



STATUTORY INSTRUMENTS.

S.I. No. 377 of 2020



SOLICITORS (MONEY LAUNDERING AND TERRORIST FINANCING)
REGULATIONS 2020

S.I. No. 377 of 2020

SOLICITORS (MONEY LAUNDERING AND TERRORIST FINANCING)
REGULATIONS 2020

ARRANGEMENT OF REGULATIONS

PART 1

Preliminary

1. Citation and commencement
2. Definitions
3. Scope

PART 2

Investigation of Solicitors' Practices

4. Investigation

PART 3

Policies, Controls and Procedures

5. Risk assessment policies, controls and procedures
6. Business risk assessment
7. Client risk assessment
8. Records

PART 4

Client Due Diligence

9. Meaning of beneficial owner
10. Standard client due diligence
11. Special measures applying to business relationship
12. Simplified Due Diligence
13. Enhanced client due diligence
14. Complex or unusual transactions
15. Politically exposed persons
16. High-risk third countries
17. Reliance on relevant third parties

PART 5

Reporting of Suspicious Transactions

18. Interpretation of this Part
19. Requirement to report suspicious transactions
20. Disclosure not required in certain circumstances

PART 6

Convicted Persons

21. Convicted persons

PART 7

Revocation

22. Revocation

SCHEDULE 1

Non-exhaustive list of factors suggesting potentially lower risk

SCHEDULE 2

Non-exhaustive list of factors suggesting potentially higher risk

S.I. No. 377 of 2020

SOLICITORS (MONEY LAUNDERING AND TERRORIST FINANCING)
REGULATIONS 2020

THE LAW SOCIETY OF IRELAND, in exercise of the powers conferred on it by sections 5, 66 (as amended by section 182 of the Legal Services Regulation Act 2015 (No. 65 of 2015)) and 71 (as amended by section 4 of the Solicitors (Amendment) Act 2002 (No. 19 of 2002)) of the Solicitors Act 1954, with the concurrence of the Legal Services Regulatory Authority, hereby makes the following regulations:-

PART 1

Preliminary

Citation and commencement

1. (1) These Regulations may be cited as the Solicitors (Money Laundering and Terrorist Financing Regulations) 2020.

(2) These Regulations come into operation on 1 November 2020.

Definitions

2. In these Regulations—

“Accounts Regulations” means—

- (a) the Solicitors Accounts Regulations 2001 to 2013,
- (b) the Solicitors Accounts Regulations 2014 (S.I. No. 516 of 2014),
and
- (c) any other regulations made by the Society under section 66 of the Act or under section 73 of the Act of 1994.

“Act” means the Solicitors Act 1954 (No. 36 of 1954);

“Act of 1960” means the Solicitors (Amendment) Act 1960 (No. 37 of 1960);

“Act of 1994” means the Solicitors (Amendment) Act 1994 (No. 27 of 1994);

“Act of 2010” means the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010);

“Act of 2012” means the Personal Insolvency Act 2012 (No. 44 of 2012);

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 2nd October, 2020.*

“Act of 2013” means the Criminal Justice Act 2013 (No. 19 of 2013);

“Act of 2018” means the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018 (No. 26 of 2018);

“authorised person” means a person authorised in writing by the Society for the purpose of exercising any of the Society's functions pursuant to section 66 (as substituted by section 76 of the Act of 1994) of the Act and section 63 of the Act of 2010;

“business relationship” has the meaning assigned to it by section 24 of the Act of 2010;

“business risk assessment” has the meaning assigned to it by Regulation 6(1);

“client” includes the personal representative of a client and any person on whose behalf the person who gave or is giving instructions was or is acting in relation to any matter in which a solicitor or his or her firm had been or is instructed; and includes a beneficiary to an estate under a will, intestacy or trust and a debtor under an insolvency arrangement; and also includes any person on whose account a solicitor receives, holds, controls or pays clients' moneys in the course of and arising from his or her practice as a solicitor;

“clients' moneys” means moneys received, held or controlled by a solicitor arising from his or her practice as a solicitor for or on account of a client or clients, whether the moneys are received, held or controlled by him or her as agent, bailee, stakeholder, trustee or in any other capacity, including moneys received by the solicitor on account of outlays not yet discharged; provided that “clients' moneys” shall not include—

- (a) moneys received, held or controlled by a solicitor in respect of which he or she is a controlling trustee or a non-controlling trustee,
- (b) moneys to which the only person entitled is the solicitor himself or herself or, in the case of a firm of solicitors, one or more of the partners in the firm,
- (c) moneys placed on joint deposit account or joint deposit receipt other than where the payees are all solicitors practising in the same solicitors' practice,
- (d) (save as provided for under Regulation 8(2)(a) and (3)(b) of the Accounts Regulations and without prejudice to the generality of the liability of a solicitor pursuant to the provisions of section 73 of the Act of 1994 and regulations made thereunder) interest received by a solicitor on clients' moneys held by the solicitor on

account of his or her clients generally on an interest-bearing “general client account” as defined in Regulation 8(1) of the Accounts Regulations, or

- (e) moneys received, held or controlled by a personal insolvency practitioner in accordance with an insolvency arrangement;

“Council” means the Council of the Society;

“credit institution” means—

- (a) a credit institution within the meaning of point (1) of Article 4(1) of the Capital Requirements Regulation, or
- (b) An Post in respect of any activity that it carries out, whether as principal or agent, that would render it, or a principal for whom it is an agent, a credit institution as a result of the application of paragraph (a);

“designated person” has the meaning assigned to it by section 25 of the Act of 2010, as amended by section 5 of the Act of 2018;

“documents” includes deeds, wills, papers, books of account, records, vouchers, correspondence and files and shall be construed to include any documents stored in an electronic or other non-written form or on film or otherwise;

“FIU Ireland” means those members of the Garda Síochána, or members of the civilian staff of the Garda Síochána, appointed by the Commissioner of the Garda Síochána to carry out, on behalf of the State, all of the functions of an EU Financial Intelligence Unit (FIU) under the Fourth Money Laundering Directive;

“Fourth Money Laundering Directive” means Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015¹;

“high-risk third country” means a jurisdiction identified by the European Commission in accordance with Article 9 of the Fourth Money Laundering Directive;

“Member State” means a member state of the European Economic Area;

“Minister” means the Minister for Justice and Equality;

¹ OJ No. L 141, 5.6.2015, p. 73.

