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STATUTORY INSTRUMENTS

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**1993 No. 1933**

**The Money Laundering Regulations 1993**

*General*

**Citation and commencement**

- 1.—(1) These Regulations may be cited as the Money Laundering Regulations 1993.
- (2) These Regulations shall come into force on 1st April 1994.

**Interpretation**

- 2.—(1) In these Regulations—

“applicant for business” means a person seeking to form a business relationship, or carry out a one-off transaction, with a person who is carrying out relevant financial business in the United Kingdom;

“business relationship” has the meaning given by regulation 3 below;

“Case 1”, “Case 2”, “Case 3” and “Case 4” have the meanings given in regulation 7 below;

“constable” includes a person commissioned by the Commissioners of Customs and Excise;

“European institution” has the same meaning as in Banking Coordination (Second Council Directive) Regulations 1992(1);

“insurance business” means long term business within the meaning of the Insurance Companies Act 1982(2);

“the Money Laundering Directive” means the Council Directive on prevention of the use of the financial system for the purpose of money laundering (No.91/308/EEC)(3);

“one-off transaction” means any transaction other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant financial business;

“relevant financial business” has the meaning given by regulation 4 below; and

“supervisory authority” has the meaning given by regulation 15 below.

(2) In these Regulations “ecu” means the european currency unit as defined in article 1 of Council Regulation No. 3180/78/EEC(4); and the exchange rates as between the ecu and the currencies of the member States to be applied for each year beginning on 31st December shall be the rates applicable on the last day of the preceding October for which rates for the currencies of all the member States were published in the Official Journal of the Communities.

(3) In these Regulations, except in so far as the context otherwise requires, “money laundering” means doing any act which constitutes an offence under—

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(1) S.I.1992/3218.

(2) 1982 c. 50.

(3) OJ No. L166, 28.6.91, p.77.

(4) OJ No. L379, 30.12.78, p.1; the relevant amending instrument is Council Regulation (EEC) No. 1971/89, OJ No. L189, 4.7.89 p.1.

- (a) section 23A or 24 of the Drug Trafficking Offences Act 1986<sup>(5)</sup> (which relate to the handling etc of proceeds of drug trafficking);
- (b) section 42A or 43 of the Criminal Justice (Scotland) Act 1987<sup>(6)</sup> (which relate to the handling etc of proceeds of drug trafficking);
- (c) section 93A, 93B or 93C of the Criminal Justice Act 1988<sup>(7)</sup> (which relate to the handling etc of proceeds of certain other criminal conduct);
- (d) section 11 of the Prevention of Terrorism (Temporary Provisions) Act 1989<sup>(8)</sup> (which relates to financial assistance for terrorism);
- (e) section 14 of the Criminal Justice (International Co-operation) Act 1990<sup>(9)</sup> (concealing or transferring proceeds of drug trafficking);
- (f) Article 29 or 30 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990<sup>(10)</sup> (which relate to the handling etc of proceeds of drug trafficking);
- (g) section 53 or 54 of the Northern Ireland (Emergency Provisions) Act 1991<sup>(11)</sup> (which relate to the handling etc of proceeds of terrorist-related activities); or
- (h) any provision, whenever made, which has effect in Northern Ireland and corresponds to any of the provisions mentioned in sub-paragraph (a) or (c) above;

or, in the case of an act done otherwise than in England and Wales, Scotland or, as the case may be, Northern Ireland would constitute such an offence if done in England and Wales, Scotland or Northern Ireland.

(4) The reference in paragraph (3) above to doing any act which would constitute an offence under the provisions mentioned in sub-paragraph (c) of that paragraph shall, for the purposes of these Regulations, be construed as a reference to doing any act which would constitute an offence under those provisions if, for the definition of “criminal conduct” in section 93A(7) of the Criminal Justice Act 1988, there were substituted—

“(7) In this Part of this Act “criminal conduct” means—

- (a) conduct which constitutes an offence to which this Part of this Act applies; or
- (b) conduct which—
  - (i) would constitute such an offence if it had occurred in England and Wales or (as the case may be) Scotland; and
  - (ii) contravenes the law of the country in which it occurred.”.

(5) For the purposes of these Regulations, any provision having effect in Northern Ireland which corresponds to the provisions referred to in paragraph (3)(c) above shall be construed as if it had been amended by a provision which corresponds to paragraph (4) above, with appropriate modifications.

(6) For the purposes of this regulation, a business relationship formed by any person acting in the course of relevant financial business is an established business relationship where that person has obtained, under procedures maintained by him in accordance with regulation 7 below, satisfactory evidence of the identity of the person who, in relation to the formation of that business relationship, was the applicant for business.

