

CAYMAN ISLANDS



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**THE PROCEEDS OF CRIME LAW
(2017 REVISION)**

THE ANTI-MONEY LAUNDERING REGULATIONS, 2017

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2017**

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**THE PROCEEDS OF CRIME LAW
(2017 REVISION)**

THE ANTI-MONEY LAUNDERING REGULATIONS, 2017

The Cabinet, in exercise of the powers conferred by section 145 of the Proceeds of Crime Law (2016 Revision), on the recommendation of the Anti-Money Laundering Steering Group, the Monetary Authority and the Financial Reporting Authority makes the following Regulations -

PART I - Introductory

1. These Regulations may be cited as the Anti-Money Laundering Regulations, 2017 and shall come into force on 2nd October, 2017.

Citation

2. (1) In these Regulations -

Definitions

“Anti-Money Laundering Compliance Officer” means the person designated in accordance with regulation 3(1);

“applicant for business” means a person seeking to form a business relationship, or carry out a one-off transaction, with a person who is carrying out relevant financial business in the Islands;

“banking business” has the meaning assigned in the Banks and Trust Companies Law (2013 Revision);

“batch file transfer” means several individual transfers of funds which are bundled together for transmission;

“beneficial owner” means the natural person who ultimately owns or controls the customer or on whose behalf a transaction or activity is being conducted and includes but is not restricted to -

- (a) in the case of a legal person other than a company whose securities are listed on a recognized stock exchange, a natural

person who ultimately owns or controls, whether through direct or indirect ownership or control, 10% or more of the shares or voting rights in the legal person;

- (b) in the case of any legal person, a natural person who otherwise exercises ultimate effective control over the management of the legal person; or
- (c) in the case of a legal arrangement, the trustee or other person who exercises ultimate effective control over the legal arrangement;

“beneficiary or beneficiaries” means -

- (a) in relation to wire transfer, the natural or legal person or legal arrangement who is identified by the originator as the receiver of the requested wire transfer; and
- (b) in relation to life insurance or another investment linked insurance policy, a natural or legal person, or a legal arrangement, or category of persons, who will be paid the policy proceeds when or if an insured event occurs, which is covered by the policy.

“business relationship” means any arrangement between two or more persons where -

- (a) the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent, habitual or regular basis; and
- (b) the total amount of any payment or payments to be made by any person to any other in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made.

“close associate” means any natural person who is known to hold the ownership or control of a legal instrument or person jointly with a politically exposed person, or who maintains some other kind of close business or personal relationship with a politically exposed person, or who holds the ownership or control of a legal instrument or person which is known to have been established to the benefit of a politically exposed person;

“competent authority” or “competent authorities” means all public authorities in the Islands with designated responsibilities for combating money laundering and terrorist financing including -

- (a) the Financial Reporting Authority and the authorities charged with the responsibility for investigating and prosecuting money laundering, associated predicate offences and terrorist financing, and seizing or freezing and confiscating criminal assets;

- (b) authorities receiving reports on cross-border transportation of currency and bearer negotiable instruments; and
- (c) authorities that have anti-money laundering or counter terrorist financing supervisory or monitoring responsibilities aimed at ensuring compliance by a relevant financial business with anti-money laundering or counter terrorist financing requirements;

“cross-border wire transfer” in relation to the transfer of money, means a single wire transfer in which the ordering financial institution and beneficiary financial institution are located in different countries or any chain of such transfers;

“customer” means a person who is in a business relationship, or is carrying out a one-off transaction, with a person who is carrying out relevant financial business in the Islands;

“domestic wire transfer” in relation to the transfer of money, means any wire transfer in which the ordering financial institution and beneficiary financial institution are located in the Islands;

“established business relationship” is a business relationship where a person providing a relevant financial service has obtained, under procedures maintained by that person in accordance with Part IV, satisfactory evidence of the identity of an applicant for business;

