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STATUTORY INSTRUMENTS

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**2017 No. 692**

**The Money Laundering, Terrorist Financing and Transfer  
of Funds (Information on the Payer) Regulations 2017**

**PART 2**

**Money Laundering and Terrorist Financing**

**CHAPTER 1**

**Application**

**Application**

**8.**—(1) Parts 1 to 6 and 8 to 11 apply to the persons (“relevant persons”) acting in the course of business carried on by them in the United Kingdom, who—

- (a) are listed in paragraph (2); and
- (b) do not come within the exclusions set out in regulation 15.

(2) The persons listed in this paragraph are—

- (a) credit institutions;
- (b) financial institutions;
- (c) auditors, insolvency practitioners, external accountants and tax advisers;
- (d) independent legal professionals;
- (e) trust or company service providers;
- (f) estate agents;
- (g) high value dealers;
- (h) casinos.

(3) Regulations 3, 7, 9, 15, 17 to 21, 24, 25, 46, 47, 50 to 52, 65 to 82, 84, 86 to 93, 101, 102 and 106 apply to an auction platform acting in the course of business carried on by it in the United Kingdom, and such an auction platform is a relevant person for the purposes of those provisions.

(4) The definitions in regulations 10 to 14 apply for the purposes of this regulation.

**Carrying on business in the United Kingdom**

**9.**—(1) For the purposes of these Regulations, a relevant person (“A”) is to be regarded as carrying on business in the United Kingdom in the cases described in this regulation even if A would not otherwise be regarded as doing so.

(2) The first case is where—

- (a) A’s registered office (or if A does not have a registered office, A’s head office) is in the United Kingdom;

- (b) A is entitled to exercise rights under a single market directive as a UK firm (within the meaning of paragraph 10 of Schedule 3 to FSMA (EEA passport rights)); and
  - (c) A is carrying on business in an EEA state other than the United Kingdom in the exercise of those rights.
- (3) The second case is where—
- (a) A's registered office (or if A does not have a registered office, A's head office) is in the United Kingdom; and
  - (b) the day-to-day management of the carrying on of A's business is the responsibility of—
    - (i) that office, or
    - (ii) another establishment maintained by A in the United Kingdom.
- (4) The third case is where—
- (a) A is a casino which provides facilities for remote gambling (within the meaning of section 4 of the Gambling Act 2005 (remote gambling)(1)) and—
  - (b) either—
    - (i) at least one piece of remote gambling equipment (within the meaning of section 36(4) of the Gambling Act 2005 (territorial application)) is situated in Great Britain, or
    - (ii) no such equipment is situated in Great Britain but the facilities provided by A are used there.
- (5) For the purposes of paragraphs (2) and (3)—
- (a) “single market directive” means—
    - (i) a directive referred to in paragraph 1 of Schedule 3 to FSMA(2);
    - (ii) [Directive 2009/110/EC](#) of the European Parliament and of the Council of 16th September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions(3);
    - (iii) [Directive 2015/2366/EU](#) of the European Parliament and of the Council of 25th November 2015 on payment services in the internal market(4);
  - (b) it is irrelevant where the person with whom the business is carried on is situated.

### **Credit institutions and financial institutions**

- 10.**—(1) In these Regulations, “credit institution” means—
- (a) a credit institution as defined in Article 4.1(1) of the capital requirements regulation; or
  - (b) a branch (as defined by Article 4.1(17) of that regulation) located in an EEA state of an institution falling within sub-paragraph (a) (or an equivalent institution whose head office is located in a third country) wherever the institution's head office is located,

when it accepts deposits or other repayable funds from the public or grants credits for its own account (within the meaning of the capital requirements regulation), or when it bids directly in auctions in accordance with the emission allowance auctioning regulation on behalf of its clients.

- (2) In these Regulations, “financial institution” means—
- (a) an undertaking, including a money service business, other than an institution referred to in paragraph (3), when the undertaking carries out one or more listed activity;

(1) [2005 c.19](#).

(2) Paragraph 1 of Schedule 3 was amended by [S.I. 2000/2952](#); [2003/1473](#); [2003/2066](#); [2007/126](#); [2013/1773](#); [2013/3115](#); [2015/575](#) and [2015/910](#).

