
STATUTORY INSTRUMENTS

2017 No. 692

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

(2) These Regulations come into force on 26th June 2017.

Prescribed regulations

2. These Regulations are prescribed for the purposes of sections 168(4)(b) (appointment of persons to carry out investigations in particular cases) and 402(1)(b) (power of the FCA to institute proceedings for certain other offences) of the Financial Services and Markets Act 2000^{M1}.

Marginal Citations

M1 2000 c.8. Section 168(4)(b) was amended by Part 1 of Schedule 12 to the [Financial Services Act 2012 \(c.21\)](#); and section 402(1) was amended by Parts 1 and 7 of Schedule 9 to the Financial Services Act 2012.

General interpretation

3.—(1) In these Regulations—

“Annex 1 financial institution” has the meaning given by regulation 55(2);

“appropriate body” means any body which regulates or is representative of any trade, profession, business or employment carried on by a relevant person;

“auction platform” has the meaning given by regulation 14(1)(c);

“auditor” (except in regulation 31(4)) has the meaning given by regulation 11(a);

“authorised person” means a person who is authorised for the purposes of FSMA;

“the FCA” means the Financial Conduct Authority;

“beneficial owner”—

(a) in the case of a body corporate or partnership, has the meaning given by regulation 5;

(b) in the case of a trust or similar arrangement, or the estate of a deceased person in the course of administration, has the meaning given by regulation 6;

(c) in any other case, has the meaning given by regulation 6(9);

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“body corporate”—

(a) includes—

- (i) a body corporate incorporated under the laws of the United Kingdom or any part of the United Kingdom, and
- (ii) a body corporate constituted under the law of a country or territory outside the United Kingdom;

(b) but does not include—

- (i) a corporation sole, or
- (ii) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed;

“bill payment service provider” means an undertaking which provides a payment service enabling the payment of utility and other household bills;

“branch”, except where the context otherwise requires, means a place of business that forms a legally dependent part of the entity in question and conducts directly all or some of the operations inherent in its business;

“business relationship” has the meaning given by regulation 4;

“the capital requirements directive” means Directive 2013/36/EU of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive [2002/87/EC](#) and repealing Directives [2006/48/EC](#) and [2006/49/EC](#)^{M2};

“the capital requirements regulation” means Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26th June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012^{M3};

“cash” means notes, coins or travellers' cheques, in any currency;

“casino” has the meaning given by regulation 14(1)(b);

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“contract of long-term insurance” means any contract falling within Part 2 of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001^{M4};

“correspondent relationship” has the meaning given by regulation 34(4);

“credit institution” has the meaning given by regulation 10(1);

“customer due diligence measures” means the measures required by regulation 28, and where relevant, those required by regulations 29 and 33 to 37;

“Department for the Economy” means the Department for the Economy in Northern Ireland;

“designated supervisory authority” has the meaning given by regulation 76(8);

“document” means anything in which information of any description is recorded;

“electronic money” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011^{M5};

“electronic money institution” has the meaning given by regulation 2(1) of the Electronic Money Regulations 2011;

“electronic money issuer” has the meaning given in regulation 2(1) of the Electronic Money Regulations 2011;

“eligible Scottish partnership” has the meaning given in regulation 3 of the Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (key terms)^{M6};

“the emission allowance auctioning regulation” means Commission Regulation (EU) No 1031/2010 of 12th November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community^{M7};

“enactment” includes—

- (a) an enactment contained in subordinate legislation;
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales; and
- (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;

“enhanced customer due diligence measures” means the customer due diligence measures required under regulations 33 to 35;

“estate agent” has the meaning given by regulation 13(1);

“European Supervisory Authorities” means—

- (a) the European Securities and Markets Authority;
- (b) the European Banking Authority;
- (c) the European Insurance and Occupational Pensions Authority;

“external accountant” (except in regulation 31(4)) has the meaning given by regulation 11(c);

“financial institution” has the meaning given by regulation 10(2);

“firm” means any entity that, whether or not a legal person, is not an individual and includes a body corporate and a partnership or other unincorporated association;

“fourth money laundering directive” means 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 purposes of money laundering or terrorist financing^{M8};

“FSMA” means the Financial Services and Markets Act 2000^{M9};

“funds transfer regulation” means Regulation 2015/847/EU of the European Parliament and of the Council of 20th May 2015 on information accompanying transfers of funds^{M10};

“group” has the meaning given by section 421 (group) of FSMA^{M11};

“high value dealer” has the meaning given by regulation 14(1)(a);

“independent legal professional” has the meaning given by regulation 12(1);

