

2017 No.

FINANCIAL SERVICES

**The Money Laundering, Terrorist Financing and Transfer of
Funds (Information on the Payer) Regulations 2017**

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The Treasury are designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the prevention of money laundering and terrorist financing.

The Treasury in exercise of the powers conferred by section 2(2) of that Act and by sections 168(4)(b), 402(1)(b), 417(1) and 428(3) of the Financial Services and Markets Act 2000^(c), make the following Regulations.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

(2) These Regulations come into force on 26th June 2017.

Prescribed regulations

2. These Regulations are prescribed for the purposes of sections 168(4)(b) (appointment of persons to carry out investigations in particular cases) and 402(1)(b) (power of the FCA to institute proceedings for certain other offences) of the Financial Services and Markets Act 2000.

(a) S.I. 2007/2133.

(b) 1972 c. 68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3 of, and the Schedule to, the European Union (Amendment) Act 2008 (c. 7). By virtue of the amendment of section 1(2) by section 1 of the European Economic Area Act 1993 (c. 51), an order may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed in Brussels on 17th March 1993 (Cm 2183).

(c) 2000 c.8; section 168(4)(b) was amended by the Financial Services Act 2012 (c.21), Schedule 12, Part 1; section 402(1) was amended by the Financial Services Act 2012 (c.21), Schedule 9, Parts 1 and 7; and section 417(1) has been amended by section 48(1)(d) of the Financial Services Act 2012 (c.21). There are other amendments to section 417(1) which are not relevant to these Regulations.

General interpretation

3.—(1) In these Regulations—

“Annex 1 financial institution” has the meaning given by regulation 54(2);

“auction platform” has the meaning given by regulation 14(3);

“auditor” has the meaning given by regulation 11(1);

“authorised person” means a person who is authorised for the purposes of FSMA;

“the FCA” means the Financial Conduct Authority;

“beneficial owner”—

(a) in the case of a body corporate or partnership, has the meaning given by regulation 5;

(b) in the case of a trust or similar arrangement, has the meaning given by regulation 6;

(c) in any other case, has the meaning given by regulation 6(9);

“body corporate” has the meaning given in section 417(1) (interpretation) of FSMA^(a);

“bill payment service provider” means an undertaking which provides a payment service enabling the payment of utility and other household bills;

“branch”, except where the context otherwise requires, means a place of business that forms a legally dependent part of the entity in question and conducts directly all or some of the operations inherent in its business;

“business relationship” has the meaning given by regulation 4;

“the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC^(b);

“the capital requirements regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012^(c);

“cash” means notes, coins or travellers’ cheques, in any currency;

“casino” has the meaning given by regulation 14(2);

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“contract of long-term insurance” means any contract falling within Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001^(d);

“correspondent relationship” has the meaning given by regulation 34(6);

“credit institution” has the meaning given by regulation 10(1);

“customer due diligence measures” means the measures required by regulation 28, and where relevant, those required by regulations 29 and 33 to 36;

“designated supervisory authority” has the meaning given by regulation 74(10);

“document” means anything in which information of any description is recorded;

“electronic money” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011^(e);

“electronic money institution” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011;

“electronic money issuer” has the meaning given in regulation 2(1) of the Electronic Money Regulations 2011;

(a) Section 417(1) has been amended, but those amendments are not relevant to this definition.

(b) OJ L 176, 27.6.2013, p.338.

(c) OJ L 176, 27.6.2013, p.1.

(d) S.I. 2001/544. Part 2 of Schedule 1 has been amended by S.I. 2005/2114 and 2015/575.

(e) S.I. 2011/99.

“the emission allowance auctioning regulation” means Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community**(a)**;

“enhanced due diligence measures” means the customer due diligence measures required under regulations 33 to 35;

“estate agent” has the meaning given by regulation 13(1);

“European Supervisory Authority” means—

- (a) the European Securities and Markets Authority;
- (b) the European Banking Authority;
- (c) the European Insurance and Occupational Pensions Authority;

“excluded material” means personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which is held subject—

- (a) to an express or implied undertaking to hold it in confidence; or
- (b) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment contained in, or made under, an Act passed after this Regulation;

“external accountant” has the meaning given by regulation 11(3);

“financial institution” has the meaning given by regulation 10(2);

“firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate and a partnership or other unincorporated association;

“fourth money laundering directive” means Directive 2015/849/EU of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing**(b)**;

“FSMA” means the Financial Services and Markets Act 2000**(c)**;

“funds transfer regulation” means Regulation 2015/847/EU of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds**(d)**;

“group” has the meaning given by section 421 (group) of FSMA**(e)**;

“high value dealer” has the meaning given by regulation 14(1);

“independent legal professional” has the meaning given by regulation 12(1);

“insolvency practitioner” has the meaning given by regulation 11(2);

“law enforcement authority” has the meaning given by regulation 43(7);

“manager”, in relation to a firm, means a person who has control, authority or responsibility for one or more aspects of the business of that firm, and includes a nominated officer;

“the markets in financial instruments directive” means Directive 2004/39/EC of the European Parliament and of the Council of 12th April 2004 on markets in financial instruments**(f)**;

“money laundering” has the meaning given by section 340(11) of the Proceeds of Crime Act 2002**(g)**;

“money service business” means an undertaking which by way of business operates a currency exchange office, transmits money (or any representation of monetary value) by any means or cashes cheques which are made payable to customers;

(a) OJ L 302, 18.11.2010, p.1.
(b) g17OJ No L 141, 05.06.15, p73.
(c) 2000 c.8.
(d) OJ L 141, 05.06.2015, p.1.
(e) Section 421 has been amended by S.I. 2008/948.
(f) OJ L 145, 30.04.2004, p.1.
(g) 2002 c. 29.

“the NCA” means the National Crime Agency;

“nominated officer” means a person who is nominated to receive disclosures under Part 3 (terrorist property) of the Terrorism Act 2000^(a) or Part 7 (money laundering) of the Proceeds of Crime Act 2002^(b);

“notice” means a notice in writing;

“occasional transaction” means a transaction which is not carried out as part of a business relationship;

“officer”, except in Part 8—

(a) in relation to a body corporate, means—

(i) a director, secretary, chief executive, member of the committee of management, or a person purporting to act in such a capacity, or

(ii) an individual who is a controller of the body, or a person purporting to act as a controller;

(b) in relation to an unincorporated association, means any officer of the association or any member of its governing body, or a person purporting to act in such a capacity; and

(c) in relation to a partnership, means a partner, or a person purporting to act as a partner;

“ongoing monitoring”, except where the context otherwise requires, means at least the measures described in regulation 28(11);

“payment services” has the meaning given by regulation 2(1) of the Payment Services Regulations 2009^(c);

“payment service provider” has the meaning given in regulation 2(1) of the Payment Services Regulations 2009;

“politically exposed person” or “PEP” has the meaning given by regulation 35(12);

“the PRA” means the Prudential Regulation Authority;

“PRA-authorised person” has the meaning given by section 2B(5) of FSMA^(d);

“regulated market”—

(a) within the EEA, has the meaning given by Article 4.1(14) of the markets in financial instruments directive; and

(b) outside the EEA, means a regulated financial market which subjects companies whose securities are admitted to trading to disclosure obligations which are equivalent to the specified disclosure obligations;

“relevant parent undertaking” means a relevant person which is a parent undertaking;

“relevant person” means a person to whom, in accordance with regulation 8, these Regulations apply;

“self-regulatory organisation” means one of the professional bodies listed in Schedule 1 to these Regulations;

“senior management” has the meaning given in regulation 19(7);

“the Solvency 2 Directive” means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II)^(e);

“the specified disclosure obligations” means—

(a) 2000 c. 11.

(b) 2002 c. 29.

(c) S.I. 2009/209, to which there are amendments not relevant to these Regulations.

(d) Section 2B was substituted, with the rest of Part 1A of the Financial services and Markets Act 2000 for the original Part 1 of that Act by section 6(1) of the Financial Services Act 2012 (c.21).

(e) OJ L 138, 23.05.2014, p.1.

- (a) disclosure requirements set out in Articles 17 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16th April 2014 on market abuse(a);
- (b) disclosure requirements consistent with Articles 3, 5, 7, 8, 10, 14 and 16 of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading(b);
- (c) disclosure requirements consistent with Articles 4 to 6, 14, 16 to 19 and 30 of Directive 2004/109/EC of the European Parliament and of the Council of 15th December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market(c); and
- (d) disclosure requirements consistent with EU legislation made under the provisions mentioned in sub-paragraphs (a) to (c);

“supervisory authority” in relation to—

- (a) any relevant person, means the supervisory authority specified for such a person by regulation 7;
- (b) any payment service provider, means the supervisory authority specified for such a provider under regulation 61;

“supervisory functions” means the functions given to a supervisory authority under these Regulations;

“tax adviser” (except in regulation 31(4)) has the meaning given by regulation 11(4);

“telecommunication, digital and IT payment service provider” has the meaning given by regulation 52;

“terrorist financing” means (except where the context otherwise requires) an act which constitutes an offence under—

- (a) section 15 (fund-raising), 16 (use and possession), 17 (funding arrangements), 18 (money laundering) or 63 (terrorist finance: jurisdiction) of the Terrorism Act 2000(d);
- (b) paragraph 7(2) or (3) of Schedule 3 (freezing orders: offences) to the Anti-terrorism, Crime and Security Act 2001(e);
- (c) regulation 10 (contravention and circumvention of prohibitions) of the ISIL (Da’esh) and Al-Qaida (Asset-Freezing) Regulations 2011(f); or
- (d) section 11 (freezing of funds and economic resources), 12 (making funds or financial services available to designated person), 13 (making funds or financial services available for benefit of designated person), 14 (making economic resources available to designated person), 15 (making economic resources available for benefit of designated person) or 18 (circumventing prohibitions etc) of the Terrorist Asset-Freezing etc Act 2010(g);

“third country” means a state other than an EEA state;

“trust or company service provider” has the meaning given in regulation 12(2).

(2) In these Regulations—

- (a) references to an amount in euros includes reference to an equivalent amount in any currency;
- (b) the equivalent in sterling (or any other currency) on a particular day of a sum expressed in euros is determined by converting the sum in euros into its equivalent in sterling or that other currency using the London closing exchange rate for the euro and the relevant currency for the previous working day;

(a) OJ L 173, 12.6.2014, p.1.

(b) OJ L 345, 31.12.2003, p.64.

(c) OJ L 390, 31.12.2004, p.38.

(d) 2000 c.11.

(e) 2001 c.24.

(f) S.I. 2011/2742. The title of the instrument was amended by S.I. 2016/937.

(g) 2010 c.38.

- (c) references to “real property” include, in relation to Scotland, references to heritable property;
- (d) references to business being carried on in the United Kingdom, or a person carrying on business in the United Kingdom, are to be read in accordance with regulation 9;
- (e) references to a person having a “qualifying relationship” with a PRA-authorized person, or with an authorised person are to be read in accordance with section 415B(4) of FSMA(a);
- (f) “parent undertaking” and “subsidiary undertaking” have the same meaning as in the Companies Acts (see section 1162 of and Schedule 7 to, the Companies Act 2006(b)).

Meaning of business relationship

4.—(1) For the purpose of these Regulations, “business relationship” means a business, professional or commercial relationship between a relevant person and a customer, which—

- (a) is connected to the business of the relevant person, and
- (b) is expected by the relevant person, at the time when contact is established, to have an element of duration.

(2) A relationship where the relevant person is asked to form a company for its customer is to be treated as a business relationship for the purpose of these Regulations, whether or not the formation of the company is the only transaction carried out for that customer.

(3) For the purposes of these Regulations an estate agent is to be treated as entering into a business relationship with a purchaser as well with as a seller.

Meaning of beneficial owner: bodies corporate or partnership

5.—(1) In these Regulations, “beneficial owner”, in relation to a body corporate, means—

- (a) any individual who exercises control over the management of the body corporate, or
- (b) (if the body corporate is not a company whose securities are listed on a regulated market), any individual who ultimately owns or controls (in each case whether directly or indirectly), including through bearer share holdings or by other means, more than 25% of the shares or voting rights in the body.

(2) For the purposes of paragraph (1)(b), an individual controls a body corporate if—

- (a) the body corporate is a company or a limited liability partnership and that individual satisfies one or more of the conditions set out in Part 1 of Schedule 1A to the Companies Act 2006(c); or
- (b) the body corporate would be a subsidiary undertaking of the individual (if the individual was an undertaking) under section 1162 (parent and subsidiary undertakings) of the Companies Act 2006 read with Schedule 7 to that Act.

(3) In the case of a partnership (other than a limited liability partnership), “beneficial owner” means any individual who—

- (a) ultimately is entitled to or controls (in each case whether directly or indirectly) more than 25% share of the capital or profits of the partnership or more than 25% of the voting rights in the partnership, or
- (b) otherwise exercises control over the management of the partnership.

(4) In this regulation “limited liability partnership” has the meaning given by the Limited Liability Partnerships Act 2000(d).

(a) Section 415B was inserted by paragraph 41 of Schedule 9 to the Financial Services Act 2012 (c.21).
 (b) 2006 c.46.
 (c) Schedule 1A was inserted by paragraph 2 of Schedule 3 to the Small Business, Enterprise and Employment Act 2015 (c.26), and applied to limited liability partnerships with modifications by S.I. 2009/1804.
 (d) 2000 c.12.

Meaning of beneficial owner: trusts and similar arrangements

6.—(1) In these Regulations, “beneficial owner”, in relation to a trust, means each of the following—

- (a) the settlor;
- (b) the trustees;
- (c) the beneficiaries, or where the individuals benefiting from the trust have not been determined, the class of persons in whose main interest the trust is set up, or operates;
- (d) any individual who has control over the trust.

(2) In these Regulations, “beneficial owner”, in relation to a foundation or other legal arrangement similar to a trust, means those individuals who hold equivalent or similar positions to those set out in paragraph (1).

(3) In paragraph (1)(d), “control” means a power (whether exercisable alone, jointly with another person or with the consent of another person) under the trust instrument or by law to—

- (a) dispose of, advance, lend, invest, pay or apply trust property;
- (b) approve proposed trust distributions;
- (c) vary or terminate the trust;
- (d) add or remove a person as a beneficiary or to or from a class of beneficiaries;
- (e) approve the appointment of an agent or adviser;
- (f) appoint or remove trustees or give another individual control over the trust;
- (g) resolve disputes amongst the trustees;
- (h) direct, withhold consent to or veto the exercise of a power mentioned in sub-paragraph (a) to (g).

(4) For the purposes of paragraph (1)—

- (a) where an individual is the beneficial owner of a body corporate which is entitled to a specified interest in the capital of the trust property or which has control over the trust, the individual is to be regarded as entitled to the interest or having control over the trust; and
- (b) an individual (“P”) does not have control solely as a result of—
 - (i) P’s consent being required in accordance with section 32(1)(c) (power of advancement) of the Trustee Act 1925(a);
 - (ii) any discretion delegated to P under section 34 (power of investment and delegation) of the Pensions Act 1995(b);
 - (iii) the power to give a direction conferred on P by section 19(2) (appointment and retirement of trustee at instance of beneficiaries) of the Trusts of Land and Appointment of Trustees Act 1996(c); or
 - (iv) the power exercisable collectively at common law to vary or extinguish a trust where the beneficiaries under the trust are of full age and capacity and (taken together) absolutely entitled to the property subject to the trust (or, in Scotland, have a full and unqualified right to the fee).

(5) For the purposes of paragraph (4) “specified interest” means a vested interest which is—

- (a) in possession or in remainder or reversion (or in Scotland, in fee); and
- (b) defeasible or indefeasible.

(a) 1925 (c.19), amended by section 9 of the Inheritance and Trustees’ Powers Act 2014 (c.16).

(b) 1995 (c.26), amended by paragraph 49 of Schedule 12 to the Pensions Act 2004 (c.35); section 5(3) of the Trustee Delegation Act 1999 (c.15) and S.I. 2001/3649.

(c) 1996 c.47.

(6) In these Regulations, “beneficial owner”, in relation to a legal entity or legal arrangement which does not fall within regulation 5 or paragraphs (1) or (2) of this regulation, means—

- (a) any individual who benefits from the property of the entity or arrangement;
- (b) where the individuals who benefit from the entity or arrangement have yet to be determined, the class of persons in whose main interest the entity or arrangement is set up or operates;
- (c) any individual who exercises control over the property of the entity or arrangement.

(7) For the purposes of paragraph (6), where an individual is the beneficial owner of a body corporate which benefits from or exercises control over the property of the entity or arrangement, the individual is to be regarded as benefiting from or exercising control over the property of the entity or arrangement.

(8) In these Regulations, “beneficial owner”, in relation to an estate of a deceased person in the course of administration, means—

- (a) in England and Wales and Northern Ireland, the executor, original or by representation, or administrator for the time being of a deceased person;
- (b) in Scotland, the executor for the purposes of the Executors (Scotland) Act 1900^(a).

(9) In these Regulations, “beneficial owner”, in any other case, means the individual who ultimately owns or controls the entity or on whose behalf a transaction is being conducted.

Supervisory authorities

7.—(1) Subject to paragraph (2), the following bodies are supervisory authorities—

- (a) the FCA is the supervisory authority for—
 - (i) credit and financial institutions which are authorised persons but not excluded money service businesses;
 - (ii) trust or company service providers which are authorised persons;
 - (iii) Annex 1 financial institutions;
 - (iv) electronic money institutions;
 - (v) auction platforms;
 - (vi) credit unions in Northern Ireland;
 - (vii) recognised investment exchanges within the meaning of section 285 of FSMA^(b);
- (b) each of the professional bodies listed in Schedule 1 is the supervisory authority for relevant persons who are regulated by it;
- (c) the Commissioners are the supervisory authority for—
 - (i) high value dealers;
 - (ii) money service businesses which are not supervised by the FCA;
 - (iii) trust or company service providers which are not supervised by the FCA or one of the professional bodies listed in Schedule 1;
 - (iv) auditors, external accountants, insolvency practitioners, tax advisers and independent legal professionals who are not supervised by one of the professional bodies listed in Schedule 1;
 - (v) bill payment service providers which are not supervised by the FCA;
 - (vi) telecommunication, digital and IT payment service providers which are not supervised by the FCA;

(a) 1900 c.55.

(b) Section 285 has been amended by section 28 of the Financial Services and Markets Act 2000 (c.8); and S.I. 2013/504.

- (vii) estate agents who are not supervised by one of the professional bodies listed in Schedule 1;
- (d) the Gambling Commission is the supervisory authority for casinos.
- (2) Where under paragraph (1) there is more than one supervisory authority for a relevant person, the supervisory authorities may agree that one of them will act as the supervisory authority for that person.
- (3) Where an agreement has been made under paragraph (2), the authority which has agreed to act as the supervisory authority must notify the relevant person and publish the agreement in such manner as it considers appropriate.
- (4) Where no agreement has been made under paragraph (2), the supervisory authorities for a relevant person must co-operate in the performance of their functions under these Regulations.
- (5) For the purposes of this regulation, a money service business is an “excluded money service business” if it is an authorised person who has permission under FSMA which relates to or is connected with a contract of the kind mentioned in paragraph 23 or paragraph 23B of Schedule 2(a) to that Act (credit agreements and contracts for hire of goods) but does not have permission to carry on any other kind of regulated activity.
- (6) Paragraph (5) must be read with—
 - (a) section 22 of FSMA(b),
 - (b) any relevant order under that section, and
 - (c) Schedule 2 to that Act.

PART 2

Money laundering and Terrorist Financing

CHAPTER 1

Application

Application

- 8.**—(1) Parts 1 to 4, 6 and Parts 8 to 11 apply to the persons (“relevant persons”) acting in the course of business carried on by them in the United Kingdom, who—
- (a) are listed in paragraph (2), and
 - (b) do not come within the exclusions set out in regulation 15.
- (2) The persons listed in this paragraph are—
- (a) credit institutions;
 - (b) financial institutions;
 - (c) auditors, insolvency practitioners, external accountants and tax advisers;
 - (d) independent legal professionals;
 - (e) trust or company service providers;
 - (f) estate agents;
 - (g) high value dealers;
 - (h) casinos.
- (3) Regulations 3, 7, 19 to 22, 24, 45, 49, 64 to 79, 81, 83 to 90, 98 to 99 and 103 apply to an auction platform acting in the course of business carried on by it in the United Kingdom, and such an auction platform is a relevant person for the purposes of those provisions.

(a) Paragraph 23 was substituted, and paragraphs 23B was inserted, by section 7 of the Financial Services Act 2012 (c.21).
 (b) Section 22 has been amended by section 7 of the Financial Services Act 2012.

- (4) The definitions in regulations 10 to 14 apply for the purpose of this regulation.

Carrying on business in the United Kingdom

9.—(1) For the purposes of these Regulations, a relevant person (“A”) is to be regarded as carrying on business in the United Kingdom in the cases described in this regulation even if A would not otherwise be regarded as doing so.

(2) The first case is where—

- (a) A’s registered office (or if A does not have a registered office, A’s head office) is in the United Kingdom;
- (b) A is entitled to exercise rights under a single market directive as a UK firm; and
- (c) A is carrying on business in another EEA state in the exercise of those rights.

(3) The second case is where—

- (a) A’s registered office (or if A does not have a registered office, A’s head office) is in the United Kingdom; and
- (b) the day-to-day management of the carrying on of A’s business is the responsibility of—
 - (i) that office, or
 - (ii) another establishment maintained by A in the United Kingdom.

(4) The third case is where—

- (a) A is a casino which provides facilities for remote gambling (within the meaning of section 4 of the Gambling Act 2005(a)) and—
- (b) either—
 - (i) at least one piece of remote gambling equipment (within the meaning of section 36(4) of the Gambling Act 2005 is situated in Great Britain, or
 - (ii) no such equipment is situated in Great Britain but the facilities provided by A are used there.

(5) For the purposes of paragraphs (2) and (3)—

- (a) “single market directive” means—
 - (i) a directive referred to in paragraph 1 of Schedule 3 to FSMA(b);
 - (ii) directive 2009/110/EC of the European Parliament and of the Council on the taking up, pursuit and prudential supervision of the business of electronic money institutions(c);
 - (iii) directive 2015/2366/EU of the European Parliament and of the Council on payment services in the internal market(d)
- (b) it is irrelevant where the person with whom the business is carried on is situated.

Credit institutions and financial institutions

10.—(1) “Credit institution” means—

- (a) a credit institution as defined in Article 4.1(1) of the capital requirements regulation; or
- (b) a branch (as defined by Article 4.1(17) of that regulation) located in an EEA state of an institution falling within sub-paragraph (a) (or an equivalent institution whose head office is located in a third country) wherever the institution’s head office is located,

(a) 2005 c.19.

(b) Paragraph 1 of Schedule 3 has been amended by S.I. 2000/2952; 2003/1473; 2003/2066; 2007/126; 2013/1773; 2013/3115; 2015/575; 2015/910.

(c) OJ L 267, 10.10.2009, p.7.

(d) OJ L 337, 23.12.2015, p.35.

when it accepts deposits or other repayable funds from the public or grants credits for its own account (within the meaning of the capital requirements regulation), or when it bids directly in auctions in accordance with the emission allowance auctioning regulation on behalf of its clients.

(2) “Financial institution” means—

- (a) an undertaking other than an institution referred to in paragraph (3), when the undertaking carries out one or more listed activity;
- (b) an insurance undertaking duly authorised in accordance with the Solvency 2 Directive, when it carries out any activities or operations referred to in Article 2.3 of that Directive;
- (c) a person (other than a person falling within Article 2 of the markets in financial instruments directive), whose regular occupation or business is the provision to other persons of an investment service or the performance of an investment activity on a professional basis, when—
 - (i) providing investment services or performing investment activities (within the meaning of that directive) or
 - (ii) bidding directly in auctions in accordance with the emission allowance auctioning regulation on behalf of clients;
- (d) a person falling within Article 2.1(i) of the markets in financial instruments directive, when bidding directly in auctions in accordance with the emission allowance auctioning regulation on behalf of clients of the person’s main business;
- (e) a collective investment undertaking, when marketing or otherwise offering its units or shares;
- (f) an insurance intermediary as defined in Article 2.5 of Directive 2002/92/EC of the European Parliament and of the Council of 9th December 2002 on insurance mediation^(a), with the exception of a tied insurance intermediary as mentioned in Article 2.7 of that Directive, when it acts in respect of contracts of long-term insurance;
- (g) a branch located in an EEA state of a person referred to in sub-paragraphs (a) to (f) (or an equivalent person whose head office is located in a third country), wherever the person’s head office is located, when carrying out any activity mentioned in sub-paragraphs (a) to (f);
- (h) the National Savings Bank;
- (i) the Director of Savings, when money is raised under the auspices of the Director under the National Loans Act 1968^(b).

(3) For the purposes of paragraph (2)(a), the institutions referred to are—

- (a) a credit institution;
- (b) an undertaking whose only listed activity is as a creditor under an agreement which—
 - (i) falls within section 12(a) of the Consumer Credit Act 1974^(c) (debtor-creditor-supplier agreements),
 - (ii) provides fixed sum credit (within the meaning given in section 10(1)(b) of the Consumer Credit Act 1974 (running-account credit and fixed-sum credit)) in relation to the provision of services, and
 - (iii) provides financial accommodation by way of deferred payment or payment by instalments over a period not exceeding 12 months;
- (c) an undertaking whose only listed activity is trading for own account in one or more of the products listed in point 7 of Annex 1 to the capital requirements directive where the undertaking does not have a customer (and, for this purpose, “customer” means a person other than the undertaking which is not a member of the same group as the undertaking).

(a) OJ L 9, 15.01.2003, p.3.

(b) 1968 c.13.

(c) 1974 c.39.

(4) For the purposes of this regulation, a “listed activity” means an activity listed in points 2 to 12, 14 and 15 of Annex 1 to the capital requirements directive (the relevant text of which is set out in Schedule 2).

Auditors and others

11.—(1) “Auditor” means any firm or individual who is a statutory auditor within the meaning of Part 42 of the Companies Act 2006^(a) (statutory auditors), when carrying out statutory audit work within the meaning of section 1210 of that Act, or a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014^(b), when carrying out an audit required by that Act.

(2) “Insolvency practitioner” means any person who acts as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986^(c) (meaning of “act as insolvency practitioner”) or article 3 of the Insolvency (Northern Ireland) Order 1989^(d).

(3) “External accountant” means a firm or sole practitioner who by way of business provides accountancy services to other persons, when providing such services.

(4) “Tax adviser” means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services.

Independent legal professionals and trust or company service providers

12.—(1) “Independent legal professional” means a firm or sole practitioner who by way of business provides legal or notarial services to other persons, when participating in financial or real property transactions concerning—

- (a) the buying and selling of real property or business entities;
- (b) the managing of client money, securities or other assets;
- (c) the opening or management of bank, savings or securities accounts;
- (d) the organisation of contributions necessary for the creation, operation or management of companies; or
- (e) the creation, operation or management of trusts, companies, foundations or similar structures,

and, for this purpose, a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.

(2) “Trust or company service provider” means a firm or sole practitioner who by way of business provides any of the following services to other persons, when that firm or practitioner is providing such services—

- (a) forming companies or other legal persons;
- (b) acting, or arranging for another person to act—
 - (i) as a director or secretary of a company;
 - (ii) as a partner of a partnership; or
 - (iii) in a similar position in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;

(a) 2006 c.46. Section 1210 has been amended by S.I. 2008/565; 2008/567; 2008/1950; 2012/1809; 2013/3115.

(b) 2014 c.2.

(c) 1986 c.45. Section 388 has been amended by section 11(1) of the Bankruptcy (Scotland) Act 1993 (c.6); section 4(2) of the Insolvency Act 2000 (c.39); paragraph 2(11) of Schedule 6 to the Deregulation Act 2015 (c.20) and S.I. 1994/2421; 2002/1240; 2002/2708; 2009/1941 and 2016/1034.

(d) S.I. 1989/2405 (N.I. 19). Article 3 has been amended by Schedule 4 to the Insolvency (Amendment) Act (Northern Ireland) 2016 and by S.R. 1995/225; 2002/334; 2003/550 and S.I. 2002/3152 (N.I. 6) and 2009/1941.

- (d) acting, or arranging for another person to act, as—
 - (i) a trustee of an express trust or similar legal arrangement; or
 - (ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

Estate agents

13.—(1) “Estate agent” means a firm or a sole practitioner, who, or whose employees, carry out estate agency work, when the work is being carried out.

(2) For the purposes of paragraph (1) “estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979(a) (estate agency work), but for those purposes references in that section to disposing of or acquiring an interest in land are (despite anything in section 2 of that Act) to be taken to include references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest.

High value dealers, casinos and auction platforms

14.—(1) “High value dealer” means a firm or sole trader who by way of business trades in goods (including an auctioneer dealing in goods), when the trader makes or receives, in respect of any transaction, a payment or payments in cash of at least 10,000 euros in total, whether the transaction is executed in a single operation or in several operations which appear to be linked.

(2) “Casino” means the holder of a casino operating licence and, for this purpose, a “casino operating licence” has the meaning given by section 65(2)(a) of the Gambling Act 2005(b) (nature of licence).