(3) [OJ L 267](#), 10.10.2009, p.7.

(4) [OJ L 337](#), 23.12.2015, p.35.

- (b) an insurance undertaking duly authorised in accordance with the Solvency 2 Directive, when it carries out any activities or operations referred to in Article 2.3 of that Directive;
  - (c) a person (other than a person falling within Article 2 of the markets in financial instruments directive), whose regular occupation or business is the provision to other persons of an investment service or the performance of an investment activity on a professional basis, when—
    - (i) providing investment services or performing investment activities (within the meaning of that directive); or
    - (ii) bidding directly in auctions in accordance with the emission allowance auctioning regulation on behalf of its clients;
  - (d) a person falling within Article 2.1(j) of the markets in financial instruments directive, when bidding directly in auctions in accordance with the emission allowance auctioning regulation on behalf of clients of the person’s main business;
  - (e) a collective investment undertaking, when marketing or otherwise offering its units or shares;
  - (f) an insurance intermediary as defined in Article 2.5 of [Directive 2002/92/EC](#) of the European Parliament and of the Council of 9th December 2002 on insurance mediation<sup>(5)</sup>, with the exception of a tied insurance intermediary as mentioned in Article 2.7 of that Directive, when it acts in respect of contracts of long-term insurance;
  - (g) a branch located in an EEA state of a person referred to in sub-paragraphs (a) to (f) (or an equivalent person whose head office is located in a third country), wherever the person’s head office is located, when carrying out any activity mentioned in sub-paragraphs (a) to (f);
  - (h) the National Savings Bank;
  - (i) the Director of Savings, when money is raised under the auspices of the Director under the National Loans Act 1968<sup>(6)</sup>.
- (3) For the purposes of paragraph (2)(a), the institutions referred to are—
- (a) a credit institution;
  - (b) an undertaking whose only listed activity is as a creditor under an agreement which—
    - (i) falls within section 12(a) of the Consumer Credit Act 1974<sup>(7)</sup> (debtor-creditor-supplier agreements);
    - (ii) provides fixed sum credit (within the meaning given in section 10(1)(b) of the Consumer Credit Act 1974 (running-account credit and fixed-sum credit)) in relation to the provision of services; and
    - (iii) provides financial accommodation by way of deferred payment or payment by instalments over a period not exceeding 12 months;
  - (c) an undertaking whose only listed activity is trading for its own account in one or more of the products listed in point 7 of Annex 1 to the capital requirements directive where the undertaking does not have a customer (and, for this purpose, “customer” means a person other than the undertaking which is not a member of the same group as the undertaking).
- (4) For the purposes of this regulation, a “listed activity” means an activity listed in points 2 to 12, 14 and 15 of Annex 1 to the capital requirements directive (the relevant text of which is set out in Schedule 2).

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<sup>(5)</sup> OJ L 9, 15.01.2003, p.3.

<sup>(6)</sup> 1968 c.13.

<sup>(7)</sup> 1974 c.39.

**Auditors and others****11. In these Regulations—**

- (a) “auditor” means any firm or individual who is—
  - (i) a statutory auditor within the meaning of Part 42 of the Companies Act 2006<sup>(8)</sup> (statutory auditors), when carrying out statutory audit work within the meaning of section 1210 of that Act (meaning of statutory auditor), or
  - (ii) a local auditor within the meaning of section 4(1) of the Local Audit and Accountability Act 2014 (general requirements for audit)<sup>(9)</sup>, when carrying out an audit required by that Act.
- (b) “insolvency practitioner” means any firm or individual who acts as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986<sup>(10)</sup> or article 3 of the Insolvency (Northern Ireland) Order 1989<sup>(11)</sup> (meaning of “act as insolvency practitioner”).
- (c) “external accountant” means a firm or sole practitioner who by way of business provides accountancy services to other persons, when providing such services.
- (d) “tax adviser” means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services.

**Independent legal professionals and trust or company service providers**

**12.—**(1) In these Regulations, “independent legal professional” means a firm or sole practitioner who by way of business provides legal or notarial services to other persons, when participating in financial or real property transactions concerning—

- (a) the buying and selling of real property or business entities;
- (b) the managing of client money, securities or other assets;
- (c) the opening or management of bank, savings or securities accounts;
- (d) the organisation of contributions necessary for the creation, operation or management of companies; or
- (e) the creation, operation or management of trusts, companies, foundations or similar structures,

and, for this purpose, a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.