“family member” includes the spouse, parent, sibling or child of a politically exposed person;

“Financial Action Task Force” means the task force established by the Group of Seven, to develop and promote national and international policies to combat money laundering and terrorist financing;

“financial group” means a group that consists of a parent company or any other type of legal person, exercising control and coordinating functions over the rest of the group for the application of group supervision together with branches or subsidiaries that are subject to anti-money laundering policies and procedures at the group level;

“insurance business” means business of any of the classes of business specified in the Schedule;

“intermediary payment service provider” means a payment service provider, neither of the payer nor of the payee, that participates in the execution of transfers of funds;

“legal arrangement” means a trust or partnership or other entity created between parties which lacks separate legal personality;

“legal person” means a company or other entity created by operation of law with separate legal personality;

“Monetary Authority” has the meaning assigned under the Law;

“money laundering” means doing any act which constitutes an offence under sections 19 to 22 of the Terrorism Law (2017 Revision) or section 144 (10) of the Law or, in the case of an act done otherwise than in the Islands, would constitute such an offence if done in the Islands;”

“Money Laundering Reporting Officer” means the “nominated officer” as defined in the Law and “Deputy Money Laundering Officer” shall be construed accordingly;

“natural person” means a human being, as distinguished from a company or other entity created by operation of law with separate legal personality;

“one-off transaction” means any transaction other than a transaction carried out in the course of an established business relationship formed by a person carrying out relevant financial business;

“originator” means a person whether natural or legal who places an order with the relevant financial business for the transmission of a wire transfer;

“overseas regulatory authority” means an authority which, in a country outside the Islands, exercises a function corresponding to a statutory function of a Supervisory Authority in relation to relevant financial business in the Islands;

“payable-through account” means a correspondent account that is used directly by third parties to transact business on their own behalf;

“payee” means a person or legal arrangement that is the intended final recipient of transferred funds;

“payer” means either a person who holds an account and allows a transfer of funds from that account, or, where there is no account, a natural or legal person who places an order for a transfer of funds;

“payment service provider” means a person whose business includes the provision of transfer of funds services;

“politically exposed person” includes -

- (a) a person who is or has been entrusted with prominent public functions by a foreign country, for example a Head of State or of government, senior politician, senior government, judicial or military official, senior executive of a state owned corporation, and important political party official;
- (b) a person who is or has been entrusted domestically with prominent public functions, for example a Head of State or of government, senior politician, senior government, judicial or military official, senior executives of a state owned corporation and important political party official; and
- (c) a person who is or has been entrusted with a prominent function by an international organisation like a member of senior management, such as a director, a deputy director and a member of the board or equivalent functions;

“relevant account” means an account from which a payment may be made by any means to a person other than the applicant for business, whether such a payment -

- (a) may be made directly to such a person from the account by or on behalf of the applicant for business; or
- (b) may be made to such a person indirectly as a result of -
 - (i) a direct transfer of funds from an account from which no such direct payment may be made to another account; or
 - (ii) a change in any of the characteristics of the account;

“shell bank” means any institution that accepts currency for deposit and that -

- (a) has no physical presence in the jurisdiction in which it is incorporated or in which it is operating, as the case may be; and
- (b) is unaffiliated with a regulated financial group that is subject to consolidated supervision.

“straight-through processing” means payment transactions that are conducted electronically without the need for manual intervention;

“Supervisory Authority” means the Monetary Authority or other body that may be assigned the responsibility of monitoring compliance with money laundering regulations made under the Law in relation to persons carrying out “relevant financial business” who are not otherwise subject to such monitoring by the Monetary Authority;

“supervisory or regulatory guidance” means guidance issued, adopted or approved by a Supervisory Authority or contained in Regulations issued under the Law;

(2015 Revision)

“terrorist financing” means doing any act which constitutes an offence under sections 19 to 22 of the Terrorism Law (2015 Revision) or, in the case of an act done otherwise than in the Islands, would constitute such an offence if done in the Islands;

