

**EXPLANATORY MEMORANDUM TO
THE MONEY LAUNDERING (AMENDMENT) REGULATIONS 2007**

2007 No. 3299

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations, which come into force on 15th December 2007, make minor amendments to the Money Laundering Regulations 2007 (S.I. 2007/2157) (“the principal Regulations”). The principal Regulations implement in part Directive 2005/60/EC (OJ No L 309, 25.11.2005, p.15) of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (“the Third Directive”).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Third Directive builds on the obligations imposed on member states by the First Directive (91/308/EEC) amended by the Second Directive (2001/97/EC). Its aim is to update European legislation on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing so that it better reflects the 40 Recommendations on money laundering made by the Financial Action Task Force¹.

4.2 The main administrative provisions of the Third Directive were implemented through the principal Regulations. These Regulations make minor amendments to the principal Regulations.

4.3 The Government submitted an explanatory memorandum dated 17 September 2004 on the draft Third Directive (doc. 11134/04). The House of Commons Select Committee on European Scrutiny reported on the draft Directive in reports 32 (2003-04), para 13 (13 October 2004), 1 (2004-05), para 14 (1 December 2004) and 1 (2005-06), para 50 (4 July 2005), clearing it after Ministerial correspondence. The House of Lords European Union Committee considered the draft Directive in Sub-Committee E (Law and Institutions) and cleared it from scrutiny on 22 June 2005 after Ministerial correspondence (see report 45 (2005-06)).

5. Extent

5.1 This instrument applies to all of the United Kingdom.

¹ www.FATF-GAFI.org

6 European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7 Policy background

Objectives

7.1 The principal policy objective behind the Third Directive is to update and enhance European legislation to bring it in line with the international standards on combating money laundering and terrorist financing set out in the Financial Action Task Force's (FATF) 40 Recommendations.

7.2 The amendments made by these Regulations include a number of provisions that enable the principal Regulations to be applied more effectively in Scotland and the addition of a supervisory authority for book-keepers.

Consultation

7.3 The Government consulted for 12 weeks on its policy proposals for implementing the Third Money Laundering Directive in July 2006, and it then consulted for a further 10 weeks on draft Regulations in January 2007. Around 100 responses were received for each consultation. A summary of the responses to each consultation is published on the Treasury's website (hm-treasury.gov.uk). No separate consultation has been conducted on the amendments made by these Regulations.

Implementation of the principal Regulations and guidance

7.4 The Government sees the principal Regulations as part of an implementation system that also includes supervisory rules (such as those in the FSA Handbook) and guidance to industry (for example the Joint Money Laundering Steering Group guidance for financial services). The principal Regulations enable firms that have followed Treasury approved guidance to use this as a defence against the imposition of civil penalties or prosecution for a criminal offence under the principal Regulations.

8 Impact

8.1A Regulatory Impact Assessment was published with the Money Laundering Regulations 2007 this July. These Regulations do not have additional impacts to those listed in that Regulatory Impact Assessment. This Assessment can be found at http://www.hm-treasury.gov.uk/media/3/D/moneylaundering_ria250707.pdf No separate RIA has been prepared for these Regulations.

9 Contact

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