



STATUTORY INSTRUMENTS.

S.I. No. 600 of 2019



EUROPEAN UNION (ANTI-MONEY LAUNDERING: CHEQUE CASHING
OFFICES) REGULATIONS 2019

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I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Anti-Money Laundering: Cheque Cashing Offices) Regulations 2019.

Amendment of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010)

2. The Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010) is amended -

- (a) in section 85, by the substitution of “this Chapter and sections 108B to 108I” for “this Chapter”,
- (b) in section 108A -
 - (i) in subsection (1), by the deletion of “, or who carries on the business of a cheque cashing office,”, and
 - (ii) by the deletion of subsections (6) and (10),
and
- (c) by the insertion of the following sections after section 108A:

“Obligation for cheque cashing offices to register with Central Bank of Ireland

108B. (1) A person shall not carry on business as a cheque cashing office unless the person is registered under this section.

(2) A person who contravenes subsection (1) commits an offence and is liable -

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years (or both).

¹ OJ No. L141, 5.6.2015, p.73.

(3) Save to the extent that such procedures are provided for under this section, the Bank may specify procedures for registering under this section.

(4) An individual, body corporate or partnership may apply to the Bank to be registered under this section.

(5) An application for registration under this section shall -

- (a) be in a form provided or specified by the Bank,
- (b) specify the name of -
 - (i) the applicant,
 - (ii) in a case where the applicant is a body corporate or partnership, any principal officer of the body corporate or partnership (as the case may be), and
 - (iii) any person who is, or is proposed to be, a beneficial owner of the applicant,
- (c) specify the address of the registered office of the applicant,
- (d) specify the address at which the business of a cheque cashing office is proposed to be carried on, and
- (e) contain such other information, and be accompanied by such documents, as the Bank may reasonably request including, for the purposes of the Bank assessing whether persons referred to in paragraph (b) are fit and proper persons, such information and documents as the Bank may reasonably require relating to the steps taken by the applicant to ensure that those persons are fit and proper persons and the process of verification carried out by the applicant for the purposes of so ensuring.

(6) The Bank may, by written notice given to an applicant, require the applicant to provide, within the period of not less than 14 days specified in the notice, such additional information and documents as are reasonably necessary to enable the Bank to determine the application for registration under this section.

(7) Subject to section 108D, the Bank may refuse an application for registration under this section only if -

- (a) the application does not comply with the requirements of subsection (5),
- (b) the applicant does not provide any additional documents or information in accordance with a notice given under subsection (6),

- (c) the Bank has reasonable grounds to be satisfied that information given to the Bank by the applicant in connection with the application is false or misleading in any material particular,
- (d) the Bank has reasonable grounds to be satisfied that any of the following persons is not a fit and proper person:
 - (i) the applicant;
 - (ii) in a case in which the applicant is a body corporate or partnership, any principal officer of the body corporate or partnership (as the case may be);
 - (iii) any person who is, or is proposed to be, a beneficial owner of the applicant,
- (e) the applicant has failed to satisfy the Bank that the applicant would, if registered, comply with the obligations imposed on it under this Chapter,
- (f) the applicant has failed to satisfy the Bank that the applicant would, if registered, comply with each of the following:
 - (i) any conditions to which the registration would have been subject;
 - (ii) a direction of the Bank under section 108G(1),
- (g) the applicant is so structured, or the business of the applicant is so organised, that the applicant is not capable of being regulated under this Chapter to the satisfaction of the Bank,
- (h) in a case where the applicant is a body corporate, the body corporate is being wound up,
- (i) in a case where the applicant is a partnership, the partnership is dissolved by the death or bankruptcy of a partner or because of the operation of a provision of the Partnership Act 1890 or otherwise,
- (j) in a case where any person referred to in paragraph (d) has been authorised to carry on business as a cheque cashing office in another Member State, an authority of the other Member State that performs functions similar to those of the Bank under this Chapter has terminated the authority of the person to carry on business as a cheque cashing office in the other Member State, or

(k) in a case where the applicant is a subsidiary of a body corporate that is authorised to carry on business as a cheque cashing office in another Member State, an authority of the other Member State that performs functions similar to those of the Bank under this Chapter has terminated the authority of the body corporate to carry on business as a cheque cashing office in the other Member State.

(8) If the Bank does not refuse an application for registration, the Bank shall register the applicant under this section.

(9) The Bank shall establish and maintain a register of persons registered under this section (referred to in this section as ‘the Register’).

