

MONEY LAUNDERING PROVISIONS INSTRUMENT 2006

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):
- (1) section 64(1) and 64(2) (Conduct: statements and codes);
 - (2) section 138 (General rule-making power);
 - (3) section 146 (Money laundering rules);
 - (4) section 149 (Evidential provisions);
 - (5) section 150(2) (Actions for damages);
 - (6) section 156 (General supplementary powers); and
 - (7) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. Annex A, Part 2 of Annex D and Annex K to this instrument come into force on 31 August 2006. Otherwise, this instrument comes into force on 1 March 2006.

Revocation of the Money Laundering sourcebook

- D. The Money Laundering sourcebook (ML) is revoked in its entirety with effect from 31 August 2006.

Amendments to the Handbook

- E. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended or deleted in accordance with the Annexes listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls (SYSC)	Annex B
Threshold Conditions (COND)	Annex C
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex D
Amendments to the Interim Prudential sourcebook for Banks (IPRU(BANK))	Annex E
Interim Prudential sourcebook for Building Societies (IPRU(BSOC))	Annex F
Conduct of Business sourcebook (COB)	Annex G
Insurance: Conduct of Business sourcebook (ICOB)	Annex H
Mortgages: Conduct of Business sourcebook (MCOB)	Annex I
Market Conduct sourcebook (MAR)	Annex J

Money Laundering sourcebook (ML)	Annex K
Authorisation manual (AUTH)	Annex L
Supervision manual (SUP)	Annex M
Enforcement manual (ENF)	Annex N
Collective Investment Schemes sourcebook (CIS)	Annex O
Credit Unions sourcebook (CRED)	Annex P
Electronic Money sourcebook (ELM)	Annex Q
Professional Firms sourcebook (PROF)	Annex R

Citation

- F. This instrument may be cited as the Money Laundering Provisions Instrument 2006.

By order of the Board
26 January 2006

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

<i>client</i>	<p>(1) (except in <i>ML</i>; in <i>PROF</i>; in relation to a <i>regulated mortgage contract</i>) any <i>person</i> with or for whom a <i>firm</i> conducts or intends to conduct <i>designated investment business</i> or any other <i>regulated activity</i>); and</p> <p>(a) ...</p> <p>...</p> <p>(2) (in <i>ML</i>) (in relation to a <i>relevant firm</i>) any <i>person</i> engaged in, or who has had contact with the <i>relevant firm</i> with a view to engaging in, any <i>transaction</i> with that <i>relevant firm</i>:</p> <p>(a) on his own behalf; or</p> <p>(b) as agent for or on behalf of another. <u>[deleted]</u></p> <p>(3) ...</p> <p>(4) (in relation to a <i>regulated mortgage contract</i>, except in <i>ML</i> and <i>PROF</i>) the individual or trustee who is the borrower or potential borrower under that contract.</p>		
<i>group</i>	<p>(1) ...</p> <p>(2) (in relation to an <i>ICVC</i>) a group as in (1) but (in <i>ML</i> and <i>SYSC</i>) including also the <i>ICVC's authorised corporate director</i> (if any).</p> <p>...</p> <p>(3) ...</p>		
<i>identification evidence</i>	Evidence of the type referred to in <i>ML</i> 3.1.3R(1).		
<i>insolvent</i>	(in <i>ML</i>) insolvent under regulation 13 of the <i>Money Laundering Regulations</i> .		
<i>know your business information</i>	(in <i>ML</i>) information which a <i>relevant firm</i> has about:	(a) the financial circumstances of a <i>client</i> or any <i>person</i> on whose behalf the <i>client</i> has been acting or is acting; and	(b) the features of the <i>transactions</i> which the <i>relevant firm</i> has entered into with or for the <i>client</i> (or that <i>person</i>).
<i>ML</i>	the Money Laundering sourcebook.		

