



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 1 U.K.

#### PROCEEDS OF CRIME

### CHAPTER 2 U.K.

#### MONEY LAUNDERING

## 11 Sharing of information within the regulated sector U.K.

After section 339ZA of the Proceeds of Crime Act 2002 insert—

### “339ZB Voluntary disclosures within the regulated sector

- (1) A person (A) may disclose information to one or more other persons if conditions 1 to 4 are met.
- (2) Condition 1 is that—
  - (a) A is carrying on a business in the regulated sector as a relevant undertaking,
  - (b) the information on which the disclosure is based came to A in the course of carrying on that business, and
  - (c) the person to whom the information is to be disclosed (or each of them, where the disclosure is to more than one person) is also carrying on a business in the regulated sector as a relevant undertaking (whether or not of the same kind as A).
- (3) Condition 2 is that—
  - (a) an NCA authorised officer has requested A to make the disclosure, or
  - (b) the person to whom the information is to be disclosed (or at least one of them, where the disclosure is to more than one person) has requested A to do so.

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- (4) Condition 3 is that, before A makes the disclosure, the required notification has been made to an NCA authorised officer (see section 339ZC(3) to (5)).
- (5) Condition 4 is that A is satisfied that the disclosure of the information will or may assist in determining any matter in connection with a suspicion that a person is engaged in money laundering.
- (6) A person may disclose information to A for the purposes of making a disclosure request if, and to the extent that, the person has reason to believe that A has in A's possession information that will or may assist in determining any matter in connection with a suspicion that a person is engaged in money laundering.

### **339ZC Section 339ZB: disclosure requests and required notifications**

- (1) A disclosure request must—
  - (a) state that it is made in connection with a suspicion that a person is engaged in money laundering,
  - (b) identify the person (if known),
  - (c) describe the information that is sought from A, and
  - (d) specify the person or persons to whom it is requested that the information is disclosed.
- (2) Where the disclosure request is made by a person mentioned in section 339ZB(3)(b), the request must also—
  - (a) set out the grounds for the suspicion that a person is engaged in money laundering, or
  - (b) provide such other information as the person making the request thinks appropriate for the purposes of enabling A to determine whether the information requested ought to be disclosed under section 339ZB(1).
- (3) A required notification must be made—
  - (a) in the case of a disclosure request made by an NCA authorised officer, by the person who is to disclose information under section 339ZB(1) as a result of the request;
  - (b) in the case of a disclosure request made by a person mentioned in section 339ZB(3)(b), by the person who made the request.
- (4) In a case within subsection (3)(a), the required notification must state that information is to be disclosed under section 339ZB(1).
- (5) In a case within subsection (3)(b), the required notification must—
  - (a) state that a disclosure request has been made,
  - (b) specify the person to whom the request was made,
  - (c) identify any person (if known) suspected of being engaged in money laundering in connection with whom the request was made, and
  - (d) provide all such other information that the person giving the notification would be required to give if making the required disclosure for the purposes of section 330 (see in particular subsection (5)(b) and (c) of that section).

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### **339ZD Section 339ZB: effect on required disclosures under section 330 or 331**

(1) This section applies if in any proceedings a question arises as to whether the required disclosure has been made for the purposes of section 330(4) or 331(4)

- (a) by a person (A) who discloses information under section 339ZB(1) as a result of a disclosure request,
- (b) by a person (B) who makes a required notification in accordance with section 339ZC(3)(b) in connection with that request, or
- (c) by any other person (C) to whom A discloses information under section 339ZB(1) as a result of that request.

(2) The making of a required notification in good faith is to be treated as satisfying any requirement to make the required disclosure on the part of A, B and C.

This is subject to section 339ZE(1) to (8).

(3) The making of a joint disclosure report in good faith is to be treated as satisfying any requirement to make the required disclosure on the part of the persons who jointly make the report.

This is subject to section 339ZE(10).

(4) A joint disclosure report is a report to an NCA authorised officer that—

- (a) is made jointly by A and B (whether or not also jointly with other persons to whom A discloses information under section 339ZB(1)),
- (b) satisfies the requirements as to content mentioned in subsection (5),
- (c) is prepared after the making of a disclosure by A to B under section 339ZB(1) in connection with a suspicion of a person's engagement in money laundering, and
- (d) is sent to the NCA authorised officer before the end of the applicable period.

(5) The requirements as to content are that the report must—

- (a) explain the extent to which there are continuing grounds to suspect that the person mentioned in subsection (4)(c) is engaged in money laundering,
- (b) identify the person (if known),
- (c) set out the grounds for the suspicion, and
- (d) provide any other information relevant to the matter.

(6) The applicable period is—

- (a) in a case where the disclosure under section 339ZB was made as a result of a disclosure request from an NCA authorised officer by virtue of subsection (3)(a) of that section, whatever period may be specified by the officer when making the request;
- (b) in a case where the disclosure was made as a result of a disclosure request from another person by virtue of subsection (3)(b) of that section, the period of 84 days beginning with the day on which a required notification is made in connection with the request.

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- (7) A joint disclosure report must be—
- (a) approved by the nominated officer of each person that jointly makes the report, and
  - (b) signed by the nominated officer on behalf of each such person.

If there is no nominated officer the report must be approved and signed by another senior officer.

