think constitutes a 'linked transaction' for different types of gambling? Do you think 'linked transaction' should be defined in legislation?

Question 30: If covered by the Regulations, what costs and impacts would be incurred by the providers of the gambling services? Please provide sources for your data and suitable evidence. In particular, the government is keen to know what your initial transition costs would be, how much you would need to spend on staff training and how much it would cost to apply CDD measures.

Question 31: What advantages would there be for increasing the coverage of the Regulations to more than just casinos in the gambling industry?

Question 32: Do you believe that measures could be taken by the Gambling Commission under the Act that might have a bearing on whether you view a sector or activity as being proven low risk?

6 Electronic money

Summary

6.1 Article 12 of the directive allows Member States to exempt some low risk e-money products from certain customer due diligence measures (CDD), for example the identification and verification of the customer and of the beneficial owner, and the assessment of the purpose and intended nature of the relationship (but not from the monitoring of transactions or of business relationships). The government interprets this exemption as applying, in certain circumstances, to non-reloadable instruments with a maximum stored value of £209 (EUR 250), or reloadable instruments where the maximum monthly payment transactions limit of £209 (EUR 250) can be used only in that Member State.

6.2 In addition, the Fund Transfer Regulations (FTR) do not apply to transfers of funds using e-money instrument when the instrument is used exclusively to pay for goods or services and the number of the instrument accompanies all transfers flowing from the transaction. However the FTR will apply when an instrument is used in order to effect a person-to-person transfer.

6.3 This chapter considers which products should be exempt from CDD under Article 12, and whether other e-money products posing lower risk should be subject to simplified due diligence (SDD) under Article 15.

What will the e-money sector have to do?

6.4 The current Regulations set out that a relevant person may apply SDD for electronic money (as defined in the electronic money directive²⁰) where there are reasonable grounds to believe that the product related to the transaction is e-money and:

- (i) *if the device cannot be recharged, the maximum amount stored in the device is no more than £209 (EUR 250) or in the case of electronic money used to carry out payment transactions within the UK, £418 (EUR 500)*
- (ii) *if the device can be recharged, a limit of £2,090 (EUR 2,500) is imposed on the total amount transacted in a calendar year, except when an amount of £836 (EUR 1,000) or more is redeemed in the same calendar year by the electronic money holder (as defined in the same electronic money directive)*

6.5 The exemptions set out in the directive are founded on different conditions, which if pursued, need to be reflected in new legislation:

...based on an appropriate risk assessment which demonstrates a low risk, a Member State may allow obliged entities not to apply certain customer due diligence measures with respect to electronic money, where all of the following risk-mitigating conditions are met:

- a *the payment instrument is not reloadable, or has a maximum monthly payment transactions limit of £209 (EUR 250) which can be used only in that Member State*
- b *the maximum amount stored electronically does not exceed £209 (EUR 250)*
- c *the payment instrument is used exclusively to purchase goods or services*

²⁰ http://ec.europa.eu/finance/payments/emoney/text/index_en.htm

- d the payment instrument cannot be funded with anonymous electronic money
- e the issuer carries out sufficient monitoring of the transaction or business relationship to enable the detection of unusual or suspicious transactions

For the purposes of point (b) of the first subparagraph, a Member State may increase the maximum amount to £418 (EUR 500) for payment instruments that can be used only in that Member State.

However, Member States must ensure the derogation is not applicable in the case of redemption in cash or cash withdrawal of the monetary value of the electronic money where the amount exceeds £84 (EUR 100).

6.6 In addition to the exemption described at para 6.1, where e-money products do not come within those particular terms but they nonetheless pose low risks, the application of SDD is available under Article 15 of the directive. For further details on SDD, please see Chapter 4 of this consultation.

Evidence

Money laundering and terrorist financing risk

6.7 The National Risk Assessment (NRA)²¹ identifies the money laundering risk associated with e-money products as medium, however the terrorist financing risk associated with e-money is low. It highlights that the nature of services and products that the sector provides can make it attractive to criminals seeking to convert criminal proceeds into other payment methods, conceal the origins of funds, remit funds overseas or transfer value between individuals. Threats and vulnerabilities include criminals using closed loop prepaid gift cards to realise proceeds from compromised credit cards; the nature of the sector presenting a challenge to supervisors and law enforcement and levels of compliance not being well known.

6.8 The FATF findings on commercial websites and internet payments systems (IPS)²² concluded that as long as the sector and competent authorities are aware of risks, and risk based measures are taken, there is not necessarily a higher ML/TF risk than other sectors. Best practice includes screening transactions and monitoring transactions; not accepting anonymous forms of payment (e.g. cash); imposing transaction limits; maintaining transaction records, and reporting large or suspicious transactions. In addition, the best IPS providers collect a range of data and information on movements of funds between buyers and sellers and commercial transactions. Consequently, they have a global view of the movement of funds and commercial transactions between buyers and sellers internationally, information that banks plus buyers and sellers do not have – further mitigating AML/CFT risks.

6.9 Potential vulnerabilities include fictitious sales (with real payments but no checking of the quality, existence or delivery of the produce); drug trafficking using commercial websites to sell fictitious goods to launder the proceeds of drug trafficking; sale of goods at an inflated price; selling stolen or counterfeit goods; resale of luxury commercial goods; the use of “front intermediaries” such as students recruited on the internet and paid a commission to receive and transfer funds.

²¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468210/UK_NRA_October_2015_final_web.pdf

²² *Money Laundering & Terrorist financing vulnerabilities of commercial websites and internet payment systems*, FATF, 18 June 2008.

6.10 Further evidence on the risks of ML/TF from e-money products is welcomed as part of the consultation process.

Box 6.A: Consultation questions - electronic money

Question 33: How should the government apply the CDD exemptions in Article 12 of the directive for electronic money (e-money)?

Question 34: Should e-money products which do not meet the criteria for the CDD exemptions in Article 12 of the directive be considered eligible for SDD under Article 15?

Question 35: Should the government exclude any e-money products from both the CDD exemptions in Article 12, and from eligibility for SDD in Article 15?

Question 36: Should the government increase the maximum amount that can be stored electronically to £418 (EUR 500) for payment instruments that can only be used in the UK?

Question 37: Please provide credible, cogent and open-source evidence of low risk posed by electronic money products, the efficacy of current monitoring systems to deal with risk and any other evidence demonstrating the position of low risk.

Question 38: E-money products with a maximum monthly payment transactions limit of £209 (EUR 250) will be exempt from some of the CDD measures, but only if they are used in that (one) Member State in which they were acquired. What do you think the likely customer behaviour response to this will be? Please provide credible, cogent and open-source evidence to support your response where possible.

Question 39: The government welcomes views on the likely costs that may arise for the e-money sector in order to comply with the directive.

7 Estate agency businesses

Summary

7.1 The current Money Laundering Regulations 2007 apply to estate agents, which means a firm or sole practitioner who, or whose employees, carry out estate agency work. Estate agency work should be read in accordance with section one of the Estate Agents Act 1979 (as modified by the Regulations) when in the course of carrying out such work.

7.2 The main categories of estate agency services captured by this definition, and so covered by the Regulations, are residential and commercial estate agency services, property or land auctioneering services, and relocation agency or property finder services. The Regulations were amended in 2012 to include disposing of or acquiring an estate or interest in land outside the UK where that estate or interest is capable of being owned or held as a separate interest. Estate agents based in the UK who deal with overseas property are covered, as well as estate agents based abroad if they are doing business with the UK.

7.3 The Regulations apply to those carrying out a number of services which come under the estate agency business, for example in the purchase or sale of property as well as the sale or purchase of an interest in land i.e. as a property owner and leaseholder. Only lettings agents that deal in leases of capital value are currently covered by the Regulations and do not apply to the remainder of the lettings agency or property management sector. Estate agency businesses are currently supervised by HMRC. The Third Money Laundering Directive did not permit professional bodies to undertake AML/CFT supervision for estate agents.

7.4 The directive introduces two key differences in relation to the estate agency sector from the Third Money Laundering Directive: (i) potential professional and self-regulatory body supervision of estate agents and (ii) estate agents could be understood to include letting agents. This chapter explains those differences and seeks your views on them. It also addresses whether the Regulations should stipulate that estate agents are to apply CDD measures to both purchasers and vendors.

What changes does the directive introduce?

7.5 When the directive is transposed, the Treasury may appoint self-regulatory body supervisors of estate agents. Article 48(9) states, "*In the case of the obliged entities referred to in point (3)...(d) of Article 2(1) (estate agents) Member States may allow the functions referred to in paragraph 1 of this Article (effective monitoring and necessary measures to ensure compliance with this directive) to be performed by self-regulatory bodies..*". Further details on supervision of the regulated sector can be found in Chapter 13 of this consultation.

7.6 The directive clarifies that estate agents could be understood to include lettings agents. Recital 8 of the directive states, "*As concerns the obliged entities which are subject to this Directive, estate agents could be understood to include letting agents, where applicable.*"

Potential options

Appoint professional or self-regulatory body supervisors of estate agents

7.7 The Treasury will consider appointing self-regulatory body supervisors of estate agents. If implemented in practice, this would mean that those businesses that were members of eligible estate agency professional bodies would be supervised by those bodies for AML/CFT purposes,

rather than by HMRC. HMRC would remain the supervisor of estate agency businesses that were not members of those bodies. This would mean adding another supervisory body to an already crowded landscape which may create challenges in engagement for law enforcement.

