

**EXPLANATORY MEMORANDUM TO**  
**THE MONEY LAUNDERING (AMENDMENT) REGULATIONS 2015**

**2015 No. 11**

- 1.** This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The Regulations make amendments to the Money Laundering Regulations 2007 (S.I. 2007/2157) (“the 2007 Regulations”). The amendments are made following the Treasury’s appointment of the Chartered Institute of Legal Executives (“CILEx”) as an anti-money laundering supervisory authority (“supervisory authority”). The Chartered Institute of Public Finance and Accountancy has been omitted as a supervisory authority.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 The 2007 Regulations implement in part Directive 2005/60/EC (OJ No L 309, 25.11.2005, p.15) of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (“the Third Money Laundering Directive”).

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

**7. Policy background**

7.1 The 2007 Regulations set out the role and responsibilities of supervisory authorities. The Treasury is responsible for appointing supervisory authorities.

7.2 CILEx has recently been designated as an approved regulator under the Legal Services Act 2007 by the Legal Services Act 2007 (Approved Regulator) (No. 2) Order 2014 (SI 2014/2937); CILEx is able to authorise legal executives to carry on reserved instrument activities (conveyancing) and probate activities. Further regulatory changes, by

means of the Legal Services Act 2007 (Chartered Institute of Legal Executives) (Modification of Functions) Order 2014 (SI 2014/3234) enables legal executives (who previously worked within solicitors' firms and were supervised for anti-money laundering compliance by the Law Society) to set up business on their own.

7.3 As a result of seeking this designation as an approved regulator, the Treasury received an application from CILEx to become a supervisory authority under the 2007 Regulations. CILEx demonstrated that it met the Treasury's criteria, which are based upon the international anti-money laundering standards set by the Financial Action Task Force. The Treasury has therefore appointed CILEx as a supervisory authority under Part 1 of Schedule 3 to the 2007 Regulations in order to ensure that legal executives are properly supervised and that the 2007 Regulations keep up with changes in the regulation of the legal profession.

7.4 The Chartered Institute of Public Finance and Accountancy ("CIPFA") has decided to withdraw from its role as a supervisory authority and has been omitted from the 2007 Regulations. The persons currently supervised by CIPFA will be transferred to another supervisory authority, HM Revenue & Customs.

7.5 Amendments to the 2007 Regulations are not being consolidated at this time. The European Parliament, Council and the Commission are in the process of agreeing a revised directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing ("the Fourth Money Laundering Directive"). It is expected that this directive will be transposed during 2017. Consolidation will take place at that time.

## **8. Consultation outcome**

8.1 The Treasury consulted with HM Revenue & Customs regarding these amendments to the 2007 Regulations; HM Revenue & Customs did not consider CIPFA's decision to withdraw from its role as a supervisory authority to have significant implications.

## **9. Guidance**

9.1 Guidance to businesses affected by the 2007 Regulations is published by supervisory authorities and trade bodies, and may be approved by the Treasury. Compliance with this guidance may be taken into account in determining whether a breach of the 2007 Regulations has been committed. The Treasury is working with CILEx to develop anti-money laundering guidance for their sector, which is expected to be completed during 2015.

## **10. Impact**

10.1 The impact on business is minimal. Legal executives (who previously worked within solicitors' firms and were supervised for anti-money laundering compliance by the

Law Society) may now choose to set up business on their own, and will be supervised by CILEx.

10.2 The impact on charities or voluntary bodies is nil, since they do not fall within the scope of this amendment.

10.3 The impact on the public sector is minimal. The amendments are likely to result in a small increase in the number of bodies supervised by HM Revenue & Customs, one of the designated supervisory authorities under the 2007 Regulations. Supervisory authorities, whether they be professional bodies or Government Departments are required to be self funding and recover costs through fees paid by regulated businesses.

10.4 The Treasury submitted a Regulatory Triage Assessment (“RTA”) to the Regulatory Policy Committee in December 2014. The RTA considered the likely impact of the amendments to the 2007 Regulations. The Treasury concluded that the measure created a small additional cost to business of approximately £28,000 per annum.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to encourage regulated businesses to adopt a risk-based approach to ensure the measures they put in place to protect themselves from money laundering and terrorist financing are proportionate to the risks they assess to exist. This is in accordance with the Third Money Laundering Directive and global standards set by the Financial Action Task Force which do not allow for exemptions based on size.

## **12. Monitoring & review**

12.1 The effect of the Money Laundering (Amendment) Regulations 2012 (S.I. 2012/2298) (“the 2012 Regulations”) is that the Treasury will review the operation and effect of the 2007 Regulations and publish a report before 1st October 2017, and within every five years after that. These Regulations amend the 2007 Regulations and will be subject to the review requirement provided for in the 2012 Regulations.

12.2 The Fourth Money Laundering Directive is in the final stage of negotiations following political agreement on a package in December 2014. Once a directive is agreed, it will be transposed into UK law within two years, a review will take place at this time.

12.3 Additionally, the Treasury has developed a voluntary reporting process for supervisory authorities, which is now in its fourth year and is intended to improve the transparency and accountability of supervision in the UK.

### **13. Contact**

Victoria Morris at the Treasury Tel: 0207 270 1263 or email:  
victoria.morris@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.