“insolvency practitioner” has the meaning given by regulation 11(b);

“law enforcement authority” has the meaning given by regulation 44(10);

“local weights and measures authority” has the meaning given by section 69 of the Weights and Measures Act 1985 (local weights and measures authorities)^{M12};

“manager”, in relation to a firm, means a person who has control, authority or responsibility for managing the business of that firm, and includes a nominated officer;

“markets in financial instruments directive” means Directive 2014/65/EU of the European Parliament and of the Council of 15th May 2014 on markets in financial instruments^{M13};

“money laundering” has the meaning given by section 340(11) of the Proceeds of Crime Act 2002^{M14};

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

“the NCA” means the National Crime Agency;

“nominated officer” means a person who is nominated to receive disclosures under Part 3 (terrorist property) of the Terrorism Act 2000^{M15} or Part 7 (money laundering) of the Proceeds of Crime Act 2002;

“notice” means a notice in writing;

“occasional transaction” means a transaction which is not carried out as part of a business relationship;

“officer”, except in Part 8 and Schedule 5—

- (a) in relation to a body corporate, means—
 - (i) a director, secretary, chief executive, member of the committee of management, or a person purporting to act in such a capacity, or
 - (ii) an individual who is a controller of the body, or a person purporting to act as a controller;
- (b) in relation to an unincorporated association, means any officer of the association or any member of its governing body, or a person purporting to act in such a capacity; and
- (c) in relation to a partnership, means a partner, and any manager, secretary or similar officer of the partnership, or a person purporting to act in such a capacity;

“ongoing monitoring” (except where the context otherwise requires) means at least the measures described in regulation 28(11);

“payment services” has the meaning given by regulation 2(1) of the Payment Services Regulations 2009^{M16};

“payment service provider” has the meaning given in regulation 2(1) of the Payment Services Regulations 2009;

“politically exposed person” or “PEP” has the meaning given by regulation 35(12);

“the PRA” means the Prudential Regulation Authority;

“PRA-authorised person” has the meaning given by section 2B(5) of FSMA^{M17};

“regulated market”—

- (a) within the EEA, has the meaning given by Article 4.1(21) of the markets in financial instruments directive; and
- (b) outside the EEA, means a regulated financial market which subjects companies whose securities are admitted to trading to disclosure obligations which are equivalent to the specified disclosure obligations;

“relevant parent undertaking” means a relevant person which is a parent undertaking;

“relevant person” means a person to whom, in accordance with regulation 8, Parts 1 to 6 and 8 to 11 of these Regulations apply;

“relevant requirement” has the meaning given by regulation 75;

“self-regulatory organisation” means one of the professional bodies listed in Schedule 1 to these Regulations;

“senior management” means an officer or employee of the relevant person with sufficient knowledge of the relevant person's money laundering and terrorist financing risk exposure, and of sufficient authority, to take decisions affecting its risk exposure;

“the Solvency 2 Directive” means Directive [2009/138/EC](#) of the European Parliament and of the Council of 25th November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) ^{M18};

“specified disclosure obligations” means—

- (a) disclosure obligations set out in Articles 17 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16th April 2014 on market abuse ^{M19};
- (b) disclosure obligations consistent with Articles 3, 5, 7, 8, 10, 14 and 16 of Directive [2003/71/EC](#) of the European Parliament and of the Council of 4th November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading ^{M20};
- (c) disclosure obligations consistent with Articles 4 to 6, 14, 16 to 19 and 30 of Directive [2004/109/EC](#) of the European Parliament and of the Council of 15th December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market ^{M21}; and
- (d) disclosure requirements consistent with EU legislation made under the provisions mentioned in sub-paragraphs (a) to (c);

“supervisory authority” in relation to—

- (a) any relevant person, means the supervisory authority specified for such a person by regulation 7;
- (b) any payment service provider, means the transfer of funds supervisory authority;

“supervisory functions” means the functions given to a supervisory authority under these Regulations;

“tax adviser” (except in regulation 31(4)) has the meaning given by regulation 11(d);

“telecommunication, digital and IT payment service provider” has the meaning given by regulation 53;

“terrorist financing” means (except where the context otherwise requires) an act which constitutes an offence under—

- (a) section 15 (fund-raising), 16 (use and possession), 17 (funding arrangements), 18 (money laundering) or 63 (terrorist finance: jurisdiction) of the Terrorism Act 2000 ^{M22};
- (b) paragraph 7(2) or (3) of Schedule 3 (freezing orders: offences) to the Anti-terrorism, Crime and Security Act 2001 ^{M23};
- (c) regulation 10 (contravention and circumvention of prohibitions) of the ISIL (Da'esh) and Al-Qaida (Asset-Freezing) Regulations 2011 ^{M24}; or
- (d) section 11 (freezing of funds and economic resources), 12 (making funds or financial services available to designated person), 13 (making funds or financial services available for benefit of designated person), 14 (making economic resources available to designated person), 15 (making economic resources available for benefit of designated person) or 18 (circumventing prohibitions etc) of the Terrorist Asset-Freezing etc Act 2010 ^{M25};

“third country” means a state other than an EEA state;

“transfer of funds supervisory authority” means the supervisory authority specified for payment service providers in regulation 62;

“trust or company service provider” has the meaning given in regulation 12(2).

