
STATUTORY INSTRUMENTS

2003 No. 3075

The Money Laundering Regulations 2003

PART II

OBLIGATIONS ON PERSONS WHO CARRY ON RELEVANT BUSINESS

Systems and training etc. to prevent money laundering

3.—(1) Every person must in the course of relevant business carried on by him in the United Kingdom—

- (a) comply with the requirements of regulations 4 (identification procedures), 6 (record-keeping procedures) and 7 (internal reporting procedures);
- (b) establish such other procedures of internal control and communication as may be appropriate for the purposes of forestalling and preventing money laundering; and
- (c) take appropriate measures so that relevant employees are—
 - (i) made aware of the provisions of these Regulations, Part 7 of the Proceeds of Crime Act 2002 (money laundering) and sections 18 and 21A of the Terrorism Act 2000⁽¹⁾; and
 - (ii) given training in how to recognise and deal with transactions which may be related to money laundering.

(2) A person who contravenes this regulation is guilty of an offence and liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(3) In deciding whether a person has committed an offence under this regulation, the court must consider whether he followed any relevant guidance which was at the time concerned—

- (a) issued by a supervisory authority or any other appropriate body;
- (b) approved by the Treasury; and
- (c) published in a manner approved by the Treasury as appropriate in their opinion to bring the guidance to the attention of persons likely to be affected by it.

(4) An appropriate body is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

(5) In proceedings against any person for an offence under this regulation, it is a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) Where a person is convicted of an offence under this regulation, he shall not also be liable to a penalty under regulation 20 (power to impose penalties).

⁽¹⁾ Section 21A was inserted by the Anti-terrorism, Crime and Security Act 2001 (c. 24), Schedule 2, Part 3, para. 5.

Identification procedures

- 4.—(1) In this regulation and in regulations 5 to 7—
- (a) “A” means a person who carries on relevant business in the United Kingdom; and
 - (b) “B” means an applicant for business.
- (2) This regulation applies if—
- (a) A and B form, or agree to form, a business relationship;
 - (b) in respect of any one-off transaction—
 - (i) A knows or suspects that the transaction involves money laundering; or
 - (ii) payment of 15,000 euro or more is to be made by or to B; or
 - (c) in respect of two or more one-off transactions, it appears to A (whether at the outset or subsequently) that the transactions are linked and involve, in total, the payment of 15,000 euro or more by or to B.
- (3) A must maintain identification procedures which—
- (a) require that as soon as is reasonably practicable after contact is first made between A and B—
 - (i) B must produce satisfactory evidence of his identity; or
 - (ii) such measures specified in the procedures must be taken in order to produce satisfactory evidence of B’s identity;
 - (b) take into account the greater potential for money laundering which arises when B is not physically present when being identified;
 - (c) require that where satisfactory evidence of identity is not obtained, the business relationship or one-off transaction must not proceed any further; and
 - (d) require that where B acts or appears to act for another person, reasonable measures must be taken for the purpose of establishing the identity of that person.

Exceptions

5.—(1) Except in circumstances falling within regulation 4(2)(b)(i), identification procedures under regulation 4 do not require A to take steps to obtain evidence of any person’s identity in any of the following circumstances.

- (2) Where A has reasonable grounds for believing that B—
- (a) carries on in the United Kingdom relevant business falling within any of sub-paragraphs (a) to (e) of regulation 2(2), is not a money service operator and, if carrying on an activity falling within regulation 2(2)(a), is an authorised person with permission under the 2000 Act to carry on that activity;
 - (b) does not carry on relevant business in the United Kingdom but does carry on comparable activities to those falling within sub-paragraph (a) and is covered by the Money Laundering Directive; or
 - (c) is regulated by an overseas regulatory authority (within the meaning given by section 82 of the Companies Act 1989) and is based or incorporated in a country (other than an EEA State) whose law contains comparable provisions to those contained in the Money Laundering Directive.
- (3) Where—
- (a) A carries out a one-off transaction with or for a third party pursuant to an introduction effected by a person who has provided a written assurance that evidence of the identity of

