HM Treasury

Improving the effectiveness of the Money Laundering Regulations

Consultation response

July 2025

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Foreword

An effective anti-money laundering and counter-terrorist financing (AML/CTF) regime is essential to prevent economic crime, maintain the integrity of our financial system, and ensure the UK remains a great place to invest. Regulations cannot be truly effective unless they are as clear and targeted as possible. This principle is at the heart of the risk-based approach encouraged by the Financial Action Task Force, the global standard-setter on AML/CTF, of which the UK is a leading member.

I want to register my thanks to everyone who responded to the consultation on Improving the effectiveness of the Money Laundering Regulations (MLRs). Your responses have proved invaluable in ensuring the MLRs play their role in the detection and prevention of financial crime as a central part of the UK's AML/CTF regime. This means supporting the UK's global leadership role in tackling illicit finance, including the Government's commitments to steward efforts against corruption and kleptocracy through our forthcoming anti-corruption strategy.

Given those commitments, it's essential that the UK continues to set high standards, particularly ahead of the Financial Action Task Force's upcoming assessment of the UK's AML/CTF regime. The changes we are taking forward will strengthen our regime by closing loopholes in the existing regulations, addressing new and emerging threats, and clarifying requirements so that they are more targeted and effective.

We are confident that these changes represent a balanced approach to mitigating illicit finance risks and supporting businesses to invest and grow. We remain committed to listening to our stakeholders — from the private sector to law enforcement agencies to civil society — and will continue to keep key aspects of the MLRs under review in future to ensure they remain reflective of current economic crime risks.

Emma Reynolds MP

Economic Secretary to the Treasury and City Minister

Introduction

Between March – June 2024, HM Treasury consulted on proposals to improve the effectiveness of the Money Laundering Regulations (MLRs), which place requirements onto a range of businesses to identify and prevent money laundering and terrorist financing[1].

The consultation followed the 2022 Review of the UK's anti-money laundering and counter-terrorist financing regulatory and supervisory regime. This review found that, while the core requirements of the regulations were mostly fit for purpose, there were a number of changes that could be made to increase effectiveness for both regulated firms[2] and customers.

The 2024 consultation covered four main themes:

- Making customer due diligence more proportionate and effective
- Strengthening system coordination on economic crime
- Providing clarity on scope of the MLRs
- Reforming registration requirements for the Trust Registration Service.

In total, 224 responses to the consultation were received. These came from a wide range of groups including businesses and customers from across all regulated sectors, as well as law enforcement agencies, supervisors, and civil society. HM Treasury also collected feedback via a series of virtual public roundtables held during the consultation period.

Alongside the consultation, HM Treasury ran a survey on the cost of compliance with the MLRs for regulated businesses. We

[1] We use Money Laundering Regulations throughout as a shorthand for the full title of the Regulations which is: The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

[2] We use the term 'firm' throughout as a shorthand to refer to businesses and individuals who carry out regulated activity under the Money Laundering Regulations. We recognise that not all regulated entities are firms – some are individual practitioners (e.g. barristers) or sole traders.

received a total of 136 responses to the survey from a range of sectors. The survey will help us to understand better how regulated businesses comply with the regulations in practice and to assess the impact of future changes to the MLRs.

Summary of Government response and next steps

HM Treasury has reviewed the responses to the consultation and this document sets out the Government's response.

The areas where we intend to make changes to the MLRs are:

- Enhanced due diligence on complex transactions
- Enhanced due diligence on high-risk third countries
- Due diligence on pooled client accounts
- Due diligence triggers for certain non-financial firms
- Onboarding of customers in bank insolvency scenarios
- Information sharing between supervisors and other public bodies
- Supervisor cooperation with Companies House
- Currency thresholds currently in euros
- Regulation of sale of 'off-the-shelf' companies by Trust and Company Service Providers
- Registration and change in control for cryptoasset service providers
- Registration requirements for the Trust Registration Service

For other issues in the consultation, we have set out why we consider it more appropriate to pursue non-legislative means, such as improvements to sectoral guidance, to address the problem.

We have aimed to sign post in this response how we will be amending the MLRs. We intend to publish the draft Statutory Instrument in the coming months for technical feedback, before laying in Parliament later this year if parliamentary time allows.

Chapter 1: Making customer due diligence more proportionate and effective

Introduction

1.1 Customer due diligence (CDD) plays a pivotal role in the UK's anti-money laundering and counter-terrorist financing (AML/CTF) framework. When businesses thoroughly understand their customers, they can establish a standard for normal behaviour and use this as a benchmark to detect suspicious activity. In this sense CDD, when executed effectively, provides essential intelligence for law enforcement through Suspicious Activity Reports (SARs) and acts as a deterrent which discourages criminals from using regulated firms to launder illicit funds.

1.2 However, responses to the consultation indicated that many stakeholders perceive certain due diligence requirements as ambiguous or lacking clear purpose, with some respondents reporting that the current requirements were not as effective as they could be in identifying money laundering or terrorist financing.

1.3 The MLRs are intended to encourage a risk-based approach, requiring firms to identify and evaluate the potential money laundering and terrorist financing risks to which their business is subject, and the varying levels of risk posed by their customers, and apply due diligence accordingly. It is therefore crucial that the regulations are both clear and proportionate.

1.4 The consultation asked whether this was the case in practice and tested a variety of potential changes covering standard customer due diligence, enhanced due diligence, and simplified due diligence.

Customer due diligence

1.5 Regulated firms are required by the MLRs to conduct basic customer due diligence (CDD) in specific circumstances, such as when establishing a new business relationship or engaging in a high-value transaction. CDD involves the firm verifying the identity of its customer, including taking reasonable measures to verify the identity of any beneficial owners, evaluating the purpose and intended nature of a business relationship or transaction, and monitoring transactions with customers throughout the course of the business relationship. The consultation focused on three areas where there was a potential lack of clarity with respect to CDD: the trigger points for CDD for non-financial firms, the requirements in cases where a third party is acting on behalf of a customer, and source of funds checks as part of ongoing monitoring.

Due diligence triggers for non-financial firms

1.6 In the consultation, we asked whether the Regulations set out clearly enough the so-called 'trigger points' at which regulated firms must undertake customer due diligence. The question was aimed in particular at non-financial firms such as art market participants, who due to the nature of their business may struggle to apply the concept of 'establishing a business relationship' which forms a key trigger point for customer due diligence.

Summary of responses

1.7 An overall majority of respondents stated that the trigger points were sufficiently clear and that no amendments to the Regulations were needed. Respondents who disagreed focused mainly on the 'business relationship' concept, although some noted that financial thresholds would be easier to apply if set out in sterling rather than euros (see Chapter 3). Many respondents requested clearer guidance on what establishing a business relationship would mean for specific sectors.

1.8 The business relationship trigger appears to be particularly confusing for sectors which are only subject to the MLRs in respect of high-value transactions. These sectors are art market participants, high value dealers and letting agents, all of which are subject to the MLRs only for transactions over 10,000 euros. Given that there are already separate, transaction-based CDD triggers set out in Regulation 27 for firms in each of these sectors, some respondents questioned in what circumstances the business relationship trigger would apply which were not already covered by the transaction-based trigger.