“moneys” includes moneys in a currency other than that of the State, cheques, bank notes, postal orders, money orders or any form of negotiable or non-negotiable instrument, moneys deposited or otherwise credited to a bank account or moneys deposited or otherwise credited to a bank or other financial institution outside the State;

“money laundering” means an offence under Part 2 of the Act of 2010;

“monitoring”, in relation to a business relationship between a solicitor and a client, means the solicitor on an ongoing basis—

- (a) scrutinising transactions, and the source of wealth or of funds for those transactions, undertaken during the relationship in order to determine if the transactions are consistent with the solicitor’s knowledge of—
 - (i) the client,
 - (ii) the clients business and pattern of transactions, and
 - (iii) the clients risk profile (as determined under Regulation 7), and
- (b) ensuring that documents, data and information on customers are kept up to date in accordance with his or her internal policies, controls and procedures adopted in accordance with Regulation 5;

“occasional transaction” means a single transaction, or a series of transactions that are or appear to be linked to each other, where—

- (a) the solicitor does not have a business relationship with the client, and
- (b) in a case where the transaction concerned consists of a transfer of funds (within the meaning of Article 3(9) of Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015²), the amount of money to be transferred is in aggregate not less than €1,000;

“personal insolvency practitioner” means a solicitor who is authorised in accordance with the Act of 2012 to carry on the practice of a personal insolvency practitioner;

“property” has the meaning assigned to it by section 2 of the Act of 2010;

² OJ No. L 141, 5.6.2015, p. 1.

“records” means the books of account and all other documents required to be maintained and kept by a solicitor arising from his or her practice as a solicitor;

“relevant independent legal professional” means a practising solicitor who carries out any of the following services:

- (a) the provision of assistance in the planning or execution of transactions for clients concerning any of the following:
 - (i) buying or selling land or business entities including, without limitation, conveyancing services;
 - (ii) managing the money, securities or other assets of clients;
 - (iii) opening or managing bank, savings or securities accounts;
 - (iv) organising contributions necessary for the creation, operation or management of companies;
 - (v) creating, operating or managing trusts, companies or similar structures or arrangements;
- (b) acting for or on behalf of clients in financial transactions or transactions relating to land:

“senior management” means an employee, principal or partner of a solicitor’s practice with sufficient knowledge of the practice’s money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure;

“Society” means the Law Society of Ireland and, as appropriate, includes the Council or a committee appointed by the Council or a member of the Council or an employee or agent of the Society;

“sole practitioner” means a solicitor who is practising as a sole principal in a solicitor's practice;

“solicitor” means a practising solicitor;

“specified client” has the same meaning as is assigned to “specified customer” by section 34(5) of the Act of 2010;

“terrorist financing” has the meaning assigned to it by section 2 of the Act of 2010;

“transaction” means the subject of a service carried out for a client by the independent legal professional of a kind referred to in paragraph (a) or (b) of the definition of “relevant independent legal professional” in this Regulation;

“trust or company service provider” has the meaning assigned to it by section 24 of the Act of 2010.

Scope

3. (1) These Regulations apply to a solicitor who is a relevant independent legal professional, in the course of and arising from his or her practice as a solicitor, engaged in the provision of legal services, whether as a sole practitioner or as a partner in a firm of solicitors and shall, for the avoidance of doubt, apply to a solicitor carrying on practice as a personal insolvency practitioner.

(2) Wherever in these Regulations an obligation is specified as being that of a solicitor, such obligation of the solicitor shall be a personal one notwithstanding that the solicitor may have caused some other person or persons to perform the act or function comprising such obligation; and it shall be assumed unless and until the contrary be shown to the satisfaction of the Society that such other person or persons had the express or implied authority of the solicitor to perform such act or function.

(3) These Regulations shall not apply to—

- (a) a solicitor in the full-time service of the State within the meaning of section 54(3) (as substituted by section 62 of the Act of 1994) of the Act, or
- (b) a solicitor who is in the part-time service of the State, in respect of moneys received, held, controlled or paid by him or her in the course of such service.

(4) A solicitor to whom paragraph (3) applies at the time he or she applies to the Society for a practising certificate for a practice year shall be required to notify the Society if at any time during that practice year he or she proposes to change to being a solicitor to whom paragraph (1) applies; such notification to the Society to be made in writing not later than fourteen days prior to such change taking place.

(5) Where the Society deems it appropriate in any particular circumstances, the Society may require a solicitor who represents to the Society that he or she is a solicitor to whom these Regulations do not or should not apply, to verify such representation by means of a statutory declaration or in such other formal manner as the Society may direct; provided that the Society may, in addition, conduct its own investigation in order to confirm the veracity of any such representation.

(6) Each partner in a firm of solicitors shall be responsible for securing compliance by the firm with these Regulations.

*PART 2**Investigation of Solicitors' Practices**Investigation*

4. (1) Where it appears to the Society, whether as a result of a complaint or otherwise, that it is necessary, for the purpose of investigating whether there has been due compliance by a solicitor with these Regulations or the Act of 2010, or otherwise for the purpose of exercising any of the Society's functions under these Regulations, the Society may appoint an authorised person and instruct him or her to attend, with or without prior notice, at the place or places of business of the solicitor, and the authorised person may so attend at such place or places for that purpose.

(2) Notwithstanding paragraph (1), the Society may agree to an investigation under that paragraph taking place, or may require such investigation to take place, at a place or places other than the place or places of business of a solicitor.

(3) An authorised person who attends pursuant to paragraph (1) at the place or places of business of a solicitor, or at such other place as may be agreed or required pursuant to paragraph (2), shall inform the solicitor or any partner, employee or agent of the solicitor of the purpose of the attendance and may, in pursuance of that purpose, require the solicitor or any partner, employee or agent of the solicitor to do any one or more of the following things:

- (a) to make available to the authorised person for inspection all or any part of the solicitor's records at such time and place fixed by the Society;
- (b) to furnish to the authorised person such copies of the solicitor's records as the authorised person deems necessary to fulfil the purpose specified in paragraph (1) (whether or not such records or any of them relate also to other matters);
- (c) to give to the authorised person such written authority addressed to such bank or banks as the authorised person requires to enable the authorised person to inspect any account or accounts opened, or caused to be opened, by the solicitor at such bank or banks (or any documents relating thereto) and to obtain from such bank or banks copies of such documents relating to such account or accounts for such period or periods as the authorised person deems necessary to fulfil the purpose specified in paragraph (1).

(4) If a solicitor or the partner, employee or agent of the solicitor, who is required to make available records to an authorised person for inspection under paragraph (3), refuses, neglects or otherwise fails without reasonable cause to duly comply with such requirement, the Society may, on notice to the solicitor, apply to the High Court for an order requiring the solicitor to make available for inspection at his or her place or places of business such records as the Society (including the authorised officer) deem necessary for the purpose specified in paragraph (1) or as the court thinks fit.