<i>Money Laundering Regulations</i>	the Money Laundering Regulations 2003 (SI 2003/3075) (see <i>ML</i>).
<i>money laundering reporting officer</i>	the individual appointed by a <i>relevant firm</i> in accordance with <i>ML 7.1</i> <u><i>SYSC 3.2.6IR</i></u> .
<i>relevant firm</i>	(in <i>ML</i>) a <i>firm</i> of the kind described in <i>ML 1.1.2R</i> .
<i>relevant regulated activities</i>	(in <i>ML</i>) activities of the kind described in <i>ML 1.1.4R</i> .
<i>transaction</i>	(in <i>ML</i>) any transaction, including the giving of advice and any other business or service undertaken in the course of carrying on a <i>regulated activity</i> .

Annex B

Amendments to Senior Management Arrangements, Systems and Controls

In this Annex, underlining indicates new text and striking through indicates deleted text.

Who?

- 1.1.1 R SYSC 2 and SYSC 3 apply to every *firm* except that:
- ...
- (2A) for an incoming Treaty firm which has permission only for cross border services and which does not carry on regulated activities in the United Kingdom, SYSC 3.2.6AR to SYSC 3.2.6JG do not apply;
- (3) ~~SYSC 2 does not apply to a sole trader as long as he does not employ any person who is required to be approved under section 59 of the Act (Approval for particular arrangements); and~~
- for a sole trader:
- (a) SYSC 2 does not apply as long as he does not employ any person who is required to be approved under section 59 of the Act (Approval for particular arrangements);
- (b) SYSC 3.2.6IR does not apply if he has no employees;
- (4) for a UCITS qualifier:
- (a) SYSC 2.1.1R and SYSC 2.1.2G do not apply;
- (b) SYSC 2.1.3R to SYSC 2.2.3G apply, but only in relation to allocation of the function in SYSC 2.1.3R(2) and only with respect to the activities in SYSC 1.1.4R;
- (c) SYSC 3 applies, but only with respect to the activities in SYSC 1.1.4R-; and
- (5) for an authorised professional firm when carrying on non-mainstream regulated activities, SYSC 3.2.6AR to SYSC 3.2.6JG do not apply.

...

What?

- 1.1.3 R SYSC 2 and SYSC 3 apply with respect to the carrying on of:

- (1) *regulated activities*;
- (2) activities that constitute *dealing in investments as principal*, disregarding the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc); and
- (3) *ancillary activities* in relation to *designated investment business, regulated mortgage activity and insurance mediation activity*;

except that SYSC 3.2.6AR to SYSC 3.2.6JG do not apply as described in SYSC 1.1.3AR.

1.1.3A R SYSC 3.2.6AR to SYSC 3.2.6JG do not apply:

- (1) with respect to the activities described in SYSC 1.1.3R(2) and (3); or
- (2) in relation to the following regulated activities:
 - (a) general insurance business;
 - (b) insurance mediation activity in relation to a general insurance contract or pure protection contract;
 - (c) long-term insurance business which is outside the Consolidated Life Directive (unless it is otherwise one of the regulated activities specified in this rule);
 - (d) business relating to contracts which are within the Regulated Activities Order only because they fall within paragraph (e) of the definition of “contract of insurance” in article 3 of that Order;
 - (e) (i) arranging, by the Society of Lloyd’s, of deals in general insurance contracts written at Lloyd’s; and
(ii) managing the underwriting capacity of a Lloyd’s syndicate as a managing agent at Lloyd’s; and
 - (f) mortgage mediation activity and administering a regulated mortgage contract.

1.1.4 R SYSC 2 and SYSC 3, except SYSC 3.2.6AR to SYSC 3.2.6JG, also apply with respect to the *communication and approval of financial promotions* which:

...

1.1.5 R SYSC 2 and SYSC 3, except SYSC 3.2.6AR to SYSC 3.2.6JG, also:

- (1) apply with respect to the carrying on of *unregulated activities* in a *prudential context*; and

- (2) take into account any activity of other members of a *group* of which the *firm* is a member.

...

Where?