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(5) 1986 c. 32; section 23A was inserted by section 16 of the Criminal Justice Act 1993 (c. 36); section 24 was amended by section 103(1) of, and paragraphs 1 and 13 of Schedule 5 to, the Criminal Justice Act 1988 (c. 33).

(6) 1987 c. 41; section 42A was inserted by section 17 of the Criminal Justice Act 1993 (c. 36).

(7) 1988 c. 33; sections 93A, 93B and 93C were inserted by section 29 of the Criminal Justice Act 1993 (c. 36); section 93E of the 1988 Act (which was inserted by section 33 of the 1993 Act) makes provision as to the application in Scotland of sections 93A to 93C.

(8) 1989 c. 4.

(9) 1990 c. 5.

(10) S.I. 1990/2588 (N.I. 17).

(11) 1991 c. 24; sections 53 and 54 were amended by section 47 of the Criminal Justice Act 1993 (c. 36).

### **Business relationships**

3.—(1) Any reference in this regulation to an arrangement between two or more persons is a reference to an arrangement in which at least one person is acting in the course of a business.

(2) For the purposes of these Regulations, “business relationship” means any arrangement between two or more persons where—

- (a) the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent, habitual or regular basis; and
- (b) the total amount of any payment or payments to be made by any person to any other in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made.

### **Relevant financial business**

4.—(1) For the purposes of these Regulations, “relevant financial business” means, subject to paragraph (2) below, the business of engaging in one or more of the following—

- (a) deposit-taking business carried on by a person who is for the time being authorised under the Banking Act 1987(12);
- (b) acceptance by a building society of deposits made by any person (including the raising of money from members of the society by the issue of shares);
- (c) business of the National Savings Bank;
- (d) business carried on by a credit union within the meaning of the Credit Unions Act 1979(13) or the Credit Unions (Northern Ireland) Order 1985(14);
- (e) any home regulated activity carried on by a European institution in respect of which the requirements of paragraph 1 of Schedule 2 to the Banking Coordination (Second Council Directive) Regulations 1992(15) have been complied with;
- (f) investment business within the meaning of the Financial Services Act 1986(16);
- (g) any activity carried on for the purpose of raising money authorised to be raised under the National Loans Act 1968(17) under the auspices of the Director of National Savings;
- (h) any of the activities in points 1 to 12, or 14, of the Annex to the Second Banking Coordination Directive (the text of which is, for convenience of reference, set out in the Schedule to these Regulations), other than an activity falling within sub-paragraphs (a) to (g) above;
- (i) insurance business carried on by a person who has received official authorisation pursuant to Article 6 or 27 of the First Life Directive.

(2) A business is not relevant financial business in so far as it consists of—

- (a) any of the following activities carried on by a society registered under the Industrial and Provident Societies Act 1965(18)—
  - (i) the issue of withdrawable share capital within the limit set by section 6 of that Act(19); or

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(12) 1987 c. 22.

(13) 1979 c. 34.

(14) S.I. 1985/1205 (N.I. 12).

(15) S.I. 1992/3218.

(16) 1986 c. 60.

(17) 1968 c. 13.

(18) 1965 c. 12.

(19) Section 6 has been amended by the Industrial and Provident Societies (Increase in Shareholding Limit) Order 1981 (S.I. 1981/395) and by section 4 of, and paragraph 8 of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71).

- (ii) the acceptance of deposits from the public within the limit set by section 7(3) of that Act(20);
  - (b) the issue of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act (Northern Ireland) 1969(21) by a society registered under that Act;
  - (c) activities carried on by the Bank of England;
  - (d) in relation to any person who is an exempted person for the purposes of section 45 of the Financial Services Act 1986(22) (miscellaneous exemptions for holders of certain judicial and other offices), such of the activities as are specified in that section in relation to that person; or
  - (e) in relation to any person who is an exempted person for the purposes of any order made under section 46 of the Financial Services Act 1986(23) which was made before the date on which these Regulations come into force, any activities carried on by him or, as the case may be, such of the activities as are specified in such an order in relation to him.
- (3) For the purposes of paragraph (1)(f) above, any reference in these Regulations to the carrying on of relevant financial business in the United Kingdom shall be construed in accordance with section 1(3) of the Financial Services Act 1986.
- (4) In this regulation—
- “building society” has the same meaning as in the Building Societies Act 1986;
  - “deposit-taking business” has the same meaning as in the Banking Act 1987;
  - “the First Life Directive” means the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (No. 79/267/EEC)(24); and
  - “the Second Banking Coordination Directive” means the Second Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (No. 89/646/EEC)(25).

