CONTENTS

9

REGULATION: THE REGULATED SECTOR AND ITS OBLIGATIONS

A. Introduction

This and the next chapter are concerned with the regulatory measures intended to prevent and detect money laundering and terrorist financing in those areas of business and professional activity that are thought to be particularly vulnerable to the misuse of their services. This chapter covers Parts 1 to 3 of the Money Laundering Regulations 2007 ('the Regulations') and deals with general matters such as Interpretation and the application of the Regulations in Part 1, with customer due diligence (CDD) in Part 2, and with Record Keeping, Procedures and Training in Part 3. **9.01**

Background

9.02 The Regulations substantially implement the EU Third Money Laundering Directive in the UK. Both of these pieces of legislation reflect the Recommendations of the international Financial Action Task Force (FATF) which was set up to tackle money laundering on a worldwide basis.

9.03 The Regulations came in to force on 15 December 2007. The Regulations revoked in their entirety the 2003 Regulations and largely implemented the Third Money Laundering Directive, which was issued in October 2005 with a view to ensuring that the legislation of the European Union followed the revised Recommendations published by FATF, as well as with a view to improving anti-money laundering and counter-terrorist financing measures generally.

9.04 Apart from the criminalization of money laundering in Recommendations 1 to 3 inclusive, and the measures intended to enhance international co-operation, the FATF 40 Recommendations, now 20 years old, are primarily directed towards creating a regime of procedures and controls applied to a specific group of businesses and professions, collectively the regulated sector, that are considered to be particularly at risk of being used for the purpose of laundering money or processing terrorist funds.

9.05 The same emphasis is found in the three EU directives which closely follow the FATF Recommendations and incorporate them into the framework of EU legislation. The aim spelled out in the title of all three directives is the '. . . prevention of the use of the financial system for the purpose of money laundering' (with terrorist financing now added).

9.06 Implementing in the UK successive EU directives, the Money Laundering Regulations of 1993, 2001, 2003, and 2007 are even more focussed on the measures for prevention and detection to be applied by the regulated sector, because other elements in the Recommendations and the EU directives are put into effect in the UK through primary legislation, as in the three money laundering offence sections in Part 7 of POCA.

Overview of the Regulations

9.07 The Regulations place substantial responsibilities and obligations on relevant persons. In summary, the obligations under the Regulations are, broadly speaking, as follows:

- to apply customer due diligence measures;
- to conduct ongoing monitoring of a business relationship;
- to keep specified records;
- to make suspicious activity reports where money laundering or terrorist financing is suspected;
- to raise the awareness of employees about money laundering and terrorist financing and to train them;
- to establish and maintain policies and procedures in order to prevent activities related to money laundering and terrorist financing.

9.08 In the Regulations, the scope of the regulatory requirements and how they should be put into practice are most clearly set out in Regulation 20 which describes the '. . .appropriate and risk-sensitive policies and procedures. . .' that a 'relevant person' must establish and maintain

in order to manage and monitor the money laundering and terrorist financing risk.[1] Other parts of the Regulations specify in detail the customer due diligence and ongoing monitoring measures as well as the requirement to keep records. The obligation on those in the regulated sector to make suspicious activity reports (SARs) is referred to in Regulation 20 in the context of reporting procedures and the role of the nominated officer (or MLRO), but the detailed provisions are contained in Part 7 of POCA.

9.09 The mandatory nature of the many detailed obligations in the Regulations is brought into sharpest focus by considering the criminal offence, with a maximum penalty of two years' imprisonment, that may be committed by a failure to comply with any one of the numerous[2] specific requirements in the Regulations. The topics of supervision, monitoring, and sanctions for non-compliance are dealt with in Chapter 10.

B. The Regulated Sector—'Relevant Persons'

Who is subject to the Regulations?

9.10 In terms both of the scale and number of the institutions involved and the volume of financial transactions undertaken, banks and other financial institutions continue to be the core of the regulated sector. The remaining 'relevant persons' form a disparate group whose common feature is that the businesses that they conduct or the professional services that they provide are considered to be vulnerable to money laundering or terrorist financing.

