
STATUTORY INSTRUMENTS

1993 No. 1933

The Money Laundering Regulations 1993

General

Citation and commencement

- 1.—(1) These Regulations may be cited as the Money Laundering Regulations 1993.
- (2) These Regulations shall come into force on 1st April 1994.

Interpretation

- 2.—(1) In these Regulations—

“applicant for business” means a person seeking to form a business relationship, or carry out a one-off transaction, with a person who is carrying out relevant financial business in the United Kingdom;

“business relationship” has the meaning given by regulation 3 below;

“Case 1”, “Case 2”, “Case 3” and “Case 4” have the meanings given in regulation 7 below;

“constable” includes a person commissioned by the Commissioners of Customs and Excise;

“European institution” has the same meaning as in Banking Coordination (Second Council Directive) Regulations 1992(1);

“insurance business” means long term business within the meaning of the Insurance Companies Act 1982(2);

“the Money Laundering Directive” means the Council Directive on prevention of the use of the financial system for the purpose of money laundering (No.91/308/EEC)(3);

“one-off transaction” means any transaction other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant financial business;

“relevant financial business” has the meaning given by regulation 4 below; and

“supervisory authority” has the meaning given by regulation 15 below.

(2) In these Regulations “ecu” means the european currency unit as defined in article 1 of Council Regulation No. 3180/78/EEC(4); and the exchange rates as between the ecu and the currencies of the member States to be applied for each year beginning on 31st December shall be the rates applicable on the last day of the preceding October for which rates for the currencies of all the member States were published in the Official Journal of the Communities.

(3) In these Regulations, except in so far as the context otherwise requires, “money laundering” means doing any act which constitutes an offence under—

(1) S.I.1992/3218.

(2) 1982 c. 50.

(3) OJ No. L166, 28.6.91, p.77.

(4) OJ No. L379, 30.12.78, p.1; the relevant amending instrument is Council Regulation (EEC) No. 1971/89, OJ No. L189, 4.7.89 p.1.

- (a) section 23A or 24 of the Drug Trafficking Offences Act 1986⁽⁵⁾ (which relate to the handling etc of proceeds of drug trafficking);
- (b) section 42A or 43 of the Criminal Justice (Scotland) Act 1987⁽⁶⁾ (which relate to the handling etc of proceeds of drug trafficking);
- (c) section 93A, 93B or 93C of the Criminal Justice Act 1988⁽⁷⁾ (which relate to the handling etc of proceeds of certain other criminal conduct);
- (d) section 11 of the Prevention of Terrorism (Temporary Provisions) Act 1989⁽⁸⁾ (which relates to financial assistance for terrorism);
- (e) section 14 of the Criminal Justice (International Co-operation) Act 1990⁽⁹⁾ (concealing or transferring proceeds of drug trafficking);
- (f) Article 29 or 30 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990⁽¹⁰⁾ (which relate to the handling etc of proceeds of drug trafficking);
- (g) section 53 or 54 of the Northern Ireland (Emergency Provisions) Act 1991⁽¹¹⁾ (which relate to the handling etc of proceeds of terrorist-related activities); or
- (h) any provision, whenever made, which has effect in Northern Ireland and corresponds to any of the provisions mentioned in sub-paragraph (a) or (c) above;

or, in the case of an act done otherwise than in England and Wales, Scotland or, as the case may be, Northern Ireland would constitute such an offence if done in England and Wales, Scotland or Northern Ireland.

(4) The reference in paragraph (3) above to doing any act which would constitute an offence under the provisions mentioned in sub-paragraph (c) of that paragraph shall, for the purposes of these Regulations, be construed as a reference to doing any act which would constitute an offence under those provisions if, for the definition of “criminal conduct” in section 93A(7) of the Criminal Justice Act 1988, there were substituted—

“(7) In this Part of this Act “criminal conduct” means—

- (a) conduct which constitutes an offence to which this Part of this Act applies; or
- (b) conduct which—
 - (i) would constitute such an offence if it had occurred in England and Wales or (as the case may be) Scotland; and
 - (ii) contravenes the law of the country in which it occurred.”.

(5) For the purposes of these Regulations, any provision having effect in Northern Ireland which corresponds to the provisions referred to in paragraph (3)(c) above shall be construed as if it had been amended by a provision which corresponds to paragraph (4) above, with appropriate modifications.

(6) For the purposes of this regulation, a business relationship formed by any person acting in the course of relevant financial business is an established business relationship where that person has obtained, under procedures maintained by him in accordance with regulation 7 below, satisfactory evidence of the identity of the person who, in relation to the formation of that business relationship, was the applicant for business.

(5) 1986 c. 32; section 23A was inserted by section 16 of the Criminal Justice Act 1993 (c. 36); section 24 was amended by section 103(1) of, and paragraphs 1 and 13 of Schedule 5 to, the Criminal Justice Act 1988 (c. 33).

(6) 1987 c. 41; section 42A was inserted by section 17 of the Criminal Justice Act 1993 (c. 36).

(7) 1988 c. 33; sections 93A, 93B and 93C were inserted by section 29 of the Criminal Justice Act 1993 (c. 36); section 93E of the 1988 Act (which was inserted by section 33 of the 1993 Act) makes provision as to the application in Scotland of sections 93A to 93C.

(8) 1989 c. 4.

(9) 1990 c. 5.

(10) S.I. 1990/2588 (N.I. 17).

