
STATUTORY INSTRUMENTS

2017 No. 692

The Money Laundering, Terrorist Financing and Transfer
of Funds (Information on the Payer) Regulations 2017

PART 3

Customer Due Diligence

CHAPTER 2

Enhanced customer due diligence

Enhanced customer due diligence: politically exposed persons

35.—(1) A relevant person must have in place appropriate risk-management systems and procedures to determine whether a customer or the beneficial owner of a customer is—

- (a) a politically exposed person (a “PEP”); or
- (b) a family member or a known close associate of a PEP,

and to manage the enhanced risks arising from the relevant person’s business relationship or transactions with such a customer.

(2) In determining what risk-management systems and procedures are appropriate under paragraph (1), the relevant person must take account of—

- (a) the risk assessment it carried out under regulation 18(1);
- (b) the level of risk of money laundering and terrorist financing inherent in its business;
- (c) the extent to which that risk would be increased by its business relationship or transactions with a PEP, or a family member or known close associate of a PEP, and
- (d) any relevant information made available to the relevant person under regulations 17(9) and 47.

(3) If a relevant person has determined that a customer or a potential customer is a PEP, or a family member or known close associate of a PEP, the relevant person must assess—

- (a) the level of risk associated with that customer, and
- (b) the extent of the enhanced customer due diligence measures to be applied in relation to that customer.

(4) In assessing the extent of the enhanced customer due diligence measures to be taken in relation to any particular person (which may differ from case to case), a relevant person—

- (a) must take account of any relevant information made available to the relevant person under regulations 17(9) and 47; 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.

(5) A relevant person who proposes to have, or to continue, a business relationship with a PEP, or a family member or a known close associate of a PEP, must, in addition to the measures required by regulation 33—

- (a) have approval from senior management for establishing or continuing the business relationship with that person;
- (b) take adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or transactions with that person; and
- (c) where the business relationship is entered into, conduct enhanced ongoing monitoring of the business relationship with that person.

(6) A relevant person which is providing a customer with a contract of long-term insurance (an “insurance policy”) must take reasonable measures to determine whether one or more of the beneficiaries of the insurance policy or the beneficial owner of a beneficiary of such an insurance policy are—

- (a) PEPs, or
- (b) family members or known close associates of PEPs.

(7) The measures required under paragraph (6) must be taken before—

- (a) any payment is made under the insurance policy, or
- (b) the benefit of the insurance policy is assigned in whole or in part to another person.

(8) A relevant person must, in addition to the measures required by regulation 33, ensure that—

- (a) its senior management is informed before it pays out any sums under an insurance policy the beneficiary of which is a PEP or a person who comes within paragraph (6)(b) in relation to a PEP, and
- (b) its entire business relationship with the holder of the insurance policy (“the policy holder”) is scrutinised on an ongoing basis in accordance with enhanced procedures, whether or not the policy holder is a PEP or a family member or known close associate of a PEP.

(9) Where a person who was a PEP is no longer entrusted with a prominent public function, a relevant person must continue to apply the requirements in paragraphs (5) and (8) in relation to that person—

- (a) for a period of at least 12 months after the date on which that person ceased to be entrusted with that public function; or
- (b) for such longer period as the relevant person considers appropriate to address risks of money laundering or terrorist financing in relation to that person.

(10) Paragraph (9) does not apply in relation to a person who—

- (a) was not a politically exposed person within the meaning of regulation 14(5) of the Money Laundering Regulations 2007(1), when those Regulations were in force; and
- (b) ceased to be entrusted with a prominent public function before the date on which these Regulations come into force.

(11) When a person who was a PEP is no longer entrusted with a prominent public function, the relevant person is no longer required to apply the requirements in paragraphs (5) and (8) in relation to a family member or known close associate of that PEP (whether or not the period referred to in paragraph (9) has expired).

(12) In this regulation—

(1) S.I. 2007/2157.

- (a) “politically exposed person” or “PEP” means an individual who is entrusted with prominent public functions, other than as a middle-ranking or more junior official;
- (b) “family member” of a politically exposed person includes—
 - (i) a spouse or civil partner of the PEP;
 - (ii) children of the PEP and the spouses or civil partners of the PEP’s children;
 - (iii) parents of the PEP;
- (c) “known close associate” of a PEP means—
 - (i) an individual known to have joint beneficial ownership of a legal entity or a legal arrangement or any other close business relations with a PEP;
 - (ii) an individual who has sole beneficial ownership of a legal entity or a legal arrangement which is known to have been set up for the benefit of a PEP.

(13) For the purposes of paragraph (5), a reference to a business relationship with an individual includes a reference to a business relationship with a person of which the individual is a beneficial owner.

(14) For the purposes of paragraphs (9), (11) and (12)(a), individuals entrusted with prominent public functions include—

- (a) heads of state, heads of government, ministers and deputy or assistant ministers;
- (b) members of parliament or of similar legislative bodies;
- (c) members of the governing bodies of political parties;
- (d) members of supreme courts, of constitutional courts or of any judicial body the decisions of which are not subject to further appeal except in exceptional circumstances;
- (e) members of courts of auditors or of the boards of central banks;
- (f) ambassadors, charges d’affaires and high-ranking officers in the armed forces;
- (g) members of the administrative, management or supervisory bodies of State-owned enterprises;
- (h) directors, deputy directors and members of the board or equivalent function of an international organisation.

(15) For the purpose of deciding whether a person is a known close associate of a politically exposed person, a relevant person need only have regard to information which is in its possession, or to credible information which is publicly available.