(5) An authorised person who attends pursuant to paragraph (1) at the place or places of business of a solicitor shall be afforded by the solicitor (at the solicitor's expense) such facilities at such place or places of business to conduct

his or her investigation as are reasonable and appropriate in the circumstances, including accommodation with desk or table and chair or chairs (whether or not in a room separate from other persons) and photocopying facilities.

(6) Where, arising from an investigation by an authorised person pursuant to this Regulation, it is considered by the Society—

- (a) that a report prepared by the authorised person discloses evidence of a material breach of these Regulations by the solicitor concerned or other misconduct by the solicitor as disclosed by his or her records, the Society may conduct such further investigations or make such further enquiries as the Society deems necessary in the circumstances,
- (b) that the solicitor should be required to attend at the Society's premises (or elsewhere within the State) for interview by the Society, the Society may so require the solicitor to attend; provided that, where the solicitor is to be interviewed in relation to matters contained in a report or reports of an authorised person, the solicitor shall be furnished with a copy of such report or reports in advance of such attendance, and the solicitor may attend such interview accompanied by another solicitor, by counsel or by his or her reporting accountant (or two or more of them), as the solicitor may deem fit,
- (c) that there has been a material breach of these Regulations by the solicitor concerned or that there has been other misconduct by the solicitor disclosed by his or her records (or both), the Society may apply to the Legal Practitioners Disciplinary Tribunal for an inquiry into the conduct of the solicitor on the ground of alleged misconduct pursuant to section 14A(6) (inserted by section 198 of the Legal Services Regulation Act 2015 (No. 65 of 2015)) of the Act of 1994, or where applicable it may apply to the Solicitors Disciplinary Tribunal for an inquiry under section 7 (as substituted by section 17 of the Act of 1994) of the Act of 1960.
- (d) (whether or not the Society decides to make application to the Legal Practitioners Disciplinary Tribunal or the Solicitors Disciplinary Tribunal in the particular case) that there has been such a material breach of these Regulations by the solicitor concerned or such other misconduct by the solicitor as disclosed by his or her records (or both), the Society shall require the solicitor to pay to the Society an amount, determined as appropriate by the Society, taking into account the nature and extent of the investigation, the preparation of a report or reports thereon, the further enquiries arising therefrom and any interview or interviews conducted by the Society consequential thereon.

(7) The Society may investigate the alleged breach by a solicitor of these Regulations and, to that end, may in respect of the solicitor concerned give directions to the solicitor.

(8) The Society may at any time terminate the authority of an authorised person and appoint another authorised person to carry out or complete an investigation pursuant to this Regulation.

PART 3

*Policies, Controls and Procedures**Risk assessment policies, controls and procedures*

5. (1) A solicitor shall adopt internal policies, controls and procedures, in relation to the solicitor's business to which these Regulations apply, to prevent and detect the commission of money laundering and terrorist financing.

(2) In particular, a solicitor shall adopt internal policies, controls and procedures to be followed by persons involved in the carrying out of the obligations of the solicitor's obligations under this Part.

(3) The internal policies, controls and procedures referred to in paragraph (1) include policies, controls and procedures dealing with—

- (a) the identification, assessment, mitigation and management of risk factors relating to money laundering or terrorist financing,
- (b) client due diligence measures,
- (c) monitoring transactions and business relationships,
- (d) the identification and scrutiny of complex or large transactions, unusual patterns of transactions that have no apparent economic or visible lawful purpose and any other activity that the solicitor has reasonable grounds to regard as particularly likely, by its nature, to be related to money laundering or terrorist financing,
- (e) measures to be taken to prevent the use for money laundering or terrorist financing of transactions or products that could favour or facilitate anonymity,
- (f) measures to be taken to prevent the use for money laundering or terrorist financing which may arise from technological developments including the use of new products and new practices and the manner in which services relating to such developments are delivered,
- (g) reporting (including the reporting of suspicious transactions),
- (h) record keeping,
- (i) measures to be taken to keep documents and information relating to risk assessments by that solicitor up-to-date,
- (j) measures to be taken to keep documents and information relating to the clients of that solicitor up to date,
- (k) internal systems and controls to identify emerging risks and keep business-wide risk assessments up to date, and
- (l) monitoring and managing compliance with, and the internal communication of, these policies, controls and procedures.

(4) The solicitor shall also adopt internal policies, controls and procedures in relation to the monitoring and management of compliance with, and the internal communication of, the policies, controls and procedures referred to in paragraph (2).

(5) In preparing internal policies, controls and procedures under this Regulation, the solicitor shall have regard to any guidelines on preparing, implementation, and reviewing such policies and procedures that are issued by the Society.

(6) A solicitor shall ensure that persons involved in the conduct of the solicitor's business are—

- (a) instructed on the law relating to money laundering and terrorist financing, and
- (b) provided with ongoing training on identifying a transaction or other activity that may be related to money laundering or terrorist financing, and on how to proceed once such a transaction or activity is identified,

and that evidence of such instruction and training is maintained as part of the solicitor's records.

(7) A solicitor shall have in place appropriate procedures for partners, employees and agents of the practice to report a contravention of these Regulations or the Act of 2010 internally through a specific, independent and anonymous channel, proportionate to the nature and size of the practice concerned.

(8) A reference in this Regulation to persons involved in the conduct of a solicitor's business includes a reference to employees of the solicitor.

(9) The obligations imposed on a solicitor under this section do not apply to a solicitor who is an employee of another designated person.

(10) The Society may investigate the alleged breach by a solicitor of these Regulations and, to that end, may in respect of the solicitor concerned give directions to the solicitor, including but not limited to—

- (a) appointing an individual at management level, to monitor and manage compliance with, and the internal communication of, internal policies, controls and procedures adopted by the solicitor,
- (b) appointing a member of senior management with primary responsibility for the implementation and management of anti-money laundering measures in accordance with the Act of 2010, and
- (c) undertaking an independent, external audit to test the effectiveness of the internal policies, controls and procedures set out in this Part.

Business risk assessment

6. (1) A solicitor shall carry out an assessment, referred to as a "business risk assessment", to identify and assess the risks of money laundering and terrorist financing involved in carrying on his or her business activities taking into account at least the following risk factors:

- (a) the type of client that the solicitor has;

- (b) the services that the solicitor provides;
 - (c) the countries or geographical areas in which the solicitor and his clients operate;
 - (d) the type of transactions that the solicitor carries out;
 - (e) the delivery channels that the solicitor uses;
 - (f) other additional risk factors prescribed by the Minister under the Act of 2010.
- (2) A solicitor carrying out a business risk assessment shall have regard to—
- (a) any relevant information in the national risk assessment carried out by the State in accordance with Article 7(1) of the Fourth Money Laundering Directive, and
 - (b) any guidance on risk issued by the Society.
- (3) A business risk assessment shall be documented and maintained as part of the solicitor's records.
- (4) A solicitor shall keep the business risk assessment and any related documents up-to-date in accordance with his or her internal policies, controls and procedures adopted in accordance with Regulation 5.
- (5) A business risk assessment shall be approved by senior management.
- (6) A solicitor shall make records of a business risk assessment available, on request, to the Society.