“transfer of funds” means any transaction carried out on behalf of a payer through a payment service provider by electronic means, with a view to making funds available to a payee at a payment service provider, irrespective of whether the payer and the payee are the same person;

“unique identifier” means a combination of letters, numbers or symbols, determined by the payment service provider, in accordance with the protocols of the payment and settlement system or messaging system used to effect the transfer of funds; and

“wire transfer” means any transaction carried out on behalf of an originator, who may be either a person or legal arrangement by electronic means, through a financial institution, with a view to making money available to a beneficiary at another relevant financial business.

(2) The reference, in the definition of “money laundering”, to doing any act which would constitute an offence under the Law shall, for the purpose of these regulations, be construed as a reference to doing any act which would constitute an offence under the Law if, for section 144(2) of the Law, there were substituted -

“(2) In this Law “criminal conduct” is conduct which -

- (a) constitutes an offence to which this Law applies; or
- (b) would constitute such an offence if it had occurred in the Islands and contravenes the law of the country in which it occurred.”.

PART II - Compliance Programme, Systems and Training Obligations

Compliance program,
systems and training
obligations

3. (1) A person carrying out relevant financial business shall for the purpose of ensuring compliance with the requirements set out in these Regulations, designate a person at the managerial level as the Anti-Money Laundering Compliance Officer.

(2) The responsibility for compliance with the requirements under paragraph (1) is that of the person carrying out relevant financial business and this responsibility shall not be transferred to any other person.

4. The Anti-Money Laundering Compliance Officer shall -

Duties of the Anti-Money Laundering Compliance Officer

- (a) ensure that measures set out in these Regulations are adopted by the person carrying out relevant financial business who designated that Anti-Money Laundering Compliance Officer; and
- (b) function as the point of contact with competent authorities for the purpose of these Regulations.

5. A person carrying out relevant financial business shall not, in the course of the relevant financial business carried out by the person in or from the Islands, form a business relationship, or carry out a one-off transaction, with or for another person unless that person -

Systems and training to prevent money laundering

- (a) maintains as appropriate, having regard to the money laundering and terrorist financing risks and the size of that business, the following procedures in relation to that business -
 - (i) identification and verification procedures in accordance with Part IV;
 - (ii) adoption of a risk-based approach as set out in Part III to monitor financial activities, which would include categories of activities that are considered to be of a high risk;
 - (iii) procedures to screen employees to ensure high standards when hiring;
 - (iv) record-keeping procedures in accordance with Part VIII;
 - (v) adequate systems to identify risk in relation to persons, countries and activities which shall include checks against all applicable sanctions lists;
 - (vi) adoption of risk-management procedures concerning the conditions under which a customer may utilize the business relationship prior to verification;
 - (vii) observance of the list of countries, published by any competent authority, which are non-compliant, or do not sufficiently comply with the recommendations of the Financial Action Task Force;
 - (viii) internal reporting procedures in accordance with regulation 34 except where the person concerned is an individual who in the course of relevant financial business does not employ or act in association with any other person; and
 - (ix) such other procedures of internal control, including an appropriate effective risk-based independent audit function and communication as may be appropriate for the ongoing monitoring of business relationships or one-off transactions for the purpose of forestalling and preventing money laundering and terrorist financing;

- (b) complies with the identification and record-keeping requirements of Parts IV and VIII;
- (c) takes appropriate measures from time to time for the purpose of making employees aware of -
 - (i) the procedures under paragraph (a) which are maintained by the person and which relate to the relevant financial business in question; and
 - (ii) the enactments relating to money laundering;
- (d) provides employees from time to time with training in the recognition and treatment of transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering; and
- (e) designates an Anti-Money Laundering Compliance Officer.

