
STATUTORY INSTRUMENTS

2007 No. 2157

The Money Laundering Regulations 2007

PART 2

CUSTOMER DUE DILIGENCE

Meaning of beneficial owner

- 6.—(1) In the case of a body corporate, “beneficial owner” means any individual who—
- (a) as respects any body other than a company whose securities are listed on a regulated market, ultimately owns or controls (whether through direct or indirect ownership or control, including through bearer share holdings) more than 25% of the shares or voting rights in the body; or
 - (b) as respects any body corporate, otherwise exercises control over the management of the body.
- (2) In the case of a partnership (other than a limited liability partnership), “beneficial owner” means any individual who—
- (a) ultimately is entitled to or controls (whether the entitlement or control is direct or indirect) more than a 25% share of the capital or profits of the partnership or more than 25% of the voting rights in the partnership; or
 - (b) otherwise exercises control over the management of the partnership.
- (3) In the case of a trust, “beneficial owner” means—
- (a) any individual who is entitled to a specified interest in at least 25% of the capital of the trust property;
 - (b) as respects any trust other than one which is set up or operates entirely for the benefit of individuals falling within sub-paragraph (a), the class of persons in whose main interest the trust is set up or operates;
 - (c) any individual who has control over the trust.
- (4) In paragraph (3)—
- “specified interest” means a vested interest which is—
- (a) in possession or in remainder or reversion (or, in Scotland, in fee); and
 - (b) defeasible or indefeasible;
- “control” means a power (whether exercisable alone, jointly with another person or with the consent of another person) under the trust instrument or by law to—
- (a) dispose of, advance, lend, invest, pay or apply trust property;
 - (b) vary the trust;
 - (c) add or remove a person as a beneficiary or to or from a class of beneficiaries;
 - (d) appoint or remove trustees;

- (e) direct, withhold consent to or veto the exercise of a power such as is mentioned in subparagraph (a), (b), (c) or (d).
- (5) For the purposes of paragraph (3)—
- (a) where an individual is the beneficial owner of a body corporate which is entitled to a specified interest in the capital of the trust property or which has control over the trust, the individual is to be regarded as entitled to the interest or having control over the trust; and
- (b) an individual does not have control solely as a result of—
- (i) his consent being required in accordance with section 32(1)(c) of the Trustee Act 1925⁽¹⁾ (power of advancement);
- (ii) any discretion delegated to him under section 34 of the Pensions Act 1995⁽²⁾ (power of investment and delegation);
- (iii) the power to give a direction conferred on him by section 19(2) of the Trusts of Land and Appointment of Trustees Act 1996⁽³⁾ (appointment and retirement of trustee at instance of beneficiaries); or
- (iv) the power exercisable collectively at common law to vary or extinguish a trust where the beneficiaries under the trust are of full age and capacity and (taken together) absolutely entitled to the property subject to the trust (or, in Scotland, have a full and unqualified right to the fee).
- (6) In the case of a legal entity or legal arrangement which does not fall within paragraph (1), (2) or (3), “beneficial owner” means—
- (a) where the individuals who benefit from the entity or arrangement have been determined, any individual who benefits from at least 25% of the property of the entity or arrangement;
- (b) where the individuals who benefit from the entity or arrangement have yet to be determined, the class of persons in whose main interest the entity or arrangement is set up or operates;
- (c) any individual who exercises control over at least 25% of the property of the entity or arrangement.
- (7) For the purposes of paragraph (6), where an individual is the beneficial owner of a body corporate which benefits from or exercises control over the property of the entity or arrangement, the individual is to be regarded as benefiting from or exercising control over the property of the entity or arrangement.
- (8) In the case of an estate of a deceased person in the course of administration, “beneficial owner” means—
- (a) in England and Wales and Northern Ireland, the executor, original or by representation, or administrator for the time being of a deceased person;
- (b) in Scotland, the executor for the purposes of the Executors (Scotland) Act 1900⁽⁴⁾.
- (9) In any other case, “beneficial owner” means the individual who ultimately owns or controls the customer or on whose behalf a transaction is being conducted.
- (10) In this regulation—
- “arrangement”, “entity” and “trust” means an arrangement, entity or trust which administers and distributes funds;

(1) 1925 c. 19.

(2) 1995 c. 26.

(3) 1996 c. 47.

(4) 1900 c. 55. Sections 6 and 7 were amended by the Succession (Scotland) Act 1964 (c.41).

“limited liability partnership” has the meaning given by the Limited Liability Partnerships Act 2000(5).