Client risk assessment

7. (1) For the purpose of determining the extent of measures to be taken under Regulation 10(2) and (3) and Regulation 11(1) and (3), a solicitor shall identify and assess the risk of money laundering and terrorist financing in relation to the client or transaction concerned, having regard to—
- (a) the relevant business risk assessment,
 - (b) the matters specified in Regulation 6(2),
 - (c) any relevant risk variables, including at least the following:
 - (i) the purpose of the relationship;
 - (ii) the level of assets to be deposited by a client or the size of transactions undertaken;
 - (iii) the regularity of transactions or duration of the business relationship;
 - (iv) any additional risk variable prescribed by the Minister under the Act of 2010;
 - (d) the presence of any factor specified in Schedule 1 or prescribed by the Minister under section 34A(4) (inserted by section 13 of the Act of 2018) of the Act of 2010 as suggesting potentially lower risk,

- (e) the presence of any factor specified in Schedule 2, and
- (f) any additional factor prescribed by the Minister under the Act of 2010 suggesting potentially higher risk.

(2) A determination by a solicitor under paragraph (1) shall be documented in writing.

Records

8. (1) A solicitor shall keep records evidencing the internal policies, controls and procedures applied, and information obtained, by the solicitor in relation to each client.

(2) Without prejudice to the generality of paragraph (1), a solicitor shall take the original or a copy of all documents used by the solicitor for the purposes of Part 4, including all documents used to verify the identity of clients or beneficial owners in accordance with Regulation 10.

(3) A solicitor shall keep up-to-date records evidencing the history of services and transactions carried out in relation to each client of the solicitor.

(4) Subject to paragraph (5), the documents and other records referred to in paragraphs (1) to (3) shall be retained by the solicitor within the State for a period of not less than 5 years after—

- (a) in the case of a record referred to in paragraph (1), the date on which the solicitor ceases to provide any service to the client concerned or the date of the last transaction (if any) with the client, whichever is the later,
- (b) in the case of a record referred to in paragraph (3) evidencing the carrying out of a particular transaction by the solicitor with, for or on behalf of the client (other than a record to which subparagraph (c) applies), the date on which the particular transaction is completed or discontinued,
- (c) in the case of a record referred to in paragraph (3) evidencing the carrying out of a particular occasional transaction comprised of a series of transactions with, for or on behalf of a client, the date on which the series of transactions is completed or discontinued, or
- (d) in the case of a record referred to in paragraph (3) evidencing the carrying out of a particular service for or on behalf of the client (other than a record to which subparagraph (b) or (c) applies), the date on which the particular service is completed or discontinued.

(5) Paragraph (4)(a) extends to any record that was required to be retained under section 32(9)(a) of the Criminal Justice Act 1994 (No. 15 of 1994) immediately before the repeal of that provision by the Act of 2010.

(6) Paragraph (4)(b) to (d) extend to any record that was required to be retained under section 32(9)(b) of the Criminal Justice Act 1994 immediately before the repeal of that provision by the Act of 2010 and for that purpose—

- (a) a reference in paragraph (4)(b) to (d) to a record referred to in paragraph (3) includes a reference to such a record, and
- (b) a reference in paragraph (4)(c) to an occasional transaction comprised of a series of transactions includes a reference to a series of transactions referred to in section 32(3)(b) of the Criminal Justice Act 1994.

(7) A solicitor may keep the records required to be kept under this Regulation wholly or partly in an electronic, mechanical or other non-written form only if they are capable of being reproduced in a written form.

(8) The records required to be kept by a solicitor under this Regulation may be kept outside the State provided that the solicitor ensures that those records are produced on request in accordance with section 55(7A) (inserted by section 12 of the Act of 2013) of the Act of 2010.

(9) The requirements imposed by this section are in addition to, and not in substitution for, any other requirements imposed by any other enactment or rule of law with respect to the keeping and retention of records by a solicitor.

(10) The obligations that are imposed on a solicitor under this Regulation continue to apply to a solicitor who has been a solicitor but has ceased to carry on business as a solicitor.

PART 4

*Client Due Diligence**Meaning of beneficial owner*

9. (1) In this Part “beneficial owner”, in relation to a body corporate, has the meaning assigned to it by point (6)(a) of Article 3 of the Fourth Money Laundering Directive.

(2) In this Part “beneficial owner”, in relation to a partnership, means any individual who—

- (a) ultimately is entitled to or controls, whether the entitlement or control is direct or indirect, more than a 25 per cent share of the capital or profits of the partnership or more than 25 per cent of the voting rights in the partnership, or
- (b) otherwise controls the partnership.

(3) In this Part, “beneficial owner”, in relation to a trust, means any of the following:

- (a) any individual who is entitled to a vested interest in possession, remainder or reversion, whether or not the interest is defeasible, in the capital of the trust property;
- (b) in the case of a trust other than one that is set up or operates entirely for the benefit of individuals referred to in *paragraph (a)*, the class of individuals in whose main interest the trust is set up or operates;
- (c) any individual who has control over the trust;
- (d) the settlor;
- (e) the trustee;
- (f) the protector.

(4) For the purposes of and without prejudice to the generality of paragraph (3), an individual who is the beneficial owner of a body corporate that—

- (a) is entitled to a vested interest of the kind referred to in paragraph (3)(a), or
- (b) has control over the trust,

is taken to be entitled to the vested interest or to have control over the trust (as the case may be).

(5) Except as provided by paragraph (6), in this Regulation “control”, in relation to a trust, means a power (whether exercisable alone, jointly with another person or with the consent of another person) under the trust instrument concerned or by law to do any of the following:

- (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 any power referred to in subparagraphs (a) to (d).

(6) For the purposes of the definition of “control” in paragraph (5), an individual does not have control solely as a result of the power exercisable collectively at common law to vary or extinguish a trust where the beneficiaries under the trust are at least 18 years of age, have full capacity and (taken together) are absolutely entitled to the property to which the trust applies.

(7) In this Part “beneficial owner”, in relation to an estate of a deceased person in the course of administration, means the executor or administrator of the estate concerned.