Group-wide programmes

6. A financial group or other person carrying out relevant financial business through a similar financial group arrangement shall implement group-wide programmes against money laundering and terrorist financing, which are applicable, and appropriate to, all branches and majority-owned subsidiaries of the financial group and these programmes shall include -

- (a) the procedures set out in regulation 5(1);
- (b) policies and procedures for sharing information required for the purpose of customer due diligence and money laundering and terrorist financing risk management;
- (c) the provision, at group-level, of compliance, audit, and anti-money laundering and counter terrorist financing functions, of customer, account, and transaction information from branches and subsidiaries when necessary for anti-money laundering or counter terrorist financing purposes; and
- (d) adequate safeguards on the confidentiality and use of information exchanged.

Application of measures extraterritorially

7. (1) A person carrying out relevant financial business shall ensure that the foreign branches and majority-owned subsidiaries of the person, apply anti-money laundering or counter terrorist financing measures consistent with those required by the Islands, where the minimum anti-money laundering or counter terrorist financing requirements of the country in which the foreign branches and majority-owned subsidiaries of the person are located, are less strict than those of the Islands, to the extent that laws and regulations of that country permit.

(2) Where the country, in which the foreign branches and majority-owned subsidiaries of the person carrying out relevant financial business are located, does not permit the proper implementation of anti-money laundering or counter terrorist financing measures consistent with those required by the Islands, financial groups shall -

- (a) apply appropriate additional measures to manage money laundering or terrorist financing risks; and
- (b) inform the relevant Supervisory Authority of the improper implementation of anti-money laundering or counter terrorist financing measures.

PART III - Assessing and Applying a Risk-Based Approach

8. (1) A person carrying out relevant financial business shall take steps appropriate to the nature and size of the business to identify, assess, and understand its money laundering and terrorist financing risks in relation to - Assessment of risk

- (a) a customer of the person;
- (b) the country or geographic area in which the customer under paragraph (a) resides or operates;
- (c) the products, services and transactions of the person; and
- (d) the delivery channels of the person.

(2) A person carrying out relevant financial business shall -

- (a) document the assessments of risk of the person;
- (b) consider all the relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied;
- (c) keep the assessments of risk of the person current;
- (d) maintain appropriate mechanisms to provide assessment of risk information to competent authorities and self-regulatory bodies;
- (e) implement policies, controls and procedures which are approved by senior management, to enable the person to manage and mitigate the risks that have been identified by the country or by the relevant financial business;
- (f) identify and assess the money laundering or terrorist financing risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms and the use of new or developing technologies for both new and pre-existing products;
- (g) monitor the implementation of the controls referred to in paragraph (e) and enhance the controls where necessary; and
- (h) take enhanced customer due diligence to manage and mitigate the risks where higher risks are identified.

9. A person carrying out relevant financial business in respect of new products and business practices, new delivery mechanisms and new or developing technologies shall -

New products, business,
delivery mechanisms
and new or developing
technologies

- (a) undertake assessment of risk prior to the launch or use of the new products and business practices, new delivery mechanisms and new or developing technologies; and
- (b) take appropriate measures to manage and mitigate risks.

PART IV - Customer Due Diligence

Anonymous accounts 10. A person carrying out relevant financial business shall not keep anonymous accounts or accounts in fictitious names.

When customer due diligence is required 11. A person carrying out relevant financial business shall undertake customer due diligence measures when -

- (a) establishing a business relationship;
- (b) carrying out a one-off transaction valued in excess of fifteen thousand dollars, including a transaction carried out in a single operation or in several operations of smaller value that appear to be linked;
- (c) carrying out a one-off transaction that is a wire transfer;
- (d) there is a suspicion of money laundering or terrorist financing; or
- (e) the person has doubts about the veracity or adequacy of previously obtained customer identification data.

