

SCHEDULES

[^{F1}SCHEDULE 3A

Regulation 42

Excluded Trusts

Textual Amendments

- F1** Sch. 3A inserted (6.10.2020) by [The Money Laundering and Terrorist Financing \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/991\)](#), regs. 1(2), **11**

Legislative Trusts

1. A trust imposed or required by an enactment.

Trusts imposed by court order

2. A trust created by, or in order to satisfy the terms of, an order of a court or tribunal.

Pension scheme trusts

3. A trust holding sums or assets of a pension scheme which is a registered pension scheme for the purposes of Part 4 of the Finance Act 2004.

Trusts of insurance policies

- [^{F2}4.—(1) A trust of a life policy paying out only—
- (a) on the death, terminal or critical illness, or permanent or temporary disablement of the person assured; or
 - (b) to meet the cost of healthcare services provided to the person assured.
- (2) A trust of an insurance policy paying out only—
- (a) on the temporary disablement of the person assured, where that policy was applied for at the same time as a policy under sub-paragraph (1); or
 - (b) to meet the cost of healthcare services provided to the person assured.
- (3) A trust of the benefits payable on the death of the person assured under a retirement policy.]

Textual Amendments

- F2** Sch. 3A para. 4 substituted (9.3.2022) by [The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2022 \(S.I. 2022/137\)](#), regs. 1, **5(a)**

Charitable trusts

5. A trust for charitable purposes which—

Changes to legislation: There are currently no known outstanding effects for the *The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, SCHEDULE 3A*. (See end of Document for details)

- (a) in Scotland or Northern Ireland, is registered as a charity; or
- (b) in England and Wales, is registered as a charity or not required to register by virtue of section 30(2)(a) to (d) of the Charities Act 2011.

Pilot trusts

6. A trust which—
- (a) holds property with a value not exceeding £100, and
 - (b) was created before the date on which regulation 42(2)(iii) of these Regulations comes into force.

[^{F3}Bank accounts for minors etc

6A.—(1) A trust which is created as a requirement of opening a relevant account for the sole benefit of—

- (a) a person under the age of 18;
- (b) a person who lacks capacity within the meaning of section 2 of the Mental Capacity Act 2005;
- (c) a person who is incapable within the meaning of section 1 of the Adults with Incapacity (Scotland) Act 2000; or
- (d) a person who is incapable of managing and administering the person’s property and affairs, by reason of mental disorder within the meaning of Article 3(1) of the Mental Health (Northern Ireland) Order 1986.

(2) In this paragraph—

“relevant account” means an account, consisting only of a sum of money, held with an authorised Part 4A person carrying on by way of business the activity specified in article 5 (accepting deposits) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

“authorised Part 4A person” means an authorised person who has a Part 4A permission, within the meaning given to that term in section 55A(5) of FSMA, to carry on that specified activity.]

Textual Amendments

F3 Sch. 3A para. 6A inserted (9.3.2022) by [The Money Laundering and Terrorist Financing \(Amendment\) Regulations 2022 \(S.I. 2022/137\)](#), regs. 1, **5(b)**

Trusts having effect on death

7.—(1) A trust effected by will where—

- (a) the trust is holding only the property comprised in a person’s estate on death, and
- (b) less than two years has passed since that person’s death.

(2) In this paragraph, a person’s “estate” means the aggregate of all the property to which that person is beneficially entitled.

8. A trust where—

- (a) the trust is holding only benefits received on the death of the person assured under a policy within paragraph 4, and
- (b) less than two years has passed since that person’s death.

Co-ownership

9. A trust of jointly held property where the trustees and the beneficiaries are the same persons.

Financial markets infrastructure

10.—(1) A trust—

- (a) created under, or for the purpose of, the default arrangements of a designated system or of the default rules of a recognised body, or for the purpose of any action or proceedings taken by or for such a system or body under such arrangements or rules;
- (b) relating to the creation of a beneficial interest in securities belonging to a person whose name and address are maintained on a register of securities (within the meaning of regulation 3(1) of the Uncertificated Securities Regulations 2001); or
- (c) created by or for a segregating entity—
 - (i) for the purpose of protecting sums or assets belonging to the segregating entity's clients; or
 - (ii) for the purpose of complying with a legal obligation to safeguard and segregate sums or assets belonging to the segregating entity's clients or to keep separate client records and accounts.