Government response

1.9 Given that a majority of respondents were content with how the due diligence triggers are currently set out, our view is that fundamental changes are not needed. However, there was a desire for clarity across a range of sectors about when a business relationship with a customer is established for the purposes of applying CDD. This includes which relationships can be said to "arise out of the business of the relevant person" and which can be expected to have "an element of duration" – both concepts which form part of the definition of a business relationship set out in Regulation 4. It is likely that differing interpretations of these concepts are resulting in inconsistent application of CDD both within and across different sectors, potentially leading to unnecessary burdens on businesses and customers.

1.10 We consider that in practice, what constitutes the establishment of a business relationship will vary depending on the sector and type of transaction involved. The right place for this detail is the sector-specific AML guidance rather than the Regulations. **HM Treasury will therefore ask the supervisors and industry bodies which produce these pieces of guidance to review the guidance in relation to the establishment of a business relationship, and to consider whether additional detail or case studies would help firms to apply the Regulations in a consistent and proportionate way.**

1.11 However, we consider that there is merit in making a minor change to the MLRs to clarify the situation in respect of art market participants and letting agents. **HM Treasury will align the transaction-based CDD triggers for these sectors in Regulation 27 (for example the requirement for art market participants to apply CDD to any relevant transaction whose value amounts to 10,000 euros or more) with the equivalent provision for high value dealers.** This will clarify that CDD should be done for in-scope transactions forming part of the establishment of a new business relationship or as an occasional transaction. While not substantively changing the CDD requirements for these sectors, this will avoid any potential for misapplication of the CDD triggers by firms in these sectors caused by overlap between the business relationship trigger and the transaction-based triggers.

Source of funds checks as part of ongoing monitoring

1.12 The MLRs require that as part of ongoing monitoring of business relationships, regulated businesses should review transactions, including, "where necessary", the source of a customer's funds, to ensure the transactions are consistent with their understanding of the customer, their business, and overall risk profile. This is separate to source of funds checks undertaken as part of enhanced due diligence.

1.13 We asked in the consultation whether additional guidance or detail was needed to help firms understand when to carry out source of funds checks on their customers as part of these CDD requirements.

Summary of responses

1.14 The consultation responses revealed an overall lack of consensus on the need for additional guidance, with an almost 50/50 split between respondents who deemed it necessary versus those who thought the current approach was sufficient. However, feedback from many stakeholders was that there *should* be more guidance to clarify the phrase 'where necessary', which was deemed to be ambiguous.

1.15 Some respondents requested sector-specific examples of when and how source of funds checks should be carried out; this was particularly strong from the legal and property sectors. Estate agents highlighted the complex nature of property transactions, given the multiple parties involved. The legal sector highlighted a lack of clarity regarding what source of funds checks might materially constitute in the case of legal transactions and lawyer-client relationships.

Government response

1.16 **We will retain the current wording of the MLRs in respect of source of funds checks to preserve flexibility, but work with supervisors and relevant industry bodies to improve sector-specific guidance.** This should clarify that the effect of regulation 28(11)(a) is that source of funds checks are necessary when a transaction appears to be *inconsistent* with the firm's knowledge of the customer, the customer's business and risk profile. We will also explore the potential for guidance to provide illustrative examples that clarify the phrase 'where necessary'. Any such examples should be clearly marked as non-prescriptive, ensuring they support a risk-based approach without imposing rigid requirements on when to do source of funds checks.

1.17 Some respondents specifically called for tools beyond existing forms of guidance which help to educate regulated firms on when source of funds checks are necessary; we will explore the feasibility of dedicated educational tools with supervisors.

Verifying whether someone is acting on behalf of a customer

1.18 We asked in the consultation whether CDD requirements were sufficiently clear in respect of individuals purporting to act on behalf of a customer.

Summary of responses

1.19 Responses were evenly split, with 51% satisfied that the provision was clear and 49% unsatisfied. Of those who raised concerns, by far the most frequently raised issue – particularly by financial sector respondents – was that HM Treasury should clarify whether employees, when acting for the companies which employ them, counted as 'acting on behalf of' and should therefore be subject to customer due diligence.

Government response

1.20 HM Treasury considers that the 'acting on behalf of' provision was intended to apply to entities acting on behalf of individuals (for example when the individual has granted power of attorney to another individual or organisation) or to third parties acting on behalf of an organisation (for example when an agent or intermediary acts for a company). Employees or staff of an organisation acting on its own behalf (for example a member of staff transacting using a company credit card) should be considered to be acting *as* the organisation, and are not subject to the obligations in Regulation 28(10).

1.21 Regulated businesses may wish to apply some anti-fraud controls to employees transacting for their employer organisations as part of their policies, controls and procedures, but this should be done on a risk-based approach. We agree with respondents who noted that subjecting all employees seeking to transact for their employers to full CDD, including for instance verification of the employee's home address, would likely be disproportionate to the ML/TF risks.

1.22 The sectoral guidance on this issue is currently inconsistent. For instance, AML/CTF guidance for the legal sector is clear that "in the absence of factors that give rise to a concern, an employee of a company would not be considered to be 'purporting to instruct'". Guidance for other sectors is silent on the issue. **HM Treasury will therefore ask supervisors and other guidance authors to review the guidance to ensure regulated firms are clear on their obligations so as to address the risk of over-compliance with**

the Regulations. Providing the guidance is made clear and consistent, we do not consider that legislative amendments are necessary.

Digital identity verification

1.23 The government is committed to making it easier to comply with identity verification requirements in the MLRs, including by encouraging the uptake of digital identity technologies. While some firms already use digital identity technologies and services as part of their processes, the consultation recognised the need to clarify how digital identities can be used to meet MLRs requirements and set out that we believe guidance is the best route to achieve this.

1.24 The consultation therefore asked what information respondents would like to see included in published guidance; to what extent respondents currently accept digital identity in identity checks, and whether guidance would provide more confidence to accept these; and whether the government should go further than issuing guidance.

Summary of responses

1.25 The consultation responses showed that there was strong support, across all sectors which responded, for government guidance on the use of digital identity in meeting MLRs requirements. Most respondents believed it would encourage take-up of digital identities, minimise the potential risk of digital identities being abused, and help firms use digital identity technologies more effectively.

1.26 Most respondents called specifically for guidance that built firms' understanding of the parameters for using digital identities for MLRs identity verification checks. In particular, many respondents asked for clarity on how a digital identity was defined for MLRs checks, and clarity on how verification processes should work.

1.27 Respondents indicated that there is currently limited use of digital identities across sectors, due to firms' cultural habits, and concerns about the legitimacy of digital identity providers.

1.28 In response to the question about whether the government should go further than issuing guidance, most respondents stated that they wanted some form of government accreditation of digital identity providers, and/or a minimum set of digital identity standards. Some respondents also called for closer interactions between private and public digital identity platforms.

Government response

1.29 In response to the consultation, **HM Treasury and the Department for Science, Innovation and Technology (DSIT) will jointly produce guidance on using digital identities for MLRs identity verification checks.** In line with feedback from the consultation, this guidance will provide clarity on the definition of a digital identity, and give further detail on how digital identities can be used in line with the MLRs' risk-based approach.