9.11 Throughout the Regulations, those businesses and individuals which are subject to the provisions of the anti-money laundering regime, are referred to as 'relevant persons'. In Schedule 9 of POCA they are referred to as being part of the 'regulated sector'. Whilst the two schemes use different terminology, those included in the two categories are identical. In this chapter, the term 'relevant persons' is generally used.

9.12 The full list of relevant persons is set out in Regulation 3 read together with Schedule 1 and is subject to certain exceptions given in Regulation 4. The detailed definitions of relevant persons in Regulation 3 are necessary because there are a number of different ways in which persons come within the definition of 'relevant person': for example, by function, by professional status, or through the conduct of particular business activities.

9.13 The list of relevant persons is summarized in Tables 1 and 2. The tables are intended to show the reach of the Regulations, but should not be used as a definitive guide to whether a particular person is covered. Further reference should be made to the Regulations themselves, published guidance, the person's regulatory body, or the Financial Services Authority (FSA), who provide a 'Perimeter Enquiry line' for resolving issues as to scope.[3]

[1] The full provisions of Regulation 20 are dealt with below at paras 9.141–9.144.
[2] See Chapter 10 at paras 10.121–10.126.
[3] The FSA can be contacted on 020 7066 0082; or via the web link <http://www.fsa.gov.uk/pages/About/What/financial_crime/money_laundering/3mld/index.shtml>.

9.14 The categories of relevant person only apply when the person is acting in the course of business in the UK. Plainly, a person's business activities may fall partly within the definition and partly without—in which case only those activities within the definition are covered by the Regulations. Furthermore, a person may be in more than one category, e.g. solicitors may well be tax advisers, insolvency practitioners, or trust or company service providers, as well as independent legal professionals.

Table 9.1 Relevant persons—credit and financial institutions

Term	Meaning
Credit institutions	Undertakings receiving deposits or other repayable funds from the public or granting credits for their own account (or a branch which carries out directly all or some of the transactions inherent in the business of credit institutions), for example banks and building societies.[4]
Financial institutions[5]	(i) Undertakings (including Money Service Businesses) carrying out one or more of the activities listed in points 2 to 12 and 14 of Annex 1 to the Banking Consolidation Directive[6] (for example lending, financial leasing, money broking and issuing travellers' cheques and bankers' drafts), excluding undertakings covered under 'credit institutions' above, or whose only listed activity is trading for their own account in products listed in point 7 of that directive. (ii) Insurance companies authorized under, and carrying out activities covered by, the Life Assurance Consolidation Directive[7] (for example life assurance and annuities). (iii) Persons providing investment services or performing investment activities relating to various financial instruments, as listed in the Markets in Financial Instruments Directive.[8] (iv) Collective investment undertakings, when offering units or shares. (v) Insurance intermediaries (excluding tied insurance intermediaries) acting in respect of contracts of long-term insurance.[9] (vi) Branches located in an EEA state carrying out the activities mentioned in (i)–(v) above, irrespective of where their head offices are located. (vii) The National Savings Banks. (viii) The Director of Savings when money is raised under the National Loans Act 1968.

[4] The Regulations, Reg 3(1)(a) and 3(2), and the Banking Consolidation Directive 2006/48/EC, Art 4(1)(a).

[5] Reg 3(3).

[6] Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006. The relevant text is set out in Sch 1 to the Regulations.

[7] Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002.

[8] Directive 2004/39/EC of the European Parliament and of the Council of 12 April 2004 on markets in financial instruments. Annex I lists the investment services and activities in section 1 and the financial instruments in section C. The category excludes those exempted by Article 2 of the directive.

[9] Insurance intermediaries' are defined in Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation, Art 2(5); 'tied insurance intermediaries' in Art 2(7) of that directive. 'Contracts of long term insurance' is defined in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Art 3(1) and Pt II of Sch 1.