Lettings activity

7.8 Lettings agents may be an attractive target for criminals seeking to disguise or hide the proceeds of crime. For example, criminals may seek to use an agent to accept payments and forward mail connected with criminal activity such as scam holiday lets or mortgage or benefit fraud; tenants may seek to launder cash, and politically exposed persons relocating to the UK may launder criminal funds through lets. The government would welcome views on the regulation of letting agent activity for the purposes of preventing money laundering and terrorist financing. The government would also welcome views on whether letting agents should be supervised through HMRC alone or both HMRC and professional or self-regulatory bodies, depending on a business' membership status.

7.9 There are a number of activities that lettings agencies carry out. For example, introductory services, lets only, rent collection, full property management, block management etc. The government would welcome views on what other types of lettings activity exist and also whether all of these activities should be viewed as coming within the meaning of lettings agency work.

7.10 Landlords will likely be the main customer for most lettings agents rather than tenants, though in some circumstances agents have landlords and tenants as their customers. In order to combat ML/TF in the UK, the government invites views on whether lettings agents should carry out CDD measures on both contracting parties (landlords and tenants) in a transaction where they act as intermediaries. For further details on CDD, please refer to chapter 4 of this consultation.

7.11 The directive requires obliged entities to carry out CDD on customers when "establishing a business relationship". The government would welcome views on when business relationships are established with lettings activity in relation to landlords and tenants. For example, the business relationship could be established:

- 1 when a landlord appoints a lettings agent
- 2 when the landlord/agent agrees to let the property to the tenant
- 3 when the landlord/agent agrees to show prospective tenants around the landlord's property
- 4 when the tenant signs up with an agent
- 5 when the tenant views properties

7.12 It should be noted that (3) and (5) may prove more burdensome for businesses and particularly problematic for people who change address often e.g. students.

Box 7.A: Consultation questions – estate agents and lettings agents

Question 40: What are your views on the regulation of lettings agents? Please explain your reasons and provide evidence where possible.

Question 41: What other types of lettings activity exist, aside from those mentioned at paragraph 7.9? Of these activities, which do you think should be included in letting agency activity? Please explain your reasons and provide evidence where possible.

Question 42: Do you think HMRC alone or HMRC and self-regulatory bodies should be appointed supervisors of estate agents and lettings agents? Please explain your reasons and provide evidence where possible.

Question 43: Do you think that letting agents should apply CDD to both contracting parties?

Question 44: The government would welcome views on when the establishment of a business relationship should commence with a) the tenant and b) the landlord (in regards to lettings activity).

Customer due diligence issues

Who is the customer?

7.13 In the UK, estate agents tend to act only for one of the parties to a transaction. As a result, the estate agencies often carry out customer due diligence on one of the parties to a transaction – their customer – who may be a vendor or a purchaser. The government has received representations that this is a weakness in the UK's AML/CFT regime. This is because, for example, an agent acting for a vendor may not detect potential criminality on the side of a purchaser, and vice versa. Of course, an estate agent will be acutely aware of the need to report suspicious activity in accordance with the applicable money laundering and terrorist financing offences.

7.14 A similar issue could apply to letting agents as discussed above. Landlords are generally considered to be the main customer of a letting agent rather than a prospective tenant. Again, a letting agency will be acutely aware of the need to report suspicious activity in accordance with the applicable money laundering and terrorist financing offences.

Intermediaries and reliance

7.15 In transactions where there is a sub-agent (intermediary) acting on behalf of a principal estate agent, a sub-agent cannot rely on the due diligence performed on the vendor by the principal agent. The sub-agent must therefore satisfy themselves that they have sufficient information on the underlying client and any beneficial owner (the vendor) in order to verify their identity. A principal estate agent can supply the information they hold on the vendor to facilitate the due diligence carried out by the sub-agent. Under the directive the sub-agent might be able to rely on the due diligence carried out on the vendor by the principal estate agent - subject to certain provisos. For further information on reliance, please see chapter 4 of this consultation.

Box 7.B: Consultation questions – due diligence and intermediaries

Question 45: Should estate agency businesses apply CDD to both contracting parties in a transaction in which they act as intermediaries? Please explain your reasons and provide credible, cogent and open-source evidence where possible.

Question 46: Should sub-agents be able to rely on principal estate agents (see 7.16)? Please explain your reasons and provide credible, cogent and open-source evidence where possible.

Question 47: How much does it cost your business to apply CDD checks and what would the cost be if you were to apply them to both contracting parties in a transaction?

8 Correspondent banking

Summary

8.1 This chapter sets out the requirements on correspondent relationships under the directive, including the definition and the requirement to apply enhanced due diligence (EDD) to non-EEA correspondent banking relationships.

Definition of correspondent relationship

8.2 The 2012 FATF Recommendations define correspondent banking relationships as:

“...the provision of banking services by one bank (the “correspondent bank”) to another bank (the “respondent bank”). Large international banks typically act as correspondents for thousands of other banks around the world. Respondent banks may be provided with a wide range of services, including cash management (e.g. interest-bearing accounts in a variety of currencies), international wire transfers, cheque clearing, payable-through accounts and foreign exchange services”.

8.3 In line with the 2012 FATF Recommendations, Article 3(8) of the directive defines a ‘correspondent relationship’ as:

“(a) the provision of banking services by one bank as the correspondent to another bank as the respondent, including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange services;

(b) the relationships between and among credit institutions and financial institutions including where similar services are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or funds transfers;”

8.4 There is no definition of correspondent banking in the UK’s 2007 Money Laundering Regulations. The new definition set out in Article 3(8) extends the FATF definition to include relationships between and among credit institutions and financial institutions.

Application of enhanced due diligence (EDD)

8.5 Cross-border correspondent banking is an integral part of the international flow of capital and trade. Due to a number of factors such as speed, volume of transactions, accuracy and efficiency, correspondent banking leaves a bank vulnerable to money laundering. In line with FATF’s Recommendation 13, the HM Treasury approved Joint Money Laundering Steering Group (JMLSG) guidance for the financial sector sets out that as the correspondent often has no direct relationship with the underlying parties to a transaction and so has limited information regarding the identity of the underlying party or the nature or purpose of the underlying transactions, firms undertaking such business should apply enhanced customer due diligence measures to their respondents on a risk-sensitive basis.

8.6 The directive therefore requires that when undertaking cross-border correspondent relationships with non-EEA respondent institutions, enhanced due diligence measures should be taken in addition to CDD measures. This includes responsibility to:

- gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision
- assess the respondent institution's AML/CFT controls
- obtain approval from senior management before establishing new correspondent relationships
- document the respective responsibilities of each institution
- with respect to payable-through accounts, be satisfied that the respondent institution has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent institution, and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request

8.7 These EDD measures set out in Article 19 are in line with current correspondent banking relationship requirements under the 2007 Regulations. This is not an area where the directive offers exemptions to Member States. The government will therefore transpose these requirements into UK law in full.

8.8 In line with the directive, the government expects firms to take a risk-based approach in their activities, such as, following the identification of a correspondent relationship, EDD measures are adapted so as to be commensurate with the risks posed by the relationship and in line with the firm's risk appetite. This consultation seeks the best way to achieve this, for example through guidance and application by the sector.

Financial Stability Board Action Plan

8.9 In recent years, there has been a decline in the number of correspondent banking relationships. For the international community this has been a source of concern because it may affect the ability to send and receive international payments, or drive some payment flows underground, with potential consequences on growth, financial inclusion, as well as the stability and integrity of the financial system.

8.10 The Financial Stability Board (FSB) presented to G20 Leaders in November 2015 an action plan to assess and address the decline in correspondent banking. The Action Plan had 4 main elements:

- further examining the dimensions and implications of the issue
- clarifying regulatory expectations, as a matter of priority, including more guidance by the Financial Action Task Force (FATF)
- domestic capacity-building in jurisdictions that are home to affected respondent banks
- strengthening tools for due diligence by correspondent banks

8.11 The FATF is working to provide more detailed guidance on correspondent banking relationships to clarify regulatory expectations and ensure that firms are able to adopt a risk-based approach.

Box 8.A: Consultation questions – correspondent banking relationships

Question 48: What impact will implementing the new definition of correspondent banking have on your firm's policies and procedures?

Question 49: Is there any further information that could be provided to ensure the adoption of a risk-based approach when applying enhanced due diligence to correspondent relationships?

9 Politically Exposed Persons

Summary

9.1 The directive broadens the AML/CFT requirements in relation to Politically Exposed Persons (PEPs). This is because a PEP in Article 3(9) of the directive means a natural person who is or who has been entrusted with a prominent public function; there is no longer any distinction between a domestic or foreign PEP. As a result, the enhanced due diligence (EDD) measures in Articles 20 and 23 of the directive are applicable to a wider scope of PEPs and the EDD measures also apply to family members and persons known to be close associates of PEPs.

9.2 This chapter explains what requirements will need to be met and also seeks responses from interested stakeholders on how a proportionate and sensible approach can be applied in relation to PEPs. It also addresses the issue of money laundering and corruption in sport and raises questions about how the government could tackle this.

What are the key changes?

9.3 Currently under the Regulations only a person who is or who has been entrusted with a prominent public function in a state other than the UK; an EU institution; or an international body are defined as a PEP, and as a result those persons are subjected to EDD. The family members and persons known to be close associates of those PEPs are also subjected to EDD.

