



Home Office

# Guidance for banks and building societies on carrying out immigration status checks on current account applicants.

October 2017

## Matching data

**Purpose of note:** This note is intended to assist banks and building societies to comply with statutory requirements under s40, s40A, s40B or s40G of the Immigration Act 2014. Banks and building societies are prohibited from opening a current account or continuing to operate an existing account for an individual who is disqualified by reason of their immigration status from accessing banking services. To ascertain whether applicants are disqualified, banks and building societies are required to check their customer data provided by applicants against details of known illegal migrants supplied by the Home Office, via a specified anti-fraud organisation (Cifas).

**Who is a disqualified person:** A person is disqualified from opening or operating a current account if they are a foreign national who requires permission to be in the UK but does not have it and if the Home Office does not consider that the person should be permitted to open or operate a current account.

**Applications that should be checked:** To meet their duties under s40 of the Immigration Act 2014, all applications for new current accounts from individuals should be checked. This includes opening a current account in relation to which the applicant is a signatory or is identified as a beneficiary, and it includes adding the applicant as an account holder or a signatory or identified beneficiary in relation to an existing current account. Applications should also be checked from micro-enterprises, i.e. businesses with fewer than ten employees and a turnover of less than £2 million, and from charities with an annual income of less than £1 million.

To meet their duties under s40A of the Immigration Act 2014, all current accounts which are not excluded from the measures should be checked. This includes accounts where account holders are a signatory or are identified as a beneficiary. Accounts are excluded from the requirement to check if they are operated by or for an individual who is acting, with respect to the account, for the purposes of a trade, business or profession.

**How banks and building societies should make the checks:** The Home Office provides details of known illegal migrants who are disqualified from opening or operating a current account to Cifas. Banks and building societies are required to check details of those who hold current accounts or who have applied for new current accounts against the Home Office data, which will enable them to confirm whether or not an individual is permitted to open or operate a current account. Banks and building societies should also check details of their existing customers who hold current accounts, which will enable them to report matches to the Home Office and take action as directed

**Data that should be checked:** A person is considered to have been matched under the provisions of the Immigration Act 2014 if the individual's name; their address; and their date of birth match with Home Office data on known illegal migrants.

As far as applications for new current accounts are concerned, if all of these result in a match then the firm must refuse to open a current account for that individual. If some, but not all of these result in a match, the bank or building society is not obliged to refuse the application. In this scenario the bank or building society can make further enquiries of the applicant and they could still refuse the application based on their commercial risk tolerance and policies.

As far as existing current accounts are concerned, if all of these result in a match then the bank or building society must notify the Home Office. The Home Office will then conduct a secondary immigration status check to confirm the match. The match notification by the bank or building society should include details of all accounts held by the individual concerned, not just current accounts. If the Home Office confirms the individual is disqualified from operating an account, it may instruct the bank or building society to close the accounts, or it may apply to a court for a freezing order. If the Home Office instructs the bank or building society to close an account, the bank or building society must do so as soon as reasonably practicable. They may delay closure for a reasonable period of time to manage debt and the interests of third parties. The bank or building society can also comply with its duties under the legislation if it takes steps to prevent the account from being operated by the disqualified person.

If the court makes a freezing order in respect of any account, the bank or building society must prohibit any person or body by or for whom the account is operated from making withdrawals or payments from the account, until such time as the freezing order is discharged. A freezing order may make provision for the disqualified person to meet his or her reasonable living or legal expenses, or it may allow another person or body by or for whom the account is operated to make withdrawals or payments from the account.

What to do if an application for a new account is declined: If an application for a new account is declined, the Immigration Act provides that an individual must be informed of the reason, provided this does not conflict with the obligations under other legislation (such as the Proceeds of Crime Act 2002). Whether informing the applicant will conflict with other obligations needs to be decided on a case by case basis. In the vast majority of cases, the applicant will be aware that they are subject to immigration enforcement action by the Home Office.

How an application should be declined or closed: The Home Office has prepared leaflets which can be given to individuals whose applications have been refused or whose accounts have been closed, explaining the reasons why action is being taken. Separate leaflets have been prepared for each eventuality. The bank or building society may choose to use these leaflets as separate documents, or they may incorporate the wording within their own refusal letters. Customers are informed that they should take the matter up with the Home Office if they believe a mistake has been made and they are entitled to open or operate a current account.

For new accounts - if there is documentary evidence that contradicts the data held by Cifas and the bank or building society believes there has been an error: If a customer has documentary evidence (such as a passport or a Biometric Residence Permit) that appears to contradict the Home Office data and shows that the customer is lawfully present in the UK – then the bank or building society may contact the Home Office to confirm if the data held by Cifas is correct. This course of action should only be taken in exceptional circumstances when there is a definite reason to believe an error has occurred. There is no requirement to make this check and the default position should be to refuse the application.

How the bank or building society should contact the Home Office: When an application for a new account has matched against name, date of birth and address on the information held by Cifas, but the bank or building society has documentary evidence that indicates the applicant has the right to be in the UK, the bank or building society should contact the Home Office. They can do this by telephone or by secure email. Contact with the Home Office will only be through named staff nominated by the bank or building society for that purpose. Banks and building societies should consult their internal procedures should they need to contact the checking service.

Banks and building societies who are not members of a trade association: If a bank or building society does not belong to an association and needs to contact the Home Office in order to ensure it is able to comply with the s40, s40A, s40B or s40G of the Immigration Act 2014 it should contact the following email address [ISDBankingMeasures@homeoffice.gsi.gov.uk](mailto:ISDBankingMeasures@homeoffice.gsi.gov.uk).