1.30 The guidance will also seek to clarify how MLRs requirements interact with the government's work to establish a framework of standards and governance for trustworthy and secure digital identities services, underpinned by the Data (Use and Access) Act 2025. The Act places digital identity standards – the UK digital identity and attributes trust framework – on a statutory footing, and establishes a register of digital identity services certified against these standards. The certification process is recognised by the United Kingdom Accreditation Service, and means that certified digital identity services are subject to regular audits. This meets respondents' asks from the MLRs consultation to set up government accreditation and standards for digital identity technologies.

Onboarding of customers in bank insolvency scenarios

1.31 We asked in the consultation whether we should amend the MLRs to provide for a carve-out from the customer ID verification requirement for bank insolvency scenarios and whether any other scenarios should be included in such a carve-out.

1.32 This followed work led by the Bank of England on Improving Depositor Outcomes in Bank Insolvency[3]. This project identified the risk that the requirement in the MLRs for banks to verify the identity of new customers, before carrying out transactions with them, could lead to a customer onboarding backlog following a bank insolvency. This could happen if the volume of customers

[3] https://www.bankofengland.co.uk/statement/2021/improving-depositor-outcomes-in-bank-or-building-society-insolvency

needing to find a new bank overwhelmed the capacity of the market to absorb them quickly.

Summary of responses

1.33 As expected given the issue, substantive responses came mostly from banking and finance businesses. Respondents were evenly split on the case for a carve-out, with 48% of responses in favour of a legislative carve-out while 52% felt the problem could be addressed via non-legislative means.

1.34 While there were a range of suggestions for other scenarios to include in a carve-out, no one proposal attracted a significant level of support.

Government response

1.35 HM Treasury considers that while bank insolvencies in the UK are very rare, the potential for such an onboarding backlog to result in knock-on impacts in the wider economy is sufficiently serious to justify a carve-out. A legislative solution will provide crucial certainty for all parties in this scenario, as noted by a range of respondents.

1.36 **HM Treasury will therefore amend the MLRs to provide for relevant carve-outs from customer due diligence requirements to assist the customers of an insolvent bank to access new accounts rapidly and transact from them.** This will only be available for banks which are onboarding new customers from a bank which has entered the Bank Insolvency Procedure set out in the Banking Act 2009, in the immediate aftermath of an insolvency. Banks taking advantage of the carve-out will be required to complete customer ID verification as soon as practicable, and to notify the Financial Conduct Authority (FCA) that they are making use of the carve-out. The FCA will supervise uptake of this provision to ensure it is interpreted and used appropriately to prevent abuse.

1.37 HM Treasury considers that the consultation did not identify other scenarios which justified a carve-out.

Enhanced due diligence

1.38 The application of enhanced due diligence (EDD), which involves additional procedures and checks on a customer that go beyond CDD, is in general limited under the MLRs to customers or transactions which a firm considers to be high-risk. This "risk-based approach" should be informed by the firm's business-wide risk assessment, which is in turn informed by the risk assessments of the firm's supervisor and more widely by the UK government's National Risk Assessment of Money Laundering and Terrorist Financing (NRA).

1.39 There are, however, certain instances where EDD is specifically mandated by the MLRs, such as when a customer or transaction is linked to a 'high risk third country' (HRTC).

1.40 We asked in the consultation whether these requirements were clear and proportionate, and whether they truly represented the situations where there was highest risk of ML or TF.

Prescribed risk factors for enhanced due diligence

1.41 The Regulations include a list of factors to be considered when deciding whether to carry out enhanced due diligence. HM Treasury consulted on the merits of retaining certain specific risk factors as well as the overall list. The specific risk factors, at regulation 33(6)(a)(vii), 33(6)(a)(viii) and 33(6)(b)(vii), relate to third country nationals taking part in citizenship by investment schemes; beneficiaries of life insurance policies; and transactions related to sectors that carry an intrinsically higher ML risk such as oil, arms, and tobacco products. More general questions asked whether there were any risk factors that should be removed or added to the list.

Summary of responses

1.42 On the specific risk factors, most respondents to whom the question was relevant had not typically used these factors to identify suspicious activity (66%). Despite this, most consultation respondents (54%) also thought they should be retained in the Regulations as they helpfully signalled areas of potential high risk.

1.43 On the overall list, there was no consensus on risk factors that needed to be either removed or added. Responses to these questions did show that there may not be adequate clarity in guidance on which factors necessitate mandatory EDD, and which factors should be considerations in a firm's overall risk assessment of whether to carry out EDD.

Government response

1.44 We have decided to maintain the list of risk factors for enhanced due diligence as it stands, but **HM Treasury will work with supervisors and industry bodies to ensure clarity in guidance**

around where these can act as a guide and where there is a mandatory requirement to carry out EDD.

1.45 The rationale behind this approach is that there was no clear consensus on risk factors that needed to be added or removed. Civil society and law enforcement respondents were clear that the existing risk factors continued to generate valuable intelligence on illicit financial flows via enhanced due diligence. Where there were repeated references to risk factors potentially being too prescriptive, these either:

- Came systematically from one sector and related to the inclusion of high-risk factors relating specifically to that sector; or,
- Related to high-risk third countries (HRTCs), which is dealt with separately (see para 1.52) and where we intend to enable regulated firms to apply a more effective risk-based approach.

'Complex or unusually large' transactions

1.46 We asked in the consultation whether the requirement for regulated firms to apply enhanced due diligence to all transactions which are "complex or unusually large" was disproportionate to the ML/TF risks and was resulting in EDD being undertaken in low-risk scenarios. We also asked whether additional guidance would be helpful and whether we should clarify in the Regulations that only 'unusually complex' transactions need to be subject to EDD, rather than all complex transactions.

<u>Summary of responses</u>

1.47 A minority of respondents (41%) agreed that the current requirements resulted in overly risk-averse behaviour. A range of examples were given of where the lack of a definition of 'complex' transactions was resulting in the over-application of EDD. This included sectors where most transactions could be considered as complex, such as corporate property sales, tax transactions and mergers and acquisitions.

1.48 71% of respondents felt that additional guidance would support understanding around the types of transactions that this provision applies to and how the risk-based approach should be used when carrying out EDD. A majority of respondents (54%) supported amending the MLRs to only require EDD on unusually complex transactions.

Government response

1.49 **HM Treasury will amend the MLRs to clarify that EDD is required on "unusually complex" transactions, instead of all complex transactions.** The requirement for EDD on unusually large transactions will remain unchanged, since responses indicated this remains proportionate and useful in identifying suspicious activity. Firms must still consider wider geographic, product and customer risk factors when carrying out customer and transaction risk assessments.

1.50 While consultation responses suggested that most firms are already interpreting 'complex' to mean 'unusually complex', there was some evidence of inconsistency and over-compliance. Given the importance of ensuring EDD is applied in a targeted and proportionate way, we consider that amending the Regulations is the best way to provide clarity on this requirement for both firms and supervisors. This will ensure that a consistent approach is taken across all regulated sectors, and that firms can prioritise applying EDD where the ML/TF risks are highest. HM Treasury considers that this is in line with the UK's risk-based approach to AML/CTF regulation and with the international standard setter on AML and CTF, the Financial Action Task Force's (FATF) Recommendations.

