



Financial Services Act 2021

2021 CHAPTER 22

Insider dealing and money laundering etc

30 Insider lists and managers' transactions

- (1) [Regulation \(EU\) No. 596/2014](#) of the European Parliament and of the Council of 16 April 2014 on market abuse is amended as follows.
- (2) In Article 18 (insider lists)—
 - (a) in paragraph 1, in the opening words—
 - (i) for “or any person” substitute “, and any person”, and
 - (ii) after “shall” insert “each”,
 - (b) in paragraph 2, in the first subparagraph—
 - (i) for “or any person” substitute “, and any person”,
 - (ii) after “shall” insert “each”, and
 - (iii) for “the insider list” substitute “their insider list”,
 - (c) in paragraph 2, for the second subparagraph substitute—

“Where another person is requested by the issuer to draw up and update the issuer’s insider list, the issuer shall remain fully responsible for complying with this Article. The issuer shall always retain a right of access to the insider list that the other person is drawing up.”,
 - (d) in paragraph 4—
 - (i) for “or any person” substitute “, and any person”, and
 - (ii) for “shall update the” substitute “, shall each update their”, and
 - (e) in paragraph 5—
 - (i) for “or any person” substitute “, and any person”, and
 - (ii) for “shall retain the” substitute “, shall each retain their”.
- (3) In Article 19 (managers' transactions)—
 - (a) in paragraph 1, in the second subparagraph, for “business days” substitute “working days”,

- (b) in paragraph 3, in the first subparagraph, for the words from the beginning to “transaction” substitute “The issuer or emission allowance market participant must make public the information contained in a notification referred to in paragraph 1 within two working days of receipt of such a notification”, and
- (c) at the end insert—

“16. In this Article, “working day” means a day other than—

- (a) Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.”

31 Maximum sentences for insider dealing and financial services offences

- (1) In section 61(1)(b) of the Criminal Justice Act 1993 (penalty for conviction on indictment for insider dealing), for “seven years” substitute “ten years”.
- (2) In section 92(1)(b) of the Financial Services Act 2012 (penalty for conviction on indictment for financial services offences), for “7 years” substitute “10 years”.
- (3) The amendment made by subsection (1) or (2) does not apply in relation to offences committed before the subsection comes into force.
- (4) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (3) to have been committed on the first of those days.

32 Money laundering offences: electronic money institutions, payment institutions and deposit-taking bodies

- (1) Part 7 of the Proceeds of Crime Act 2002 (money laundering) is amended in accordance with subsections (2) to (6).
- (2) In section 327(2C) (conversion or transfer of criminal property: exceptions), after “deposit-taking body” insert “, electronic money institution or payment institution”.
- (3) In section 328(5) (arrangements: exceptions), after “deposit-taking body” insert “, electronic money institution or payment institution”.
- (4) In section 329(2C) (acquisition, use and possession: exceptions), after “deposit-taking body” insert “, electronic money institution or payment institution”.
- (5) In section 339A (threshold amounts)—
 - (a) in subsection (2), after “deposit-taking body” insert “, electronic money institution or payment institution”,
 - (b) in subsection (3), in the opening words, after “deposit-taking body” insert “, electronic money institution or payment institution”,
 - (c) in subsection (3)(a), for “deposit-taking body’s” substitute “body’s or institution’s”,
 - (d) in subsection (3)(b), for “deposit-taking body” substitute “body or institution”,
 - (e) in subsection (4), after “deposit-taking body” insert “, electronic money institution or payment institution”, and

