
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Money Laundering Regulations 2007 (S.I. 2007/2157) and the Transfer of Funds (Information on the Payer) Regulations 2007 (S.I. 2007/3298) with updated provisions that implement in part the Fourth Money Laundering Directive 2015/849/EU (“fourth money laundering directive”) of the European Parliament and of the Council of 20th May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing (OJ L 141, 05.06.2015, p.73) and the Funds Transfer Regulation 2015/847/EU (“funds transfer regulation”) of the European Parliament and of the Council of 20th May 2015 on information accompanying transfers of funds (OJ L 141, 05.06.2015, p.1).

Part 1 (introduction) sets out the definitions and meanings that apply throughout these Regulations, and the supervisory authorities for those persons within the scope of these Regulations.

Part 2 (money laundering and terrorist financing) identifies the “relevant persons” to whom the money laundering provisions in these Regulations apply (regulations 8 to 15). Regulations 16 to 25 impose requirements for risk assessments to be carried out by the Treasury and the Home Office, the supervisory authorities and relevant persons to identify and assess the risks of money laundering and terrorist financing. They also require relevant persons to have policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified through the risk assessments. Regulation 26 prohibits any person from being the beneficial owner, officer or manager of certain firms or a sole practitioner unless that person has been approved by the appropriate supervisory authority.

Part 3 (customer due diligence) makes provision for customer due diligence measures. Regulations 27 to 32 identify what customer due diligence measures must be undertaken by relevant persons, and when those measures must be undertaken. Regulations 33 to 36 identify when enhanced customer due diligence measures must be applied by the relevant person in addition to the general customer due diligence measures required by regulations 27 to 32 and make provision in relation to the duties provided for in section 30 of the Bank of England and Financial Services Act 2016 (c.14), and section 333U of the Financial Services and Markets Act 2000 (c.8). Regulations 37 to 38 identify when simplified customer due diligence measures may be applied by the relevant person (regulation 37) and what customer due diligence measures are required in relation to electronic money (regulation 38). Simplified customer due diligence measures are customer due diligence measures that may be adjusted by the relevant person provided there is sufficient monitoring in place to detect any unusual or suspicious transactions.

Part 4 (reliance and record keeping) sets out the circumstances in which a relevant person may rely on another person to apply customer due diligence measures (regulation 39). It also makes provision as to which records relevant persons are required to keep, and when they are to be deleted (regulation 40), and clarifies the requirements as to data protection (regulation 41).

Part 5 (beneficial ownership information) applies to UK bodies corporate and to trustees. It requires trustees to inform the relevant person of their status, and corporate bodies and trustees to provide specified information to a relevant person in certain circumstances and to provide information to law enforcement authorities (regulations 43 and 44). The trustee is under additional requirements to provide certain information to the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”) in certain circumstances. The Commissioners are under a requirement to hold the information that has been received from the trustee in a register (regulation 45).

Status: This is the original version (as it was originally made).

Part 6 (money laundering and terrorist financing: supervision and registration) makes provision in relation to supervisory authorities and the registration of certain relevant persons. Regulations 46 to 52 provide for duties on supervisory authorities in relation to their own sector (regulations 46, 47 and 48). The self-regulatory organisations listed in Schedule 1 to the Regulations are subject to additional duties (regulation 49). All supervisory authorities are subject to a duty to cooperate with other supervisory authorities, the Treasury, law enforcement authorities and overseas authorities (regulation 50), and a duty to collect information (regulation 51). Provision is made for the circumstances in which a supervisory authority may disclose information it holds for supervisory purposes (regulation 52). Regulations 53 to 60 require the Financial Conduct Authority (“FCA”) and the Commissioners to maintain registers of certain relevant persons, and impose corresponding requirements on relevant persons to apply for registration. The FCA and the Commissioners have powers to suspend or cancel the registration of a relevant person in certain circumstances (regulation 60). If a relevant person in the relevant categories is not included in the register, that relevant person may not pursue their business (regulation 56).

Part 7 (transfer of funds (information on the payer) regulations) sets out the transfer of funds supervisory authorities for a payment service provider and the duties of the authorities (regulations 61 to 64). There are only two transfer of funds supervisory authorities for service providers: the FCA and the Commissioners.

Part 8 (information and investigation) gives supervisory authorities (including transfer of funds supervisory authorities) information gathering powers (regulations 65 to 68), gives the FCA and the Commissioners further investigatory powers (regulations 69 to 70) and makes provision for the way in which the powers in Part 8 may be exercised (regulations 71 to 73). The local weights and measures authority and the Department for the Economy may exercise the powers under Part 8 pursuant to arrangements made for the purposes of these Regulations with the FCA or with the Commissioners (regulation 74).

Part 9 (enforcement) identifies “relevant requirements” for the purpose of these Regulations (regulation 75 and Schedule 6 to the Regulations) and gives the FCA and the Commissioners powers to impose civil penalties on any person who has contravened a relevant requirement (regulations 76 to 85). Regulations 86 to 92 provide for criminal offences where a person has contravened a relevant requirement (regulation 86); prejudiced an investigation (regulation 87) or provided false or misleading information to any person in purported compliance with a requirement imposed by or under these Regulations (regulation 88), and make provision in relation to criminal proceedings (regulations 89 to 92).

Part 10 (appeals) provides for an appeal from a decision by the FCA under these Regulations (regulation 93), and for reviews and appeals in relation to decisions of the Commissioners (regulations 94 to 100).

Part 11 (miscellaneous provisions) among other things ensures that charges or penalties imposed by the FCA or the Commissioners may be recovered as a debt in civil proceedings (regulation 101), ensures that the FCA and Commissioners are able to recover the costs of their supervision or enforcement action (regulation 102) and imposes obligations on various public authorities to disclose any suspicions they may have of money laundering or terrorist financing (regulation 103).

A Transposition Note setting out how the fourth money laundering directive and the funds transfer regulation will be transposed in UK law is published with the Explanatory Memorandum with these Regulations on [legislation.gov.uk](https://www.legislation.gov.uk). A full regulatory impact statement of the effect that this instrument will have on the costs of business and the voluntary sector will be published when an opinion has been received from the Regulatory Policy Committee. Copies of the Transposition Note are available from HM Treasury at 1 Horse Guards Road, London SW1A 2HQ. Copies of the Impact Assessment will be available from HM Treasury when it is published.