High Risk Third Countries

1.51 The MLRs currently require regulated businesses to carry out EDD on any customer established in, or in relation to any relevant transaction where either of the parties to the transaction is established in, a 'High Risk Third Country' (HRTC). The MLRs definition of an HRTC refers to two lists: the FATF's 'Increased Monitoring' List (IML) of countries whose AML/CTF regimes have been found to be deficient after FATF assessment; and the list of countries subject to a 'Call for Action', i.e., those with the most serious strategic deficiencies. The IML currently contains 24 countries[4] while the list of countries subject to a call for action contains three (DPRK, Myanmar and Iran). The consultation asked

[4] Algeria, Angola, Bolivia, Bulgaria, Burkina Faso, British Virgin Islands (BVI), Cameroon, Côte d'Ivoire, Democratic Republic of Congo, Haiti, Kenya, Lao People's Democratic Republic, Lebanon, Monaco, Mozambique, Namibia, Nepal, Nigeria, South Africa, South Sudan, Syria, Venezuela, Vietnam, Yemen

whether this approach to requiring EDD was effective and reflective of true geographic risk.

Summary of responses

1.52 Many respondents expressed concern that the mandatory EDD requirements for customers and transactions linked to countries listed by the FATF often did not reflect illicit finance risk to the UK specifically. About a quarter of respondents agreed that being linked to a jurisdiction listed by the FATF did not automatically make a customer high risk, and advocated for a more targeted approach based on knowledge of the specific customers or businesses and focused on the countries presenting the biggest illicit finance risks to the UK.

Government response

1.53 **We will amend the MLRs in respect of HRTCs, mandating EDD only where the relevant transactions or customer relationships involve a person established in a Call for Action country, not an Increased Monitoring List country. Broader requirements around assessing geographic risk will remain, including provisions which state that regulated firms must consider both FATF lists when carrying out customer risk assessments.** This represents a more risk-based approach which enables firms to focus on the ML/TF threats faced specifically by the UK.

1.54 Regulated entities will continue to be required to apply EDD based on geographic risk factors, as per Regulation 33(6)(c). This regulation lists several sources which firms must take into account when assessing geographic risk, including both FATF lists and other FATF assessments. For specific guidance, businesses can consult the UK government's National Risk Assessment of Money Laundering and Terrorist Financing (NRA) which lists countries which present particular risks to the UK, as well as guidance provided by their supervisor, and relevant law enforcement alerts.

1.55 The IML exists to alert international stakeholders to the potential risks associated with listed countries. It does not however provide a detailed assessment of the risks each of the listed countries poses to every other country in the world. Some countries listed by the FATF are recognised as presenting regional more than international risks, perhaps due to the lack of a specialised and internationally facing financial sector or due to strict currency controls.

1.56 For this reason, the FATF standards require that each country considers how to mitigate the potential risks involved with customers and transactions associated with any listed country, rather than mandating a specific response in relation to every listed jurisdiction. The FATF standards only require EDD to be mandatory for countries on the Call for Action list, which will continue to be the case following this change.

1.57 Permitting more flexibility here will allow regulated firms to focus their resources on 'high-value compliance activity' which helps to identify suspicious activity and prevent ML/TF. This will include the economic crime priorities to be agreed as part of the System Prioritisation model being developed by the National Economic Crime Centre. Under this model, which is in a pilot phase, compliance activity no longer required as a result of mandatory EDD triggers should be redeployed on a cost-neutral basis against priority threats.

1.58 In order to ensure that regulated firms continue to apply a robust, risk-based approach to high-risk jurisdictions, we will invite supervisors to review their guidance and supervisory approach on this issue, including to ensure that firms take account of countries presenting the biggest risk to the UK as set out in the NRA.

Simplified due diligence

1.59 The MLRs allow regulated firms to adjust CDD measures and perform simplified due diligence (SDD) in low-risk cases. This involves less extensive checks without removing core CDD requirements, which can help make certain services more commercially viable. The consultation asked whether the list of low risk factors that might trigger SDD should be expanded and what role SDD plays in influencing the provision of pooled client accounts by financial institutions.

Pooled client accounts

1.60 The consultation sought views on whether changes to the Simplified Due Diligence (SDD) rules in the MLRs would help businesses that have struggled to access pooled client accounts (PCAs) - a type of bank account used by brokers, agents and other businesses such as solicitors to hold client funds on behalf of a number of different clients. Previous efforts have been made to improve access to PCAs, including revisions to Joint Money Laundering Steering Group (JMLSG) guidance to provide reassurance that the MLRs do not prohibit firms from applying

SDD to low-risk customers who are not themselves AML/CTF-supervised. However, feedback from stakeholders suggested that these steps had not had the desired effect.

1.61 The consultation asked if it would be beneficial to add new text to the MLRs to set out further low risk factors that banks could use to consider whether SDD could be applied when offering PCAs. The consultation also asked if the MLRs should clarify that SDD can be carried out when providing PCAs to non-AML/CTF regulated customers. Views were sought on what mitigations firms should consider when offering PCAs.

Summary of responses

1.62 Although many responses supported the proposed SDD changes, feedback from the financial sector suggested that such changes would be unlikely to significantly improve the provision of PCAs. Responses from representatives of the financial sector suggested that there is appetite from banks to offer this type of account, but the current link between PCAs and SDD means that they are only able to do so in very narrow circumstances.

Government response

1.63 In response to the feedback received, and to help increase the provision of PCAs to customers who need a safe and cost-effective way to hold multiple clients' funds, we propose to remove the link between PCAs and SDD in the MLRs. **New requirements for PCAs will instead be included in the MLRs.**

1.64 The new provisions will allow financial institutions to offer PCAs under a wider set of circumstances than currently permitted under the SDD rules. In order to maintain a risk-based approach, the new provisions will build in protections by requiring financial institutions to take additional measures to establish the purpose of the PCA and assess the level of ML/TF risk associated with the PCA. Financial institutions will not be required to conduct CDD on the persons on whose behalf monies are held in the PCA, but information on the identity of these underlying customers will be required to be available on request.

1.65 The intention of this change is to allow financial institutions to take a risk-based approach when offering PCAs. Feedback we have received suggests that this change is likely to encourage financial institutions to offer these accounts in more circumstances, which should help customers facing barriers in accessing or maintaining such a client account, while still requiring appropriate safeguards to prevent abuse. This supports the government's Growth Mission by removing regulation seen to be disproportionate to the level of economic crime risk.

Chapter 2: Strengthening system coordination

Introduction

2.1 The consultation explored ways to strengthen information sharing and system coordination, including how money laundering/ terrorist financing risk is assessed and communicated across the UK's AML/CTF regime. This took into account changes in threat type and technology as well as the legislative landscape such as the changes to strengthen Companies House set out in the Economic Crime and Corporate Transparency Act 2023.

Information sharing between supervisors and other public bodies

2.2 We asked in the consultation whether any further changes to the information sharing gateways in the MLRs were necessary in order to support system coordination. In particular, we asked whether any additional public bodies should be included in the gateway in Regulation 52, which facilitates information sharing with AML/CTF supervisors. We asked specifically whether to include the Financial Regulators Complaints Commissioner (FRCC) in Regulation 52 in order to allow it to receive information from the FCA in relation to an investigation into a complaint about FCA supervision under the MLRs.