...

- 1.1.9 R *SYSC 2 and SYSC 3, except SYSC 3.2.6AR to SYSC 3.2.6JG, also apply in a prudential context to a UK domestic firm with respect to activities wherever they are carried on.*
- 1.1.10 R *SYSC 3, except SYSC 3.2.6AR to SYSC 3.2.6JG, also applies in a prudential context to an overseas firm (other than an incoming EEA firm, incoming Treaty firm or UCITS qualifier) with respect to activities wherever they are carried on.*

...

Systems and controls in relation to Compliance, financial crime and money laundering

- 3.2.6 R *A firm must take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system and for countering the risk that the firm might be used to further financial crime.*
- 3.2.6A R *A firm must ensure that these systems and controls:*
- (1) *enable it to identify, assess, monitor and manage money laundering risk; and*
- (2) *are comprehensive and proportionate to the nature, scale and complexity of its activities.*
- 3.2.6B G *“Money laundering risk” is the risk that a firm may be used to further money laundering. Failure by a firm to manage this risk effectively will increase the risk to society of crime and terrorism.*
- 3.2.6C R *A firm must carry out regular assessments of the adequacy of these systems and controls to ensure that it continues to comply with SYSC 3.2.6AR.*
- 3.2.6D G *A firm may also have separate obligations to comply with relevant legal requirements, including the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the Money Laundering Regulations. SYSC 3.2.6R to SYSC 3.2.6JG are not relevant for the purposes of regulation 3(3) of the Money Laundering Regulations, section 330(8) of the Proceeds of Crime Act 2002 or section 21A(6) of the*

Terrorism Act 2000.

- 3.2.6E G The FSA, when considering whether a breach of its *rules* on systems and controls against *money laundering* has occurred, will have regard to whether a *firm* has followed relevant provisions in the guidance for the UK financial sector issued by the Joint Money Laundering Steering Group.
- 3.2.6F G In identifying its *money laundering* risk and in establishing the nature of these systems and controls, a *firm* should consider a range of factors, including:
- (1) its customer, product and activity profiles;
 - (2) its distribution channels;
 - (3) the complexity and volume of its transactions;
 - (4) its processes and systems; and
 - (5) its operating environment.
- 3.2.6G G A *firm* should ensure that the systems and controls include:
- (1) appropriate training for its employees in relation to *money laundering*;
 - (2) appropriate provision of information to its *governing body* and senior management, including a report at least annually by that *firm's money laundering reporting officer (MLRO)* on the operation and effectiveness of those systems and controls;
 - (3) appropriate documentation of its risk management policies and risk profile in relation to *money laundering*, including documentation of its application of those policies (see SYSC 3.2.20R to SYSC 3.2.22G);
 - (4) appropriate measures to ensure that *money laundering* risk is taken into account in its day-to-day operation, including in relation to:
 - (a) the development of new products;
 - (b) the taking-on of new customers; and
 - (c) changes in its business profile; and
 - (5) appropriate measures to ensure that procedures for identification of new customers do not unreasonably deny access to its services to potential customers who cannot reasonably be expected to produce detailed evidence of identity.

3.2.6H R A firm must allocate to a director or senior manager (who may also be the money laundering reporting officer) overall responsibility within the firm for the establishment and maintenance of effective anti-money laundering systems and controls.

The money laundering reporting officer

3.2.6I R A firm must:

- (1) appoint an individual as MLRO, with responsibility for oversight of its compliance with the FSA's rules on systems and controls against money laundering; and
- (2) ensure that its MLRO has a level of authority and independence within the firm and access to resources and information sufficient to enable him to carry out that responsibility.

3.2.6J G The job of the MLRO within a firm is to act as the focal point for all activity within the firm relating to anti-money laundering. The FSA expects that a firm's MLRO will be based in the United Kingdom.