(3) “Auction platform” means a platform which auctions two-day spot or five-day futures, within the meanings given by Article 3.4 and 3.5 of the emission allowance auctioning regulation, when it carries out activities covered by that regulation.

Exclusions

15.—(1) Parts 1 to 4, 6 and Parts 8 to 11 of these Regulations do not apply to the following persons when carrying on any of the following activities—

- (a) a registered society within the meaning of section 1 of the Co-operative and Community Benefit Societies Act 2014(c), when it—
 - (i) issues withdrawable share capital within the limit set by section 24 of that Act (maximum shareholding in society), or
 - (ii) accepts deposits from the public within the limit set by section 67(2) of that Act (carrying on of banking by societies);
- (b) a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969(d), when it—
 - (i) issues withdrawable share capital within the limit set by section 6(e) of that Act (maximum shareholding in society), or
 - (ii) accepts deposits from the public within the limit set by section 7(3) of that Act (carrying on of banking by societies);

(a) 1979 c.38. Section 1 has been amended by paragraph 40 of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985; paragraph 42 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11); paragraph 28 of Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11); section 70 of the Enterprise and Regulatory Reform Act 2013 (c.24) and S.I. 2001/1283.

(b) 2005 c.19.

(c) 2014 c.14.

(d) 1969 c.24.

(e) Section 6 has been amended by section 10 of the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) (c.16 (N.I.)), and by S.R. 1991/375.

- (c) a person who is (or falls within a class of persons) specified in any of paragraphs 2 to 23, 26 to 38 or 40 to 49 of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001(a), when carrying out any activity in respect of which that person is exempt;
- (d) a local authority within the meaning given in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(b), when carrying on an activity which would be a regulated activity for the purposes of FSMA but for article 72G of that Order(c);
- (e) a person who was an exempted person for the purposes of section 45 of the Financial Services Act 1986(d) (miscellaneous exemptions) immediately before its repeal, when exercising the functions specified in that section;
- (f) a person whose main activity is that of a high value dealer, when engaging in financial activity on an occasional or very limited basis as set out in paragraph (3); or
- (g) a person preparing a home report, which for these purposes means the documents prescribed for the purposes of section 98, 99(1) or 101(2) of the Housing (Scotland) Act 2006(e).

(2) These Regulations do not apply to a person who falls within regulation 8 solely as a result of that person engaging in financial activity on an occasional or very limited basis as set out in paragraph (3).

(3) For the purposes of paragraphs (1)(f) and (2), a person is to be considered as engaging in financial activity on an occasional or very limited basis if all the following conditions are met—

- (a) the person's total annual turnover in respect of the financial activity does not exceed £100,000;
- (b) the financial activity is limited in relation to any customer to no more than one transaction exceeding 1,000 euros, whether the transaction is carried out in a single operation, or a series of operations which appear to be linked;
- (c) the financial activity does not exceed 5% of the person's total annual turnover;
- (d) the financial activity is ancillary and directly related to the person's main activity;
- (e) the financial activity is not the transmission or remittance of money (or any representation of monetary value) by any means;
- (f) the person's main activity is not that of a person falling within regulation 8(2)(a) to (f) or (h);
- (g) the financial activity is provided only to customers of the main activity of the person and is not offered to the public.

(4) Parts 2 to 9 of these Regulations do not apply to—

- (a) the Auditor General for Scotland;
- (b) the Auditor General for Wales;
- (c) the Bank of England;
- (d) the Comptroller and Auditor General;

(a) S.I. 2001/1201. Paragraph 15A was inserted by S.I. 2003/47, paragraph 15B was inserted by S.I. 2009/118, paragraph 19 was revoked by S.I. 2014/366, paragraphs 21 and 27 were substituted by S.I. 2002/1310 and 2003/1675 respectively, paragraph 30 was revoked by S.I. 2003/3225; paragraph 31 was substituted by paragraph 10 of Schedule 2 to the Tourist Boards (Scotland) Act 2006 (asp 15) and amended by S.I. 2007/1103; paragraph 33A was inserted by S.I. 2007/1821; paragraph 34A, 34B and 34C were inserted by SI. 2005/592; 2008/682 and 2012/763 respectively; paragraph 36 was revoked by S.I. 2007/125; paragraph 40 was amended by S.I. 2013/1881; paragraph 41 was amended by S.I. 2010/86; paragraph 42 was amended by S.I. 2007/125; paragraph 44 was amended by S.I. 2014/506; paragraph 45 was amended by S.I. 2013/1773; paragraph 47 was revoked by S.I. 2014/366; paragraph 48 was substituted by S.I. 2003/1673 and paragraph 49 was inserted by S.I. 2001/3623

(b) S.I. 2001/544. Article 3(1) has been amended, but the amendments are not relevant to these Regulations.

(c) Article 72G was inserted by S.I. 2014/366, and amended by S.I. 2015/910 and 2016/392.

(d) 1986 c.60. Section 45 was repealed by S.I. 2001/3649.

(e) 2006 asp.1.

- (e) the Comptroller and Auditor General for Northern Ireland;
- (f) the Official Solicitor to the Supreme Court, when acting as trustee in his or her official capacity;
- (g) the Treasury Solicitor.

CHAPTER 2

Risk Assessment and Controls

Risk assessment by the Treasury and Home Office

16.—(1) The Treasury and the Home Office must make arrangements before 26th June 2018 for a risk assessment to be undertaken to identify, assess, understand and mitigate the risks of money laundering and terrorist financing affecting the United Kingdom (“the risk assessment”).

(2) The risk assessment must, among other things—

- (a) identify any areas where relevant persons should apply enhanced due diligence measures, and where appropriate, specify the measures to be taken;
- (b) identify, where appropriate, the sectors or areas of lower and greater risk of money laundering and terrorist financing;
- (c) consider whether any rules on money laundering and terrorist financing made by a supervisory authority applying in relation to the sector it supervises are appropriate in the light of the risks of money laundering and terrorist financing applying to that sector;
- (d) provide the information and analysis necessary to enable it to be used for the purposes set out in paragraph (3).

(3) The Treasury and the Home Office must ensure that the risk assessment is used to—

- (a) consider the appropriate allocation and prioritisation of resources to counter money laundering and terrorist financing;
- (b) consider whether the exemptions provided for in regulation 15 are being abused;
- (c) consider whether providers of gambling services other than casinos should continue to be excluded from the requirements of these Regulations.

(4) For the purpose of paragraph (3)(c), a “provider of gambling services” means a person who by way of business provides facilities for gambling within the meaning of section 5 of the Gambling Act 2005(a).

(5) In undertaking the risk assessment, the Treasury and the Home Office must take account of the reports made by the Commission under Article 6.1 of the fourth money laundering directive.

(6) The Treasury and the Home Office must prepare a joint report setting out, as appropriate, the findings of the risk assessment as soon as reasonably practicable after the risk assessment is completed.

(7) A copy of that report must be laid before Parliament, and sent to—

- (a) the PRA;
- (b) the supervisory authorities;
- (c) the European Commission;
- (d) the European Supervisory Authorities; and
- (e) each of the other EEA states.

(8) If information from the risk assessment would assist supervisory authorities in carrying out their own money laundering and terrorist financing risk assessment, the Treasury and the Home Office must, where appropriate, make that information available to those supervisory authorities,

(a) 2005 c.19.

unless to do so would not be compatible with restrictions on sharing information imposed in or under the Data Protection Act 1998(a) or any other enactment.

(9) The Treasury and the Home Office must take appropriate steps to ensure that the risk assessment is kept up-to-date.

Risk assessment by supervisory authorities

17.—(1) Each supervisory authority must identify and assess the international and domestic risks of money laundering and terrorist financing to which those relevant persons for which it is the supervisory authority (“its own sector”) are subject.

(2) In carrying out the risk assessment required under paragraph (1), the supervisory authority must take into account—

- (a) reports published by the Commission under Article 6.1 of the fourth money laundering directive;
- (b) guidelines issued by the European Supervisory Authorities under Articles 17, 18.4 and 48.10 of the fourth money laundering directive;
- (c) the report prepared by the Treasury and the Home Office under regulation 16(6); and
- (d) information made available by the Treasury and the Home Office under regulation 16(8).

(3) A supervisory authority must keep an up-to-date written record of all steps it has taken under paragraph (1).

(4) Each supervisory authority must develop and record in writing risk profiles for each relevant person in its own sector.

(5) A supervisory authority may prepare a single risk profile under paragraph (4) in relation to two or more relevant persons in its sector, if—

- (a) the relevant persons share similar characteristics, and
- (b) the risks of money laundering and terrorist financing affecting those relevant persons do not differ significantly.

(6) Where a supervisory authority has prepared a single risk profile for two or more relevant persons in its sector (a “cluster”), the supervisory authority must keep under review whether an individual risk profile should be prepared in relation to any relevant person in the cluster because sub-paragraphs (a) and (b) of paragraph (5) are no longer satisfied in relation to that person.

(7) In developing the risk profiles referred to in paragraph (3), the supervisory authority must take full account of the risks that relevant persons in its own sector will not take appropriate action to identify, understand and mitigate money laundering and terrorist financing risks.

(8) Each supervisory authority must review the risk profiles developed under paragraph (4) at regular intervals and following any significant event or developments which might affect the risks to which its own sector is subject, such as—

- (a) significant external events that change the nature of the money laundering and terrorist financing risks;
- (b) emerging money laundering and terrorist financing risks;
- (c) any findings resulting from measures taken by other supervisory authorities;
- (d) any changes in the way in which its own sector is operated;
- (e) significant changes in regulation.

(9) If information from the risk assessment carried out under paragraph (1), or from information provided to the supervisory authority under regulation 16(8), would assist relevant persons in carrying out their own money laundering and terrorist financing risk assessment, the supervisory authority must, where appropriate, make that information available to those persons, unless to do

(a) 1998 c.29.

so would not be compatible with restrictions on sharing information imposed in or under the Data Protection Act 1998(a) or any other enactment.

Risk assessment by relevant persons

18.—(1) A relevant person must take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which its business is subject.

(2) In carrying out the risk assessment required under paragraph (1), a relevant person must take into account—

- (a) information made available to them by the supervisory authority under regulations 17(9) and 46, and
- (b) risk factors including factors relating to—
 - (i) its customers;
 - (ii) the countries or geographic areas in which it operates;
 - (iii) its products or services;
 - (iv) its transactions; and
 - (v) its delivery channels.

(3) In deciding what steps are appropriate under paragraph (1), the relevant person must take into account the size and nature of its business.

(4) A relevant person must keep an up-to-date written record of all steps it has taken under paragraph (1), unless its supervisory authority notifies it that such a record is not required.

(5) A supervisory authority may not give the notification referred to in paragraph (4) unless it considers that the risks of money laundering and terrorist financing applicable to the sector in which the relevant person operates are clear and understood.

(6) A relevant person must provide the risk assessment it has prepared under paragraph (1), the information on which that risk assessment was based and any record required to be kept under paragraph (4) to its supervisory authority on request.

Policies, controls and procedures

19.—(1) A relevant person must—

- (a) establish and maintain policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified in any risk assessment undertaken by the relevant person under regulation 18(1),
- (b) maintain a written record of the policies, controls and procedures established under paragraph (a).

(2) The policies, controls and procedures adopted by a relevant person under paragraph (1) must be—

- (a) proportionate with regard to the size and nature of the relevant person's business, and
- (b) approved by its senior management.

(3) The policies, controls and procedures referred to in paragraph (1) must include—

- (a) risk management practices;
- (b) internal controls (see regulations 21 to 24);
- (c) customer due diligence (see regulations 27 to 37);
- (d) reporting and record keeping (see regulations 39 to 40);
- (e) the monitoring and management of compliance with, and the internal communication of, such policies, controls and procedures.

(a) 1998 c.29.

(4) The policies, controls and procedures referred to in paragraph (1) must include policies, controls and procedures—

- (a) which provide for the identification and scrutiny of—
 - (i) any case where—
 - (aa) a transaction is complex and unusually large, or
 - (bb) there is an unusual pattern of transactions, and the transaction or transactions have no apparent economic or legal purpose, and
 - (ii) any other activity which the relevant person regards as particularly likely by its nature to be related to money laundering or terrorist financing;
- (b) which specify the taking of additional measures, where appropriate, to prevent the use for money laundering or terrorist financing of products and transactions which might favour anonymity;
- (c) which ensure that when new technology is adopted by the relevant person, appropriate measures are taken to assess and if necessary mitigate any money laundering or terrorist financing risks this may cause;
- (d) under which anyone in the relevant person’s organisation who knows or suspects (or has reasonable grounds for knowing or suspecting) that a person is engaged in money laundering or terrorist financing as a result of information received in the course of the business or otherwise through carrying on that business is required to comply with Part 3 of the Terrorism Act 2000^(a) or with Part 7 of the Proceeds of Crime Act 2002^(b);
- (e) which, in the case of a money service business which uses agents for the purpose of its business, ensure that appropriate measures are taken by the business to assess—
 - (i) whether an agent used by the business would satisfy the fit and proper test provided for in regulation 57;
 - (ii) the extent of the risk that the agent may be used for money laundering or terrorist financing.

(5) In determining what is appropriate or proportionate with regard to the size and nature of its business, a relevant person may take into account any guidance which has been issued by its supervisory authority or an appropriate body.

(6) A relevant person must, where relevant, communicate the policies, controls and procedures which it establishes and maintains in accordance with this regulation to its branches and subsidiary undertakings which are located outside the United Kingdom.

(7) For the purposes of this regulation—

“appropriate body” means any body which regulates or is representative of any trade, profession, business or employment carried on by the relevant person;

“senior management” means an officer or employee of the relevant person with sufficient knowledge of the relevant person’s money laundering and terrorist financing risk exposure, and of sufficient authority, to take decisions affecting its risk exposure.

Policies, controls and procedures: group level

20.—(1) A relevant person which is a parent undertaking (“a relevant parent undertaking”) must—

- (a) ensure that the policies, controls and procedures referred to in regulation 19(1) apply—
 - (i) to all its subsidiary undertakings, including subsidiary undertakings located outside the United Kingdom, and
 - (ii) to any branches it has established outside the United Kingdom,

(a) 2000 c.11.
(b) 2002 c. 29.

which is carrying out any activity in respect of which the relevant person is subject to these Regulations;

- (b) establish and maintain throughout its group policies, controls and procedures for data protection and sharing information for the purposes of preventing money laundering and terrorist financing with other members of the group;
- (c) maintain a written record of the policies, controls and procedures established under paragraphs (a) and (b).

(2) A relevant parent undertaking must ensure that those of its subsidiary undertakings and branches which are established in an EEA state follow the law of that EEA state transposing the fourth money laundering directive.

(3) If any of the subsidiary undertakings or branches of a relevant parent undertaking are established in a third country which does not impose requirements to counter money laundering and terrorist financing as strict as those of the United Kingdom, the relevant parent undertaking must ensure that those subsidiary undertakings and branches apply measures equivalent to those required by these Regulations, as far as permitted under the law of the third country.

(4) Where the law of a third country does not permit the application of such equivalent measures by the branch or subsidiary undertaking established in that country, the relevant parent undertaking must—

- (a) inform its supervisory authority accordingly; and
- (b) take additional measures to handle the risk of money laundering and terrorist financing effectively.

(5) A relevant parent undertaking must ensure that information relevant to the prevention of money laundering and terrorist financing is shared as appropriate between members of its group, where this is compatible with restrictions on sharing information imposed in or under any enactment.

Internal controls

21.—(1) Where appropriate with regard to the size and nature of its business, a relevant person must—

- (a) appoint an individual who is a member of the board of directors (or, if there is no such board, the equivalent management body) as the officer responsible for the relevant persons' compliance with these Regulations;
- (b) carry out screening of relevant employees and agents appointed by the relevant person, both before the appointment is made and at regular intervals during the course of the appointment;
- (c) establish an independent audit function with the responsibility—
 - (i) to examine and evaluate the adequacy and effectiveness of the policies, controls and procedures adopted by the relevant person to comply with the requirements of these Regulations;
 - (ii) to make recommendations in relation to those policies, controls and procedures, and
 - (iii) to monitor the relevant person's compliance with those recommendations.

(2) For the purposes of paragraph (1)(b)—

- (a) "screening" means an assessment of—
 - (i) the skills, knowledge and expertise of the individual to carry out their functions effectively;
 - (ii) the conduct and integrity of the individual;
- (b) a relevant employee or agent is an employee or agent whose work is—
 - (i) relevant to the relevant person's compliance with any requirement in these Regulations, or

- (ii) otherwise capable of contributing to the—
 - (aa) identification or mitigation of the risks of money laundering and terrorist financing to which the relevant person’s business is subject, or
 - (bb) prevention or detection of money laundering and terrorist financing in relation to the relevant person’s business.
- (3) An individual in the relevant person’s organisation must be appointed as a nominated officer.
- (4) A relevant person must inform the supervisory authority of—
 - (a) the identity of the person first appointed under paragraph (1)(a), and the identity of the person appointed as nominated officer, and
 - (b) of any subsequent appointment to either of those positions.
- (5) Where a disclosure is made to the nominated officer, that officer must consider it in the light of any relevant information which is available to the relevant person and determine whether it gives rise to knowledge or suspicion or reasonable grounds for knowledge or suspicion that a person is engaged in money laundering or terrorist financing.
- (6) Paragraphs (1) and (3) do not apply where the relevant person is an individual who neither employs nor acts in association with any other person.
- (7) A relevant person who is an electronic money issuer must appoint an individual to monitor and manage compliance with, and the internal communication of, the policies, controls and procedures relating to the matters referred to in regulation 19(3)(a) to (e), and in particular to—
 - (a) identify any situations of higher risk of money laundering or terrorist financing;
 - (b) maintain a record of its policies, controls and procedures, risk assessment and risk management including the application of such policies and procedures;
 - (c) apply measures to ensure that such policies, controls and procedures are taken into account in all relevant functions including in the development of new products, dealing with new customers and in changes to business activities; and
 - (d) provide information to senior management about the operation and effectiveness of such policies, controls and procedures whenever appropriate and at least annually.
- (8) A relevant person must establish and maintain systems which enable it to respond fully and rapidly to enquiries from a person specified in paragraph (9) as to—
 - (a) whether it maintains, or has maintained during the previous five years, a business relationship with any person; and
 - (b) the nature of that relationship.
- (9) The persons specified in this paragraph are—
 - (a) financial investigators accredited under section 3 (accreditation and training) of the Proceeds of Crime Act 2002(a);
 - (b) persons acting on behalf of the Scottish Ministers in their capacity as an enforcement authority under that Act,
 - (c) officers of Revenue and Customs, and
 - (d) constables or equivalent officers of law enforcement authorities.
- (10) In determining what is appropriate with regard to the size and nature of its business, a relevant person—
 - (a) must take into account its risk assessment under regulation 18(1); and
 - (b) may take into account any guidance issued by its supervisory authority or any other appropriate body.

(a) 2002 c. 29. Section 3 has been amended by paragraph 111 of Schedule 8 to the Crime and Courts Act 2013 (c.22), and by paragraph 120 of Schedule 8 and paragraph 1 of Schedule 14 to the Serious Crime Act 2007 (c.27).

(11) For the purposes of paragraph (10)(b) “appropriate body” means any body which regulates or is representative of any trade, profession, business or employment carried on by the relevant person.

Central contact points: electronic money issuers and payment service providers

22.—(1) An electronic money issuer or a payment service provider to which paragraph (2) applies must, if requested by its supervisory authority, appoint a person to act as a central contact point in the United Kingdom for its supervisory authority on any issue relating to the prevention of money laundering or terrorist financing.

- (2) This paragraph applies to any electronic money issuer or payment service provider which—
- (a) is established in the United Kingdom otherwise than by a branch; and
 - (b) has its head office in an EEA state other than the United Kingdom.

Requirement on authorised person to inform the FCA

23.—(1) An authorised person whose supervisory authority is the FCA must, before acting as a money service business or a trust or company service provider or within 28 days of so doing, inform the FCA that it intends, or has begun, to act as such.

- (2) Paragraph (1) does not apply to an authorised person which—
- (a) immediately before 26th June 2017 was acting as a money service business or a trust or company service provider and continues to act as such after that date; and
 - (b) before 26th July 2017 informs the FCA that it is acting as such.

(3) Where an authorised person whose supervisory authority is the FCA ceases to act as a money service business or a trust or company service provider, it must immediately inform the FCA.

(4) Any requirement imposed by this regulation is to be treated as if it were a requirement imposed by or under FSMA.

(5) Any information to be provided to the FCA under this regulation must be in such form or verified in such manner as it may specify.

Training

24.—(1) A relevant person must take appropriate measures to ensure that its relevant employees and agents are—

- (a) made aware of the law relating to money laundering and terrorist financing, and to data protection; and
- (b) regularly given training in how to recognise and deal with transactions and other activities which may be related to money laundering or terrorist financing.

(2) For the purposes of paragraph (1), a relevant employee or agent is an employee or agent whose work is—

- (a) relevant to the relevant person’s compliance with any requirement in these Regulations, or
- (b) otherwise capable of contributing to the—
 - (i) identification or mitigation of the risk of money laundering and terrorist financing to which the relevant person’s business is subject, or
 - (ii) prevention or detection of money laundering and terrorist financing in relation to the relevant person’s business.

(3) In determining what measures are appropriate under paragraph (1), a relevant person—

- (a) must take account of—
 - (i) the nature of its business;

- (ii) its size;
 - (iii) the nature and extent of the risks of money laundering and terrorist financing to which its business is subject; and
- (b) may take account of any guidance issued by its supervisory authority or by any other appropriate body.
- (4) For the purposes of paragraph (3)(b) “appropriate body” means any body which regulates or is representative of any trade, profession, business or employment carried on by the relevant person.

Supervisory action

25.—(1) The supervisory authority must determine whether the additional measures taken under regulation 20(4) by a relevant parent undertaking which is an authorised person or a qualifying parent undertaking (as defined by section 192B of FSMA(a)) are sufficient to handle the risk of money laundering and terrorist financing effectively.

(2) If the supervisory authority does not consider the measures referred to in paragraph (1) sufficient, it must consider whether to direct the relevant parent undertaking—

- (a) not to enter into a business relationship with a specified person;
- (b) not to undertake transactions of a specified description with a specified person;
- (c) to terminate an existing business relationship with a specified person;
- (d) to ensure that its subsidiary undertaking does not enter into a business relationship with a specified person, or terminates an existing business relationship with that person;
- (e) to ensure that its subsidiary undertaking does not undertake transactions of a specified description in the third country;
- (f) to cease any operations in the third country.

(3) Where the FCA proposes to issue a direction under paragraph (2) to a PRA-authorised person or to a person who has a qualifying relationship with a PRA-authorised person, it must consult the PRA.

(4) If the FCA proposes to issue a direction under paragraph (2) it must give the relevant parent undertaking concerned a warning notice.

(5) Section 387 of FSMA(b) applies in relation to a notice given under paragraph (4) as it applies in relation to a warning notice given under that Act, subject to paragraph (6).

(6) In complying with section 387(1)(a), the warning notice must set out the terms of the direction.

(7) If the FCA decides to issue a direction under paragraph (2) it must without delay give the relevant parent undertaking concerned a decision notice, setting out the terms of the direction.

(8) Section 388 of FSMA(c) applies in relation to a decision notice given under paragraph (7) as it applies in relation to a decision notice given under the Act, subject to paragraph (9).

(9) Section 388 of FSMA has effect for the purposes of paragraph (8) as if—

- (a) in subsection (1)(e)(i) for “this Act” there were substituted “regulation 90(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”, and
- (b) subsections (1A) and (2) were omitted.

(10) For the purpose of this regulation, “specified” means specified in the direction.

(a) Section 192B was inserted, with the rest of Part 12A, by section 27 of the Financial Services Act 2012 (c.21).
 (b) Section 387 has been amended by paragraph 26 of Schedule 9 to the Financial Services Act 2012, paragraph 12 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33).
 (c) Section 388 has been amended (and subsection (1A) inserted) by paragraph 27 of Schedule 9 to the Financial Services Act 2012 and paragraph 13 of Schedule 3 to the Financial Services (Banking Reform) Act 2013.

CHAPTER 3

Ownership and Management Restrictions

Prohibitions

26.—(1) No person may be the beneficial owner, officer or manager of a firm within paragraph (2) (“a relevant firm”) unless that person has been approved as a beneficial owner, officer or manager of the firm by the supervisory authority of the firm.

(2) The firms within this paragraph are—

- (a) auditors, insolvency practitioners, external accountants and tax advisors;
- (b) independent legal professionals;
- (c) estate agents;
- (d) high value dealers.

(3) A person does not breach the prohibition in paragraph (1) if that person has before 26th June 2018 applied to the supervisory authority for approval under paragraph (5) and that application has not yet been determined.

(4) A relevant firm must take reasonable care to ensure that no-one is appointed, or continues to act, as an officer or manager of the firm unless—

- (a) that person has been approved by the supervisory authority, and the supervisory authority’s approval of that person has not ceased to be valid; or
- (b) that person has applied for approval of the supervisory authority under paragraph (5) and the application has not yet been determined.

(5) An application for the approval of the supervisory authority under paragraph (1) may be made by or on behalf of the person concerned.

(6) The application must—

- (a) be made in such manner as the supervisory authority may direct;
- (b) contain, or be accompanied by, such information as the supervisory authority may reasonably require.

(7) The supervisory authority must approve an application under paragraph (5) unless the applicant has been convicted of a relevant offence.

(8) An approval given by a supervisory authority under paragraph (7) ceases to be valid if the approved person is convicted of a relevant offence.

(9) If the beneficial owner of a relevant firm is convicted of a relevant offence, the High Court (or in Scotland the Court of Session) may, on the application of the supervisory authority, order the sale of the beneficial owner’s interest in that firm.

(10) A person who acts as a manager or officer of a relevant firm or is knowingly a beneficial owner of a relevant firm in breach of the prohibition in paragraph (1) is guilty of a criminal offence and liable—

- (a) on summary conviction—
 - (i) in England and Wales, to a fine,
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both.

(11) The offences listed in Schedule 3 are relevant offences for the purposes of this regulation.

PART 3

Customer Due Diligence

CHAPTER 1

Customer due diligence: general

Customer due diligence

27.—(1) A relevant person must apply customer due diligence measures if the person—

- (a) establishes a business relationship;
- (b) carries out an occasional transaction that amounts to a transfer of funds within the meaning of Article 3.9 of the funds transfer regulation exceeding 1,000 euros;
- (c) suspects money laundering or terrorist financing; or
- (d) doubts the veracity or adequacy of documents or information previously obtained for the purposes of identification or verification.

(2) A relevant person who is not a high value dealer or a casino must also apply customer due diligence measures if the person carries out an occasional transaction that amounts to 15,000 euros or more, whether the transaction is executed in a single operation or in several operations which appear to be linked.

(3) A high value dealer must also apply customer due diligence measures if that dealer carries out an occasional transaction in cash that amounts to 10,000 euros or more, whether the transaction is executed in a single operation or in several operations which appear to be linked.

(4) A casino must also apply customer due diligence measures in relation to any transaction that—

- (a) consists of—
 - (i) the purchase from, or exchange with, the casino of tokens for use in gambling at the casino;
 - (ii) payment for use of gaming machines (within the meaning of section 235 of the Gambling Act 2005^(a)); or
 - (iii) the wagering of a stake or the collection of winnings; and
- (b) amounts to 2,000 euros or more, whether the transaction is executed in a single operation or in several operations in the course of any period of 24 hours which appear to be linked.

(5) For the purposes of paragraph (4)—

- (a) the “collection of winnings” includes the withdrawal of funds deposited to take part in remote gambling (within the meaning of section 4 of the Gambling Act 2005);
- (b) the “wagering of a stake” includes depositing funds required to take part in remote gambling;
- (c) in determining whether a transaction amounts to 2,000 euros or more, no account is to be taken of winnings from a previous transaction which had not been collected from the casino, but are being re-used in the transaction in question

(6) A relevant person must also apply customer due diligence measures—

- (a) at other appropriate times to existing customers on a risk-sensitive basis; and
- (b) when the relevant person becomes aware that the circumstances of an existing customer relevant to its risk assessment for that customer have changed.

(7) For the purposes of paragraph (6), in determining when it is appropriate to take customer due diligence measures in relation to existing customers, a relevant person must take into account, among other things—

(a) 2005 c.19.

- (a) any indication that the identity of the customer, or of the customer's beneficial owner, has changed;
- (b) any transactions which are not reasonably consistent with the relevant person's knowledge of the customer;
- (c) any change in the purpose and intended nature of the relevant person's relationship with the customer;
- (d) any other matter which might affect the relevant person's assessment of the money laundering or terrorist financing risk.

Customer due diligence measures

28.—(1) This regulation applies when a relevant person is required by regulation 27 to apply customer due diligence measures.

(2) The relevant person must—

- (a) identify any customer unless the identity of that customer is known to, and has been verified by, the relevant person;
- (b) verify the customer's identity on the basis of documents or information obtained from a reliable source which is independent of the customer; and
- (c) assess, and where appropriate obtain information on, the purpose and intended nature of the business relationship or transaction.

(3) Where the customer is a body corporate, the relevant person must obtain and verify—

- (a) the name of the body corporate;
- (b) its company number or other registration number;
- (c) the address of its registered office, and if different, its principal place of business;
- (d) the law to which it is subject, and its memorandum of association or other governing documents;
- (e) the names of the board of directors or members of its management body and its senior management.

