SCHEDULES

[F1SCHEDULE 6A

Regulation 104A

The United Kingdom's Financial Intelligence Unit

Textual Amendments

F1 Sch. 6A inserted (10.1.2020) by The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (S.I. 2019/1511), regs. 1(2), **13**

Interpretation

1. In this Schedule

"external request" means a request to the NCA for information by a foreign FIU which may be relevant for the purpose of the foreign FIU's performance of FIU functions;

"FIU functions" means the functions of a financial intelligence unit as set out in the fourth money laundering directive;

"foreign competent authority" means an authority in an EEA state other than the United Kingdom which has equivalent functions to those of a United Kingdom competent authority to which a foreign FIU may provide information in connection with its performance of FIU functions;

"foreign FIU" means an authority in an EEA state other than the United Kingdom which performs FIU functions in that state;

"relevant information" means information the NCA possesses in connection with its performance of FIU functions which it considers relevant to an external request;

"the 2000 Act" means the Terrorism Act 2000 [M1];

"the 2002 Act" means the Proceeds of Crime Act 2002 [M2];

"United Kingdom competent authority" means any authority other than the NCA concerned in the prevention, investigation, detection or prosecution of criminal offences contained in Part 7 (money laundering) of the 2002 Act or Part 3 (terrorist property) of the 2000 Act, and any supervisory authority, to which the NCA disseminates information in its performance of FIU functions.

Marginal Citations

M1 2000 c. 11.
M2 2002 c. 29.

Reports to the National Crime Agency

2. Where the NCA has, in its performance of FIU functions, disseminated any information to a United Kingdom competent authority, that authority must, upon request, provide a report to the

NCA about the authority's use of that information, including the outcome of any investigations or inspections conducted on the basis of that information.

Co-operation

3. The NCA must take such steps as it considers appropriate to co-operate with foreign FIUs in their performance of FIU functions.

Provision of information in response to external requests

4. In response to an external request, the NCA must (subject to paragraph 10) provide promptly any relevant information in the NCA's possession.

5. Where an external request is received and the NCA does not possess information which the NCA considers relevant to the external request, and it suspects a relevant person possesses such information, the NCA—

(a) may exercise its powers under Parts 7 [M3] and 8 [M4] (investigations) of the 2002 Act, any orders made under section 445 [M5] (external investigations) of that Act, or Part 3 of the 2000 Act [M6], as applicable, to seek an order for information from such person, and

(b) must (subject to paragraph 10) provide any relevant information received in consequence of any such order promptly to the foreign FIU concerned.

Marginal Citations

M3 Sections 339ZH-339ZK (further information orders) were inserted into Part 7 by section 12 of the Criminal Finances Act 2017 (c. 22) ("the 2017 Act"). Other amendments have been made to Part 7 but none are relevant.

M4 Sections 362A-362I (unexplained wealth orders: England and Wales and Northern Ireland) and 396A-396I (unexplained wealth orders: Scotland) were inserted into Part 8 by sections 1 and 4 of the 2017 Act. Sections 357, 358 and 362 (disclosure orders: England and Wales and Northern Ireland) and sections 391, 392 and 396 (disclosure orders: Scotland) were amended by sections 7 and 8 of the 2017 Act. Other amendments have been made to Part 8 but none are relevant.

M5 Section 445 was amended by section 24(3) of the 2017 Act.

M6 Part 3 was amended by Schedule 2 (disclosure orders) to the 2017 Act. Sections 22B-22E (further information orders) were inserted into Part 3 by section 37 of the 2017 Act. Other amendments have been made to Part 3 but none are relevant.

6. The NCA must designate at least one point of contact with responsibility for receiving external requests.

7. Where the NCA has provided relevant information to a foreign FIU, and that foreign FIU makes a request for consent to disseminate some or all of the relevant information to a foreign competent authority, the NCA must (subject to paragraph 11) consent to the dissemination of as much of the requested information as possible and communicate its consent promptly to the foreign FIU.

8. Where the NCA provides relevant information in response to an external request in accordance with this Schedule, the NCA shall take such steps as it considers appropriate to ensure that such information is transmitted securely.

Marginal Citations

M3 Sections 339ZH-339ZK (further information orders) were inserted into Part 7 by section 12 of the Criminal Finances Act 2017 (c. 22) ("the 2017 Act"). Other amendments have been made to Part 7 but none are relevant.