9.4 The removal of the distinction between domestic and foreign PEPs reflects the view that PEPs often hold positions that can be open to abuse for the purpose of committing money laundering and related predicate offences, including corruption and bribery, coupled with a recognition that in many countries domestic PEPs can present a higher risk than foreign PEPs. Significant sums derived from international corruption are laundered through the UK, linked to corrupt PEPs. This creates risk for the financial sector and is a threat to the reputation of the UK. However, the level of risk is not the same for all countries or all individuals, which reinforces the need for a proportionate and tailored approach to the identification of a PEP and the application of EDD to them. The government has called for a tailored and sensible approach to the PEPs requirements and, in April 2016, it accepted an amendment to the Bank of England and Financial Services Act 2016 to underline this. The government will ensure a proportionate approach is taken when transposing the directive.

9.5 To assist within the application of enhanced due diligence to PEPs, Article 3(9) of the directive provides a non-exhaustive list of those persons who are PEPs. This includes:

- heads of State, heads of government, ministers and deputy or assistant ministers
- members of parliament or of similar legislative bodies
- members of the governing bodies of political parties
- members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances
- members of courts of auditors or of the boards of central banks

- ambassadors, chargés d'affaires and high-ranking officers in the armed forces
- members of the administrative, management or supervisory bodies of State-owned enterprises
- directors, deputy directors and members of the board or equivalent function of an international organisation

9.6 The directive makes clear that middle-ranking or more junior officials should not be viewed as coming within Article 3(9).

9.7 Article 21 of the directive requires the carrying out of reasonable measures to determine whether the beneficiaries of a life or other investment-related insurance policy and/or, where required, the beneficial owner of the beneficiary are PEPs. Those measures shall be taken no later than at the time of the pay-out or at the time of assignment of the policy, in whole or in part. Where higher risks are identified, in addition to customer due diligence measures, senior management must be informed before pay-out of policy proceeds and enhanced scrutiny of the entire business relationship with the policyholder is conducted.

What will obliged entities have to do to comply with the directive?

9.8 Under Article 20 of the directive, with respect to transactions or business relationships with PEPs (or family members and known to be close associates of PEPs by virtue of Article 23), obliged entities will, in addition to customer due diligence measures, need to:

- 1 have in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or the beneficial owner of the customer is a PEP
- 2 apply the following measures in cases of business relationships with politically exposed persons:
 - a obtain senior management approval for establishing or continuing business relationships with such persons
 - b take adequate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions with such persons
 - c conduct enhanced, ongoing monitoring of those business relationships

9.9 Article 21 of the directive is explained in 9.4 and it applies to PEPs and family members and known to be close associates of a PEP by virtue of Article 23.

9.10 Where a PEP is no longer entrusted with a prominent public function by a Member State, or a third country or an international organisation, obliged entities shall, for at least 12 months, be required to take into account the continuing risk posed by that person and to apply appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk specific to politically exposed persons.

Implementation of new rules

9.11 The government seeks to ensure that a proportionate approach underpins the UK's AML/CFT regime and therefore ensure that obliged entities have appropriate risk-management systems to identify PEPs, and when identified, that EDD measures are adapted so as to be commensurate with the risk posed by that person, taking into account a number of factors in line with the risk-based approach, including country that gives them their prominent function.

The government underlined the need for a proportionate, tailored and sensible approach to the PEPs requirements as part of the Bank of England and Financial Services Act 2016.

9.12 The government's view is that the directive permits a risk-based approach to identifying whether a customer is a PEP and the application to different degrees of the EDD measures set out in Article 20 so as to be commensurate to the risk posed. For example, senior manager approval could be provided by an officer with sufficient knowledge of the institution's ML/TF risk exposure and sufficient seniority to take decisions (rather than a board member), and a range of measures could be used to address the establishment of the source of wealth and source of funds. Similarly, a PEP check would not be needed if the product being offered was assessed as being the subject of a low risk of take-up by PEPs. However, if a person is identified as a PEP, the enhanced measures can be tailored to reflect the ML/TF risk posed by that product and that person. In low risk cases, the government's view is that UK PEPs, their family members and close associates should be treated at the lowest level of enhanced due diligence.

9.13 It is important that there is appropriate industry guidance available to ensure that obliged entities take an effective, proportionate and risk-based approach to the PEP regime. Supervisors are responsible for publishing guidance on the AML/CFT obligations of their supervised population: for example, the Joint Money Laundering Steering Group produce guidance, including on the treatment of PEPs, for use by financial and credit institutions. Similarly, the Financial Conduct Authority's Financial Crime Guide sets out examples of good and poor practice with regard to PEPs. However, as highlighted in the government's Call for Information on the Anti-Money Laundering Supervisory Regime, concerns have been raised about the consistency and clarity of the Financial Crime Guide and the JMLSG guidance. The government would therefore welcome views on the effectiveness of the existing guidance around PEPs, particularly as it relates to the financial sector.

PEPs and members of international sporting federations

9.14 Given the recent FIFA scandal and other cases of money laundering and corruption in sport, it is clear that there is a risk that those in a position of influence in international sporting federations (ISF) can potentially abuse their position and power for money laundering and related predicate offences, including corruption and bribery.

9.15 The directive does not expressly include members within ISF, senior or otherwise, as PEPs.

9.16 The government would therefore welcome your views on whether it should include senior members of ISF within the UK's definition of PEPs, along with their family members and known to be close associates. The government also welcomes views on whether this would prevent these organisations being used as a vehicle for money laundering and tackle corruption in sport.

Box 9.A: Consultation questions - PEPs

Question 50: How do you differentiate between risk management systems and risk-based procedures?

Question 51: Under the terms of the directive, all PEPs are considered to be high risk. However, obliged entities may use a risk-based approach to both the identification of a PEP and the depth of EDD measures that are applied to them. What risk factors do you think are relevant when deciding how to identify a PEP and adapt EDD measures to them? Would more clarity in guidance be helpful to avoid the disproportionate application of EDD measures to low-risk groups and their families?

Question 52: The directive specifically applies to members of parliament or of similar legislative bodies and to members of the governing bodies of political parties. In the UK the Electoral Commission maintains two registers of political parties: one for Great Britain and a separate register for Northern Ireland. There are over 400 registered political parties, of which the vast majority are very small. Should there be some form of criteria or some examples set out in guidance of the political parties to which this applies, e.g. those having elected members of Parliament, the European Parliament, or the devolved legislatures? If so, what is the reasoning behind the use of these particular criteria or examples? Would guidance on this issue assist and, if so, what should the guidance include to provide clarity?

Question 53: How will the express inclusion of members of parliament or of similar legislative bodies and members of the governing bodies of political parties interact with the existing rules and regulations for political parties and elected representatives, in particular the Political Parties, Elections and Referendums Act 2000, and what steps should be taken to avoid duplicating these existing regimes?

Question 54: Does the extent of EDD on the family members of PEPs and individuals who are known to be close associates of PEPs correspond with the measures that are appropriate for the PEP themselves? Which risk factors do you think are relevant?

Question 55: How much does it cost to identify and apply EDD checks to PEPs? Please provide evidence to support your response.

Question 56: Is the guidance sufficiently clear about how EDD should be applied to PEPs, their family members and their known close associates? If not, what should the guidance include to provide clarity? With regard to financial institutions, are there specific changes that could be made to the Financial Crime Guide or the JMLSG guidance to clarify the treatment of PEPs? What specific changes could be made to the guidance in other regulated sectors?

Question 57: The Financial Ombudsman Service has statutory powers to consider complaints from PEPs, their family members and their known close associates against financial service providers. Can this provide sufficient access to redress for PEPs? The government would be particularly interested to hear about cases where a PEP was treated unreasonably, where a PEP was refused a business relationship solely because they were identified as a PEP or where an individual was incorrectly classified as a PEP.

Question 58: Should the government explicitly include senior members of international sporting federations as a category of PEPs, along with their family members and known to be close associates? How many senior members (in line with the definition of senior management in Article 3(12) of the directive) of international sporting federations would

you deal with, along with their family members and known to be close associates? Please provide a source for your estimation if this is not data that you already hold.

Question 59: How would you define an international sporting federation?

10 Beneficial Ownership

Beneficial ownership of legal entities

Summary

10.1 Article 30 of the directive requires Member States to use a central register to hold information on beneficial ownership for corporate and other legal entities incorporated within their territory. Member States can make the register public, or at a minimum ensure law enforcement, obliged entities and others with a “legitimate interest” have commensurate degrees of access to the information.

10.2 The UK put transparency of corporate ownership and control on the international agenda at the G8 Summit in Lough Erne in 2013. Corporate transparency can help counter money laundering, terrorist financing and tax evasion. It benefits developing countries fighting corruption, and UK businesses developing commercial relationships. The directive represents important international progress towards corporate transparency, and the UK will continue to encourage ambitious implementation by Member States and wider change through international organisations such as the G20.

10.3 The UK has met its G8 commitment to establish a publicly accessible central register of information on beneficial ownership. The Department for Business, Energy and Industrial Strategy (BEIS) consulted on the People with Significant Control (PSC) regime in 2013, 2014 and 2015. The legislative framework was established in the Small Business, Enterprise & Employment Act 2015 and the regime became operational in June 2016. As the Prime Minister announced while hosting the world’s first Anti-Corruption Summit, the UK will now establish a public register of company beneficial ownership for foreign companies who already own or buy property in the UK, or who bid on UK central government contracts. This chapter highlights some key considerations.

Providing beneficial ownership information to the central register

10.4 The directive requires information on beneficial ownership on the central register to be “current.” The PSC regime being introduced in the UK in 2016 will require entities in scope to hold their PSC information on their own register. PSC entities will need to update their own register following any relevant changes and will also need to update the central public register at Companies House annually²³. This update is part of the entity’s Confirmation Statement process, covering wider corporate information.