(2) In these Regulations—

- (a) references to an amount in euros includes reference to an equivalent amount in any currency;

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- (b) the equivalent in sterling (or any other currency) on a particular day of a sum expressed in euros is determined by converting the sum in euros into its equivalent in sterling or that other currency using the London closing exchange rate for the euro and the relevant currency for the previous working day;
- (c) references to “real property” include, in relation to Scotland, references to heritable property;
- (d) references to business being carried on in the United Kingdom, or a person carrying on business in the United Kingdom, are to be read in accordance with regulation 9;
- (e) references to a person having a “qualifying relationship” with a PRA-authorized person, or with an authorised person are to be read in accordance with section 415B(4) of FSMA ^{M26};
- (f) “parent undertaking” and “subsidiary undertaking” have the same meaning as in the Companies Acts (see section 1162 of and Schedule 7 to, the Companies Act 2006 (parent and subsidiary undertaking) ^{M27}).

Marginal Citations

- M2** OJ L 176, 27.6.2013, p.338.
- M3** OJ L 176, 27.6.2013, p.1.
- M4** [S.I. 2001/544](#). Part 2 of Schedule 1 was amended by [S.I. 2005/2114](#) and 2015/575.
- M5** [S.I. 2011/99](#).
- M6** [S.I. 2017/694](#).
- M7** OJ L 302, 18.11.2010, p.1.
- M8** OJ L 141, 05.06.15, p. 73.
- M9** [2000 c.8](#).
- M10** OJ L 141, 05.06.2015, p.1.
- M11** [Section 421](#) was amended by [S.I. 2008/948](#).
- M12** [1985 c.72](#). Section 69 was amended by Part 4 of Schedule 1 to the [Statute Law \(Repeals\) Act 1989](#) (c. 43); [paragraph 75](#) of Schedule 16 to the [Local Government \(Wales\) Act 1994](#) (c. 19) and [paragraph 144](#) of Schedule 13 to the [Local Government etc \(Scotland\) Act 1994](#) (c.39).
- M13** OJ L 173, 12.06.2014, p.349.
- M14** [2002 c. 29](#).
- M15** [2000 c. 11](#).
- M16** [S.I. 2009/209](#), to which there are amendments not relevant to these Regulations.
- M17** [Section 2B](#) was substituted, with the rest of Part [1A](#) of the [Financial Services and Markets Act 2000](#) (c.8) for the original Part 1 of that Act by section 6(1) of the [Financial Services Act 2012](#) (c.21).
- M18** OJ L 138, 23.05.2014, p.1.
- M19** OJ L 173, 12.6.2014, p.1.
- M20** OJ L 345, 31.12.2003, p.64.
- M21** OJ L 390, 31.12.2004, p.38.
- M22** [2000 c.11](#).
- M23** [2001 c.24](#).
- M24** [S.I. 2011/2742](#). The title of the instrument was amended by [S.I. 2016/937](#).
- M25** [2010 c.38](#).
- M26** [Section 415B](#) was inserted by [paragraph 41](#) of Schedule 9 to the [Financial Services Act 2012](#) (c.21).
- M27** [2006 c.46](#).

Meaning of business relationship

4.—(1) For the purpose of these Regulations, “business relationship” means a business, professional or commercial relationship between a relevant person and a customer, which—

- (a) arises out of the business of the relevant person, and
- (b) is expected by the relevant person, at the time when contact is established, to have an element of duration.

(2) A relationship where the relevant person is asked to form a company for its customer is to be treated as a business relationship for the purpose of these Regulations, whether or not the formation of the company is the only transaction carried out for that customer.

(3) For the purposes of these Regulations, an estate agent is to be treated as entering into a business relationship with a purchaser (as well as with a seller), at the point when the purchaser's offer is accepted by the seller.

