Note on the application of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

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Introduction

1. On 26th June 2017 the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017/692) came into force.[1] These Regulations replace the Money Laundering Regulations 2007 (SI 2007/2157) and the Transfer of Funds (Information on the Payer) Regulations 2007 (SI 2007/3298) and implement, in part, the Fourth Money Laundering Directive (Directive (EU) 2015/849). The 2017 Regulations introduce changes to the existing regulatory framework, which has required various persons, including barristers, to establish procedures for the identification and reporting of suspected money laundering.

2. The Chancery Bar Association has previously published outline guidance to its members as to their obligations under the previous Regulations ("the 2013 Guidance") and this can be found on the Association website.[2] The 2013 Guidance discussed provisions of the Fourth Money Laundering Directive and this Note does not seek to replace that guidance. It is intended to provide some direction on procedures that might be adopted in order to comply with the customer due diligence requirements of

[1] In this Note, unless otherwise specified, a reference to a specific Regulation or paragraph in a Schedule will be a reference to a regulation in the 2017 Regulations

[2] http://www.chba.org.uk/for-members/library/professional-guidance; the 2013 Guidance is entitled "Money Laundering: Explanatory Note Part 2 - The Money Laundering regulations 2007 - Revised May 2017"

the 2017 Regulations.

3. The Legal Sector Affinity Group ("LSAG") has published guidance for the application of the 2017 Regulations across the legal sector, entitled *Anti-Money Laundering - Guidance for the Legal Sector*,[3] which has been approved by HM Treasury ("the LSAG guidance").[4] The LSAG guidance expressly states that "legal sector regulators will take into account whether a legal professional has complied with this guidance when undertaking its role as regulator of professional conduct, and as a supervisory authority for the purposes of the Regulations." By contrast, this Note has not been approved by the Treasury and does not have the status of the LSA guidance; it is intended to assist members of the Association in navigating the array of relevant material, but it does not constitute legal advice and neither the author nor the Chancery Bar Association will accept legal liability in relation to it. Reference will be made in this Note to parts of the LSAG guidance.

Application of the 2017 Regulations

4. The 2017 Regulations apply to independent legal professionals acting in the course of business carried on by them in the UK.[5] The expression "independent legal professional" includes:[6]

> "… a sole practitioner who by way of business provides legal or notarial services to other persons, when participating in financial or real property transactions concerning:
>
> (a) the buying and selling of real property or business entities;
>
> (b) the managing of client money, securities or other assets;
>
> (c) the opening or management of bank, savings or securities accounts;
>
> (d) the organisation of contributions necessary for the creation, operation or management of companies; or
>
> (e) the creation, operation or management of trusts, companies, foundations or similar structures.

[3] March 2018

[4] The LSAG guidance can be found at http://www.barcouncilethics.co.uk/documents/money-laundering-terrorist-financing/.

[5] Regulation 8

[6] Regulation 12(1)

> and, for this purpose, a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction."

5. With the exception of the addition of the word "foundations" in paragraph (e), this definition is identical to the definition in the 2007 Regulations and it is reasonable to assume that no material change to the kinds of work which fall within the Regulations was intended. Not all legal work is within this definition, nor does it apply to those employed by a public authority or working in-house. In the LSAG guidelines it is stated that HM Treasury has:

> "… confirmed that the following would not generally be viewed as participation in a financial transaction:
>
> -payment on account of costs to a legal professional or payment of a legal professional's bill
>
> -provision of legal advice
>
> -participation in litigation or a form of alternative dispute resolution
>
> -will-writing, although you should consider whether any accompanying taxation advice is covered
>
> -work funded by the Legal Services Commission".

6. The 2017 Regulations apply also to "tax advisers", defined to mean "a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services".[7] A barrister who provides advice about tax will, therefore, fall within the Regulations, at least when giving such advice.

