

Chapter 1

Commission Delegated Regulation (EU) 2019/758

Article 4 Customer data sharing and processing

(1) Where a third country's law prohibits or restricts the sharing or processing of customer data for anti-money laundering and countering the financing of terrorism purposes within the group, credit institutions and financial institution shall at least:

(a) inform their competent authority in the United Kingdom without undue delay and in any case no later than 28 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 sharing or processing of customer data for anti-money laundering and countering the financing of terrorism purposes;

(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 provide 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) In cases where 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 risk. These additional measures shall include the additional measure set out in point (a) of Article 8 or the additional measure set out in point (c) of that Article. Where the money laundering and terrorist financing risk is sufficient to require further additional measures, credit and financial institutions shall apply one or more of the remaining additional measures set out in points (a) to (c) of Article 8.

(3) 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 close down some or all of the operations provided by their branch and subsidiary undertaking established in the third country.

(4) 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 risk of money laundering and terrorist financing.