EXPLANATORY MEMORANDUM TO

THE PROCEEDS OF CRIME (MONEY LAUNDERING) (THRESHOLD AMOUNT) (AMENDMENT) ORDER 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Dan Jarvis MP, Minister for Security at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Tom Bell, Deputy Director for Criminal Finances and Asset Recovery at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Lily Davis at the Home Office can be contacted at Lily.Davis2@homeoffice.gov.uk with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument raises the financial threshold for two exemptions which apply to certain money laundering offences under the Proceeds of Crime Act 2002, from £1,000 to £3,000. The thresholds are the level below which businesses can be exempted from committing an offence when they are either operating an account or returning money for the purposes of terminating the business relationship with a customer, where criminal activity is suspected.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The Proceeds of Crime Act 2002 ("POCA") is the UK's principle anti-money laundering legislation. The three main money laundering offences are defined in sections 327 to 329. Under the Act, one or more of these offences may be committed by those handling property or funds which they know to be, or suspect to be, related to criminal activity. However, there are certain exemptions for businesses in the

regulated sector (as defined in Part 1 of Schedule 9 to POCA1) to the offences as set out in those sections.

5.2 The exemptions from the offences to which this instrument relate cover an act carried out by deposit taking bodies (banks, building societies) and electronic money and payment institutions in "operating an account" such as paying expenses – for example mortgage payments. The second exemption is when a business ends a relationship with a customer and 'pays away' (i.e returns money or property to the customer). Both of these exemptions have a financial threshold, with the exemptions only applying to relevant transactions below the threshold figure. The threshold is currently set at £1,000 for both exemptions2. This instrument will raise the threshold for both exemptions from £1,000 to £3,000.

5.3 For transactions above the threshold value, an authorised disclosure can be made to avoid the risk of committing an offence. This is done by submitting a Defence Against Money Laundering (DAML) Suspicious Activity Report (SAR) to the UK Financial Intelligence Unit (UKFIU), which is housed in the National Crime Agency (NCA).

5.4 Submitting a DAML SAR to the UKFIU effectively freezes the suspicious transaction until the UKFIU decides whether to investigate further or grant the reporting business a DAML consent to proceed with the transaction, which exempts them from the risk of committing an offence. If no decision is made within seven working days, the business is given automatic 'deemed' consent to proceed with the transaction which provides the same exemption.

5.5 Raising the threshold for the exemptions, will free up law enforcement resource to focus on opportunities that lead to greater asset denial and disruption of criminal activity. Between January and December 2024, approximately 23,000 DAMLs relating to transactions between £1,000 and £3,000 were submitted. Of these, only 182 were refused leading to £209,565 of assets denied. This equates to 0.1% of all assets denied as a result of DAMLs in that year.

5.6 In parallel, it will reduce the reporting burden on businesses to submit DAML SARs, and free up business' resources which can be redirected towards high value activity. The increase is also expected to reduce the impact on banking customers by reducing the number of instances of legitimate customers being unable to access their accounts, particularly where no further action is taken. Overall, the intent behind the threshold raise is to move finite resource away from low value activity towards higher value investigations.

5.7 Working with the NCA and businesses, the Government believes that a threshold of £3,000 would strike the appropriate balance between reducing low value reporting volumes by enabling a greater focus on high value DAML SARs for asset denial and reducing the reporting burden on businesses.

5.8 Under section 330 of POCA, there is a separate duty on regulated businesses to report to UKFIU any, and all transactions which they suspect of involvement in money laundering. This duty does not have any financial threshold exemption and will be unaffected by this instrument.

[1] https://www.legislation.gov.uk/ukpga/2002/29/schedule/9/part/1

[2] The threshold amount is set out in section 339A(2) and section 339(6A)

What was the previous policy, how is this different?

5.9 The exemptions relating to operating an account[3], had its monetary threshold increased from £250 to £1,000 in 2023 to reduce the large volume of low value DAML SARs being submitted, only a small proportion of which were leading to any further action. The second, 'exit and pay away'[4] exemption was introduced by the Economic Crime and Corporate Transparency Act in 2023, with the threshold set at £1,000.

6. Legislative and Legal Context

How has the law changed?

6.1 Sections 327 to 329 of POCA contain the principal money laundering offences. They prohibit acts committed intentionally by a person in relation to "criminal property", defined in section 340 of POCA as property which is known or suspected to constitute or represent a benefit from criminal conduct.

6.2 The Serious Organised Crime and Police Act 2005 amended sections 327 to 329 of POCA and introduced a new section 339A. These amendments provided that certain firms ("deposit taking bodies", electronic money institutions and payment institutions: see section 340 POCA for the relevant definitions) do not commit an offence if they do an act in relation to criminal property (other than concealing or disguising) in operating an account below the threshold.

6.3 The Proceeds of Crime (Money Laundering) (Threshold Amount) Order 2022 (no 1355) increased the value below which certain transactions can be carried out by certain businesses in operating an account for a customer, from £250 to £1,000.

6.4 Section 183 of the Economic Crime and Corporate Transparency Act 2023 introduced a further exemption from the principal money laundering offences to exempt the whole of the anti-money laundering regulated sector when they end a relationship with a customer and "pay away" property – i.e. return it to the customer, where it has a value below £1,000.

Why was this approach taken to change the law?

6.5 Section 339A(7) of the Proceeds of Crime Act 2002 states that threshold amounts can be varied by regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 Following the raising of the threshold in 2023, we have kept the threshold amount under review. A targeted consultation has been undertaken with high volume reporters of DAMLs SARs. All participants expressed support for the threshold increase to at least £3,000, noting the benefits from reduced reporting burden, the ability to direct resource towards higher value activity, and the benefits to customers from by reducing the number of instances of legitimate customers being unable to access their accounts.