(10) The following particulars shall be entered into the Register in respect of each person registered under this section (in this section and sections 108C to 108I referred to as “the person registered”):

- (a) the name of the person registered;
- (b) the address of the registered office of the person registered;
- (c) the address at which the business of a cheque cashing office is carried on.

(11) Subject to subsection (12), the Register may be in book form, electronic form or such other form as the Bank may determine.

(12) The Register may be maintained in an electronic, mechanical or other non-written form only if it is capable of being reproduced in a written form.

(13) In this section and sections 108C to 108I -

‘Bank’ means the Central Bank of Ireland;

‘principal officer’ has the same meaning as it has in Chapter 9.

Cancellation of registration and removal from register

108C. (1) Subject to section 108D, the Bank may cancel the registration of a person under this section only if the Bank has reasonable grounds to be satisfied of any of the following:

- (a) the person registered has not commenced to carry on business as a cheque cashing office within 12 months after the date on which the person was registered;

- (b) the person registered has not carried on such a business within the 6 months immediately preceding the cancellation;
- (c) registration was obtained by means of a false or misleading representation;
- (d) any of the following persons is not a fit and proper person:
 - (i) the person registered;
 - (ii) in a case where the person registered is a body corporate or partnership, any principal officer of the body corporate or partnership (as the case may be);
 - (iii) any person who is a beneficial owner of the person registered;
- (e) the person registered has contravened or is contravening the obligations imposed on it under this Chapter;
- (f) the person registered has contravened or is contravening any of the following:
 - (i) a condition to which the registration is subject;
 - (ii) a direction of the Bank under section 108G(1);
- (g) the person registered is so structured, or the business of that person is so organised, that the person is not capable of being regulated under this Chapter;
- (h) in a case where the person registered is a body corporate, the body corporate is being wound up;
- (i) in a case where the person registered is a partnership, the partnership is dissolved by the death or bankruptcy of a partner or because of the operation of a provision of the Partnership Act 1890 or otherwise;
- (j) in a case where any person referred to in paragraph (d) has been authorised to carry on business as a cheque cashing office in another Member State, an authority of the other Member State that performs functions similar to those of the Bank under this Chapter has terminated the authority of the person to carry on business as a cheque cashing office in the other Member State;
- (k) in a case where the person registered is a subsidiary of a body corporate that is authorised

to carry on business as a cheque cashing office in another Member State, an authority of the other Member State that performs functions similar to those of the Bank under this Chapter has terminated the authority of the body corporate to carry on business as a cheque cashing office in the other Member State.

(2) The particulars relating to a person entered in the Register pursuant to this section shall be removed from the Register where the Bank cancels the registration of that person in accordance with this section.

Notice of refusal or cancellation of registration and right to make representations

108D. (1) If the Bank proposes to -

- (a) refuse to register a person under section 108B, or
- (b) cancel a registration of a person under section 108C,

the Bank shall serve on the person a notice in writing informing the person of the Bank's intention to refuse to register the person or cancel the registration, as the case may be.

(2) A notice served under subsection (1) shall -

- (a) specify the grounds on which the Bank proposes to refuse or cancel the registration, and
- (b) inform the person that the person may, within 21 days after the serving of the notice, make written representations to the Bank showing why the Bank should register the person, or not cancel the registration, as the case may be.

(3) Not later than 21 days after a notice is served on a person under subsection (1), the person may make written representations to the Bank showing why the Bank should register the person, or not cancel the registration, as the case may be.

(4) The Bank may -

- (a) refuse to register a person under section 108B, or
- (b) cancel a registration of a person under section 108C,

as the case may be, only after having considered any representations made by the person in accordance with subsection (3).

(5) As soon as practicable after refusing to register a person under section 108B or cancelling a registration under section

108C, the Bank shall serve a written notice of the refusal or cancellation, as the case may be, on the person concerned, including a statement setting out the reasons for the refusal or cancellation, as the case may be.

(6) A decision of the Bank to refuse to register a person under section 108B or to cancel a registration under section 108C is an appealable decision for the purposes of Part VIIA of the Central Bank Act 1942.

Registration subject to conditions

108E. (1) The Bank may decide to register a person under section 108B subject to such conditions as the Bank considers necessary for the proper and orderly regulation of the registered person's business as a cheque cashing office and, in particular, for preventing the business from being used to carry out money laundering or terrorist financing.