10.5 The UK must consider how best to meet the requirement that PSC information on the central public register at Companies House is current. It is also important to consider how this fits with other information on the public register, and whether any further changes are necessary.

Requirements for other types of legal entity

10.6 The directive is intended to apply to a wide range of corporate and other legal entities. The PSC regime being introduced in the UK in 2016 will apply to most companies, Limited Liability Partnerships (LLPs) and Societas Europaeae (SEs).

²³ To reduce burdens on business, some entities can elect to keep their own register at Companies House. Any changes to their own register, including to PSC information, can therefore be made directly to Companies House.

10.7 The government must identify which other legal entities are in the scope of the directive and how they would register information on their beneficial ownership.

10.8 Below is a list of some types of entity in the UK which might be viewed as coming within the scope of the requirements to register information on beneficial ownership. Some of these entities operate differently in certain parts of the UK, and the government will work with the Welsh Assembly, Scottish Government and Northern Ireland Assembly towards effective transposition of the directive. The government welcomes views from all parts of the UK on whether these entities are in the scope of the directive and the approach to these entities:

- European Economic Interest Groupings
- Unregistered Companies
- Open Ended Investment Companies (OEICs)
- Investment Companies with Variable Capital
- Co-operative/ community benefit societies
- Building Societies
- Friendly Societies
- Credit Unions
- European Cooperative Society (SCE)
- Charitable Incorporated Organisations (CIOs)
- European Groupings of Territorial Cooperation (EGTC)
- Scottish Partnerships and Scottish Limited Partnerships
- Royal Chartered Bodies

Box 10.A: Consultation questions – beneficial ownership of legal entities

Question 60: The government welcomes any views on the issues highlighted above and the PSC regime itself.

Trust beneficial ownership

Summary

10.9 The Commission has proposed amendments to the directive which would widen the scope of the trust register, see para 1.13 for details.

10.10 Article 31 of the directive provides that Member States shall require trustees of any express trust governed under their law (whether the trust generates tax consequences or not) to obtain and hold adequate, accurate and up-to-date information on beneficial ownership of the trust and make this information available to competent authorities and FIUs. Further, the directive requires that the beneficial ownership information is held in a central register when the trust generates tax consequences.

10.11 The government welcomes efforts to improve the transparency of trusts and trust-like legal arrangements. Trusts generating tax consequences are more likely to pose an AML risk as

tax consequences occur when funds are moved or ownership transferred. Government will minimise burdens on those that hold data by building upon existing mechanisms when reporting the required information to the central register.

10.12 The measures provided for in Article 31 apply to other types of legal arrangements having a structure or functions similar to trusts.

10.13 The government views the requirements of Article 31 in relation to the UK as follows:

- governed under our law means trusts administered in the UK and non-resident trusts with a UK source income
- the trustee is to obtain and hold adequate, current and up-to-date information on trust beneficial ownership
- the trustee is to provide the trust beneficial ownership information to also be held in the central register when the trust generates tax consequences
- tax consequences means trusts that are liable to tax in the UK and are required to submit tax returns to HMRC, such as for income tax, capital gains tax and inheritance tax
- the trustee, in all cases, must give HMRC and the Financial Investigation Unit (FIU) housed in the NCA timely access to the trust beneficial ownership information. This will be achieved through an appropriate notification to the trustee
- timely and unrestricted access to the central register, without alerting the parties to the trust concerned, will be given by HMRC to the FIU
- similar arrangements to trusts means those that include fiducie, treuhand, fideicomiso, Usufruct, Anstalt and Stiftungs

10.14 The government recognises the importance of protecting the confidentiality of taxpayer information. As a result, and as set out earlier, the government will not share the trust beneficial ownership information with private entities or individuals. When trust beneficial ownership information is requested by EU administrations from the central register or the information is not held in the central register, it will only be obtained and disclosed in accordance with the appropriate legal gateways.

Requirements for trustees

10.15 Beneficial ownership information includes the identities of:

- the settlor
- the trustee(s)
- the protector (if any)
- the beneficiaries or class of beneficiaries
- any other natural person exercising effective control over the trust

10.16 Information must be adequate, accurate and up-to-date, though trustees should already be in possession of this information on the parties to their trusts. Trustees are already required to self-assess under the HMRC Self-Assessment tax reporting system.

10.17 Trustees are also required to disclose their status and provide the information referred to in paragraph 10.16 to obliged entities in a timely manner in situations where the trustee forms a business relationship or carries out an occasional transaction above the thresholds set out in points (b) (c) and (d) of Article 11 of the directive.

Box 10.B: Consultation question – requirements for trustees

Question 61: How often should a trustee be required to update the beneficial ownership information that they hold?

Question 62: What other arrangements should the government consider as having a structure that is similar to express trusts?

Question 63: What other arrangements should the government **not** consider as having a structure that is similar to express trusts?

Question 64: Are there any further considerations that the government should take account of when developing the central register of trust beneficial ownership information?

Building on the reporting mechanism

10.18 When a trust generates tax consequences, this means the trust generates a liability to income tax or capital gains tax or when the trust generates inheritance tax liabilities. Where a tax consequence occurs, trustees must provide updated information to HMRC in a prescribed form. The government recognises that trustees may not be aware as to whether there are any tax consequences until they complete their accounts and submit their tax return. In view of this, information can be provided to HMRC at the point at which it is reportable, i.e. on the 31 January following the end of the tax year, rather than the point at which a tax liability arises.

Box 10.C: Consultation question – trust beneficial ownership

Question 65: The government welcomes your views on the approach to beneficial ownership information as set out above.

One-off company formation

10.19 Trust or Company Service Providers (TCSPs) can set up a company on behalf of someone else as a one-off transaction. The current Regulations define a business relationship as:

“[business relationship] means a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration”

10.20 The government is aware of a view that CDD measures are not required when creating a company as a one-off set up, unless the situation presents a higher risk of money laundering or terrorist financing or there are doubts about the veracity or adequacy of customer identification data. This is because there is a view that such a set up does not have an “element of duration”. The government has received representations that this is an area which has been misunderstood and that it requires improvement in the UK’s AML regime. The government proposes to clarify through appropriate guidance that a one-off company set up is a business relationship that has an element of duration and welcomes your views on this topic.

Box 10.D: Consultation question – one-off company formation

Question 66: The government welcomes your views on clarifying, through appropriate guidance, that a one-off company set up is a business relationship that has an element of duration.

11 Reporting Obligations

Summary

11.1 This chapter explains the requirements in the directive for obliged entities, and where applicable, their directors and employees to promptly report suspicious transactions, including attempted transactions when they know, suspect or have reasonable grounds to suspect that funds are the proceeds of criminal activity or are related to terrorist financing. It covers the role of Financial Intelligence Units (FIUs) in this process. The UK adopted a wider approach than set out in the directive, which is the subject of a separate review by the Home Office. Finally, this chapter covers data protection and the potential for government to require obliged entities to retain documents relating to due diligence for up to 10 years after the end of a business relationship or occasional transaction.

Financial Intelligence Units

11.2 The directive requires each Member State to establish a Financial Intelligence Unit (FIU) to prevent, detect and effectively fight money laundering and terrorist financing. The UK already has an FIU which is operationally independent and autonomous from government; this is located within the National Crime Agency (NCA).

Suspicious Transaction and Activity Reports

11.3 The FIU is responsible for receiving, analysing and disseminating Suspicious Transaction and Suspicious Activity Reports (STR/SARs) submitted by obliged entities.

11.4 The directive states that:

- the FIU should be able to obtain additional information from obliged entities (Article 32(3))
- Member States shall require obliged entities, and where applicable, their directors and employees, to cooperate by promptly responding to requests by the FIU for additional information relating to reports filed (Article 33(1)(a))
- provide the FIU, directly or indirectly, at its request, with all necessary information, in accordance with the procedures established by the applicable law (Article 33(1)(b))

11.5 The FIU can request and receive further information on a STR/SAR, or other information relevant to its analysis, from the reporting sector through the information sharing gateway provided by section 7 of the Crime and Courts Act 2013. The FIU is, however, unable to compel the provision of information from the reporting sector at that early stage in the process.

11.6 In accordance with Article 38 and Recital 41 of the directive, individuals, including employees and representatives of the obliged entities that report suspicious activity, will be protected by the government from being exposed to threats or hostile actions - particularly in relation to any discriminatory employment actions and their right to protection of their personal data and rights to effective judicial protection and representation. Under the Youth Justice and Criminal Evidence Act (1999), vulnerable and intimidated witnesses can be protected when giving evidence by using a screen to shield themselves from the defendant in court, or using live-link from a separate room in the court building or from a dedicated non-court location.

11.7 Article 61 of the directive requires Member States to ensure that the competent authorities (in this case, the relevant government departments, supervisors, regulators and the NCA) set up effective and reliable mechanisms to encourage the reporting to the FIU of potential or actual breaches of the national provisions that transpose this directive. The mechanisms listed in Article 61(2) include appropriate protection for the accused person and protection of the personal data concerning both the person who reports the breaches and the natural person who is allegedly responsible for a breach.

11.8 The UK has in place protection for the accused as well as person(s) who report breaches through Article 2 of the Human Rights Act 1998, which enshrines the right to life in British law. British and European legislation places an obligation on the police and other law enforcement agencies to take all reasonable steps to protect a person whose life is in 'real and immediate' danger from the criminal acts of another. In such scenarios protection measures can be utilised by responsible agencies to minimise risk of harm to the individuals concerned.

