

Chapter 1

Commission Delegated Regulation (EU) 2019/758

Article 3 Individual risk assessments

(1) Where the third country's law prohibits or restricts the application of policies and procedures that are necessary to identify and assess adequately the money laundering and terrorist financing risk associated with a business relationship or occasional transaction due to restrictions on access to relevant customer and beneficial ownership information or restrictions on the use of such information for customer due diligence purposes, credit institutions or financial institutions shall at least:

(a) inform their competent authority in the United Kingdom without undue delay and in any case no later than 28 calendar days after identifying the third country of the following:

(i) the name of the third country concerned;

(ii) how the implementation of the third country's law prohibits or restricts the application of policies and procedures that are necessary to identify and assess the money laundering and terrorist financing risk associated with a customer;

(b) ensure that their branches or subsidiary undertakings that are established in the third country determine whether consent from their customers and, where applicable, their customers' beneficial owners, can be used to legally overcome restrictions or prohibitions referred to in point (a)(ii);

(c) ensure that their branches or subsidiary undertakings that are established in the third country require their customers and, where applicable, their customers' beneficial owners, to give consent to overcome restrictions or prohibitions referred to in point (a)(ii) to the extent that this is compatible with the third country's law.

(2) Where the consent referred to in point (c) of paragraph 1 is not feasible, credit institutions and financial institutions shall take additional measures as well as their standard anti-money laundering and countering the financing of terrorism measures, to manage the money laundering and terrorist financing.

Those additional measures shall include the additional measure set out in point (c) of Article 8 and one or more of the measures set out in points (a), (b), (d), (e) and (f) of that Article.

Where a credit institution or financial institution cannot effectively manage the money laundering and terrorist financing risk by applying the measures referred to in paragraphs 1 and 2, it shall:

- (a) ensure that the branch or subsidiary undertaking terminates the business relationship;
- (b) ensure that the branch or subsidiary undertaking does not carry out the occasional transaction;
- (c) close down some or all of the operations provided by their branch and subsidiary undertaking established in the third country.

(3) Credit institutions and financial institutions shall determine the extent of the additional measures referred to in paragraphs 2 and 3 on a risk-sensitive basis and be able to demonstrate to their competent authority in the United Kingdom that the extent of additional measures is appropriate in view of the money laundering and terrorist financing risk.