<u>Summary of responses</u>

2.3 Many responses to these questions highlighted the overall value and importance of information sharing to underpin an effective response to economic crime. However, some responses displayed confusion around how legislative gateways operate. This included the scope of references to 'the Secretary of State'; whether the gateways could extend to non-public sector bodies; and whether it was necessary for Memorandums of Understanding to be in place before gateways were utilised.

2.4 There was no strong consensus around any specific changes to the MLRs to support information sharing, although a range of additional bodies were suggested for inclusion in Regulation 52 including Local Authorities, other Government departments and regulatory bodies such as the Land Registry and the Competition and Markets Authority, and non-public bodies such as the fraud prevention service Cifas.

2.5 There was strong support for widening the information sharing gateway to include the FRCC, with 74% of respondents in favour.

Government response

2.6 Having considered suggestions from respondents for additional bodies to include in the information sharing gateway at Regulation 52, HM Treasury considers that the current list of bodies in scope (which includes AML/CTF supervisors, law enforcement bodies, HM Treasury, overseas authorities, Companies House and the Insolvency Service) is broadly appropriate. Other suggestions were either covered by existing information sharing gateways in other legislation; out of scope of Regulation 52 due to not being a public body; or unlikely to be appropriate for inclusion due to the nature of their role.

2.7 HM Treasury has shared with the Home Office a summary of wider reflections from respondents on how the use of legislative gateways could be improved. This will help to inform the public-private Economic Crime Data Strategy which the Home Office and UK Finance are taking forward as part of the Economic Crime Plan 2023-26[5], which will include measures to encourage information sharing across the broader economic crime system.

2.8 **We will add the Financial Regulators Complaints Commissioner to the list of relevant authorities in Regulation 52 in order to support investigations into complaints about the exercise of the FCA's supervisory functions as defined in the MLRs.**

2.9 Following engagement with the FCA, **HM Treasury will also make two minor changes to Regulations 52A and 52B, which cover the disclosure by the FCA of confidential information relating to MLRs supervision, in order to improve the operation of these provisions**. These changes will expand the scope of confidential information which the FCA is empowered to share in the course of delivering its functions under the MLRs to include information about MLRs supervision of cryptoasset firms. They will also amend the defence to the offence of breaching confidentiality restrictions to align further with the defence for breaching the confidentiality

[5] https://www.gov.uk/government/publications/economic-crime-plan-2023-to-2026

restriction at s.348 of the Financial Services and Markets Act (FSMA).

Cooperation with Companies House

2.10 Regulation 50 of the MLRs specifies that a supervisory authority must take steps to co-operate with other supervisory authorities, HM Treasury and law enforcement authorities. We asked in the consultation if Regulation 50 should be amended to include the Registrar for Companies House (CH) and the Secretary of State responsible for CH (currently the Secretary of State for Business and Trade).

Summary of responses

2.11 There was a near consensus supporting the proposed amendment with it being seen as an important step towards driving a more effective, coordinated response to ML/TF. The change was seen as likely to improve the consistency of supervisory activity and support CH with its transformation programme.

2.12 Some respondents noted that the change could lead to more burdens on business for example where enhanced cooperation could lead to more stringent reporting requirements for companies in relation to CH records. However, almost all believed these burdens were outweighed by the benefits. 55% of respondents thought the amendment would lead to more work for supervisors, particularly for smaller PBSs but that this was likely a positive change.

Government response

2.13 **We propose to amend regulation 50 of the MLRs to include the Registrar for Companies House and the Secretary of State responsible for Companies House.** This step will likely lead to more effective cooperation between supervisors and CH at a time when its role is becoming more important in reducing ML/TF and other types of economic crime. HM Treasury is working closely with DBT to ensure CH and supervisors establish a clear set of roles and responsibilities in relation to one another.

Regard for the National Risk Assessment

2.14 We asked in the consultation whether further clarity was required regarding the sources, methodologies, and approaches needed for regulated firms to carry out adequate assessments of money laundering and terrorist financing risk. We also asked whether regulated firms should be explicitly required to use the UK NRA as the primary source of information for their own risk assessments.

Summary of responses

2.15 Most respondents (66%) thought that the MLRs were sufficiently clear on how MLRs-regulated firms should complete and apply risk assessments and the sources of information these should be drawn from. Those that did not think there was sufficient clarity pointed to the need for sector-specific guidance, risk assessment templates, or concrete examples of risk assessment best practice.

2.16 Most respondents did not think the MLRs should explicitly require firms to have regard for the NRA, indicating that regulated firms already used the NRA in developing their risk assessments.

Government response

2.17 Given that most respondents indicated that the MLRs provided sufficient clarity on risk assessments and cautioned against legislating for an explicit regard for the NRA, we will not amend the MLRs to specifically mandate a regard for the NRA. **HM Treasury will instead work with relevant stakeholders, particularly supervisors, to ensure that guidance is sufficiently clear on how to carry out risk assessments, encouraging the production of sector-specific guidance and case studies where possible.**

2.18 The NRA 2025 is scheduled to be published shortly and will provide an updated system-wide risk assessment that firms can use as a key source for their own risk assessments.

System Prioritisation and the NRA

2.19 We asked in the consultation for views on the respective roles of the NRA and the Economic Crime Plan 2 action to set economic crime priorities, in influencing the allocation of regulated firms' resources.

Summary of responses

2.20 The majority of respondents agreed that the NRA and system priorities each have an important role to play, including the value of having a more regular update in between each NRA. However, respondents noted the importance of communicating how they interact with one another to avoid confusion and further burdens on firms. In particular, many respondents expressed a preference for further guidance from government and supervisors on how to incorporate NRA findings and system priorities into their AML/CTF programmes.

2.21 There were mixed views on how firms should respond to risks not considered to be system priorities. Some expressed caution over how the creation of a single set of priorities aligns with each firm's risk-based approach and the different types and levels of risk different firms/sectors are most exposed to. These respondents stressed that the process for creating the priorities should not unintentionally downplay significant sectoral risks if attention is diverted to a few pressing priorities. Other respondents stressed that for the system priorities to be effective, the government should also communicate non-priority areas where less should be done.

Government response

2.22 No respondents recommended that a change to the MLRs was necessary to clarify the respective roles of the NRA and system prioritisation. **The government will publish further details on how the system priorities and NRA interact when each new set of priorities is published.**

Chapter 3: Providing clarity on scope and registration issues

Introduction

3.1 The consultation considered how the references in the Regulations which are currently listed in euros could be changed to pound sterling following the UK's exit from the EU; potential gaps in the regulation of Trust and Company Service Providers (TCSPs); and how best to align registration and change in ownership requirements for cryptoasset service providers between the Financial Services and Markets Act 2000 and the MLRs.

Currency thresholds

3.2 The consultation sought views on whether currency references in the MLRs should be changed from euros (EUR) to pound sterling (GBP). We also asked whether, in the event of such a change, the conversion should be done on a 'one-to-one' basis – such that EUR 15,000 would become GBP 15,000, for example – or whether an exchange rate conversion should be applied, such that EUR 15,000 would become approximately GBP 12,500, according to current exchange rates.