Obligation to identify customer 12. (1) A person carrying out relevant financial business shall -

- (a) identify a customer, whether a customer in an established business relationship or a one-off transaction, and whether natural, legal person or legal arrangement and shall verify the customer's identity using reliable, independent source documents, data or information;
- (b) verify that a person purporting to act on behalf of a customer is properly authorised and identify and verify the identity of the person;
- (c) identify a beneficial owner and take reasonable measures to verify the identity of the beneficial owner, using the relevant information or data obtained from reliable sources, so as to be satisfied that the person knows the identity of the beneficial owner;
- (d) understand and obtain information on, the purpose and intended nature of a business relationship; and
- (f) conduct ongoing due diligence on a business relationship including -
 - (i) scrutinising transactions undertaken throughout the course of the business relationship to ensure that transactions being conducted are consistent with the person's knowledge of the customer, the customer's business and risk profile,

including where necessary, the customer's source of funds;
and

- (ii) ensuring that documents, data or information collected under the customer due diligence process is kept current and relevant to customer due diligence, by reviewing existing records at appropriate times, taking into account whether and when customer due diligence measures have been previously undertaken, particularly for higher risk categories of customers.

(2) In addition to the requirements of paragraph (1)(a), for customers that are legal persons or legal arrangements, a person carrying out relevant financial business shall -

- (a) understand the ownership and control structure of the customer;
- (b) identify the customer and verify its identity by means of the following information -
 - (i) name, legal form and proof of existence;
 - (ii) the constitutional documents that regulate and bind the legal person or arrangement, as well as satisfactory evidence of the identity of the director, manager, general partner, president, chief executive officer or such other person who is in an equivalent senior management position in the legal person or arrangement; and
 - (iii) the address of the registered office and, if different, a principal place of business.

(3) For the purpose of paragraph (1)(c), for customers that are legal persons, a person carrying out relevant financial business shall -

- (a) identify and verify the identity of the natural person, if any, who is the beneficial owner;
- (b) to the extent that there is doubt under paragraph (a) as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests, identify the natural person exercising control of the legal person or arrangement customer through other means; or
- (c) where no natural person is identified under (a) or (b), identify of the relevant natural person who is the senior managing official.

(4) In addition to the requirements of paragraph (1)(c) and further to paragraph (2), for customers that are legal arrangements, a person carrying out relevant financial business, where applicable, shall identify and take reasonable measures to verify the identity of beneficial owners by means of the following information -

- (a) for trusts, the identity of the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control or ownership); or
- (b) for other types of legal arrangements, the identity of persons in equivalent or similar positions.

Customer due diligence re - beneficiary of life insurance

13. In addition to the customer due diligence measures required for the customer and the beneficial owner, a person carrying out relevant financial business shall conduct the following customer due diligence measures on the beneficiary of life insurance and other investment related insurance policies, as soon as the beneficiary is identified or designated and shall do so no later than at the time of the pay out -

- (a) for a beneficiary that is identified as a specifically named natural or legal person or legal arrangement - taking the name of the person; and
- (b) for a beneficiary that is designated by characteristics or by class or by other means - obtaining sufficient information concerning the beneficiary to satisfy the person carrying out relevant financial business that it will be able to establish the identity of the beneficiary at the time of the pay out.

Beneficiary as risk factor

14. A person carrying out relevant financial business shall include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced customer due diligence measures are applicable pursuant to Part VI.

Verification of identity of customer and beneficial owner

15. (1) A person carrying out relevant financial business shall verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for one-off customers.

(2) If permitted by these Regulations, the person may complete verification after the establishment of the business relationship, provided that -

- (a) this occurs as soon as reasonably practicable;
- (b) this is essential not to interrupt the normal conduct of business; and
- (c) the money laundering or terrorist financing risks are effectively managed.

Adoption of risk management procedures

16. A person carrying out relevant financial business shall adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification.

