TISA

Response by TISA to HMT proposed amendments to the Money Laundering Regulations

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About TISA

Supporting the financial journey through life

The Investing and Saving Alliance (TISA) is committed to improving the financial wellbeing of all UK consumers by working collectively with the financial services industry to deliver solutions and champion innovation, for the benefit of people, our industry, and the nation.

We do this by working with our member firms to deliver practical solutions and devise innovative, evidence-based strategic proposals for government, policy makers and regulators that address major consumer issues.

We care about the entire financial life of consumers: from their first savings account opened to ensuring people can age and retire with dignity. TISA believes that savings and investments play a significant role in the lives of people and small businesses. Consumers benefit when they put aside money for their future. Saving and investing can provide a buffer for emergencies; help people achieve big and small goals throughout their lifetime; and give people quality of life in later years.

TISA is a not-for-profit membership organisation and a trusted partner of key industry stakeholders in helping shape the future of the UK financial services and the environment in which we operate. We have approximately 270 member firms involved in the supply and distribution of savings and investment products and associated services.

Our work, your influence

Our policy work reflects TISA's broad scope of interests and aims on meeting the needs of UK consumers, members and our industry. From improving financial education, inclusion and accessibility, right through to savings, investments and retirement planning, the work we do with our members to **influence policy** is crucial in enhancing the industry we operate in and driving positive change.

As part of our commitment to delivering focused and impactful consumer outcomes, TISA's policy working groups have been structured into **four distinct workstreams**:

1. **Consumer Protection -** *Protecting the best interests of UK consumers in their financial journeys.*
2. **Consumer Access -** *Considering issues that could directly impact access to financial products.*
3. **Effective Products -** *Examining key considerations and legislation relating to products across the investing and saving landscape.*
4. **Corporate Responsibility**
   Exploring issues that directly impact society, the environment, and the economy.

All groups focus on both strategic and technical elements of policy/regulation. We provide a channel for firms to have their say on the policy we develop and present, contribute to our technical and regulatory interpretation work and, importantly, gain insights from other TISA members, policy makers, government and regulators.

Find out more about TISA here: **www.tisa.uk.com/about-tisa**

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Summary of Recommendations

TISA welcomes the opportunity to respond to HM Treasury's consultation on the Draft SI which seeks to deliver a more risk-based, proportionate regime that is robust against financial crime.

TISA has long advocated for the Financial Crime Framework to become more targeted, reducing compliance costs and increasing financial inclusion. Whilst HMT's proposals do remove compliance costs, particularly the proposals that relate to EDD, we are disappointed that HMT has not taken the opportunity to further increase financial inclusion. We recommend that HMT considers ID & Verification requirements when additional secondary legislation is brought forwards to further accommodate Digital IDs. We would welcome any additional legislation being prioritised so that firms can plan and deliver any associated regulatory change in a consolidated and efficient manner.

We have outlined a handful of technical observations where we believe additional clarifications are required, in order to make the SI provisions clear and workable.

In addition, we have recommended that further improvements are made to the trust registration service to enable a more collaborative and effective approach. It would be very useful for HMRC to outline the types of data it would like firms to report so that more focussed, relevant and actionable information can be provided. In addition, we recommend that HMRC consults on providing a digitised, secure register that will permit effective and accurate data sharing. This will minimise scams, compliance costs and tax evasion.

We would also like to share our disappointment that HMT has not taken the opportunity to leverage the reform and improvements being undertaken by Companies House. Currently, every firm that is regulated under the MLRS that is providing a regulated service to a UK Company is performing duplicate CDD checks to meet their own obligations. The enhancements to Companies House powers, and the consequent improvements to the Companies House register, mean that Companies House is also performing due diligence of records, but the current MLRs prohibit reliance on Companies House data. The purpose of the enhancements to Companies House powers was to ensure reliability. Given this, there is an obvious opportunity to increase the scope of Companies House's verification processes to the extent that firms that are within scope of the MLRs can place a degree of reliance on the checks performed by Companies House. For example, this could include relying on specific elements of CDD, such as confirmation of registered directors or beneficial owners that will have been verified by Companies House. Regulated firms will still need to perform certain checks, such as anti-impersonation checks, but this proposal will reduce inefficiencies, unnecessary duplication and compliance costs. We strongly recommend that HMT makes this change.

I would like to thank HMT for the opportunity to comment on the Draft SI and enhancements to the MLRs. This continues to be an area of fundamental importance to TISA and TISA members. I would be happy to discuss these recommendations and any other aspects of the TISA response. We look forward to HMT finalising their policy work and stand ready to engage, collaborate and lend out support to help achieve a better financial crime framework.

Sophie Legrand Green
Head of Policy, TISA.

Comments on HMT's draft SI

Pooled Accounts

The current definition of a pooled account at Reg 14 of the Draft SI is circular and lacks clarity. For example, it is unclear as to whether this would apply to nominee accounts, correspondence relationships (which already require specific enhanced due diligence measures, as set out in Reg 34 of the existing MLRs), or securities accounts maintained by brokers. The relevant section of the Policy Note makes multiple reference to its application to banks, whereas the draft legislation is unclear whether the provisions would apply to non-banks. The definition of credit institution and financial institutions is inconsistent with the general approach taken to the definition of Banks under FSMA and additional prudential law. We recommend that HMT adopts a consistent approach so that the scope of the provisions related to pooled accounts is clear (i.e. the provisions do not intend to capture the wider ecosystem of financial services firms, for example including NBFIs. The provisions are only intended to apply to Banks).

We also note that the drafting at Reg 14(150 and (16) provide direct obligations on customers. It is unclear how these provisions will be enforced in practice: for example, is HMT intending to provide the FCA with additional powers in relation to unregulated individuals or in practice, does this responsibility fall onto regulated firms. If it is the latter, any such obligation and responsibility should be clearly articulated in the draft SI so that firms can understand and comply.

Trust Registration

It would be helpful for HMT to clarify the extent to which the provisions that will apply to additional trust types are retrospective.

We would also like to take the opportunity to call for HMRC to adopt a more collaborative approach to the supervision and enforcement of the trust registration regime. It would be helpful for HMRC to provide information or guidance on the types of information they would like firms to report, particularly in respect of historical trusts, so that firms can help HMRC delivery the policy objective in a smarter, more collaborative manner. This collaborative approach could be furthered still through the adoption of a TRS register which could be accessed through a secure portal and would enable MLR-regulated firms to check whether the data it holds aligns with the information on the TRS. The current approach introduces multiple challenges, fraud risk posed by the potential for manipulated TRS proofs, product inefficiencies posed by elapsed time between checks and a reliance on manual, administratively-burdensome, duplicative requests of trustees. All of these challenges undermine the effectiveness of the TRS and the ability to prevent fraud and tax evasion. To mitigate these risks, we recommend that HMRC consults on alternative approaches, such as making a register securely available to regulated firms. Trustees should also be given the ability to generate a unique reference that they can share with regulated firms, which corresponds to the data held on the TRS. This would remove duplication and compliance costs, streamlining the process. This proposal would align with HMT's objective to reduce compliance costs for firms,

modernise and digitise regulatory frameworks and approaches and reduce financial crime and tax evasion.

Insolvent Bank Customers

A minor clarification: the relevant heading should be amended to “customers of an insolvent bank” in order to clarify that the section is applicable where it is the bank, not the customer, that is insolvent.