
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe current accounts excluded from; and information and manner and form requirements for the purposes of the statutory regime governing immigration checks of current accounts by banks and building societies set out in sections 40A to 40H of the Immigration Act 2014 (c. 22) (“the Act”). (Additional requirements, relating to other sections of the Act, are prescribed in the Immigration Act 2014 (Current Accounts)(Compliance &c) Regulations 2017). Sections 40A to 40H were inserted into the Act by section 45 of and Schedule 7 to the Immigration Act 2016 (c. 19). The Regulations also make provision in respect of enforcement powers to be exercised by the Financial Conduct Authority.

Regulation 2 provides that a current is an “excluded account” for the purposes of section 40A of the Act if it is operated by or for an individual who is acting, with respect to the account, for the purposes of a trade, business or profession. An excluded account is not within the category of accounts for which banks or building societies are required to conduct periodic immigration checks under the Act.

Regulation 3 prescribes the information a bank or building society (‘B’) must provide to the Secretary of State where it has identified, as the result of carrying out an immigration check, that a current account operated by it is operated by or for a person (‘P’) it believes to be a disqualified person (as defined in section 40A(3) of the Act). This information consists of the date the immigration check was carried out; P’s name, address and date of birth; the type and current balance of each account operated by or for P (at to which see section 40A(5) of the Act and regulation 3(3)); a statement of whether P is the sole or a joint holder, or is a signatory or identified beneficiary of each account; the details of certain payments into the account in the year preceding the notification; and any other information B holds and considers to be relevant to the carrying out of the Secretary of State’s functions under sections 40A to 40G of the Act.

Regulation 3 also prescribes the manner and form in which such information, or a notification under section 40B(2) of the Act must be sent: by means of a website operated by the Secretary of State for that purpose. The information or notification must include the identity of the bank or building society submitting it, and the date of submission.

Regulation 4 amends the Immigration Act 2014 (Bank Accounts) Regulations 2014 (which provide for enforcement powers for the Financial Conduct Authority in respect of the prohibition imposed by section 40 of the Act), to extend the Authority’s enforcement powers to include breaches of the regime introduced by sections 40A to 40H of the Act.

An impact assessment has been produced for this instrument and is available from Her Majesty’s Treasury, 1 Horse Guards Road London SW1A 2HQ or on www.gov.uk, and is published alongside the Regulations on legislation.gov.uk.