
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give the Financial Conduct Authority (“FCA”) powers to supervise professional body anti-money laundering supervisors (“self-regulatory organisations”), in relation to compliance with anti-money laundering and counter terrorist financing requirements.

The requirements derive from the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692) (“the MLR”) and the Fourth Money Laundering Directive 2015/849/EU of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing (OJ L 141, 05.06.2015, p.73) (“4MLD”). Article 48 of 4MLD requires Member States to ensure that competent authorities monitor effectively and take necessary measures to ensure compliance with 4MLD.

Part 1 (introduction) sets out the definitions and meanings that apply throughout these Regulations, and the duty on the FCA to have regard to the importance of ensuring that self-regulatory organisations comply with any supervision requirement placed on them by the MLR (regulation 3).

Part 2 (applications) sets out the process for applying to be considered for inclusion as a self-regulatory organisation (regulations 4 and 5).

Part 3 (information and directions) gives the FCA information gathering powers (regulation 7) and makes provision for the way in which the power in regulation 7 may be exercised (regulations 8 to 10). Regulation 11 prohibits the disclosure of confidential information by the FCA subject to regulation 12. Regulation 12 provides that the FCA may disclose information they hold in certain circumstances. Regulation 13 gives the FCA the power to commission or to require a self-regulatory organisation to commission and provide the FCA with a skilled person’s report. Regulation 14 gives the FCA the power to issue directions to a self-regulatory organisation.

Part 4 (enforcement and appeals) gives the FCA powers to impose measures on self-regulatory organisations who have contravened certain requirements (regulations 16 to 21), and regulation 22 provides for appeals against a decision by the FCA to publish a statement of censure. Regulations 23 to 25 make provision about criminal offences, investigations and proceedings.

Part 5 (miscellaneous provisions), among other things, ensures that charges imposed by the FCA may be recovered as a debt in civil proceedings (regulation 26) and ensures that the FCA can recover the costs of its supervision (regulation 27). Regulation 28 extends to Scotland only and makes a consequential amendment to the Solicitors (Scotland) Act 1980 in connection with fees.

A full regulatory impact statement of the effect that the Regulations will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum to the Regulations on legislation.gov.uk.