- (8) References in this section to A, B or C include—
- (a) a nominated officer acting on behalf of A, B or C, and
  - (b) any other person who is an employee, officer or partner of A, B or C.

### **339ZE Limitations on application of section 339ZD(2) and (3)**

- (1) Subsections (2) and (3) apply in a case where the required notification is made by A (notification made as a result of disclosure request received from NCA authorised officer).
- (2) Section 339ZD(2) has effect in the case of A, B or C only so far as relating to—
  - (a) the suspicion in connection with which the required notification is made, and
  - (b) matters known, suspected or believed as a result of the making of the disclosure request concerned.
- (3) Accordingly, section 339ZD(2) does not remove any requirement to make the required disclosure in relation to anything known, suspected or believed that does not result only from the making of the disclosure request.
- (4) Subsections (5) to (7) apply in a case where the required notification is made by B (notification made as a result of disclosure request received from another undertaking in the regulated sector).
- (5) Section 339ZD(2) has effect in the case of A or C only so far as relating to—
  - (a) the suspicion in connection with which the notification by B is made, and
  - (b) matters known, suspected or believed by A or C as a result of the making of that notification.
- (6) Accordingly, section 339ZD(2) does not remove any requirement to make the required disclosure in relation to anything known, suspected or believed that does not result only from the making of the notification.
- (7) Section 339ZD(2) has effect in the case of B only so far as relating to—
  - (a) the suspicion in connection with which the notification is made, and
  - (b) matters known, suspected or believed by B at the time of the making of the notification.
- (8) If a joint disclosure report is not made before the end of the applicable period (whether the required notification was made by A or B), section 339ZD(2)—
  - (a) has effect only so far as relating to any requirement to make the required disclosure that would have otherwise arisen within that period, and

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- (b) does not remove a requirement to make the required disclosure so far as arising after the end of that period on the part of any person in respect of matters that may become known, suspected or believed by the person after the time when the required notification was made.
- (9) If a joint disclosure report is not made before the end of the applicable period, the person who made the required notification must notify an NCA authorised officer that a report is not being made as soon as reasonably practicable after the period ends.
- (10) Section 339ZD(3) has effect only so far as relating to—
- (a) the suspicion in connection with which the report is made, and
  - (b) matters known, suspected or believed at the time of the making of the report.
- (11) Terms used in this section have the same meanings as in section 339ZD.

### **339ZF Section 339ZB: supplementary**

- (1) A relevant disclosure made in good faith does not breach—
- (a) an obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information, however imposed.
- (2) But a relevant disclosure may not include information obtained from a UK law enforcement agency unless that agency consents to the disclosure.
- (3) In a case where a person is acting on behalf of another (“the undertaking”) as a nominated officer—
- (a) a relevant disclosure by the undertaking must be made by the nominated officer on behalf of the undertaking, and
  - (b) a relevant disclosure to the undertaking must be made to that officer.
- (4) Subsection (1) applies whether or not the conditions in section 339ZB were met in respect of the disclosure if the person making the disclosure did so in the reasonable belief that the conditions were met.
- (5) In this section—
- “relevant disclosure” means any disclosure made in compliance, or intended compliance, with section 339ZB;
  - “UK law enforcement agency” means—
    - (a) the National Crime Agency;
    - (b) a police force in England, Scotland, Northern Ireland or Wales;
    - (c) any other person operating in England, Scotland, Northern Ireland or Wales charged with the duty of preventing, detecting, investigating or prosecuting offences.

### **339ZG Sections 339ZB to 339ZF: interpretation**

- (1) This section applies for the purposes of sections 339ZB to 339ZF.

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- (2) “Disclosure request” means a request made for the purposes of condition 2 in section 339ZB(3).
- (3) “NCA authorised officer” means a person authorised for the purposes of this Part by the Director General of the National Crime Agency.
- (4) “Nominated officer” means a person nominated to receive disclosures under section 330.
- (5) “Relevant undertaking” means any of the following—
- (a) a credit institution;
  - (b) a financial institution;
  - (c) a professional legal adviser;
  - (d) a relevant professional adviser;
  - (e) other persons (not within paragraphs (a) to (d)) whose business consists of activities listed in paragraph 1(1) of Schedule 9.
- (6) “Required disclosure” has the same meaning as in section 330(5) or (as the case may be) section 331(5).
- (7) “Required notification” means a notification made for the purposes of condition 3 in section 339ZB(4).
- (8) For the purposes of subsection (5)—
- (a) “credit institution” has the same meaning as in Schedule 9;
  - (b) “financial institution” means an undertaking that carries on a business in the regulated sector by virtue of any of paragraphs (b) to (i) of paragraph 1(1) of that Schedule;
  - (c) “relevant professional adviser” has the meaning given by section 333E(5).
- (9) Schedule 9 has effect for determining what is a business in the regulated sector.”

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**Commencement Information**

- I1** S. 11 in force at Royal Assent for specified purposes, see s. 58
- I2** S. 11 in force at 31.10.2017 for specified purposes by S.I. 2017/1028, reg. 2(a)
- I3** S. 11 in force at 31.10.2017 for specified purposes by S.I. 2017/991, reg. 2(b)

**Changes to legislation:**

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