
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Money Laundering Regulations 2003 (S.I. 2003/3075) with updated provisions which implement in part Directive 2005/60/EC (OJ No L 309, 25.11.2005, p.15) of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. A Transposition Note setting out how the main elements of this directive will be transposed into UK law is available from the Financial Services Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. An impact assessment has also been prepared. Copies of both documents have been placed in the library of each House of Parliament and are available on HM Treasury's website (www.hm-treasury.gov.uk).

The Regulations provide for various steps to be taken by the financial services sector and other persons to detect and prevent money laundering and terrorist financing. Obligations are imposed on "relevant persons" (defined in regulation 3 and subject to the exclusions in regulation 4), who are credit and financial institutions, auditors, accountants, tax advisers and insolvency practitioners, independent legal professionals, trust or company service providers, estate agents, high value dealers and casinos.

Relevant persons are required, when undertaking certain activities in the course of business, to apply customer due diligence measures where they establish a business relationship, carry out an occasional transaction, suspect money laundering or terrorist finance or doubt the accuracy of customer identification information (regulation 7). Customer due diligence measures (defined in regulation 5) consist of identifying and verifying the identity of the customer and any beneficial owner (defined in regulation 6) of the customer, and obtaining information on the purpose and intended nature of the business relationship. Relevant persons also have to undertake ongoing monitoring of their business relationships (regulation 8).

Regulation 9 sets out the general rule on the timing of the verification of the customer's identity and certain exceptions. Regulation 10 sets out when casinos must identify and verify their customers. Failure to apply such measures means that a person cannot establish or continue a business relationship with the customer concerned or undertake an occasional transaction (regulation 11). Regulation 12 provides an exception from the requirement to identify the beneficial owner for debt issues held in trust.

Relevant persons may apply simplified customer due diligence measures for the products, customers or transactions listed in regulation 13 and must apply enhanced measures in the four situations set out in regulation 14. Regulation 15 sets out the obligations on relevant persons in respect of their overseas branches and subsidiaries. Regulation 16 imposes obligations in respect of shell banks and anonymous accounts. Regulation 17 lists the persons on whom relevant persons can rely to perform customer due diligence measures. Regulation 18 provides for the Treasury to make directions where the Financial Action Task Force applies counter-measures to a non-EEA state.

Part 3 imposes obligations in respect of record-keeping (regulation 19), policies and procedures (regulation 20) and staff training (regulation 21).

Part 4 deals with supervision and registration. Regulation 23 allocates supervisory authorities for different relevant persons. Regulation 24 sets out the duties of supervisors. Money service businesses, high value dealers and trust or company service providers which are not otherwise registered are subject to a system of mandatory registration set out in regulations 25 to 30. Money service businesses and trust or company service providers must not be registered unless the business, its owners, its nominated officer and senior managers are fit and proper persons: regulation 28. Other

Status: This is the original version (as it was originally made).

sectors will only be required to register if the supervisor decides to maintain a register (regulations 33 and 34). Regulation 35 enables supervisors to impose charges on persons they supervise.

Part 5 provides enforcement powers for certain supervisors, including powers to obtain information and enter and inspect premises (regulations 37 to 41). Civil penalties may be imposed by these supervisors under regulation 42 on persons who fail to comply with the requirements of Parts 2, 3 and 4. Provision is made for reviews of and appeals against such penalties (regulations 43 and 44). Relevant persons who fail to comply with the requirements of Parts 2, 3 and 4 will also be guilty of a criminal offence: regulations 45 to 47. Persons convicted of a criminal offence may not also be liable to a civil penalty.

Part 6 contains provision for the recovery of penalties and charges through the court (regulation 48), imposes an obligation on certain public authorities to report suspicions of money laundering or terrorist financing (regulation 49) and makes transitional provision (regulation 50). Regulation 51 makes minor and consequential amendments to primary and secondary legislation.