### *Systems and training to prevent money laundering*

#### **Systems and training to prevent money laundering**

5.—(1) No person shall, in the course of relevant financial business carried on by him in the United Kingdom, form a business relationship, or carry out a one-off transaction, with or for another unless that person—

- (a) maintains the following procedures established in relation to that business—
  - (i) identification procedures in accordance with regulations 7 and 9 below;
  - (ii) record-keeping procedures in accordance with regulation 12 below;

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(20) Section 7(3) has been amended by the Industrial and Provident Societies (Increase in Deposit-taking Limits) Order 1981 (S.I. 1981/394).

(21) 1969 c. 24; section 6 has been amended by the Industrial and Provident Societies (Increase in Shareholding Limit) Regulations (Northern Ireland) 1991 (S.R. 1991 No. 375).

(22) 1986 c. 60; section 45 has been amended by section 78(1) of, and paragraph 14 of Schedule 6 to, the Charities Act 1992 (c. 41) and by regulation 55 of, and paragraph 8 of Schedule 9 to, the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218).

(23) At the date on which these Regulations were laid, the following orders had been made under section 46 of the Financial Services Act 1986: S.I.’s 1988/350, 1988/723, 1989/431, 1990/696, 1990/1492, 1990/2235, 1991/493 and 1991/1516.

(24) OJ No. L63, 13.3.79, p.1, as amended by the 1979 Act of Accession (Greece) (OJ No. L291, 19.11.79, p.17), the 1985 Act of Accession (Portugal and Spain) (OJ No. L302, 15.11.85, p.23) and Council Directive 90/619/EEC.

(25) OJ No. L386, 30.12.89, p.1.

- (iii) except where the person concerned is an individual who in the course of relevant financial business does not employ or act in association with any other person, internal reporting procedures in accordance with regulation 14 below; and
    - (iv) such other procedures of internal control and communication as may be appropriate for the purposes of forestalling and preventing money laundering;
  - (b) takes appropriate measures from time to time for the purposes of making employees whose duties include the handling of relevant financial business aware of—
    - (i) the procedures under sub-paragraph (a) above which are maintained by him and which relate to the relevant financial business in question, and
    - (ii) the enactments relating to money laundering; and
  - (c) provides such employees from time to time with training in the recognition and handling of transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering.
- (2) Any person who contravenes this regulation shall be guilty of an offence and liable—
  - (a) on conviction on indictment, to imprisonment not exceeding a term of two years or a fine or both;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (3) In determining whether a person has complied with any of the requirements of paragraph (1) above, a court may take account of—
  - (a) any relevant supervisory or regulatory guidance which applies to that person;
  - (b) in a case where no guidance falling within sub-paragraph (a) above applies, any other relevant guidance issued by a body that regulates, or is representative of, any trade, profession, business or employment carried on by that person.
- (4) In proceedings against any person for an offence under this regulation, it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (5) In this regulation—
  - “enactments relating to money laundering” means the enactments referred to in regulation 2(3) above and the provisions of these Regulations; and
  - “supervisory or regulatory guidance” means guidance issued, adopted or approved by a supervisory authority.

### **Offences by bodies corporate, partnerships and unincorporated associations**

6.—(1) Where an offence under regulation 5 above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by the members, paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of a body corporate.

(3) Where an offence under regulation 5 above committed by a partnership, or by an unincorporated association other than a partnership, is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, a partner in the partnership or (as the case may be) a person concerned in the management or control of the association, he,

as well as the partnership or association, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### *Identification procedures*

#### **Identification procedures; business relationships and transactions**

7.—(1) Subject to regulations 8 and 10 below, identification procedures maintained by a person are in accordance with this regulation if in Cases 1 to 4 set out below they require, as soon as is reasonably practicable after contact is first made between that person and an applicant for business concerning any particular business relationship or one-off transaction—

- (a) the production by the applicant for business of satisfactory evidence of his identity; or
- (b) the taking of such measures specified in the procedures as will produce satisfactory evidence of his identity;

and the procedures are, subject to paragraph (6) below, in accordance with this regulation if they require that where that evidence is not obtained the business relationship or one-off transaction in question shall not proceed any further.

(2) Case 1 is any case where the parties form or resolve to form a business relationship between them.

(3) Case 2 is any case where, in respect of any one-off transaction, any person handling the transaction knows or suspects that the applicant for business is engaged in money laundering, or that the transaction is carried out on behalf of another person engaged in money laundering.

(4) Case 3 is any case where, in respect of any one-off transaction, payment is to be made by or to the applicant for business of the amount of ecu 15,000 or more.