Meaning of beneficial owner: bodies corporate or partnership

5.—(1) In these Regulations, “beneficial owner”, in relation to a body corporate which is not a company whose securities are listed on a regulated market, means—

- (a) any individual who exercises ultimate control over the management of the body corporate;
- (b) any individual who ultimately owns or controls (in each case whether directly or indirectly), including through bearer share holdings or by other means, more than 25% of the shares or voting rights in the body corporate; or
- (c) an individual who controls the body corporate.

(2) For the purposes of paragraph (1)(c), an individual controls a body corporate if—

- (a) the body corporate is a company or a limited liability partnership and that individual satisfies one or more of the conditions set out in Part 1 of Schedule 1A to the Companies Act 2006 (people with significant control over a company) ^{M28}; or
- (b) the body corporate would be a subsidiary undertaking of the individual (if the individual was an undertaking) under section 1162 (parent and subsidiary undertakings) of the Companies Act 2006 read with Schedule 7 to that Act.

(3) In these Regulations, “beneficial owner”, in relation to a partnership (other than a limited liability partnership), means any individual who—

- (a) ultimately is entitled to or controls (in each case whether directly or indirectly) more than 25% share of the capital or profits of the partnership or more than 25% of the voting rights in the partnership;
- (b) satisfies one or more the conditions set out in Part 1 of Schedule 1 to the Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (references to people with significant control over an eligible Scottish partnership) ^{M29}; or
- (c) otherwise exercises ultimate control over the management of the partnership.

(4) In this regulation “limited liability partnership” has the meaning given by the Limited Liability Partnerships Act 2000 ^{M30}.

Marginal Citations

M28 Schedule 1A was inserted by paragraph 2 of Schedule 3 to the [Small Business, Enterprise and Employment Act 2015 \(c.26\)](#), and applied to limited liability partnerships with modifications by [S.I. 2009/1804](#).

M29 [S.I. 2017/694](#).

M30 [2000 c.12](#).

Meaning of beneficial owner: trusts, similar arrangements and others

6.—(1) In these Regulations, “beneficial owner”, in relation to a trust, means each of the following—

- (a) the settlor;
- (b) the trustees;
- (c) the beneficiaries;
- (d) where the individuals (or some of the individuals) benefiting from the trust have not been determined, the class of persons in whose main interest the trust is set up, or operates;
- (e) any individual who has control over the trust.

(2) In paragraph (1)(e), “control” means a power (whether exercisable alone, jointly with another person or with the consent of another person) under the trust instrument or by law to—

- (a) dispose of, advance, lend, invest, pay or apply trust property;
- (b) vary or terminate the trust;
- (c) add or remove a person as a beneficiary or to or from a class of beneficiaries;
- (d) appoint or remove trustees or give another individual control over the trust;
- (e) direct, withhold consent to or veto the exercise of a power mentioned in sub-paragraphs (a) to (d).

(3) In these Regulations, “beneficial owner”, in relation to a foundation or other legal arrangement similar to a trust, means those individuals who hold equivalent or similar positions to those set out in paragraph (1).

(4) For the purposes of paragraph (1)—

- (a) where an individual is the beneficial owner of a body corporate which is entitled to a specified interest in the capital of the trust property or which has control over the trust, the individual is to be regarded as entitled to the interest or having control over the trust; and
- (b) an individual (“P”) does not have control solely as a result of—
 - (i) P’s consent being required in accordance with section 32(1)(c) (power of advancement) of the Trustee Act 1925 ^{M31};
 - (ii) any discretion delegated to P under section 34 (power of investment and delegation) of the Pensions Act 1995 ^{M32};
 - (iii) the power to give a direction conferred on P by section 19(2) (appointment and retirement of trustee at instance of beneficiaries) of the Trusts of Land and Appointment of Trustees Act 1996 ^{M33}; or
 - (iv) the power exercisable collectively at common law to vary or extinguish a trust where the beneficiaries under the trust are of full age and capacity and (taken together) absolutely entitled to the property subject to the trust (or, in Scotland, have a full and unqualified right to the fee).

(5) For the purposes of paragraph (4), “specified interest” means a vested interest which is—

- (a) in possession or in remainder or reversion (or in Scotland, in fee); and
- (b) defeasible or indefeasible.

(6) In these Regulations, “beneficial owner”, in relation to an estate of a deceased person in the course of administration, means—

- (a) in England and Wales and Northern Ireland, the executor, original or by representation, or administrator for the time being of a deceased person;

(b) in Scotland, the executor for the purposes of the Executors (Scotland) Act 1900 ^{M34}.