17. A person carrying out relevant financial business shall perform enhanced due diligence where the money laundering or terrorist financing risks are higher pursuant to Part VI. Failure to complete customer due diligence
18. Where a person carrying out relevant financial business is unable to obtain information required by these Regulations to satisfy relevant customer due diligence measures - Obligation where unable to comply with customer due diligence
- (a) the person shall -
 - (i) not open the account, commence business relations or perform the transaction; or
 - (ii) terminate the business relationship; and
 - (b) the person shall consider making a suspicious activity report in relation to the customer.
19. Where a person carrying out relevant financial business When to file suspicious activity report
- (a) forms a suspicion of money laundering or terrorist financing; and
 - (b) reasonably believes that satisfying ongoing customer due diligence requirements of these Regulations for a customer or customer due diligence requirements of these Regulations for an applicant for business will tip-off a customer or an applicant for business,
- the person shall not complete the customer due diligence requirements of these Regulations but shall file a suspicious activity report.
20. (1) For the purpose of these Regulations, evidence of the identity of an applicant for business is satisfactory if - Identification procedures - supplementary provisions
- (a) the evidence is reasonably capable of establishing that the applicant for business is the person the applicant for business claims to be; and
 - (b) the person who obtains the evidence is satisfied, in accordance with the procedures maintained under these Regulations in relation to the relevant financial business concerned, that it does establish that fact.
- (2) Where a person who is required to comply with regulation 5(1) is dissatisfied as to the veracity or accuracy of any evidence of identity, the person shall obtain such additional evidence of identity as shall ensure that that person is satisfied or that the evidence collected meets the requirements of these Regulations.
- (3) Where a person carrying out relevant financial business is determining whether the evidence of identity in relation to a customer or applicant for

business is satisfactory for a business relationship or a one-off transaction the person shall consider -

- (a) the nature of the business relationship or one-off transaction concerned;
- (b) the geographical locations of the parties to the business relationship or one-off transaction;
- (c) whether it is practical to obtain the evidence of identity before commitments are entered into between the parties to the business relationship or the one-off transaction or before money is exchanged between the parties to the business relationship or one-off transaction; and
- (d) the earliest stage before the business relationship is formed or the one-off transaction is completed at which there are reasonable grounds for believing that the total amount payable by a customer or an applicant for business is fifteen thousand dollars or more where -
 - (i) in respect of any one-off transaction, payment is to be made by or to the customer or applicant for business of the amount of fifteen thousand dollars or more;
 - (ii) in respect of two or more transactions that appear to be one-off transactions it appears at the outset to the person -
 - (A) that the transactions are linked; and
 - (B) that the total amount, in respect of all of the transactions, which is payable by or to the customer or applicant for business is fifteen thousand dollars or more; or
 - (iii) at any later stage, it comes to the attention of the person that subparagraphs (i) and (ii) of paragraph (a) are satisfied.

(3) The simplified customer due diligence measures permitted in Part V shall not be applied to any business relationship or one-off transaction where a person required to comply with regulation 5(1) has reasonable grounds to believe that the business relationship or one-off transaction presents a higher risk of money laundering or terrorist financing.

PART V - Simplified Customer Due Diligence

Simplified customer due diligence application

21. (1) Notwithstanding Part IV, a person carrying out relevant financial business may apply simplified customer due diligence measures where lower risks have been identified and the simplified customer due diligence shall be commensurate with the lower risk factors.

(2) Where a person carrying out relevant financial business finds that there is a low level of risk, the person's finding as to risk is only valid if the finding is

consistent with the findings of the national risk assessment or the Supervisory Authority, whichever is most recently issued.

(3) Nothing in this Part applies where, a person carrying out relevant financial business knows, suspects, or has reasonable grounds for knowing or suspecting that a customer or an applicant for business is engaged in money laundering or terrorist financing or that the transaction being conducted by the customer or applicant for business is being carried out on behalf of another person engaged in money laundering or terrorist financing.

(4) For the purpose of this regulation “national risk assessment” means the report by the Anti-Money Laundering Steering Group or any other body designated in writing by the Cabinet in accordance with the Law, which examines money laundering and terrorist financing in the Islands.