7. The author of the 2013 Guidance was of the view that only those barristers that are in independent practice and either act as tax advisers or otherwise "assist in the planning or execution" of the types of transaction listed in Regulation 12(1), as listed in paragraph 4 above, will be subject to the Regulations. In other words, apart from tax advisers,

> "where they are instructed to advise at the planning or execution stage of transactions that entail either:
>
> (i) the buying or selling of real property or business entities;

[7] Regulation 11(d)

(ii) the creation, operation, or management of trusts, companies or similar structures.":[8]

In addition, the 2017 Regulations apply to court proceedings that are not contentious but commonly relate to, for instance, approval of a transaction.[9] Finally, the 2013 Guidance stated:

> "48 It follows that members of the Chancery Bar Association with tax, trust, banking, company or property practices are likely to be affected by the Regulations. Accordingly, so far as they do accept instructions/undertake work within regs. 3(8)[10] or 3(9)(a) or (e),[11] they must ensure that the requirements of the Regulations are satisfied.
>
> "49 While it is clear that it is only where members of the Association *participate* in real property or financial transactions (or are otherwise acting as tax advisers) that the Regulations are engaged, the concept of 'participation' is given a meaning under reg. 3(9)[12] that extends to *assisting in the planning* of a transaction. Thus those who regularly advise on the creation or operation of trust or corporate structures, in particular, may find that the rules apply to a large part of their work."[13]

Subject, possibly, to the statement in the LSAG guidance that the provision of legal advice is not generally to be viewed as participation in a financial transaction,[14] these conclusions are unlikely to have been affected by the 2017 Regulations. The reference to legal advice in the LSAG guidance appears to be intended to refer to the provision of legal advice generally, rather than to the provision of legal advice about a financial or real property transaction. Advising about the meaning of a provision in an existing trust deed is probably not (depending on the facts) caught by the regulations. But it is not safe to assume that advising about, for example, the *creation* of a trust, which will almost certainly involve a financial transaction, would not be regarded as assisting in the planning of the relevant transaction.

8. In addition to the categories referred to by the 2013 guidance, it is possible that a barrister may fall within the Regulations if he is a "trust or company services provider"

[8] Paragraph 42

[9] See paragraph 47 of the 2013 Guidance

[10] Now Regulation 11(d)

[11] Now Regulation 12(a) or (e)

[12] Now regulation 12

[13] Where a barrister is instructed under the public access scheme, their involvement in participation and assisting in the planning of transactions may be in relation to more than only real property and financial transactions.

[14] See paragraph 5 above

as defined in Regulation 12(2). This refers to a:

> "…sole practitioner who by way of business provides any of the following services to other persons, when that … practitioner is providing such services—
>
> (a) forming companies or other legal persons;
>
> (b) acting, or arranging for another person to act—
>
> (i) as a director or secretary of a company;
>
> (ii) as a partner of a partnership; or
>
> (iii) in a similar capacity in relation to other legal persons;
>
> (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or legal arrangement;
>
> (d) acting, or arranging for another person to act, as—
>
> (i) a trustee of an express trust or similar legal arrangement; or
>
> (ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

9. This provision appears designed principally to capture individuals who are not independent legal professionals but who act, or arrange for others to act, as directors, trustees, nominee shareholders and so on.[15] Obviously, it could apply to a barrister not otherwise subject to the Regulations who agrees to act as a trustee or a director. It does not seem that it was intended to apply to lawyers drafting documents connected with the appointment of directors, trustees, nominees etc., but a barrister carrying out such work will need to consider this in the context of the particular arrangements being made.

10. Caution will need to be exercised if a matter upon which a barrister is instructed has, for instance, transactional aspects that are regulated, as well as litigation (unregulated).