Table 9.2 Relevant persons—designated non-financial businesses and professions (DNFBPs)

Term	Meaning
Auditors	Any firm or individual who is a statutory auditor within the meaning of Part 42 of the Companies Act 2006 (statutory auditors), when carrying out statutory audit work within the meaning of section 1210 of the Act.[10]
Insolvency practitioners	Any person who acts as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 (meaning of 'act' as insolvency practitioner) or Article 3 of the Insolvency (Northern Ireland) Order 1989.[11]
External accountants	A firm or sole practitioner who by way of business provides accountancy services to other persons, when providing such services.[12]
Tax advisers	A firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services.[13]
Independent legal professionals	A firm or 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 organization of contributions necessary for the creation, operation or management of companies; or (e) the creation, operation or management of trusts, companies or similar structures; whether assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.[14]
Trust or company service providers	A firm or sole practitioner who by way of business provides any of the following services to other persons: (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 position 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 arrangement; (d) actioning, 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, when providing such services.[15]
Estate agents	A firm or sole practitioner, who, or whose employees, carry out estate agency work (within the meaning given by section 1 of the Estate Agents Act 1979 (estate agency work)), when in the course of carrying out such work.[16]
High-value dealers	A firm or sole trader who by way of business trades in goods (including an auctioneer dealing in goods), when he receives, in respect of any transaction, a payment(s) in cash of at least 15,000 euros in total, whether the transaction is executed in a single operation or in several operations which appear to be linked.[17]
Casinos	A holder of a casino operating licence, 'casino operating licence' having the meaning given by section 65(2) of the Gambling Act 2005 (nature of licence).

[10] Reg 3(4).
[11] Reg 3(6).
[12] Reg 3(7).
[13] Reg 3(8).
[14] Reg 3(9).
[15] Reg 3(10).
[16] Reg 3(11).
[17] Reg 3(12).

9.15 Tables 9.1 and 9.2 list all the categories of relevant persons under the Regulations. There are also a number of other significant terms in the Regulations that are, in effect, subsets of the categories listed above. They are listed in Table 9.3.

Table 9.3. Notable sub-categories of relevant person

Term	Meaning
Money service businesses	Undertakings which by way of business operate a currency exchange office, transmit money (or any representations of monetary value) by any means or cash cheques which are made payable to customers. The Regulations refer to them in the context of defining financial institutions, and impose a registration regime on them. As they perform an activity listed in Schedule 1 of the Regulations[18] (point 7(b)), they are within the first subcategory of financial institutions in Regulation 3(3)(a) and are therefore relevant persons.
Telecommunications, digital and IT payment service providers	Undertakings that provide payment services falling within paragraph 1(g) of Schedule 1 to the Payment Services Regulations 2009.[19] The Regulations impose a registration regime on them. As they perform an activity listed in Schedule 1 of the Regulations[20] (point 4), they are within the first subcategory of financial institutions in Regulation 3(3)(a) and are therefore relevant persons.
Consumer credit financial institutions	Undertakings that fall within the first category of financial institutions in Regulation 3(3)(a) (see Table 1) which require a licence to carry on a consumer credit business,[21] with various exceptions.[22] The OFT is their supervisory authority and may maintain a register of them.

Exclusions

9.16 Regulation 4 provides for various exclusions in respect of persons who would otherwise be relevant persons. There is a significant exception of general application in Regulation 4(2), below, but the exclusions in Regulation 4(1) and (3) are specific.

9.17 The exclusions in Regulation 4(1) relate to specified persons or institutions or to specified persons when carrying out certain designated activities. These are summarized below:

- The Regulations do not apply to a society registered under the Industrial and Provident Societies Act 1956 or to a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 when they conduct certain types of business specified in Regulation 4(1)(a) and (b).
- The Regulations do not apply, in the circumstances detailed in Regulation 4(1)(c) and (d), to a person when carrying out particular activities in respect of which that person is exempt

[18] Extracts from Annex 1 to the Banking Consolidation Directive.

[19] 'The execution of payment transactions where the consent of the payer to execute the payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator acting only as an intermediary between the payment service user and the supplier of the goods or services.'

[20] Extracts from Annex 1 to the Banking Consolidation Directive.

[21] Under Consumer Credit Act 1974, s 21 (businesses needing a licence).

[22] The exceptions include Money Service Businesses, Authorized Persons, and Telecommunication, Digital and IT Payment Service Providers (Reg 22(1)).

in relation to the Financial Services and Markets Act 2000 (Exemption) Order 2001 or, in specified circumstances, to a person who was an exempted person for the purposes of section 45 of the Financial Services Act 1986.