(2) If, under this section, the Bank decides to register a person subject to conditions, the Bank shall serve on the person registered a written notice of the conditions that includes a statement setting out the reasons for the decision.

(3) A person registered commits an offence if he or she fails to comply with any condition to which the registration is subject and is liable -

- (a) on summary conviction, to a class C fine, or
- (b) on conviction on indictment, to a fine not exceeding €100,000.

(4) A decision of the Bank to register a person subject to conditions under subsection (1) is an appealable decision for the purposes of Part VIIA of the Central Bank Act 1942.

Person registered to ensure that principal officers and beneficial owners are fit and proper persons

108F. A person registered shall take reasonable steps to ensure that the following persons are fit and proper persons:

- (a) in a case where the person registered is a body corporate, a partnership or an individual carrying on business as a cheque cashing office as a partner in a partnership, any principal officer of the body corporate or partnership (as the case may be);
- (b) any person who is a beneficial owner of the business concerned.

Direction not to carry out business other than as directed

108G. (1) If the Bank reasonably believes that there may be grounds for cancelling a registration under section 108C, the Bank may serve on the person registered a direction in writing prohibiting that person from carrying on business as a cheque cashing office other than in accordance with conditions specified by the Bank in the direction.

(2) The Bank shall include in a direction under this section a statement -

- (a) setting out the reasons for giving the direction,
- (b) specifying the period during which the direction remains in force, and
- (c) specifying the conditions with which the person registered is required to comply.

(3) The Bank may, by notice in writing served on the person registered concerned, amend or revoke a direction given under subsection (1).

(4) Without prejudice to the generality of subsection (3), the Bank may, by notice in writing given to the person registered concerned, extend the period during which a direction remains in force by a further period or periods not exceeding 6 months.

(5) A direction under this section ceases to have effect -

- (a) at the end of the period, not exceeding 6 months, specified in the direction, or if the period is extended under subsection (4), at the end of the extended period, or
- (b) on the cancellation of the registration of a person under section 108C, whichever occurs first.

(6) A person who contravenes a direction given under subsection (1), or fails to comply with a condition contained in the direction, commits an offence.

(7) A person who commits an offence under this section is liable -

- (a) on summary conviction, to a class A fine, or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years (or both).

(8) A decision of the Bank to give a direction under subsection (1) is an appealable decision for the purposes of Part VIIA of the Central Bank Act 1942.

Provision of information by Garda Síochána as to whether or not person is fit and proper person

108H. (1) The Bank may request the Commissioner of the Garda Síochána to provide any information that is required to assist the Bank in determining, for the purposes of sections 108B to 108I, whether or not any of the following persons is a fit and proper person:

- (a) the person who proposes to carry on or carries on, as the case may be, the business of a cheque cashing office;
- (b) in a case in which the person referred to in paragraph (a) is a body corporate or partnership, any principal officer of the body corporate or partnership (as the case may be);
- (c) in a case in which there is a beneficial owner of the person referred to in paragraph (a), the beneficial owner.

(2) Notwithstanding any other enactment or rule of law, the Commissioner of the Garda Síochána shall provide the Bank with information in accordance with a request of the Bank under subsection (1).

Persons registered to retain certain records

108I. (1) A person registered shall -

- (a) retain at an office or other premises in the State such records as may be specified by the Bank, and
- (b) notify the Bank in writing of the address of any office or other premises where those records are retained.

(2) The requirement imposed by subsection (1) is in addition to, and not in substitution for, any other requirements imposed under any other enactment or rule of law with respect to the retention of records by the person registered.

(3) The person registered shall retain the records referred to in subsection (1) for a period of not less than 6 years after -

- (a) in the case of a record made in relation to a customer of the person registered, the last dealing with the customer, or
- (b) in any other case, the record is made.

(4) The person registered may keep the records referred to in subsection (1) wholly or partly in an electronic, mechanical or other non-written form only if they are capable of being reproduced in a written form.

(5) The obligations that are imposed by subsections (1) and (3) on a person registered continue to apply to a person who has been registered under section 108B, but has ceased to be so registered or to carry on business as a cheque cashing office.

(6) Where the person registered is a body corporate, the requirement to retain any record under this section applies to any body corporate that is a successor to, or a continuation of, the person registered.

(7) A person who fails to comply with this section commits an offence and is liable -

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months (or both), or
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years (or both).”.



GIVEN under the Official Seal of the Minister for Finance
2 December, 2019.

PASCHAL DONOHOE,
Minister for Finance.

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