

## HM Treasury Advisory Notice: High Risk Third Countries

### Requirement to apply Enhanced Due Diligence for higher risk jurisdictions

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (MLRs 2019) require the UK regulated sector to apply enhanced customer due diligence in relation to high-risk countries.

*MLRs 2019 Regulation 33 (1) (b)* requires regulated businesses (“relevant persons”) to apply enhanced customer due diligence measures and enhanced ongoing monitoring in any business relationship with a person established in a high-risk third country or in relation to any relevant transaction where either of the parties to the transaction is established in a high-risk third country.

The Money Laundering and Terrorist Financing (Amendment) (High-Risk Countries) Regulations 2021 removes references to the European Commission’s list of high-risk third countries and defines high risk third countries for the purposes of the MLRs as those countries identified in a new Schedule 3ZA to the MLRs. This list replicates those countries listed by the Financial Action Task Force as high risk, or under increased monitoring.

For these purposes, *Regulation 33 (3)* explains that:

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

*MLRs 2019 Regulation (33) (6) (c)* requires that relevant persons take into account “geographical risk factors” when assessing risk and the extent of measures which should be taken to manage and mitigate that risk. These risk factors are stated as including whether a country is identified by a credible source, including reports published by the Financial Action Task Force (FATF), as not implementing requirements to counter money laundering and terrorist financing that are consistent with FATF recommendations.