



STATUTORY INSTRUMENTS.

S.I. No. 578 of 2019



EUROPEAN UNION (MONEY LAUNDERING AND TERRORIST
FINANCING) REGULATIONS 2019

S.I. No. 578 of 2019

EUROPEAN UNION (MONEY LAUNDERING AND TERRORIST
FINANCING) REGULATIONS 2019

I, CHARLES FLANAGAN, Minister for Justice and Equality, 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 2015/849/EU 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 (Money Laundering and Terrorist Financing) Regulations 2019.

Amendment of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010

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

(a) in section 54 (inserted by section 26 of the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018 (No. 26 of 2018)) -

(i) by the insertion of the following subsection after subsection (6):

“(6A) A designated person shall have in place appropriate procedures for their employees, or persons in a comparable position, to report a contravention of this Act internally through a specific, independent and anonymous channel, proportionate to the nature and size of the designated person concerned.”, and

(ii) in subsection 12, by the substitution of “Subsections (6), (6A),” for “Subsection (6),” and

(b) by the insertion of the following after section 63:

¹ OJ No. L 141, 5.6.2015, p.73

“Supervision

63A. (1) Competent authorities shall take the necessary measures to prevent persons convicted of a relevant offence from performing a management function in or being the beneficial owners of the designated persons referred to in paragraphs (c), (d) and (f) of section 25(1).

(2) Any person performing a management function in or being the beneficial owner of the designated persons referred to in subsection (1) and who is convicted of a relevant offence must inform the relevant competent authority within 30 days of the day on which that person was convicted of the relevant offence.

(3) Any designated person 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 its competent authority of the conviction within 30 days of the date on which the designated person became aware of the conviction.

(4) In this section “a relevant offence” means -

- (a) an offence under this Act,
- (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 subsections (a) or (b).

(5) A person who fails to comply with subsection (2) or (3) shall be guilty of an offence and shall be liable -

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or

- (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 2 years or both.

Co-operation with Member State competent authorities

63B. (1) This section applies to designated persons -

- (a) which operate establishments in the State and which have their head offices in another Member State, or
- (b) which operate establishments in another Member State and which have their head offices in the State.

(2) A competent authority for designated persons to which this section applies shall take the necessary steps -

- (a) to co-operate with Member State competent authorities in relation to the development and implementation of policies to counter money laundering and terrorist financing,
- (b) to co-ordinate activities to counter money laundering and terrorist financing with Member State competent authorities, and
- (c) to co-operate with Member State competent authorities to ensure the effective supervision of designated persons to which this section applies.

(3) In this section “Member State competent authority”, in relation to a Member State (other than the State), means the authority designated by that Member State to be the competent authority in that Member State for the purposes of the Fourth Money Laundering Directive.

Supervision by competent authorities

63C. Each competent authority shall -

- (a) adopt a risk-based approach to the exercise of its supervisory functions,
- (b) ensure that its employees and officers have access both at its offices and elsewhere to relevant information on the domestic and international risks of money laundering and terrorist financing which affect its own sector,
- (c) base the frequency and intensity of on-site and off-site supervision on the risk profile of designated persons, and on the risks of money laundering and terrorist financing in the State,
- (d) review, both periodically and when there are major events or developments in their management and operations, their assessment of the money laundering and terrorist financing risk profile of designated persons, including the risks of non-compliance with the provisions of this Act, and
- (e) take into account the degree of discretion allowed to the designated person, and appropriately review the risk assessments underlying this discretion, and the adequacy and implementation of its internal policies, controls and procedures.

Duties of competent authorities

63D. (1) A competent authority, other than a State competent authority, shall make arrangements to ensure that -

- (a) its supervisory functions are exercised independently of any of its other functions which do not relate to disciplinary matters,

- (b) sensitive information relating to its supervisory functions is appropriately handled within the competent authority,
- (c) it employs only persons with appropriate qualifications, integrity and professional skills to carry out the supervisory functions and maintain high professional standards, including standards of confidentiality and data protection, and
- (d) a contravention of a requirement imposed by or under this Act by a designated person it is responsible for supervising renders that person liable to effective, proportionate and dissuasive disciplinary measures under its rules.

(2) A competent authority, other than a State competent authority, shall -

- (a) provide adequate resources to carry out the supervisory functions, and
- (b) appoint a person to monitor and manage the competent authority's compliance with its duties under this Act.

(3) The person appointed under subsection (2)(b) shall be responsible -

- (a) for liaison with -
 - (i) another competent authority, and
 - (ii) any Member State competent authority (within the meaning of section 63B),

- (b) for ensuring that the competent authority responds fully and as soon as possible to any request from an authority referred to in subsection (a)(i) or (ii) for information about any person it supervises.”.



GIVEN under my Official Seal,
18 November, 2019.

CHARLES FLANAGAN,
Minister for Justice and Equality.

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

€ 3.00