The compliance function

- 3.2.7 G (1) Depending on the nature, scale and complexity of its business, it may be appropriate for a firm to have a separate compliance function. The organisation and responsibilities of a compliance function should be documented. A compliance function should be staffed by an appropriate number of competent staff who are sufficiently independent to perform their duties objectively. It should be adequately resourced and should have unrestricted access to the firm's relevant records as well as ultimate recourse to its governing body.
- (2) ~~The regulatory objectives are defined in section 2 of the Act and include the reduction of financial crime. This objective is more fully described in section 6 of the Act. This describes financial crime as including any offence involving (a) fraud or dishonesty, (b) misconduct in, or misuse of information relating to, a financial market, or (c) handling the proceeds of crime.~~[deleted]
- (3) ~~In applying SYSC 3.2.6R, where financial crime is concerned, firms must also comply with other Handbook requirements (in particular, ML) and their legal obligations under the Money Laundering Regulations and the Proceeds of Crime Act 2002.~~[deleted]

...

SYSC TP 1.1

There are no transitional provisions in SYSC. However, GEN contains some technical transitional provisions that apply throughout the Handbook and which are designed to ensure a smooth transition at commencement.

Money Laundering Transitional Provisions

Extra time provisions

Compliance with ML and SYSC 3.2.6AR to SYSC 3.2.6JG

<u>(1)</u>	<u>(2)</u> <u>Material to which the transitional provision applies</u>	<u>(3)</u>	<u>(4)</u> <u>Transitional provision</u>	<u>(5)</u> <u>Transitional provision: dates in force</u>	<u>(6)</u> <u>Handbook provision: coming into force</u>
<u>(1)</u>	<u>SYSC 3.2.6AR to SYSC 3.2.6JG</u>	<u>R</u>	<u>Compliance with ML also counts as compliance with SYSC 3.2.6AR to SYSC 3.2.6JG and vice versa.</u>	<u>From 1 March 2006 to 31 August 2006</u>	<u>(1) 1 March 2006</u>
<u>(2)</u>	<u>ML</u>				<u>(2) In force until 31 August 2006</u>

Annex C

Amendments to Threshold Conditions

In this Annex, underlining indicates new text and striking through indicates deleted text.

2.5.7 G ...

...

- (10) the *firm* has in place ~~the appropriate money laundering prevention systems and training, including identification, record keeping and internal reporting procedures (see *ML*)~~ systems and controls against money laundering of the sort described in SYSC 3.2.6R to SYSC 3.2.6JG;

...

...

Annex D

Amendments to Statements of Principle and Code of Practice for Approved Persons

In this Annex, underlining indicates new text and striking through indicates deleted text. The changes detailed in Part 1 to this Annex take effect on 1 March 2006 and those detailed in Part 2 take effect on 31 August 2006.

Part 1

- 4.7.9 E In the case of the *money laundering reporting officer*, failing to discharge the responsibilities imposed on him by the *firm* in accordance with chapter 7 of the *Money Laundering* sourcebook (*ML*) or SYSC 3.2.6IR falls within *APER* 4.7.2E.

...

Part 2

- 4.7.9 E In the case of the *money laundering reporting officer*, failing to discharge the responsibilities imposed on him by the *firm* in accordance with ~~chapter 7 of the *Money Laundering* sourcebook (*ML*) or SYSC 3.2.6IR~~ falls within *APER* 4.7.2E.

...

Annex E

Amendments to the Interim Prudential sourcebook for Banks

In this Annex, underlining indicates new text and striking through indicates deleted text.