11.9 There are also UK whistleblowing protections in place to provide workers with a remedy should they suffer any detriment or be dismissed as a result of blowing the whistle. The legislation is contained in the Public Interest Disclosure Act 1998 (PIDA) inserted in Part IVA of the Employment Rights Act 1996 (ERA), to provide protections for whistleblowers. If a whistleblower does experience detrimental treatment, they can take a claim to the Employment Tribunal.

11.10 The Department for Business, Energy and Industrial Strategy (BEIS) has carried out much recent activity to promote the benefits of whistleblowing and the positive impact disclosures can make. This has included a new guidance package providing more detail to employees on what their rights are. BEIS have also published new guidance for employers which further emphasises the importance of whistleblowing and includes a code of practice to demonstrate what a good whistleblowing policy looks like²⁴. Further information on whistleblowing can be found on the GOV.UK website here: <https://www.gov.uk/whistleblowing>.

11.11 Broadly speaking, following the filing of a STR/SAR, obliged entities must not "tip off" the customer or any other person that they have done so.

11.12 The government is currently reviewing the SARs regime to identify how it can be improved to better tackle money laundering and prevent the funding of terrorism. Responses to the SARs Review Call for Information, which ran in February 2015, confirmed the finding, in the Money Laundering and Terrorist Financing National Risk Assessment (NRA), that the current SARs regime requires improvement. The government is working with a wide range of stakeholders to develop a new model for the regime.

11.13 The directive also provides that feedback is to be provided to the FIU about the use made of the information provided and the outcome of investigation or inspections performed on the basis of that information. Currently law enforcement bodies are not required to provide feedback to the FIU, and do so only on a voluntary basis.

Data Retention

Article 40(1) of the directive sets out that Member States shall require obliged entities to retain documents necessary to comply with Customer Due Diligence requirements for 5 years after the end of a business relationship or occasional transaction. Obligated entities shall also be required to retain supporting evidence and records of transactions, consisting of the original documents or copies admissible in judicial proceedings, which are necessary to identify transactions, for 5 years

²⁴ <https://www.gov.uk/government/publications/whistleblowing-guidance-and-code-of-practice-for-employers>;
<https://www.gov.uk/government/publications/whistleblowing-guidance-for-prescribed-persons>

after the end of a business relationship or occasional transaction. This can be extended for a further 5 years following a thorough assessment of the necessity and proportionality of such further retention and if it is justified as being necessary for the prevention, detection or investigation of money laundering or terrorist financing.

Box 11.A: Consultation questions – data protection

Question 67: The government would welcome your views on retaining documents necessary for the prevention of ML/TF for the additional 5 years. What do you think the advantages and disadvantages are of doing so?

12 Supervision of obliged entities

Summary

12.1 The directive requires supervisors to ensure that obliged entities are monitored effectively and that they take appropriate measures to comply with the directive. It also requires supervisors to ensure that the individuals who hold a management function within certain entities, or are the beneficial owners of such entities, are fit and proper persons, or in other sectors, the person or their associates do not hold a criminal conviction.

12.2 This chapter explains the above in more detail and covers the powers that supervisors have to ensure that entities comply with the directive. It seeks your views on a number of areas, including supervisory powers, the fit and proper test and the criminality test.

Supervisors powers

12.3 Article 48 of the directive requires effective supervision and that necessary measures are taken to ensure compliance with the directive. Each Member State must make sure that supervisors have adequate powers. Further, supervisors of credit and financial institutions and providers of gambling services must have enhanced supervisory powers.

12.4 The UK has 27 supervisors, a mixture of self-regulatory bodies and regulators. The Treasury is responsible for the appointment and removal of supervisors, and the Regulations set the role of the supervisors and gives them appropriate powers to effectively monitor their respective sectors. The supervisors in the UK are a highly diverse group including large global professional bodies, smaller professional and representative bodies, as well as public sector organisations. In each area of supervision, the supervisor's approach needs to be proportionate to the nature and associated risks of the members being supervised.

12.5 The current registration conditions vary for each sector and are set out in the Regulations. Where the registration conditions are set out as a prescriptive list, it is difficult to withdraw a registration for reasons other than those prescribed.

12.6 The government proposes that, where registration is a requirement, **all** supervisors are given an express power to refuse to register or to cancel an existing registration, for example, where:

- the supervisor is not satisfied that an entity is in a position to meet its AML/CFT and other legal obligations (for example adequate policies and procedures are not in place)
- the supervisor is of the view that a business is an artificial construct disguising criminal intentions
- the member has failed to comply with the Regulations
- the member has failed to pay a penalty that has been imposed under the Regulations

12.7 In addition, the government proposes that a supervisor has the power to add conditions to a registration, or suspend an existing registration, for example, pending an investigation or remedial measures.

12.8 Where a supervisor refuses to register, cancels an existing registration, adds conditions to a registration or suspends an existing registration, the government welcomes views on the test that should be applied. For example, should the supervisor proceed on the basis of knowledge, suspicion, belief, reasonable grounds to know, reasonable grounds to suspect, reasonable grounds to believe, or a combination of the foregoing.

12.9 There are some cases where there is more than one supervisor available, such as with Accountancy Service Providers. The government would welcome views on how supervisors could ensure that, where a business' authorisation, registration or practicing certificate is refused or cancelled by one supervisor, it cannot then attempt to register with another supervisor for the same business activity or any other form of activity that is within scope of the Regulations.

Box 12.A: Consultation questions – supervision of regulated sectors

Question 68: Do you think that where registration is a requirement, the supervisor should be given an express power to refuse to register or to cancel an existing registration?

Question 69: The government welcomes views on the reasons for a supervisor to refuse a registration or to cancel an existing registration. Are there any other reasons you think should be captured? Do you foresee any problems with the conditions identified?

Question 70: The government welcomes views on whether a supervisor should have the power to add conditions to a registration or whether they should have the power to suspend an existing registration.

Question 71: The government welcomes views on the test that should be applied by a supervisor when seeking to refuse to register, cancel an existing registration, add conditions to a registration or suspend an existing registration (see 12.8).

Question 72: Where there is more than one supervisor, we welcome views on preventing the resubmission of an application for registration with another supervisor.

The fit and proper test

12.10 Article 47(2) of the directive, requires that supervisors of currency exchange and cheque cashing offices, trust or company service providers and providers of gambling services "ensure that the persons **who hold a management function**, or are the beneficial owners of such entities are fit and proper persons". In the UK, the fit and proper test also extends to money remittance activities.

12.11 Senior managers in those entities will continue to be subject to a fit and proper test as they perform a management function. For example, the directive requires senior managers to approve policies, controls and procedures and to monitor and enhance measures taken where appropriate – see chapter 4 for more information.

12.12 Article 3(12) of the directive defines "senior management" as:

"an officer or employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure, and need not, in all cases, be a member of the board of directors"

12.13 The directive does not define what is meant by a "management function". However the government interprets this term to cover what an individual **does** in the organisation rather than the position they hold. As a result, the fit and proper test will also apply to others who are at a less senior level. For example, compliance officers may be viewed as carrying out management

functions. The government view is that, in addition to certain management positions within an entity, there are others who may hold a management function because they play substantial roles in, or have the ability to play substantial roles in:

- the *making of decisions* about how a significant part of the entity's activities are to be managed or organised
- the *actual* managing or organising of a significant part of those activities

12.14 It would be individuals that meet the above criteria that are subject to the fit and proper test. The government welcomes your views on this approach.

12.15 The nature of fit and proper tests are set by supervisors because they are bespoke to their sector. Supervisors are responsible for suspending fit and proper status in appropriate circumstances e.g. if a person is charged with a criminal offence. Supervisors are also responsible for withdrawing fit and proper status in appropriate circumstances e.g. if a person is convicted of a criminal offence.

Box 12.B: Consultation question – fit and proper test

Question 73: Do you agree with the government's approach to a "person who holds a management function" in paragraph 12.13 - namely those who make decisions about a significant part of the entity's activities or the actual managing or organising of a significant part of those activities? Do you think it will encompass all individuals that should be subject to a fit and proper test?

Extending the fit and proper test in the Money Service Business (MSB) sector

12.16 The MSB sector operates through a network of more than 50,000 agents, many of whom have relationships with more than one MSB. Agents of MSBs are not subject to fit and proper tests, although the government understands that individuals in an MSB are given a "management function" over an agency of the MSB. The National Risk Assessment identifies agent networks as ML/TF vulnerability because of the fraud risks they pose, and because agents can be vulnerable to exploitation by criminals. Retail MSBs in particular may find it more difficult to maintain effective oversight of their agents.

12.17 The government therefore welcomes views on whether the fit and proper test should be extended to agents of MSBs themselves, which means individuals in the agency that do not pass a fit and proper test would not be permitted to act as an MSB agent.

Box 12.C: Consultation question – extending fit and proper test to the MSB sector

Question 74: Should the government extend the fit and proper test to agents of MSB's? Please explain your response and provide credible, cogent and open-source evidence where possible.

The criminality test

12.18 Article 47(3) of the directive introduces a new criminality test for three sectors that are not the subject of a fit and proper persons test:

- auditors, external accountants and tax advisors
- notaries and other independent legal professionals acting in accordance with Article 2(3)(b) of the directive
- estate agents – which could be understood to include lettings agents, as explained in chapter 7 of this consultation

12.19 Supervisors must take the *necessary measures* to prevent *criminals convicted in relevant areas* or *their associates* from holding a management function in, or being the beneficial owners of these obliged entities.