- all third parties introduced by him will have been obtained and recorded under procedures maintained by him;
- (b) that person identifies the third party; and
 - (c) A has reasonable grounds for believing that that person falls within any of sub-paragraphs (a) to (c) of paragraph (2).
- (4) In relation to a contract of long-term insurance—
- (a) in connection with a pension scheme taken out by virtue of a person's contract of employment or occupation where the contract of long-term insurance—
 - (i) contains no surrender clause; and
 - (ii) may not be used as collateral for a loan; or
 - (b) in respect of which a premium is payable—
 - (i) in one instalment of an amount not exceeding 2,500 euro; or
 - (ii) periodically and where the total payable in respect of any calendar year does not exceed 1,000 euro.
- (5) Where the proceeds of a one-off transaction are payable to B but are instead directly reinvested on his behalf in another transaction—
- (a) of which a record is kept; and
 - (b) which can result only in another reinvestment made on B's behalf or in a payment made directly to B.

Record-keeping procedures

6.—(1) A must maintain procedures which require the retention of the records prescribed in paragraph (2) for the period prescribed in paragraph (3).

- (2) The records are—
- (a) where evidence of identity has been obtained under the procedures stipulated by regulation 4 (identification procedures) or pursuant to regulation 8 (casinos)—
 - (i) a copy of that evidence;
 - (ii) information as to where a copy of that evidence may be obtained; or
 - (iii) information enabling the evidence of identity to be re-obtained, but only where it is not reasonably practicable for A to comply with paragraph (i) or (ii); and
 - (b) a record containing details relating to all transactions carried out by A in the course of relevant business.
- (3) In relation to the records mentioned in paragraph (2)(a), the period is—
- (a) where A and B have formed a business relationship, at least five years commencing with the date on which the relationship ends; or
 - (b) in the case of a one-off transaction (or a series of such transactions), at least five years commencing with the date of the completion of all activities taking place in the course of that transaction (or, as the case may be, the last of the transactions).
- (4) In relation to the records mentioned in paragraph (2)(b), the period is at least five years commencing with the date on which all activities taking place in the course of the transaction in question were completed.
- (5) Where A is an appointed representative, his principal must ensure that A complies with this regulation in respect of any relevant business carried out by A for which the principal has accepted responsibility pursuant to section 39(1) of the 2000 Act.

(6) Where the principal fails to do so, he is to be treated as having contravened regulation 3 and he, as well as A, is guilty of an offence.

(7) “Appointed representative” has the meaning given by section 39(2) of the 2000 Act and “principal” has the meaning given by section 39(1) of that Act.

Internal reporting procedures

7.—(1) A must maintain internal reporting procedures which require that—

- (a) a person in A’s organisation is nominated to receive disclosures under this regulation (“the nominated officer”);
- (b) anyone in A’s organisation to whom information or other matter comes in the course of relevant business as a result of which he knows or suspects or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering must, as soon as is practicable after the information or other matter comes to him, disclose it to the nominated officer or a person authorised for the purposes of these Regulations by the Director General of the National Criminal Intelligence Service;
- (c) where a disclosure is made to the nominated officer, he must consider it in the light of any relevant information which is available to A and determine whether it gives rise to such knowledge or suspicion or such reasonable grounds for knowledge or suspicion; and
- (d) where the nominated officer does so determine, the information or other matter must be disclosed to a person authorised for the purposes of these Regulations by the Director General of the National Criminal Intelligence Service.

(2) Paragraph (1) does not apply where A is an individual who neither employs nor acts in association with any other person.

(3) Paragraph (1)(b) does not apply in relation to a professional legal adviser where the information or other matter comes to him in privileged circumstances.

(4) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him—

- (a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client;
- (b) by (or by a representative of) a person seeking legal advice from the adviser; or
- (c) by a person in connection with legal proceedings or contemplated legal proceedings.

(5) But paragraph (4) does not apply to information or other matter which is communicated or given with the intention of furthering a criminal purpose.

(6) “Professional legal adviser” includes any person in whose hands information or other matter may come in privileged circumstances.

Casinos

8.—(1) A person who operates a casino by way of business in the United Kingdom must obtain satisfactory evidence of identity of any person before allowing that person to use the casino’s gaming facilities.

(2) A person who fails to do so is to be treated as having contravened regulation 3.