

UK Provides Anti-Money Laundering Guidance for Cannabis-Related Companies

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Over the last few years, interesting anti-money laundering (“AML”) issues have regularly arisen regarding how business connected with cannabis-related companies should be treated under the UK’s AML regime. While supplying medicinal cannabis is legal in the UK so long as the appropriate government licences have been obtained, cannabis for recreational use remains illegal, in contrast with the position in other countries and certain US states.

Until now, no UK regulatory authority had publicly expressed any views in this area. This has created considerable uncertainty and made it advisable to take a conservative approach to potential liability under the UK’s broad AML regime when dealing with cannabis-related companies. The crux of the issue - as now expressly acknowledged in Financial Conduct Authority (“FCA”) guidance - is that UK AML legislation captures proceeds from conduct outside the UK (and legal in that jurisdiction) which would be criminal if carried out in the UK. The FCA has sought to address some of these difficulties by setting out its approach to assessing applications from cannabis-related companies interested in listing in the UK.¹ The FCA considers that:

- The securities of overseas recreational cannabis companies cannot be listed in the UK, since the proceeds of such businesses represent criminal property under the Proceeds of Crime Act 2002 (“POCA”);
- UK-based medicinal cannabis companies can be listed in the UK if they hold the relevant licences; and
- The securities of overseas-licensed medicinal cannabis companies may be listed in the UK where they can satisfy the FCA that their activities would be legal if carried out in the UK. This involves the FCA reviewing the company’s licences and the nature of its local licensing regime. Further information may follow when the FCA publishes a guidance consultation.

¹ Financial Conduct Authority, ‘Listings of cannabis-related businesses’ (18 September 2020)

The FCA did not consider broader issues regarding investing in cannabis-related companies or trading in their shares or other financial instruments. However, a sensible approach would be for UK companies to:

- Carefully analyse the precise nature of a transaction regarding overseas recreational cannabis-related companies - this may ultimately require either avoiding any dealing or, before doing so, filing a Suspicious Activity Report (“SAR”) to obtain a defence against committing a money laundering offence under POCA;
- Where feasible, examine carefully whether the activities of an overseas medicinal cannabis company would be legal if carried out in the UK or, if in any doubt, file a SAR before any dealing takes place; and
- Avoid receiving any funds from their overseas affiliates dealing with cannabis-related companies and avoid UK-based employees taking any active role in such business, unless a SAR has been filed beforehand.



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