Summary of responses

3.3 Almost all respondents (81%) felt that there was no reason why references to EUR should be retained in the MLRs. It was commonly stated that the use of EUR causes confusion and administrative burden for firms that transact solely in GBP.

3.4 Most respondents (52%) preferred the one-to-one conversion option, on the basis that it would be simpler to understand with less oversight. Of those who preferred the exchange rate conversion option (26%), some cited the specific risk that a one-to-one conversion of the threshold in Regulation 27(2) (which requires customer due diligence to be applied to occasional transactions of EUR 15,000 or more except for the listed relevant persons) may undermine compliance with specific financial thresholds set out in the Financial Action Task Force's (FATF) Recommendations.

Government response

3.5 **References to EUR in the MLRs will be changed to GBP, given the administrative burden that maintaining references to EUR imposes on some firms.**

3.6 For administrative simplicity, references to EUR will be converted to GBP using a one-to-one conversion e.g. EUR 1,000 will become GBP 1,000 (except in specific instances where a one-to-one conversion would create potential non-alignment with FATF-recommended thresholds).

Regulation of sale of off-the-shelf companies by TCSPs

3.7 A Trust or Company Service Provider (TCSP) is a business or individual that provides various services related to the formation, management, and administration of companies and trusts. TCSPs must comply with AML and CTF regulations, which include conducting customer due diligence, maintaining records, and reporting suspicious activities. TCSPs must be registered with HM Revenue and Customs (HMRC) and pass a "fit and proper" test.

3.8 The MLRs define what is a TCSP in terms of the provision of certain listed services to other persons. Those services do not currently include the sale of 'off-the-shelf' companies. An off-the-shelf company is a company set up and registered by a TSCP, or an existing company purchased by the TCSP, for later onward sale.

3.9 The consultation sought views on including the sale of off-the-shelf-companies within the scope of regulated trust or company service provider (TCSP) activity. This would ensure TCSPs are required to apply the regulations as appropriate when carrying out the sale of an off-the-shelf company including to apply customer due diligence measures.

3.10 A ML/TF risk in relation to the TCSP sector has been the issue of the onward sale of a company after initial formation where a TCSP may form a company for future sale, not for a specific customer at the time of formation. No CDD is necessary or possible. At a future date, the company is sold to a customer, but no CDD is required as this onward sale of a company is not an activity currently covered by the Regulations.

Summary of responses

3.11 A large majority of respondents (95%) supported amending the MLRs to include the sale of off-the-shelf companies. Some respondents noted that for some TCSPs there may be increased costs if they were not already undertaking CDD in the sale, although almost all respondents felt that these were outweighed by the benefits.

3.12 Respondents also indicated that bad actors should not be able to escape the same level of scrutiny with a resale than would otherwise happen with a new formation. Additionally, it was noted that this gap in the TCSP regime undermines the effectiveness of the MLRs and this was a risk that could be exploited.

Government response

3.13 **We will amend the MLRs to include the sale of off-the-shelf companies within the scope of regulated TCSP activity.** This will address a longstanding gap in the current AML/CTF regime, ensuring that CDD is carried out across the full range of TCSP services. Preventing the misuse of TCSPs will support the government's efforts to preserve the integrity of the UK economy.

3.14 The measure is not expected to significantly increase administrative burdens on TCSPs. This is because use of off-the-shelf companies by TCSPs has decreased in recent years as it has become easier and cheaper for customers to incorporate a company themselves, meaning it no longer forms a major part of TCSP activity.

Registration and change in control for cryptoasset service providers

3.15 In 2022 the MLRs were amended to include change in control provisions. These provisions require certain persons to notify the FCA that they intend to acquire control over an MLRs-registered crypto firm. The FCA is then required to carry out a fit and proper assessment and can then either approve the acquisition, approve with conditions or object.

3.16 In the consultation we asked whether we should remove the requirement for cryptoasset firms to register under both the MLRs and to be authorised under FSMA. This was in light of plans to introduce a new financial services regulatory regime for cryptoassets in the UK, following proposals published by HM Treasury in 2023. We also asked whether fit and proper checks for those cryptoasset firms that are registered under the MLRs-only should be revised to align more closely with the requirements for cryptoasset firms authorised and supervised under FSMA, and the scope for any potential unintended consequences of closer alignment.

Summary of responses

3.17 There was a near consensus among respondents in favour of updates to the MLRs to align them with FSMA regulations in this space. Respondents' reasons for supporting this change included minimising disruption and ensuring consistency across the regulatory system. Very few firms were concerned the changes would be overly burdensome and disproportionately affect non-financial firms.

3.18 Respondents were supportive of a structured and smooth sequencing in regard to implementing changes to the FSMA and MLR regimes for cryptoassets. This would support firms with the transition into a new and expanded regulatory regime. Some firms noted the need for better FCA resourcing to conduct fit and proper tests.

3.19 Similarly, almost all respondents supported aligning MLR registration and FSMA authorisation processes for crypto asset providers. Supporters cited that this would reduce duplication and provide clarity for firms.

Government response

3.20 In relation to dual registration requirements, HM Treasury will address this issue via upcoming legislative reforms through the future financial services regulatory regime for cryptoassets (regulated activities) which will be to extend FSMA to parts of the cryptoasset market, requiring these cryptoasset firms to be subject to fit and proper checks prior to FCA authorisation under FSMA[6]. The upcoming regulatory regime will make changes to ensure firms authorised for the new cryptoasset activities will not be required to additionally register as "cryptoasset exchange providers" or "custodian wallet providers" under the MLRs, these

[6] https://www.gov.uk/government/publications/regulatory-regime-for-cryptoassets-regulated-activities-draft-si-and-policy-note

firms will only need to seek authorisation under FSMA with the FCA.

3.21 We will also amend the registration and change in control thresholds to align with FSMA thresholds. This will mean that there is appropriate consistency across the cryptoasset sector and ensure owners of cryptoasset firms involving complex ownership structures are not missed from the fit and proper checks, which could allow bad actors access to the UK markets.

Chapter 4: Reforming registration requirements for the Trust Registration Service

Introduction

4.1 The consultation considered changes to the operation and scope of the Trust Registration Service (TRS), proposing a more targeted approach to trust registration requirements, focusing on the higher risk trusts and seeking simplification and consistency for lower risk trusts. Specifically, the consultation proposed amending the Money Laundering Regulations (MLRs) to expand the scope of the TRS to:

- Require registration of non-UK express trusts with no UK trustees, that acquired UK land prior to 6 October 2020, and to bring all non-UK express trusts with no UK trustees that own UK land and property within the data sharing requirements. This is a significant step to close a loophole.

- Align the registration deadlines for trusts required to register following a death and clarify that Scottish survivorship destination trusts are not required to register.

- Introduce a de minimis level for trust registration.

Registration of non-UK express trusts that hold UK land

4.2 The Government recognises there is a reporting gap in the TRS because non-UK express trusts with no UK trustees which hold an interest in UK land and property that was acquired *before* 6 October 2020 are not currently required to register with the TRS. Furthermore, non-UK trusts with no UK trustees fall outside the data sharing requirements. Given the risk associated with this reporting gap, the consultation sought views on whether requiring registration of non-UK trusts that acquired UK land before 6 October 2020, and extending the TRS data sharing provisions to include these trusts, would lead to any unintended consequences.