(4) Where the customer is beneficially owned by another person, the relevant person must—

- (a) identify the beneficial owner;
- (b) take reasonable measures to verify the identity of the beneficial owner so that the relevant person is satisfied that it knows who the beneficial owner is; and
- (c) if the beneficial owner is a legal person, trust, company, foundation or similar legal arrangement take reasonable measures to understand the ownership and control structure of that legal person, trust, company, foundation or legal arrangement.

(5) Paragraph (4) does not apply where the customer is a company which is listed on a regulated market.

(6) If the customer is a body corporate, and paragraph (7) applies, the relevant person may treat the senior person responsible for managing the customer as its beneficial owner.

(7) This paragraph applies if (and only if) the relevant person has exhausted all possible means of identifying the beneficial owner of the body corporate and—

- (a) has not succeeded in doing so, or
- (b) doubts whether the individual identified is in fact the beneficial owner.

(8) If paragraph (7) applies, the relevant person must keep records of all the actions it has taken to identify the beneficial owner of the body corporate.

(9) Relevant persons do not satisfy their requirements under paragraph (4) by relying only on the information—

- (a) contained in —

- (i) the register of people with significant control kept by a company under section 790M of the Companies Act 2006(a);
 - (ii) the register of people with significant control kept by a limited liability partnership under section 790M as modified by regulation 31E of the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009(b); or
 - (iii) the register of people with significant control kept by a European Public Limited-Liability Company (within the meaning of the Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European Company which is to be, or is, registered in the United Kingdom) under section 790M of the Companies Act 2006 as modified by regulation 5 of the European Public Limited Liability Company (Register of People with Significant Control) Regulations 2016(c);
- (b) referred to in sub-paragraph (a) and delivered to the registrar of companies (within the meaning of section 1060(3) of the Companies Act 2006 under any enactment.
- (10) Where a person (“A”) purports to act on behalf of the customer, the relevant person must—
- (a) verify that A is authorised to act on the customer’s behalf,
 - (b) identify A, and
 - (c) verify A’s identity on the basis of documents or information obtained from a reliable source which is independent of both A and the customer.
- (11) The relevant person must conduct ongoing monitoring of a business relationship, including—
- (a) scrutiny of transactions undertaken throughout the course of the relationship (including, where necessary, the source of funds) to ensure that the transactions are consistent with the relevant person’s knowledge of the customer, the customer’s business and risk profile;
 - (b) undertaking reviews of existing records and keeping the documents or information obtained for the purpose of applying customer due diligence measures up-to-date.
- (12) The ways in which a relevant person complies with the requirement to take customer due diligence measures, and the extent of the measures taken—
- (a) must reflect—
 - (i) the risk assessment carried out by the relevant person under regulation 18(1);
 - (ii) its assessment of the level of risk arising in any particular case;
 - (b) may differ from case to case.
- (13) In assessing the level of risk in a particular case, the relevant person must take account of factors including—
- (a) the purpose of an account, transaction or business relationship;
 - (b) the level of assets to be deposited by a customer or the size of the transactions undertaken by the customer;
 - (c) the regularity and duration of the business relationship.
- (14) If paragraph (15) applies, a relevant person is not required to continue to apply customer due diligence measures under paragraph (2) or (10) in respect of a customer.
- (15) This paragraph applies if—
- (a) a relevant person has taken customer due diligence measures in relation to a customer;
 - (b) the relevant person makes a disclosure required by Part 3 of the Terrorism Act 2000(d) or Part 7 of the Proceeds of Crime Act 2002(e);

(a) 2006 c.46. Section 790M was inserted, with the rest of Part 21A, by paragraph 1 of Schedule 3 to the Small Business, Enterprise and Employment Act 2015 (c.26).

(b) S.I. 2009/1804. Regulation 31E was inserted by S.I. 2016/340.

(c) S.I. 2016/375.

(d) 2000 c.11.

(e) 2002 c.29.

- (c) continuing to apply customer due diligence measures in relation to that customer would result in the commission of an offence under—
 - (i) section 21D of the Terrorism Act 2000 (tipping off: regulated sector)(a); or
 - (ii) section 333A of the Proceeds of Crime Act 2002 (tipping off: regulated sector)(b).

(16) The relevant person must be able to demonstrate to its supervisory authority that the extent of the measures it has taken to satisfy its requirements under this regulation are appropriate in view of the risks of money laundering and terrorist financing, including risks—

- (a) identified by the risk assessment carried out by the relevant person under regulation 18(1);
- (b) identified by its supervisory authority and described in information made available to the relevant person under regulations 17(9) and 46(1).

(17) Paragraph (16) does not apply to the National Savings Bank or the Director of Savings.

Additional customer due diligence measures: credit institutions and financial institutions

29.—(1) This regulation applies in addition to regulation 28 where a relevant person which is a credit institution or a financial institution is providing a customer with a contract of long-term insurance (“the insurance policy”).

(2) As soon as the beneficiaries of the insurance policy are identified or designated, the relevant person must—

- (a) if the beneficiary is a named person or legal arrangement, take the full name of the person or arrangement; or
- (b) if the beneficiaries are designated by specified characteristics, as a class or in any other way, obtain sufficient information about the beneficiaries to satisfy itself that it will be able to establish the identity of the beneficiary at any time when there is a pay-out under the insurance policy.

(3) The relevant person must verify the identity of the beneficiaries before any pay-out is made under the insurance policy.

(4) When the relevant person is aware that all or part of the rights under the insurance policy are being, or have been, assigned to an individual, body corporate, trust or other legal arrangement which is receiving the value or part of the value of the insurance policy for its own benefit (“the new beneficiary”), the relevant person must identify the new beneficiary at the time of the assignment.

Timing of verification

30.—(1) This regulation applies when a relevant person is required to take any measures under regulations 27, 28 or 29.

(2) Subject to paragraph (3) or (4) a relevant person must comply with the requirement to verify the identity of the customer (and any beneficial owner of the customer) before the establishment of a business relationship or the carrying out of the transaction.

(3) Provided that the verification is completed as soon as practicable after contact is first established, the verification of the customer, and the customer’s beneficial owner, may be completed during the establishment of a business relationship if—

- (a) this is necessary not to interrupt the normal conduct of business; and
- (b) there is little risk of money laundering or terrorist financing.

(4) The verification by a credit institution or a financial institution of the identity of a customer (and any beneficial owner of the customer) opening an account may take place after the account

(a) Section 21D was inserted by S.I. 2007/3398.
 (b) Section 333A was inserted by S.I. 2007/3398.

has been opened provided that there are adequate safeguards in place to ensure that no transactions are carried out by or on behalf of the customer before verification has been completed.

(5) For the purposes of paragraph (4) “account” includes an account which permits transactions in transferable securities.

(6) Paragraph (7) applies if—

- (a) the relevant person is required to apply customer due diligence measures in the case of a trust, a legal entity (other than a body corporate) or a legal arrangement (other than a trust), and
- (b) the beneficiaries of that trust, entity or arrangement are designated as a class, or by reference to particular characteristics.

(7) If this paragraph applies, the relevant person must establish and verify the identity of the beneficiary before—

- (a) any payment is made to the beneficiary, or
- (b) the beneficiary exercises its vested rights in the trust, entity or legal arrangement.

Requirement to cease transactions etc

31.—(1) Where, in relation to any customer, a relevant person is unable to apply customer due diligence measures as required by regulation 28, that person—

- (a) must not carry out any transaction through a bank account with the customer or on behalf of the customer;
- (b) must not establish a business relationship or carry out a transaction with the customer otherwise than through a bank account;
- (c) must terminate any existing business relationship with the customer;
- (d) must consider whether the relevant person is required to make a disclosure (or to make further disclosure) by Part 3 of the Terrorism Act 2000(a) or Part 7 of the Proceeds of Crime Act 2002(b).

(2) Paragraph (1)(a) does not prevent money deposited in an account being repaid to the person who deposited it, provided that, in any case where a disclosure is required by the legislation referred in paragraph (1)(d), the relevant person has—

- (a) consent (within the meaning of section 21ZA (arrangements with prior consent) of the Terrorism Act 2000)(c) to the transaction, or
- (b) the appropriate consent (within the meaning of section 335 (appropriate consent) of the Proceeds of Crime Act 2002) to the transaction.

(3) Paragraph (1) does not apply where a lawyer or other professional adviser is in the course of ascertaining the legal position for a client or performing the task of defending or representing that client in, or concerning, legal proceedings, including giving advice on the institution or avoidance of proceedings.

(4) In paragraph (3), “other professional adviser” means an auditor, external accountant or tax adviser who is a member of a professional body which is established for any such persons and which makes provision for—

- (a) testing the competence of those seeking admission to membership of such a body as a condition for such admission; and
- (b) imposing and maintaining professional and ethical standards for its members, as well as imposing sanctions for non-compliance with those standards.

(5) Paragraph (1)(a) to (c) does not apply where an insolvency practitioner has been appointed by the court as administrator or liquidator of a company, provided that—

(a) 2000 c.11.

(b) 2002 c. 29.

(c) Section 21ZA was inserted by S.I. 2007/3398.

- (a) the insolvency practitioner has taken all reasonable steps to satisfy the requirements set out in regulation 28(2), and
- (b) the resignation of the insolvency practitioner would be prejudicial to the interests of the creditors of the company.

Exception for trustees of debt issues

32.—(1) A relevant person—

- (a) who is appointed by the issuer of instruments or securities specified in paragraph (2) as trustee of an issue of such instruments or securities; or
- (b) whose customer is a trustee of an issue of such instruments or securities,

is not required to apply the customer due diligence measure referred to in regulation 28(3) in respect of the holders of such instruments or securities.

(2) The specified instruments and securities are—

- (a) instruments which fall within article 77 or 77A of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(a); and
- (b) securities which fall within article 78 of that Order(b).

CHAPTER 2

Enhanced customer due diligence

Obligation to apply enhanced due diligence

33.—(1) A relevant person must apply enhanced customer due diligence measures and enhanced ongoing monitoring, in addition to the customer due diligence measures required under regulation 28 and 29, to manage and mitigate the risks arising—

- (a) in any case identified as one where there is a high risk of money laundering or terrorist financing by the relevant person under 18(1), or in information available to the relevant person under regulations 17(9) and 46;
- (b) in any transaction or business relationship with a person established in a high-risk third country;
- (c) in relation to correspondent relationships (see regulation 34);
- (d) if a relevant person has determined that a customer or potential customer is a PEP, or a family member or known close associate of a PEP (see regulation 35);
- (e) in any case where a customer has provided false or stolen identification documentation or information on establishing a relationship;
- (f) in any case where—
 - (i) a transaction is complex and unusually large, or
 - (ii) there is an unusual pattern of transactions, and
 the transaction or transactions have no apparent economic or legal purpose, or
- (g) in any other case which by its nature can present a higher risk of money laundering and terrorist financing.

(2) Paragraph (1)(b) does not apply when the customer is a branch or majority owned subsidiary undertaking located in a high-risk third country of an entity which is established in an EEA state and subject to the obligations in the fourth money laundering directive as an obliged entity (within the meaning of that directive), if—

(a) S.I. 2001/544. Article 77 has been amended by S.I. 2010/86, 2011/133. Article 77A was inserted by S.I. 2010/86 and amended by S.I. 2011/133.
 (b) Article 78 has been amended by S.I. 2010/86.

- (a) the branch or subsidiary undertaking complies fully with group-wide policies and procedures established by the entity under Article 45 of the fourth money laundering directive; and
- (b) the relevant person, applying a risk-based approach, does not consider that it is necessary to apply enhanced due diligence measures.

(3) For the purposes of paragraphs (1)(b) and (2), a “high-risk third country” means a country which has been identified by the European Commission under Article 9.2 of the fourth money laundering directive as a high-risk third country.

(4) The enhanced customer due diligence measures taken by a relevant person for the purpose of paragraph (1) must include—

- (a) as far as reasonably possible, examining the background and purpose of the transaction, and
- (b) increasing the degree and nature of monitoring of the business relationship in which the transaction is made to determine whether that transaction or that relationship appear to be suspicious.

(5) Enhanced customer due diligence measures required under paragraph (1) may also include, depending on the requirements of the case, one or more of the following measures—

- (a) seeking additional independent, reliable sources to verify information provided to the relevant person;
- (b) taking additional measures to understand better the background, ownership and financial situation of the customer, and other parties to the transaction;
- (c) taking further steps to be satisfied that the transaction is consistent with the purpose and intended nature of the business relationship;
- (d) increasing the monitoring of the business relationship, including greater scrutiny of transactions.

(6) When assessing whether there is a high risk of money laundering and terrorist financing in a particular situation, and the extent of the measures which should be taken to manage and mitigate that risk, relevant persons must take account of at least the following risk factors—

- (a) customer risk factors, including whether—
 - (i) the business relationship is conducted in unusual circumstances;
 - (ii) the customer is resident in a geographical area considered to be an area of high risk (see sub-paragraph (c));
 - (iii) the customer is a legal person or arrangement that is a vehicle for holding personal assets;
 - (iv) the customer is a company that has nominee shareholders or shares in bearer form;
 - (v) the customer is a business that is cash intensive;
 - (vi) the corporate structure of the customer is unusual or excessively complex given the nature of the company’s business;
- (b) product, service, transaction or delivery channel risk factors, including whether—
 - (i) the product involves private banking;
 - (ii) the product or transaction is one which might favour anonymity;
 - (iii) the situation involves non-face-to-face business relationships or transactions, without certain safeguards, such as electronic signatures;
 - (iv) payments will be received from unknown or unassociated third parties;
 - (v) new products and new business practices are involved, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products;
 - (vi) the service involves the provision of nominee directors, nominee shareholders or shadow directors, or the formation of companies in third countries;

- (c) geographical risk factors, including—
 - (i) countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective systems to counter money laundering and terrorist financing;
 - (ii) countries identified by credible sources as having significant levels of corruption or other criminal activity, such as terrorism (within the meaning of section 1 of the Terrorism Act 2000^(a)), money laundering, and the production and supply of illicit drugs;
 - (iii) countries subject to sanctions, embargos or similar measures issued by, for example, the European Union or the United Nations;
 - (iv) countries providing funding or support for terrorism;
 - (v) countries that have organisations designated—
 - (aa) by the government of the United Kingdom as proscribed organisations under Schedule 2 to the Terrorism Act 2000^(b), or
 - (bb) by other countries, international organisations or the European Union as terrorist organisations;

operating within their country;
 - (vi) countries identified by credible sources, such as evaluations, detailed assessment reports or published follow-up reports published by the Financial Action Task Force, the International Monetary Fund, the World Bank, the Organisation for Economic Co-operation and Development or other international bodies or non-governmental organisations as not implementing requirements to counter money laundering and terrorist financing that are consistent with the revised recommendations published by the Financial Action Task Force in February 2012 and updated in October 2016.

(7) In determining what measures to take when paragraph (1) applies, and what the extent of those measures should be, credit institutions and financial institutions must also take account of any guidelines issued by the European Supervisory Authorities under Article 18.4 of the fourth money laundering directive.

Enhanced due diligence: credit institutions, financial institutions and correspondent relationships

34.—(1) A credit institution or financial institution (the “correspondent”) which has or proposes to have a correspondent relationship with another such institution (the “respondent”) from a third country must—

- (a) gather sufficient information about the respondent to understand fully the nature of its business;
- (b) determine from publicly-available information from credible sources the reputation of the respondent and the quality of the supervision to which the respondent is subject;
- (c) assess the respondent’s anti-money laundering and anti-terrorist financing controls;
- (d) obtain approval from senior management before establishing a new correspondent relationship;
- (e) document the responsibilities of the respondent and correspondent in the correspondent relationship; and
- (f) be satisfied that, in respect of those of the respondent’s customers who have direct access to accounts with the correspondent, the respondent—

(a) 2000 c.11. Section 1 has been amended by section 34(a) of the Terrorism Act 2006 (c.11), and section 75(1) of the Counter-Terrorism Act 2008 (c.28).

(b) Schedule 2 has been amended by S.I. 2001/1261; 2002/2724; 2005/2892; 2006/2016; 2007/2184; 2008/1645; 2008/1931; 2010/611; 2011/108; 2012/1771; 2012/2937; 2013/3172; 2014/927; 2014/1624; 2014/3189; 2015/55; 2015/959; 2016/391; 2016/770; 2016/1238.

- (i) has verified the identity of, and conducts ongoing customer due diligence measures in relation to, such customers; and
 - (ii) is able to provide to the correspondent, upon request within two working days, the documents, data or information obtained when applying such customer due diligence measures.
- (2) Credit institutions and financial institutions must not enter into, or continue, a correspondent relationship with a shell bank.
- (3) Credit institutions and financial institutions must take appropriate enhanced measures to ensure that they do not enter into, or continue, a correspondent relationship with a credit institution or financial institution which is known to allow its accounts to be used by a shell bank.
- (4) Credit institutions and financial institutions must not set up an anonymous account or an anonymous passbook for any new or existing customer.
- (5) Credit institutions and financial institutions must apply customer due diligence measures to all anonymous accounts and passbooks in existence at the date on which these Regulations come into force, and in any event before such accounts or passbooks are used in any way.
- (6) For the purposes of this regulation—
- (a) “correspondent relationship” means—
 - (i) the provision of banking services by a correspondent to a respondent including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, providing customers of the respondent with direct access to accounts with the correspondent (and vice versa) and providing foreign exchange services; or
 - (ii) the relationship between and among credit institutions and financial institutions including where similar services are provided by a correspondent to a respondent, and including relationships established for securities transactions or funds transfers;
 - (b) a “shell bank” means a credit institution or financial institution, or an institution engaged in equivalent activities to those carried out by credit institutions or financial institutions, incorporated in a jurisdiction in which it has no physical presence involving meaningful decision-making and management, and which is not part of a financial conglomerate or third-country financial conglomerate;
 - (c) in sub-paragraph (b), “financial conglomerate” and “third-country financial conglomerate” have the meanings given by regulations 1(2) and 7(1) respectively of the Financial Conglomerates and Other Financial Groups Regulations 2004(a).

Enhanced due diligence: politically exposed persons

35.—(1) A relevant person must have in place appropriate risk-management systems and procedures to determine whether a customer or the beneficial owner of a customer is—

- (a) a politically exposed person (a “PEP”), or
- (b) a family member or a known close associate of a PEP,

and to manage the enhanced risks arising from the relevant person’s relationship with such a customer.

(2) In determining what risk-management systems and procedures are appropriate under paragraph (1), the relevant person must take account of—

- (a) the risk assessment it carried out under regulation 18(1);
- (b) the level of risk of money laundering or terrorist financing inherent in its business;
- (c) the extent to which that risk would be increased by a business relationship with a PEP, or a family member or known close associate of a PEP, and

(a) S.I. 2004/1862, to which there are amendments not relevant to these Regulations.

- (d) any relevant information made available to the relevant person in accordance with regulations 17(9) and 46.
- (3) If a relevant person has determined that a customer or a potential customer is a PEP, or a family member or known close associate of a PEP, the relevant person must assess—
 - (a) the level of risk associated with that customer, and
 - (b) the extent of the enhanced due diligence measures to be applied in relation to that customer.
- (4) In assessing the extent of the enhanced due diligence measures to be taken in relation to any particular person (which may differ from case to case), a relevant person—
 - (a) must take account of any relevant information made available to the relevant person in accordance with regulations 17(9) and 46, and
 - (b) may take account of any guidance issued by its supervisory authority or any other appropriate body.
- (5) A relevant person who proposes to have, or to continue, a business relationship with a PEP, or a family member or a known close associate of a PEP, must—
 - (a) have approval from senior management for establishing or continuing the business relationship with that person;
 - (b) take adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or transaction with that person; and
 - (c) where the business relationship is entered into, conduct enhanced ongoing monitoring of the business relationship with that person.
- (6) A relevant person which is providing a customer with a contract of long-term insurance (an “insurance policy”) must take reasonable measures to determine whether one or more of the beneficiaries of the insurance policy or the beneficial owner of a beneficiary of such an insurance policy are—
 - (a) PEPs, or
 - (b) family members or known close associates of PEPs.
- (7) The measures required under paragraph (6) must be taken before—
 - (a) any payment is made under the insurance policy, or
 - (b) the benefit of the insurance policy is assigned in whole or in part from a PEP or a family member or known close associate of a PEP to another person (and vice versa).
- (8) A relevant person must ensure that—
 - (a) its senior management is informed before it pays out any sums under an insurance policy the beneficiary of which is a person who comes within paragraph (6), and
 - (b) its entire business relationship with the policy-holder is scrutinised on an ongoing basis in accordance with enhanced procedures, whether or not the policy holder is a PEP or a family member or known close associate of a PEP.
- (9) Where a person who was a PEP is no longer entrusted with a prominent public function within an EEA state, a third country or an international organisation, a relevant person must continue to apply the requirements in paragraphs (5) and (8) in relation to that person—
 - (a) for a period of at least 12 months after the date on which that person ceased to be entrusted with that public function; or
 - (b) for such longer period as the relevant person considers appropriate to address risks of money laundering or terrorist financing in relation to that person.
- (10) Paragraph (9) does not apply in relation to a person who—

- (a) was not a politically exposed person within the meaning of regulation 14(5) of the Money Laundering Regulations 2007(a), when those Regulations were in force; and
- (b) ceased to be entrusted with a prominent public function before these Regulations came into force.

(11) When a person who was a PEP is no longer entrusted with a prominent public function, the relevant person is no longer required to apply the requirements in paragraphs (5) and (8) in relation to a family member or known close associate of that person (whether or not the period referred to in paragraph (9) has expired).

(12) In this regulation—

- (a) “appropriate body” means any body which regulates or is representative of any trade, profession, business or employment carried on by the relevant person.
- (b) “politically exposed person” or “PEP” means an individual who is entrusted with prominent public functions, other than as a middle-ranking or more junior official;
- (c) “family member” of a politically exposed person includes—
 - (i) a spouse or partner of that person;
 - (ii) children of that person and their spouses or partners;
 - (iii) parents of that person;
- (d) “known close associate” of a politically exposed person means—
 - (i) an individual known to have joint beneficial ownership of a legal entity or a legal arrangement or any other close business relations with a politically exposed person;
 - (ii) an individual who has sole beneficial ownership of a legal entity or a legal arrangement which is known to have been set up for the benefit of a politically exposed person;
- (e) a reference to a business relationship or a transaction with an individual includes a reference to a business relationship or a transaction with a person of which the individual is a beneficial owner;
- (f) a reference to a beneficiary of an insurance policy includes a beneficial owner of such a beneficiary.

(13) For the purposes of paragraph (12)(b), individuals entrusted with prominent public functions include—

- (a) heads of state, heads of government, ministers and deputy or assistant ministers;
- (b) members of parliament or of similar legislative bodies;
- (c) members of the governing bodies of political parties;
- (d) members of supreme courts, of constitutional courts or of any judicial body the decisions of which are not subject to further appeal except in exceptional circumstances;
- (e) members of courts of auditors or of the boards of central banks;
- (f) ambassadors, charges d’affaires and high-ranking officers in the armed forces;
- (g) members of the administrative, management or supervisory bodies of State-owned enterprises;
- (h) directors, deputy directors and members of the board or equivalent function of an international organisation;

(14) For the purpose of deciding whether a person is a known close associate of a politically exposed person, a relevant person need only have regard to information which is in its possession, or to credible information which is publicly known.

(a) S.I. 2007/2157.

CHAPTER 3

Simplified due diligence

Application of simplified due diligence

36.—(1) A relevant person may apply simplified customer due diligence measures in relation to a particular business relationship or transaction if it determines that the business relationship or transaction presents a low degree of risk of money laundering or terrorist financing, having taken into account—

- (a) the risk assessment it carried out under regulation 18(1);
- (b) relevant information provided to it in accordance with regulations 17(9) and 46; and
- (c) the risk factors referred to in paragraph (3).

(2) Where a relevant person is applying simplified customer due diligence measures, it must—

- (a) continue to comply with the requirements in regulation 28, but it may adjust the extent of the measures it undertakes under that regulation to reflect its determination under paragraph (1);
- (b) carry out sufficient monitoring of any transactions or business relationships which are subject to those measures to enable it to detect any unusual or suspicious transactions.

(3) When assessing whether there is a low degree of risk of money laundering and terrorist financing in a particular situation, and the extent to which it is appropriate to apply simplified customer due diligence measures in that situation, the relevant person must take account of at least the following risk factors—

- (a) customer risk factors, including whether the customer—
 - (i) is a public administration, or a publically owned enterprise;
 - (ii) is an individual resident in a geographical area of lower risk (see sub-paragraph (c));
 - (iii) is a credit institution or a financial institution which is subject to the requirements in the fourth money laundering directive;
 - (iv) is a company whose securities are listed on a regulated market, and the location of the regulated market;
- (b) product, service, transaction or delivery channel risk factors, including whether the product or service is—
 - (i) a life insurance policy for which the premium is low;
 - (ii) an insurance policy for a pension scheme which does not provide for an early surrender option, and cannot be used as collateral;
 - (iii) a pension, superannuation or similar scheme which satisfies the following conditions—
 - (aa) the scheme provides retirement benefits to employees;
 - (bb) contributions to the scheme are made by way of deductions from wages, and
 - (cc) the scheme rules do not permit the assignment of a member's interest under the scheme;
 - (iv) a financial product or service that provides appropriately defined and limited services to certain types of customers to increase access for financial inclusion purposes;
 - (v) a product where the risks of money laundering and terrorist financing are managed by other factors such as purse limits or transparency of ownership;
 - (vi) a product storing electronic money used exclusively to carry out humanitarian and charitable activities or as a vehicle for benefit payments;

- (vii) a child trust fund within the meaning given by section 1(2) of the Child Trust Funds Act 2004^(a);
- (viii) a junior ISA within the meaning given by regulation 2B of the Individual Savings Account Regulations 1998^(b);
- (c) geographical risk factors, including whether the country where the customer is resident, established or registered or in which it operates is—
 - (i) an EEA state;
 - (ii) a third country which has effective systems to counter money laundering and terrorist financing;
 - (iii) a third country identified by credible sources as having a low level of corruption or other criminal activity, such as terrorism (within the meaning of section 1 of the Terrorism Act 2000^(c)), money laundering, and the production and supply of illicit drugs;
 - (iv) a third country which, on the basis of credible sources, such as evaluations, detailed assessment reports or published follow-up reports published by the Financial Action Task Force, the International Monetary Fund, the World Bank, the Organisation for Economic Co-operation and Development or other international bodies or non-governmental organisations, has requirements to counter money laundering and terrorist financing that are consistent with the revised Recommendations published by the Financial Action Task Force in February 2012 and updated in October 2016 and effectively implements those recommendations.

(4) A relevant person may apply simplified customer due diligence measures where the customer is an independent legal professional established in an EEA state and the product is an account into which monies are pooled (the “pooled account”), provided that—

- (a) the business relationship with the holder of the pooled account presents a low degree of risk of money laundering or terrorist financing, and
- (b) information on the identity of the persons on whose behalf monies are held in the pooled account is available, on request (and at the latest within two working days of the day on which the request was made) to the institution where the pooled account is held.

(5) In determining what customer due diligence measures to take, and the extent of those measures, when paragraph (1) applies, credit institutions and financial institutions must also take account of any guidelines issued by a European Supervisory Authority under Article 17 of the fourth money laundering directive.

(6) A relevant person must not continue to apply simplified customer due diligence measures under paragraph (1)—

- (a) if it doubts the veracity or accuracy of any documents or information previously obtained for the purposes of identification or verification;
- (b) if its risk assessment changes and it no longer considers that there is a low degree of risk of money laundering or terrorist financing; or
- (c) if it suspects money laundering or terrorist financing.

Electronic money

37.—(1) Subject to paragraph (3), a relevant person is not required to apply customer due diligence measures in relation to electronic money, and regulations 27, 28 and 30 do not apply provided that—

- (a) the maximum amount which can be stored electronically is 250 euros, or (if the amount stored can only be used in the United Kingdom), 500 euros;

(a) 2004 c.6.

(b) S.I. 1998/1870. Regulation 2B was inserted by S.I. 2011/1780.

(c) 2000 c.11.

- (b) the payment instrument used in connection with the electronic money (“the relevant payment instrument”) is—
 - (i) not reloadable, or
 - (ii) is subject to a maximum limit on monthly payment transactions of 250 euros which can only be used in the United Kingdom;
- (c) the relevant payment instrument is used exclusively to purchase goods or services;
- (d) electronic money cannot be added to the relevant payment instrument unless the source of that money is known.

(2) Paragraph (1) does not apply to any transaction which consists of the redemption in cash, or a cash withdrawal, of the monetary value of the electronic money, where the amount redeemed exceeds 100 euros.

(3) The issuer of the relevant payment instrument must carry out sufficient monitoring of its business relationship with the users of electronic money and of transactions made using the relevant payment instrument to enable it to detect unusual or suspicious transactions.

(4) A relevant person is not prevented from applying simplified customer due diligence measures in relation to electronic money because the conditions set out in paragraph (1) are not satisfied, provided that such measures are permitted under regulation 36.