(8) In this Part “beneficial owner”, in relation to a legal entity or legal arrangement, other than where paragraph (1), (2) or (3) applies, means—

- (a) if the individuals who benefit from the entity or arrangement have been determined, any individual who benefits from the property of the entity or arrangement,
- (b) if the individuals who benefit from the entity or arrangement have yet to be determined, the class of such individuals in whose main interest the entity or arrangement is set up or operates,
- (c) any individual who exercises control over the property of the entity or arrangement, and
- (d) any person holding a position, in relation to the legal entity or legal arrangement that is similar or equivalent to the position specified in paragraph (3) in relation to a trust.

(9) For the purposes of and without prejudice to the generality of paragraph (1), any individual who is the beneficial owner of a body corporate that benefits from or exercises control over the property of the entity or arrangement is taken to benefit from or exercise control over the property of the entity or arrangement.

(10) In this Part, “beneficial owner”, in relation to a case other than a case to which paragraph (1), (2), (3), (7) or (8) applies, means any individual who ultimately owns or controls a client or on whose behalf a transaction is conducted.

Standard client due diligence

10. (1) A solicitor shall apply the measures specified in paragraph (2), in relation to a client of the solicitor—

- (a) prior to establishing a business relationship with the client,
- (b) prior to carrying out an occasional transaction with, for or on behalf of the client or assisting the client to carry out an occasional transaction,
- (c) prior to carrying out any service for the client, if, having regard to the circumstances, including—

- (i) the client, or the type of client, concerned,
- (ii) the type of any business relationship which the solicitor has with the client,
- (iii) the type of service or of any transaction or product in respect of which the service is sought,
- (iv) the purpose (or the client's explanation of the purpose) of the service or of any transaction or product in respect of which the service is sought,
- (v) the value of any transaction or product in respect of which the service is sought,
- (vi) the source (or the client's explanation of the source) of funds for any such transaction or product,

the solicitor has reasonable grounds to suspect that the client is involved in, or the service, transaction or product sought by the client is for the purpose of, money laundering or terrorist financing,

- (d) prior to carrying out any service for the client if—
 - (i) the solicitor has reasonable grounds to doubt the veracity or adequacy of documents (whether or not in electronic form) or information that the solicitor has previously obtained for the purpose of verifying the identity of the client, whether obtained under this Regulation, section 33 of the Act of 2010 or section 32 of the Criminal Justice Act 1994 prior to its repeal by the Act of 2010, or under any administrative arrangements that the solicitor may have applied before section 32 of the Criminal Justice Act 1994 operated in relation to the solicitor, and
 - (ii) the solicitor has not obtained any other documents or information that the solicitor has reasonable grounds to believe can be relied upon to confirm the identity of the client,
- and
- (e) at any time, including a situation where the relevant circumstances of a client have changed, where the risk of money laundering and terrorist financing warrants their application.

(2) The measures that shall be applied, in accordance with Regulation 7, by a solicitor under paragraph (1) are as follows:

- (a) identifying the client, and verifying the client's identity on the basis of documents (whether or not in electronic form), or information, that the solicitor has reasonable grounds to believe can be relied upon to confirm the identity of the client including—
 - (i) documents from a government source (whether or not a State government source), or

- (ii) any class of documents, or combination of classes of documents, prescribed by the Minister under section 33(11) or (12) of the Act of 2010;
- (b) identifying any beneficial owner connected with the client or service concerned, and taking measures reasonably warranted by the risk of money laundering or terrorist financing—
 - (i) to verify the beneficial owner’s identity to the extent necessary to ensure that the solicitor has reasonable grounds to be satisfied that the solicitor knows who the beneficial owner is, and
 - (ii) in the case of a legal entity or legal arrangement of a kind referred to in Regulation 9(1), (2), (3) or (8), to understand the ownership and control structure of the entity or arrangement concerned.

(3) When applying the measures specified in paragraph (2), a solicitor shall verify that any person purporting to act on behalf of the client is so authorised and identify and verify the identity of that person in accordance with paragraph (2).

(4) Nothing in paragraph (2)(a)(i) or (ii) limits the kinds of documents or information that a solicitor may have reasonable grounds to believe can be relied upon to confirm the identity of a client.

(5) Notwithstanding paragraph (1)(a), a solicitor may verify the identity of a client or beneficial owner, in accordance with paragraph (2), during the establishment of a business relationship with the client if the solicitor has reasonable grounds to believe that—

- (a) verifying the identity of the client or beneficial owner (as the case may be) prior to the establishment of the relationship would interrupt the normal conduct of business, and
- (b) there is no real risk that the client is involved in, or the service sought by the client is for the purpose of, money laundering or terrorist financing,

but the solicitor shall take reasonable steps to verify the identity of the client or beneficial owner, in accordance with paragraph (2) as soon as practicable.

(6) Subject to paragraph (7), a solicitor who is unable to apply the measures specified in paragraph (2) in relation to a client, as a result of any failure on the part of the client to provide the solicitor with documents or information required under this Regulation—

- (a) shall not provide the service or carry out the transaction sought by that client for so long as the failure remains unrectified, and
- (b) shall discontinue the business relationship (if any) with the client.

(7) Nothing in paragraph (6) or Regulation 11(2) shall operate to prevent a solicitor—

- (a) ascertaining the legal position of a person, or

- (b) performing the task of defending or representing a person in, or in relation to civil or criminal proceedings, including providing advice on instituting or avoiding such proceedings.

Special measures applying to business relationship

11. (1) A solicitor shall obtain information reasonably warranted by the risk of money laundering or terrorist financing on the purpose and intended nature of a business relationship with a client prior to the establishment of the relationship.

(2) A solicitor who is unable to obtain such information, as a result of any failure on the part of the client, shall not provide the service sought by the client for so long as the failure continues.

(3) A solicitor shall monitor any business relationship that it has with a client to the extent reasonably warranted by the risk of money laundering or terrorist financing.

Simplified client due diligence

12. (1) Subject to Regulation 10(1)(c) and (d), a solicitor may take the measures specified in Regulation 10(2) and 11 in such manner, to such extent and at such times as is reasonably warranted by the lower risk of money laundering or terrorist financing in relation to a business relationship or transaction where the solicitor—

- (a) identifies in the relevant business risk assessment, an area of lower risk into which the relationship or transaction falls, and
- (b) considers that the relationship or transaction presents a lower degree of risk.

(2) For the purposes of identifying an area of lower risk a solicitor shall have regard to—

- (a) the matters specified in Regulation 6(2),
- (b) the presence of any factor specified in Schedule 1, and
- (c) any additional factor prescribed by the Minister under section 34A(4) (inserted by section 13 of the Act of 2018) of the Act of 2010 as suggesting potentially lower risk.