7.2 Written feedback was sought from POCA-enabled agencies (as the end users of DAML SARs) through the Strategic Asset Recovery Group made up of public sector departments and agencies such as HMRC and the Serious Fraud Office. Responses were supportive of a rise but neutral on the value. One response highlighted the risk of

[3] Section 327(2C), 328(5), 329(2C)
[4] Section 327(2D), 328(6), 329(2D)

criminals splitting transactions to come under the threshold but highlighted the ability of firms to monitor this through their processes, and the ongoing requirement for businesses to submit SARs as per section 330 of POCA as set out above. In addition, we have also engaged and worked closely with the UKFIU as the body which receives, analyses and disseminates DAML SARs to determine the level of DAML SARs received and the asset denial opportunities at this threshold. The UKFIU are supportive of the rise to £3,000, as it maintains the appropriate balance for reducing low value DAML SAR volumes and enables a greater focus on higher value reports whilst also reducing the reporting burden.

7.3 A review of the exit and pay exemption introduced via the Economic Crime and Corporate Transparency Act 2023 will be undertaken in 2026. The threshold can be lowered as well as raised by further regulations if this becomes necessary.

8. Applicable Guidance

8.1 The GOV.UK guidance on the money laundering reporting obligations in relation to the principal money laundering exemption provisions that were introduced by the Economic Crime and Corporate Transparency Act 2023, published in January 2024 will be updated once the instrument comes into force[5].This guidance sets out the government position on the money laundering obligations.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Economic Note is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. The overall expected impact of the policy is positive with a Net Present Social Value (estimated benefits – costs) figure of £36.8 million across the 10-year appraisal period. Total monetisable costs of the policy are estimated to be familiarisation costs and missed asset denial opportunities. Total costs are estimated to be £2.2 million in a central scenario across the 10-year appraisal period. Total monetisable benefits of the policy are for the regulated banking sector driven by FTE cost savings owing to a reduction in the volume of DAMLs submitted. Benefits are estimated to be £38.9 million in a central scenario across the 10-year appraisal period. Wider non-monetisable impacts of the policy include reduced delays and impacts on customers who have their accounts frozen when a DAML is submitted. There may be some further benefits to UKFIU and law enforcement as they can focus their resource on higher value DAMLs which may provide greater asset recovery.

Impact on businesses, charities and voluntary bodies

9.2 It is expected that raising the threshold at section 339A(2) will be of benefit to deposit taking bodies, electronic money and payment institutions through a reduced reporting burden. Raising the threshold at Section 339(6A) will be of a benefit to businesses in the whole of the anti-money laundering regulated sector through the reduced reporting burden.

9.3 The anti-money laundering regulated sector is defined in Schedule 9 of the POCA 2002 as:

[5] https://www.gov.uk/government/publications/money-laundering-reporting-obligations/guidance-on-money-laundering-reporting-obligations-in-relation-to-the-daml-exemption-provisions-introduced-by-the-economic-crime-and-corporate-transpa

a) Banks and credit institutions;

b) Stockbrokers and investment firms;

c) Insurance companies and insurance intermediaries;

d) Auditors, accounts, book-keepers, tax advisers;

e) Property dealers, estate agents and letting agents;

f) Trust or company formation and management;

g) Businesses offering particular legal services such as conveyancing;

h) Businesses trading in goods for cash of at least £13,000;

i) Casinos;

j) Auction platforms;

k) Cryptoasset exchange providers;

l) Art market participants

9.4 The exemptions to which the thresholds at section 339A(2) and section 339(6A) exemptions are applicable to deposit taking bodies, electronic money and payment institutions and the whole of the anti-money laundering regulated sector set out in Schedule 9 of POCA respectively. There is expected benefit to the UKFIU and law enforcement of freed up time from reviewing low value DAMLs SARs enabling a focus on those higher value DAML SARs which provide higher value asset denial opportunities.

9.5 These measures are legislative exemptions which are not targeted at small and micro-businesses but will affect them as members of the regulated sector. These changes will benefit small businesses who are deposit taking bodies, electronic money and payment institutions as covered in section 339A(2) and small business in the anti-money laundering regulated sector as covered in Schedule 9 of POCA set out above. This should ensure that there are no disproportionate burdens on small and micro-businesses.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 A review of the exit and pay away exemption introduced via the Economic Crime and Corporate Transparency Act 2023 will be undertaken in 2026. As part of this, feedback from stakeholders on this subsequent threshold increase will be gathered and be used to ensure any initial issues are dealt with. We do not expect new monitoring and evaluation plans as the proposed legislative measures are amendments that current systems can monitor in terms of DAMLs raised.

10.2 DAML volumes are currently recorded each year by the UKFIU, therefore any changes in DAMLs because of the new measures will be tracked.

10.3 The UKFIU SARs Annual Report will be an annual source of data on overall reporting volumes. It will provide high level figures on DAML volumes, the value of refused DAML SARs and the total value of assets denied as a result of DAML SARs.

10.4 In line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Minister of State for Security at the Home Office has made the following statement: “The SARs regime is regularly monitored, and I am satisfied that this Order does not impact small businesses”.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister for Security has made the following statement regarding Human Rights:

"In my view the provisions of the Proceeds of Crime (Money Laundering) (Threshold Amount) Order 2025 is compatible with the convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").