Volume 2

Adequate records, systems and controls

AR Section 3: Accounting and other records and internal – ~~control systems~~ systems and controls

- 3.3.7 22 It is a requirement of the Money Laundering Regulations 1993 that authorised banks have policies and procedures in place to guard against their business and the financial system being used for the purpose of money laundering. ~~The Joint Money Laundering Steering Group Guidance Notes ('Money Laundering Guidance Notes for the Financial Sector' revised and consolidated by the Joint Money Laundering Steering Group in June 1997) provide a practical interpretation of the Regulations. The FSA expects banks to adopt policies and procedures in line with those Guidance Notes.~~ The FSA, when considering whether a breach of its *rules* on systems and controls against *money laundering* has occurred, will have regard to whether a *firm* has followed relevant provisions in the guidance for the UK financial sector issued by the Joint Money Laundering Steering Group.
- a) ~~See also the sourcebook on money laundering. See Money Laundering Sourcebook SYSC 3.2 for the FSA's *rules* on systems and controls against *money laundering*.~~

Annex F

Amendments to the Interim Prudential sourcebook for Building Societies

In this Annex, underlining indicates new text and striking through indicates deleted text.

Volume 1

Annex 9B: Internal ~~control systems~~ systems and controls

Section 3.3

- 3.3.7 22 It is a requirement of the Money Laundering Regulations 1993 that authorised banks have policies and procedures in place to guard against their business and the financial system being used for the purpose of money laundering. ~~The Joint Money Laundering Steering Group Guidance Notes ('Money Laundering Guidance Notes for the Financial Sector' revised and consolidated by the Joint Money Laundering Steering Group in June 1997) provide a practical interpretation of the Regulations. The FSA expects banks to adopt policies and procedures in line with those Guidance Notes. The FSA, when considering whether a breach of its rules on systems and controls against money laundering has occurred, will have regard to whether a firm has followed relevant provisions in the guidance for the UK financial sector issued by the Joint Money Laundering Steering Group.~~ The FSA, when considering whether a breach of its rules on systems and controls against money laundering has occurred, will have regard to whether a firm has followed relevant provisions in the guidance for the UK financial sector issued by the Joint Money Laundering Steering Group.
(a) ~~See also the sourcebook on money laundering, SYSC 3.2 for the FSA's rules on systems and controls against money laundering.~~ See also the sourcebook on money laundering, SYSC 3.2 for the FSA's rules on systems and controls against money laundering.

Annex G

Amendments to the Conduct of Business sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 4.1.6 G *Firms* are reminded that *COB* 4.1.5 R:
- (1) ~~does not relieve them of any obligation under the *Money Laundering* sourcebook relating to C2 (there is a different definition of “*client*” in that sourcebook); [deleted]~~
- ...
- ...
- 5.2.2 G A *firm* that arranges an *execution-only transaction* for a *private customer* is not generally required to obtain any personal or financial information about that *customer*; ~~except when the *Money Laundering* sourcebook applies~~. However, the *Insurance Mediation Directive* requires that a statement of the demands and needs of a *client* is provided to the *client*, whether advice is given or not. ...
- ...
- 10.1.4 G ...
- (6) an *operator* of an *authorised unit trust scheme* is also required to comply with the *Collective Investment Schemes* sourcebook (*CIS*); and
- (7) an *operator* of an *ICVC* is also required to comply with the *Collective Investment Schemes* sourcebook (*CIS*); ~~and~~ .
- (8) ~~an *operator* is also required to comply with the *Money Laundering* sourcebook (*ML*). [deleted]~~
- ...
- 11.1.11 G All *depositories* and *trustee firms* are also required to comply in particular with the *Principles for Businesses* (*PRIN*); and *Senior Management Arrangements, Systems and Controls* (*SYSC*) ~~and the *Money Laundering* sourcebook (*ML*)~~.
- ...

Annex H

Amendments to the Insurance: Conduct of Business sourcebook

In this Annex, striking through indicates deleted text.

1 Annex G Summary of Handbook provisions for insurance intermediaries

2

...

	Module	Application
High Level Standards	...	...
	Senior Management Arrangements, Systems and Controls, SYSC	Applies in respect of (1) and (2), <u>except SYSC 3.2.6AR to SYSC 3.2.6JG.</u>
Business Standards	...	...
	Money Laundering sourcebook, ML	Does not apply when the firm is doing (1) or (2). However ML will apply to an insurance intermediary if it also carries on relevant regulated activities as defined in ML 1.1.4R.
...		