(5) For the purposes of this regulation “payment instrument” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011(a).

PART 4

Reliance and record keeping

Reliance

38.—(1) A relevant person may rely on a person who falls within paragraph (3) (“the third party”) to apply any of the customer due diligence measures required by regulation 28(2) to (6) and (10) but, notwithstanding the relevant person’s reliance on the other person, the relevant person remains liable for any failure to apply such measures.

(2) When a relevant person relies on the third party to apply customer due diligence measures under paragraph (1) it—

- (a) must obtain from the third party all the information needed to satisfy the requirements of regulation 28(2) to (6) and (10);
- (b) must enter into written arrangements with the third party which—
 - (i) enable the relevant person to obtain from the third party immediately on request (or at the latest within two working days) copies of any identification and verification data and any other relevant documentation on the identity of the customer or its beneficial owner;
 - (ii) require the third party to retain copies of the data and documents referred to in paragraph (i) for the period referred to in regulation 39.

(3) The persons within this paragraph are—

- (a) another relevant person who is subject to these Regulations under regulation 8;
- (b) a person who carries on business in another EEA state who is—
 - (i) subject to requirements in national legislation implementing the fourth money laundering directive; and

(a) S.I. 2011/99.

- (ii) supervised for compliance with the requirements laid down in the fourth money laundering directive in accordance with section 2 of Chapter VI of that directive; or
- (c) a person who carries on business in a third country who is—
 - (i) subject to requirements in relation to customer due diligence and record keeping which are equivalent to those laid down in the fourth money laundering directive; and
 - (ii) supervised for compliance with those requirements in a manner equivalent to section 2 of Chapter VI of the fourth money laundering directive;
- (d) organisations whose members consist of persons within sub-paragraph (a), (b) or (c).

(4) A relevant person may not rely on a third party established in a country which has been identified by the European Commission as a high-risk third country under Article 9.2 of the fourth money laundering directive, and for these purposes “high-risk third country” has the meaning given in regulation 33(3).

(5) Paragraph (4) does not apply to a branch or majority owned subsidiary of a person established in an EEA state who is subject to the fourth money laundering directive if the branch or subsidiary complies fully with procedures and policies established for the group under Article 45 of the fourth money laundering directive.

(6) A relevant person is to be treated by a supervisory authority as having complied with the requirements of paragraphs (2) and (4) of this regulation if—

- (a) the relevant person is relying on information provided by a third party which is a member of the same group as the relevant person;
- (b) that group applies customer due diligence measures, rules on record keeping and programmes against money laundering and terrorist financing in accordance with these Regulations, the fourth money laundering directive or rules having equivalent effect; and
- (c) the effective implementation of the requirements referred to in sub-paragraph (b) is supervised at group level by an authority of an EEA state with responsibility for the implementation of the fourth money laundering directive or by an equivalent authority of a third country.

(7) Nothing in this regulation prevents a relevant person applying customer due diligence measures by means of an agent or an outsourcing service provider provided that the arrangements between the relevant person and the agent or outsourcing service provider provide for the relevant person to remain liable for any failure to apply such measures.

(8) For the purposes of paragraph (7), an “outsourcing service provider” means a person who—

- (a) performs a process, a service or an activity that would otherwise be undertaken by the relevant person, and
- (b) is not an employee of the relevant person.

Record-keeping

39.—(1) Subject to paragraph (4), a relevant person must keep the records specified in paragraph (2) for at least the period specified in paragraph (3).

(2) The records are—

- (a) a copy of any documents and information obtained by the relevant person to satisfy the customer due diligence requirements in regulations 28, 29 and 33 to 36 of these Regulations;
- (b) sufficient supporting records (consisting of the original documents or copies) in respect of a transaction (whether or not the transaction is an occasional transaction) which is the subject of customer due diligence measures or ongoing monitoring to enable the transaction to be reconstructed.

(3) The period is five years beginning on the date on which the relevant person knows, or has reasonable grounds to believe—

- (a) that the transaction is complete, for records, documents or information relating to an occasional transaction; or
 - (b) that the business relationship has come to an end for records, documents or information relating to—
 - (i) any transaction which occurs as part of a business relationship, or
 - (ii) customer due diligence measures taken in connection with that relationship.
- (4) Once the period referred to in paragraph (3) has expired, the relevant person must delete any personal data unless—
- (a) the relevant person is required to retain records containing personal data—
 - (i) by or under any enactment, or
 - (ii) for the purposes of any court proceedings, or
 - (b) the data subject has given express consent to the retention of that data.
- (5) A relevant person who is relied on by another person must keep the records specified in paragraph (2)(a) for five years beginning on the date on which the relevant person is relied on for the purposes of regulations 28, 29, and 33 to 36 in relation to any business relationship or occasional transaction.
- (6) A person referred to in regulation 38(3) (“A”) who is relied on by a relevant person (“B”) must, if requested by B within the period referred to in paragraph (3)—
- (a) at the latest within two working days make available to B any information about the customer (and any beneficial owner) which A obtained when applying customer due diligence measures; and
 - (b) at the latest within two working days forward to B copies of any identification and verification data and other relevant documents on the identity of the customer (and any beneficial owner) which A obtained when applying those measures.
- (7) Paragraph (6) does not apply where a relevant person applies customer due diligence measures by means of an agent or an outsourcing service provider (as defined in regulation 38(8)).
- (8) For the purposes of this regulation—
- (a) B relies on A where B does so in accordance with regulation 38(1);
 - (b) “copy” means a copy of the original document which would be admissible as evidence of the original document in court proceedings;
 - (c) “personal data” and “data subject” have the meanings given in section 1 of the Data Protection Act 1998(a).

Data Protection

40.—(1) Any personal data obtained by relevant persons or supervisory authorities or registering authorities to comply with the obligations in these Regulations may only be processed for the purposes of preventing money laundering and terrorist financing.

(2) Processing personal data for the purposes of preventing money laundering and terrorist financing is to be considered to be necessary for the exercise of—

- (a) a function of a public nature in the public interest for the purposes of paragraph 5(d) of Schedule 2 to the Data Protection Act 1998(b); and
- (b) a function conferred by or under an enactment for the purposes of paragraph 7(1)(b) of Schedule 3 to the Data Protection Act 1998(c).

(a) 1998 (c.29). Section 1 was amended by section 68 of and Part 3 of Schedule 8 to the Freedom of Information Act 2000 (c.36), and by S.I. 2004/3089.

(b) Paragraph 5 of Schedule 2 to the Data Protection Act 1998 (c.29) was amended by paragraph 4 of Schedule 6 to the Freedom of Information Act 2000 (c.36).

(c) Paragraph 7 of Schedule 5 to the Data Protection Act 1998 was amended by paragraph 5 of Schedule 6 to the Freedom of Information Act 2000 and S.I. 2003/1887.

- (3) No other use may be made of personal data referred to in paragraph (1), unless—
- (a) use of the data is permitted by or under an enactment other than these Regulations; or
 - (b) the relevant person has obtained the express consent of the data subject to the proposed use of the data.
- (4) Relevant persons must provide new customers with the following information before establishing a business relationship or entering into an occasional transaction with the customer—
- (a) the registrable particulars of the relevant person, within the meaning of section 16 of the Data Protection Act 1998(a);
 - (b) a statement that any personal data received from the customer will be processed only for the purposes of preventing money laundering and terrorist financing, or as permitted under paragraph (3).
- (5) For the purposes of this regulation “personal data”, “processing” and “data subject” have the meanings given in section 1 of the Data Protection Act 1998.

PART 5

Beneficial Ownership Information

Application of this Part

- 41.**—(1) This Part applies to UK bodies corporate and relevant trusts.
- (2) For the purposes of this Part—
- (a) a “UK body corporate” is a body corporate which is incorporated or formed under the law of the United Kingdom or a part of the United Kingdom;
 - (b) a “relevant trust” is—
 - (i) a UK trust which is an express trust, or
 - (ii) a non-UK trust which is an express trust, and
 - (aa) receives income from a source in the United Kingdom, or
 - (bb) has assets in the United Kingdom, on which it is liable to pay one or more of the taxes referred to in regulation 44(13);
 - (c) a trust is a “UK trust” if—
 - (i) all the trustees are established in the United Kingdom; or
 - (ii) sub-paragraph (d) applies;
 - (d) this sub-paragraph applies if—
 - (i) at least one trustee is established in the United Kingdom, and
 - (ii) the settlor was established in the United Kingdom at the time when the trust was set up, or when funds were added to the trust;
 - (e) A trust is a “non-UK trust” if it is not a UK trust.
- (3) A trustee or settlor is established in the United Kingdom—
- (a) in the case of a body corporate, if it is a UK body corporate;
 - (b) in the case of an individual, if the individual’s usual place of residence is in the United Kingdom.

(a) Section 16 was amended by section 71 of the Freedom of Information Act 2000 (c.36) and paragraph 1 of Schedule 20 to the Coroners and Justice Act 2009 (c.25).

Corporate bodies: obligations

42.—(1) When a UK body corporate enters into a relevant transaction with a relevant person, or forms a business relationship with a relevant person, the body corporate must on request from the relevant person (and at the latest within two working days) provide the relevant person with—

- (a) information identifying—
 - (i) its name, registered number, registered office and principal place of business;
 - (ii) its board of directors, or members of its management body;
 - (iii) its senior management;
 - (iv) the law to which it is subject;
 - (v) its legal owners, and
 - (vi) its beneficial owners, and
- (b) its memorandum of association or other governing documents.

(2) If, during the course of a business relationship, there is any change in the identity of the individuals or information falling within paragraph (1), the UK body corporate must notify the relevant person of the change and the date on which it occurred within two working days.

(3) For the purposes of this regulation, a “relevant transaction” means a transaction in relation to which the relevant person is required to apply customer due diligence measures under regulation 27.

Trustee obligations

43.—(1) The trustees of a relevant trust must maintain accurate and up-to-date records of all the beneficial owners of the trust, containing the information referred to in regulation 44(2)(b) to (d).

(2) When a trustee of a relevant trust, acting as trustee, enters into a relevant transaction with a relevant person, or forms a business relationship with a relevant person, the trustee must—

- (a) inform the relevant person that it is acting as trustee, and
- (b) must on request from the relevant person (and at the latest within two working days), provide the relevant person with information identifying—
 - (i) all the beneficial owners of the trust;
 - (ii) any other individual referred to in any document such as a letter of wishes relating to the trust.

(3) If, during the course of a business relationship, there is any change in the identity of the individuals falling within paragraph (2)(b), the trustees must notify the relevant person of the change and the date on which it occurred within two working days.

(4) For the purposes of this regulation, a “relevant transaction” means a transaction in relation to which the relevant person is required to apply customer due diligence measures under regulation 27.

(5) The trustees of a relevant trust must on request provide information about the beneficial owners of the trust to any law enforcement authority.

(6) If the trustees of a relevant trust are relevant persons who are being paid to act as trustees of that trust, they must—

- (a) retain the records referred to in paragraph (1) for a period of five years after the date on which the final distribution is made under the trust;
- (b) make arrangements for those records to be deleted at the end of that period, unless—
 - (i) the trustees are required to retain them by or under any enactment or for the purpose of court proceedings, or
 - (ii) any person to whom information in a record relates consents to the retention of that information.

(7) For the purposes of this regulation, the following authorities are law enforcement authorities—

- (a) police forces maintained under section 2 of the Police Act 1996^(a);
- (b) the Police of the Metropolis,
- (c) the Police for the City of London,
- (d) the Police Service of Scotland,
- (e) the Police Service of Northern Ireland,
- (f) the NCA.

Register of beneficial ownership

44.—(1) The Commissioners must maintain a register of beneficial owners of taxable relevant trusts (“the register”).

(2) The trustee of a taxable relevant trust must, before the end of the tax year during which these Regulations come into force, or the tax year commencing after that date in which the trustees are first liable to pay any of the taxes referred to in paragraph (13) (“UK taxes”), provide the Commissioners with—

- (a) the information specified in paragraph (4) in relation to the trust;
- (b) the information specified in paragraph (5) in relation to each of the individuals referred to in regulation 43(2)(b),
- (c) the information specified in paragraph (6) in relation to each of the legal entities referred to in regulation 43(2)(b);
- (d) the information specified in paragraph (7), where the beneficial owners include a class of beneficiaries, not all of whom have been determined.

(3) The information required under paragraph (2) must be provided in such form as the Commissioners reasonably require.

(4) The information specified in this paragraph is—

- (a) the name of the trust;
- (b) the date on which the trust was established;
- (c) a statement of accounts for the trust, describing the trust assets and identifying the value of each category of the trust assets (including the address of any property held by the trust);
- (d) the country where the trust is considered to be resident for tax purposes;
- (e) the place where the trust is administered;
- (f) a contact address for the trust;
- (g) the name of any advisers who are being paid to provide legal, financial, tax or other advice to the trustees.

(5) The information specified in this paragraph is—

- (a) the individual’s full name;
- (b) the individual’s usual residential address, and if that address is not in the United Kingdom, the individual’s passport number or identification card number, with the country of issue and the expiry date of the passport or identification card;
- (c) the individual’s date of birth;
- (d) the individual’s national insurance number and unique taxpayer reference, if any;
- (e) the nature of the individual’s role in relation to the trust.

(a) 1996 c.16. Section 2 has been amended by paragraphs 3 and 4 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c.13).

- (6) The information specified in this paragraph is—
- (a) the legal entity’s corporate or firm name;
 - (b) the legal entity’s unique taxpayer reference, if any
 - (c) the registered or principal office of the legal entity;
 - (d) the legal form of the legal entity and the law by which it is governed;
 - (e) if applicable, the register of companies in which the legal entity is entered (including details of the EEA state or third country in which it is registered), and its registration number in that register;
 - (f) the nature of the entity’s role in relation to the trust.

(7) The information specified in this paragraph is a description of the class of persons who are entitled to benefit from the trust.

- (8) A trustee of a taxable relevant trust must—
- (a) if the trustee becomes aware that any of the information provided to the Commissioners under paragraph (2) has changed, notify the Commissioners of the change and the date on which it occurred before the end of the tax year in which the change occurred; or
 - (b) if the information provided under paragraph (2) has not changed, notify the Commissioners of that fact before the end of any tax year in which the trustees are liable to pay any UK taxes.

(9) The register must contain the information referred to in regulation 43(2)(b) in relation to relevant taxable trusts.

(10) The Commissioners may keep the register in any form they think fit.

(11) The Commissioners must ensure that the information on the register may be inspected by an officer of any law enforcement authority.

(12) The Commissioners must make arrangements to ensure that the NCA are able to use information on the register to respond promptly to a request made by an authority responsible for the implementation of the fourth money laundering directive in another EEA state, or a financial intelligence unit of an EEA state for information about the beneficial owners of a relevant trust.

(13) For the purposes of this regulation, a relevant trust is a taxable relevant trust in any year in which its trustees are liable to pay any of the following taxes in the United Kingdom in relation to assets or income of the trust—

- (a) income tax;
- (b) capital gains tax;
- (c) inheritance tax;
- (d) stamp duty land tax (within the meaning of section 42 of the Finance Act 2003^(a)); or
- (e) stamp duty reserve tax.

(a) 2003 c.14.

PART 6

Money Laundering and Terrorist Financing: Supervision and Registration

CHAPTER 1

Duties of Supervisory Authorities

Duties of supervisory authorities

45.—(1) A supervisory authority must effectively monitor the relevant persons for which it is the supervisory authority (“its own sector”) and take necessary measures for the purpose of securing compliance by such persons with the requirements of these Regulations.

(2) Each supervisory authority must—

- (a) adopt a risk-based approach to the exercise of its supervisory functions, informed by the risk assessments carried out under regulation 17;
- (b) ensure that its employees and officers have access both at its offices and elsewhere to relevant information on the domestic and international risks of money laundering and terrorist financing which affect its own sector;
- (c) base the frequency and intensity of its on-site and off-site supervision on the risk profiles prepared for its own sector under regulation 17(3);
- (d) keep a record of the actions it has taken in the course of its supervision, and of its reasons for deciding not to act in a particular case;
- (e) take effective measures to encourage its own sector to report breaches of the provisions of these Regulations to it.

(3) In determining its approach to the exercise of its supervisory functions the supervisory authority must—

- (a) take account of any guidelines issued by the European Supervisory Authorities under Articles 17, 18.4 and 48.10 of the fourth money laundering directive;
- (b) take account of the degree of discretion permitted to relevant persons in taking measures to counter money laundering and terrorist financing.

(4) In accordance with its risk-based approach, the supervisory authority must take appropriate measures to review—

- (a) the risk assessments carried out by relevant persons under regulation 18;
- (b) the adequacy of the policies, controls and procedures adopted by relevant persons under regulation 19 to 21 and 24, and the way in which those policies, controls and procedures have been implemented.

(5) A supervisory authority which, in the course of carrying out any of its supervisory functions or otherwise, knows or suspects, or has reasonable grounds for knowing or suspecting, that a person is or has engaged in money laundering or terrorist financing must as soon as practicable inform the NCA.

(6) A disclosure made under paragraph (5) is not to be taken to breach any restriction, however imposed, on the disclosure of information.

(7) Where a disclosure under paragraph (5) is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by or on whose behalf it is made.

(8) The FCA, when carrying out its supervisory functions in relation to an auction platform—

- (a) must effectively monitor the auction platform’s compliance with—
 - (i) the customer due diligence requirements of Articles 19 and 20(6) of the emission allowance auctioning regulation;
 - (ii) the monitoring and record keeping requirements of Article 54 of that regulation; and
 - (iii) the notification requirements of Article 55.2 and 55.3 of that regulation; and

- (b) may monitor the auction platform’s compliance with regulations 19 to 21 and 24 of these Regulations.

(9) The functions of the FCA under these Regulations shall be treated for the purposes of Parts 1, 2 and 4 of Schedule 1ZA (the Financial Conduct Authority) to FSMA^(a) as functions conferred on the FCA under that Act.

Duties of supervisory authorities: information

46.—(1) A supervisory authority must, in any way it considers appropriate, make up-to-date information on money laundering and terrorist financing available to those relevant persons which it supervises (“its own sector”).

(2) The information referred to in paragraph (1) must include the following—

- (a) information on the money laundering and terrorist financing practices considered by the supervisory authority to apply to its own sector;
- (b) a description of indications which may suggest that a transfer of criminal funds is taking place in its own sector;
- (c) a description of the circumstances in which the supervisory authority considers that there is a high risk of money laundering or terrorist financing.

(3) The information referred to in paragraph (1) must also include information from the following sources which the supervisory authority considers is relevant to its own sector—

- (a) reports drawn up by the European Commission under Article 6.1 of the fourth money laundering directive;
- (b) recommendations made by the European Commission under Article 6.4 of that directive (unless the Treasury and the Home Office notify the supervisory authority that a recommendation will not be followed);
- (c) joint opinions issued by the European Supervisory Authorities under Article 6.5 of the fourth money laundering directive;
- (d) high-risk third countries identified in delegated acts adopted by the European Commission under Article 9.2 of the fourth money laundering directive;
- (e) guidelines issued by the European Supervisory Authorities under Articles 17, 18.4, or 48.10 of the fourth money laundering directive;
- (f) the report prepared by the Treasury and the Home Office under regulation 16(6);
- (g) any relevant information made available by the Treasury and the Home Office under regulation 16(8);
- (h) any relevant information published by the Director General of the NCA under section 4(9) or 6 of the Crime and Courts Act 2013^(b).

Duties of the FCA: guidance on politically exposed persons

47.—(1) The FCA must give guidance under section 139A (power of the FCA to give guidance) of FSMA^(c) to relevant persons who are subject to rules made by the FCA in relation to the enhanced due diligence measures required under regulation 35 in respect of politically exposed persons (PEPs), their family members and known close associates (as defined by regulation 35(12)).

(2) The guidance referred to in paragraph (1) must include—

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- (a) 2000 c.8. Schedule 1ZA was substituted, with Schedule 1ZB, for Schedule 1 to the Financial Services and Markets Act by section 6(2) of the Financial Services Act 2012 (c.21), and amended by paragraphs 14 and 16 of Schedule 3 and paragraph 7 of Schedule 8 to the Financial Services (Banking Reform) Act 2013 (c.33), paragraph 13 of Schedule 3 to the Pension Scheme Act 2015 (c.8) section 18 of the Bank of England and Financial Services Act 2016 (c.14) and S.I. 2013/1388.
 - (b) 2013 c.22.
 - (c) 2000 c.8. Section 139A was substituted (together with the rest of Part 9A of FSMA) for the original Part 10 by section 24 of the Financial Services Act 2012 (c.21).

- (a) taking into account the definition in regulation 35(12), what functions are, and are not, to be taken to be “prominent public functions” for the purposes of determining whether an individual is a PEP;
- (b) who should be treated as coming within the definitions of—
 - (i) a family member of a PEP; or
 - (ii) a known close associate of a PEP;
- (c) what constitutes “appropriate risk-management systems and procedures” for the purposes of regulation 35(1);
- (d) what account is to be taken of the jurisdiction in which the prominent public function arises;
- (e) how the level of risk associated with a particular individual is to be assessed for the purposes of regulation 35(3), and what approach is to be taken in relation to a PEP, or a family member or known close associate of a PEP, if the PEP, family member or close associate is assessed as presenting a low level of risk;
- (f) who should be treated as coming within the definition of “senior management” for the purposes of regulation 35(5) and (8);
- (g) the situations in which it would be appropriate for the senior management approval mentioned in regulation 35(5) to be given by an individual who is not a member of the board of directors (or, if there is no such board, the equivalent management body) of a business;
- (h) what constitutes “adequate measures” and “reasonable measures” for the purposes of paragraphs (5) and (6) respectively of regulation 35;
- (i) the extent to which information on public registers may be taken into account for the purposes of regulation 35(5) and (6);
- (j) what sort of monitoring and scrutiny is required for the purposes of regulation 35(5) and (8);
- (k) what measures are required in relation to persons who have ceased to be PEPs to comply with regulation 35(9); and
- (l) how to address risks of money laundering or terrorist financing where a PEP is a beneficial owner of a person or of a beneficiary of a contract of long-term insurance.

Duties of self-regulatory organisations

- 48.—**(1) Self-regulatory organisations must make arrangements to ensure that—
- (a) their supervisory functions are exercised independently of any of their other functions which do not relate to disciplinary matters;
 - (b) sensitive information relating to the relevant functions is appropriately handled within the organisation;
 - (c) they employ only persons with appropriate qualifications, integrity and professional skills to carry out the supervisory functions;
 - (d) contravention of a relevant requirement by a relevant person they are responsible for supervising renders that person liable to disciplinary measures under their rules.
- (2) Self-regulatory organisations must—
- (a) provide adequate resources to carry out the supervisory functions;
 - (b) appoint a person to monitor and manage the authority’s compliance with its duties under these Regulations.
- (3) The person appointed under paragraph (2)(b) is to be responsible—
- (a) for liaison with any other authority having functions under these Regulations, and any law enforcement authority, and

- (b) for ensuring that the self-regulatory organisation responds to any request from a registering authority (see regulation 52) or another supervisory authority for information about any person it supervises, whether that request concerns an application by that person for registration or any other matter.

Duty to co-operate

49.—(1) A supervisory authority must take such steps as it considers appropriate—

- (a) to co-operate with other supervisory authorities, the Treasury and law enforcement authorities in relation to the development and implementation of policies to counter money laundering and terrorist financing;
- (b) to co-ordinate activities to counter money laundering and terrorist financing with other supervisory authorities and law enforcement authorities;
- (c) to co-operate with overseas authorities to ensure the effective supervision of a relevant person to which paragraph (2) applies.

(2) This paragraph applies to a relevant person established—

- (a) in the United Kingdom, which has its head office in another country, or
- (b) in another country but which has its head office in the United Kingdom.

(3) Co-operation may include the sharing of information which the supervisory authority is not prevented from disclosing.

(4) For the purposes of this regulation “overseas authority” means—

- (a) the authority responsible for the implementation of the fourth money laundering directive in any EEA state in which the relevant person is established or has its head office; and
- (b) where the relevant person is established or has its head office in a country which is not an EEA state, an authority in that country which has equivalent functions to any of the functions provided for in the fourth money laundering directive.

(5) A supervisory authority must on request provide a European Supervisory Authority with information reasonably required by the Authority to enable it to carry out its duties under the fourth money laundering directive.

Regulatory Information

50.—(1) A supervisory authority within regulation 7 must collect such information as it considers necessary for the purpose of performing its supervisory functions, including the information specified in Schedule 4.

(2) A supervisory authority must on request provide the Treasury with such information collected under paragraph (1) as may be specified by the Treasury, for the purpose of enabling the Treasury to comply with its obligations under Article 6 or 7 of the fourth money laundering directive.

(3) A disclosure made under paragraph (2) is not to be taken to breach any restriction on the disclosure of information, however imposed.

(4) Where a disclosure under paragraph (2) is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by or on whose behalf it is made.

Disclosure by supervisory authorities

51.—(1) A supervisory authority may disclose to a relevant authority information it holds relevant to its supervisory functions, provided the disclosure is made for purposes connected with the effective exercise of the functions of the relevant authority under these Regulations.

(2) Information disclosed to a supervisory authority under paragraph (1) may not be further disclosed by that authority, except—

- (a) in accordance with paragraph (1);

- (b) by the FCA to the PRA, where the information concerns a PRA-authorised person or a person who has a qualifying relationship with a PRA-authorised person;
 - (c) with a view to the institution of, or otherwise for the purposes of, any criminal or other enforcement proceedings; or
 - (d) as otherwise required by law.
- (3) For the purposes of this regulation, “relevant authority” means—
- (a) another supervisory authority;
 - (b) the Treasury;
 - (c) any law enforcement authority.

CHAPTER 2

Registration

Interpretation

52. For the purposes of this Chapter—

“registering authority” means—

- (a) the FCA, in relation to those relevant persons which it is required to register under regulation 53(1);
- (b) the Commissioners, in relation to those relevant persons which they are required to register under regulation 53(2);

“telecommunication, digital and IT payment service provider” means an undertaking which provides payment services falling within paragraph 1(g) of Schedule 1 to the Payment Services Regulations 2009(a).

Duty to maintain registers of certain relevant persons

53.—(1) The FCA must maintain a register of those relevant persons who—

- (a) are authorised persons, and
- (b) have notified the FCA under regulation 23 that they are acting, or intend to act, as a money service business or a trust or company service provider.

(2) The Commissioners must maintain a register of those relevant persons who are not included in the register maintained by the FCA under paragraph (1) and are—

- (a) high value dealers;
- (b) money service businesses;
- (c) trust or company service providers;
- (d) bill payment service providers, for which the Commissioners are the supervisory authority;
- (e) telecommunication, digital and IT payment service providers, for which the Commissioners are the supervisory authority.

(3) Subject to paragraph (4) the registering authorities may keep the registers required by this regulation in any form they think fit.

(4) The register maintained by the Commissioners must include entries in the registers maintained under regulation 25 of the Money Laundering Regulations 2007(b) which were current at the date that regulation was revoked.

(5) The registering authorities may publish or make available to public inspection all or part of a register maintained under this regulation.

(a) S.I. 2009/209.

(b) S.I. 2007/2157. Regulation 25 was amended by S.I. 2009/209.

Power to maintain registers

54.—(1) The FCA may maintain a register of Annex 1 financial institutions.

(2) For the purposes of paragraph (1), an “Annex 1 financial institution” is a financial institution which—

- (a) falls within regulation 10(2)(a) of these Regulations and
- (b) is not—
 - (i) a money service business;
 - (ii) an authorised person;
 - (iii) a bill payment service provider; or
 - (iv) a telecommunication, digital and IT payment service provider.

(3) The Commissioners may maintain registers of relevant persons who are not supervised by any of the professional bodies listed in Schedule 1, and who are—

- (a) estate agents,
- (b) auditors;
- (c) external accountants;
- (d) tax advisers;
- (e) bill payment service providers; or
- (f) telecommunication, digital and IT payment service providers.

(4) Where a registering authority decides to maintain a register under this regulation, it must take reasonable steps to bring its decision to the attention of those relevant persons in respect of which the register is to be established.

(5) Subject to paragraph (6) a registering authority may maintain a register under this regulation in any form it thinks fit.

(6) The registers maintained by the Commissioners must include entries in any equivalent registers maintained under regulation 32 of the Money Laundering Regulations 2007^(a) which were current at the date that regulation was revoked.

(7) A registering authority may publish or make available to public inspection all or part of a register maintained by it under this regulation.

Requirement to be registered

55.—(1) Unless a person in respect of whom the registering authorities are required to maintain a register under regulation 53 is included in the appropriate register, or paragraph (2) applies, that person must not act as a—

- (a) high value dealer;
- (b) money service business;
- (c) trust or company service provider;
- (d) bill payment service provider; or
- (e) telecommunication, digital and IT payment service provider.

(2) This paragraph applies if the person concerned has applied for registration in the register, but that application has not yet been determined.

(3) Where the FCA have decided to maintain a register of Annex 1 financial institutions, a person must not act as an Annex 1 financial institution for a period of more than 6 months unless—

- (a) it is included in the register of such institutions, or

(a) Regulation 32 has been amended by S.I. 2013/1881 and 2014/631.

- (b) it has applied for registration in the register, but that application has not yet been determined.