M4 Sections 362A-362I (unexplained wealth orders: England and Wales and Northern Ireland) and 396A-396I (unexplained wealth orders: Scotland) were inserted into Part 8 by sections 1 and 4 of the 2017 Act. Sections 357, 358 and 362 (disclosure orders: England and Wales and Northern Ireland) and sections 391, 392 and 396 (disclosure orders: Scotland) were amended by sections 7 and 8 of the 2017 Act. Other amendments have been made to Part 8 but none are relevant.

M5 Section 445 was amended by section 24(3) of the 2017 Act.

M6 Part 3 was amended by Schedule 2 (disclosure orders) to the 2017 Act. Sections 22B-22E (further information orders) were inserted into Part 3 by section 37 of the 2017 Act. Other amendments have been made to Part 3 but none are relevant.

Conditions and restrictions on provision or further dissemination of relevant information

9. The NCA may impose such restrictions and conditions on the use of relevant information provided in response to an external request as the NCA considers appropriate.

10. Where an obligation arises under this Schedule for the NCA to provide relevant information in response to an external request, the NCA may decide not to provide some or all of the information where and to the extent that the NCA considers that doing so could be contrary to national law.

11. The NCA is not required to comply with the duty to give consent to the dissemination of information to a foreign competent authority under paragraph 7 if and to the extent that the NCA considers that the giving of such consent could—

(a) prejudice an investigation, whether into a criminal cause or matter or in relation to any investigation referred to in section 341 (investigations) of the 2002 Act [M7] or to which Schedule 5A (terrorist financing investigations) to the 2000 Act [M8] applies; or

(b) be contrary to national law.

Marginal Citations

M7 Section 341 is amended by section 75(1) of the Serious Crime Act 2007 (c. 27); paragraph 2 of Schedule 19 to the Coroners and Justice Act 2009 (c. 25); paragraph 110 of Schedule 7 to the Policing and Crime Act 2009 (c. 26); paragraphs 2 and 25 of Schedule 19 to the Crime and Courts Act 2013 (c. 22); section 38(1) of, and paragraph 55 of Schedule 4 to, the Serious Crime Act 2015 (c. 9); and section 33 of, and paragraph 39 of Schedule 5 to, the Criminal Finances Act 2017 ("the 2017 Act").

M8 Schedule 5 was inserted by paragraphs 3 and 4 of Schedule 2 to the 2017 Act.

12. The NCA must have particular regard—

(a) where making a decision under paragraph 10, to the need for as unfettered an exchange of relevant information in response to external requests as possible, or

(b) where making a decision under paragraph 11, to the need for as unfettered dissemination of information as possible by a foreign FIU to foreign competent authorities,

in order for the foreign FIU concerned to carry out FIU functions efficiently and effectively.

Marginal Citations

M7 Section 341 is amended by section 75(1) of the Serious Crime Act 2007 (c. 27); paragraph 2 of Schedule 19 to the Coroners and Justice Act 2009 (c. 25); paragraph 110 of Schedule 7 to the Policing and Crime Act 2009 (c. 26); paragraphs 2 and 25 of Schedule 19 to the Crime and Courts Act 2013 (c. 22); section 38(1) of, and paragraph 55 of Schedule 4 to, the Serious Crime Act 2015 (c. 9); and section 33 of, and paragraph 39 of Schedule 5 to, the Criminal Finances Act 2017 ("the 2017 Act").

M8 Schedule 5 was inserted by paragraphs 3 and 4 of Schedule 2 to the 2017 Act.

Requests for information by the NCA to foreign FIUs

13. Paragraphs 14 and 15 apply where the NCA wishes to obtain information concerning a relevant person which has its head office in an EEA state other than the United Kingdom.

14. The NCA must address a request for the information to the foreign FIU in the state in which the relevant person has its head office.

15. Where the NCA makes a request to a foreign FIU for information which the NCA considers may be relevant for its performance of FIU functions, the request must contain the relevant facts and background information, reasons for the request and how the information sought is proposed to be used.

Conditions and restrictions on use of information received by the NCA from foreign FIUs

16. Where the NCA receives information from a foreign FIU, the NCA must—

(a) use the information only for the purpose for which it was sought or provided, unless it has obtained the prior consent of the foreign FIU to any other use of the information;

(b) comply with any restrictions or conditions of use which have been imposed by the foreign FIU in respect of the information; and

(c) obtain the prior consent of the foreign FIU to any further dissemination of the information.**]**

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 6A.