

SCHEDULE

Regulation 15

*INFORMATION PROVISIONS*

**Reporting obligations of relevant institutions and others**

1.—(1) A relevant institution or relevant business or profession must inform the Treasury as soon as practicable if—

- (a) it knows, or has reasonable cause to suspect, that a person—
  - (i) is a designated person, or
  - (ii) has committed an offence under regulation 9 or 10, and
- (b) the information or other matter on which the knowledge or suspicion is based came to it in the course of carrying on its business.

(2) Where a relevant institution or relevant business or profession informs the Treasury under sub-paragraph (1), it must state—

- (a) the information or other matter on which the knowledge or suspicion is based, and
- (b) any information it holds about the person by which the person can be identified.

(3) Sub-paragraph (4) applies if—

- (a) a relevant institution or relevant business or profession informs the Treasury under sub-paragraph (1) that it knows, or has reasonable cause to suspect, that a person is a designated person, and
- (b) that person is a customer of the institution or relevant business or profession.

(4) The relevant institution or relevant business or profession must also state the nature and amount or quantity of any funds or economic resources held by it for the customer.

(5) A relevant institution or relevant business or profession that fails to comply with any requirement of sub-paragraph (1), (2) or (4) commits an offence.

(6) In this paragraph, a “relevant business or profession” means—

- (a) an auditor;
- (b) a casino;
- (c) a dealer in precious metals or stones;
- (d) an estate agent;
- (e) an external accountant;
- (f) an independent legal professional;
- (g) a tax adviser; and
- (h) a trust or company service provider,

operating in the United Kingdom.

(7) For the purpose of sub-paragraph (6)—

“auditor” means any firm or sole practitioner who is—

- (a) a statutory auditor within the meaning of Part 42 of the Companies Act 2006<sup>(1)</sup> (statutory auditors), when carrying out statutory audit work within the meaning of section 1210 of that Act (meaning of statutory auditor); or

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(1) 2006 c.46. Section 1210 was amended by S.I. 2008/565, S.I. 2008/567, S.I. 2008/1950, S.I. 2012/1809, S.I. 2013/3115, S.I. 2017/516 and S.I. 2017/1164.

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- (b) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014<sup>(2)</sup> (general requirements for audit), when carrying out an audit required by that Act;

“casino” means the holder of a casino operating licence and, for this purpose, a “casino operating licence” has the meaning given by section 65(2)(a) of the Gambling Act 2005<sup>(3)</sup> (nature of a licence);

“dealer in precious metals or stones” means a person engaged in the business of making, supplying, selling (including selling by auction) or exchanging—

- (a) articles made from gold, silver, platinum or palladium; or
- (b) precious stones or pearls;

“estate agent” means a firm or sole practitioner, who, or whose employees, carry out estate agency work, when the work is being carried out;

“external accountant” means a firm or sole practitioner who by way of business provides accountancy services to other persons, when providing such services;

“independent legal professional” means a firm or sole practitioner who by way of business provides legal or notarial services to other persons, when providing such services;

“tax adviser” means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services;

“trust or company service provider” means a firm or sole practitioner who by way of business provides any of the following services to other persons, when that firm or practitioner is providing such services—

- (a) forming companies or other legal persons;
- (b) acting, or arranging for another person to act—
  - (i) as a director or secretary of a company;
  - (ii) as a partner of a partnership; or
  - (iii) in a similar capacity in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
- (d) acting, or arranging for another person to act, as—
  - (i) a trustee of an express trust or similar legal arrangement; or
  - (ii) a nominee shareholder for a person.

- (8) In sub-paragraph (7)—

- (a) in the definition of “estate agent”, “estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979 (estate agency work)<sup>(4)</sup>, but for those purposes references in that section to disposing of or acquiring an interest in land are (despite anything in section 2 of that Act) to be taken to include reference to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest;

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(2) 2014 c.2.

(3) 2005 c.19.

(4) 1979 c.38. Section 1 was amended by paragraph 40 of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), paragraph 42 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11), paragraph 28 of Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11), section 70 of the Enterprise and Regulatory Reform Act 2013 (c.24) and S.I. 2001/1283.

- (b) “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.

### **Powers to request information**

- 2.—(1) The Treasury may request a designated person to provide information concerning—
  - (a) funds or economic resources owned, held or controlled by or on behalf of the designated person, or
  - (b) any disposal of such funds or economic resources.
- (2) The Treasury may request a designated person to provide such information as the Treasury may reasonably require about expenditure—
  - (a) by or on behalf of the designated person, or
  - (b) for the benefit of the designated person.
- (3) The power in sub-paragraph (1) or (2) is exercisable only where the Treasury believe that it is necessary for the purpose of monitoring compliance with or detecting evasion of these Regulations.
- (4) The Treasury may request a person acting under a licence granted under regulation 9 to provide information concerning—
  - (a) funds or economic resources dealt with under the licence, or
  - (b) funds or economic resources made available under the licence.
- (5) The Treasury may request any person in or resident in the United Kingdom to provide such information as the Treasury may reasonably require for the purpose of—
  - (a) establishing for the purposes of these Regulations—
    - (i) the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person;
    - (ii) the nature and amount or quantity of any funds or economic resources made available directly or indirectly to, or for the benefit of, a designated person; or
    - (iii) the nature of any financial transactions entered into by a designated person;
  - (b) monitoring compliance with or detecting evasion of these Regulations; or
  - (c) obtaining evidence of the commission of an offence under these Regulations.
- (6) The Treasury may specify the manner in which, and the period within which, information is to be provided.
- (7) If no such period is specified, the information which has been requested must be provided within a reasonable time.
- (8) A request may include a continuing obligation to keep the Treasury informed as circumstances change, or on such regular basis as the Treasury may specify.
- (9) Information requested under this paragraph may relate to any period of time during which a person is, or was, a designated person.
- (10) Information requested under sub-paragraph (1)(b), (2) or (5)(a)(iii) may relate to any period of time before a person became a designated person (as well as, or instead of, any subsequent period of time).

