

# Chartered Institute of Taxation

## Anti-Money Laundering Scheme Rules

### MONEY LAUNDERING REGULATIONS 2017: REGISTRATION, MONITORING AND COMPLIANCE SCHEME

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#### 1. Preamble

1.1 The Institute is designated as a supervisory authority for the purpose of regulation 7 of the Money Laundering Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("the 2017 regulations"). Under the 2017 regulations, the Institute must effectively monitor those for whom it is the supervisory authority and take necessary measures for the purpose of securing compliance by such persons with the requirements of the regulations.

1.2 If the Institute, in the course of carrying out its functions under the 2017 regulations, knows or suspects that a person has or is engaged in money laundering or terrorist financing, it must promptly inform the National Crime Agency.

1.3 Under the 2017 regulations, the Institute must collect such information as it considers necessary for the purpose of performing its supervisory functions, including all of the information in Schedule 4 of the 2017 Regulations. The information collected by the Institute will be kept in a register in such form as it sees fit. The Institute will make available to those that it supervises up-to-date information on anti-money laundering and counter-terrorist financing risks associated with tax work.

1.4 All relevant persons under the 2017 regulations must be supervised by one authority but a relevant person may have more than one authority available to supervise them. This Scheme sets out the requirements for relevant persons who wish to register for supervision by the Institute and the system of compliance monitoring to which they are subject, once they are registered. Registration for supervision is open to sole proprietor members of the Institute and firms of tax advisers which comprise at least one member of the Institute who is a principal within the firm. Any member of the Institute in practice as a tax adviser who, and any firm of tax advisers including members which, is not registered with the Institute for this

purpose is expected to register with another authority under the 2017 regulations. Any individual member not registering for this purpose with the Institute will be assumed to be either

- (a) a principal or employee of a firm registered with the Institute,
- (b) a principal or employee of a firm registered with another authority under the 2017 regulations,
- (c) registered as an individual with another authority under the 2017 regulations,
- (d) an employee of a firm not required to be registered under the 2017 regulations,
- (e) in practice as a tax adviser outside the United Kingdom; or
- (f) not in practice as a tax adviser.

## 2. Definitions and interpretation

2.1 In the Scheme, unless the context otherwise requires, words used have the same meanings as in the Charter, Byelaws and Regulations of the Institute, and

**"firm"** includes a company, a partnership, and a limited liability partnership,

**"Institute"** means the Chartered Institute of Taxation,

**"member"** means a member of the Institute,

**"principal"** means a sole practitioner, equity partner in a partnership, member of a limited liability partnership or company director listed at Companies House of, a registered firm,

**"register"** means the register maintained under paragraph 4.1,

**"registered firm"** means a firm which is registered under the Scheme,

**"registrant"** means a member or firm registered under the Scheme,

**"relevant person"** means a person to whom, in accordance with regulation 8 of the 2017 regulations, Parts 1 to 6 and 8 to 11 of those regulations apply,

**"the Scheme"** means this Scheme,

**"tax adviser"** means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services. For these purposes advice about the tax affairs of other persons means the preparation and submission of tax returns, advice on tax planning, representation and defence of taxpayers before authorities and courts and the provision of overall advice in the area of taxation and complementary accounting and legal services.

**"TDB"** means the committee system of the Taxation Disciplinary Scheme operated by The Taxation Disciplinary Board Limited, registered company number 4210063.

2.2 In the Scheme, the singular includes the plural, the masculine includes the feminine, and references to any enactment are to that enactment as amended or replaced from time to time.

2.3 The Scheme shall be construed under the law of England and Wales, and registrants waive any right to seek to determine any matter arising under the Scheme or in connection with it in any alternative jurisdiction.

2.4 If any provision of the Scheme is held to be unlawful, this shall not invalidate or render unlawful any other provision of the Scheme.

### 3. Registration

3.1 Members who are sole proprietors and firms comprising members at least one of whom is an equity partner, member of an LLP or company director listed at Companies House, whose business includes the provision of tax advice to clients should apply for registration under the Scheme, using the form issued by the Institute for this purpose.