(5) Case 4 is any case where, in respect of two or more one-off transactions—

- (a) it appears at the outset to a person handling any of the transactions—
  - (i) that the transactions are linked, and
  - (ii) that the total amount, in respect of all of the transactions, which is payable by or to the applicant for business is ecu 15,000 or more; or
- (b) at any later stage, it comes to the attention of such a person that paragraphs (i) and (ii) of sub-paragraph (a) above are satisfied.

(6) The procedures referred to in paragraph (1) above are in accordance with this regulation if, when a report is made in circumstances falling within Case 2 (whether in accordance with regulation 14 or directly to a constable), they provided for steps to be taken in relation to the one-off transaction in question in accordance with any directions that may be given by a constable.

(7) In these Regulations references to satisfactory evidence of a person's identity shall be construed in accordance with regulation 11(1) below.

#### **Payment by post etc.**

8.—(1) Where satisfactory evidence of the identity of an applicant for business would, apart from this paragraph, be required under identification procedures in accordance with regulation 7 above but—

- (a) the circumstances are such that a payment is to be made by the applicant for business; and
- (b) it is reasonable in all the circumstances—
  - (i) for the payment to be sent by post or by any electronic means which is effective to transfer funds; or

(ii) for the details of the payment to be sent by post, to be given on the telephone or to be given by any other electronic means;

then, subject to paragraph (2) below, the fact that the payment is debited from an account held in the applicant's name at an institution mentioned in paragraph (4) below (whether the account is held by the applicant alone or jointly with one or more other persons) shall be capable of constituting the required evidence of identity.

(2) Paragraph (1) above shall not have effect to the extent that—

- (a) the circumstances of the payment fall within Case 2; or
- (b) the payment is made by any person for the purpose of opening a relevant account with an institution falling within paragraph (4)(a) or (b) below.

(3) For the purposes of paragraph (1)(b) above, it shall be immaterial whether the payment or its details are sent or given to a person who is bound by regulation 5(1) above or to some other person acting on his behalf.

(4) The institutions referred to in paragraph (1) above are—

- (a) an institution which is for the time being authorised by the Bank of England under the Banking Act 1987<sup>(26)</sup> or by the Building Societies Commission under the Building Societies Act 1986<sup>(27)</sup>;
- (b) a European authorised institution within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992<sup>(28)</sup>; or
- (c) any other institution which is an authorised credit institution.

(5) For the purposes of this regulation—

“authorised credit institution” means a credit institution, as defined in Article 1 of the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (77/780/EEC)<sup>(29)</sup>, which is authorised to carry on the business of a credit institution by a competent authority of a member state; and

“relevant account” means an account from which a payment may be made by any means to a person other than the applicant for business, whether such a payment—

- (a) may be made directly to such a person from the account by or on behalf of the applicant for business; or
- (b) may be made to such a person indirectly as a result of—
  - (i) a direct transfer of funds from an account from which no such direct payment may be made to another account, or
  - (ii) a change in any of the characteristics of the account.

### **Identification procedures; transactions on behalf of another**

9.—(1) This regulation applies where, in relation to a person who is bound by regulation 5(1) above, an applicant for business is or appears to be acting otherwise than as principal.

(2) Subject to regulation 10 below, identification procedures maintained by a person are in accordance with this regulation if, in a case to which this regulation applies, they require reasonable

(26) 1987 c. 22.

(27) 1986 c. 53.

(28) S.I. 1992/3218.

(29) OJ No. L322, 17.12.77, p.30, as amended by Council Directive No. 86/524/EEC (OJ No. L309, 4.11.86, p.15) and by Council Directive No. 89/646/EEC (OJ No. L386, 30.12.89, p.1.).

measures to be taken for the purpose of establishing the identity of any person on whose behalf the applicant for business is acting.

(3) In determining, for the purposes of paragraph (2) above, what constitutes reasonable measures in any particular case regard shall be had to all the circumstances of the case and, in particular, to best practice which, for the time being, is followed in the relevant field of business and which is applicable to those circumstances.

(4) Without prejudice to the generality of paragraph (3) above, if the conditions mentioned in paragraph (5) below are fulfilled in relation to an applicant for business who is, or appears to be, acting as an agent for a principal (whether undisclosed or disclosed for reference purposes only) it shall be reasonable for a person bound by regulation 5(1) above to accept a written assurance from the applicant for business to the effect that evidence of the identity of any principal on whose behalf the applicant for business may act in relation to that person will have been obtained and recorded under procedures maintained by the applicant for business.

(5) The conditions referred to in paragraph (4) above are that, in relation to the business relationship or transaction in question, there are reasonable grounds for believing that the applicant for business—

- (a) acts in the course of a business in relation to which an overseas regulatory authority exercises regulatory functions; and
- (b) is based or incorporated in, or formed under the law of, a country other than a member State in which there are in force provisions at least equivalent to those required by the Money Laundering Directive.