- Under Regulation 4(1)(e), the Regulations do not apply to 'a person whose main activity is that of a high-value dealer, when he engages in financial activity on an occasional or very limited basis as set out in paragraph 1 of Schedule 2 to these Regulations'.
- Regulation 4(1)(f) concerns a person who prepares a home information pack.[23]

Occasional financial activity

9.18 In Regulation 4(2) there is an important general exclusion for any person who might otherwise come within the definition of a relevant person: 'These Regulations do not apply to a person who falls within regulation 3 solely as a result of his engaging in financial activity on an occasional or very limited basis as set out in paragraph 1 of Schedule 2 to these Regulations.'[24]

9.19 Paragraph 1 of Schedule 2 to the Regulations provides that, for the purposes of Regulation 4(1)(e) and (2), a person is to be considered as engaging in financial activity on an occasional or very limited basis if *all* the following conditions are fulfilled:

(a) the person's total annual turnover in respect of the financial activity does not exceed £64,000;
(b) the financial activity is limited in relation to any customer to no more than one transaction exceeding 1,000 euro, whether the transaction is carried out in a single operation, or a series of operations which appear to be linked;
(c) the financial activity does not exceed 5 per cent of the person's total annual turnover;
(d) the financial activity is ancillary and directly related to the person's main activity;
(e) the financial activity is not the transmission or remittance of money (or any representation of monetary value) by any means;
(f) the person's main activity is not that of a person falling within Regulation 3(1)(a) to (f) or (h);
(g) the financial activity is provided only to customers of the person's main activity and is not offered to the public.

9.20 Under Regulation 4(3), Parts 2 to 5 of the Regulations, that is the operative parts,[25] do not apply to the following specified persons:

(a) the Auditor General for Scotland;
(b) the Auditor General for Wales;
(c) the Bank of England;
(d) the Comptroller and Auditor General;
(e) the Comptroller and Auditor General for Northern Ireland;
(f) the Official Solicitor to the Supreme Court, when acting as trustee in his official capacity;
(g) the Treasury Solicitor.

[23] Note that on 20 May 2010 the government announced that the requirement to have a home information pack was suspended. The government has stated its intention to repeal provisions in Part 5 of the Housing Act 2004 and thereby abolish HIPs.

[24] In Reg 4(1)(e), above, there is a specific instance of this general exclusion in respect of high-value dealers.

[25] Part 1 of the Regulations, headed 'General', concerns the interpretation and application of the Regulations; Part 6 deals with 'Miscellaneous' matters.

The Regulations: interpretation

9.21 The regulated sector now consists of a wide variety of institutions and individuals carrying on many different business and professional activities, so Regulation 2 necessarily contains a lengthy list of definitions (and Regulation 2 is itself supplemented by further definitions of 'relevant persons' in Regulation 3). The most important general definitions in Regulation 2 are set out below:

- 'business relationship' means a business, professional, or commercial relationship between a relevant person and a customer, which is expected by the relevant person, at the time when contact is established, to have an element of duration;
- 'occasional transaction' means a transaction (carried out other than as part of a business relationship) amounting to 15,000 euro or more, whether the transaction is carried out in a single operation or several operations which appear to be linked;
- 'firm' means any entity, whether or not a legal person, that is not an individual and includes a body corporate and a partnership or other unincorporated association;
- ' high value dealer' has the meaning given by Regulation 3(12):
- 'money laundering' means an act which falls within section 340(11) of the Proceeds of Crime Act 2002;
- 'terrorist financing' means an offence under—
  (a) section 15 (fund-raising), 16 (use and possession), 17 (funding arrangements), 18 (money laundering) or 63 (terrorist finance: jurisdiction) of the Terrorism Act 2000;
  (b) paragraph 7(2) or (3) of Schedule 3 to the Anti-Terrorism, Crime and Security Act 2001 (freezing orders);
  (c) article 7, 8 or 10 of the Terrorism (United Nations Measures) Order 2006 ; [. . .]
  (d) article 7, 8 or 10 of the Al-Qaida and Taliban (United Nations Measures) Order 2006; [or]
  (e) article 10, 11, 12, 13, 14 or 15 of the Terrorism (United Nations Measures) Order 2009;
- 'cash' means notes, coins or travellers' cheques in any currency.[26]

'Authorised persons' and 'the Authority'

9.22 The term 'authorised persons' also appears in the Regulations, but has no separate meaning in them: it refers to persons authorised by the FSA for the purposes of the Financial Services and Markets Act 2000 (FSMA). Authorised persons are also relevant persons subject to supervision for anti-money laundering purposes by the FSA as a 'supervisory authority' under Regulation 23 and liable to enforcement action by the FSA as a 'designated authority' under Regulation 36. In the Regulations, the FSA is referred to as 'the Authority'.