22. Customer due diligence procedures under Part IV regarding verification of the identity of a customer or an applicant for business are not required where - Acceptable applicants

- (a) the identity of the customer or applicant for business is known to the person carrying out relevant financial business;
- (b) the person carrying out relevant financial business knows the nature and intended purpose of the business relationship or one-off transaction;
- (c) the person carrying out relevant financial business has not identified any suspicious activity; and
- (d) the customer or applicant for business is a person who is -
 - (i) required to comply with regulation 5(1) or is a majority-owned subsidiary of the relevant financial business;
 - (ii) a central or local government organisation, statutory body or agency of government, in a country specified in the list published pursuant to section 5(2)(a) of the Law;
 - (iii) acting in the course of a business or is a majority-owned subsidiary of the business in relation to which an overseas regulatory authority exercises regulatory functions and is based or incorporated in, or formed under the law of, a country specified in the list published pursuant to section 5(2)(a) of the Law;
 - (iv) a company, that is listed on a recognised stock exchange and subject to disclosure requirements which impose requirements to ensure adequate transparency of beneficial ownership, or majority-owned subsidiary of such a company; or

- (v) a pension fund for a professional association, trade union or is acting on behalf of employees of an entity referred to in sub-paragraphs (i) to (iv).

Payments delivered in person or electronically

23. (1) Where a person carrying out relevant financial business has assessed a low level of risk and has identified a customer or an applicant for business and the beneficial owner, where applicable and has no reason to doubt those identities, and -

- (a) the circumstances are such that payment is to be made by the customer or applicant for business; and
- (b) it is reasonable in all the circumstances -
 - (i) for payment to be delivered by post or in person or by electronic means to transfer funds; or
 - (ii) for the details of the payment to be delivered by post or in person, to be confirmed via telephone or other electronic means,

then subject to paragraph (2) verification of the identity of a customer or an applicant for business is not required at the time of receipt of payment if the payment is debited from an account held in the name of the customer or applicant for business at a licensee under the Banks and Trust Companies Law (2013 Revision) or at a bank that is regulated in and either based or incorporated in or formed under the laws of, a country specified in the list published pursuant to section 5(2)(a) of the Law, whether the account is held by the customer or the applicant for business solely or jointly.

(2) Paragraph (1) shall not apply -

- (a) if the circumstances of the payment give rise to knowledge, suspicion, or reasonable grounds for knowing or suspecting that the customer or the applicant for business is engaged in money laundering or terrorist financing or that the transaction is carried out on behalf of another person engaged in money laundering or terrorist financing;
- (b) if the payment is made by a person for the purpose of opening a relevant account with a licensee under the Banks and Trust Companies Law (2013 Revision); and
- (c) in relation to a customer or an applicant for business when onward payment is to be made to the customer or the applicant for business or any other person,

and the verification of the identity of the customer or the applicant for business is required to be obtained before payment of any proceeds, unless by operation of law payment of the proceeds are to be made to a person for whom a court is required to adjudicate payment.

(3) For the purpose of paragraph (1)(b), it is immaterial whether the payment or the details of the payment are delivered by post or in person to a person who is required to comply with regulation 5(1) or to another person acting on that person's behalf.

24. (1) This regulation applies where in relation to a person who is required to comply with regulation 5(1), an applicant for business is or appears to be acting as an agent or nominee for a principal.

Identification procedures
- transactions on behalf
of another

(2) A person carrying out relevant financial business is required to satisfy the customer due diligence requirements under Part IV in respect of the verification of the identity of an applicant for business unless -

- (a) the applicant for business falls within one of the categories under regulation 22(d); and
- (b) a written assurance has been provided by the applicant for business which confirms -
 - (i) that the applicant for business has identified and verified the identity of the principal, and the beneficial owner, where applicable, on whose behalf the applicant for business acts and under procedures maintained by the applicant for business;
 - (ii) the nature and intended purpose of the business relationship;
 - (iii) that the applicant for business has identified the source of funds of the principal; and
 - (iv) that the applicant for business shall make available on request and without delay copies of any identification and verification data or information and relevant documents obtained by the applicant for business after satisfying the requirements of customer due diligence in respect of the principal and the beneficial owner.