11. A practitioner to whom the 2017 Regulations apply in relation to any work is

[15] Paragraph 1(3)(c) of Article 2 of the Fourth Money Laundering Directive expressly refers to trust or company service providers "not already covered by" the provisions dealing with auditors, external accountants, tax advisors, notaries and independent legal professionals.

referred to in the Regulations as a "relevant person".[16] In this Note a barrister who is a relevant person will be referred to as a "Relevant Barrister". The decision whether or not a particular barrister is a Relevant Barrister is the responsibility of the barrister concerned; this decision cannot be left to a clerk or practice manager or other employee.

The General Council of the Bar

12. The Bar Council is designated as the supervisory authority in relation to its members,[17] including those who by way of business provide "advice about the tax affairs of other persons, when providing such services",[18] although in practice it has delegated this supervision to the Bar Standards Board.[19] It has obligations to:[20]

(1) identify and assess international and domestic risk of money laundering and terrorist financing to which its members are subject;

(2) prepare risk profiles for its members; and

(3) make available to its members any relevant information that has come to its attention arising from its risk assessment and which would assist its members in carrying out their own money laundering and terrorist financing risk assessment.

Risk Assessment

13. A Relevant Barrister is required to take appropriate steps to identify and assess the risks of money laundering and terrorist financing to which their business is subject.[21] In carrying out the 18(1) Risk Assessment, they must take into account any information provided by the Bar Council/BSB as a result of its own risk assessments

[16] Regulation 8(1)

[17] Regulation 7 and paragraph 11 of Schedule 1. There are requirements for the approval of a Relevant Barrister by the Bar Council; presumably approval will be given each year by issuing a Practising Certificate.

[18] Regulations 7(1)(c)(iv) and 11(d)

[19] See the text at http://www.barcouncilethics.co.uk/documents/money-laundering-terrorist-financing/

[20] Regulations 16(8) and 17

[21] Regulation 18(1); referred to in this Note as an "18(1) Risk Assessment"

and any risk factors relating to:[22]

(1) their customers;

(2) the countries or geographic areas in which they operate;

(3) their products or services;

(4) their transactions; and

(5) their delivery channels.

14. The recommendations of the Financial Action Task Force ("FATF"), established by the then G7 in 1989, in its publication "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation",[23] contains an extensive list of factors that might be considered in relation to each of these headings. The list is quoted in full in paragraph 69 of the 2013 Guidance.

15. An up-to-date written record must be kept of all steps taken by or on behalf of the Relevant Barrister in carrying out the 18(1) Risk Assessment.[24] The Relevant Barrister must be ready to provide that written record to the Bar Council on request.[25]

16. The Relevant Barrister must establish and maintain (and regularly review and update) policies, controls and procedures that are proportionate to the size of their business, in order to mitigate and effectively manage the risks of money laundering and terrorist financing identified in any 18(1) Risk Assessment undertaken by them.[26] The policies, controls and procedures must provide for the identification and scrutiny of any case relating to a complex and unusually large transaction, or an unusual pattern of transactions that have no apparent economic or legal purpose, and any other activity or situation that the Relevant Barrister regards as particularly likely by its nature to be

[22] Regulation 18(2)

[23] February 2012, updated October 2016

[24] Regulation 18(4); the Bar Council has power to waive the requirement of such a record.

[25] Regulation 18 (6)

[26] Regulation 19; Policies, controls and procedures are discussed in Chapter 3 of the LSAG guidance

related to money laundering or terrorist financing.[27] Other matters also need to be taken into account and the reader is referred generally to Regulation 19.

17. A written record of the policies, controls and procedures must be maintained. Some of the tasks involved in carrying out a Regulation 18(1) Risk Assessment and establishing, maintaining and recording the policies, controls and procedures may be delegated to a clerk or practice manager, or other employee, but the Relevant Barrister is ultimately responsible.