### **Production of documents**

- 3.—(1) A request under paragraph 2 may include a request to produce specified documents or documents of a specified description.
- (2) Where the Treasury request that documents be produced, they may—

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- (a) take copies of or extracts from any document so produced;
  - (b) request any person producing a document to give an explanation of it; and
  - (c) where that person is a body corporate, partnership or unincorporated body other than a partnership, request any person who is—
    - (i) in the case of a partnership, a present or past partner or employee of the partnership,
    - (ii) in any other case, a present or past officer or employee of the body concerned,to give such an explanation.
- (3) Where the Treasury request a designated person or a person acting under a licence granted under regulation 9 to produce documents, that person must—
- (a) take reasonable steps to obtain the documents (if not already in the person's possession or control);
  - (b) keep the documents under the person's possession or control (except for the purpose of providing them to the Treasury or as the Treasury may otherwise permit).

#### **Failure to comply with request for information**

- 4.—(1) A person commits an offence who—
- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule;
  - (b) knowingly or recklessly gives any information, or produces any document, which is false in a material particular in response to such a request;
  - (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, conceals or removes any document; or
  - (d) otherwise intentionally obstructs the Treasury in the exercise of their powers under this Schedule.
- (2) Where a person is convicted of an offence under this paragraph, the court may make an order requiring that person, within such period as may be specified in the order, to comply with the request.

#### **General power to disclose information**

5.—(1) The Treasury may disclose any information obtained by them pursuant to these Regulations to any person for the purpose of facilitating or ensuring compliance with the Council Regulation.

(2) The power in sub-paragraph (1) includes but is not limited to disclosing information to the following persons—

- (a) a police officer;
- (b) any person holding or acting in any office under or in the service of—
  - (i) the Crown in right of the Government of the United Kingdom;
  - (ii) the Crown in right of the Scottish Government, the Northern Ireland Executive or the Welsh Government;
  - (iii) the States of Jersey, Guernsey or Alderney or the Chief Pleas of Sark;
  - (iv) the Government of the Isle of Man; or
  - (v) the Government of any British overseas territory;
- (c) any law officer of the Crown for Jersey, Guernsey or the Isle of Man;

- (d) the Scottish Legal Aid Board;
  - (e) the Financial Conduct Authority, the Prudential Regulation Authority, the Bank of England, the Jersey Financial Services Commission, the Guernsey Financial Services Commission, the Isle of Man Insurance and Pensions Authority or the Isle of Man Financial Supervision Commission;
  - (f) any other regulatory body, including those of Member States;
  - (g) any organ of the United Nations; or
  - (h) the Council of the European Union, the European Commission or the Government of a Member State.
- (3) The purpose of facilitating or ensuring compliance with the Council Regulation referred to in sub-paragraph (1) includes but is not limited to the following—
- (a) monitoring compliance with, or detecting evasion of, these Regulations or the Council Regulation;
  - (b) giving assistance or co-operation, pursuant to the Council Regulation; or
  - (c) taking any action with a view to instituting, or otherwise for the purposes of, any proceedings—
    - (i) in the United Kingdom, for an offence under these Regulations, or
    - (ii) in any of the Channel Islands, the Isle of Man or any British overseas territory, for an offence under a similar provision in any such jurisdiction.
- (4) The Treasury may disclose any information obtained by them pursuant to these Regulations to any person with the consent of a person who, in their own right, is entitled to the information or to possession of the document, copy or extract.
- (5) In sub-paragraph (4) “in their own right” means not merely in the capacity as a servant or agent of another person.

### **Application of provisions**

- 6.—**(1) Nothing done under this Schedule is to be treated as a breach of any restriction imposed by statute or otherwise.
- (2) But nothing in this Schedule authorises a disclosure that—
- (a) contravenes the Data Protection Act 1998<sup>(5)</sup>, or
  - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000<sup>(6)</sup>.
- (3) Nothing in this Schedule is to be read as requiring a person who has acted or is acting as counsel or solicitor for any person to disclose any privileged information in their possession in that capacity.
- (4) This Schedule does not limit the circumstances in which information may be disclosed apart from this Schedule.
- (5) This Schedule does not limit the powers of the Treasury to impose conditions in connection with the discharge of their functions under regulation 9.
- (6) In this paragraph “privileged information” means information with respect to which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

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<sup>(5)</sup> 1998 c.29.

<sup>(6)</sup> 2000 c.23.

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