(11) 1991 c. 24; sections 53 and 54 were amended by section 47 of the Criminal Justice Act 1993 (c. 36).

Business relationships

3.—(1) Any reference in this regulation to an arrangement between two or more persons is a reference to an arrangement in which at least one person is acting in the course of a business.

(2) For the purposes of these Regulations, “business relationship” means any arrangement between two or more persons where—

- (a) the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent, habitual or regular basis; and
- (b) the total amount of any payment or payments to be made by any person to any other in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made.

Relevant financial business

4.—(1) For the purposes of these Regulations, “relevant financial business” means, subject to paragraph (2) below, the business of engaging in one or more of the following—

- (a) deposit-taking business carried on by a person who is for the time being authorised under the Banking Act 1987⁽¹²⁾;
- (b) acceptance by a building society of deposits made by any person (including the raising of money from members of the society by the issue of shares);
- (c) business of the National Savings Bank;
- (d) business carried on by a credit union within the meaning of the Credit Unions Act 1979⁽¹³⁾ or the Credit Unions (Northern Ireland) Order 1985⁽¹⁴⁾;
- (e) any home regulated activity carried on by a European institution in respect of which the requirements of paragraph 1 of Schedule 2 to the Banking Coordination (Second Council Directive) Regulations 1992⁽¹⁵⁾ have been complied with;
- (f) investment business within the meaning of the Financial Services Act 1986⁽¹⁶⁾;
- (g) any activity carried on for the purpose of raising money authorised to be raised under the National Loans Act 1968⁽¹⁷⁾ under the auspices of the Director of National Savings;
- (h) any of the activities in points 1 to 12, or 14, of the Annex to the Second Banking Coordination Directive (the text of which is, for convenience of reference, set out in the Schedule to these Regulations), other than an activity falling within sub-paragraphs (a) to (g) above;
- (i) insurance business carried on by a person who has received official authorisation pursuant to Article 6 or 27 of the First Life Directive.

(2) A business is not relevant financial business in so far as it consists of—

- (a) any of the following activities carried on by a society registered under the Industrial and Provident Societies Act 1965⁽¹⁸⁾—
 - (i) the issue of withdrawable share capital within the limit set by section 6 of that Act⁽¹⁹⁾; or

⁽¹²⁾ 1987 c. 22.

⁽¹³⁾ 1979 c. 34.

⁽¹⁴⁾ S.I. 1985/1205 (N.I. 12).

⁽¹⁵⁾ S.I. 1992/3218.

⁽¹⁶⁾ 1986 c. 60.

⁽¹⁷⁾ 1968 c. 13.

⁽¹⁸⁾ 1965 c. 12.

⁽¹⁹⁾ Section 6 has been amended by the Industrial and Provident Societies (Increase in Shareholding Limit) Order 1981 (S.I. 1981/395) and by section 4 of, and paragraph 8 of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71).

- (ii) the acceptance of deposits from the public within the limit set by section 7(3) of that Act⁽²⁰⁾;
 - (b) the issue of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act (Northern Ireland) 1969⁽²¹⁾ by a society registered under that Act;
 - (c) activities carried on by the Bank of England;
 - (d) in relation to any person who is an exempted person for the purposes of section 45 of the Financial Services Act 1986⁽²²⁾ (miscellaneous exemptions for holders of certain judicial and other offices), such of the activities as are specified in that section in relation to that person; or
 - (e) in relation to any person who is an exempted person for the purposes of any order made under section 46 of the Financial Services Act 1986⁽²³⁾ which was made before the date on which these Regulations come into force, any activities carried on by him or, as the case may be, such of the activities as are specified in such an order in relation to him.
- (3) For the purposes of paragraph (1)(f) above, any reference in these Regulations to the carrying on of relevant financial business in the United Kingdom shall be construed in accordance with section 1(3) of the Financial Services Act 1986.
- (4) In this regulation—
- “building society” has the same meaning as in the Building Societies Act 1986;
 - “deposit-taking business” has the same meaning as in the Banking Act 1987;
 - “the First Life Directive” means the First Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (No. [79/267/EEC](#))⁽²⁴⁾; and
 - “the Second Banking Coordination Directive” means the Second Council Directive on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions (No. [89/646/EEC](#))⁽²⁵⁾.

(20) Section 7(3) has been amended by the Industrial and Provident Societies (Increase in Deposit-taking Limits) Order 1981 (S.I. 1981/394).

(21) 1969 c. 24; section 6 has been amended by the Industrial and Provident Societies (Increase in Shareholding Limit) Regulations (Northern Ireland) 1991 (S.R. 1991 No. 375).

(22) 1986 c. 60; section 45 has been amended by section 78(1) of, and paragraph 14 of Schedule 6 to, the Charities Act 1992 (c. 41) and by regulation 55 of, and paragraph 8 of Schedule 9 to, the Banking Coordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218).

(23) At the date on which these Regulations were laid, the following orders had been made under section 46 of the Financial Services Act 1986: S.I.’s 1988/350, 1988/723, 1989/431, 1990/696, 1990/1492, 1990/2235, 1991/493 and 1991/1516.

(24) OJ No. L63, 13.3.79, p.1, as amended by the 1979 Act of Accession (Greece) (OJ No. L291, 19.11.79, p.17), the 1985 Act of Accession (Portugal and Spain) (OJ No. L302, 15.11.85, p.23) and Council Directive [90/619/EEC](#).

(25) OJ No. L386, 30.12.89, p.1.