Summary of responses

4.3 The majority (75%) of respondents to this question agreed with the proposal to extend registration to non-UK express trusts with no UK trustees that acquired UK land and property before 6 October 2020, and to make the information held on these trusts accessible to third parties through the data sharing process. Some respondents noted that this extension should apply to all trusts holding UK land and property, regardless of the residency of the trustees.

4.4 A minority (25%) of respondents to the question thought there may be unintended consequences of the proposed amendment. There were some concerns raised around the burden on firms which have clients that are exempt under the current regime, and the bureaucracy /cost of registration. Respondents posed the question whether the aim of the proposed amendment was to capture the whole market or whether an arbitrary "cut off" or "baseline" would be set. Respondents believed there could be some complications around the age of some trusts which could date back to 100 years or more. Some respondents therefore suggested that non-UK express trusts that acquired an interest in UK land and property prior to 6 October 2020 should only be registrable if they still retain that interest at the date the amendment to the MLRs come into force.

4.5 Respondents also emphasised the requirement for a 'legitimate interest test' to be applied to requests for accessing trust data for all non-UK express trusts. This would mean third parties would need to meet certain criteria prior to accessing information on these types of trusts.

Government response

4.6 **The Government will expand the scope of registration on the TRS to include all non-UK trusts that hold an interest in UK land and property acquired before 6 October 2020.** This requirement will only apply to trusts that retain an interest in UK property at the date the amendment to the MLRs come into force.

4.7 The Government will bring all non-UK express trusts holding UK land within the TRS data sharing rules and thus make them available to public on request, subject to a legitimate interest test being satisfied. The TRS data sharing process allows requesting parties, such as investigative journalists or transparency organisations, to access information held on TRS where they can demonstrate a 'legitimate interest' in the information requested for the purposes of investigating suspected cases of money laundering or terrorist financing.

Trusts required to register following a death

4.8 As a simplification, trusts that are created ('effected') by the will of a deceased person, are exempt from TRS registration for a period of two years. However, there are other types of trusts including co-ownership property trusts which are currently required to register on the TRS within 90 days of a person's death, and trusts created by deed of variation which must register on the TRS within 90 days of being created.

4.9 The consultation proposed aligning administrative deadlines for trusts arising from death. This alignment would be achieved by excluding from registration trusts of jointly held property and trusts created by deed of variation during the estate administration process, for a period of two years following the date of death.

Summary of responses

4.10 A majority (86% of respondents on this issue) supported the proposal to align the administrative deadlines for trusts arising from death because it would make it easier to administer these trusts. Respondents emphasised that this proposal would reduce the burden on trustees during a difficult time.

4.11 Some respondents requested that trusts created by virtue of Section 34 of the Trustee Act 1925 (which provides that land held by more than four persons is to be held in trust) be included within the two-year exemption period. Such trusts are not ordinarily registrable as they are trusts created by statute, however on the death of a trustee they may become registrable.

4.12 Respondents believed the proposals to be a reasonable approach. A few respondents suggested a longer period of three or four years to ensure the exclusion works effectively.

Government response

4.13 **The Government will amend Schedule 3A (the list of exemptions) of the MLRs to include an exemption from registration, for two years following the death of the settlor, for the following:**

- **co-ownership property trusts and trusts created under s34 Trustee Act 1925 that have become registerable as a result of the death of a trustee, and**
- **trusts created by deed of variation during the administration of a deceased persons' estate.**

4.14 Streamlining the deadlines of trusts associated with the estate of a deceased person will reduce the administrative burden on trustees. The Government has considered and is satisfied that the exclusion period of two years is sufficient to achieve the goal for a common registration deadline for trusts that become registrable following a death.

Scottish survivorship destination trusts

4.15 In Scotland, property owned jointly can include a clause, known as a survivorship destination, that directs that the property is held equally by the owners and the survivor. This clause can be revoked by creation of a trust that sets out the new beneficiary of the property. Currently, these trusts would be registrable on TRS.

4.16 As these trusts appear to present a low risk of facilitating money laundering and terrorist financing, the consultation asked if excluding Scottish survivorship destination trusts from registration would cause any unintended consequences.

Summary of responses

4.17 Respondents generally agreed that the nature of these trusts poses a low risk for money laundering and terrorist financing and saw no unintended consequences by excluding Scottish survivorship destination trusts from registration requirements. Respondents agreed this is an appropriate approach to align the position in Scotland with that in England and Wales, where the equivalent situation would not result in a registrable trust.

4.18 Respondents also asked for clear guidance to ensure the trusts are not misused or misinterpreted.

Government response

4.19 **The Government will amend Schedule 3A (the list of exemptions) of the MLRs to exclude Scottish survivorship destination trusts from registration on TRS.**

De minimis exemption for registration

4.20 The MLRs exempt certain express trusts from the TRS registration requirements. These exempt trusts are considered to be a low risk of facilitating money laundering or terrorist financing.

4.21 Ongoing dialogue with trusts and financial services professionals indicates that smaller trusts are disproportionately impacted by the regulatory burden of registration. The Government therefore consulted on introducing a de minimis exemption for trusts with no UK tax liabilities and asked whether creating a de minimis level for registration would cause any unintended consequences. The Government proposed a threshold on which it would be determined if a trust could be excluded from registration. The exemption as proposed in the consultation would have applied to trusts that:

- are not liable for relevant UK taxes,
- do not own or have an interest in UK land or property,
- do not hold more than £5,000 in assets, and
- do not distribute more than £2,000 in assets and expenses in any 12-month period

4.22 The Government sought views on this proposed de minimis criteria and on what controls could be put in place to prevent the de minimis exemption being manipulated to avoid the requirement to register.

<u>Summary of responses</u>

4.23 A majority (73% of respondents to this question) supported the proposal to introduce a de minimis level to exempt low value non-taxable trusts. A minority (27%) expressed the view that there could be unintended consequences and thus did not support the proposal.

4.24 The majority of respondents asserted the proposal would reduce the administrative and financial burden on small family trusts, for example, which pose a low risk for money laundering and terrorist financing. Furthermore, it would usefully capture small trusts that do not fall within the current exemptions where the registration requirement is inconsistent with the asset base and income of that trust.

4.25 Notably, a significant number of respondents said that the de minimis level was too low and a level between £10,000-25,000 would be more realistic. They pointed out that if a trust was closed and then the final disbursement exceeded the cap then this would trigger registration: others suggested the exemption should apply where a trust meets any one of the four requirements rather than all. Respondents also expressed concern about difficulties with "policing" or ongoing monitoring of the de minimis criteria, particularly ongoing expenditure.

4.26 This proposal also drew a co-ordinated (78 responses) campaign from community sports clubs and representative organisations. They asked for a specific exemption for sports clubs because they are largely community-based organisations run by amateurs. It is their view that the administration would be burdensome for lay trustees and the registration requirements would deter people from volunteering.