...

Annex I

Amendments to the Mortgages: Conduct of Business sourcebook

In this Annex, striking through indicates deleted text.

1 Annex G Summary of the application of the Handbook to firms carrying on regulated
4 mortgage activities and firms that communicate or approve qualifying credit promotions

...

	Module	Application
...
Business Standards	...	...
	Money Laundering sourcebook, <i>ML</i> [*]	<i>Applies to every mortgage administrator and mortgage lender. This includes in circumstances where the mortgage administrator is appointed by a person who is not an authorised person to administer regulated mortgage contract on its behalf.</i>
...

...

Annex J

Amendments to the Market Conduct sourcebook

In this Annex, striking through indicates deleted text.

3.3.2 G ...*Firms* should also consider the other provisions of the *Handbook*, especially but not exclusively ~~*ML*~~, *IPRU* and *PRU*.

...

3.5.2 G ... Under *Principle 1* (Integrity) and *Principle 5* (Market conduct), a *firm* acting as *arranger* (or *name-passing broker*) should not conclude the arrangement if there is information from which it ought reasonably to conclude that the transaction is improper, whether or not it is at a non-market price~~market price~~. ~~Notwithstanding their limited role, firms acting as arrangers (or name passing brokers) as well as other firms should also comply with obligations upon them arising from ML.~~

...

5.5 Parts of the Handbook applicable to the operation of an ATS

5.5.3 G Handbook provisions applicable to ATSs

	Part of Handbook	Applicability to ATSs
High Level Standards	...	...
Business Standards	...	...
	Money Laundering sourcebook (ML)	This applies.
...

Annex K

Deletion of the Money Laundering sourcebook

In this Annex, the Money Laundering sourcebook (ML) is deleted in its entirety with effect from 31 August 2006, the deleted text is not shown struck through.

ML [deleted – material amended and moved to SYSC]

Annex L

Amendments to the Authorisation manual

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.5.3 G ...
- (1) ...
- (2) Systems, controls and internal arrangements:
- (a) ...
- (b) the detailed requirements, many of which are *regulated activity* specific, in the sourcebooks in the Business Standards part of the *Handbook*; for example, in *IPRU*, *PRU*, the Training and Competence sourcebook (*TC*), ~~the Money Laundering sourcebook (*ML*)~~ and ...
- ...
- ...
- ...

Annex M

Amendments to the Supervision manual

In this Annex, underlining indicates new text and striking through indicates deleted text.

8.2.7 G Rules which can be waived (see *SUP* 8.2.6G)

Rules	Section of the Act or other provision under which rules are made	Chapters of the Handbook where such rules appear (Note 1)
...
Money laundering rules	Section 146	ML <u>SYSC 3.2</u>
...

...

Money laundering reporting function (CF11)

- 10.7.13 R The *money laundering reporting function* is the function of acting in the capacity of the *money laundering reporting officer* of a firm.
- 10.7.13A G A firm's obligations in respect of its money laundering reporting officer are set out in SYSC 3.2.6IR and the scope of application of that rule is set out in SYSC 1.1.
- 10.7.14 G ~~The rules in the Money Laundering sourcebook (ML) provide that a firm must have a money laundering reporting officer unless:-~~
- (1) ~~it is a sole trader with no employees; or~~
 - (2) ~~its regulated activities are certain insurance business only; or~~
 - (3) ~~it is an incoming firm providing only services into the United Kingdom; or~~
 - (4) ~~its regulated activities are insurance mediation activity in relation to a general insurance contract or pure protection contract or mortgage mediation activity. [deleted]~~
- 10.7.15 G ~~The specific responsibilities of the money laundering reporting officer are set out in ML 7.1. [deleted]~~
- 10.7.16 G ~~ML 7.1.9R provides that a money laundering reporting officer must have a "sufficient level of seniority" within the firm, so that he can carry out his controlled function effectively. [deleted]~~

...