(3) Where a solicitor applies simplified due diligence measures in accordance with paragraph (1) he or she shall—

- (a) keep a record of the reasons for his determination and the evidence on which it was based, and
- (b) carry out sufficient monitoring of the transactions and business relationships to enable him to detect unusual or suspicious transactions.

(4) For the purposes of paragraph (1), a business relationship or transaction may be considered to present a lower degree of risk if a reasonable person having regard to the matters specified in Regulation 7(1)(a) to (f) would determine that

the relationship or transaction presents a lower degree of risk of money laundering or terrorist financing.

Enhanced client due diligence

13. (1) Without prejudice to Regulation 15, a solicitor shall apply measures to manage and mitigate the risk of money laundering or terrorist financing, additional to those specified in this Part, to a business relationship or transaction that presents a higher degree of risk.

(2) For the purposes of paragraph (1) a business relationship or transaction shall be considered to present a higher degree of risk if a reasonable person having regard to the matters specified in Regulation 7(1)(a) to (f) would determine that the business relationship or transaction presents a higher risk of money laundering or terrorist financing.

Complex or unusual transactions

14. (1) A solicitor shall, in accordance with policies and procedures adopted in accordance with Regulation 5, examine the background and purpose of all complex or unusually large transactions, and all unusual patterns of transactions, which have no apparent economic or lawful purpose.

(2) A solicitor shall increase the degree and nature of monitoring of a business relationship in order to determine whether transactions referred to in paragraph (1) appear suspicious.

Politically exposed persons

15. (1) A solicitor shall take steps to determine whether or not a client, or a beneficial owner connected with the client or service concerned, is a politically exposed person or an immediate family member, or a close associate, of a politically exposed person.

(2) The solicitor shall take the steps referred to in paragraph (1) prior to—

- (a) establishing a business relationship with the client, or
- (b) carrying out an occasional transaction with, for or on behalf of the client or assisting the client to carry out an occasional transaction.

(3) The steps referred to in paragraph (1) are such steps as are reasonably warranted by the risk that the client or beneficial owner (as the case may be) is involved in money laundering or terrorist financing.

(4) If a solicitor knows or has reasonable grounds to believe that a client is, or has become, a politically exposed person or an immediate family member or close associate of a politically exposed person, the solicitor shall—

- (a) ensure that approval is formally documented, in the case of a sole practitioner by the sole practitioner and in other cases by senior management of the firm nominated for this purpose, before a business relationship is established with the client, and

- (b) determine the source of wealth and of funds for the following transactions:
 - (i) transactions the subject of any business relationship with the client that are carried out with the client or in respect of which a service is sought, or
 - (ii) any occasional transaction that the solicitor carries out with, for or on behalf of the client or that the solicitor assists the client to carry out,
 and
- (c) in addition to measures to be applied in accordance with Regulation 11(3), apply enhanced monitoring of the business relationship with the client.

(5) If a solicitor knows or has reasonable grounds to believe that a beneficial owner connected with a client or with a service sought by a client, is or has become a politically exposed person or an immediate family member or close associate of a politically exposed person, the solicitor shall apply the measures specified in paragraph (4)(a), (b) and (c) in relation to the client concerned.

(6) For the purposes of paragraphs (4) and (6), a solicitor is deemed to know that another person is a politically exposed person or an immediate family member or close associate of a politically exposed person if, on the basis of—

- (a) information in the possession of the solicitor (whether obtained under paragraph (1) or (3) or otherwise),
- (b) in a case where the solicitor has contravened paragraph (1) or (2), information that would have been in the possession of the solicitor if the solicitor had complied with that provision, or
- (c) public knowledge,

there are reasonable grounds for concluding that the solicitor so knows.

(7) A solicitor who is unable to apply the measures specified in paragraph (1), (3), (4) or (5) in relation to a client, as a result of any failure on the part of the client to provide the solicitor with documents or information—

- (a) shall discontinue the business relationship (if any) with the client for so long as the failure continues, and
- (b) shall not provide the service or carry out the transaction sought by the client for so long as the failure continues.

(8) In this Regulation—

“close associate” of a politically exposed person includes any of the following persons:

- (a) any individual who has joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations, with the politically exposed person;
- (b) any individual who has sole beneficial ownership of a legal entity or legal arrangement set up for the actual benefit of the politically exposed person;

“immediate family member” of a politically exposed person includes any of the following persons:

- (a) any spouse of the politically exposed person;
- (b) any person who is considered to be equivalent to a spouse of the politically exposed person under the national or other law of the place where the person or politically exposed person resides;
- (c) any child of the politically exposed person;
- (d) any spouse of a child of the politically exposed person;
- (e) any person considered to be equivalent to a spouse of a child of the politically exposed person under the national or other law of the place where the person or child resides;
- (f) any parent of the politically exposed person;
- (g) any other family member of the politically exposed person who is of a class prescribed by the Minister pursuant to section 37(11) of the Act of 2010;

“politically exposed person” means an individual who is, or has at any time in the preceding 12 months been, entrusted with a prominent public function, including either of the following individuals (but not including any middle ranking or more junior official):

- (a) a specified official;
- (b) a member of the administrative, management or supervisory body of a state-owned enterprise;

“specified official” means any of the following officials (including any such officials in an institution of the European Union or an international body):

- (a) a head of state, head of government, government minister or deputy or assistant government minister;
- (b) a member of a parliament or of a similar legislative body;
- (c) a member of the governing body of a political party;
- (d) a member of a supreme court, constitutional court or other high level judicial body whose decisions, other than in exceptional circumstances, are not subject to further appeal;
- (e) a member of a court of auditors or of the board of a central bank;
- (f) an ambassador, chargé d’affaires or high-ranking officer in the armed forces;
- (g) a director, deputy director or member of the board of, or person performing the equivalent function in relation to, an international organisation.

High-risk third countries

16. (1) Subject to paragraph (2), a solicitor shall apply measures, including enhanced monitoring of the business relationship, to manage and mitigate the risk of money laundering and terrorist financing, additional to those specified in this Part, when dealing with a client established or residing in a high-risk third country.

(2) Paragraph (1) shall not apply where—

- (a) the client is a branch or majority-owned subsidiary of a designated person and is located in a high-risk third country,
- (b) the designated person referred to in paragraph (a) is established in a Member State, and
- (c) the branch or majority-owned subsidiary referred to in paragraph (a) is in compliance with the group-wide policies and procedures of the group of which it is a member adopted in accordance with Article 45 of the Fourth Money Laundering Directive.

(3) In the circumstances specified in paragraph (2), the solicitor shall—

- (a) identify and assess the risk of money laundering or terrorist financing in relation to the business relationship or transaction concerned, having regard to Regulation 7, and
- (b) apply client due diligence measures specified in this Part to the extent reasonably warranted by the risk of money laundering or terrorist financing.

