
STATUTORY INSTRUMENTS

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 2

Risk assessment and controls

Internal controls

21.—(1) Where appropriate with regard to the size and nature of its business, a relevant person must—

- (a) appoint one individual who is a member of the board of directors (or if there is no board, of its equivalent management body) or of its senior management as the officer responsible for the relevant person's compliance with these Regulations;
 - (b) carry out screening of relevant employees appointed by the relevant person, both before the appointment is made and during the course of the appointment;
 - (c) establish an independent audit function with the responsibility—
 - (i) to examine and evaluate the adequacy and effectiveness of the policies, controls and procedures adopted by the relevant person to comply with the requirements of these Regulations;
 - (ii) to make recommendations in relation to those policies, controls and procedures; and
 - (iii) to monitor the relevant person's compliance with those recommendations.
- (2) For the purposes of paragraph (1)(b)—
- (a) “screening” means an assessment of—
 - (i) the skills, knowledge and expertise of the individual to carry out their functions effectively;
 - (ii) the conduct and integrity of the individual;
 - (b) a relevant employee is an employee whose work is—
 - (i) relevant to the relevant person's compliance with any requirement in these Regulations, or
 - (ii) otherwise capable of contributing to the—
 - (aa) identification or mitigation of the risks of money laundering and terrorist financing to which the relevant person's business is subject, or
 - (bb) prevention or detection of money laundering and terrorist financing in relation to the relevant person's business.

- (3) An individual in the relevant person's firm must be appointed as a nominated officer.
- (4) A relevant person must, within 14 days of the appointment, inform its supervisory authority of—
- (a) the identity of the individual first appointed under paragraph (1)(a);
 - (b) the identity of the individual first appointed under paragraph (3); and
 - (c) of any subsequent appointment to either of those positions.
- (5) Where a disclosure is made to the nominated officer, that officer must consider it in the light of any relevant information which is available to the relevant person and determine whether it gives rise to knowledge or suspicion or reasonable grounds for knowledge or suspicion that a person is engaged in money laundering or terrorist financing.
- (6) Paragraphs (1) and (3) do not apply where the relevant person is an individual who neither employs nor acts in association with any other person.
- (7) A relevant person who is an electronic money issuer or a payment service provider must appoint an individual to monitor and manage compliance with, and the internal communication of, the policies, controls and procedures adopted by the relevant person under regulation 19(1), and in particular to—
- (a) identify any situations of higher risk of money laundering or terrorist financing;
 - (b) maintain a record of its policies, controls and procedures, risk assessment and risk management including the application of such policies and procedures;
 - (c) apply measures to ensure that its policies, controls and procedures are taken into account in all relevant functions including in the development of new products, dealing with new customers and in changes to business activities; and
 - (d) provide information to senior management about the operation and effectiveness of its policies, controls and procedures whenever appropriate and at least annually.
- (8) A relevant person must establish and maintain systems which enable it to respond fully and rapidly to enquiries from any person specified in paragraph (9) as to—
- (a) whether it maintains, or has maintained during the previous five years, a business relationship with any person; and
 - (b) the nature of that relationship.
- (9) The persons specified in this paragraph are—
- (a) financial investigators accredited under section 3 of the Proceeds of Crime Act 2002 (accreditation and training)(1);
 - (b) persons acting on behalf of the Scottish Ministers in their capacity as an enforcement authority under that Act; and
 - (c) constables or equivalent officers of any law enforcement authority.
- (10) In determining what is appropriate with regard to the size and nature of its business, a relevant person—
- (a) must take into account its risk assessment under regulation 18(1); and
 - (b) may take into account any guidance which has been—
 - (i) issued by the FCA; or
 - (ii) issued by any other supervisory authority or appropriate body and approved by the Treasury.

(1) 2002 c. 29. Section 3 was amended by paragraph 111 of Schedule 8 to the Crime and Courts Act 2013 (c.22), and by paragraph 120 of Schedule 8 and paragraph 1 of Schedule 14 to the Serious Crime Act 2007 (c.27).