- (f) in subsection (8)—
 - (i) after “deposit-taking body” insert “, electronic money institution or payment institution”, and
 - (ii) after “the body” insert “or institution”.
- (6) In section 340 (interpretation)—
 - (a) in subsection (14)—
 - (i) omit “or” at the end of paragraph (a), and
 - (ii) after paragraph (b) insert “, or
 - (c) a person specified, or of a description specified, in regulations made by the Treasury or the Secretary of State.”,
 - (b) after subsection (14) insert—
 - “(14A) In subsection (14)(a)—
 - (a) the reference to the activity of accepting deposits is a reference to that activity so far as it is, for the time being, a regulated activity for the purposes of the Financial Services and Markets Act 2000 by virtue of an order under section 22 of that Act, but
 - (b) the reference to a business which engages in that activity does not include a person specified, or of a description specified, in regulations made by the Treasury or the Secretary of State.
 - (14B) Before making regulations under subsection (14A)(b), the Treasury or the Secretary of State (as appropriate) must consult such persons likely to be affected by the regulations, or such representatives of such persons, as they consider appropriate.
 - (14C) “Electronic money institution” has the same meaning as in the Electronic Money Regulations 2011 (S.I. 2011/99) (see regulation 2 of those Regulations).”, and
 - (c) at the end insert—
 - “(16) “Payment institution” means an authorised payment institution or a small payment institution (each as defined in regulation 2 of the Payment Services Regulations 2017 (S.I. 2017/752)).”
- (7) In section 459 of the Proceeds of Crime Act 2002 (orders and regulations)—
 - (a) in subsection (4), before paragraph (aa), insert—
 - “(azb) regulations under section 340(14)(c) or (14A)(b).”,
 - (b) before subsection (6A) insert—
 - “(6ZC) No regulations may be made by the Treasury or the Secretary of State under section 340(14)(c) or (14A)(b) unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”, and
 - (c) in subsection (6A), before “would” insert “or of regulations under section 340(14)(c) or (14A)(b)”.

33 Forfeiture of money: electronic money institutions and payment institutions

- (1) Schedule 12 amends provisions in the Anti-terrorism, Crime and Security Act 2001 and the Proceeds of Crime Act 2002 about the forfeiture of money so that they apply to money held in accounts maintained with electronic money institutions and payment institutions.
- (2) Subject to subsection (3), the amendments made by that Schedule are to be treated as having come into force at the same time as the provisions they amend.
- (3) Subsection (2) does not apply to the amendments of Part 5 of the Proceeds of Crime Act 2002 as they extend to Northern Ireland.
- (4) Regulations made, before this section comes into force, under—
 - (a) paragraph 10X of Schedule 1 to the Anti-Terrorism, Crime and Security Act 2001, or
 - (b) section 303Z10 of the Proceeds of Crime Act 2002,
 apply (and are to be treated as having always applied) for the purposes of notices relating to money held in accounts maintained with electronic money institutions and payment institutions, as well as for the purposes of notices relating to money held in accounts maintained with banks and building societies.

34 Application of money laundering regulations to overseas trustees

- (1) Schedule 2 to the Sanctions and Anti-Money Laundering Act 2018 (money laundering and terrorist financing: further provision about section 49 regulations) is amended as follows.
- (2) In paragraph 22(2) (extra-territorial application of section 49 regulations: meaning of “United Kingdom person”)—
 - (a) in paragraph (b), omit the “or” at the end, and
 - (b) after paragraph (c) insert “, or
 - (d) a person—
 - (i) who does not fall within any of paragraphs (a) to (c), and
 - (ii) who is a trustee with links to the United Kingdom (see paragraph 22A).”
- (3) After paragraph 22 insert—

“22A (1) Sub-paragraphs (2) and (3) have effect for the purposes of paragraph 22(2) (d).

 - (2) A person who is a trustee of a trust has links to the United Kingdom if—
 - (a) any property subject to the trust is situated in the United Kingdom,
 - (b) a trustee of the trust enters into a business, professional or commercial relationship with a relevant person, or
 - (c) the income of the trust includes income which, directly or indirectly, is from a source in the United Kingdom.
 - (3) A person who is a trustee of a trust also has links to the United Kingdom if—
 - (a) at least one other person is a trustee of the trust,

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

- (b) the other trustee (or at least one of the other trustees if the trust has more than two trustees) is resident in the United Kingdom, and
 - (c) a person makes, at a time when the person is resident in the United Kingdom, a gift of property which becomes subject to the trust.
- (4) In this paragraph “property” has the meaning given by section 436 of the Insolvency Act 1986.”