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## SCHEDULES

### SCHEDULE 7

#### TERRORIST FINANCING AND MONEY LAUNDERING

##### PART 8

###### SUPPLEMENTARY AND GENERAL

###### *Report to Parliament*

- 38 (1) As soon as reasonably practicable after the end of each calendar year, the Treasury must—
- (a) prepare a report about their exercise during that year of their functions under this Schedule, and
  - (b) lay a copy of the report before Parliament.
- (2) Sub-paragraph (1) does not apply in relation to a year if no direction under this Schedule is in force at any time in that year.

###### *Supervision by supervisory authority*

- 39 (1) A supervisory authority must take appropriate measures to monitor persons operating in the financial sector for whom it is the supervisory authority for the purpose of securing compliance by those persons with the requirements of any directions under this Schedule.
- (2) For the purposes of this Schedule—
- (a) the FSA is the supervisory authority for—
    - (i) credit institutions that are authorised persons;
    - (ii) financial institutions (except money service businesses that are not authorised persons and consumer credit financial institutions);
  - (b) the OFT is the supervisory authority for consumer credit financial institutions;
  - (c) HMRC are the supervisory authority for money service businesses that are not authorised persons;
  - <sup>F1</sup>(d) .....
- (3) Where under sub-paragraph (2) there is more than one supervisory authority for a person, the authorities may agree that one of them will act as the supervisory authority for that person for the purposes of this Schedule.
- (4) Where an agreement has been made under sub-paragraph (3), the authority that has agreed to act as the supervisory authority must—
- (a) where directions under this Schedule have been given to specified persons operating in the financial sector, notify those persons;

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- (b) where such directions have been given to all persons operating in the financial sector or to a description of such persons, publish the agreement in such way as it considers appropriate.
- (5) Where no agreement has been made under sub-paragraph (3), the supervisory authorities for a person must co-operate in the performance of their functions under this paragraph.

#### Textual Amendments

- F1** Sch. 7 para. 39(2)(d) repealed (31.3.2012) by Terrorist Asset-Freezing etc. Act 2010 (c. 38), ss. 51(2), 55(2), Sch. 2 Pt. 2; S.I. 2011/2835, art. 2(a)(d)

#### *Assistance in preparing guidance*

- 40 The Treasury must provide such assistance as may reasonably be required by a supervisory authority or other body drawing up guidance that, when issued and published with the approval of the Treasury, would be relevant guidance for the purposes of paragraph 25(3) (civil penalties) and 30(3) (offences: failure to comply with requirement imposed by direction).

#### *Functions of Financial Services Authority*

- 41 (1) The functions of the FSA under this Schedule shall be treated for the purposes of Parts 1, 2 and 4 of Schedule 1 to the Financial Services and Markets Act 2000 (c. 8) (general provisions relating to the Authority) as if they were functions conferred on the FSA under that Act.
- (2) Any penalty under paragraph 25 [<sup>F2</sup>or 25A] (civil penalties) received by the FSA is to be applied towards expenses incurred by it in connection with its functions under this Schedule or for any incidental purpose.

#### Textual Amendments

- F2** Words in Sch. 7 para. 41(2) inserted (17.12.2010) by Terrorist Asset-Freezing etc. Act 2010 (c. 38), s. 55(1), Sch. 1 para. 10(4)

#### *Notices*

- 42 (1) A notice under this Schedule may be given to a person—
- (a) by posting it to the person's last known address, or
  - (b) where the person is a body corporate, partnership or unincorporated association, by posting it to the registered or principal office of the body, partnership or association.
- (2) Where the Treasury are under a duty to give a notice to a person but do not have an address for them, they must make arrangements for the notice to be given to the person at the first available opportunity.

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#### *Crown application*

- 43 (1) This Schedule binds the Crown, subject as follows.
- (2) No contravention by the Crown of a provision of this Schedule makes the Crown criminally liable.
- (3) The following courts may, on the application of a person appearing to the court to have an interest, declare unlawful any act or omission of the Crown that constitutes such a contravention—
- (a) the High Court in England and Wales;
  - (b) the Court of Session;
  - (c) the High Court in Northern Ireland.
- (4) Nothing in this paragraph affects Her Majesty in her private capacity.