3.2 In accordance with the 2017 regulations the Institute is unable to supervise any firm with a business owner, officer or manager with an unspent criminal conviction listed in Schedule 3 of those regulations. Where a firm is supervised by the Institute, the Institute is required to approve all of the firms' beneficial owners, officers or managers. Approval is not valid where a person has been convicted of an offence listed in Schedule 3 and that conviction is unspent.

3.3 A registrant shall notify the Institute of any change in the details provided in the relevant application form within 14 days of the occurrence of the change.

### 4. Publication of Register and exchange of information

4.1 The Institute may maintain and publish a register of the names and business addresses of registrants under the Scheme.

4.2 The Institute may exchange information it collects in the course of exercising its supervisory function with any government or law enforcement agency or another supervisory or other authority listed in the 2017 regulations. If information is shared, it will only be shared for law enforcement or supervisory purposes.

### 5. Rights and obligations

5.1 A registrant, while registered, may use the following wording on their practice stationery or website:

"Registered with the Institute of Taxation Technicians for the purposes of anti-money laundering legislation"

but registration under the Scheme shall not convey any other right or status.

5.2 A registrant may seek guidance or information from the Institute's anti-money laundering help-line, but acknowledges that the help-line cannot provide definitive legal advice.

5.3 A registrant will have available to them up-to-date information from the Institute on anti-money laundering and counter terrorist financing risks faced by tax advisers. The information will be provided from time to time in the form that the Institute sees fit.

5.4 A registrant must comply with the requirements of the Institute as set out in or issued in pursuance of the Scheme. In particular, a registrant must

(a) where a sole proprietor, obtain and disclose to the Institute a criminal history check in support of the application for registration;

(b) where a firm, obtain and disclose to the Institute a criminal history check for all beneficial owners, officers and managers in support of the application for registration;

- (c) complete and submit an annual AML return in a form to be issued by the Institute;
- (d) provide such other information as the Institute may request;
- (e) pay the registration and annual retention fee as determined from time to time by the Institute;
- (f) permit, and co-operate with, inspection visits by the Institute or its authorised representatives;
- (g) notify the Institute they
  - (i) wish to withdraw from the register on the grounds of falling within paragraph 1.4 (a) to (f) above, or
  - (ii) propose to wind up or is the subject of insolvency proceedings, or
  - (iii) otherwise cease to be liable to be supervised;
- (h) conduct their practice in accordance with the laws of the Institute and in particular the Professional Rules and Practice Guidelines and Professional Conduct in relation to Taxation applicable to members.

5.5 Registrants must comply where appropriate with their direct obligations under the 2017 regulations and other relevant legislation and registration under the Scheme shall not reduce or qualify any such direct obligations.

5.6 A registrant is responsible for ensuring that all of its principals and staff, whether they are or are not members, comply, as appropriate, with the Scheme and any requirements of the 2017 regulations.

## 6. Discipline

6.1 The Scheme is part of the laws of the Institute and a registrant who fails to comply with its terms is liable to disciplinary action under those laws. A complaint against a registrant alleging failure to comply with the Scheme shall be referred for action by the TDB, which may apply any appropriate sanction in accordance with its powers from time to time.

6.2 For the avoidance of doubt, a registrant alleged to have failed to comply with paragraph 5.6 shall be liable to disciplinary action by or on behalf of the Institute, and it shall not be a defence that a failure of compliance was an act or omission of a principal or member of staff who is not a member.

6.3 A registrant may not withdraw, or apply to be removed, from, the register whilst subject to disciplinary action under or in pursuance of paragraph 6.1.

## 7. Making and amendment of scheme

7.1 This scheme was first developed following the entry into force of the Money Laundering Regulations 2007. It was made by the Council of the Institute under Regulation 18A of the Institute's Consolidated Regulations on 27 September 2007 and came into force on 15 December 2007. The current version has been updated following the replacement of the Money Laundering Regulations 2007 with The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. The scheme was updated under Regulation 53 of the Institute's Members' Regulations on 9 October 2018 and comes into force on 12 November 2018. The scheme may be amended from time to time by the Council, provided that the Council shall give each registrant 28 days' notice of the proposed amendment[s].