12.20 The government interprets “criminals convicted in relevant areas” to mean convictions that are relevant to the risk of money laundering or terrorist financing as well as those other convictions that have a bearing on whether a person is suitable to hold a management function. For example, the government believes that convictions for at least the following offences would be relevant: money laundering, terrorist financing, perverting the course of justice, counterfeiting, fraud, terrorism, robbery, bribery, corruption, election offences and serious criminal justice offences. The government would welcome your views on this approach.

12.21 The directive does not provide a meaning for “associates”; there are concerns about “associates” expressed in Recital (2) of the directive. We would welcome your views on a meaning for “associates”, for example, should any meaning: (i) include family members; (ii) be modelled on the meaning of “close associates” in the context of PEPs in Article 3(11). In respect of an “associate”, what if a person is not in a position to achieve distance between them and the associate e.g. a parental relationship.

12.22 The government welcomes your views on whether the directive should be extended to include not only criminals convicted in relevant areas but also persons being investigated for, or charged with, a crime in a relevant area. If there is to be such an extension, the government welcomes your views on whether the supervisor should suspend a person from holding a management function, or not permit that person to take up a management function, whilst the investigation or proceedings remain live.

12.23 The Rehabilitation of Offenders Act 1974 and the Exceptions Order to that Act govern the disclosure of cautions and convictions, and what employers and other bodies can lawfully take into account. Under the primary legislation employers and other bodies may only request and take into account unspent convictions. The Exceptions Order acts as a balance to maintain public protection so the occupations and activities listed on the Order are those where it can be shown that there is a hard evidence of a need to take into account spent cautions and convictions to mitigate a risk to the public. Lawyers, legal executives, chartered accountants, certified accountants and various persons vetted by the Financial Conduct Authority are listed in the Order which means that the disclosure of unprotected spent cautions and convictions may be requested and the information may be taken into account. Estate agents are not in the Order and therefore only unspent convictions may be requested and the information taken into account. The government would welcome your views on whether spent convictions and cautions should be taken into account for those sectors set out in paragraph 12.18, in particular, estate agents and letting agents, as well as HVD’s (see paragraph 12.24 below).

12.24 The government believes that there is a strong case for extending the criminality test identified in Article 47(2) to additional sectors, such as High Value Dealers (HVDs). For example, an increasing number of organised crime groups have been identified by law enforcement agencies as being involved in large-scale criminality using trade-based money laundering involving high value goods; and HMRC sees HVDs used by crime groups involved in alcohol

fraud. Organised crime groups have been known to register companies as HVDs to provide an appearance of legitimacy.

12.25 The government would welcome views on extending the criminality test to HVDs. Whilst this goes further than the directive's requirements, the government does not believe that a criminality test will present significant additional compliance burdens on legitimate businesses arising from criminal records and intelligence checks by supervisors. The government welcomes views on this approach.

12.26 Once introduced to these three sectors, and perhaps also to HVDs, the criminality test will apply to existing registered businesses as well as new applicants, and is likely to apply to tens of thousands of individuals. The government proposes to explore providing a "transition period" to give the relevant supervisors and businesses up to two years from the date that the new Regulations come into force, to complete a criminality test on the appropriate existing persons who are already on the supervisors' register.

Box 12.D: . Consultation questions – criminality test

Question 75: What are your views on the meaning of "criminals convicted in relevant areas"?

Question 76: What are your views on the meaning of "associates"?

Question 77: Do you agree the criminality test should be extended to High Value Dealers?

Question 78: What are your views on spent convictions and cautions being taken into account for those new sectors in paragraph 12.18, in particular estate agents, lettings agents, accountants and, if there is to be an extension, HVD's? How would the disclosure of spent convictions and cautions maintain public protection and mitigate risks to the public?

Question 79: Are there any specific offences you consider relevant in relation to the risk of money laundering and terrorist financing?

Question 80: Should the government extend the criminality test to other entities covered by the directive? Please provide evidence to support your response.

Question 81: Do you think that a transitional period is needed to complete the criminality tests?

Question 82: Do you think a transitional period of two years affords sufficient time to complete the criminality test on the appropriate existing persons who are already on the supervisors' registers?

Question 83: What are the expected transitioning and ongoing costs in your sector/business for applying a criminality test?

13 Administrative sanctions

Summary

13.1 When an obliged entity has breached the requirements of the directive (through the transposed Regulations) or the Fund Transfer Regulations (FTR), then there must be an imposition of sanctions that are effective, proportionate and dissuasive.

13.2 This chapter outlines the sanctions that may be imposed and seeks your views on the decision not to set an upper limit on the financial sanction that might be imposed following a breach. It also covers sanctions relating to breaches of the FTR.

Breaches of the Regulations

13.3 The directive requires Member States to ensure that obliged entities are held liable for breaches of the provisions adopted to give effect to the directive and where appropriate, members of the management body and other natural persons who are responsible for the breach. For clarity, these provisions include due diligence, submitting STR/SARs, record-keeping and internal controls.

13.4 Where there are serious, repeated, systemic or a combination of thereof, breaches of customer due diligence, suspicious transaction reporting, record-keeping and internal controls, the directive requires Member States to make available, at least, the following sanctions and measures:

- a public statement identifying the natural or legal person and the nature of the breach
- an order requiring the natural or legal person to cease the conduct and not to repeat it
- where an obliged entity is subject to an authorisation, withdrawal or suspension of the authorisation
- a temporary ban against any person discharging managerial responsibilities in an obliged entity, or any other natural person, held responsible for the breach, from exercising managerial functions in obliged entities
- maximum administrative pecuniary sanctions of at least twice the amount of the benefit derived from the breach, where it can be determined, or at least £835,893 (EUR 1,000,000)

13.5 Note that if the obliged entity in breach is a credit or financial institution, the following sanction in place of the pecuniary sanction referred to immediately above, must be applied:

- in the case of a legal person, maximum administrative pecuniary sanctions of at least £4,179,638 (EUR 5,000,000) or 10% of the total annual turnover according to the latest available accounts approved by the management body with different provisions made for the calculation of the annual turnover in respect of a parent undertaking or a subsidiary of a parent undertaking, or
- in the case of a natural person, maximum administrative pecuniary sanctions of at least £4,179,638 (EUR 5,000 000)

13.6 The government does not intend to set an upper limit on the administrative pecuniary sanction to be imposed following a breach of the provisions adopted to give effect to the directive. The government's view is that it is a matter to be dealt with by the relevant authority on a case-by-case basis which ensures the right administrative sanction and measure is applied having in mind:

- the gravity and the duration of the breach
- the degree of responsibility of the natural or legal person held responsible
- the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible
- the benefit derived from the breach by the natural or legal person held responsible, insofar as it can be determined
- the losses to third parties caused by the breach, insofar as they can be determined
- the level of cooperation of the natural or legal person held responsible with the competent authority
- previous breaches by the natural or legal person held responsible

13.7 Where there is the imposition of an administrative sanction or measure against which there is no appeal, the presumption is that certain details of the breach must be published by the competent authorities on their official website immediately after the person sanctioned is informed of that decision. The publication should, at the very least, include information on the type and nature of the breach and the identity of the persons responsible.

Box 13.A: Consultation question – administrative sanctions

Question 84: What are your views on there being no upper limit on the imposition of an administrative pecuniary sanction?

Question 85: Should the government consider whether additional sanctions and measures should be made available to those set out in 13.4 and 13.5?

Breaches of the Fund Transfer Regulations

13.8 Article 17 of the FTR requires Member States to lay down rules on administrative sanctions and measures applicable to breaches of the provisions of the FTR. The sanctions should be effective, proportionate and dissuasive and consistent with those that are set out in the directive (as outlined above).

13.9 Supervisors have the power under Article 11 of the Transfer of Funds (Information on the Payer) Regulations 2007 to impose civil penalties if a payment service provider fails to comply. The government view is that this should remain the case and that supervisors should ensure that proportionate penalties are applied in connection with the gravity of the breach. The relevant supervisors should ensure that the appropriate guidance is updated to allow payment service providers and intermediary payment service providers to understand how to comply with the FTR and avoid breaches.

Box 13.B: Consultation question – breaches of FTR

Question 86: Do you agree that power to determine the measures and level of administrative sanctions related to breaches of the FTR should remain with the relevant supervisory authority?

Box 13.C: Consultation question – Further views

Question 87: Do you have any further views not specifically requested through a question in this consultation that would help the UK provide effective protection for the financial system? Please provide credible, cogent and open-source evidence to support your views, where appropriate.

Full list of consultation questions

A

A.1 Below is the full list of questions that are asked in this consultation.

Chapter 3 - setting an absolute turnover threshold

Question 1: Do you agree with the proposed turnover threshold of financial activity being set at £100,000 as one of the criteria to comply with in order to be exempt from the directive? Please provide credible, cogent and open-source evidence (where necessary) to support your response.

Question 2: The government would welcome views on whether a maximum transaction threshold per customer and single transaction should remain at £836 (EUR 1,000). Please provide credible, cogent and open-source evidence (where necessary) to support your response

Chapter 4 – customer due diligence (CDD) measures

Question 3: When do you think CDD measures should apply to **existing** customers while using a risk-based approach?

Question 4: What changes to circumstances do you think should warrant obliged entities applying CDD measures to their existing customers? E.g. name, address, vocation, marital status etc.

Question 5: How much does it cost your business to carry out CDD checks? Please provide credible, cogent and open-source evidence to support your response.

Question 6: We welcome responses setting out how you have converted the Euro thresholds into GBP under the existing Money Laundering Regulations, for example, is the currency exchange the subject of a set policy? We would also welcome your views on what would be helpful to you when dealing with a conversion from Euro to GBP.