Government response

4.27 The Government will introduce a de minimis exemption for certain trusts currently required to register on TRS.

4.28 The Government will simplify the criteria in determining whether a trust qualifies for a de minimis exemption so that it is understood, easily verified and monitored. Having considered respondents' support for a higher threshold, and representations regarding the burden on small trusts such as community sports clubs, the Government will introduce into Schedule 3A (the list of exemptions) of the MLRs a de minimis based higher thresholds than those proposed in the consultation. The exemption will apply to trusts that:

- are not liable for relevant UK taxes,
- do not own or have an interest, (whole or in part), in UK land or property,
- do not exceed £10,000 in the value of accumulated assets held,
- do not have more than £5,000 in income per annum, and
- do not have more than £2,000 of "appreciable" non-financial assets (art, jewellery, antiques etc).

4.29 The de minimis exemption will not be retrospective and will only apply to new trusts created on or after the date that the exemption comes into force. Once a trust exceeds any of the thresholds, the trust would become registrable and remain registrable.

4.30 The Government believes the de minimis model set out at paragraph 4.28, above achieves the aim of reducing the administrative burden for small, low risk trusts and HMRC. This could include, for example, local sports clubs as outlined in 4.26.

4.31 The Government believes the changes to the TRS will increase trust transparency and strengthen its risk-based approach to the registration of trusts, meeting the objectives of the MLRs. The MLRs will set out the date from which these changes will come into effect.

Chapter 5: Proposed further MLRs revisions

Alignment of the MLRs with FSMA Exemption Order

5.1 Alongside the changes set out in previous chapters, we also intend to use this set of amendments to the MLRs as a vehicle to align the MLRs with the Financial Services and Markets Act 2000 (Exemption) Order 2001 in respect of overseas sovereign wealth funds operated by a central bank or public body. This will rectify an inconsistency between the MLRs and FSMA and enable certain such entities who meet specific criteria to have proportionate regulatory treatment when exempted from FSMA.

5.2 This change will mean Parts 1 to 4, 6 and 8 to 11 of the MLRs will not apply to overseas sovereign wealth funds operated by a central bank or public body listed in the Schedule to the FSMA Exemption Order when carrying out any activity in respect of which they are exempt under that order.

Definition of insurance undertaking

5.3 The financial institutions in scope of the MLRs include certain insurance businesses. These are defined in Regulation 10(2)(b) as being FSMA-authorised firms which have permission to carry out or effect insurance contracts, known as ‘insurance undertakings’, when carrying out or effecting long-term insurance contracts.

5.4 HM Treasury intends to amend the MLRs to clarify that the definition of ‘insurance undertaking’ does not include reinsurance contracts which reinsure the primary long-term insurance contract. While this was clear in the Regulations prior to 2019, the Money Laundering and Transfer of Funds (Information)(Amendment) (EU Exit) Regulations 2019 (S.I. 2019/253) has created uncertainty in this respect by removing references to EU legislation.

5.5 HM Treasury is satisfied that such reinsurance contracts present a low risk of money laundering and terrorist financing (ML/TF) in the UK and should not be subject to the MLRs. This is in line with the recommendations of the Financial Action Task Force, which do not identify reinsurance contracts as posing an ML/TF risk. The customers in such a reinsurance contract are insurance businesses who themselves will be subject to the MLRs and under FCA supervision.

Counterparty due diligence for cryptoasset firms

5.6 International standards set out by the FATF require cryptoasset businesses to conduct counterparty due diligence (CPDD) when making transactions. As part of the intended package of amendments to the MLRs, we also plan to make changes to ensure that the UK remains in alignment with those requirements with the focus on FATF recommendation 13 (Correspondent Banking) read with recommendation 15 (New technologies). These changes will align certain requirements for cryptoasset businesses in the MLRs with existing requirements for credit and financial institutions.

Registration of trusts liable for Stamp Duty Reserve Tax

5.7 The Government has also considered whether, in light of the expanded registration requirements for the Trust Registration Service which came into force on 6 October 2020, it is necessary or proportionate to maintain the separate, pre-existing tax liability registration triggers.

5.8 Some respondents to the questions listed in Chapter 4 raised concerns about liabilities to Stamp Duty Reserve Tax (SDRT), which is the tax payable on purchases of shares in the UK. The majority of SDRT-bearing transactions are reported to HMRC through the automated CREST system which operates separately to TRS.

5.9 Liability for SDRT currently triggers registration on the TRS without any de-minimis limit applying. This means that many otherwise-exempt trusts (such as non-UK trusts with no other links to the UK) could become registrable solely on the basis of liability to pay SDRT, even if the amount of shares purchased is relatively small. Respondents noted that this creates an administrative burden which, for non-UK trusts, could disincentivise UK investment.

5.10 Having considered the balance of risks versus the impacts of SDRT liability, the Government will remove SDRT from list of “relevant taxes” for which a liability would result in a trust becoming registrable. This change means that a liability to SDRT would not itself trigger registration for a trust that is otherwise exempt or outside the scope of TRS.

5.11 Liabilities to all other 'relevant taxes' listed at regulation 45(14) will remain triggers for registration, as liabilities to these taxes necessarily entail more significant links to the UK (for example, Stamp Duty Land Tax or Inheritance Tax liabilities, which may be due where a trust holds significant UK assets), or the need to register with HMRC to submit self-assessment tax returns.

Annex A: Glossary

2022 Review – HM Treasury's 2022 review of the UK's AML/CTF regime

AML/CTF - Anti-Money Laundering and Counter Terrorism Financing

CDD – Customer Due Diligence

Crypto firms - Cryptoasset exchange providers and custodian wallet providers

DPDI Bill – Data Protection and Digital Information Bill

ECCTA/ECCT Act - Economic Crime and Corporate Transparency Act

ECP2 – Economic Crime Plan 2

EDD – Enhanced Due Diligence

EU – European Union

FATF – Financial Action Task Force

FATF Standards: The FATF Recommendations (a comprehensive framework of measures to help countries tackle illicit financial flows) and their Interpretive Notes

FCA – Financial Conduct Authority

FSMA – Financial Services and Markets Act 2000

GPG45 – Good practice guide 45 (for verifying identity)

HMRC – His Majesty's Revenue and Customs

HRTCs – High Risk Third Countries

IDV – Identity verification

JMLSG – Joint Money Laundering Steering Group

ML – Money Laundering

MLRs – The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692)

NCA – National Crime Agency

NRA – National Risk Assessment of Money Laundering and Terrorist Financing

OPBAS – Office for Professional Body Anti-Money Laundering Supervision

PBS – Professional Body Supervisor

PCA – Pooled Client Account

PEP – Politically Exposed Person

PF – Proliferation Financing (of Weapons of Mass Destruction)

Regulated Firm – used in this document to refer to any entity carrying out activities regulated under the MLRs. This can include individuals, such as barristers.

ROE: Register of Overseas Entities

SDD – Simplified Due Diligence

Supervisors – bodies responsible for supervising firms who are subject to the MLRs, including the Gambling Commission, HMRC, the FCA and the Professional Body Supervisors

TCSP – Trust or and Company Service Provider

TF – Terrorism Financing

TRS – Trust Registration Service

HM Treasury contacts

This document can be downloaded from www.gov.uk

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

Email: public.enquiries@hmtreasury.gov.uk