(6) In paragraph (5) above, “overseas regulatory authority” and “regulatory functions” have the same meaning as in section 82 of the Companies Act 1989<sup>(30)</sup>.

### **Identification procedures; exemptions**

**10.**—(1) Subject to paragraph (2) below, identification procedures under regulations 7 and 9 above shall not require any steps to be taken to obtain evidence of any person’s identity—

- (a) where there are reasonable grounds for believing that the applicant for business is a person who is bound by the provisions of regulation 5(1) above;
- (b) where there are reasonable grounds for believing that the applicant for business is otherwise a person who is covered by the Money Laundering Directive;
- (c) where any one-off transaction is carried out with or for a third party pursuant to an introduction effected by a person who has provided an assurance that evidence of the identity of all third parties introduced by him will have been obtained and recorded under procedures maintained by him, where that person identifies the third party and where—
  - (i) that person falls within sub-paragraph (a) or (b) above; or
  - (ii) there are reasonable grounds for believing that the conditions mentioned in regulation 9(5)(a) and (b) above are fulfilled in relation to him;
- (d) where the person who would otherwise be required to be identified, in relation to a one-off transaction, is the person to whom the proceeds of that transaction are payable but to whom no payment is made because all of those proceeds are directly reinvested on his behalf in another transaction—
  - (i) of which a record is kept, and
  - (ii) which can result only in another reinvestment made on that person’s behalf or in a payment made directly to that person;

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<sup>(30)</sup> 1989 c. 40; section 82 was amended by section 79 of, and paragraph 16 of Schedule 5 to, the Criminal Justice Act 1993 (c. 36); there are no other relevant amendments.



- (e) in relation to insurance business consisting of a policy of insurance in connection with a pension scheme taken out by virtue of a person's contract of employment or occupation where the policy—
    - (i) contains no surrender clause, and
    - (ii) may not be used as collateral for a loan;
  - (f) in relation to insurance business in respect of which a premium is payable in one instalment of an amount not exceeding ecu 2,500; or
  - (g) in relation to insurance business in respect of which a periodic premium is payable and where the total payable in respect of any calendar year does not exceed ecu 1,000.
- (2) Nothing in this regulation shall apply in circumstances falling within Case 2.
- (3) In this regulation "calendar year" means a period of twelve months beginning on 31st December.

### **Identification procedures; supplementary provisions**

- 11.**—(1) For the purposes of these Regulations, evidence of identify is satisfactory if—
- (a) it is reasonably capable of establishing that the applicant is the person he claims to be; and
  - (b) the person who obtains the evidence is satisfied, in accordance with the procedures maintained under these Regulations in relation to the relevant financial business concerned, that it does establish that fact.
- (2) In determining for the purposes of regulation 7(1) above the time span in which satisfactory evidence of a person's identity has to be obtained, in relation to any particular business relationship or one-off transaction, all the circumstances shall be taken into account including, in particular—
- (a) the nature of the business relationship or one-off transaction concerned;
  - (b) the geographical locations of the parties;
  - (c) whether it is practical to obtain the evidence before commitments are entered into between the parties or before money passes;
  - (d) in relation to Case 3 or 4, the earliest stage at which there are reasonable grounds for believing that the total amount payable by an applicant for business is ecu 15,000 or more.

### *Record-keeping procedures*

### **Record-keeping procedures**

- 12.**—(1) Record-keeping procedures maintained by a person are in accordance with this regulation if they require the keeping, for the prescribed period, of the following records—
- (a) in any case where, in relation to any business relationship that is formed or one-off transaction that is carried out, evidence of a person's identity is obtained under procedures maintained in accordance with regulation 7 or 9 above, a record that indicates the nature of the evidence and—
    - (i) comprises a copy of the evidence;
    - (ii) provides such information as would enable a copy of it to be obtained; or
    - (iii) in a case where it is not reasonably practicable to comply with paragraph (i) or (ii) above, provides sufficient information to enable the details as to a person's identity contained in the relevant evidence to be re-obtained; and
  - (b) a record containing details relating to all transactions carried out by that person in the course of relevant financial business.

(2) For the purposes of paragraph (1) above, the prescribed period is, subject to paragraph (3) below, the period of at least five years commencing with—

- (a) in relation to such records as are described in sub-paragraph (a), the date on which the relevant business was completed within the meaning of paragraph (4) below; and
- (b) in relation to such records as are described in sub-paragraph (b), the date on which all activities taking place in the course of the transaction in question were completed.