The risk-based approach

Background

9.23 The risk-based approach was not really a significant feature of the measures to combat money laundering and terrorist financing, either at a national or international level, until about 2005, but is now well established. Such an approach is recognized in the FATF 40 Recommendations (as revised in 2003 and incorporating amendments to October 2004).

[26] The same definition of cash is contained also in POCA, Sch 9 and in TA 2000, Sch 3A. Note, however, the wider definition in POCA, s 289 for the purposes of cash seizure and forfeiture under Part 5 of POCA.

Recommendation 5, dealing with CDD and record-keeping, requires that regulated sector institutions should apply the specified CDD measures:

> . . .but may determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship or transaction. The measures that are taken should be consistent with any guidelines issued by competent authorities. For higher risk categories, financial institutions should perform enhanced due diligence. In certain circumstances, where there are low risks, countries may decide that financial institutions can apply reduced or simplified measures.

9.24 Since 2005, FATF has taken further steps to develop and promote understanding of the risk-based approach. In March 2006, FATF set up an advisory group which comprised FATF members and observers, but also included representatives from the private sector. This group first considered the risk-based approach in principle and how it should apply to banks and financial services institutions. After international consultation on draft guidance with both public and private sectors, a guidance paper on the risk-based approach was adopted by FATF in June 2007. This was the first occasion that FATF had developed guidance using a public-private partnership approach.

9.25 In a section of the guidance paper headed 'The purpose of the Risk-Based Approach', the rationale for the risk-based approach is explained in this way:

> By adopting a risk-based approach, competent authorities and financial institutions are able to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate to the risks identified. This will allow resources to be allocated in the most efficient ways. The principle is that resources should be directed in accordance with priorities so that the greatest risks receive the highest attention.

9.26 Over the following two years after June 2007, FATF developed a series of sectoral guidance papers to assist both public authorities and the private sector in applying a risk-based approach to combating money laundering and terrorist financing. Each of the guidance papers relates to a specific business or profession within the regulated sector and was developed in conjunction with representatives of the relevant business or profession.[27]

The Third Money Laundering Directive

9.27 Similarly, Article 8 of the Third Directive, issued in 2005, contains CDD measures that are described in essentially the same terms as in FATF Recommendation 5 and require that the institutions and persons covered by the Directive shall apply each of the specified customer due diligence measures '. . . but may determine the extent of such measures on a risk-sensitive basis depending on the type of customer, business relationship, product or transaction'.

The FSA and the risk-based approach

9.28 In the UK, the FSA has taken the lead in promoting the risk-based approach. In a letter to supervisors dated 31 August 2006,[28] Philip Robinson[29] announced the FSA's change to a more risk-based approach, and on the next day the FSA deleted its Money Laundering

[27] <http://www.fatf-gafi.org/document/63/0,3343,en_32250379_32236920_44513535_1_1_1_1,00.html>.

[28] Published on the FSA website.

[29] Then Financial Crime Sector Leader at the FSA. Philip Robinson was also influential in the development of FATF's guidance on the risk-based approach as co-chair of the Electronic Advisory Group that produced the original FATF guidance paper on the risk-based approach.

Sourcebook and replaced it by high-level provisions that were '. . .intended to drive a more effective, risk-based approach'.[30]

9.29 In announcing its new anti-money laundering regime, under the heading 'What does the new regime mean for firms?', the FSA noted that: 'The risk-based approach is not necessarily the cheapest or easiest approach to money laundering, but it is the most cost-effective, proportionate and flexible.' It went on to say: 'The new regime places greater emphasis on senior management responsibility for managing money laundering risk and ensuring that systems and controls are used in a risk-based manner with an increased focus on higher risk customers and products.'