Customer Due Diligence

18. A Relevant Barrister must apply customer due diligence ("CDD") measures if they:[28]

(1) Establish a business relationship;[29] this will occur at any time that the relevant Barrister is first instructed by a client;

(2) Suspect money laundering or terrorist financing;[30]

(3) Doubt the veracity or adequacy of documents or information previously obtained for the purposes of identification or verification;[31]

(4) At other appropriate times to existing customers on a risk-based approach; and

(5) When the Relevant Barrister becomes aware that the circumstances of an existing customer relevant to their risk assessment for that customer have changed.[32]

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[27] Regulation 19(4)(a)

[28] There are also other circumstances involving transfers of funds in transactions that are not carried out as part of a business relationship, but these are ignored in this Note

[29] Regulation 27(1)(a); "business relationship" means a business, professional or commercial relationship between a Relevant Barrister and a customer that arises out of the business of the Relevant Barrister, and is expected by the Relevant Barrister, at the time when contact is established, to have an element of duration - Regulation 4(1)

[30] Regulation 27(1)(c)

[31] Regulation 27(1)(d)

[32] Regulation 27(8)

19. When applying a risk-based approach, the Relevant Barrister starts from the premise that most customers are not money launderers or terrorist financiers but must have a system in place to highlight those customers who, on criteria established by the Relevant Barrister, may indicate that they present a higher risk of being money launderers or terrorist financiers.[33] Persons who are based, or carry out their business, in high risk jurisdictions and/or sectors might be within a high risk category. The same might apply if funds or clients are from a jurisdiction where the production of drugs, drug trafficking, terrorism or corruption is prevalent, or if high values of cryptocurrencies or other digital cryptographic tokens are involved.

20. In its guidance, the Joint Money Laundering Steering Group ("JMLSG") sets out a number of discrete steps in assessing the most cost effective and proportionate way to manage and mitigate money laundering and terrorist financing risks:[34]

(1) identify the money laundering and terrorist financing risks that are relevant to the Relevant Barrister;

(2) assess the risks presented by the Relevant Barrister's particular customers and any underlying beneficial owners, products or services, transactions, delivery channels and geographical areas of operation;

(3) design and implement controls to manage and mitigate these assessed risks, in the context of the Relevant Barrister's risk appetite;

(4) monitor and improve the effective operation of these controls; and

(5) record appropriately what has been done, and why.

21. The LSAG guidance states:[35]

> "The possibility of being used to assist with money laundering and terrorist financing poses many risks for the practice of an independent legal professional, including:

[33] See paragraph 1.5 of the JMLSG guide

[34] Paragraph 4.1 of the JMLSG guide

[35] Paragraph 2.1; the risk-based approach is discussed generally in Chapter 2 of the LSAG Guidance

-criminal and disciplinary sanctions for the practice and individuals in the practice

-civil action against the practice as a whole, as well as certain individuals

-damage to reputation leading to a loss of business.

"These risks must be identified, assessed and mitigated, just as you do for all business risks facing your practice. If you know the risks that you face generally and know your client well and understand your instructions thoroughly, you will be better placed to assess risks and spot suspicious activities.

"Adopting a risk-based approach to preventing money laundering means that you focus your resources on the areas of greatest risk."

22. Where a relevant Barrister determines that a case presents a low risk of money laundering and terrorist financing, following an 18(1) Risk Assessment and other factors, simplified CDD may be applied. This requires the identification and verification of the customer but the extent of the identification and verification can be varied, depending on the risk,[36] including verification on the basis of fewer or less reliable sources.[37]

23. Enhanced CDD measures and enhanced ongoing monitoring are required to manage and mitigate high-risk cases.[38] This may involve seeking additional independent reliable sources to verify information made available to the Relevant Barrister and taking other, additional, measures.[39]

24. It is no longer sufficient for a Relevant Barrister simply to receive identification documents and then forget about money laundering issues. Applying the risk-based approach requires a continual examination, as more information is received and the Relevant Barrister becomes more acquainted with the people and issues involved in the case, of the risks of money laundering and the financing of terrorism. Again, the Relevant Barrister may delegate tasks connected with CDD measures to a clerk, practice manager or other employee but must remain liable for any failure to apply the