(3) Where a person who is bound by the provisions of regulation 5(1) above—

- (a) forms a business relationship or carries out a one-off transaction with another person;
- (b) has reasonable grounds for believing that that person has become insolvent; and
- (c) after forming that belief, takes any step for the purpose of recovering all or part of the amount of any debt payable to him by that person which has fallen due;

the prescribed period for the purposes of paragraph (1) above is the period of at least five years commencing with the date on which the first such step is taken.

(4) For the purposes of paragraph (2)(a) above, the date on which relevant business is completed is, as the case may be—

- (a) in circumstances falling within Case 1, the date of the ending of the business relationship in respect of whose formation the record under paragraph (1)(a) above was compiled;
- (b) in circumstances falling within Case 2 or 3, the date of the completion of all activities taking place in the course of the one-off transaction in respect of which the record under paragraph (1)(a) above was compiled;
- (c) in circumstances falling within Case 4, the date of the completion of all activities taking place in the course of the last one-off transaction in respect of which the record under paragraph (1)(a) above was compiled;

and where the formalities necessary to end a business relationship have not been observed, but a period of five years has elapsed since the date on which the last transaction was carried out in the course of that relationship, then the date of the completion of all activities taking place in the course of that last transaction shall be treated as the date on which the relevant business was completed.

### **Record-keeping procedures; supplementary provisions**

**13.**—(1) For the purposes of regulation 12(3)(b) above, a person shall be taken to be insolvent if, but only if, in England and Wales—

- (a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
- (b) an order has been made with respect to him under section 112, 112A or 112B of the County Courts Act 1984<sup>(31)</sup> (administration orders, orders restricting enforcement and administration orders with composition provisions);
- (c) he has died and his estate falls to be administered in accordance with an order under section 421 of the Insolvency Act 1986<sup>(32)</sup> (insolvent estates of deceased persons); or
- (d) where that person is a company, a winding up order or an administration order has been made or a resolution for voluntary winding up has been passed with respect to it, or a receiver or manager of its undertaking has been duly appointed, or possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or a voluntary arrangement

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<sup>(31)</sup> 1984 c. 28; section 112 was amended by section 220(2) of the Insolvency Act 1985 (c. 65); and section 112 was amended, and sections 112A and 112B were inserted, by section 13 of the Courts and Legal Services Act 1990 (c. 41).

<sup>(32)</sup> 1986 c. 45.

proposed for the purpose of Part I of the Insolvency Act 1986 has been approved under that Part, or a compromise or arrangement in accordance with section 425 of the Companies Act 1985<sup>(33)</sup> has taken effect.

(2) For the purposes of regulation 12(3)(b) above, a person shall be taken to be insolvent if, but only if, in Scotland—

- (a) his estate has been sequestrated, he has granted a trust deed for the benefit of his creditors or he has made a composition or arrangement for the benefit of his creditors; or
- (b) where that person is a company, a winding up order or an administration order has been made or a resolution for voluntary winding up has been passed with respect to it, or a receiver has been appointed under a floating charge over any property of the company, or a voluntary arrangement proposed for the purpose of Part I of the Insolvency Act 1986 has been approved under that Part, or a compromise or arrangement in accordance with section 425 of the Companies Act 1985 has taken effect.

(3) For the purposes of regulation 12(3)(b) above, a person shall be taken to be insolvent if, but only if, in Northern Ireland—

- (a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
- (b) an administration order has been made with respect to him under Article 80 of the Judgements Enforcement (Northern Ireland) Order 1981<sup>(34)</sup> (power to make administration order on application of debtor);
- (c) he has died and his estate falls to be administered in accordance with an order under Article 365 of the Insolvency (Northern Ireland) Order 1989<sup>(35)</sup> (insolvent estates of deceased persons); or
- (d) where that person is a company, a winding up order or an administration order has been made or a resolution for voluntary winding up has been passed with respect to it, or a receiver or manager of its undertaking has been duly appointed, or possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or a voluntary arrangement proposed for the purpose of Part II of the Insolvency (Northern Ireland) Order 1988 has been approved under that Part, or a compromise or arrangement in accordance with Article 418 of the Companies (Northern Ireland) Order 1986<sup>(36)</sup> has taken effect.

(4) Where a person bound by regulation 5(1) above—

- (a) is an appointed representative; and
- (b) is not—
  - (i) an authorised person within the meaning of the Financial Services Act 1986<sup>(37)</sup>,
  - (ii) authorised under the Building Societies Act 1986<sup>(38)</sup> or the Banking Act 1987<sup>(39)</sup>,  
or
  - (iii) a European institution;

it shall be the responsibility of the appointed representative's principal to ensure that record-keeping procedures in accordance with regulation 12 above are maintained in respect of any relevant financial business carried out by the appointed representative

<sup>(33)</sup> 1985 c. 6; section 425 was amended by section 109(1) of, and paragraph 11 of Schedule 6 to, the Insolvency Act 1986 (c. 45).