SUP 13A Annex 1 G Application of the Handbook to Incoming EEA Firms G

G 1. ...

2. ...

3. ...

(1) Module of Handbook	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom	(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom
...		
<i>ML</i>	Applies (<i>ML</i> 1.1.2R).	Does not apply (<i>ML</i> 1.1.2R).
...		

...

Annex N

Amendments to the Enforcement manual

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 11.9.1 G The *FSA's money laundering rules* are set out in ~~ML 1 to ML 8~~ SYSC 3.2. The *FSA*, when considering whether to take disciplinary action in respect of a breach of those *rules*, will have regard to whether a *firm* has followed relevant provisions in the Joint Money Laundering Steering Group's Guidance Notes for the Financial Sector.

...

Annex O

Amendments to the Collective Investment Schemes sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.2.21 G ~~*ML* is also relevant in particular when considering *CIS* 4.4.3R, *CIS* 7.10 and *CIS* 15.4.3R. [deleted]~~

...

Annex P

Amendments to the Credit Unions sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text. Where entire sections of text have been deleted, this is indicated in the text and the deleted text is not shown struck through.

Systems and controls in relation to ~~€~~compliance and financial crime

...

- 4.3.37A G SYSC 3.2.6AR requires a *credit union* to ensure that these systems and controls:
- (1) enable it to identify, assess, monitor and manage *money laundering* risk; and
 - (2) are comprehensive and proportionate to the nature, scale and complexity of that *credit union*'s activities.
- 4.3.37B G '*Money laundering* risk' is the risk that a *credit union* may be used to further *money laundering*. Failure by a *credit union* to manage this risk effectively will increase the risk to society of crime and terrorism.
- 4.3.37C G SYSC 3.2.6CR requires a *credit union* to carry out regular assessments of the adequacy of these systems and controls to ensure that they continue to meet this requirement.
- 4.3.37D G A *credit union* may also have separate obligations to comply with relevant legal requirements, including the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the *Money Laundering Regulations*. SYSC 3.2.6R to 3.2.6JG are not relevant guidance for the purposes of regulation 3(3) of the *Money Laundering Regulations*, section 330(8) of the Proceeds of Crime Act 2002 or section 21A(6) of the Terrorism Act 2000.
- 4.3.37E G The FSA, when considering whether a breach of its *rules* on systems and controls against *money laundering* has occurred, will have regard to whether a *credit union* has followed relevant provisions in guidance for the UK financial sector issued by the Joint Money Laundering Steering Group.
- 4.3.37F G In identifying its *money laundering* risk and in establishing the nature of these systems and controls, a *credit union* should consider a range of factors, including:
- (1) its customer, product and activity profile;

- (2) its distribution channels;
- (3) the complexity and volume of its transactions;
- (4) its processes and systems; and
- (5) its operating environment.

4.3.37G G A credit union should ensure that these systems and controls include:

- (1) appropriate training for that credit union's employees in relation to money laundering;
- (2) appropriate provision of information to that credit union's governing body and senior management, including a report at least annually by that credit union's money laundering reporting officer on the operation and effectiveness of those systems and controls;
- (3) appropriate documentation of that credit union's risk management policies and risk profile in relation to money laundering, including documentation of that credit union's application of those policies (see SYSC 3.2.20R to SYSC 3.2.22G);
- (4) appropriate measures to ensure that money laundering risk is taken into account in the day-to-day operation of that credit union, including in relation to:
 - (a) the development of new products;
 - (b) the taking-on of new customers; and
 - (c) changes in its business profile; and
- (5) appropriate measures to ensure that procedures for identification of new customers do not unreasonably deny access to that credit union's services to potential customers who cannot reasonably be expected to produce detailed evidence of identity.

4.3.37H G SYSC 3.2.6HR requires a credit union to allocate to a director or senior manager (who may also be the money laundering reporting officer) overall responsibility within the credit union for the establishment and maintenance of effective anti-money laundering systems and controls.