(4) A relevant person which is registered in the register maintained by the Commissioners under regulation 25 or 32 of the Money Laundering Regulations 2007^(a) is to be treated as included in the appropriate registers maintained by the registering authority under regulation 53 or 54 of these Regulations for the purpose of paragraph (1)—

- (a) during the period of 12 months beginning with the date on which these Regulations come in to force, and
- (b) after that period, if the person concerned has provided the additional information required for registration under regulation 56 within the period referred to in sub-paragraph (a).

(5) Where a registering authority decides to maintain a register under regulation 54 in respect of any description of relevant persons and establishes a register for that purpose, a relevant person of that description must not carry on the business or profession in question for a period of more than 6 months beginning with the date on which the registering authority establishes the register unless—

- (a) that person is included in the register, or
- (b) that person has applied for registration in the register, but that application has not yet been determined.

Applications for registration in a register maintained under regulation 53 or 54

56.—(1) An applicant for registration in a register maintained under regulation 53 or 54 must make an application in such manner and provide such information as the registering authority may specify.

- (2) The information which the registering authority may specify includes, among other things—
 - (a) the applicant's full name and where different the name of the business;
 - (b) where the applicant is an individual, the applicant's date of birth and residential address;
 - (c) the nature of the business;
 - (d) the address of the head office of the business with its company number (in the case of a company), and of any branches the business has in the United Kingdom;
 - (e) the full name of the nominated officer (if any);
 - (f) a risk assessment which satisfies the requirements in regulation 18;
 - (g) information as to the way in which the business meets the requirements set out in these Regulations, Part 3 of the Terrorism Act 2000^(b) and Parts 7 and 8 of the Proceeds of Crime Act 2002^(c);
 - (h) in relation to a money service business or a trust or company service provider—
 - (i) the full name, date of birth and residential address of any officer, manager or beneficial owner of the business or service provider; and
 - (ii) information needed by the registering authority to decide whether it must refuse the application pursuant to regulation 57;
 - (i) in relation to a money service business, the full name and address of any agent it uses for the purposes of its business;
 - (j) where the registering authority is not the supervisory authority for the applicant—
 - (i) the name of the applicant's supervisory authority;
 - (ii) confirmation from the applicant's supervisory authority that any person mentioned in regulation 57(1) is a fit and proper person within the meaning of that regulation.

(a) S.I. 2007/2157.

(b) 2000 c.11.

(c) 2002 c. 29.

(3) At any time after receiving an application and before determining it, the registering authority may require the applicant to provide, within 21 days beginning with the date on which the requirement is issued, such further information as the registering authority reasonably considers necessary to enable it to determine the application.

(4) If at any time after the applicant has provided the registering authority with any information under paragraph (1) or (3)—

- (a) there is a material change affecting any matter contained in that information; or
- (b) it becomes apparent to the applicant that the information contains an inaccuracy,

the applicant must provide the registering authority with details of the change or a correction of the inaccuracy within 30 days beginning with the date of the occurrence of the change (or the discovery of the inaccuracy) or within such later time as may be agreed with the registering authority.

(5) The obligation in paragraph (4) applies also to material changes or inaccuracies affecting any matter contained in any supplementary information provided pursuant to that paragraph.

(6) Any information to be provided to the registering authority under this regulation must be in such form and verified in such manner as the authority may specify.

Fit and proper test

57.—(1) The registering authority must refuse to register an applicant as a money service business or as a trust or company service provider, if it is satisfied that—

- (a) the applicant;
- (b) an officer or manager of the applicant;
- (c) a beneficial owner of the applicant; or
- (d) where the applicant is a money service business—
 - (i) any agent used by the applicant for the purposes of its business; or
 - (ii) any beneficial owner, officer or manager of the agent,

is not a fit and proper person to carry on that business.

(2) Where the FCA has decided to maintain a register of Annex I financial institutions, paragraph (1) applies in relation to those institutions as it applies to a money service business and a trust or company service provider.

(3) A person who has been convicted of a criminal offence listed in Schedule 3 is to be treated as not being a fit and proper person to carry on the business for the purposes of paragraph (1).

(4) If paragraph (3) does not apply, the registering authority must have regard to the following factors in determining the question in paragraph (1)—

- (a) whether the applicant has consistently failed to comply with the requirements of the Money Laundering Regulations 2001(a), the Money Laundering Regulations 2003(b), the Money Laundering Regulations 2007(c) or these Regulations;
- (b) the risk that the applicant's business may be used for money laundering or terrorist financing.

(5) Where the registering authority is not the supervisory authority of the applicant, the registering authority must consult the supervisory authority and may rely on its opinion as to whether or not the applicant is a fit and proper person to carry on the business referred to in paragraph (1).

(a) S.I. 2001/3641.
(b) S.I. 2003/3075.
(c) S.I. 2007/2157.

Determination of applications under regulations 53 and 54

58.—(1) Subject to regulation 57, the registering authority may refuse to register an applicant for registration in a register maintained under regulation 53 or 54 if—

- (a) any requirement of, or imposed under, regulation 56 has not been complied with;
- (b) it appears to the registering authority that any information provided pursuant to regulation 56 is false or misleading in a material particular;
- (c) the applicant has failed to pay a charge imposed by the authority under Part 11 of these Regulations;
- (d) where the registering authority is not the applicant's supervisory authority, the supervisory authority opposes the application for registration on reasonable grounds; or
- (e) the registering authority suspects, on reasonable grounds—
 - (i) that the applicant will fail to comply with its obligations under these Regulations, Part 3 of the Terrorism Act 2000^(a) or Parts 7 and 8 of the Proceeds of Crime Act 2002^(b) (the “relevant obligations”); or
 - (ii) that any person whom the applicant has identified as one of its officers or managers will fail to comply with the relevant obligations.

(2) Where the Commissioners are the registering authority, they must within 45 days beginning either with the date on which they receive the application or, where applicable, with the date on which they receive any further information required under regulation 56(3), give the applicant notice of—

- (a) the decision to register the applicant; or
- (b) the following matters—
 - (i) their decision not to register the applicant;
 - (ii) the reasons for their decision;
 - (iii) the right to appeal under regulation 96; and
 - (iv) the right to a review under regulation 91.

(3) Where the FCA is the registering authority, it must within 45 days beginning either with the date on which it receives the application or, where applicable, with the date on which it receives any further information required under regulation 56(3), give the applicant notice of—

- (a) its decision to register the applicant; or
- (b) the following matters—
 - (i) that it is minded not to register the applicant;
 - (ii) the reasons for being minded to refuse to register the applicant; and
 - (iii) the right to make representations to it within a specified period (which may not be less than 28 days).

(4) The FCA must then decide, within a reasonable period, whether to register the applicant and it must give the applicant notice of—

- (a) its decision to register the applicant; or
- (b) the following matters—
 - (i) its decision not to register the applicant;
 - (ii) the reasons for its decision; and
 - (iii) the right to appeal under regulation 90.

(5) The registering authority must, as soon as practicable after deciding to register a person, include that person in the relevant register.

(a) 2000 c.11.
(b) 2002 c. 29.

Cancellation and suspension of registration in a register maintained under regulation 53 or 54

59.—(1) The registering authority may suspend (for such period as it considers appropriate) or cancel the registration of a money service business or a trust or company service provider in a register maintained under regulation 53 or the registration of an Annex 1 financial institution in a register maintained under regulation 54 if, at any time after registration it is satisfied that the business, service provider, financial institution or any person mentioned in regulation 57(1) is not a fit and proper person for the purposes of regulation 57.

(2) The registering authority may suspend (for such period as it considers appropriate) or cancel a person's registration in a register maintained by it under regulation 53 or 54 if, at any time after registration—

- (a) it appears to the authority that any of paragraphs (a) to (e) of regulation 58(1) apply; or
- (b) the person has failed to comply with any requirement of a notice given under regulation 65.

(3) The Commissioners may suspend (for such period as they consider appropriate) or cancel the registration of a person who—

- (a) was registered in a register maintained by the Commissioners under regulations 25 or 32 of the Money Laundering Regulations 2007(a), and
- (b) has not provided the additional information required for registration under regulation 56 of these regulations within the period of 12 months beginning with the date on which these Regulations come into force.

(4) The Commissioners may cancel the registration of a money service business in a register maintained under regulation 53(2)(b) where the money service business is—

- (a) providing a payment service in the United Kingdom, or is purporting to do so;
- (b) not included in the register of payment service providers maintained by the FCA under regulation 4(1) of the Payment Service Regulations 2009(b); and
- (c) not a person mentioned in paragraphs (c) to (h) of the definition of a payment service provider in regulation 2(1) of the Payment Services Regulations 2009, or a person to whom regulation 3 or 121(c) of those Regulations applies.

(5) Where the supervisory authority of a person on the register maintained under regulation 53 or 54 is not the registering authority, the supervisory authority must inform the registering authority as soon as possible if it becomes aware of any grounds on which the registering authority might decide to suspend or cancel that person's registration.

(6) Where the Commissioners decide to suspend or cancel a person's registration they must give that person notice of—

- (a) their decision and, subject to paragraph (9), the date from which the suspension or cancellation takes effect;
- (b) the period of the suspension;
- (c) the reasons for their decision;
- (d) the right to appeal under regulation 96; and
- (e) the right to a review under regulation 91.

(7) Where the FCA is minded to suspend or cancel a person's registration it must give that person notice—

- (a) that it is so minded;
- (b) the proposed period of the suspension;

(a) S.I. 2007/2157.

(b) S.I. 2009/209.

(c) Regulation 121 of the Payment Services Regulations 2009 (S.I. 2009/209) has been amended by S.I. 2010/22 and 2013/3115.

- (c) the reasons for being so minded; and
 - (d) the right to make representations to it within the period specified in the notice (which must not be less than 28 days).
- (8) The FCA must then decide, within a reasonable period, whether to suspend or cancel the person’s registration and it must give that person notice of—
- (a) its decision not to suspend or cancel the person’s registration; or
 - (b) the following matters—
 - (i) its decision to suspend or cancel the person’s registration and, subject to paragraph (9), the date from which the suspension or cancellation takes effect;
 - (ii) the period of the suspension;
 - (iii) the reasons for its decision; and
 - (iv) the right to appeal under regulation 90.
- (9) If the registering authority—
- (a) considers that the interests of the public require the suspension or cancellation of a person’s registration to have immediate effect; and
 - (b) includes a statement to that effect and the reasons for it in the notice given under paragraph (6),
- the suspension or cancellation takes effect when the notice is given to the person.

PART 7

Transfer of Funds (Information on the Payer) Regulations

Interpretation

60. In this Part “supervisory authority” in relation to a payment service provider, or an intermediary payment service provider, or person connected with such a provider, means the supervisory authority specified by regulation 61;

Supervisory authorities

- 61.—**(1) The FCA is the supervisory authority for payment service providers, who are—
- (a) authorised persons;
 - (b) authorised payment institutions under the Payments Services Regulations 2009^(a) which are not included in the register maintained by the Commissioners under regulation 53(2);
 - (c) registered small payment institutions under the Payments Services Regulations 2009 which are not included in the register maintained by the Commissioners under regulation 53(2);
 - (d) authorised electronic money institutions under the Electronic Money Regulations 2011^(b);
 - (e) registered small electronic money institutions under the Electronic Money Regulations 2011.
- (2) The Commissioners are the supervisory authority for payment service providers who do not come within paragraph (1).

(a) S.I. 2009/209.
 (b) S.I. 2011/99.

Duties of supervisory authorities

62.—(1) A supervisory authority must—

- (a) monitor effectively the payment service providers for whom it is the supervisory authority,
- (b) take the measures necessary to secure compliance by payments service providers with the requirements of the funds transfer regulation, and
- (c) take effective measures to encourage the payment service provider to report breaches of the provisions of the funds transfer regulation to the authority.

(2) A supervisory authority which, in the course of carrying out any of its functions under this Part, knows or suspects, or has reasonable grounds for knowing or suspecting, that a payment service provider is or has engaged in money laundering or terrorist financing must as soon as practicable inform the NCA.

(3) A disclosure made under paragraph (2) is not to be taken to breach any restriction on the disclosure of information (however imposed).

(4) Where a disclosure under paragraph (2) is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by or on whose behalf it is made.

(5) The functions of the FCA under this Part are to be treated for the purposes of section 1A (the Financial Conduct Authority) of, and Parts 1, 2 and 4 of Schedule 1ZA to, FSMA(a) as functions conferred on the FCA under that Act.

Assisting the authorities

63.—(1) A payment service provider must ensure that it is able (whether by means of the central contact point appointed under regulation 22 or otherwise) to respond fully and rapidly to enquiries from a person specified in paragraph (2) concerning any of the information required by the funds transfer regulation.

(2) The persons specified in this paragraph are—

- (a) financial investigators accredited under section 3 (accreditation and training) of the Proceeds of Crime Act 2002(b);
- (b) persons acting on behalf of the Scottish Ministers in their capacity as an enforcement authority under that Act;
- (c) officers of Revenue and Customs; and
- (d) constables or equivalent officers of law enforcement authorities.

PART 8

Information and Investigation

Interpretation

64.—(1) In this Part,

“premises” means any building or other structure, including a moveable structure, other than premises used only as a dwelling;

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- (a) 2000 c.8. Section 1A was substituted, together with the rest of Part 1A for Part 1 of the Financial Services and Markets Act 2000 by section 6(1) of the Financial Services Act 2012 (c.21). Schedule 1ZA was substituted, with Schedule 1ZB, for Schedule 1 to the Financial Services and Markets Act by section 6(2) of the Financial Services Act 2012 (c.21), and amended by paragraphs 14 and 16 of Schedule 3 and paragraph 7 of Schedule 8 to the Financial Services (Banking Reform) Act 2013 (c.33), paragraph 13 of Schedule 3 to the Pension Scheme Act 2015 (c.8) section 18 of the Bank of England and Financial Services Act 2016 (c.14) and S.I. 2013/1388.
 - (b) 2002 c. 29. Section 3 has been amended by paragraph 111 of Schedule 8 to the Crime and Courts Act 2013 (c.22), and by paragraph 120 of Schedule 8 and paragraph 1 of Schedule 14 to the Serious Crime Act 2007 (c.27).

“tribunal” has the meaning given in section 82 of the Value Added Tax Act 1994(a);

(2) Unless otherwise defined in this Part, “officer” means—

- (a) an officer of the FCA, including a member of the FCA’s staff or an agent of the FCA; or
- (b) an officer of Revenue and Customs;
- (c) an employee or agent of a professional body listed in Schedule 1 who is authorised by the body to act on behalf of the body for the purposes of this Part.

(3) For the purposes of this Part, a person is connected to a relevant person or a payment service provider (“a connected person”) if that person is, or has at any time been, a person listed in Schedule 5 in relation to the relevant person or payment service provider.

Power to require information

65.—(1) A supervisory authority may, by notice in writing to a relevant person, a payment service provider or a connected person (“P”), require P to—

- (a) provide specified information, or information of a specified description;
- (b) produce specified documents, or documents of a specified description; or
- (c) attend before an officer of the supervisory authority at a time and place specified in the notice and answer questions.

(2) The information or documents must be provided or produced—

- (a) before the end of such reasonable period as may be specified, and
- (b) at such place as may be specified.

(3) An officer who has written authorisation from a supervisory authority to do so may require P without delay to—

- (a) provide the officer with specified information or information of a specified description, or
- (b) produce to the officer specified documents or documents of a specified description.

(4) The powers in this regulation may only be exercised in relation to information or documents which are reasonably required by the supervisory authority in connection with the exercise by the authority of any of its supervisory functions.

(5) Where a supervisory authority requires information to be provided or documents to be produced under paragraph (1) of this regulation, the notice must set out the reasons why the authority requires the information to be provided or the documents produced, unless the supervisory authority is not permitted to disclose this information.

(6) The supervisory authority may require—

- (a) any documents containing information otherwise than in legible form to be produced to it in legible form or in a form from which the information in it can readily be produced in legible form, and
- (b) any information provided under this regulation to be provided in such form as it may reasonably require.

(7) The production of a document does not affect any lien which a person has on the document.

Requests in support of other authorities

66.—(1) On receiving a request to which paragraph (2) applies from a foreign authority, the supervisory authority may exercise the power conferred by regulation 65, and for these purposes, regulation 65 has effect as if it also referred to information and documents reasonably required by the supervisory authority to meet such a request.

(a) 1994 c.23. Section 82 was amended by S.I. 2009/56.

(2) This paragraph applies if the request is made by the foreign authority in connection with the exercise by that authority of—

- (a) functions under the fourth money laundering directive,
- (b) functions under the funds transfer regulation,
- (c) functions under the law of a third country equivalent to those provided for in the fourth money laundering directive or the funds transfer regulation.

(3) In deciding whether or not to exercise its powers under regulation 65 in response to a request, the supervisory authority may take into account in particular—

- (a) whether, in the territory of the foreign authority concerned, corresponding assistance would be given to the supervisory authority;
- (b) whether the case concerns the breach of a law, or other requirement, which has no close parallel in the United Kingdom or involves the assertion of a jurisdiction not recognised by the United Kingdom;
- (c) the seriousness of the case and its importance to persons in the United Kingdom.

(4) The supervisory authority may decide not to exercise its powers under regulation 65 unless the foreign authority undertakes—

- (a) to make such contribution towards the cost of doing so as the supervisory authority considers appropriate;
- (b) to comply with such conditions in relation to the information and documents as the supervisory authority considers appropriate.

(5) Paragraphs (3) and (4) do not apply if the supervisory authority considers that the exercise of its powers is necessary to comply with an EU obligation.

(6) “Foreign authority” means an authority in a territory which is not part of the United Kingdom which exercises functions referred to in paragraph (2).

Requests to other authorities

67.—(1) This regulation applies if—

- (a) documents or information which are reasonably required by a supervisory authority in connection with the exercise by the authority of any of the functions given to it under these Regulations are not available in the United Kingdom; and
- (b) the supervisory authority has reason to believe that such documents or information may be held by a person who is within the jurisdiction of a foreign authority.

(2) A supervisory authority may request the assistance of the foreign authority in obtaining specified information or documents which satisfy the conditions in paragraph (1).

(3) The information or documents provided to the supervisory authority pursuant to a request under paragraph (2) must not be used for any purpose other than—

- (a) for the purpose for which it was provided;
- (b) for the purposes of proceedings arising as a result of contravention of a relevant requirement in these Regulations, or proceedings arising out of such proceedings.

(4) Paragraph (3) does not apply if the foreign authority by which the information or documents were provided consents to its use.

(5) For the purposes of this regulation, “foreign authority” has the meaning given in regulation 66(6).

Entry, inspection without a warrant etc

68.—(1) Paragraph (2) applies where a duly authorised officer of (or acting on behalf of) the supervisory authority in relation to a relevant person or a payment service provider (“P”) has reasonable grounds to believe that—

- (a) any premises are being used by P in connection with P's business or professional activities; and
 - (b) P may have contravened the requirements of—
 - (i) the fourth money laundering directive,
 - (ii) the funds transfer regulation, or
 - (iii) these Regulations.
- (2) The officer may, on producing evidence of the officer's authority, at any reasonable time—
- (a) enter the premises;
 - (b) inspect the premises;
 - (c) observe the carrying on of business or professional activities by P;
 - (d) inspect any documents or other information found on the premises;
 - (e) require any person on the premises to provide an explanation of any document or to state where information might be found;
 - (f) inspect any cash found on the premises.
- (3) The officer may take copies of, or make extracts from, any documents found as a result of the exercise of the power in paragraph (2).
- (4) For the purposes of this regulation, "duly authorised officer" means—
- (a) an officer of the FCA authorised in writing to exercise the powers under this regulation by a Head of Department working within the Enforcement function of the FCA, or
 - (b) an officer of Revenue and Customs so authorised by an officer of Revenue and Customs of at least the grade of senior officer.

Entry of premises under warrant

69.—(1) A justice may issue a warrant under this regulation if satisfied on information given on oath (or in Scotland by evidence on oath) by a duly authorised officer on behalf of a supervisory authority that—

- (a) there are reasonable grounds for believing that the first, second, or third set of conditions is satisfied, or
 - (b) there are reasonable grounds for suspecting that the fourth set of conditions is satisfied.
- (2) The application for the warrant must—
- (a) identify the premises to which the application relates and state that the premises is not used only as a dwelling;
 - (b) state that the officer has reasonable grounds to suspect a warrant is necessary in connection with the exercise of the supervisory functions of the supervisory authority for which the officer is acting and the warrant is sought for the purpose of those functions;
 - (c) state that the officer executing the warrant—
 - (i) will give to any person on the premises, when entering the premises, evidence of identification and authority to act on behalf of the supervisory authority, and
 - (ii) will give to that person, no later than on entering the premises, a notice identifying and explaining the powers exercisable under this regulation, and
 - (d) state that the warrant is sought in relation to material specified in the application, or that there are reasonable grounds for suspecting that there is material falling within regulation 65 on the premises.
- (3) The first set of conditions is—
- (a) that a person on whom a requirement has been imposed under regulation 65 has failed (wholly or in part) to comply with it, and
 - (b) that on the premises specified in the warrant—

- (i) there are documents which have been required, or
 - (ii) there is information which has been required.
- (4) The second set of conditions is—
- (a) that the premises specified in the warrant are premises of the relevant person or the payment service provider (“P”) or of a member of the same group as P,
 - (b) that there are on the premises documents or information in relation to which a requirement could be imposed under regulation 65, and
 - (c) that if such a requirement were to be imposed—
 - (i) it would not be complied with, or
 - (ii) the documents or information to which it related would be removed, tampered with or destroyed.
- (5) The third set of conditions is—
- (a) that an officer has been obstructed in the exercise of the power under regulation 68; and
 - (b) that there is on the premises specified in the warrant documents or cash which could be inspected under regulation 68(2)(d) or (f).
- (6) The fourth set of conditions is—
- (a) that an offence under these Regulations has been, is being or is about to be committed by P; and
 - (b) there is on the premises specified in the warrant information or documents relevant to whether the offence has been, is being or is about to be committed.
- (7) A warrant under this regulation authorises the executing officer—
- (a) to enter the premises specified in the warrant;
 - (b) to search the premises and take possession of any documents or information appearing to be documents or information of a kind in respect of which the warrant was issued (“the relevant kind”) or to take, in relation to any such documents or information, any other steps which may appear to be necessary for preserving them or preventing interference with them;
 - (c) to take copies of, or extracts from, any documents or information appearing to be of the relevant kind;
 - (d) to require any person on the premises to provide an explanation of any document or information appearing to be of the relevant kind or to state where it may be found; and
 - (e) to use such force as may be reasonably necessary.
- (8) Where information of the relevant kind is contained in a computer or other storage device, or is recorded in any other way otherwise than in legible form, the warrant authorises the executing officer to take possession of that information in a form in which it can be taken away and in which it is visible and legible.
- (9) A warrant under this regulation—
- (a) may be exercised by any executing officer;
 - (b) may authorise persons to accompany any executing officer who is executing it;
 - (c) may be issued subject to conditions.
- (10) The powers in paragraph (7) may be exercised by a person authorised by the warrant to accompany an executing officer; but that person may exercise those powers only in the company of, and under the supervision of, an executing officer.

(11) In England and Wales, sections 15(5) to (8) and 16(3) to (12) of the Police and Criminal Evidence Act 1984(a) (execution of warrants and safeguards) apply to warrants issued under this regulation.

(12) In Northern Ireland, Articles 17(5) to (8) and 18(3) to (12) of the Police and Criminal Evidence (Northern Ireland) Order 1989(b) apply to warrants issued under this regulation.

(13) In this regulation—

“duly authorised officer” means—

- (a) where a warrant is issued on the basis of information given on behalf of the FCA, an officer of the FCA authorised in writing to exercise the powers under this regulation by a Head of Department working within the Enforcement function of the FCA,
- (b) where a warrant is issued on the basis of information given on behalf of the Commissioners, an officer of Revenue and Customs so authorised by an officer of Revenue and Customs of at least the grade of senior officer;

“executing officer” means—

- (a) where a warrant is issued on the basis of information given on behalf of the FCA, a constable,
- (b) where a warrant is issued on the basis of information given on behalf of the Commissioners, an officer of Revenue and Customs;

“justice” means—

- (a) in England and Wales, a justice of the peace;
- (b) in Northern Ireland, a lay magistrate; or
- (c) in Scotland, a justice within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995(c) (interpretation).

Retention of documents taken under regulation 65 or 69

70.—(1) Any material possession of which is taken under regulations 65 or 69 (“seized material”) in compliance with a requirement under regulation 65 or under a warrant issued under regulation 69 may be retained for so long as it is necessary to retain it (rather than copies of it) in connection with the exercise of the functions of the supervisory authority under these Regulations for the purposes of which any requirement was imposed or the warrant was issued.

(2) If a duly authorised officer (within the meaning of regulation 69(13)) has reasonable grounds for suspecting that—

- (a) the seized material may need to be produced for the purposes of any legal proceedings, and
- (b) it might otherwise be unavailable for those purposes,

it may be retained until the proceedings are concluded.

(3) A person claiming to be the owner of any seized material may apply to the Crown Court or (in Scotland) the sheriff for an order for the delivery of the material to the person appearing to the court or sheriff to be the owner.

(4) If on an application under paragraph (3) the court or (in Scotland) the sheriff cannot ascertain who is the owner of the seized material the court or sheriff may make such order as the court or the sheriff thinks fit.

(a) 1984 c.60. Sections 15(5) to (8) and 16(3) to (12) have been amended by sections 113 and 114 of the Serious Organised Crime and Police Act 2005 (c.15), and S.I. 2005/3496. Section 16 has also been amended by paragraph 281 of Schedule 8 to the Courts Act 2003 (c.39).

(b) S.I. 1989/1341 (N.I. 12). Articles 17 and 18 have been amended by S.I. 2007/288 (N.I.).

(c) 1995 c.46. The definition of “justice” in section 307 has been amended by paragraph 39 of Schedule 5 to the Courts Reform (Scotland) Act 2014 (asp 18). There are other amendments to section 307 which are not relevant to these Regulations.

(5) An order under paragraph (3) or (4) does not affect the right of any person to take legal proceedings against any person in possession of seized material for the recovery of the material.

Provision of information and warrants: safeguards

71.—(1) A person may not be required under regulations 65, 68 or 69 to produce excluded material, or to provide information, produce documents or answer questions which that person would be entitled to refuse to provide, produce or answer on grounds of legal professional privilege in proceedings in the High Court, except that a lawyer may be required to provide the full name and address of the lawyer's client.

(2) A warrant issued under regulation 69 does not confer the right to seize privileged material or excluded material.

(3) Privileged material is any material which the person would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court.

(4) In the application of this regulation to Scotland, the references in paragraphs (1) and (3)—

- (a) to proceedings in the High Court are to be read as references to proceedings in the Court of Session, and
- (b) to an entitlement on grounds of legal professional privilege are to be read as references to an entitlement on the grounds of confidentiality of communication—
 - (i) between professional legal advisers and their clients, or
 - (ii) made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings.

Admissibility of Statements

72.—(1) A statement made by a person in response to a requirement imposed under regulations 65(1)(c), 68(2)(e) or 69(7)(d) may not be used in evidence against the person in criminal proceedings.

(2) Paragraph (1) does not apply—

- (a) in the case of proceedings under Parts 2 to 4 (confiscation proceedings) of the Proceeds of Crime Act 2002(a),
- (b) on a prosecution for an offence under section 5 of the Perjury Act 1911(b) (false statements),
- (c) on a prosecution for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979(c) (false statements),
- (d) on a prosecution for an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995(d) (false statements and declarations), or
- (e) for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in paragraph (1).

(3) A statement may not be used by virtue of paragraph (2)(e) against a person unless—

- (a) evidence relating to it is adduced, or
- (b) a question relating to it is asked,

by them or on their behalf in the proceedings arising out of the prosecution.

(a) 2002 c. 29.

(b) 1911 c.6. Section 5 was amended by virtue of section 1(2) of the Criminal Justice Act 1948 (c.58).

(c) S.I. 1979/1714 (NI 19).

(d) 1995 c.39.

PART 9
Enforcement
CHAPTER 1
General

Meaning of “relevant requirement”

73. For the purposes of this Part, “relevant requirement” has the meaning given in Schedule 6.

CHAPTER 2
Civil Penalties and Notices

Power to impose civil penalties: fines and statements

74.—(1) Paragraph (2) applies if a designated supervisory authority is satisfied that any person (“P”) has contravened a relevant requirement imposed on that person.

(2) A designated supervisory authority may—

- (a) impose a penalty of such amount as it considers appropriate on P;
- (b) publish a statement censuring P.

(3) A designated supervisory authority may impose a penalty of such amount as it considers appropriate on an auction platform which contravenes—

- (a) the customer due diligence requirements of Article 19 or 20.6 of the emission allowance auctioning regulation;
- (b) the monitoring and record keeping requirements of Article 54 of the emission allowance auctioning regulation; or
- (c) regulation 19(1), (3) or (6), 20, 21(8) or 24 of these Regulations.

(4) If a designated supervisory authority considers that a contravention of a relevant requirement by P, or by an auction platform, was—

- (a) committed with the consent or connivance of an officer, or
- (b) attributable to any neglect on the part of an officer,

the supervisory authority may impose on that officer a penalty of such amount as it considers appropriate.