This is to be construed as if section 38(3) of the Crown Proceedings Act 1947 (c. 44) (meaning of Her Majesty in her private capacity) were contained in this Schedule.

#### *Meaning of “United Kingdom person”*

- 44 (1) In this Schedule “United Kingdom person” means a United Kingdom national or a body incorporated or constituted under the law of any part of the United Kingdom.
- (2) For this purpose a United Kingdom national is an individual who is—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
  - (b) a person who under the British Nationality Act 1981 (c. 61) is a British subject; or
  - (c) a British protected person within the meaning of that Act.
- (3) Her Majesty may by Order in Council extend the definition in sub-paragraph (1) so as to apply to bodies incorporated or constituted under the law of any of the Channel Islands, the Isle of Man or any British overseas territory.

#### *Interpretation*

- 45 (1) In this Schedule—
- “authorised person” means a person who is authorised for the purposes of the Financial Services and Markets Act 2000 (c. 8);
- “business relationship” means a business, professional or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration;
- “conduct” includes acts and omissions;
- “consumer credit financial institution” means a financial institution that under section 21 of the Consumer Credit Act 1974 (c. 39) requires a licence to carry on a consumer credit business, other than—
- (a) a person covered by a group licence issued by the Office of Fair Trading under section 22 of that Act,
  - (b) a money service business, or
  - (c) an authorised person;
- “country” includes territory;

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“document” means information recorded in any form;

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

“notice” means a notice in writing.

- (2) In this Schedule any reference to an amount in one currency includes the equivalent amount in any other currency.
- (3) Unless otherwise defined, expressions used in this Schedule and in—
- (a) Directive [2005/60/EC](#) of the European Parliament and of the Council of 26th October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, or
  - (b) Commission Directive [2006/70/EC](#) of 1st August 2006 laying down implementing measures for that directive,
- have the same meaning as in the relevant directive.

*Index of defined expressions*

46 In this Schedule the following expressions are defined or otherwise explained by the provisions indicated—

authorised person	paragraph 45(1)
the banking consolidation directive (in Part 2 of this Schedule)	paragraph 7
biological weapon	paragraph 2(6)
business relationship	paragraph 45(1)
chemical weapon	paragraph 2(5)
conduct	paragraph 45(1)
consumer credit financial institution	paragraph 45(1)
country	paragraph 45(1)
credit institution	paragraph 5(1) [ <sup>F3</sup> and (3)]
customer due diligence measures	paragraph 10(3)
designated person, in relation to a direction	paragraph 9(3)
DETINI	[ <sup>F4</sup> paragraph 18(3)(b)]
document	paragraph 45(1)
enforcement authority	paragraph 18(1)
enforcement officer (in Part 5 of this Schedule)	paragraph 18(2)
financial institution	paragraph 5(2) [ <sup>F5</sup> and (3)]
the FSA	paragraph 18(1)(a)

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HMRC	paragraph 18(1)(b)
the life assurance consolidation directive (in Part 2 of this Schedule)	paragraph 7
local enforcement officer	paragraph 18(3)
the markets in financial instruments directive (in Part 2 of this Schedule)	paragraph 7
money laundering	paragraph 2(2)
money service business	paragraph 45(1)
notice	paragraph 45(1)
nuclear weapon	paragraph 2(3)
the OFT	paragraph 18(1)(c)
persons operating in the financial sector	paragraph 4
radiological weapon	paragraph 2(4)
relevant person, in relation to a direction	paragraph 3(2)
supervisory authority	paragraph 39(2)
terrorist financing	paragraph 2(1)
United Kingdom person	paragraph 44

#### **Textual Amendments**

- F3** Words in Sch. 7 para. 46 inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), [Sch. 1 para. 9\(a\)](#)
- F4** Words in Sch. 7 para. 46 substituted (31.3.2012) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(2), [Sch. 1 para. 11\(5\)](#); S.I. 2011/2835, art. 2(c)
- F5** Words in Sch. 7 para. 46 inserted (17.12.2010) by [Terrorist Asset-Freezing etc. Act 2010 \(c. 38\)](#), s. 55(1), [Sch. 1 para. 9\(b\)](#)

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