Reliance on relevant third parties

17. (1) In these Regulations, “relevant third party” means—

- (a) a person, carrying on business as a designated person in the State—
 - (i) that is a credit institution,
 - (ii) that is a financial institution (other than an undertaking that is a financial institution solely because the undertaking provides either foreign exchange services or payment services, or both),
 - (iii) who is an external accountant or auditor and who is also a member of a designated accountancy body,
 - (iv) who is a tax adviser, and who is also a solicitor or a member of a designated accountancy body or of the Irish Taxation Institute,
 - (v) who is a relevant independent legal professional, or
 - (vi) who is a trust or company service provider, and who is also a member of a designated accountancy body, a solicitor or

authorised to carry on business by the Central Bank of Ireland,

- (b) a person carrying on business in another Member State who is supervised or monitored for compliance with the requirements specified in the Fourth Money Laundering Directive, in accordance with Section 2 of Chapter VI of that Directive, and is—
 - (i) a credit institution authorised to operate as a credit institution under the laws of the Member State,
 - (ii) a financial institution (other than an undertaking that is a financial institution solely because the undertaking provides either foreign exchange services or payment services, or both) and authorised to operate as a financial institution under the laws of the Member State, or
 - (iii) an external accountant, auditor, tax adviser, legal professional or trust or company service provider subject to mandatory professional registration or mandatory professional supervision under the laws of the other Member State,
- (c) a person who carries on business in a place (other than a Member State) which is not a high-risk third country, is supervised or monitored in the place for compliance with requirements equivalent to those specified in the Fourth Money Laundering Directive, and is—
 - (i) a credit institution authorised to operate as a credit institution under the laws of the place,
 - (ii) a financial institution (other than an undertaking that is a financial institution solely because the undertaking provides either foreign exchange services or payment services, or both) authorised to operate as a financial institution under the laws of the place, or
 - (iii) an external accountant, auditor, tax adviser, legal professional or trust or company service provider subject to mandatory professional registration or mandatory professional supervision under the laws of the place,
- (d) a person who carries on business in a high-risk third country, is a branch or majority-owned subsidiary of an obliged entity established in the Union, and fully complies with group-wide policies and procedures in accordance with Article 45 of the Fourth Money Laundering Directive and is—
 - (i) a credit institution authorised to operate as a credit institution under the laws of the place,
 - (ii) a financial institution (other than an undertaking that is a financial institution solely because the undertaking provides either foreign exchange services or payment

services, or both) authorised to operate as a financial institution under the laws of the place, or

- (iii) an external accountant, auditor, tax adviser, legal professional or trust or company service provider subject to mandatory professional registration or mandatory professional supervision under the laws of the place.

(2) Without prejudice to the generality of paragraph (1)(b) and (c), for the purposes of those subparagraphs, a person is supervised or monitored for compliance with the requirements specified in the Fourth Money Laundering Directive, in accordance with Section 2 of Chapter IV, or requirements equivalent to those requirements, where—

- (a) the person and the solicitor seeking to rely upon this Regulation are part of the same group,
- (b) the group applies customer due diligence and record keeping measures and policies and procedures to prevent and detect the commission of money laundering and terrorist financing in accordance with the Fourth Money Laundering Directive or requirements equivalent to those specified in the Fourth Money Laundering Directive, and
- (c) the effective implementation of the requirements referred to in subparagraph (b) is supervised at group level by a competent authority of the state where the parent company is incorporated.

(3) A reference in paragraph (1)(b)(iii) and (c)(iii) to a legal professional is a reference to a person who, by way of business, provides legal or notarial services.

(4) Subject to paragraphs (5) and (6), a solicitor may rely on a relevant third party to apply, in relation to a client of the solicitor, any of the measures that the solicitor is required to apply, in relation to the client, under Regulation 10 or 11(1).

(5) A solicitor may rely on a relevant third party to apply a measure under Regulation 10 or 11(1) only if—

- (a) there is an arrangement between the solicitor (or, in the case of a solicitor who is an employee, the solicitor's employer) and the relevant third party under which it has been agreed that the solicitor may rely on the relevant third party to apply any such measure, and
- (b) the solicitor is satisfied that the circumstances specified in paragraph (2)(a) to (c) exist, or, on the basis of the arrangement, that the relevant third party will forward to the solicitor, as soon as practicable after a request from the solicitor, any documents (whether or not in electronic form) or information relating to the client that has been obtained by the relevant third party in applying the measure.

(6) A solicitor who relies on a relevant third party to apply a measure under Regulation 10 or 11(1) remains liable, under Regulation 10 or 11(1), for any failure to apply the measure.

(7) A reference in this Regulation to a relevant third party on whom a solicitor may rely to apply a measure under Regulation 10 or 11(1) does not include a reference to a person who applies the measure as an outsourcing service provider or an agent of the solicitor.

(8) Nothing in this Regulation prevents a solicitor applying a measure under Regulation 10 or 11(1) by means of an outsourcing service provider or agent provided that the solicitor remains liable for any failure to apply the measure.

PART 5

Reporting of Suspicious Transactions

Interpretation of this Part

18. In this Part, a reference to a solicitor includes a reference to any person acting, or purporting to act, on behalf of the solicitor, including any agent, employee, partner, director or other officer of, or any person engaged under a contract for services with, the solicitor.

Requirement to report suspicious transactions

19. (1) A solicitor who knows, suspects or has reasonable grounds to suspect, on the basis of information obtained in the course of carrying on business as a solicitor, that another person has been or is engaged in an offence of money laundering or terrorist financing shall report to FIU Ireland and the Revenue Commissioners that knowledge or suspicion or those reasonable grounds.

(2) The solicitor shall make the report as soon as practicable after acquiring that knowledge or forming that suspicion, or acquiring those reasonable grounds to suspect, that the other person has been or is engaged in money laundering or terrorist financing.

(3) For the purposes of paragraphs (1) and (2), a solicitor is taken not to have reasonable grounds to know or suspect that another person commits an offence on the basis of having received information until the solicitor has scrutinised the information in the course of reasonable business practice (including automated banking transactions).

(4) For the purposes of paragraphs (1) and (2), a solicitor may have reasonable grounds to suspect that another person has been or is engaged in an offence of money laundering or terrorist financing if the solicitor is unable to apply any measures specified in Regulation 10 (2), 11(1) or 15(1), (3), (4) or (5), in relation to a client, as a result of any failure on the part of the client to provide the solicitor with documents or information.

(5) Nothing in paragraph (4) limits the circumstances in which a solicitor may have reasonable grounds, on the basis of information obtained in the course of carrying out business as a solicitor, to suspect that another person has committed an offence of money laundering or terrorist financing.

