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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 1**

**Introduction**

**Meaning of beneficial owner: trusts, similar arrangements and others**

**6.—(1)** In these Regulations, “beneficial owner”, in relation to a trust, means each of the following—

- (a) the settlor;
- (b) the trustees;
- (c) the beneficiaries;
- (d) where the individuals (or some of the individuals) benefiting from the trust have not been determined, the class of persons in whose main interest the trust is set up, or operates;
- (e) any individual who has control over the trust.

(2) In paragraph (1)(e), “control” means a power (whether exercisable alone, jointly with another person or with the consent of another person) under the trust instrument or by law to—

- (a) dispose of, advance, lend, invest, pay or apply trust property;
- (b) vary or terminate the trust;
- (c) add or remove a person as a beneficiary or to or from a class of beneficiaries;
- (d) appoint or remove trustees or give another individual control over the trust;
- (e) direct, withhold consent to or veto the exercise of a power mentioned in sub-paragraphs (a) to (d).

(3) In these Regulations, “beneficial owner”, in relation to a foundation or other legal arrangement similar to a trust, means those individuals who hold equivalent or similar positions to those set out in paragraph (1).

(4) For the purposes of paragraph (1)—

- (a) where an individual is the beneficial owner of a body corporate which is entitled to a specified interest in the capital of the trust property or which has control over the trust, the individual is to be regarded as entitled to the interest or having control over the trust; and
- (b) an individual (“P”) does not have control solely as a result of—
  - (i) P’s consent being required in accordance with section 32(1)(c) (power of advancement) of the Trustee Act 1925(1);

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(1) 1925 (c.19). Section 32(1) was amended by section 9 of the Inheritance and Trustees’ Powers Act 2014 (c.16).

- (ii) any discretion delegated to P under section 34 (power of investment and delegation) of the Pensions Act 1995<sup>(2)</sup>;
  - (iii) the power to give a direction conferred on P by section 19(2) (appointment and retirement of trustee at instance of beneficiaries) of the Trusts of Land and Appointment of Trustees Act 1996<sup>(3)</sup>; or
  - (iv) the power exercisable collectively at common law to vary or extinguish a trust where the beneficiaries under the trust are of full age and capacity and (taken together) absolutely entitled to the property subject to the trust (or, in Scotland, have a full and unqualified right to the fee).
- (5) For the purposes of paragraph (4), “specified interest” means a vested interest which is—
- (a) in possession or in remainder or reversion (or in Scotland, in fee); and
  - (b) defeasible or indefeasible.
- (6) In these Regulations, “beneficial owner”, in relation to an estate of a deceased person in the course of administration, means—
- (a) in England and Wales and Northern Ireland, the executor, original or by representation, or administrator for the time being of a deceased person;
  - (b) in Scotland, the executor for the purposes of the Executors (Scotland) Act 1900<sup>(4)</sup>.
- (7) In these Regulations, “beneficial owner”, in relation to a legal entity or legal arrangement which does not fall within regulation 5 or paragraphs (1), (3) or (6) of this regulation, means—
- (a) any individual who benefits from the property of the entity or arrangement;
  - (b) where the individuals who benefit from the entity or arrangement have yet to be determined, the class of persons in whose main interest the entity or arrangement is set up or operates;
  - (c) any individual who exercises control over the property of the entity or arrangement.
- (8) For the purposes of paragraph (7), where an individual is the beneficial owner of a body corporate which benefits from or exercises control over the property of the entity or arrangement, the individual is to be regarded as benefiting from or exercising control over the property of the entity or arrangement.
- (9) In these Regulations, “beneficial owner”, in any other case, means the individual who ultimately owns or controls the entity or arrangement or on whose behalf a transaction is being conducted.

(2) 1995 (c.26). Section 34 was amended by paragraph 49 of Schedule 12 to the Pensions Act 2004 (c.35); section 5(3) of the Trustee Delegation Act 1999 (c.15) and S.I. 2001/3649.

(3) 1996 c.47.

(4) 1900 c.55.