

Statutory Document No. 2019/0457



*Proceeds of Crime Act 2008 and the Terrorism and Other Crime (Financial Restrictions) Act  
2014*

## **ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM (GENERAL AND GAMBLING) (AMENDMENT) CODE 2019**

*Laid before Tynwald: 10 December 2019  
Coming into Operation: in accordance with paragraph 2.*

The Department of Home Affairs makes the following Code under section 157 of the Proceeds of Crime Act 2008 and section 68 of the Terrorism and Other Crime (Financial Restrictions) Act 2014, after carrying out the consultation required by those sections<sup>1</sup>.

### **1 Title**

This Code is the Anti-Money Laundering and Countering the Financing of Terrorism (General and Gambling) (Amendment) Code 2019.

### **2 Commencement**

This Code comes into operation on 25 November 2019<sup>2</sup>.

### **3 Anti-Money Laundering and Countering the Financing of Terrorism Code 2019 amended**

- (1) The Anti-Money Laundering and Countering the Financing of Terrorism Code 2019<sup>3</sup> is amended as follows.
- (2) In paragraph 5(3)(f) (business risk assessment), for “any customer risk assessment”, substitute **customer risk assessments**.

<sup>1</sup> Section 157(4) of the Proceeds of Crime Act 2008 and section 68(4) of the Terrorism and Other Crime (Financial Restrictions) Act 2014 require the Department of Home Affairs to consult any person or body that appears to it to be appropriate, before making a Code under those sections.

<sup>2</sup> Section 223(5) of the Proceeds of Crime Act 2008 and section 68(5) of the Terrorism and Other Crime (Financial Restrictions) Act 2014 require a Code made under section 157 of the Proceeds of Crime Act 2008 or section 68 of the Terrorism and Other Crime (Financial Restrictions) Act 2014 to be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the Code is laid or at the next following sitting so resolves, the Code ceases to have effect.

<sup>3</sup> SD 2019/0202.

- (3) In paragraph 8(3)(e) (new business relationships), for “funds, including”, substitute **“funds including, ”**.
- (4) In paragraph 19(2) (eligible introducers), for “operate a customer”, substitute **“operate customer”**.
- (5) For paragraph 20(2) (insurance), substitute –
  - “(2) Where the contract of insurance is a contract for which –**
    - (a) the annual premium is less than €1,000 or the single premium, or series of linked premiums, is less than €2,500; or
    - (b) there is neither a surrender value nor a maturity value (for example, term insurance),**an insurer or insurance intermediary need comply only with paragraph 13 of Part 4. ”**
- (6) For paragraph 37 (branches, subsidiaries and agents), substitute –

**37 Branches, subsidiaries and agents**

- (1) This paragraph applies to a relevant person if a branch or subsidiary is undertaking an activity which is equivalent to any activity included in Schedule 4 to the Proceeds of Crime Act 2008.
- (2) A relevant person must ensure that a branch or subsidiary takes measures consistent with this Code and guidance issued by a competent authority for AML/CFT.
- (3) A relevant person who cannot comply with sub-paragraph (2) for any reason must apply appropriate additional measures to manage the ML/FT risk.
- (4) Without limiting sub-paragraph (3), a reason for being unable to comply with sub-paragraph (2) may include being prevented from doing so by the laws or regulations of the jurisdiction to which the branch or subsidiary is subject.
- (5) A relevant person must inform the relevant competent authority immediately when the person or a branch or subsidiary is unable to take any of the measures referred to in sub-paragraph (2).
- (5) If a relevant person is licensed under Class 8(2)(a) (provision and execution of payment services directly) of the Regulated Activities Order the relevant person must ensure that any agents they use or operate through, are included in the relevant person’s procedures and controls required by paragraph 4. The relevant person must also monitor compliance of the agent with the requirements.
- (6) In this paragraph, a “branch or subsidiary” means a branch or majority owned subsidiary of the relevant person in a jurisdiction outside the Island. **”**

**4 Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019 amended**

- (1) The Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019<sup>4</sup> is amended as follows.
- (2) In paragraph 3 (interpretation) in the definition of “gambling business in the regulated sector”, for “2(7)”, substitute **2(11)**.
- (3) In paragraph 25 (monitoring and testing compliance), for sub-paragraph (3), substitute —  
**2(3)** An operator must ensure that there is a suitable person at management level that is responsible for the functions specified in this paragraph. **2(3)**.

**MADE 25 NOVEMBER 2019**

**W M MALARKEY**  
*Minister for Home Affairs*

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<sup>4</sup> SD 2019/0219

*EXPLANATORY NOTE*

*(This note is not part of the Order)*

This Code amends the Anti-Money Laundering and Countering the Financing of Terrorism Code 2019<sup>5</sup> and the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019<sup>6</sup>.

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<sup>5</sup> SD 2019/0202

<sup>6</sup> SD 2019/0219