(7) In these Regulations, “beneficial owner”, in relation to a legal entity or legal arrangement which does not fall within regulation 5 or paragraphs (1), (3) or (6) of this regulation, means—

- (a) any individual who benefits from the property of the entity or arrangement;
- (b) where the individuals who benefit from the entity or arrangement have yet to be determined, the class of persons in whose main interest the entity or arrangement is set up or operates;
- (c) any individual who exercises control over the property of the entity or arrangement.

(8) For the purposes of paragraph (7), where an individual is the beneficial owner of a body corporate which benefits from or exercises control over the property of the entity or arrangement, the individual is to be regarded as benefiting from or exercising control over the property of the entity or arrangement.

(9) In these Regulations, “beneficial owner”, in any other case, means the individual who ultimately owns or controls the entity or arrangement or on whose behalf a transaction is being conducted.

Marginal Citations

- M31** 1925 (c.19). Section 32(1) was amended by section 9 of the [Inheritance and Trustees' Powers Act 2014 \(c.16\)](#).
- M32** 1995 (c.26). Section 34 was amended by paragraph 49 of Schedule 12 to the [Pensions Act 2004 \(c.35\)](#); section 5(3) of the [Trustee Delegation Act 1999 \(c.15\)](#) and [S.I. 2001/3649](#).
- M33** 1996 c.47.
- M34** 1900 c.55.

Supervisory authorities

7.—(1) Subject to paragraph (2), the following bodies are supervisory authorities in relation to relevant persons—

- (a) the FCA is the supervisory authority for—
 - (i) credit and financial institutions (including money service businesses) which are authorised persons but not excluded money service businesses;
 - (ii) trust or company service providers which are authorised persons;
 - (iii) Annex 1 financial institutions;
 - (iv) electronic money institutions;
 - (v) auction platforms;
 - (vi) credit unions in Northern Ireland;
 - (vii) recognised investment exchanges within the meaning of section 285 of FSMA ^{M35} (exemption for recognised investment exchanges and clearing houses);
- (b) each of the professional bodies listed in Schedule 1 is the supervisory authority for relevant persons who are members of it, or regulated or supervised by it;
- (c) the Commissioners are the supervisory authority for—
 - (i) high value dealers;
 - (ii) money service businesses which are not supervised by the FCA;
 - (iii) trust or company service providers which are not supervised by the FCA or one of the professional bodies listed in Schedule 1;

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- (iv) auditors, external accountants and tax advisers who are not supervised by one of the professional bodies listed in Schedule 1;
 - (v) bill payment service providers which are not supervised by the FCA;
 - (vi) telecommunication, digital and IT payment service providers which are not supervised by the FCA;
 - (vii) estate agents which are not supervised by one of the professional bodies listed in Schedule 1;
- (d) the Gambling Commission is the supervisory authority for casinos.

(2) Where under paragraph (1), there is more than one supervisory authority for a relevant person, the supervisory authorities may agree that one of them will act as the supervisory authority for that person.

(3) Where there has been an agreement under paragraph (2), the authority which has agreed to act as the supervisory authority must notify the relevant person or publish the agreement in such manner as it considers appropriate.

(4) Where there has not been an agreement under paragraph (2), the supervisory authorities for a relevant person must co-operate in the performance of their functions under these Regulations.

(5) For the purposes of paragraph (1)(a)(i), a money service business is an “excluded money service business” if it is an authorised person who has permission under FSMA which relates to or is connected with a contract of the kind mentioned in paragraph 23 or 23B of Schedule 2^{M36} to that Act (credit agreements and contracts for hire of goods) but does not have permission to carry on any other kind of regulated activity.

(6) Paragraph (5) must be read with—

- (a) section 22 of FSMA (regulated activities)^{M37};
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(7) For the purposes of paragraph (1), a credit union in Northern Ireland is a credit union which is—

- (a) registered under regulation 3 of the Credit Unions (Northern Ireland) Order 1985^{M38} (registration) and it is an authorised person; or
- (b) registered under Part 2 of the Industrial and Provident Societies Act (Northern Ireland) 1969^{M39} (registered societies) as a credit union and it is an authorised person.

Marginal Citations

M35 Section 285 was amended by section 28 of the [Financial Services and Markets Act 2000 \(c.8\)](#); and [S.I. 2013/504](#).

M36 Paragraph 23 was substituted, and paragraph 23B was inserted, by section 7 of the [Financial Services Act 2012 \(c.21\)](#).

M37 Section 22 was amended by section 7 of the [Financial Services Act 2012](#).

M38 [S.I. 1985/1205 \(N.I. 12\)](#). Article 3 was amended by [S.I. 2011/2832](#) and 2013/496.

M39 1969 c.24. Part 2 was amended, but the amendments are not relevant to these Regulations.

Status:

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