[36] See paragraph 3.35 of the JMLSG guidance; see also paragraph 4.11 of the LSAG guidance

[37] Paragraph 3.36 of the JMLSG guidance

[38] See Regulations 33 to 36

[39] See Regulation 33(5)

measures.[40]

Customer

25. There is no definition of "customer" in the 2017 Regulations although the provisions relating to customer due diligence are central to identifying the relevant Barrister's customer. Once a barrister has been instructed, the work involved will determine whether or not they are a Relevant Barrister,[41] and the nature of the arrangement determines whether CDD must be applied (and whether there is a customer).[42]

26. There are generally two distinct ways in which a barrister may be instructed:

(1) By a solicitor or other licensed organisation or individual (under the Licensed Access scheme), who is in turn instructed by a client; and

(2) Directly by a client, without any intermediary, whether under the Bar Council's Public Access scheme or the Licensed Access scheme.

Under the latter arrangement, there is no difficulty: the client is the "customer" within the CDD provisions. Where there is an intermediary, such as an instructing solicitor, the relationship is more complex. A contractual relationship generally exists between the barrister and the intermediary, but the Relevant Barrister also owes duties to the intermediary's client, irrespective of any contract or the receipt of any reward or honorarium.[43] For the purposes of the 2017 Regulations, therefore, the barrister has a business relationship with both the intermediary and the intermediary's client, both of whom will be customers within the scope of the 2017 Regulations.[44]

Customer Due Diligence Measures

[40] Regulation 39(7)

[41] Regulation 12

[42] Regulation 27

[43] See per Lord Morris in *Rondel v Worsley* [1969] 1 AC 191, at 244

[44] In the 2013 Guidance, only the "lay" client was considered to be a "customer"—see, for instance, paragraph 81—but this is not the case for the purposes of the 2017 Regulations.

27. The CDD measures to be carried out are described in Regulation 28. Whenever a Relevant Barrister is required to apply customer due diligence measures, they must:

(1) Identify the customer, unless the identity of that customer is already known to them and their identity has already been verified by that Relevant Barrister;

(2) Verify the customer's identity, unless the identity of that customer has already been verified by that Relevant Barrister;[45]

(3) Assess, and where appropriate obtain information on, the purpose and intended nature of the business relationship or occasional transaction.

Regulation 28 also sets out the requirements for CDD of a customer that is a body corporate,[46] including its beneficial owner.[47]

28. Regulation 28(10) provides that if a third party purports to act on behalf of a customer, the Relevant Barrister must:

(1) verify that the third party is so authorised; and

(2) on the basis of documents or information (in either case obtained from a reliable source that is independent of both the third party and the customer) identify the third party, and verify its identity.[48]

These provisions will relate to an intermediary, such as a solicitor instructing the Relevant Barrister in a matter or an intermediary in a public access instruction.[49]

Timing

[45] For this purpose, "verify" means "verify on the basis of documents or information in either case obtained from a reliable source which is independent of the person whose identity is being verified"; this includes any documents issued or made available by an official body, even if they are provided or made available to the Relevant Barrister by or on behalf of that person: Regulation 28(18)

[46] Regulation 28(3)

[47] Regulation 28(4)

[48] Regulation 28(10)

[49] In a public access instruction, the intermediary must be the agent of the customer: see rule 7(e)(ii) of the Public Access Rules

29. The verification of the customer, any person purporting to act on its behalf and its beneficial owner must normally be completed before the barrister accepts instructions,[50] unless later verification is necessary not to interrupt the normal course of business and there is little risk of money laundering and terrorist financing. If that is the case, verification must be completed as soon as practicable after a contract is first established.[51]

30. Unless a barrister is in the course of ascertaining the legal position for a client or performing the task of defending or representing that client in, or concerning, legal proceedings, including giving advice on the institution or avoidance of proceedings, where, in relation to any customer, a Relevant Barrister is unable to apply CDD measures as required by Regulation 28, they:[52]

(1) must not carry out any transaction through a bank account with the customer or on behalf of the customer;

(2) must not establish a business relationship or carry out a transaction with the customer otherwise than through a bank account;

(3) must terminate any existing business relationship with the customer;

(4) must consider whether the relevant person is required to make a disclosure (or to make further disclosure) by—

(a) Part 3 of the Terrorism Act 2000; or

(b) Part 7 of the Proceeds of Crime Act 2002.

