

**MONEY LAUNDERING SOURCEBOOK  
(AMENDMENT) INSTRUMENT 2002**

**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the “Act”):
- (1) section 138 (General rule-making power);
  - (2) section 146 (Money laundering rules);
  - (3) section 149 (Evidential provisions);
  - (4) section 156 (General supplementary provisions); and
  - (5) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

**Commencement**

- C. This instrument comes into force on 1 December 2002.

**Amendments to the Money Laundering sourcebook**

- D. The Money Laundering sourcebook is amended in accordance with Annex A to this instrument.

**Amendments to the Glossary**

- E. The Glossary is amended in accordance with Annex B to this instrument.

**Citation**

- E. This instrument may be cited as the Money Laundering Sourcebook (Amendment) Instrument 2002.

By order of the Board  
17 October 2002

## Annex A

### Amendments to the Money Laundering sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.1.3 G The scope of this sourcebook is very wide. It includes all *firms* except those within the limited exception for *firms* concerned only with certain insurance activities and *UCITS qualifiers* (see *ML 1.1.2R*). In this respect, the chapter follows article 1 of the *Money Laundering Directive* (No. 91/308/EEC). The scope extends to *incoming firms* (such as branches of institutions established elsewhere in the *EEA*), except those providing only *cross border services* in the *United Kingdom*. This is because the Directive is designed to apply on a "*Host State*" basis. *ML does not apply with respect to the unregulated activities of a firm, for example money service business.*
- 3.1.3 R (2A) If the *client*, or the *person* on whose behalf he is acting, engages in *money service business* and is registered with the Commissioners of the Customs and Excise, sufficient evidence of identity must include the registered number, within the meaning given by regulation 4(3) of the *Money Laundering Regulations 2001*, of the *client* or the *person* on whose behalf he is acting.
- 3.2.1 R (1) This section sets out circumstances in which:
- (a) the duty in *ML 3.1.3R(1)* (Identification of the client: the duty) need not be complied with; or
  - (b) the *relevant firm* is entitled to regard the evidence it has as sufficient evidence;
- (1A) ~~but~~ None of the *rules* in this section applies if the *relevant firm*:
- (a) knows or suspects; or
  - (b) has reasonable grounds to know or suspect;
- in accordance with (2) that the *client* or the *person* on whose behalf he is or appears to be acting is engaged in *money laundering*.
- (2) The *relevant firm* ~~is~~ will be taken to know or suspect ~~have the knowledge or suspicion referred to~~ or to have reasonable grounds to know or suspect as set out in (1) (1A) if any member of the staff handling the *transaction* or potential *transaction* or managerially responsible for it knows or suspects or has reasonable grounds to know or suspect ~~has the knowledge or suspicion.~~

- 3.2.2 R The duty in *ML* 3.1.3R(1) (Identification of the client: the duty) does not apply if:  
 ...  
 (3) with a view to carrying out a one-off *transaction*, the *client* (other than a money service operator) is introduced to the *relevant firm* by a *person* who has given the *relevant firm* a written assurance that in all such cases he obtains and records identification evidence, and:  
 ...
- 3.2.5R A *relevant firm* may regard evidence as sufficient for the purposes of *ML* 3.1.3R (Identification of the client: the duty) if it establishes that the *client* (other than a money service operator):  
 ...
- 4.1.2 R (1) A *relevant firm* must take reasonable steps to ensure that any member of staff who handles, or is managerially responsible for handling, *transactions* which may involve *money laundering* makes a report promptly to the *MLRO* if he:  
 (a) knows or suspects; or  
 (b) has reasonable grounds to know or suspect;  
 that a *client*, or the *person* on whose behalf the *client* is acting, is engaged in *money laundering*.
- 4.3.2 R A *relevant firm* must take reasonable steps to ensure that any report required by *ML* 4.1.2R(1) (Internal reporting) is considered by the *MLRO*, or his duly authorised delegate, and that if, having considered the report and any relevant *know your business information* to which he has sought access, the *MLRO* or his duly authorised delegate:  
 (1) knows or suspects; or  
 (2) has reasonable grounds to know or suspect;  
 that a *person* has been engaged in *money laundering*, he reports promptly to *NCIS*.
- 4.3.3 E (1) To take reasonable steps as required by *ML* 4.3.2R, the *relevant firm* should:  
 ...  
 (c) ensure that where the *MLRO*, or his duly authorised delegate knows or suspects, or has reasonable grounds to know or suspect, that a *person* has been engaged in *money laundering*, he makes a report which is not subject to the consent or approval of any other *person*.

4.3.4 R     A *sole trader* with no *employees* who knows or suspects, or has reasonable grounds to know or suspect, that a *client* of his, or the *person* on whose behalf the *client* is acting, is or has been engaged in *money laundering* must make a report promptly to *NCIS*.

## Annex B

### Amendments to the Glossary

Insert the following new definitions in the appropriate alphabetical position:

<i>money service business</i>	Carrying on by way of business the activity of: <ul style="list-style-type: none"><li>(a) operating a bureau de change; or</li><li>(b) transmitting money, or any representation of monetary value, by any means; or</li><li>(c) cashing cheques which are made payable to customers.</li></ul>
<i>Money Laundering Regulations 2001</i>	the Money Laundering Regulations 2001 (SI 2001/3641).
<i>money service operator</i>	a person who carries on <i>money service business</i> other than a <i>firm</i> , a <i>BCD credit institution</i> or a <i>financial institution</i> .

Replace the existing definition of *money laundering* with the following new definition:

<i>money laundering</i>	an offence which involves the concealment, acquisition or use of criminal property or facilitating its concealment, acquisition or use, as defined for the time being in: <ul style="list-style-type: none"><li>(a) section 327 (Concealing etc), 328 (Arrangements) or 329 (Acquisition, use and possession) of the Proceeds of Crime Act 2002;</li><li>(b) section 18 (Money laundering) of the Terrorism Act 2000.</li></ul>
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