Applying the risk-based approach

9.30 The risk-based approach can only be applied where relevant persons have a significant area of discretion in the way that the obligation is performed. As FATF has recognized: 'There are circumstances in which the application of the risk-based approach will not apply, or may be limited . . . The limitations to the risk-based approach are usually the result of legal or regulatory requirements that mandate certain actions to be taken.' The risk-based approach is not, for instance, applicable to the provisions in UK law for required disclosures of suspected money laundering.

The risk-based approach in the Regulations

9.31 Regulation 20(1) sets out a broad requirement that a relevant person 'must establish and maintain appropriate and risk-sensitive policies and procedures' relating to all aspects of the regulatory requirements, including 'risk assessment and management'.[31] The main context, however, in which the risk-based approach is applied in the Regulations is in connection with the specific requirements for CDD.

9.32 The way in which the risk-based approach is to be applied to CDD is set out in Regulation 7(3):

> (3) A relevant person must—
>
> (a) determine the extent of customer due diligence measures on a risk-sensitive basis depending on the type of customer, business relationship, product or transaction; and
>
> (b) be able to demonstrate to his supervisory authority that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing.

Guidance on the application of the risk-based approach

9.33 The authoritative Joint Money Laundering Steering Group (JMLSG) guidance[32] places the risk-based approach to anti-money laundering in the broader context of risk management in the financial services industry and the responsibility of senior management to manage the affairs of its business with due regard to the risks inherent in it. The guidance, in paragraph 4.2, details the steps involved in a risk-based approach to 'assessing the most cost

[30] See the FSA Handbook (Senior Management Systems and Controls), SYSC 3.2.6A R–SYSC 3.2.6J G.

[31] How practicable the application of risk-sensitive policies and procedures is to particular anti-money laundering measures will necessarily vary (see the FATF statement above), but this is not explicitly recognized in Reg 20.

[32] Addressed primarily to relevant persons in the financial services sector, but containing much that is helpful to other relevant persons. (See Chapter 1 at paras 1.137 and 1.138).

effective and proportionate way to manage and mitigate the money laundering and terrorist financing risks faced by the firm'. These steps are to:

- identify the money laundering and terrorist financing risks that are relevant to the firm;
- assess the risks presented by the firm's particular
  - customers;
  - products;
  - delivery channels;
  - geographical areas of operation;
- design and implement controls to manage and mitigate these assessed risks;
- monitor and improve the effective operation of these controls; and
- record appropriately what has been done, and why.

9.34 In the view of the JMLSG, a risk-based approach will '. . .serve to balance the cost burden placed on individual firms and their customers with a realistic assessment of the threat in connection with money laundering or terrorist financing. It focuses the effort where it is needed and will have most impact'.

C. Customer Due Diligence: the Main Provisions

CDD—introduction

9.35 The CDD requirements are detailed and occupy the whole of Part 2: Regulations 5 to 18 inclusive. These apply to all relevant persons[33] and are intended primarily as preventative measures, to make it less easy for anyone to engage and use the services of the regulated sector for the purposes of money laundering or terrorist financing.

9.36 In this chapter, the CDD requirements are dealt with in three parts. The main provisions relating to CDD and ongoing monitoring, in Regulations 5 to 12, are covered in this part. Part D deals with the provisions relating to simplified CDD and with enhanced CDD and enhanced ongoing monitoring, in Regulations 13 and 14; Part E deals with the provisions for 'reliance' and other ancillary matters in Regulations 15 to 18.

The new approach to CDD in the 2007 Regulations

9.37 The main change from the regime under the Money Laundering Regulations 2003 is the introduction of an approach to customer due diligence on a risk-sensitive basis. In effect, the Regulations apply a three-tiered approach to customer due diligence, which reflects the risk-based approach which should now underlie the way that many of the regulatory requirements are complied with, in particular the CDD obligations.

Terminology

9.38 The term CDD is used in the Regulations and elsewhere both to refer to CDD measures generally, including simplified and enhanced CDD, and to refer to what might be described as 'standard' CDD, that is CDD which is neither simplified nor enhanced. 'Simplified due diligence' and 'enhanced customer due diligence' are terms used in the Regulations, and

[33] Apart from Regulation 10 which applies specific CDD measures to casinos—see paras 9.70–9.74.