(2) In these Regulations, “trust or company service provider” means a firm or sole practitioner who by way of business provides any of the following services to other persons, when that firm or practitioner is providing such services—

- (a) forming companies or other legal persons;
- (b) acting, or arranging for another person to act—
  - (i) as a director or secretary of a company;
  - (ii) as a partner of a partnership; or
  - (iii) in a similar capacity in relation to other legal persons;

<sup>(8)</sup> 2006 c.46. Section 1210 was amended by S.I. 2008/565; 2008/567; 2008/1950; 2012/1809 and 2013/3115.

<sup>(9)</sup> 2014 c.2.

<sup>(10)</sup> 1986 c.45. Section 388 was amended by section 11(1) of the Bankruptcy (Scotland) Act 1993 (c.6); section 4(2) of the Insolvency Act 2000 (c.39); paragraph 2(11) of Schedule 6 to the Deregulation Act 2015 (c.20) and by S.I. 1994/2421; 2002/1240; 2002/2708; 2009/1941 and 2016/1034.

<sup>(11)</sup> S.I. 1989/2405 (N.I. 19). Article 3 was amended by Schedule 4 to the Insolvency (Amendment) Act (Northern Ireland) 2016 (c.2) (N.I.) and by S.R. 1995/225, 2002/334, 2003/550 and by S.I. 2002/3152 (N.I. 6) and 2009/1941.

- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or legal arrangement;
- (d) acting, or arranging for another person to act, as—
  - (i) a trustee of an express trust or similar legal arrangement; or
  - (ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

### **Estate agents**

**13.**—(1) In these Regulations, “estate agent” means a firm or a sole practitioner, who, or whose employees, carry out estate agency work, when the work is being carried out.

(2) For the purposes of paragraph (1) “estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979(**12**) (estate agency work), but for those purposes references in that section to disposing of or acquiring an interest in land are (despite anything in section 2 of that Act) to be taken to include references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest.

### **High value dealers, casinos and auction platforms**

**14.**—(1) In these Regulations—

- (a) “high value dealer” means a firm or sole trader who by way of business trades in goods (including an auctioneer dealing in goods), when the trader makes or receives, in respect of any transaction, a payment or payments in cash of at least 10,000 euros in total, whether the transaction is executed in a single operation or in several operations which appear to be linked;
- (b) “casino” means the holder of a casino operating licence and, for this purpose, a “casino operating licence” has the meaning given by section 65(2)(a) of the Gambling Act 2005(**13**) (nature of licence);
- (c) “auction platform” means a platform which auctions two-day spot or five-day futures, within the meanings given by Article 3.4 and 3.5 of the emission allowance auctioning regulation, when it carries out activities covered by that regulation.

(2) A payment does not cease to be a “payment in cash” for the purposes of paragraph (1)(a) if cash is paid by or on behalf of the person making the payment—

- (a) to a person other than the other party to the transaction for the benefit of the other party, or
- (b) into a bank account for the benefit of the other party to the transaction.

### **Exclusions**

**15.**—(1) Parts 1 to 4, 6 and 8 to 11 do not apply to the following persons when carrying on any of the following activities—

- (a) a registered society within the meaning of section 1 of the Co-operative and Community Benefit Societies Act 2014 (meaning of “registered society”)(**14**), when it—

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(12) 1979 c.38. Section 1 was amended by paragraph 40 of Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73); paragraph 42 of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c.11); paragraph 28 of Schedule 2 to the Planning (Consequential Provisions) (Scotland) Act 1997 (c.11); section 70 of the Enterprise and Regulatory Reform Act 2013 (c.24) and S.I. 2001/1283.

(13) 2005 c.19.

(14) 2014 c.14.