(6) A solicitor who is required to report under this Regulation shall disclose the following information in the report:

- (a) the information on which the solicitor's knowledge, suspicion or reasonable grounds are based;
- (b) the identity, if the solicitor knows it, of the person who the solicitor knows, suspects or has reasonable grounds to suspect has been or is engaged in an offence of money laundering or terrorist financing;

- (c) the whereabouts, if the solicitor knows them, of the property the subject of the money laundering, or the funds the subject of the terrorist financing, as the case may be;
- (d) any other relevant information.

(7) A solicitor who is required to make a report under this Regulation shall respond to any request for additional information by FIU Ireland or the Revenue Commissioners as soon as practicable after receiving the request and shall take all reasonable steps to provide any information specified in the request.

(8) A solicitor who is required to make a report under this Regulation shall not proceed with any suspicious transaction or service connected with the report, or with a transaction or service the subject of the report, prior to the sending of the report to FIU Ireland and the Revenue Commissioners unless—

- (a) it is not practicable to delay or stop the transaction or service from proceeding, or
- (b) the solicitor is of the reasonable opinion that failure to proceed with the transaction or service may result in the other person suspecting that a report may be (or may have been) made or that an investigation may be commenced or in the course of being conducted.

(9) Nothing in paragraph (8) authorises a solicitor to proceed with a service or transaction if the solicitor has been directed or ordered not to proceed with the service or transaction under section 17 of the Act of 2010 and the direction or order is in force.

(10) A reference in paragraph (8) to a suspicious transaction or service is a reference to a transaction or service that there are reasonable grounds for suspecting would, if it were to proceed—

- (a) comprise money laundering or terrorist financing, or
- (b) assist in money laundering or terrorist financing.

Disclosure not required in certain circumstances

20. (1) Nothing in this Part requires the disclosure of information that is subject to legal privilege.

(2) Nothing in this Part requires a solicitor to disclose information that he or she has received from or obtained in relation to a client in the course of ascertaining the legal position of the client.

(3) Paragraph (2) does not apply to information received from or obtained in relation to a client with the intention of furthering a criminal purpose.

PART 6

Convicted Persons

Convicted persons

21. (1) A person convicted of a relevant offence shall not perform a management function in, or be the beneficial owner of, a solicitor's practice or firm of solicitors.

(2) Any person performing a management function in, or being the beneficial owner of, a solicitor's practice or firm of solicitors and who is convicted of a relevant offence must inform the Society within 30 days of the day on which that person is convicted of the relevant offence.

(3) Any solicitor's practice or firm of solicitors for which, or in respect of which, a person who is convicted of a relevant offence performs a management function or is a beneficial owner shall inform the Society of the conviction within 30 days of the date on which the practice or firm became aware of the conviction.

(4) In this Regulation, "a relevant offence" means —

- (a) an offence under the Act of 2010,
- (b) an offence specified in Schedule 1 to the Criminal Justice Act 2011, or
- (c) an offence under the law of a place (other than the State), consisting of an act or omission that, if done or omitted to be done in the State, would, under the law of the State, constitute an offence under subparagraph (a) or (b) .

PART 7

Revocation

Revocation

22. The Solicitors (Money Laundering and Terrorist Financing) Regulations 2016 (S.I. No. 533 of 2016) are revoked.

SCHEDULE 1

*Regulations 7 and 12**Non-exhaustive list of factors suggesting potentially lower risk*

1. Client risk factors:
 - (a) public companies listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means), which impose requirements to ensure adequate transparency of beneficial ownership;
 - (b) public administrations or enterprises;
 - (c) clients that are resident in geographical areas of lower risk as set out in paragraph 3.

2. Product, service, transaction or delivery channel risk factors:
 - (a) life assurance policies for which the premium is low;
 - (b) insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral;
 - (c) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member's interest under the scheme;
 - (d) financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes;
 - (e) products where the risks of money laundering and terrorist financing are managed by other factors such as purse limits or transparency of ownership (e.g. certain types of electronic money).

3. Geographic risk factors:
 - (a) Member States;
 - (b) third countries having effective anti-money laundering (AML) or combating financing of terrorism (CFT) systems;
 - (c) third countries identified by credible sources as having a low level of corruption or other criminal activity;
 - (d) third countries which, on the basis of credible sources such as mutual evaluations, detailed assessment reports or published follow-up reports, have requirements to combat money laundering and terrorist financing consistent with the revised Financial Action Task Force (FATF) recommendations and effectively implement these requirements.

SCHEDULE 2

Regulation 7

Non-exhaustive list of factors suggesting potentially higher risk

1. Client risk factors:
 - (a) the business relationship is conducted in unusual circumstances;
 - (b) clients that are resident in geographical areas of higher risk as set out in paragraph 3;
 - (c) non-resident clients;
 - (d) legal persons or arrangements that are personal asset-holding vehicles;
 - (e) companies that have nominee shareholders or shares in bearer form;
 - (f) businesses that are cash intensive;
 - (g) the ownership structure of the company appears unusual or excessively complex given the nature of the company's business.

2. Product, service, transaction or delivery channel risk factors:
 - (a) private banking;
 - (b) products or transactions that might favour anonymity;
 - (c) non-face-to-face business relationships or transactions;
 - (d) payment received from unknown or unassociated third parties;
 - (e) new products and new business practices, including new delivery mechanism, and the use of new or developing technologies for both new and pre-existing products.

3. Geographical risk factors:
 - (a) countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective AML/CFT systems;
 - (b) countries identified by credible sources as having significant levels of corruption or other criminal activity;
 - (c) countries subject to sanctions, embargos or similar measures issued by organisations such as, for example, the European Union or the United Nations;
 - (d) countries (or geographical areas) providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country.

Signed on behalf of the Law Society of Ireland pursuant to section 79 of the Solicitors Act 1954.

Dated this 22 day of September 2020

MICHELE O'BOYLE,

President of the Law Society of Ireland.

The Legal Services Regulatory Authority concur, pursuant to subsection (1) of Section 66 (as substituted by Section 76 of the Solicitors (Amendment) Act 1994) of the Solicitors Act 1954, as amended by Section 182 of the Legal Services Regulation Act 2015, to the making of the within Regulations.

On behalf of the Legal Services Regulatory Authority

Dated this 25 day of September 2020

BRIAN DOHERTY,

Chief Executive Officer.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations may be cited as the Solicitors (Money Laundering and Terrorist Financing) Regulations 2020.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Teil: 076 110 6834
r-post: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2,
D02 DR67.

Tel: 076 110 6834
E-mail: publications@opw.ie

€8.00