Chapter 4 – simplified due diligence (SDD) measures

Question 7: Do you agree that the government should remove the list of products subject to SDD as currently set out in Article 13 of the Money Laundering Regulations (2007)? If not, which products would you include in the list? Please provide credible, cogent and open-source evidence to support inclusion. What are the advantages and disadvantages of retaining this list?

Chapter 4 – pooled client accounts

Question 8: What are the money laundering and terrorist financing risks related to pooled client accounts and what mitigating actions might you take? Please provide credible, cogent and open-source evidence to support your response.

Question 9: What would be the effect of the removal of SDD measures on pooled client accounts? Please provide credible, cogent and open-source evidence to support your response.

Question 10: What are your views on the retention of SDD measures on pooled client accounts? Please provide credible, cogent and open-source evidence to support your response.

Question 11: What are your views on the situations described by the ESA's where SDD may be appropriate on pooled client accounts? Please provide credible, cogent and open-source evidence to support your response.

Chapter 4 – simplified due diligence (SDD)

Question 12: Are there any other factors and types of evidence of potentially lower risk situations, aside from those listed in Annex II of the directive, that you think should be considered when deciding to apply SDD? Please support your response with credible, cogent and open-source evidence where possible.

Chapter 4 – enhanced due diligence (EDD)

Question 13: Are there any other products, factors and types of evidence of potentially higher risk situations, aside from those listed in Annex III of the directive, which you think should be considered when assessing ML/TF risks in respect of EDD? Please support your response with credible, cogent and open-source evidence where possible.

Question 14: Are there any high-risk products from sectors other than the Financial Services sector that you think should be included in the Regulations?

Question 15: What EDD measures do you currently apply to clients operating in high-risk third countries, including those on FATF's black, dark grey and grey lists?

Question 16: How much does it cost your business to apply EDD measures? Please provide credible, cogent and open-source evidence to support your response.

Chapter 4 – reliance on third parties

Question 17: What are your views on the meaning of a 'member organisation'? Please provide evidence in support of your answer.

Question 18: What are your views on the meaning of 'federation'? Please provide evidence in support of your answer.

Question 19: If you are a financial institution, are there any additional institutions or persons situated in a Member State or third country that you think could be relied upon in order to help reduce the regulatory burden on businesses e.g. the third party applies due diligence and record-keeping requirements and are appropriately supervised in accordance with the directive?

Question 20: Do you rely on third parties to meet some CDD requirements? How much does this cost your business? Please provide credible, cogent and open-source evidence to support your answer.

Chapter 4 – assessment of risks and controls

Question 21: Should the government set a threshold of the size and nature of the business for the appointment of a compliance officer and employee screening? If so, what should the government take into account?

Question 22: What should be taken into account when screening an employee?

Question 23: Should the government set a threshold for the size and nature of the business that requires an independent audit function? If so, what should the government take into account?

Question 24: What do you think constitutes an "independent audit function"?

Question 25: How many of the controls listed at paragraph 4.34 are you already carrying out and what is your assessment of the likely costs of these procedures?

Chapter 5 - gambling providers

Question 26: Do you think that the government should consider exempting proven low risk providers of gambling services from the Regulations based on the gambling *activity* or by a complete sector (see the list at paragraph 5.8 or Annex C for information on how the sectors are split up) or both? Please explain the reasons behind your response.

Question 27: Which gambling providers or activities do you think should be classified as having 'proven' low risk and therefore should be **exempt** from the Regulations? Please provide credible, cogent and open-source evidence to support your response.

Question 28: Should CDD requirements for the gambling providers or activities take place: (i) on the wagering of a stake; (ii) on the collection of winnings; (iii) on the collection of winnings and the wagering of a stake; or (iv) or whichever is the latter? Please explain the reasons behind your response.

Question 29: What do you think constitutes a 'linked transaction' for different types of gambling? Do you think 'linked transaction' should be defined in legislation?

Question 30: If covered by the Regulations, what costs and impacts would be incurred by the providers of the gambling services? Please provide sources for your data and suitable evidence. In particular, the government is keen to know what your initial transition costs would be, how much you would need to spend on staff training and how much it would cost to apply CDD measures.

Question 31: What advantages would there be for increasing the coverage of the Regulations to more than just casinos in the gambling industry?

Question 32: Do you believe that measures could be taken by the Gambling Commission under the Act that might have a bearing on whether you view a sector or activity as being proven low risk?

Chapter 6 - electronic money

Question 33: How should the government apply the CDD exemptions in Article 12 of the directive for electronic money (e-money)?

Question 34: Should e-money products which do not meet the criteria for the CDD exemptions in Article 12 of the directive be considered eligible for SDD under Article 15?

Question 35: Should the government exclude any e-money products from both the CDD exemptions in Article 12, and from eligibility for SDD in Article 15?

Question 36: Should the government increase the maximum amount that can be stored electronically to £418 (EUR 500) for payment instruments that can only be used in the UK?

Question 37: Please provide credible, cogent and open source evidence of low risk posed by electronic money products, the efficacy of current monitoring systems to deal with risk and any other evidence demonstrating the position of low risk.

Question 38: E-money products with a maximum monthly payment transactions limit of £209 (EUR 250) will be exempt from some of the CDD measures, but only if they are used in that (one) Member State in which they were acquired. What do you think the likely customer behaviour response to this will be? Please provide credible, cogent and open-source evidence to support your response where possible.

Question 39: The government welcomes views on the likely costs that may arise for the e-money sector in order to comply with the directive.

Chapter 7 – estate agents and lettings agents

Question 40: What are your views on the regulation of lettings agents? Please explain your reasons and provide credible, cogent and open-source evidence where possible.

Question 41: What other types of lettings activity exist, aside from those mentioned at paragraph 7.9? Of these activities, which do you think should be included in letting agency activity? Please explain your reasons and provide credible, cogent and open-source evidence where possible.

Question 42: Do you think HMRC alone or HMRC and self-regulatory bodies should be appointed supervisors of estate agents and lettings agents? Please explain your reasons and provide credible, cogent and open-source evidence where possible.

Question 43: Do you think that lettings agents should apply CDD to both contracting parties?

Question 44: The government would welcome views on when the establishment of a business relationship should commence with a) the tenant and b) the landlord (in regards to lettings activity).

Chapter 7 – due diligence and intermediaries

Question 45: Should estate agency businesses apply CDD to both contracting parties in a transaction in which they act as intermediaries? Please explain your reasons and provide credible, cogent and open-source evidence where possible.

Question 46: Should sub-agents be able to rely on principal estate agents (see 7.16)? Please explain your reasons and provide credible, cogent and open-source evidence where possible.

Question 47: How much does it cost your business to apply CDD checks and what would the cost be if you were to apply them to both contracting parties in a transaction?

Chapter 8 – correspondent banking relationships

Question 48: What impact will implementing the definition of correspondent banking have on your firm's policies and procedures? What impact do you estimate these changes will have?

Question 49: Is there any further information that could be provided to ensure the adoption of a risk-based approach when applying enhanced due diligence to correspondent relationships?

Chapter 9 – politically exposed persons (PEPs)

Question 50: How do you differentiate between risk management systems and risk-based procedures?

Question 51: Under the terms of the directive, all PEPs are considered to be high risk. However, obliged entities may use a risk-based approach to both the identification of a PEP and the depth of EDD measures that are applied to them. What risk factors do you think are relevant when deciding how to identify a PEP and adapt EDD measures to them? Would more clarity in guidance be helpful to avoid the disproportionate application of EDD measures to low-risk groups and their families?

Question 52: The directive specifically applies to members of parliament or of similar legislative bodies and to members of the governing bodies of political parties. In the UK the Electoral Commission maintains two registers of political parties: one for Great Britain and a separate register for Northern Ireland. There are over 400 registered political parties, of which the vast majority are very small. Should there be some form of criteria or some examples set out in guidance of the political parties to which this applies, e.g. those having elected members of Parliament, the European Parliament, or the devolved legislatures? If so, what is the reasoning

behind the use of these particular criteria or examples? Would guidance on this issue assist and, if so, what should the guidance include to provide clarity?

Question 53: How will the express inclusion of members of parliament or of similar legislative bodies and members of the governing bodies of political parties interact with the existing rules and regulations for political parties and elected representatives, in particular the Political Parties, Elections and Referendums Act 2000, and what steps should be taken to avoid duplicating these existing regimes?

Question 54: Does the extent of EDD on the family members of PEPs and individuals who are known to be close associates of PEPs correspond with the measures that are appropriate for the PEP themselves? Which risk factors do you think are relevant?

Question 55: How much does it cost to identify and apply EDD checks to PEPs? Please provide evidence to support your response.

Question 56: Is the guidance sufficiently clear about how EDD should be applied to PEPs, their family members and their known close associates? If not, what should the guidance include to provide clarity? With regard to financial institutions, are there specific changes that could be made to the Financial Crime Guide or the JMLSG guidance to clarify the treatment of PEPs? What specific changes could be made to the guidance in other regulated sectors?

Question 57: The Financial Ombudsman Service has statutory powers to consider complaints from PEPs, their family members and their known close associates against financial service providers. Can this provide sufficient access to redress for PEPs? The government would be particularly interested to hear about cases where a PEP was treated unreasonably, where a PEP was refused a business relationship solely because they were identified as a PEP or where an individual was incorrectly classified as a PEP.

Question 58: Should the government explicitly include senior members of international sporting federations as a category of PEPs, along with their family members and known to be close associates? How many senior members (in line with the definition of senior management in Article 3(12) of the directive) of international sporting federations would you deal with, along with their family members and known to be close associates? Please provide a source for your estimation if this is not data that you already hold.