<sup>(34)</sup> S.I. 1981/226 (N.I. 6).

<sup>(35)</sup> S.I. 1989/2405 (N.I. 19).

<sup>(36)</sup> S.I. 1986/1032 (N.I. 6).

<sup>(37)</sup> 1986 c. 60.

<sup>(38)</sup> 1986 c. 53.

<sup>(39)</sup> 1987 c. 22.

which is investment business carried on by him for which the principal has accepted responsibility in writing under section 44 of the Financial Services Act 1986.

(5) Where record-keeping procedures in accordance with regulation 12 above are not maintained in respect of business relationships formed, and one-off transactions carried out, in the course of such relevant financial business as is referred to in paragraph (4) above, an appointed representative's principal shall be regarded as having contravened regulation 5 in respect of those procedures and he, as well as the appointed representative, shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(6) Section 44(2) of the Financial Services Act 1986 (construction of references to appointed representative, his principal and investment business carried out by an appointed representative) shall apply for the purposes of paragraphs (4) and (5) above as it applies for the purposes of that Act.

### *Internal reporting procedures*

#### **Internal reporting procedures**

**14.** Internal reporting procedures maintained by a person are in accordance with this regulation if they include provision—

- (a) identifying a person (“the appropriate person”) to whom a report is to be made of any information or other matter which comes to the attention of a person handling relevant financial business and which, in the opinion of the person handling that business, gives rise to a knowledge or suspicion that another person is engaged in money laundering;
- (b) requiring that any such report be considered in the light of all other relevant information by the appropriate person, or by another designated person, for the purpose of determining whether or not the information or other matter contained in the report does give rise to such a knowledge or suspicion;
- (c) for any person charged with considering a report in accordance with sub-paragraph (b) above to have reasonable access to other information which may be of assistance to him and which is available to the person responsible for maintaining the internal reporting procedures concerned; and
- (d) for securing that the information or other matter contained in a report is disclosed to a constable where the person who has considered the report under the procedures maintained in accordance with the preceding provisions of this regulation knows or suspects that another person is engaged in money laundering.

### *Duty of supervisory authorities to report evidence of money laundering*

#### **Supervisory authorities**

**15.—**(1) References in these Regulations to supervisory authorities shall be construed in accordance with the following provisions.

- (2) For the purposes of these Regulations, each of the following is a supervisory authority—
  - (a) the Bank of England;
  - (b) the Building Societies Commission;
  - (c) a designated agency within the meaning of the Financial Services Act 1986~~(40)~~;
  - (d) a recognised self-regulating organisation within the meaning of the Financial Services Act 1986;

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(40) 1986 c. 60.

- (e) a recognised professional body within the meaning of the Financial Services Act 1986;
- (f) a transferee body within the meaning of the Financial Services Act 1986;
- (g) a recognised self-regulating organisation for friendly societies within the meaning of the Financial Services Act 1986;
- (h) the Secretary of State;
- (i) the Treasury;
- (j) the Council of Lloyd's;
- (k) the Director General of Fair Trading;
- (l) the Friendly Societies Commission;
- (m) the Chief Registrar of Friendly Societies;
- (n) the Central Office of the Registry of Friendly Societies;
- (o) the Registrar of Friendly Societies for Northern Ireland;
- (p) the Assistant Registrar of Friendly Societies for Scotland.

(3) These Regulations apply to the Secretary of State in the exercise, in relation to any person carrying on relevant financial business, of his functions under the enactments relating to insurance companies, companies or insolvency or under the Financial Services Act 1986.

#### **Supervisors etc. to report evidence of money laundering**

16.—(1) Subject to paragraph (2) below, where a supervisory authority—

- (a) obtains any information; and
- (b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering,

the authority shall, as soon as is reasonably practicable, disclose that information to a constable.

(2) Where any person is a secondary recipient of information obtained by a supervisory authority, and that person forms such an opinion as is mentioned in paragraph (1)(b) above, that person may disclose the information to a constable.

(3) Where any person within paragraph (6) below—

- (a) obtains any information whilst acting in the course of any investigation, or discharging any functions, to which his appointment or authorisation relates; and
- (b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering,

that person shall, as soon as is reasonably practicable, either disclose that information to a constable or disclose that information to the supervisory authority by whom he was appointed or authorised.

(4) Any disclosure made by virtue of the preceding provisions of this regulation shall not be treated as a breach of any restriction imposed by statute or otherwise.

(5) Any information—

- (a) which has been disclosed to a constable by virtue of the preceding provisions of this regulation; and
- (b) which would, apart from the provisions of paragraph (4) above, be subject to such a restriction as is mentioned in that paragraph;

may be disclosed by the constable, or any person obtaining the information directly or indirectly from him, in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings, but not otherwise.