The money laundering reporting officer

4.3.37I G SYSC 3.2.6IR requires a credit union to:

- (1) appoint a *money laundering reporting officer*, who shall be responsible for oversight of that *credit union's* compliance with the *FSA's* rules on systems and controls against *money laundering*; and
- (2) ensure that its *money laundering reporting officer* has a level of authority and independence within that *credit union* and access to resources and information sufficient to enable him to carry out that responsibility.

4.3.37J G The job of the *money laundering reporting officer* within a *credit union* is to act as the focal point for all activity within that *credit union* relating to anti-*money laundering*. The *FSA* expects that a *credit union's* *money laundering reporting officer* will be based in the *United Kingdom*.

The compliance function

4.3.37K G Depending on the nature, scale and complexity of its business, it may be appropriate for a *credit union* to have a separate compliance function. The organisation and responsibilities of a compliance function should be documented. A compliance function should be staffed by an appropriate number of competent staff who are sufficiently independent to perform their duties objectively. It should be adequately resourced and should have unrestricted access to the *credit union's* relevant records as well as ultimate recourse to its governing body.

4.3.38 G *Guidance* on compliance is located in SYSC 3.2.68R – SYSC 3.2.9G.

...

4.3.71 G ...

...

- (8) *money laundering* prevention (see ~~CRED 12~~ CRED 4.3.37G and SYSC 3.2);

...

...

CRED 12 is deleted in its entirety.

CRED 12 [deleted]

...

App 1.1 This is the table referred to in *CRED* 2.2.2G.

App 1.1.1		Sourcebook or manual	Reference code

	Business Standards	...	...
		Money laundering	<i>ML</i>

App 2.1 Detailed contents of *CRED*

App 2.1.1	...		
	12	Money Laundering [deleted]	
	12.1	Introduction	
		12.1.1	What is Money laundering?
	12.2	Money laundering and the FSA	
	12.3	Identification of the Client	
	12.4	External Reporting	
	12.5	Government and Financial Action Task Force findings	
	12.6	Compliance Monitoring	
	12.7	Record keeping	
	...		

Sch 1.2 G

Handbook reference	Subject of reference	Contents of record	When record must be made	Retention period
...				
<i>CRED</i> 12.2.3 G	<i>Money Laundering</i>	Reference to <i>ML</i> 7 in relation to compliance and record	On-going in accordance with <i>ML</i> 7	5 years from dates specified in <i>ML</i> 7.3

		keeping.		
<i>CRED 12.7.1 G</i>	<i>Money Laundering</i>	Specifies retention periods in relation to evidence of identity etc.	On-going	As per <i>ML 7</i>
...				

Sch 2 G ...

Handbook reference	Subject of reference	Contents of record	When record must be made	Retention period
...				
<i>CRED 12.6.1G</i>	<i>Money Laundering</i>	Report from MLRO.	Upon request	As soon as reasonably practical
...				

...

Annex Q
Amendments to the Electronic Money sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.5.2 G Application of other parts of the *Handbook* to *ELMIs*

Block	Module	Application
...
Business Standards	...	...
<u>Money Laundering sourcebook (ML)</u>	For the avoidance of doubt, it is the FSA's view that, where it has an establishment in the United Kingdom, an <i>ELMI</i> is subject to the <i>Money Laundering Regulations</i>. In addition, <i>ML</i> applies to every <i>ELMI</i>.	
...

...

6.3.5 R ...

(1) ~~prohibited by any of the rules in *ML*; or [deleted]~~

...

...

Annex R

Amendments to the Professional Firms sourcebook

In this Annex, underlining indicates new text and striking through indicates deleted text.

~~Money Laundering sourcebook~~ Senior Management Arrangements, Systems and Controls

- 5.3.4 G ~~ML 8.1.3R provides that the Money Laundering sourcebook does~~ SYSC 3.2.6AR to SYSC 3.2.6JG, in relation to money laundering, do not apply to *authorised professional firms* when carrying on *non-mainstream regulated activities*.

...