- (i) issues withdrawable share capital within the limit set by section 24 of that Act (maximum shareholding in society); or
  - (ii) accepts deposits from the public within the limit set by section 67(2) of that Act (carrying on of banking by societies);
  - (b) a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969(15), when it—
    - (i) issues withdrawable share capital within the limit set by section 6(16) of that Act (maximum shareholding in society); or
    - (ii) accepts deposits from the public within the limit set by section 7(3) of that Act (carrying on of banking by societies);
  - (c) a person who is (or falls within a class of persons) specified in any of paragraphs 2 to 23, 26 to 38 or 40 to 49 of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001(17), when carrying out any activity in respect of which that person is exempt;
  - (d) a local authority within the meaning given in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(18), when carrying on an activity which would be a regulated activity for the purposes of FSMA but for article 72G of that Order(19);
  - (e) a person who was an exempted person for the purposes of section 45 of the Financial Services Act 1986(20) (miscellaneous exemptions) immediately before its repeal, when exercising the functions specified in that section;
  - (f) a person whose main activity is that of a high value dealer, when engaging in financial activity on an occasional or very limited basis as set out in paragraph (3); or
  - (g) a person preparing a home report, which for these purposes means the documents prescribed for the purposes of section 98, 99(1) or 101(2) of the Housing (Scotland) Act 2006 (duties: information and others)(21).
- (2) These Regulations do not apply to a person who falls within regulation 8 solely as a result of that person engaging in financial activity on an occasional or very limited basis as set out in paragraph (3).
- (3) For the purposes of paragraphs (1)(f) and (2), a person is to be considered as engaging in financial activity on an occasional or very limited basis if all the following conditions are met—
- (a) the person's total annual turnover in respect of the financial activity does not exceed £100,000;
  - (b) the financial activity is limited in relation to any customer to no more than one transaction exceeding 1,000 euros, whether the transaction is carried out in a single operation, or a series of operations which appear to be linked;

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(15) 1969 c.24.

(16) Section 6 was amended by section 10 of the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c.16) (N.I.) and by S.R. 1991/375.

(17) S.I. 2001/1201. Paragraph 15A was inserted by S.I. 2003/47; paragraph 15B was inserted by S.I. 2009/118; paragraph 19 was revoked by S.I. 2014/366; paragraphs 21 and 27 were substituted by S.I. 2002/1310 and 2003/1675 respectively; paragraph 30 was revoked by S.I. 2003/3225; paragraph 31 was substituted by paragraph 10 of Schedule 2 to the Tourist Boards (Scotland) Act 2006 (asp 15) and amended by S.I. 2007/1103; paragraph 33A was inserted by S.I. 2007/1821; paragraphs 34A, 34B and 34C were inserted by S.I. 2005/592, 2008/682 and 2012/763 respectively; paragraph 36 was revoked by S.I. 2007/125; paragraph 40 was amended by S.I. 2013/1881; paragraph 41 was amended by S.I. 2010/86; paragraph 42 was amended by S.I. 2007/125; paragraph 44 was amended by S.I. 2014/506; paragraph 45 was amended by S.I. 2013/1773; paragraph 47 was revoked by S.I. 2014/366; paragraph 48 was substituted by S.I. 2003/1673 and paragraph 49 was inserted by S.I. 2001/3623

(18) S.I. 2001/544. Article 3(1) was amended, but the amendments are not relevant to these Regulations.

(19) Article 72G was inserted by S.I. 2014/366, and amended by S.I. 2015/910 and 2016/392.

(20) 1986 c.60. Section 45 was repealed by S.I. 2001/3649.

(21) 2006 asp.1.

- (c) the financial activity does not exceed 5% of the person's total annual turnover;
  - (d) the financial activity is ancillary and directly related to the person's main activity;
  - (e) the financial activity is not the transmission or remittance of money (or any representation of monetary value) by any means;
  - (f) the person's main activity is not that of a person falling within regulation 8(2)(a) to (f) or (h);
  - (g) the financial activity is provided only to customers of the main activity of the person and is not offered to the public.
- (4) Chapters 2 and 3 of Part 2, and Parts 3 to 9, do not apply to—
- (a) the Auditor General for Scotland;
  - (b) the Auditor General for Wales;
  - (c) the Bank of England;
  - (d) the Comptroller and Auditor General;
  - (e) the Comptroller and Auditor General for Northern Ireland;
  - (f) the Official Solicitor to the Supreme Court, when acting as trustee in his or her official capacity;
  - (g) the Treasury Solicitor.