31. Copies of documentation and information obtained to satisfy the CDD requirements must be retained for 5 years beginning on the date on which the Relevant Barrister knows, or has reasonable grounds to believe that the business relationship

[50] Regulation 30(2)

[51] Regulation 30(3)

[52] Regulation 31(1)

has come to an end.[53]

Reliance

32. In certain circumstances a relevant Barrister may rely on another person to conduct CDD for them. This reduces the burden of carrying out the CDD process and avoids unnecessary duplication. It can also shorten the time that is taken before the Relevant Barrister can commence work.[54] This is particularly relevant where a barrister is being instructed by a solicitor or other intermediary and was, until the 2017 Regulations, entitled to rely on the intermediary's CDD.[55] The process is now more complex.

33. Under Regulation 39, a Relevant Barrister may rely on another relevant person, or an equivalent person within or outside the EEA (a "third party"),[56] provided that they:

(a) Immediately obtain from the third party "all the information needed to satisfy the requirements of regulation 28(2) to (6) and (10)[57] in relation to the customer, customer's beneficial owner, or any person acting on behalf of the customer";

(b) Enter into an arrangement with the third party that will,

(i) enable the Relevant Barrister "to obtain from the third party immediately on request copies of any identification and verification data and any other relevant documentation on the identity of the customer, customer's beneficial owner, or any person acting on behalf of the customer;

[53] Regulations 40(1) and (3)

[54] See paragraph 29 above

[55] See paragraph 119 of the 2013 Guidance

[56] This does not apply to a country that has been identified by the European Commission as a high-risk third country: Regulation 39(4); in-house professionals are not within this provision.

[57] See paragraphs 27 and 28 above

(ii) "require the third party to retain copies of the data and documents referred to in paragraph (i) for the period referred to in Regulation 40.[58]

34. A Relevant Barrister cannot require his instructing solicitor to enter into a reliance arrangement before being able to carry out any work to be done; the lay client might not give authority. It is clear, however, that it is in the lay client's best interests that such an arrangement is made, otherwise both the instructing solicitor and the Relevant Barrister will need to apply the CDD measures and, if the Relevant Barrister is unable to do so, they may be unable to carry out the required work.[59]

35. Another issue arises out of the risk-based approach. Different persons have different risk tolerance. If, say, the Relevant Barrister has a lower threshold for risk, they might require more information than the solicitor before being satisfied of identification or verification. If the solicitor did not ask originally for such further information, the reliance arrangement will need to cater for that. The solicitor might refuse to go this far, for fear of affecting his relationship with the lay client. Furthermore, if the Relevant Barrister later forms the view that there is actually a high risk of money laundering or terrorist financing, they will have an obligation to apply enhanced CDD measures,[60] which might not even have been contemplated by the instructing solicitor at the time of entering into the reliance arrangement. The Relevant Barrister might need to stop working until the enhanced CDD measures have been taken. The name and address of the client will be known and the Relevant Barrister will need to approach him or her directly.

36. The Association takes the view that a Relevant Barrister needs to take a balanced approach. The reliance arrangement should contemplate a different risk tolerance but not necessarily to the extent of an enhanced CDD measures where simplified CDD measures were acceptable at the start. The whole relationship between

[58] See paragraph 31 above

[59] See paragraph 30 above

[60] See paragraph 23 above

the lawyers and the client will have in any event be significantly altered by such a seismic change.

