

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Bank of England and Financial Services Act 2016, Cross Heading: Money laundering and terrorist financing is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



# Bank of England and Financial Services Act 2016

## 2016 CHAPTER 14

### PART 2

#### FINANCIAL SERVICES

PROSPECTIVE

#### *Money laundering <sup>F1</sup>and terrorist financing*

##### Textual Amendments

- F1** Words in s. 30 cross-heading inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) (S.I. 2017/692), reg. 1(2), [Sch. 7 para. 11\(a\)](#) (with regs. 8, 15)

#### **30 Money laundering <sup>F2</sup>and terrorist financing**

- (1) In any regulations or orders transposing money laundering measures contained within [Directive \(EU\) 2015/849](#) of the European Parliament and of the Council of 20 May 2015 (or in relation to any subsequent EU amending or successor measure) the <sup>F3</sup>Treasury shall have a duty to ensure, insofar as such regulations or orders relate to institutions regulated by the Financial Conduct Authority—
- (a) reasonable regard and due prominence is given to—
- (i) recital 33,
  - (ii) Article 13(2),
  - (iii) Article 15, and
  - (iv) Article 16 and Annex II;

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- (b) clarity is achieved with respect to the meaning and interpretation of “prominent public function” in the context of money laundering;
  - (c) reasonable regard and due prominence is given to Article 22 which recognises that a politically exposed person may have no prominent public function; and
  - (d) any interpretation of “adequate” in Article 20(b)(ii), and “enhanced” in Article 20(b)(iii) takes account of, and gives due prominence to, the provisions in Article 13 on risk sensitivity.
- (2) The Financial Services and Markets Act 2000 is amended as follows.
- (3) After Part 20B insert—

## “PART 20C

### MONEY LAUNDERING

#### 333U Money laundering: guidance

- (1) The FCA must, prior to relevant regulations coming into force, issue guidance to regulated entities on the definition of one or more categories of politically exposed persons (“PEPs”).
- (2) Guidance under subsection (1) must include, but need not be limited to—
  - (a) a requirement to take a proportional, risk-based and differentiated approach to conducting transactions or business relationships with each category of PEP that may be defined; and
  - (b) specified categories of persons to be—
    - (i) included in, and
    - (ii) excluded from,
 any definitions of PEPs.
- (3) The Secretary of State may, by regulations, make provision about—
  - (a) the guidance issued, amended or reissued under subsection (1);
  - (b) arrangements for complaints about the treatment of individuals by regulated entities to be received, assessed and adjudicated by the FCA, where—
    - (i) a person was treated as though he or she was a PEP (and he or she was not),
    - (ii) a person who is a PEP was treated unreasonably in disregard of guidance under subsection (1), particularly in regard to specific elements required under subsection (2)(a), or
    - (iii) a person was refused a business relationship solely on the basis that he or she is a PEP,
  - (c) circumstances in which—
    - (i) compensation payments are to be required from, or
    - (ii) financial penalties are to be imposed on,
 regulated entities where complaints under paragraph (b) are upheld.
- (4) For the purposes of subsection (1), “relevant regulations” means regulations transposing into United Kingdom law measures that EU Member States are

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required to implement to combat money laundering (or subsequent regulations amending those regulations) that contain references to PEPs.

- (5) The power to make regulations under subsection (3) is exercisable by statutory instrument which may only be made after a draft of any such instrument has been laid before, and approved by a resolution of, each House of Parliament.”

#### Textual Amendments

- F2** Words in s. 30 heading inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 11(b)(i)** (with regs. 8, 15)
- F3** Word in s. 30(1) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 11(b)(ii)** (with regs. 8, 15)

#### Modifications etc. (not altering text)

- C1** S. 30(1) excluded (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), regs. 1(2), **36(1)** (with regs. 8, 15)

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2019/1136 by [S.I. 2020/929 reg. 2](#)