Question 59: How would you define an international sporting federation?

Chapter 10 – beneficial ownership of legal entities

Question 60: The government welcomes any views on the issues highlighted in Chapter 10 and the PSC regime in itself.

Chapter 10 - requirements for trustees

Question 61: How often should a trustee be required to update the beneficial ownership information that they hold?

Question 62: What other arrangements should the government consider as having a structure that is similar to express trusts?

Question 63: What other arrangements should the government **not** consider as having a structure that is similar to express trusts?

Question 64: Are there any further considerations that the government should take account of when developing the central register of trust beneficial ownership information?

Chapter 10 – trust beneficial ownership

Question 65: The government welcomes your views on the approach to beneficial ownership information as set out above.

Chapter 10 – one-off company formation

Question 66: The government welcomes your views on clarifying, through appropriate guidance, that a one-off company set up is a business relationship that has an element of duration.

Chapter 11 – data protection

Question 67: The government would welcome your views on retaining documents necessary for the prevention of ML/TF for the additional 5 years. What do you think the advantages and disadvantages are of doing so?

Chapter 12 – supervision of regulated sectors

Question 68: Do you think that where registration is a requirement, the supervisor should be given an express power to refuse to register or to cancel an existing registration?

Question 69: The government welcomes views on the reasons for a supervisor to refuse a registration or to cancel an existing registration. Are there any other reasons you think should be captured? Do you foresee any problems with the conditions identified?

Question 70: The government welcomes views on whether a supervisor should have the power to add conditions to a registration or whether they should have the power to suspend an existing registration.

Question 71: The government welcomes views on the test that should be applied by a supervisor when seeking to refuse to register, cancel an existing registration, add conditions to a registration or suspend an existing registration (see 12.8).

Question 72: Where there is more than one supervisor, we welcome views on preventing the resubmission of an application for registration with another supervisor.

Chapter 12 – fit and proper test

Question 73: Do you agree with the government's approach to a "person who holds a management function" in paragraph 12.13 - namely those who make decisions about a significant part of the entity's activities or the actual managing or organising of a significant part of those activities? Do you think it will encompass all individuals that should be subject to a fit and proper test?

Chapter 12 - extending fit and proper test to the Money Service Business (MSB) sector

Question 74: Should the government extend the fit and proper test to agents of MSB's? Please explain your response and provide credible, cogent and open-source evidence where possible.

Chapter 12 - criminality test

Question 75: What are your views on the meaning of "criminals convicted in relevant areas"?

Question 76: What are your views on the meaning of "associates"?

Question 77: Do you agree the criminality test should be extended to High Value Dealers?

Question 78: What are your views on spent convictions and cautions being taken into account for those new sectors in paragraph 12.18, in particular estate agents, lettings agents,

accountants, and if there is to be an extension, HVD's? How would the disclosure of spent convictions and cautions maintain public protection and mitigate risks to the public?

Question 79: Are there any specific offences you consider relevant in relation to the risk of money laundering and terrorist financing?

Question 80: Should the government extend the criminality test to other entities covered by the directive? Please provide credible, cogent and open-source evidence to support your response.

Question 81: Do you think that a transitional period is needed to complete the criminality tests?

Question 82: Do you think a transitional period of two years affords sufficient time to complete the criminality test on the appropriate existing persons who are already on the supervisors' registers?

Question 83: What are the expected transitioning and ongoing costs in your sector/business for applying a criminality test?

Chapter 13 – administrative sanctions

Question 84: What are your views on there being no upper limit on the imposition of an administrative pecuniary sanction?

Question 85: Should the government consider whether additional sanctions and measures should be made available to those set out in 14.4 and 14.5?

Chapter 13 – breaches of the Fund Transfer Regulations (FTR)

Question 86: Do you agree that power to determine the measures and level of administrative sanctions related to breaches of the FTR should remain with the relevant supervisory authority?

Chapter 13 – further views

Question 87: Do have any further views not specifically requested through a question in this consultation that would help the UK provide effective protection for the financial system? Please provide credible, cogent and open-source evidence to support your views, where appropriate.

Full list of AML/CFT supervisors

B

B.1 This is a full list of bodies currently designated as AML/CFT supervisors under the Money Laundering Regulations 2007 (as amended):

Association of Accounting Technicians (AAT)
Association of Chartered Certified Accountants (ACCA)
Association of International Accountants (AIA)
Association of Taxation Technicians (ATT)
Chartered Institute of Management Accountants (CIMA)
Chartered Institute of Legal Executives (CILEX)
Chartered Institute of Taxation (CIOT)
Council for Licensed Conveyancers (CLC)
Department of Enterprise, Trade and Investment Northern Ireland (DETI)
Faculty of Advocates (Scottish Bar Association) (FoA)
Faculty Office of the Archbishop of Canterbury (AoC)
Financial Conduct Authority (FCA)
Gambling Commission (GC)
General Council of the Bar (England and Wales) (GBCEW)
General Council of the Bar of Northern Ireland (GCBNI)
HM Revenue and Customs (HMRC)
Insolvency Practitioners Association (IPA)
Insolvency Service (SoS)
Institute of Certified Bookkeepers (ICB)
Institute of Chartered Accountants in England and Wales (ICAEW)
Institute of Chartered Accountants in Ireland (ICAI)
Institute of Chartered Accountants of Scotland (ICAS)
Institute of Financial Accountants (IFA)
International Association of Book-keepers (IAB)
Law Society of England and Wales (LSEW)
Law Society of Northern Ireland (LSNI)
Law Society of Scotland (LSS)

Services offered by gambling operators in different sectors

C

Introduction

C.1 This Annex should help stakeholders respond to the questions set out in chapter 5 of this consultation. The gambling sector is highly segmented, with a wide range of operators offering diverse products in different environments to a variety of customers. The sector differentiates into remote (online) and non-remote (premises or land-based) gambling. In addition to casinos (which are already in the regulated sector) and lotteries, the service offered by different gambling sectors is set out below.

Betting

C.2 This includes off-course Licenced Betting Offices (i.e. high-street bookmakers) and on-course (those taking bets at tracks). There are over 9,000 Licensed Betting Offices (LBOs) and their offer includes over-the-counter bets and gaming machines. LBOs are permitted up to four B2 (more commonly known as 'fixed odds betting terminals') machines per shop. B2s have a maximum permissible stake of £100 with a jackpot prize of £500. LBOs provide almost entirely B2 machines with some B3 (with a maximum stake of £2 and maximum prize of £500) products.

Adult Gaming Centres (AGCs)

C.3 AGCs contain only machine-based play. There are around 1,830 AGCs in Great Britain, and they are permitted a range of gaming machines: B3, B4, C and D. The stakes vary from 10p to £2 and prizes range from £5 to £500 in cash, as well as numerous non-cash prizes worth up to £50 e.g. toys and electronic devices.

Bingo

C.4 There are 640 bingo hall premises licensed by the Gambling Commission as of March 2015. In addition to the game of bingo, venues are also permitted gaming machines. Venues are permitted unlimited category C (maximum stake £1, maximum prize £100) and D gaming machines, as well as B4 and B3 provided they do not exceed 20% of the total number of gaming machines on site. There are currently over 52,500 gaming machines in operation in the bingo estate.

Lotteries

C.5 Lotteries are defined by the Gambling Act 2005¹. There are several types of lottery, including society lotteries (which can be large or small); local authority lotteries; incidental non-commercial lotteries; private lotteries (private society, work, or residents lotteries); customer lotteries; and the National Lottery.

¹ Lotteries (also known as raffles) are defined in the Gambling Act 2005 as either 'simple' or 'complex'. A simple lottery is where: people are required to pay to take part; prizes are allocated to participants prizes are allocated wholly by chance. A complex lottery is where: people are required to pay to take part; prizes are allocated to participants; prizes are allocated by a series of processes the first of which relies wholly on chance.

Public houses and clubs

C.6 Public houses and clubs can offer gaming machines, licenced by the Local Authority. Pubs can offer Category C machines, whereas clubs can offer Category B3A, B4, C or D, subject to the licence issued by the Local Authority.

D List of abbreviations

D.1 Below is a list of the abbreviations used in this consultation.

3MLD – Third Money Laundering Directive

4MLD/the Directive – Fourth Money Laundering Directive

AML – anti-money laundering

AML/CFT – anti-money laundering and counter-financing of terrorism

BEIS – Department for Business, Energy and Industrial Strategy

CDD – customer due diligence

DPA – Data Protection Act 1998

EDD – enhanced due diligence

ESA – European Supervisory Authorities

EU – Europe/European

EUR – Euros (currency)

FATF – Financial Action Task Force

FIU – Financial Intelligence Unit

FOIA – Freedom of Information Act 2000

FTR – Fund Transfer Regulations

HMRC – Her Majesty's Revenue and Customs

HVD – High Value Dealer

IPS – internet provider systems

ISF – international sporting federations

LLP – Limited Liability Partnerships

ML/TF – money laundering and terrorist financing

ML – money laundering

MLR/Regulations – Money Laundering Regulations 2007

MSB – money service business

NCA – National Crime Agency

NRA – National Risk Assessment

PCA – pooled client account

PEP – politically exposed person

PSC – Persons with Significant Control regime

SAR – suspicious activity report

SDD – simplified due diligence

SE – Societas Europaeae

SNRA – supranational risk assessment

STR – suspicious transaction report

TACT – Terrorism Act 2000

TCSP – trust or company service providers

VAT – Value Added Tax

HM Treasury contacts

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www.gov.uk

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