(5) A designated supervisory authority must not impose a penalty on any person under this regulation for contravention of a relevant requirement if the authority is satisfied that the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(6) Where the FCA proposes to impose a penalty under this regulation on a PRA-authorised person or on a person who has a qualifying relationship with a PRA-authorised person, it must consult the PRA.

(7) In deciding whether a person has contravened a relevant requirement, the designated supervisory authority must consider whether at the time the person followed—

- (a) any relevant guidelines issued by a European Supervisory Authority in accordance with Articles 17, 18.4 or 48.10 of the fourth money laundering directive or Article 25 of the funds transfer regulation;
- (b) any relevant guidance which was at the time issued by a supervisory body or any other appropriate body.

(8) In paragraph (7), an “appropriate body” means any body which regulates or is representative of any trade, profession, business or employment carried on by the person concerned.

(9) A penalty imposed under this Part is payable to the designated supervisory authority which imposes it.

(10) For the purposes of this regulation—

- (a) “appropriate” means effective, proportionate and dissuasive;
- (b) “designated supervisory authority” means the FCA or the Commissioners.

Power to impose civil penalties: suspension and removal of authorisation

75.—(1) Paragraph (2) applies if the FCA is satisfied that a relevant person or a payment service provider has—

- (a) repeatedly or systematically failed to include the information it is required to include on the payer or the payee under Articles 4, 5 or 6 of the funds transfer regulation;
- (b) repeatedly or systematically failed to retain records in breach of Article 16 of the funds transfer regulation;
- (c) failed to implement effective risk-based procedures in breach of Articles 8 or 12 of the funds transfer regulation;
- (d) failed to comply with Articles 11 or 12 of the funds transfer regulation, where the failure is a serious one; or
- (e) failed to comply with a relevant requirement.

(2) The FCA may take one or more of the measures set out in sub-paragraphs (a) and (b)—

- (a) to cancel or suspend, for such period as it considers appropriate—
 - (i) any permission which an authorised person has to carry on a regulated activity (within the meaning of section 22 of FSMA^(a));
 - (ii) the authorisation of a payment service provider as an authorised payment institution under the Payment Services Regulations 2009^(b);
 - (iii) the registration of a payment service provider as a small payment institution under the Payment Services Regulations 2009;
 - (iv) the authorisation of a payment service provider as an authorised electronic money institution under the Electronic Money Regulations 2011^(c); or
 - (v) the registration of a payment service provider as a small electronic money institution under the Electronic Money Regulations 2011;
- (b) to impose, for such period as it considers appropriate, such limitations or other restrictions as it considers appropriate—
 - (i) in relation to the carrying on of a regulated activity by an authorised person;
 - (ii) on the authorisation of a payment service provider as a payment institution under the Payment Services Regulations 2009;
 - (iii) on the registration of a payment service provider as a small payment institution under the Payment Services Regulations 2009;
 - (iv) on the authorisation of a payment service provider as an electronic money institution under the Electronic Money Regulations 2011; or
 - (v) on the registration of a payment service provider as a small electronic money institution under the Electronic Money Regulations 2011.

(3) In paragraph (2), “permission” means any permission that the authorised person has, whether given (or treated as given) by the FCA or the PRA, or conferred by any provision of FSMA.

(a) 2000 (c.8). Section 22 has been amended by section 7 of the Financial Services Act 2012 (c.21).

(b) S.I. 2009/209.

(c) S.I. 2011/99.

(4) The period for which a suspension, limitation or other restriction is to have effect may not exceed 12 months.

(5) A suspension may relate only to the carrying on of an activity in circumstances specified by the FCA when the suspension is imposed.

(6) A restriction may, in particular, be imposed so as to require the person concerned to take, or refrain from taking, specified action.

(7) The FCA may—

- (a) withdraw a suspension, limitation or other restriction; or
- (b) vary a suspension or restriction so as to reduce the period for which it has effect or otherwise to limit its effect.

(8) For the purposes of this regulation, “appropriate” means effective, proportionate and dissuasive.

Power to prohibit individuals from managing

76.—(1) Paragraph (2) applies if a designated supervisory authority is satisfied that a contravention of a relevant requirement by a relevant person, a payment service provider, was—

- (a) committed with the consent or connivance of an officer, or
- (b) attributable to any neglect on the part of an officer.

(2) The designated supervisory authority may impose one of the following measures—

- (a) a temporary prohibition on the individual holding an office or position involving responsibility for taking decisions about the management of a relevant person or a payment service provider (“having a management role”);
- (b) a permanent prohibition on the individual having a management role.

(3) A prohibition may be expressed to expire at the end of such period as the designated supervisory authority may specify, but the imposition of a prohibition under paragraph (2)(a) that expires at the end of a specified period does not affect the designated supervisory authority’s power to impose a new prohibition under paragraph (2)(a).

(4) A prohibition imposed under paragraph (2) may be expressed to be a prohibition on an individual having a management role in—

- (a) a named relevant person or payment service provider;
- (b) a relevant person or payment service provider of a description specified by the FCA when the prohibition is imposed; or
- (c) any relevant person or payment service provider.

(5) A relevant person or payment service provider must take reasonable care to ensure that no individual who is subject to a prohibition under paragraph (2) on having a management role with that relevant person or payment service provider is given such a role.

Injunctions

77.—(1) If, on the application of a designated supervisory authority, the court is satisfied—

- (a) that there is a reasonable likelihood that any person will contravene a relevant requirement, or
- (b) that any person has contravened a relevant requirement and that there is a reasonable likelihood that the contravention will continue or be repeated,

the court may make an order restraining (or in Scotland an interdict prohibiting) the contravention.

(2) If on the application of a designated supervisory authority the court is satisfied—

- (a) that any person has contravened a relevant requirement, and
- (b) that there are steps which could be taken for remedying the contravention,

the court may make an order requiring that person, and any other person who appears to have been knowingly concerned in the contravention, to take such steps as the court may direct to remedy it.

(3) If, on the application of a designated supervisory authority, the court is satisfied that any person may have—

- (a) contravened a relevant requirement, or
- (b) been knowingly concerned in the contravention of a relevant requirement,

the court may make an order restraining (or in Scotland an interdict prohibiting) that person from disposing or otherwise dealing with any assets belonging to that person which it is satisfied that that person is reasonably likely to dispose of or otherwise deal with.

(4) The jurisdiction in this regulation is exercisable by the High Court and the Court of Session.

(5) In paragraph (2), references to remedying a contravention include references to mitigating its effect.

The FCA: disciplinary measures (procedure)

78.—(1) If the FCA proposes to impose a sanction on a person under regulation 74, 75 or 76 it must give the person concerned a warning notice.

(2) Where the FCA proposes to impose a penalty on a PRA-authorised person or on a person who has a qualifying relationship with a PRA-authorised person, it must consult the PRA.

(3) Section 387 of FSMA(a) applies in relation to a notice given under paragraph (1) as it applies in relation to a warning notice given by the FCA under that Act, subject to paragraph (4).

(4) In complying with section 387(1)(a), a warning notice must—

- (a) if it is about a proposal to publish a statement, set out the terms of the statement,
- (b) if it is about a proposal to impose a penalty, specify the amount of the penalty,
- (c) if it is about a proposal to impose a suspension, limitation or other restriction—
 - (i) state the period for which the suspension, limitation or restriction is to have effect,
 - (ii) sets out the terms of the suspension, limitation or other restriction;
- (d) if it is about a proposal about a cancellation, state the date from which the cancellation is to have effect;
- (e) if it is about a proposal to impose a prohibition on an individual, set out the terms of the proposed prohibition.

(5) If the FCA decides to impose a sanction on a person under regulation 74, 75 or 76 it must without delay give that person a decision notice.

(6) If the decision is to publish a statement, the decision notice must set out the terms of the statement.

(7) If the decision is to impose a penalty, the decision notice must specify the amount of the penalty.

(8) If the decision is to impose a suspension, limitation or other restriction, the decision notice must—

- (a) state the period for which the suspension or restriction is to have effect;
- (b) sets out the terms of the suspension, limitation or other restriction;

(9) If the decision is to cancel a permission, registration or authorisation, the decision notice must state the date from which the cancellation is to have effect.

(10) If the decision is to impose a prohibition on an individual, the decision notice must set out the terms of the prohibition.

(a) Section 387 has been amended by paragraph 26 of Schedule 9 to the Financial Services Act 2012, paragraph 12 of Schedule 3 to the Financial Services (Banking Reform) Act 2013 (c.33).

(11) Section 388 (decision notices) of FSMA(a) applies in relation to a decision notice given under paragraph (4) as it applies in relation to a decision notice given by the FCA under FSMA, subject to paragraph (11).

(12) Section 388 of FSMA has effect for the purposes of paragraph (10) as if—

- (a) in subsection (1)(e)(i) for “this Act” there were substituted “regulation 90(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”, and
- (b) subsections (1A) and (2) were omitted.

The FCA: procedure (general)

79.—(1) Sections 389 (notices of discontinuance), 390 (final notices) and 392 (application of sections 393 and 394) to 395 (the FCA’s and PRA’s procedures) of FSMA(b) apply in relation to a warning notice given under regulation 78(1) and a decision notice given under regulation 78(5) as they apply in relation to a warning notice or decision notice given under FSMA, subject to paragraphs (2) to (3).

(2) Section 390 of FSMA has effect as if—

- (a) for subsection (4) there were substituted—

“(4) A final notice about a suspension, limitation or restriction under regulation 75 or 76 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“the 2017 Regulations”) must—

- (a) specify the permission, authorisation or registration which is being suspended or the terms of the limitation or restriction being imposed, and
- (b) give details of—
 - (i) the date on which the cancellation, suspension, limitation or restriction has effect, and
 - (ii) the period for which the suspension, limitation or restriction is imposed.

(4A) A final notice about a prohibition under regulation 75 or 76 of the 2017 Regulations must—

- (a) specify the extent of the prohibition, and
- (b) give details of the date on which the prohibition has effect, and if relevant the period for which it has effect.”;

- (b) subsections (6), (7) and (10) were omitted.

(3) Section 392 of FSMA has effect as if for paragraphs (a) and (b) there were substituted—

“(a) a warning notice given under regulation 78(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“the 2017 Regulations”);

- (b) a decision notice given under regulation 78(5) of the 2017 Regulations.”.

(a) Section 388 has been amended (and subsection (1A) inserted) by paragraph 27 of Schedule 9 to the Financial Services Act 2012 (c.21) and paragraph 13 of Schedule 3 to the Financial Services (Banking Reform) Act 2013.

(b) Section 389 has been amended by paragraph 28 of Schedule 9 to the Financial Services Act 2012. Section 390 has been amended by paragraph 29 of Schedule 9 to the Financial Services Act 2012 and S.I. 2010/22. Section 392 has been amended by paragraph 29 of Schedule 2 to the Financial Services Act 2010 (c.28), section 18 of, paragraph 31 of Schedule 9, paragraph 37 of Schedule 8 and paragraph 8 of Schedule 13 to, the Financial Services Act 2012, section 4 of the Financial Services (Banking Reform) Act 2013 (c.33); S.I. 2007/126 and 2013/1388. Section 395 has been amended by sections 17, 18, 19 and 24 of, and paragraph 34 of Schedule 9 to the Financial Services Act 2012, and paragraph 14 of Schedule 3 to the Financial Services (Banking Reform) Act 2013; S.I. 2005/381, 2005/1433, 2007/1973, 2009/534 and 2013/1388.

The Commissioners: disciplinary procedures (procedure)

80.—(1) Where the Commissioners decide to impose a penalty or publish a statement under regulation 74, or impose a prohibition under 76 the Commissioners must give—

- (a) the relevant person,
- (b) the payment service provider, or
- (c) the person connected with the provider in sub-paragraph (a) or (b),

a notice in accordance with paragraph (2).

(2) A notice must be given of—

- (a) the Commissioners' decision—
 - (i) to impose the penalty, its amount;
 - (ii) to publish the statement, and the terms of the statement;
 - (iii) to impose a prohibition, and the terms of the prohibition;
- (b) the Commissioners' reasons for imposing the penalty, publishing the statement or imposing a prohibition;
- (c) the right to appeal under regulation 96; and
- (d) the right to a review under regulation 91.

(3) A notice about a penalty must—

- (a) state the manner in which and the period within which, the penalty is to be paid;
- (b) give details of the way in which the penalty will be recovered if it is not paid by the date stated in the notice.

Publication: the FCA

81.—(1) Where a warning notice is given by the FCA under regulation 78(1), neither the FCA nor any person to whom it is given or copied may publish the notice or any details concerning it.

(2) Where the FCA gives a decision notice relating to the imposition of a sanction under Chapter 2 of this Part, the FCA must publish such information about the matter to which the notice relates as it considers appropriate, subject to paragraphs (3) to (8).

(3) Where the FCA publishes information under paragraph (2) about a matter to which a decision notice relates and the person concerned refers the matter to the Upper Tribunal (see regulation 90), the FCA must, without undue delay, publish on its official website information about the status of the appeal and its outcome.

(4) Subject to paragraph (5), where the FCA gives a final notice, it must, without undue delay, publish on its official website information on the type and nature of the breach, and the identity of the person on whom the sanction or measure is imposed.

(5) The information about a matter to which a final notice relates must be published anonymously where—

- (a) the sanction or measure is imposed on an individual and, following an obligatory prior assessment, publication of personal data is found to be disproportionate;
- (b) failing to publish anonymously would jeopardise the stability of financial markets or an ongoing investigation; or
- (c) failing to publish anonymously would cause, insofar as it can be determined, disproportionate damage to the persons involved.

(6) Where paragraph (5) applies, the FCA may make such arrangements as to the publication of information (including as to the timing of publication) as are necessary to preserve the anonymity of the person on whom the sanction or measure is imposed.

(7) Information about a matter to which a final notice relates must not be published where anonymous publication under paragraph (5) is considered by the FCA to be insufficient to ensure—

- (a) that the stability of the financial markets would not be put in jeopardy; or
- (b) that the publication would be proportionate with regard to sanctions or measures which are considered by the FCA to be of a minor nature.

(8) Where the FCA publishes information in accordance with paragraphs (2) to (6), the FCA must ensure that the information remains on its official website for at least five years, unless the information is personal data and the Data Protection Act 1998(a) requires the information to be retained for a different period.

(9) For the purposes of this regulation “personal data” has the meaning given in section 1 of the Data Protection Act 1998(b).

Publication: the Commissioners

82.—(1) This regulation applies where the Commissioners decide to impose a sanction on a person under regulation 74 or 76.

(2) Subject to paragraph (4), where the Commissioners give a notice under regulation 80, they must, without undue delay, publish on their official website information on the type and nature of the breach, and the identity of the person on whom the sanction or measure is imposed.

(3) The information about a matter to which a notice under regulation 80 relates must be published anonymously where—

- (a) the sanction or measure is imposed on an individual, and following an obligatory prior assessment, publication of personal data is found to be disproportionate;
- (b) failing to publish anonymously would jeopardise the stability of financial markets or an ongoing investigation; or
- (c) failing to publish anonymously would cause, insofar as it can be determined, disproportionate damage to the persons involved.

(4) Where the person concerned refers the matter to the tribunal (see regulation 96), the Commissioners must, without undue delay, publish on their official website information about the status of the appeal and its outcome.

(5) Where paragraph (4) applies, the Commissioners may make such arrangements as to the publication of information (including as to the timing of publication) as are necessary to preserve the anonymity of the person on whom the sanction or measure is imposed.

(6) Information about a matter to which a notice relates must not be published where anonymous publication under paragraph (4) is considered by the Commissioners to be insufficient to ensure—

- (a) that the stability of the financial markets would not be put in jeopardy; or
- (b) that the publication would be proportionate with regard to sanctions or measures which are considered by the Commissioners to be of a minor nature.

(7) Where the Commissioners publish information in accordance with paragraphs (2) to (5), the Commissioners must ensure that the information remains on their official website for at least five years, unless the information is personal data and the Data Protection Act 1998(c) requires the information to be retained for a different period.

(8) For the purposes of this regulation “personal data” has the meaning given in section 1 of the Data Protection Act 1998(d).

(a) 1998 (c.29).

(b) Section 1 was amended by section 68 of and Part 3 of Schedule 8 to the Freedom of Information Act 2000 (c.36), and by S.I. 2004/3089.

(c) 1998 (c.29).

(d) Section 1 was amended by section 68 of and Part 3 of Schedule 8 to the Freedom of Information Act 2000 (c.36), and by S.I. 2004/3089.

CHAPTER 3

Criminal offences, penalties and proceedings etc.

Criminal offence

83.—(1) A person (other than an auction platform) who contravenes a relevant requirement is guilty of an offence and liable—

- (a) on summary conviction—
 - (i) in England and Wales, to a fine,
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both.

(2) An auction platform which fails to comply with the customer due diligence requirements of Article 19 or 20(6) of the emission allowance auctioning regulation, the monitoring and record keeping requirements of Article 54 of that regulation or a requirement in regulations 19(1), (3), (6), 20, 21(8) or 24 of these Regulations is guilty of an offence and liable—

- (a) on summary conviction—
 - (i) in England and Wales, to a fine,
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both.

(3) In deciding whether a person has committed an offence under paragraph (1) or (2), the court must decide whether that person followed—

- (a) any guidelines issued by the European Supervisory Authority in accordance with Article 17, 18.4 and 48.10 of the fourth money laundering directive or Article 25 of the funds transfer regulation, and
- (b) any relevant guidance which was at the time issued by a supervisory body or any other appropriate body.

(4) In paragraph (3), an “appropriate body” means any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

(5) A person is not guilty of an offence under this regulation if that person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where a person has been convicted of an offence under this regulation, that person is not also to be liable to a penalty under regulation 74.

Offences of prejudicing investigations

84.—(1) This regulation applies if a person (“P”) knows or suspects that an officer, or (in Scotland) a proper person, is acting (or proposing to act) in connection with an investigation under regulation 83(1) which is being or is about to be conducted.

- (2) P commits an offence if—
 - (a) P makes a disclosure which is likely to prejudice the investigation, or
 - (b) P falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which are relevant to the investigation.
- (3) P does not commit an offence under paragraph (2)(a) if—
 - (a) P does not know or suspect that the disclosure is likely to prejudice the investigation,
 - (b) the disclosure is made in the exercise of a function under these Regulations, or in compliance with a requirement imposed by these Regulations,

- (c) the disclosure is made in the exercise of a function, or in compliance with a requirement imposed, under the Terrorism Act 2000(a),
 - (d) the disclosure is made in the exercise of a function, or in compliance with a requirement imposed, under the Proceeds of Crime Act 2002(b),
 - (e) the disclosure is made in the exercise of a function, or in compliance with a requirement imposed, under any Act relating to criminal conduct or benefit from criminal conduct,
 - (f) P is a professional legal adviser and the disclosure falls within paragraph (6).
- (4) Criminal conduct is conduct which—
- (a) constitutes an offence in any part of the United Kingdom, or
 - (b) would constitute an offence in the United Kingdom if it occurred there.
- (5) A person benefits from conduct if that person obtains property as a result of or in connection with the conduct.
- (6) Subject to paragraph (7), a disclosure falls within this paragraph if it is a disclosure—
- (a) to (or to a representative of) a client of the professional legal adviser in connection with the giving by the adviser of legal advice to the client, or
 - (b) to any person in connection with legal proceedings or contemplated legal proceedings.
- (7) A disclosure does not fall within paragraph (6) if it is made with the intention of furthering a criminal purpose.
- (8) P does not commit an offence under paragraph (2)(b) if—
- (a) P does not know or suspect that the documents are relevant in connection with the investigation, or
 - (b) P does not intend to conceal any facts disclosed by the documents from any officer, or (in Scotland) a proper person, acting in connection with the investigation.
- (9) A person guilty of an offence under paragraph (2) is liable—
- (a) on summary conviction—
 - (i) in England and Wales, to a fine or to imprisonment for a term not exceeding six months or to both,
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (10) For the purposes of this regulation, “proper person” has the meaning given by section 412 of the Proceeds of Crime Act 2002(c).

Disclosure offences

85.—(1) P commits an offence if, in purported compliance with a requirement imposed on P under Part 8, P—

- (a) makes a statement which P knows to be false or misleading, or
- (b) recklessly makes a statement which is false or misleading,

in a material particular.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction—

(a) 2000 c.11.
 (b) 2002 c. 29.
 (c) The definition of “proper person” has been amended by paragraph 23 of Schedule 10 to the Serious Crime Act 2007 (c.27). There are other amendments to section 412 which are not relevant to these Regulations.

- (i) in England and Wales, to a fine or to imprisonment for a term not exceeding six months or to both,
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (3) Any person who discloses information in contravention of a relevant requirement is guilty of an offence and liable—
- (a) on summary conviction—
 - (i) in England and Wales, to a fine or to imprisonment for a term not exceeding three months or to both,
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years to a fine, or to both.
- (4) It is a defence for a person charged with an offence under paragraph (3) of disclosing information to prove that they reasonably believed—
- (a) that the disclosure was lawful; or
 - (b) that the information had already and lawfully been made available to the public.

Proceedings: general

86.—(1) Proceedings for an offence under these Regulations may be instituted by—

- (a) order of the Commissioners,
- (b) the Director of Public Prosecutions, or
- (c) the Director of Public Prosecutions for Northern Ireland.

(2) Where proceedings under paragraph (1) are instituted by order of the Commissioners, the proceedings must be brought in the name of an officer of Revenue and Customs.

(3) Where the Commissioners investigate, or propose to investigate, any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under these Regulations has been committed by any person, or
- (b) whether a person should be prosecuted for such an offence,

that matter is to be treated as an assigned matter within the meaning of section 1(1) of the Customs and Excise Management Act 1979^(a).

(4) Paragraphs (1) and (2) do not extend to Scotland and, in its application to the Commissioners acting in Scotland, paragraph (3)(b) is to be read as referring to the Commissioners determining whether to refer the matter to the Crown Office and Procurator Fiscal Service with a view to the Procurator Fiscal determining whether a person should be prosecuted for such an offence.

Proceedings: jurisdiction

87.—(1) Proceedings against any person for an offence under these Regulations may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(a) 1979 c.2. The definition of “assigned matter” was substituted by paragraph 22 of Schedule 4 to the Commissioners of Revenue and Customs Act 2006 (c.11) and amended by section 24(7) of the Scotland Act 2012 (c.11), and section 7 of the Wales Act 2014 (c.29).

(2) Proceedings against any person for an offence under these Regulations which cannot be taken under paragraph (1) may be taken at any appropriate court in the United Kingdom.

(3) An offence falling under these Regulations which is committed wholly or partly outside the United Kingdom may for all incidental purposes be treated as having been committed within the jurisdiction of the court where proceedings were taken.

Proceedings: partnership or unincorporated association

88.—(1) Proceedings for an offence alleged to have been committed by—

- (a) a partnership must be brought in the name of the partnership, or
- (b) an unincorporated association must be brought in the name of the association,

and not in that of its members.

(2) A fine imposed on—

- (a) a partnership on its conviction of an offence is to be paid out of the funds of the partnership, and
- (b) a unincorporated association on its conviction of an offence is to be paid out of the funds of the association.

(3) Rules of court relating to the service of documents are to have effect as if a partnership or unincorporated association were a body corporate.

(4) In proceedings for an offence brought against a partnership or a unincorporated association—

- (a) section 33 of the Criminal Justice Act 1925(**a**) (procedure on charge of offence against corporation) and Schedule 3 to the Magistrates' Courts Act 1980(**b**) (corporations) apply as they do in relation to a body corporate,
- (b) section 70 of the Criminal Procedure (Scotland) Act 1995(**c**) (proceedings against bodies corporate) applies as it does in relation to a body corporate, and
- (c) section 18 of the Criminal Justice (Northern Ireland) Act 1945(**d**) (procedure on charge) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(**e**) (corporations) apply as they do in relation to a body corporate.

Offence by bodies corporate, partnership or unincorporated association

89.—(1) If an offence under this Part committed by a body corporate is shown—

- (a) to have been committed with the consent or the connivance of any officer of the body corporate, or
- (b) to be attributable to the lack of supervision or control on the part of an officer,

the officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with their functions of management as if the member was a director of the body.

(3) If an offence under this Part committed by a partnership is shown—

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- (a) 1995 c.86. Section 33 has been amended by Schedule 6 to the Magistrates' Court Act 1952 (c.55) and paragraph 19 of Schedule 8 to the Courts Act 1971 (c.23).
 - (b) 1980 c.43. Sections 25 and 101 and Schedule 13 to the Criminal Justice Act 1991; Schedule 3 has been amended by paragraph 51 of Schedule 3 and by Schedule 37 to the Criminal Justice Act 2003.
 - (c) 1995 c.46. Section 70 has been amended by section 10(6) of the Criminal Procedure (Amendment)(Scotland) Act 2004 (asp 5); section 66 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) and section 83(a) of the Criminal Justice (Scotland) Act 2016 (asp 1).
 - (d) 1945 c.15 (N.I.1). Section 18 has been amended by paragraph 1 of Schedule 12 to the Justice (Northern Ireland) Act 2002 (c.26) and by S.I 1972/538 (N.I.1).
 - (e) S.I. 1981/1675 (N.I. 26).

(a) to have been committed with the consent or the connivance of any officer, or

(b) to be attributable to any neglect on the part of an officer,

that officer (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(4) If an offence under this Part committed by an unincorporated association (other than a partnership) is shown—

(a) to have been committed with the consent or the connivance of any officer of the association, or

(b) to be attributable to any neglect on the part of an officer,

that officer (as well as the association) is guilty of the offence and is liable to be proceeded against and punished accordingly.

PART 10

Appeals

CHAPTER 1

Decisions of the FCA

Appeals against decisions of the FCA

90.—(1) A person may appeal from a decision by the FCA under these Regulations to the Upper Tribunal.

(2) The provisions of Part 9 of FSMA (hearings and appeals), apply, subject to the modifications set out in paragraph (3), in respect of appeals to the Upper Tribunal made under this regulation as they apply in respect of references made to that Tribunal under that Act.

(3) Part 9 of FSMA has effect as if—

(a) in section 133 (proceedings before Tribunal: general provision), in subsection (7A)(a), after paragraph (o) there were inserted—

“(p) a decision to take action under any of regulations 73 to 77 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.”; and

(b) for section 133A(b) there were substituted—

“Proceedings before Tribunal: decision notices

133A.—(1) The action specified in a decision notice given under regulation 78(5) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 must not be taken—

(a) during the period within which the matter to which the notice relates may be referred to the Tribunal under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017; and

(b) if the matter is so referred, until the reference, and any appeal against the Tribunal’s determination, has been finally disposed of.

(2) The Tribunal may, on determining a reference under these Regulations in respect of a decision of the FCA, make recommendations as to its regulating provisions or its procedures.”.

(a) 2000 (c.8). Subsection 7A was inserted by section 23 of the Financial Services Act 2012 (c.21) and amended by section 4(2) of the Financial Services (Banking Reform) Act 2013 (c.33) and by S.I. 2013/1388; 20143/3329.

(b) Section 133A was inserted by S.I. 2010/22 and amended by section 23 of the Financial Services Act 2012.

CHAPTER 2

Decisions of the Commissioners

Offer of review

91.—(1) The Commissioners must offer a person (“P”) a review of a decision that has been notified to P if an appeal lies under this Chapter in respect of the decision.

(2) The offer of a review must be made by notice given to P at the same time as the decision is notified to P.

(3) This regulation does not apply to the notification of the conclusions of a review.

Review by the Commissioners

92.—(1) The Commissioners must review a decision if—

- (a) they have offered a review of the decision under this Chapter, and
- (b) the person concerned (“P”) notifies the Commissioners that P accepts the offer within 30 days from the date of the notice of the offer of a review.

(2) P may not notify acceptance of the offer where P has already appealed against the decision to the tribunal under regulation 97.

(3) The Commissioners must not review a decision if P has appealed to the tribunal under regulation 97 in respect of the decision.

Extensions of time

93.—(1) If under this Chapter the Commissioners have offered a person (“P”) a review of a decision the Commissioners may within the relevant period notify P that the relevant period is extended.

(2) If notice is given, the relevant period is extended to the end of 30 days from—

- (a) the date of the notice, or
- (b) any other date set out in the notice or a further notice.

(3) More than one notice may be given under paragraph (1).

(4) In this regulation, “relevant period” means—

- (a) the period of 30 days referred to in regulation 92(1)(b), or
- (b) in the case where one or more notices have already been given under paragraph (1) the period as extended (or as most recently extended) in accordance with paragraph (2).

Review out of time

94.—(1) This regulation applies if—

- (a) the Commissioners have offered a review of a decision under this Chapter to a person (“P”), and
- (b) P does not accept the offer within the time allowed under regulation 92(1)(b) or 93(2).

(2) The Commissioners must review the decision under regulation 92 if—

- (a) after the time allowed, P notifies the Commissioners in writing requesting a review out of time,
- (b) the Commissioners are satisfied that P had a reasonable excuse for not accepting the offer of a review within the time allowed, and
- (c) the Commissioners are satisfied that P made the request without unreasonable delay after the excuse had ceased to apply.