- (6) Persons falling within this paragraph are—
- (a) a person or inspector appointed under section 17 of the Industrial Assurance Act 1923(41) or section 65 or 66 of the Friendly Societies Act 1992(42);
  - (b) an inspector appointed under section 49 of the Industrial and Provident Societies Act 1965(43) or section 18 of the Credit Unions Act 1979(44);
  - (c) an inspector appointed under section 431, 432, 442 or 446 of the Companies Act 1985(45) or under Article 424, 425, 435 or 439 of the Companies (Northern Ireland) Order 1986(46);
  - (d) a person or inspector appointed under section 55 or 56 of the Building Societies Act 1986(47);
  - (e) an inspector appointed under section 94 or 177 of the Financial Services Act 1986(48);
  - (f) a person appointed under section 41 of the Banking Act 1987(49); and
  - (g) a person authorised to require the production of documents under section 44 of the Insurance Companies Act 1982(50), section 447 of the Companies Act 1985(51), section 106 of the Financial Services Act 1986(52), Article 440 of the Companies (Northern Ireland) Order 1986(53) or section 84 of the Companies Act 1989(54).
- (7) In this regulation “secondary recipient”, in relation to information obtained by a supervisory authority, means any person to whom that information has been passed by the authority.

#### *Transitional provisions*

#### **Transitional provisions**

17.—(1) Nothing in these Regulations shall require a person who is bound by regulation 5(1) above to maintain procedures in accordance with regulations 7 and 9 which require evidence to be obtained, in respect of any business relationship formed by him before the date on which these Regulations come into force, as to the identity of the person with whom that relationship has been formed.

(2) For the purposes of regulation 2(6) above, any business relationship referred to in paragraph (1) above shall be treated as if it were an established business relationship.

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- (41) 1923 c. 8 (13 & 14 Geo. 5); section 17 was amended by the Statute Law Revision Act 1950 (c. 6), by sections 5(5) and 14(2) of, and Schedule 3 to, the Friendly Societies Act 1971 (c. 66) and by section 100 of, and paragraphs 1, 5(2) and 6 of Schedule 19 to, the Friendly Societies Act 1992 (c. 40).
  - (42) 1992 c. 40.
  - (43) 1965 c. 12.
  - (44) 1979 c. 34.
  - (45) 1985 c. 6; section 432 was amended by section 55 of the Companies Act 1989 (c. 40); section 442 was amended by section 62 of the 1989 Act; there are amendments to section 446 in sections 182 and 212 of, and in paragraph 8 of Schedule 13, paragraph 21 of Schedule 16, Part I of Schedule 17 to, the Financial Services Act 1986 (c. 60), in section 212 of, and Schedule 24 to, the Companies Act 1989 (c. 40) and in regulation 82 of, and in paragraph 16 of Schedule 10 to, the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218).
  - (46) S.I. 1986/1032 (N.I. 6); Article 425 was amended by Article 3 of the Companies (No.2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)); Article 435 was amended by Article 10 of that Order; Article 439 was amended by Article 113 of, and Schedule 6 to, that Order.
  - (47) 1986 c. 53.
  - (48) 1986 c. 60; section 94 was amended by sections 72 and 212 of, and Schedule 24 to, the Companies Act 1989 (c. 40); section 177 was amended by section 74 of that Act.
  - (49) 1987 c. 22; section 41 was amended by regulation 37 of the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218).
  - (50) 1982 c. 50; section 44 was amended by section 77(1) and (2) of the Companies Act 1989 (c. 40).
  - (51) 1985 c. 6; section 447 was amended by sections 63(1)–(7) and 212 of, and Schedule 24 to, the Companies Act 1989 (c. 40).
  - (52) 1986 c. 60; section 106 was amended by section 73 of the Companies Act 1989 (c. 40) and by regulation 55 of, and paragraph 29 of Schedule 9 to, the Banking Coordination (Second Council Directive) Regulations 1992.
  - (53) S.I. 1986/1032 (N.I. 6); Article 440 was amended by Articles 11 and 113 of, and Schedule 6 to, the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I. 10)).
  - (54) 1989 c. 40.

(3) In regulation 10(1)(g), the reference to the total payable in respect of any calendar year not exceeding ecu 1,000 shall, for the period commencing with the coming into force of these regulations and ending with 30th December 1994, be construed as a reference to the total payable in respect of that period not exceeding ecu 750.

28th July 1993

*Kenneth Clarke*  
*Tim Wood MP*  
Two of the Lords Commissioners of Her  
Majesty's Treasury