



Anti-Money Laundering Compliance Unit (AMLCU), Department of Justice

Direction under section 30B(3) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended to Trust or Company Service Providers (TCSPs)

For the purposes of determining the extent of measures to be taken under subsections (2) and (2A) of section 33 (customer due diligence) and subsections (1) and (3) of section 35 (special measures applying to business relationships), section 30B(1) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 obliges designated persons to identify and assess the risk of money laundering and terrorist financing in relation to the customer or transaction concerned having regard to –

- (a) the designated person's business risk assessment,
- (b) the matters specified in section 30A(2),
- (c) any relevant risk variables, including the following:
 - (i) the purpose of an account or relationship;
 - (ii) the level of assets to be deposited by a customer or the size of transactions undertaken;
 - (iii) the regularity of transactions or duration of the business relationship;
 - (iv) any additional prescribed risk variable,
- (d) the presence of any factor specified in Schedule 3 or prescribed under section 34A suggesting potentially lower risk
- (e) the presence of any factor specified in Schedule 4, and
- (f) any additional prescribed factor suggesting potentially higher risk.

Having regard to the size and nature of the businesses operated by the TCSPs it supervises and the need for TCSPs to accurately identify and assess the risk of money laundering and terrorist financing in relation to its customers and transactions, the AMLCU hereby directs under section 30B(3) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 that TCSPs, as a class of designated persons for whom the AMLCU is the competent authority, must document their determinations under s.30B(1) of the Act. Such TCSPs are directed under section 30B(2) to document their determination under s.30B(1) and such documented assessment should be available on request to the AMLCU.

All transactions and customers should be risk assessed. Where transactions meet the criteria set out in s.36A, a detailed documented risk assessment is required. In relation to routine transactions (e.g. in relation to routine periodic transactions in relation to a pension fund), a standard documented transaction risk assessment is acceptable. In relation to customers who are in a pension fund, a standard customer risk assessment is acceptable, unless enhanced due diligence is otherwise required in relation to the customer under the Act.

Attention is specifically drawn to *s.30(B)(5) of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010*:



(5) A designated person who fails to document a determination in accordance with a direction under subsection (2) 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 or imprisonment not exceeding 5 years (or both).

The above section makes it an offence to fail to comply with this direction.

Anti-Money Laundering Compliance Unit, 14 December 2021