Nature of review etc

95.—(1) This regulation applies if the Commissioners are required to undertake a review under regulation 92.

(2) The nature and extent of the review are to be such as appear appropriate to the Commissioners in the circumstances.

(3) For the purpose of paragraph (2), the Commissioners must, in particular, have regard to steps taken before the beginning of the review—

- (a) by the Commissioners in reaching the decision, and
- (b) by any person in seeking to resolve disagreement about the decision.

(4) The review must take account of any representations made by the person (“P”) at a stage which gives the Commissioners a reasonable opportunity to consider them.

(5) The review may conclude that the decision is to be—

- (a) upheld,
- (b) varied, or
- (c) cancelled.

(6) The Commissioners must give P notice of the conclusions of the review and their reasoning within—

- (a) a period of 45 days beginning with the relevant date, or
- (b) such other period as the Commissioners and P may agree.

(7) In paragraph (6) “relevant date” means—

- (a) in a case falling within regulation 91, the date the Commissioners received notification accepting the offer of a review from P, or
- (b) in a case falling within regulation 94, the date on which the Commissioners decided to undertake the review.

(8) Where the Commissioners are required to undertake a review but do not give notice of the conclusions within the time period specified in paragraph (6), the review is to be treated as having concluded that the decision is upheld.

(9) If paragraph (8) applies, the Commissioners must notify P of the conclusion which the review is treated as having reached.

Appeals against decisions of the Commissioners

96.—(1) Any person who is the subject of a decision by the Commissioners under these Regulations may appeal to the tribunal in accordance with regulation 97.

(2) The provisions of Part 5 of the Value Added Tax Act 1994(a) (appeals), subject to the modifications set out in paragraph (3), apply in respect of appeals to the tribunal made under this Part as they apply in respect of appeals made to the tribunal under section 83 (appeals) of that Act(b).

(3) Part 5 of the Value Added Tax Act 1994 has effect as if sections 83A(c) to 84(d), 85A and 85B(e) were omitted.

(a) 1994 c.23.

(b) Section 83 has been amended by section 77(4) of Finance Act 2009 (c.10), section 200(3) of Finance Act 2012 (c.14), section 124 of Finance Act 2016 (c.24) and S.I. 2009/56.

(c) Section 83A was inserted by S.I. 2009/56.

(d) Section 84 has been amended by section 31(4) of the Finance Act 1996 (c.8), section 31(3) of the Finance Act 1997 (c.16), paragraph 4 of Schedule 2 to the Finance Act 1999 (c.16), section 23(3) of the Finance Act 2002 (c.23), section 17 of the Finance Act 2003 (c.14), paragraph 5 of Schedule 2 to the Finance Act 2004 (c.12), section 21(5) of Finance Act 2006 (c.25), section 93(9) of Finance Act 2007 (c.11), paragraph 17 of Schedule 22(3) to Finance Act 2014 (c.26) and section 124(4) of Finance Act 2016 (c.24) and by S.I. 2008/1146 and 2009/56.

(e) Sections 85A and 85B were inserted by S.I. 2009/56.

- (4) The tribunal hearing an appeal under paragraph (2) has the power to—
- (a) quash or vary any decision of the Commissioners, including the power to reduce any penalty to such amount (including nil) as the tribunal thinks appropriate, and
 - (b) substitute the tribunal's own decision for any decision quashed on appeal.
- (5) For the purpose of appeal under this regulation, the meaning of “tribunal” is as defined in section 82 of the Value Added Tax Act 1994(a).

Appeals against decision of the Commissioners: procedure

97.—(1) Subject to paragraphs (2) to (4), an appeal under regulation 96 is to be made to the tribunal before—

- (a) the end of the period of 30 days beginning with the date of the notice notifying the decision to which the appeal relates, or
- (b) if later, the end of the relevant period (within the meaning of regulation 93).

(2) In a case where the Commissioners are required to undertake a review under regulation 92—

- (a) an appeal may not be made until the conclusion date, and
- (b) any appeal is to be made within the period of 30 days beginning with the conclusion date.

(3) In a case where the Commissioners are requested to undertake a review in accordance with regulation 94—

- (a) an appeal may not be made—
 - (i) unless the Commissioners have notified the person concerned (“P”) as to whether or not a review will be undertaken, and
 - (ii) if the Commissioners have notified P that a review will be undertaken, until the conclusion date,
- (b) any appeal where sub-paragraph (a)(ii) applies is to be made within the period of 30 days beginning with the conclusion date, and
- (c) if the Commissioners have notified P that a review will not be undertaken, an appeal may be made only if the tribunal gives permission to appeal.

(4) In a case where regulation 95(8) applies, an appeal may be made at any time from the end of the period specified in regulation 95(6) to the date 30 days after the conclusion date.

(5) An appeal may be made after the end of the period specified in paragraph (1), (2)(b), 3(b) or (4) if the tribunal gives permission to appeal.

(6) In this regulation, “conclusion date” means the date of the notice notifying the conclusions of the review.

PART 11

Miscellaneous Provisions

Recovery of charges and penalties through the court

98. Any charge or penalty imposed on a relevant person or on a payment service provider by the FCA or the Commissioners under these Regulations is a debt due from that person to the FCA or the Commissioners respectively, and is recoverable accordingly.

Costs of supervision

99.—(1) The FCA and the Commissioners may impose charges on—

(a) Section 82 was amended by S.I. 2009/56.

- (a) applicants for registration under chapter 3 of Part 1;
- (b) relevant persons supervised by them,
- (c) payment service providers supervised by them,
- (d) professional bodies listed in Schedule 1, for which they undertake enforcement action in relation to relevant persons supervised by those professional bodies.

(2) Charges levied under paragraph (1) must not exceed such amount as the FCA or the Commissioners (as the case may be) consider will enable them to meet any expenses reasonably incurred by them in carrying out their functions under these Regulations or for any incidental purpose.

(3) Without prejudice to the generality of paragraph (2), a charge may be levied in respect of each of the premises at which the relevant person, the provider or a person connected with the relevant person or the provider carries on (or proposes to carry on) business or professional activities.

(4) The FCA must in respect of each of its financial years pay to the Treasury any amounts received by the FCA during the year by way of penalties imposed under Part 9.

(5) The Treasury may give directions to the FCA as to how the FCA is to comply with the duty under paragraph (4).

(6) The directions may in particular—

- (a) specify the time when any payment is required to be made to the Treasury, and
- (b) require the FCA to provide the Treasury at specified times with information relating to penalties that the FCA has imposed under Part 9.

(7) The Treasury must pay into the Consolidated Fund any sums received by them under this Part.

Obligations on public authorities

100.—(1) The following bodies and persons must, if they know or suspect or have reasonable grounds for knowing or suspecting that a person is or has engaged in money laundering or terrorist financing, as soon as practicable, inform the NCA—

- (a) the Auditor General for Scotland;
- (b) the Auditor General for Wales;
- (c) the FCA;
- (d) the Bank of England;
- (e) the Comptroller and Auditor General;
- (f) the Comptroller and Auditor General for Northern Ireland;
- (g) the Gambling Commission;
- (h) the Official Solicitor to the Supreme Court;
- (i) the Pensions Regulator;
- (j) the PRA;
- (k) the Public Trustee;
- (l) the Secretary of State, in the exercise of his or her functions under enactments relating to companies and insolvency;
- (m) the Treasury, in the exercise of their functions under FSMA;
- (n) the Treasury Solicitor;
- (o) a designated professional body for the purposes of Part 20 of FSMA (provision of financial services by members of the professions);

- (p) a person or inspector appointed under section 65 (investigations on behalf of FCA) or 66 (inspections and special meetings) of the Friendly Societies Act 1992(a);
- (q) an inspector appointed under section 106 of the Co-operative and Community Benefit Societies 2014(b) (appointment of inspectors) or section 18 of the Credit Unions Act 1979(c) (power to appoint inspector);
- (r) an inspector appointed under section 431 (investigation of a company on its own application), 432 (other company investigations), 442 (power to investigate company ownership) or 446D (appointment of replacement inspectors) of the Companies Act 1985(d);
- (s) a person or inspector appointed under section 55 (investigations on behalf of FCA) or 56 (inspections and special meetings) of the Building Societies Act 1986(e);
- (t) a person appointed under section 167 (appointment of persons to carry out investigations), 168(3) or (5) (appointment of persons to carry out investigations in particular cases), 169(1)(b) (investigations to support overseas regulator) or 284 (power to investigate affairs of a scheme) of FSMA(f), or under regulations made under section 262(2)(k) (open-ended investment companies) of that Act(g), to conduct an investigation; and
- (u) a person authorised to require the production of documents under section 447 (Secretary of State's power to require production of documents) of the Companies Act 1985(h), or section 84 of the Companies Act 1989(i) (exercise of powers by officer).

(2) A disclosure made under paragraph (1) is not to be taken to breach any restriction on the disclosure of information however imposed.

(3) Where a disclosure under paragraph (1) is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by or on whose behalf it is made.

Suspicious activity reports

101.—(1) The NCA must make arrangements to provide appropriate feedback on the suspicious activity disclosures it has received at least once a year.

(2) The feedback referred to in paragraph (1) may be provided by the NCA jointly with another person, or by another person on behalf of the NCA.

(3) The feedback referred to in paragraph (1) may be provided in any form the NCA thinks fit.

(4) In this regulation, a “suspicious activity disclosure” is a disclosure made to the NCA under—

- (a) Part 3 of the Terrorism Act 2000(j);
- (b) Part 7 of the Proceeds of Crime Act 2002(a).

(a) 1992 c.40. Section 65 has been amended by S.I. 1994/1984; 2001/2617 and 2013/496. Section 66 has been amended by S.I. 2009/1941 and 2013/496.

(b) 2014 c. 14.

(c) 1979 c.34. Section 18 was amended by paragraph 9 of Schedule 4 to the Co-operative and Community Benefit Society Act (c.14) and by S.I. 2001/2617; 2002/1501 and 2013/496.

(d) 1985 c.6. Section 431 has been amended by section 1035(2) of the Companies Act 2006 (c.46) and S.I. 2003/1116, section 432 has been amended by sections 55 and 213 of the Companies Act 1989 (c.40), section 1035(3) of the Companies Act 2006, section 442 has been amended by sections 62 and 213(2) of the Companies Act 1989 and by paragraph 1 of Schedule 16 to the Companies Act 2006 and section 446D was inserted by section 1036 of the Companies Act 2006.

(e) 1986 c.53. Section 55 has been amended by paragraph 21 of Schedule 7 to the Building Societies Act 1987 (c.37) and by S.I. 2013/496, and section 56 has been amended by paragraph 22 of Schedule 7 to the Building Societies Act 1997 and by S.I. 2013/496.

(f) Section 167 has been amended by paragraph 7 of Schedule 12 to the Financial Services Act 2012 (c.21), and by S.I. 2005/575 and 2007/126, section 168(5) and been amended by paragraph 8 of Schedule 12 to the Financial Services Act 2012, section 284 has been amended by paragraph 17 of Schedule 18 to the Financial Services Act 2012.

(g) Section 262(2)(k) has been amended by paragraph 9 of Schedule 18 to the Financial Services Act 2012.

(h) 1985 c.6. Section 447 has been amended by section 21 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27), and by section 1038 of the Companies Act 2006.

(i) 1989 c.40.

(j) 2000 c.11.

Disclosure by the Commissioners

102.—(1) The Commissioners may disclose to the FCA information held in connection with their functions under these Regulations if the disclosure is made for the purpose of enabling or assisting the FCA to discharge any of its functions under the Payment Services Regulations 2009**(b)** or the Electronic Money Regulations 2011**(c)**.

(2) Information disclosed to the FCA under subsection (1) may not be disclosed by the FCA or any person who receives the information directly or indirectly from the FCA except—

- (a) to, or in accordance with authority given by, the Commissioners;
- (b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings;
- (c) with a view to the institution of any other proceedings by the FCA, for the purposes of any such proceedings, or for the purposes of any reference to the Upper Tribunal under the Payment Services Regulations 2009; or
- (d) in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

General restrictions

103. These Regulations do not authorise or require—

- (a) a disclosure, in contravention of any provisions of the Data Protection Act 1998**(d)**, of personal data which are not exempt from those provisions, or
- (b) a disclosure which is prohibited by any of Parts 1 to 3 or 5 to 7 of the Investigatory Powers Act 2016**(e)**.

Transfers between the United Kingdom and the Channel Islands and the Isle of Man

104. In determining whether a person has failed to comply with any requirement in the funds transfer regulation, any transfer of funds between the United Kingdom and—

- (a) the Channel Islands, or
- (b) the Isle of Man,

shall be treated as a transfer of funds within the United Kingdom.

Review

105.—(1) The Treasury must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 26th June 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015**(f)** requires that a review carried out under this regulation must, so far as is reasonable, have regard to how—

- (a) the emission allowance auctioning regulation,
- (b) the fourth money laundering directive and
- (c) the funds transfer regulation,

(a) 2002 c. 29.
(b) S.I. 2009/209.
(c) S.I. 2011/99.
(d) 1998 c.29.
(e) 2016 c.25.
(f) 2015 c.26.

are implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Consequential amendments

106. Schedule 7 makes amendments relating to these Regulations.

Revocation and saving provisions

107.—(1) The old money laundering regulations and the old transfer of funds regulations are revoked.

(2) The old money laundering regulations and the old transfer of funds regulations shall continue to have effect where the conduct constituting a contravention of one of those Regulations, or an offence under one of those Regulations began before the relevant date.

(3) Where the old money laundering regulations or the old transfer of funds regulations continue to have effect, a penalty or an offence under the relevant Part of these Regulations shall not have effect in such circumstances.

(4) Where the conduct is found to have been committed over a period of two or more days, or at some point during a period of two or more days, it shall be taken for the purposes of these Regulations to have been begun on the earliest of those days.

(5) The old money laundering regulations means—

- (a) the Money Laundering Regulations 2007(**a**),
- (b) the Money Laundering (Amendment) Regulations 2007(**b**),
- (c) the Money Laundering (Amendment) Regulations 2011(**c**),
- (d) the Money Laundering (Amendment) Regulations 2012(**d**), and
- (e) the Money Laundering (Amendment) Regulations 2015(**e**).

(6) The old transfer of funds regulations means the Transfer of Funds (Information on the Payer) Regulations 2007(**f**).

(7) The relevant date is 26th June 2017.

Name
Name

-
- (a) S.I. 2007/2157.
 - (b) S.I. 2007/3299.
 - (c) S.I. 2011/1781.
 - (d) S.I. 2012/2298.
 - (e) S.I. 2015/11.
 - (f) S.I. 2007/3298.

Date

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULES

SCHEDULE 1

Regulation 7(1)(b)

Professional Bodies

1. Association of Accounting Technicians
2. Association of Chartered Certified Accountants
3. Association of International Accountants
4. Association of Taxation Technicians
5. Chartered Institute of Legal Executives
6. Chartered Institute of Management Accountants
7. Chartered Institute of Taxation
8. Council for Licensed Conveyancers
9. Faculty of Advocates
10. Faculty Office of the Archbishop of Canterbury
11. General Council of the Bar
12. General Council of the Bar of Northern Ireland
13. Insolvency Practitioners Association
14. Institute of Certified Bookkeepers
15. Institute of Chartered Accountants in England and Wales
16. Institute of Chartered Accountants in Ireland
17. Institute of Chartered Accountants of Scotland
18. Institute of Financial Accountants
19. International Association of Bookkeepers
20. Law Society
21. Law Society of Northern Ireland
22. Law Society of Scotland

SCHEDULE 2

Regulation 10(4)

Activities listed in points 2 to 12, 14 and 15 of Annex I to the Capital Requirements Directive

The activities listed in points 2 to 12, 14 and 15 of Annex I to the Capital Requirements Directive are—

“2. Lending including, inter alia: consumer credit, credit agreements relating to immovable property, factoring, with or without recourse, financing of commercial transactions (including forfeiting).

3. Financial leasing.

4. Payment services as defined in Article 4.3 of Directive 2007/64/EC(a).

5. Issuing and administering other means of payment (e.g. travellers’ cheques and bankers’ drafts) insofar as such activity is not covered by point 4.

6. Guarantees and commitments.

7. Trading for own account or for account of customers in any of the following:

- (a) money market instruments (cheques, bills, certificates of deposit, etc.);
- (b) foreign exchange;
- (c) financial futures and options;
- (d) exchange and interest-rate instruments;
- (e) transferable securities.

8. Participation in securities issues and the provision of services relating to such issues.

9. Advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating to mergers and the purchase of undertakings.

10. Money broking.

11. Portfolio management and advice.

12. Safekeeping and administration of securities.

14. Safe custody services.

15. Issuing electronic money.”

SCHEDULE 3

Regulation 26(11)

Relevant Offences

1. An offence under the Perjury Act 1911(b).

2. An offence under section 89 of the Criminal Justice Act 1967(c).

3. An offence under section 20BB of the Taxes Management Act 1970(d) (falsification of documents).

4. An offence under section 11 of the European Communities Act 1972(e).

5. An offence under Article 10 of the Perjury (Northern Ireland) Order 1979(f).

6. An offence under the Customs and Excise Management Act 1979(g).

(a) OJ L 319, 05.12.2007, p.1.

(b) 1911 c.6.

(c) 1967 c.80.

(d) 1970 c.9. Section 20BB was inserted by section 145(1) of the Finance Act 1989 (c.26), and amended by section 149(3) of the Finance Act 2000 (c.17), paragraph 69 of Schedule 36 to the Finance Act 2008 (c.9), and paragraph 46 of Schedule 38 to the Finance Act 2012 (c.14), and by S.I. 2009/56.

(e) 1972 c.68.

(f) S.I. 1979/1714 (N.I. 19).

(g) 1979 c.2.

7. An offence under any of sections 1 to 5 of the Forgery and Counterfeiting Act 1981**(a)** (counterfeiting offences).
8. An offence under section 1, 2, 3, 3ZA or 3A of the Computer Misuse Act 1990**(b)** (computer misuse offences).
9. An offence under the Estate Agency Act 1979, or specified for the purposes of section 3 of that Act in the Estate Agents (Specified offences) (No 2) Order 1991**(c)**.
10. An offence under sections 112 (false representations or obtaining benefit) or 114 (offences relating to contributions) of the Social Security Administration Act 1992**(d)**.
11. An offence under section 52 of the Criminal Justice Act 1993**(e)** (the offence of insider dealing).
12. An offence under the Value Added Tax Act 1994**(f)**.
13. An offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995**(g)**.
14. An offence under the Data Protection Act 1998**(h)**.
15. An offence under the Terrorism Act 2000**(i)**.
16. An offence under paragraph 7(2) or (3) of Schedule 3 to the Anti-Terrorism, Crime and Security Act 2001**(j)** (offences).
17. An offence under section 35 of the Tax Credits Act 2002**(k)** (offence of fraud).
18. An offence under Part 7 (money laundering) or Part 8 (investigations) of, or listed in Schedule 2 (lifestyle offences: England and Wales), 4 (lifestyle offences: Scotland) or 5 (lifestyle offences: Northern Ireland) to, the Proceeds of Crime Act 2002**(l)**.
19. An offence under the Money Laundering Regulations 2003**(m)**, the Money Laundering Regulations 2007**(n)** or under these Regulations.
20. An offence under the Commissioners for Revenue and Customs Act 2005**(o)**.
21. An offence under the Terrorism Act 2006**(p)**.
22. An offence under section 1, 2, 6 or 7 of the Bribery Act 2010**(q)** (bribery).

(a) 1981 c.45.

(b) 1990 c.18. Section 1 has been amended by s.35 of the Police and Justice Act 2006 (c.48) and paragraph 7 of Schedule 4 to the Serious Crime Act 2015 (c.9). Section 2 has been amended by paragraph 17 of Schedule 14 to the Police and Justice Act 2006 (c.48) and paragraph 7 of Schedule 4 to the Serious Crime Act 2015. Section 3 has been amended by section 36 of the Police and Justice Act 2006 (c.48), and paragraph 7 of Schedule 4 to the Serious Crime Act 2015. Section 3ZA was inserted by section 41(2) of the Serious Crime Act 2015. Section 3A was inserted by section 37 of the Police and Criminal Justice Act 2006 (c.48) and amended by section 41 and 42 of and paragraphs 7 and 8 of Schedule 4 to the Serious Crime Act 2015.

(c) S.I. 1991/1091, amended by S.I. 1992/2833.

(d) 1992 c.5. Section 112 has been amended by paragraph 4 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c.47), paragraph 6 of Schedule 6 and paragraph 1 of Schedule 9 to the Child Support, Pensions and Social Security Act 2000 (c.19) and by section 16(3) of the Social Security Fraud Act 2001 (c.11). Section 114 has been amended by section 61 of the Social Security Act 1998 (c.14).

(e) 1993 c.36.

(f) 1994 c.23.

(g) 1995 c.39.

(h) 1998 c.29.

(i) 2000 c.11.

(j) 2001 c.24.

(k) 2002 c.21. Section 35 has been amended by section 124 of the Welfare Reform Act 2012 (c.5), and will be repealed when Schedule 14 to that Act comes into force.

(l) 2002 c. 29.

(m) S.I. 2003/3075.

(n) S.I. 2007/2157.

(o) 2005 c.11.

(p) 2006 c.11.

(q) 2010 c.23.

23. An offence under section 45 of the Serious Crime Act 2015(a) (offence of participating in activities of organised crime gang).

24. An offence under Parts 1 to 3 or 5 to 7 of the Investigatory Powers Act 2016(b).

25. An offence of cheating the public revenue.

26. An offence under the law of any part of the United Kingdom consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of tax.

27. Any offence which has deception or dishonesty as one of its components.

28. The common law offences of conspiracy to defraud and perverting the course of justice.

29. An act which—

(a) constituted an offence under the law of a foreign country, and

(b) would have constituted an offence under any of paragraphs 1 to 28 under the law of England and Wales if it had been done in England and Wales, or by a UK national, or as regards the United Kingdom.

SCHEDULE 4

Regulation 50(1)

Supervisory Information

1. The number of persons subject to the supervision of the supervisory authority, or in the case of a self-regulatory organisation, the number of its members (“supervised persons”).

2. The number of supervised persons who are individuals.

3. In the case of a self-regulatory organisation, the number of its supervised persons who act as trust or company service providers.

4. In the case of a self-regulatory organisation, the number of applications for membership which the organisation has—

(a) received,

(b) rejected, and

(c) accepted.

5. The number of firms subject to the supervision of the supervisory authority which the authority considers to be—

(a) high risk;

(b) medium risk;

(c) low risk,

and for these purposes, “risk” refers to the risk that the firm will be subject to money laundering or terrorist financing.

6. The services provided by supervised persons.

7. The number of contraventions of these Regulations committed by supervised persons.

8. The number of inspections the supervisory authority has conducted under regulations 68 or 69.

(a) 2015 c.9.

(b) 2016 c.25.

9. The number of times on which the supervisory authority or any of its supervised persons has made a suspicious activity disclosure to the NCA, and for these purposes, “suspicious activity disclosure” has the meaning given in regulation 101(4).

10. The number and amount of fines which the supervisory authority has imposed under Part 9 of these Regulations.

11. The number of times the supervisory authority has exercised its other powers under Part 9 of these Regulations.

12. The number of supervised persons who have contravened requirements imposed in Part 3 of the Terrorism Act 2000(a), or in Part 7 or 8 of the Proceeds of Crime Act 2002(b).

13. Information on the money laundering and terrorist financing practices considered to apply to their sector.

14. Indications which may suggest that a transfer of criminal funds is taking place in their sector.

SCHEDULE 5

Connected Persons

Regulation 64(3)

Corporate Bodies

1. If the relevant person or payment service provider is a body corporate, any person who is or has been—

- (a) an officer or manager of the body corporate,
- (b) an officer or manager of a parent undertaking of the body corporate,
- (c) an employee of the body corporate,
- (d) an agent of the body corporate, or
- (e) an agent of a parent undertaking of the body corporate.

Partnerships

2. If the relevant person or payment service provider is a partnership, any person who is or has been a member, manager, employee or agent of the partnership.

Unincorporated Associations

3. If the relevant person or payment service provider is an unincorporated association of persons which is not a partnership, any person who is or has been an officer, manager, employee or agent of the association.

Individuals

4. If the relevant person or payment service provider is an individual, any person who is or has been an employee or agent of that individual.

(a) 2000 c.11.
(b) 2002 c. 29.

Meaning of “relevant requirement”

1. For the purposes of Part 9 of these Regulations, “relevant requirement” means—
 - (a) a requirement imposed by the fund transfer regulation specified—
 - (i) in relation to a payment service provider of a payer, in paragraph 2;
 - (ii) in relation to a payment service provider of a payee, in paragraph 3;
 - (iii) in relation to the payment service provider of an intermediary, in paragraph 4.
 - (b) a requirement imposed in or under these regulations specified in paragraphs 5 to 11.
2. The requirements specified in this paragraph are those imposed in—
 - (a) Article 4.1 to 4.3 (information accompanying transfers of funds within the EEA),
 - (b) Article 4.1 to 4.3 (information accompanying transfers of funds outside the EEA),
 - (c) Article 4.4 and 4.5 (verification of documents),
 - (d) Article 4.6 (compliance with information accompanying transfers of funds within the EEA),
 - (e) Article 5.2 (information to be provided on request),
 - (f) Article 14 (provision of information),
 - (g) Article 16 (record retention).
3. The requirements specified in this paragraph are those imposed in—
 - (a) Article 7.1 and 7.2 (detection of missing information on the payer or the payee),
 - (b) Article 7.3 (verification of information on the payee),
 - (c) Article 8 (transfer of funds with missing or incomplete information on the payer or the payee),
 - (d) Article 9 (assessment and reporting),
 - (e) Article 14 (provision of information),
 - (f) Article 16 (record retention).
4. The requirements specified in this paragraph are those imposed in—
 - (a) Article 10 (retention of information on the payer and the payee with the transfer),
 - (b) Article 11 (detection of missing information on the payer or the payee),
 - (c) Article 12 (transfer of funds with missing information on the payer or the payee),
 - (d) Article 13 (assessment and reporting),
 - (e) Article 16 (record retention).
5. The requirements specified in this paragraph are those—
 - (a) imposed in—
 - (i) regulation 18 (risk assessment by relevant person),
 - (ii) regulation 19 (policies, controls and procedures),
 - (iii) regulation 20 (policies, controls and procedures: group level),
 - (iv) regulation 21 (internal controls),
 - (v) regulation 23 (requirement on authorised persons to inform the FCA),
 - (vi) regulation 24 (training),
 - (b) imposed under regulation 25 (supervisory action).
6. The requirements specified in this paragraph are those—

- (a) imposed in—
 - (i) regulation 55 (requirement to be registered),
 - (ii) regulation 56 (applications for registration in a register maintained under regulations 53 or 54),
 - (iii) regulation 26 (prohibition),
 - (b) imposed under regulation 56 (applications for registration).
- 7.** The requirements specified in this paragraph are those imposed in—
- (a) regulation 27 (customer due diligence),
 - (b) regulation 28 (customer due diligence measures),
 - (c) regulation 29 (additional customer due diligence),
 - (d) regulation 30 (timing of verification),
 - (e) regulation 31(1) (requirement to cease transactions),
 - (f) regulation 33(1) and (4) to (6) (obligation to apply enhanced due diligence),
 - (g) regulation 34 (enhanced due diligence: credit institutions, financial institutions and correspondent relationships),
 - (h) regulation 35 (enhanced due diligence: politically exposed persons),
 - (i) regulation 36 (application of simplified due diligence)
 - (j) regulation 37(3) (electronic money: monitoring).
- 8.** The requirements specified in this paragraph are those imposed in—
- (a) regulation 38(2) and (4) (reliance),
 - (b) regulation 39(1) and (4) to (6) (record keeping),
 - (c) regulation 40 (data protection).
- 9.** The requirements specified in this paragraph are those imposed in—
- (a) regulation 42 (corporate bodies: obligations),
 - (b) regulation 43 (trustee obligations),
 - (c) regulation 44(2) and (8) (register of beneficial ownership).
- 10.** The requirements specified in this paragraph are those imposed in—
- (a) regulation 63(1) (assisting the authorities),
 - (b) regulation 22 (central contact points).
- 11.** The requirements specified in this paragraph are those imposed under—
- (a) regulation 65 (power to require information),
 - (b) regulation 68(2) (entry, inspection without a warrant),
 - (c) regulation 69(7) (entry of premises under warrant),
 - (d) regulation 75(2) and (6) (power to impose civil penalties: suspension and removal of authorisation),
 - (e) regulation 76(2) and (5) (prohibition).

Consequential Amendments

PART 1

Consequential Amendments to Primary Legislation

Scotland Act 1998

1. In Schedule 5 to the Scotland Act 1998^(a) (reserved matters), in Part 2, in paragraph A5, for “the Money Laundering Regulations 1993”^(b) substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Northern Ireland Act 1998

2. In Schedule 3 to the Northern Ireland Act 1998^(c)(reserved matters)—

- (a) in paragraph 25, for “the Money Laundering Regulations 2007”^(d) substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
- (b) omit paragraph 25A.

Financial Services and Markets Act 2000

3.—(1) FSMA^(e) is amended as follows.