(2) In this paragraph—

“clearing member” and “default rules” have the meanings given, respectively, in sections 190(1) and 188 of the Companies Act 1989;

“default arrangements”, “designated system” and “participant” have the meanings given in regulation 2(1) of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999;

“recognised body” and “recognised central counterparty” have the meanings given in section 313 of FSMA;

“segregating entity” means—

- (a) an authorised person;
- (b) a clearing member of a recognised central counterparty;
- (c) a participant in a designated system;
- (d) a designated system; or
- (e) a recognised body.

Professional services

11. A trust created for the purpose of enabling or facilitating the holding of sums, assets or (in the case of sub-paragraph (c)), documents, belonging to a person other than the trustee, in connection with which sums, assets or documents the trustee is—

- (a) carrying on by way of business the activity specified in article 40 (safeguarding and administering investments) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
- (b) acting by way of business as the trustee of an authorised unit trust scheme (and for this purpose “trustee” and “authorised unit trust scheme” have the meanings given in section 237 of FSMA); or
- (c) acting by way of business as an agent holding sums, assets or documents in escrow until the performance of a contractual condition agreed between two or more other persons, including the person for whom the sums, assets or documents are being held.

Changes to legislation: There are currently no known outstanding effects for the The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, SCHEDULE 3A. (See end of Document for details)

Client money etc.

12. A trust created by a relevant supervised person for the purpose of holding client money, securities or other assets, where that trust is incidental to the carrying on of business by the relevant supervised person.

Capital markets etc.

13. A trust created for the purpose of enabling or facilitating an activity listed in points 2, 3, 6, 7 or 8 of ^{F4}... Schedule 2, or for protecting or enforcing rights relating to that activity, where—

- (a) one or more of the participants in that activity is a relevant supervised person, and
- (b) the use of the trust is incidental to the principal purpose of that activity.

Textual Amendments

F4 Words in *Sch. 3A para. 13* omitted (17.8.2022) by virtue of *The Financial Services Act 2021 (Prudential Regulation of Credit Institutions and Investment Firms) (Consequential Amendments and Miscellaneous Provisions) Regulations 2022 (S.I. 2022/838)*, regs. 1(2), **12(5)** (with regs. 24-26)

Commercial transactions

14. A trust created for the purpose of—

- (a) enabling or facilitating a transaction effected for genuine commercial reasons; or
- (b) protecting or enforcing rights relating to such a transaction,

where the use of the trust is incidental to the principal purpose of the transaction.

Registration of assets

15. A trust created on the transfer or disposal of an asset where the purpose of the trust is to hold the legal title to the asset on trust for the person to whom the transfer or disposal is being made until the time when the procedure required by law to effect the transfer or disposal of legal title is completed.

Trusts meeting legislative requirements

16. A trust holding property to which section 71A or 71D of the Inheritance Tax Act 1984 applies.

17. A trust of property in respect of which a direction under paragraph 1 of Schedule 4 to the Inheritance Tax Act 1984 has effect.

18. A trust of funds derived from a payment—

- (a) made for the benefit of a person in consequence of a personal injury to that person, and
- (b) disregarded from capital under regulation 46(2) of, and paragraph 12 of Schedule 10 to, the Income Support (General) Regulations 1987.

19. A trust holding tenants' contributions for the purposes of section 42 of the Landlord and Tenant Act 1987.

20. The plan trust of a share incentive plan which meets the requirements of Part 9 of Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003.

21. A trust created under a share option scheme that meets the requirements of Parts 2 to 7 of Schedule 3 to the Income Tax (Earnings and Pensions) Act 2003.

22. A trust holding property for a beneficiary who is a disabled person within the meaning given by Schedule 1A to the Finance Act 2005.

Public authorities

23. A trust created for the purposes of enabling or assisting—

- (a) a public authority, within the meaning of section 3(1) of the Freedom of Information Act 2000, or a body specified in section 80(2) of that Act;
- (b) a Scottish public authority, within the meaning of section 3(1) of the Freedom of Information (Scotland) Act 2002;
- (c) the Security Service, the Secret Intelligence Service, the Government Communications Headquarters or the National Crime Agency; or
- (d) the Welsh Assembly Government,

to carry out its functions, including any functions as a court or tribunal and, in the case of the Bank of England, any of its functions as a monetary authority within the meaning of section 244(2)(c) of the Banking Act 2009.

Interpretation

24. In this Schedule, “relevant supervised person” means—

- (a) a relevant person; or
- (b) a person who is subject to requirements in national legislation having an equivalent effect to those laid down in the fourth money laundering directive on an obliged entity (within the meaning of that directive) and supervised for compliance with those requirements in a manner equivalent to section 2 of Chapter VI of the fourth money laundering directive.]

Changes to legislation:

There are currently no known outstanding effects for the The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, SCHEDULE 3A.