Pro forma letter

37. The following suggested *pro forma* letters to set up a reliance arrangement that should be adapted as necessary. For foreign instructing lawyers, the statutory provisions may need to be summarised rather than mentioned by number.

Simplified CDD measures

38. The first letter relates to simplified CDD measures.

Dear Sir

Re: [name of matter]

We [name of firm], being subject to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the Regulations") in connection with this matter, confirm that:

(1) We have the authority of our client to act on his/her/its behalf.

(2) We have undertaken customer due diligence and established and verified the identity of our client [name] in accordance with the Regulations. Having taken into account the matters that are required of us under the Regulations, we are satisfied that the business relationship between us and our client presents a low degree of risk of money laundering and terrorist financing and have applied simplified customer due diligence measures. The measures we have taken and the documents and information that we have collected in carrying out the CDD are as follows:

    (a) …

    (b) …

    (c) ….

(3) We will continue to comply with the requirements in regulation 28 of the

Regulations and carry out sufficient monitoring of our business relationship with our client to enable us to detect any unusual or suspicious transactions.

(4) This firm maintains policies and procedures to comply with the other requirements of the Regulations

(5) Pursuant to regulation 39 of the Regulations, we confirm that we consent to [Name of the Relevant Barrister] relying upon our customer due diligence in connection with work undertaken by [him/her] under instructions received from this firm in connection with this matter.

(6) Provided that [ ] applies simplified customer due diligence, we undertake:

(a) to provide to [ ] immediately all the information needed to satisfy the requirements of regulation 28(2) to (6) and (10) in relation to our client, our client's beneficial owner, or any person acting on behalf of our client;

(b) to provide immediately upon any request in writing copies of any identification and verification data and any other relevant documentation on the identity of our client, our client's beneficial owner, or any person acting on behalf of our client, whether or not such data and documentation are listed in paragraph (2); and

(c) to retain copies of the data and documents referred to in paragraph (b) for the period referred to in regulation 40 of the Regulations.

(7) If at any time [ ] considers that enhanced customer due diligence needs to be applied, so long as we remain instructed by our client we undertake to comply with our obligation (under regulations 27(8) and 33 of the Regulations) to apply customer due diligence measures in relation to any information and representations given to us by [ ]

Signed, *etc*

Enhanced CDD measures

39. If the initial decision is to apply enhanced CDD, the letter could be as follows.

Dear Sir

Re: [name of matter]

We [name of firm], being subject to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the Regulations") in connection with this matter, confirm that:

(1) We have the authority of our client to act on his/her/its behalf.

(2) We have undertaken customer due diligence and established and verified the identity of our client [name] in accordance with the Regulations. Having taken into account the matters that are required of us under the Regulations, we are satisfied that the business relationship between us and our client is such as to require enhanced customer due diligence and enhanced ongoing monitoring. The measures we have taken and the documents and information that we have collected in carrying out the CDD are as follows:

(a) …

(b) …

(c) ….

(3) We will continue to comply with the requirements in regulations 28 and 33 to 36 of the Regulations.

(4) This firm maintains policies and procedures to comply with the other requirements of the Regulations

(5) Pursuant to regulation 39 of the Regulations, we confirm that we consent to [Name of the Relevant Barrister] relying upon our customer due diligence in connection with work undertaken by [him/her] under instructions received from this firm in connection with this matter.

(6) We undertake:

(a) to provide to [ ] immediately all the information needed to satisfy the requirements of regulation 28(2) to (6) and (10) in relation to our client, our client's beneficial owner, or any person acting on behalf of our client;

(b) to provide immediately upon any request in writing copies of any identification and verification data and any other relevant documentation on the identity of our client, our client's beneficial owner, or any person acting on behalf of our client, whether or not such data and documentation are listed in paragraph (2); and

(c) to retain copies of the data and documents referred to in paragraph (b) for the period referred to in regulation 40 of the Regulations.

Signed, *etc*