(2) In section 226 (complaints: the ombudsman scheme etc) after subsection (7) insert—

“(7A) The rules must include provision with subsection (7B) to be eligible.

(7B) A person is within this subsection if he or she has been identified by a respondent, in carrying on an activity to which the rules apply, as—

- (a) a politically exposed person,
- (b) a family member of a politically exposed person, or
- (c) a known close associate of a politically exposed person.

(7C) In subsection (7B), “politically exposed person”, “family member” and “known close associate” have the meanings given in regulation 35(12) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.”.

(3) For the heading of Part 20C (as inserted by the Bank of England and Financial Services Act 2016)^(f), substitute “Politically exposed persons: money laundering and terrorist financing”.

(4) In section 333U (guidance relating to money laundering and politically exposed persons)—

- (a) in the heading, after “Money laundering” insert “and terrorist financing”, and
- (b) in subsection (3)—
 - (i) for “Secretary of State” substitute “Treasury”, and
 - (ii) in paragraph (b), after “by the FCA” insert “or under the ombudsman scheme”.

(a) 1998 c. 46.

(b) S.I. 1993/1933.

(c) 1998 c. 47.

(d) S.I. 2007/2157.

(e) 2000 c. 8.

(f) Part 20C was inserted by section 30 of the Bank of England and Financial Service Act 2016 (c.14).

Terrorism Act 2000

4.—(1) The Terrorism Act 2000(a) is amended as follows.

(2) In section 21G (other permitted disclosures etc), in subsection (1)(a), for “the Money Laundering Regulations 2007 (S.I. 2007/2157)”(b) substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(3) In section 21H(4), for the words from “Directive 2005/60/EC” to the end substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”(c).

(4) Part 1 of Schedule 3A(d) (business in the regulated sector) is amended in accordance with sub-paragraphs (5) to (10).

(5) In paragraph 1(1)—

(a) in paragraph (b)(e)—

(i) at the end of sub-paragraph (i), omit “or”;

(ii) after sub-paragraph (i), insert—

“(ia) an undertaking whose only listed activity is as a creditor under an agreement which—

(aa) falls within section 12(a) of the Consumer Credit Act 1974(f) (debtor-creditor-supplier agreements),

(bb) provides fixed sum credit (within the meaning given in section 10(1)(b) of the Consumer Credit Act 1974 (running-account credit and fixed-sum credit)) in relation to the provision of services, and

(cc) provides financial accommodation by way of deferred payment or payment by instalments over a period not exceeding 12 months; or”;

(b) after paragraph (j)(g), insert—

“(ja)the carrying on of local audit work within the meaning of Schedule 5 to the Local Audit and Accountability Act 2014 (eligibility and regulation of local auditors) by any firm or individual who is a local auditor within the meaning of section 4(1) of that Act (general requirements for audit);”

(c) in paragraph (q)—

(i) after “involves the” insert “making or”;

(ii) for “15,000” substitute “10,000”.

(6) In paragraph 1(5)(b), omit “which are contained in international standards and are”.

(7) In paragraph 1(6)(h), at the end of paragraph (c) for “or” substitute “and”.

(8) In paragraph 2(1)—

(a) in paragraph (c) for “25” substitute “26”;

(b) at the end, insert—

“(g) the carrying on by a local authority (within the meaning given in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001)(i) of

(a) 2000 c. 11.

(b) S.I. 2007/2157.

(c) OJ No L 141, 05.06.15, p73.

(d) 2000 c.11. Part 1 of Schedule 3A was substituted by S.I. 2007/3288. The relevant amendments to paragraph 1 of Part 1 are S.I. 2011/99, S.I. 2013/3115 and S.I. 2015/575. Paragraph 3 of Part 1 was amended by S.I. 2011/2701, S.I. 2013/3115 and S.I. 2015/575.

(e) paragraph (b) has been amended by S.I. 2011/99 and 2013/3115.

(f) 1974 c.39.

(g) Paragraph (j) was amended by S.I. 2008/948.

(h) Paragraph 1(6) was substituted by S.I. 2016/680.

(i) S.I. 2001/544. Article 72G was inserted by S.I. 2014/366.

an activity which would be a regulated activity for the purposes of the Financial Services and Markets Act 2000 but for article 72G of that Order;

- (h) the preparation of a home report, which for these purposes means the documents prescribed for the purposes of sections 98, 99(1) or 101(2) of the Housing (Scotland) Act 2006^(a);

(9) In paragraph 2(3)—

- (a) in paragraph (a), for “£64,000” substitute “£100,000;
- (b) in paragraph (f), after “(r)” insert “to (t)”.

(10) In paragraph 3—

- (a) in sub-paragraph (1), at the appropriate place insert—

“the Capital Requirements Directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms ^(b);
- (b) in sub-paragraph (3)—
 - (i) after “Capital Requirements Regulation” insert “, the Capital Requirements Directive”;
 - (ii) after “Part as” insert “in that Regulation or”.

(11) In Part 2 of Schedule 3A(c) (supervisory authorities), in paragraph 4—

- (a) in sub-paragraph (1), omit paragraphs (b), (ea) and (f);
- (b) in sub-paragraph (2)—
 - (i) after paragraph (d), insert—

“(da) the Chartered Institute of Legal Executives;”;
 - (ii) omit paragraph (f).

Criminal Justice and Police Act 2001

5. In the Criminal Justice and Police Act 2001^(d)—

- (a) in section 68(2) (application to Scotland)—
 - (i) in paragraph (g), for “regulation 39(6) of the Money Laundering Regulations 2007”^(e) substitute “regulation 69(7) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
 - (ii) omit paragraph (h);
- (b) in Part 1 of Schedule 1 (powers of seizure to which section 50 of the 2001 Act applies)—
 - (i) in the heading preceding paragraph 73J for “The Money Laundering Regulations 2007” substitute “The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
 - (ii) in paragraph 73J, for “regulation 39(6) of the Money Laundering Regulations 2007” substitute “regulation 69(7) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
 - (iii) omit paragraph 73K and the preceding heading.

(a) 2006 asp 1.

(b) OJ L 176, 27.6.2013, p.338.

(c) 2000 c.11. Part 2 of Schedule 3A was substituted by S.I. 2007/3288. Paragraph 4 was amended by the Financial Services Act 2012 (c.21), section 114, Schedule 18, Part 2, paragraph 87(1), (2)(a) and (b) and by S.I. 2014/892.

(d) 2001 c. 16.

(e) S.I. 2007/2157.

Proceeds of Crime Act 2002

6.—(1) The Proceeds of Crime Act 2002(a) is amended as follows.

(2) In section 333D (other permitted disclosures etc), in subsection (1)(a) for “the Money Laundering Regulations 2007 (S.I. 2007/2157)” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(3) In section 333E (interpretation), in subsection (4), for the words from “Directive 2005/60/EC”(b) to the end substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”(c).

(4) In Part 1 of Schedule 9(d) (business in the regulated sector), in paragraph 1(1)—

(a) in paragraph (b)(e)—

(i) for “Capital Requirements Regulation”, in both places. substitute “Capital Requirements Directive”

(ii) at the end of sub-paragraph (i), omit “or”;

(iii) after sub-paragraph (i), insert—

“(ia) an undertaking whose only listed activity is as a creditor under an agreement which—

(aa) falls within section 12(a) of the Consumer Credit Act 1974(f) (debtor-creditor-supplier agreements),

(bb) provides fixed sum credit (within the meaning given in section 10(1)(b) of the Consumer Credit Act 1974 (running-account credit and fixed-sum credit)) in relation to the provision of services, and

(cc) provides financial accommodation by way of deferred payment or payment by instalments over a period not exceeding 12 months; or”;

(b) after paragraph (j), insert—

“(j) the carrying on of local audit work within the meaning of Schedule 5 to the Local Audit and Accountability Act 2014(g) (eligibility and regulation of local auditors) by any firm or individual who is a local auditor within the meaning of section 4(1) of that Act (general requirements for audit);”

(c) in paragraph (q)—

(i) after “involves the” insert “making or”;

(ii) for “15,000” substitute “10,000”.

(5) In paragraph 1(5)(b), omit “which are contained in international standards and are”.

(6) In paragraph 1(6)(h), at the end of paragraph (c) for “or” substitute “and”.

(7) In paragraph 2—

(a) in sub-paragraph (1)(c) for “25” substitute “26”;

(b) at the end, insert—

“(g) the carrying on by a local authority (within the meaning given in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(i) of

(a) 2002 c. 29.

(b) OJ No L 309, 25.11. 05, p15.

(c) OJ No L 141, 05.06.15, p73.

(d) 2002 c.29. Part 1 of Schedule 9 was substituted by S.I. 2007/3287. The relevant amendments to paragraph 1 of Part 1 are S.I. 2011/99, S.I. 2013/3115 and S.I. 2015/575. Paragraph 3 of Part 1 was amended by S.I. 2011/2701, S.I. 2013/3115 and S.I. 2015/575.

(e) Paragraph (b) has been amended by S.I. 2011/99 and 2013/3115.

(f) 1974 c.39.

(g) 2014 c.2.

(h) Paragraph 1(6) has been amended by S.I. 2016/680.

(i) S.I. 2001/544. Article 3(1) has been amended, but the amendments are not relevant to these Regulations.

an activity which would be a regulated activity for the purposes of the Financial Services and Markets Act 2000 but for article 72G of that Order^(a);

(h) the preparation of a home report, which for these purposes means the documents prescribed for the purposes of sections 98, 99(1) or 101(2) of the Housing (Scotland) Act 2006^(b).”;

(c) in sub-paragraph (3)—

(i) in paragraph (a), for “£64,000” substitute “£100,000;

(ii) in paragraph (f), after “(r)” insert “to (t)”.

(8) In paragraph 3—

(a) in sub-paragraph (1)—

(i) at the appropriate place insert—

““the Capital Requirements Directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC^(c).”;

(ii) at the end of the definition of “the Capital Requirements Regulation insert “of 26th June 2013 on prudential requirements for credit institutions and investment firms”; and

(b) in sub-paragraph (3)—

(i) for “the Banking Consolidation Directive” substitute “the Capital Requirements Regulation, the Capital Requirements Directive”;

(ii) after “Part as”, insert “in that Regulation or”.

(9) In Part 2 of Schedule 9 (supervisory authorities), in paragraph 4—

(a) in sub-paragraph (1), omit paragraphs (b), (ea) and (f);

(b) in sub-paragraph (2)—

(i) after paragraph (d), insert—

“(da) the Chartered Institute of Legal Executives.”;

(ii) omit paragraph (f).

Counter-Terrorism Act 2008

7. In Schedule 7 to the Counter-Terrorism Act 2008^(d) (terrorist financing and money laundering), for paragraph 45(3), substitute—

“(3) Unless otherwise defined, expressions used in this Schedule and in Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing have the same meaning as in that Directive.”.

Borders, Citizenship and Immigration Act 2009

8. In section 1 (general customs functions of the Secretary of State) of the Borders, Citizenship and Immigration Act 2009^(e), in subsection (2)—

(a) in paragraph (d), for “Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing”^(a) substitute

(a) Article 72G was inserted by S.I. 2014/366, and amended by S.I. 2015/910 and 2016/392

(b) 2006 asp.1.

(c) OJ L 176, 27.6.2013, p.338.

(d) 2008 c.28.

(e) 2009 c. 11.

“Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing**(b)**”;

- (b) in paragraph (e), for “Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds”(c) substitute “Regulation (EU) 2015/847 of the European Parliament and of the Council of 20th May 2015 on information accompanying transfers of funds”.

Crime and Courts Act 2013

9. In Schedule 17 (offences in relation to which a deferred prosecution arrangement may be entered into) to the Crime and Courts Act 2013**(d)**, in paragraph 27, for “regulation 45 of the Money Laundering Regulations 2007 (S.I. 2007/2157)”**(e)** substitute “regulation 83 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Finance Act 2014

10. In Schedule 34 to the Finance Act 2014**(f)**, in paragraph 6(4)(j) (criminal offences) for “regulation 45(1) of the Money Laundering Regulations 2007(S.I. 2007/2157)” substitute “regulation 83(1) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Bank of England and Financial Services Act 2016

11. In the Bank of England and Financial Services Act 2016—

- (a) in the heading preceding section 30 (politically exposed persons: money laundering)**(g)**, after “Money laundering” insert “and terrorist financing”;
- (b) in section 30—
- (i) in the heading, after “Money laundering” insert “and terrorist financing”, and
- (ii) in subsection (1) for “Secretary of State” substitute “Treasury”.

PART 2

Consequential Amendments to Secondary Legislation

Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999

12. In the Schedule (description of persons and matters) to the Public Interest Disclosure (Prescribed Persons) Order (Northern Ireland) 1999**(h)**—

- (a) in the entry relating to Her Majesty’s Revenue and Customs, in column 2, for “regulation 23(1)(d)(vii) of the Money Laundering Regulations 2007” substitute “regulation 7(1)(c)(vii) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
- (b) in the appropriate place, insert the following entry—

(a) OJ No L 309, 25.11. 05, p15.

(b) OJ No L 141, 05.06.15, p73.

(c) OJ No L 345, 8.12. 06, p1.

(d) 2013 c. 22.

(e) S.I. 2007/2157.

(f) 2014 c. 26.

(g) 2016 c. 14.

(h) S.I. 1999/401. The Schedule was substituted by S.R. (N.I.) 2014 No 48. There are other amendments which are not relevant to these Regulations.

“National Crime Agency”	“Matters relating to compliance with— (a) the Terrorism Act 2000, (b) the Proceeds of Crime Act 2002, or (c) the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”
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Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

13. In article 72E(9) in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(a) (Business and Angel-led Enterprise Capital Funds) for “the Money Laundering Regulations 2007”(b) substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Representation of the People (England and Wales) Regulations 2001

14. In regulation 114(3)(b) in the Representation of the People (England and Wales) Regulations 2001(c) (sale of full register to credit reference agencies), for “the Money Laundering Regulations 2007” substitute “Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Representation of the People (Scotland) Regulations 2001

15. In regulation 113(3)(b) in the Representation of the People (Scotland) Regulations 2001(d) (sale of full register to credit reference agencies), for “the Money Laundering Regulations 2007” substitute “Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Terrorism Act 2000 (Crown Servants and Regulators) Regulations 2001

16. In the meaning of “relevant business” in regulation 2 (interpretation) of the Terrorism Act 2000 (Crown Servants and Regulators) Regulations 2001(e) for “regulation 3(1)(a) to (h) of the Money Laundering Regulations 2007” substitute “regulation 8(2)(a) to (h) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Proceeds of Crime Act 2002 (Disclosure of information to and by Lord Advocate and Scottish Ministers) Order 2003

17. In article 3(d) (disclosure of information by Lord Advocate and by Scottish Ministers) of the Proceeds of Crime Act 2002 (Disclosure of Information to and by Lord Advocate and Scottish Ministers) Order 2003(f) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(a) S.I. 2001/544. Regulation 72E was inserted by S.I. 2005/1518, and paragraph (9) was amended by S.I. 2007/2157.
(b) S.I. 2007/2157.
(c) S.I. 2001/341. Regulation 114(3)(b) has been amended by S.I. 2003/3075, 2007/2157, 2013/472.
(d) S.I. 2001/497 (S.2). Regulation 113(3)(b) has been amended by S.I. 2003/3075, 2007/2157, 2013/472.
(e) S.I. 2001/192. The definition of “relevant business” has been amended by S.I. 2003/3075, 2007/2157.
(f) S.I. 2003/93. Article 3(d) has been amended by S.I. 2014/49 (S.S.I.) and S.I. 2017/2157.

Proceeds of Crime Act 2002 (Failure to Disclose Money Laundering: Specified Training) Order 2003

18. In article 2 of the Proceeds of Crime Act 2002 (Failure to Disclose Money Laundering: Specified Training) Order 2003(a) (training specified), for “regulation 21 of the Money Laundering Regulations 2007” substitute “regulation 24 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Legislative and Regulatory Reform (Regulatory Functions) Order 2007

19.—(1) Part 1 of the Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007(b) is amended as follows.

(2) In the reference to “Her Majesty’s Revenue and Customs” for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(3) In the reference to a “professional body” for “Schedule 3 to the Money Laundering Regulations 2007” substitute “Schedule 1 to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Representation of the People (Northern Ireland) Regulations 2008

20. In regulation 112(3)(b)(i) of the Representation of the People (Northern Ireland) Regulations 2008(c) (sale of full register etc to credit reference agencies) for “the Money Laundering Regulations 2003”(d) substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Companies (Disclosure of Address) Regulations 2009

21. In paragraph 7(b) of Schedule 2 (disclosure to a credit reference agency) of the Companies (Disclosure of Address) Regulations 2009(e)—

- (a) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
- (b) for “Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing”(f) substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”(g).

Overseas Companies Regulations 2009

22. In paragraph 7(b) of Schedule 2 (disclosure to a credit reference agency) of the Overseas Companies Regulations 2009(h)—

- (a) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
- (b) for “Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of

(a) S.I. 2003/171. Article 2 was amended by S.I. 2007/2157.

(b) S.I. 2007/3544. The references to Her Majesty’s Revenue and Customs and a professional body have been amended by S.I. 2009/2981. There are other amendments to the Schedule which are not relevant to these Regulations.

(c) S.I. 2008/1741.

(d) S.I. 2003/3075. The Money Laundering Regulations 2003 were revoked in relation to England, Wales and Scotland by S.I. 2007/2157, and in relation to Northern Ireland by S.I. 2008/1741.

(e) S.I. 2009/214. Paragraph 7(b) has been amended by S.I. 2013/472.

(f) OJ No L 309, 25.11.05, p15.

(g) OJ No L 141, 05.06.15, p73.

(h) S.I. 2009/1801. Paragraph 7(b) was amended by S.I. 2013/472.

money laundering and terrorist financing” substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”.

Payment Services Regulations 2009

23.—(1) Payment Services Regulations 2009(a) is amended as follows.

(2) In regulation 2(1) (interpretation)(b), in the definition of “the money laundering directive” for “Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing” substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”.

(3) In regulation 6(7) (conditions for authorisation as a payment institution) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(4) In regulation 13 (conditions for registration as a small payment institution)—

(a) in subparagraph (a) of paragraph (4) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”,

(b) in paragraph (6) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(5) In regulation 25(4)(a) (supervision of firms exercising passport rights) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(6) In regulation 29 (use of agents)—

(a) in subparagraph (aa) of paragraph (3) for “the Money Laundering Regulations 2007”(c) substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”,

(b) in subparagraph (c)(i) of paragraph (6) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(7) In regulation 119(2) (duty to co-operate and exchange of information) for “regulation 49A of the Money Laundering Regulations 2007” substitute “regulation 102 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(8) In paragraph 6 of Schedule 2 (information to be included in or with an application for authorisation)—

(a) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”; and

(b) for “Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds”(d) substitute “Regulation 2015/847/EU of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds”(e).

(a) S.I. 2009/209.

(b) Regulation 2(1) has been amended, but those amendments are not relevant to these Regulations.

(c) S.I. 2007/2157.

(d) OJ No L 345, 8.12. 06, p1.

(e) OJ L 141, 05.06.2015, p.1.

(9) In paragraph 3(d)(ii) in Part 1 of Schedule 5(a) (application and modification of the Financial Services and Markets Act 2000) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(10) In paragraph 10(h) in Part 2 of Schedule 5(b) (application and modification of secondary legislation) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009

24. In paragraph 2(6) of Schedule 3 (transitional and saving provisions) to the Transfer of Tribunal functions and Revenue and Customs Appeals Order 2009(c), in the definition of “review and appeal provisions”—

- (a) in paragraph (i) for “regulations 43 and 44 of the Money Laundering Regulations 2007” substitute “regulations 91 to 97 of the “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
- (b) omit paragraph (j).

Defence and Security Public Contracts Regulations 2011

25. In regulation 23(1)(i) of Part 4 (criteria for the rejection of economic operators) to the Defence and Security Public Contracts Regulations 2011(d), at the end insert “or of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Electronic Money Regulations 2011

26.—(1) The Electronic Money Regulations 2011(e) is amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “money laundering directive” for “Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing”(f) substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”(g).

(3) In regulation 6(7) (conditions for authorisation) for “the Money Laundering Regulations 2007”(h) substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(4) In regulation 13 (conditions for registration) —

- (a) in subparagraph (a) of paragraph (8) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”, and
- (b) in paragraph (10) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(a) 2000 c. 8.

(b) Paragraph 10(h) has been amended by S.I. 2015/1911.

(c) S.I. 2009/56.

(d) S.I. 2011/1848.

(e) S.I. 2011/99.

(f) OJ No L 309, 25.11.05, p15.

(g) OJ No L 141, 05.06.15, p73.

(h) S.I. 2007/2157.

(5) In regulation 30(4)(a) (supervision of firms exercising passport rights) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(6) In regulation 34 (requirement for agents to be registered)—

- (a) in subparagraph (a)(ii)(aa) in paragraph (3) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”, and
- (b) in subparagraph (c)(i) in paragraph (6) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(7) In regulation 71 (duty to cooperate and exchange information) for “regulation 49A of the Money Laundering Regulations 2007” substitute “regulation 102 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

(8) In paragraph 6 of Schedule 1 (information to be included in or with an application for authorisation)—

- (a) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
- (b) for “Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds”(a) substitute “Regulation 2015/847/EU of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds”(b).

Terrorism Act 2000 and Proceeds of Crime Act 2002 (Business in the Regulated Sector) (No 2) Order 2012

27.—(1) Regulation 4 (review) of the Terrorism Act 2000 and Proceeds of Crime Act 2002 (Business in the Regulated Sector) (No 2) Order 2012(c) is amended as follows.

(2) In paragraph (2) for “Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing” substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”(d).

(3) In paragraph (4) for “the end of the period of five years beginning with the day on which this Order comes into force” substitute “26 June 2022”.

Payment to Treasury of Penalties (Enforcement Costs) Order 2013

28. In regulation 2(1)(d) (enforcement of powers) of the Payment to Treasury of Penalties (Enforcement Costs) Order 2013(e) for “regulation 42 of the Money Laundering Regulations 2007” substitute “regulation 75 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Public Interest Disclosure (Prescribed Persons) Order 2014

29. In the Schedule (description of persons and matters) to the Public Interest Disclosure (Prescribed Persons) Order 2014(f), in the entry relating to the National Crime Agency, for the words in the second column substitute—

(a) OJ No L 345, 8.12. 06, p1.

(b) OJ L 141, 05.06.2015, p.1.

(c) S.I. 2012/2299.

(d) OJ No L 141, 05.06.15, p73.

(e) S.I. 2013/418.

(f) S.I. 2014/2418. There are amendments to the Schedule, but they are not relevant to these Regulations.

“Matters relating to—

- (a) corrupt individuals or companies offering or receiving bribes to secure a benefit for themselves or others;
- (b) compliance with—
 - (i) the Terrorism Act 2000,
 - (ii) the Proceeds of Crime Act 2002, or
 - (iii) the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Companies (Disclosure of Date of Birth Information) Regulations 2015

30. In paragraph 7(b) of Part 2 of Schedule 2 (disclosure to a credit reference agency) of the Companies (Disclosure of Date of Birth Information) Regulations 2015(a)—

- (a) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
- (b) for “Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing”(b) substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”.

Payment Accounts Regulations 2015

31. In regulation 25(1)(b) of Part 4 (refusal of application) in the Payment Accounts Regulation 2015(c) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”.

Register of People with Significant Control Regulations 2016

32. In paragraph 8(b) of Schedule 4 (disclosure to a credit reference agency) of the Register of People with Significant Control Regulations 2016(d)—

- (a) in paragraph (i) for “the Money Laundering Regulations 2007” substitute “the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017”;
- (b) in paragraph (iii) for “Directive 2005/60/EC of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing” substitute “Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Money Laundering Regulations 2007 (S.I. 2007/2157) and the Transfer of Funds (Information on the Payer) Regulations 2007 (S.I. 2007/3298) with updated provisions that implement in part the Fourth Money Laundering Directive 2015/849/EU (“fourth money laundering directive”) of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing (OJ L 141, 05.06.2015, p.73) and the Funds Transfer Regulation 2015/847/EU (“funds

(a) S.I. 2015/1694.
(b) OJ No L 309, 25.11.05, p15.
(c) S.I. 2015/2038.
(d) S.I. 2016/339.

transfer regulation”) of the European Parliament and of the Council of 20 May 2015 on information accompanying transfer of funds (OJ L 141, 05.06.2015, p.1).

Part one (introduction) sets out the definitions and meanings that apply throughout these Regulations, and the supervisory authorities for those persons within the scope of these Regulations.

Part two (money laundering and terrorist financing) identifies the “relevant persons” to whom the money laundering provisions in these Regulations apply (regulations 8 to 15). Regulations 16 to 25 impose requirements for risk assessments to be carried out by the Treasury and the Home Office, the supervisory authorities and relevant persons to identify and assess the risks of money laundering and terrorist financing. They also require relevant persons to have policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified through the risk assessments. Regulation 26 prohibits any person from being the beneficial owner, officer or manager of certain firms unless that person has been approved by the firm’s supervisory authority.

Part three (customer due diligence) makes provision for customer due diligence measures. Regulations 27 to 32 identify what customer due diligence measures must be undertaken by relevant persons, and when those measures must be undertaken. Regulations 33 to 35 identify when enhanced customer due diligence measures must be applied by the relevant person in addition to the general customer due diligence measures required by regulations 27 to 32. Regulations 36 to 37 identify when simplified customer due diligence measures may be applied by the relevant person (regulation 36) and what customer due diligence measures are required in relation to electronic money (regulation 37). Simplified customer due diligence measures are customer due diligence measures that may be adjusted by the relevant person with sufficient monitoring in place to detect unusual or suspicious transactions.

Part four (reliance and record keeping) sets out the circumstances in which a relevant person may rely on another person to apply customer due diligence measures (regulation 38). It also makes provision as to which records relevant persons are required to keep, and when they are to be deleted (regulation 39), and clarifies the requirements as to data protection (regulation 40).

Part five (beneficial ownership information) applies to bodies corporate and to trustees. It requires corporate bodies to provide specified information to a relevant person when entering into a relevant transaction with a relevant person (regulation 42) and requires trustees to inform the relevant person of their status and to provide information to them, and to law enforcement authorities (regulation 43). The trustee is under additional requirements to hold certain information and provide information to the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) in certain circumstances. The Commissioners are under a requirement to hold the information that has been received from the trustee in a register (regulation 44).

Part six (money laundering and terrorist financing: supervision and registration) makes provision in relation to supervisory authorities and registration of relevant persons. Regulations 45 to 51 provide for duties on supervisory authorities in relation to their own sector (regulations 45, 46 and 47). The self-regulatory organisations listed in Schedule 1 to the Regulations are subject to additional duties (regulation 48). All supervisory authorities are subject to a duty to cooperate with other supervisory authorities, the Treasury and law enforcement authorities (regulation 49), and a duty to collect information (regulation 50). Provision is made for the circumstances in which a supervisory authority may disclose information it holds for supervisory purposes (regulation 51). Regulations 52 to 59 require the Financial Conduct Authority (“FCA”) and the Commissioners to maintain registers of certain relevant persons, and impose corresponding requirements on relevant persons to apply for registration. The FCA and the Commissioners have powers to suspend or cancel the registration of a relevant person in certain circumstances (regulation 59). If a relevant person in the relevant categories is not included in the register, that relevant person may not pursue their business (regulation 55).

Part seven (transfer of funds (information on the payer) regulations) sets out the supervisory authorities for a payment service provider and the duties of the supervisory authorities (regulations

60 to 63). There are only two supervisory authorities for service providers: the FCA and the Commissioners.

Part eight (information and investigation) gives supervisory authorities information gathering powers (regulations 64 to 67), gives the FCA and the Commissioners further investigatory powers (regulations 68 to 69) and makes provision for the way in which these powers may be exercised (regulations 70 to 72).

Part nine (enforcement) identifies “relevant requirements” for the purpose of these Regulations (regulation 73 and Schedule 6 to the Regulations) and gives the FCA and the Commissioners powers to impose civil penalties on any person who has contravened a relevant requirement (regulations 74 to 82). Regulations 83 to 89 provide for criminal offences where a relevant person has contravened a relevant requirement (regulation 83); prejudiced an investigation (regulation 84) or disclosed false or misleading information to the supervisory authorities (regulation 85), and make provision in relation to criminal proceedings (regulations 86 to 89).

Part ten (appeals) provides for an appeal from a decision by the FCA under these Regulations (regulation 90), and for reviews and appeals in relation to decisions of the Commissioners (regulations 91 to 97).

Part eleven (miscellaneous provisions) among other things ensures that charges or penalties imposed by the FCA or the Commissioners may be recovered as a debt in civil proceedings (regulation 98), ensures that the FCA and Commissioners are able to recover the costs of their supervision or enforcement action (regulation 99) and imposes obligations on various public authorities to disclose any suspicions they may have or money laundering or terrorist financing (regulation 100).

A Transposition Note setting out how the fourth money laundering directive and the funds transfer will be transposed in UK law is available from the Financial Services Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ.

An impact statement has been prepared. Copies of the Transposition Note and the impact assessment have been placed in the library of each House of Parliament and are available on HM Treasury’s website (www.gov.uk/government/organisations/hm-treasury).