(3) A person who is required to comply with regulation 5(1) and who relies on a written assurance under paragraph (2) is liable for any failure of the applicant for business to obtain and record satisfactory evidence of the identity of the principal or beneficial owner or to make the same available on request and without delay.

25. (1) A person carrying out relevant financial business is not required to verify the identity of an applicant for business in accordance with Part IV where a business relationship is formed or a one-off transaction is carried out with or for a third party pursuant to an introduction effected by a person who falls within one of the categories under regulation 22(d) and who provides a written assurance pursuant to regulation 24(2)(b).

Eligible introducer

(2) A person who is required to comply with regulation 5(1) who relies on an introduction effected under paragraph (1) in respect of a third party, is liable for any failure of the person making the introduction to obtain and record satisfactory evidence of the identity of the third party or to make the same available on request and without delay.

Verification not required

26. (1) A person carrying out relevant financial business is not required to satisfy the requirements of Part IV regarding the verification of the identity of an applicant for business where, in relation to insurance business -

- (a) a policy of insurance in connection with a pension scheme taken out by virtue of a contract of employment or occupation -
 - (i) contains no surrender clause; and
 - (ii) may not be used as collateral for a loan;
- (b) a premium is payable, in relation to a policy of insurance, in one instalment of an amount not exceeding two thousand dollars; or
- (c) a periodic premium is payable in respect of a policy of insurance where the total payable in respect of any calendar year does not exceed eight hundred dollars.

(2) In this regulation -

“calendar year” means a period of twelve months beginning on the 1st January.

PART VI - Enhanced Customer Due Diligence

Application of enhanced customer due diligence

27. Subject to regulation 19, a person carrying out relevant financial business shall perform enhanced customer due diligence -

- (a) where a higher risk of money laundering or terrorist financing has been identified pursuant to Part III;
- (b) where through supervisory guidance a high risk of money laundering or terrorist financing has been identified;
- (c) where a customer or an applicant for business is from a foreign country that has been identified by credible sources as having serious deficiencies in its anti-money laundering or counter terrorist financing regime or a prevalence of corruption;
- (d) in relation to correspondent banking relationships, pursuant to Part XI;
- (e) where the customer or the applicant for business is a political exposed person; or
- (f) in the event of any unusual or suspicious activity.

Enhanced customer due diligence required

28. Where enhanced customer due diligence is unable to be performed where it is required, a person carrying out relevant financial business shall follow the procedures in regulation 18.

29. In relation to insurance business, where a person carrying out relevant financial business determines that carrying out relevant financial business with a beneficiary presents a higher risk, the person shall perform enhanced customer due diligence including reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary, where applicable, at the time of pay out.

Enhanced customer due
diligence at payout

PART VII - Politically Exposed Persons

30. (1) A person carrying out relevant financial business shall in addition to satisfying customer due diligence requirement shall under these Regulations -

Additional requirements
- politically exposed
persons

- (a) put in place risk management systems to determine whether a person or beneficial owner with whom that person has a business relationship is a politically exposed person, family member or close associate;
- (b) ensure that the risk management procedures under subparagraph (a) -
 - (i) contain as a component, procedures for requiring that senior management approval be obtained before establishing or continuing a business relationship with a politically exposed person or a family member or close associate;
 - (ii) take reasonable measures to establish the source of wealth and the source of funds of a person involved in a business relationship and a beneficial owner identified as a politically exposed person or a family member or close associate; and
 - (iii) contain as a component, monitoring of the business relationship with the politically exposed person or a family member or close associate.

(2) In the case of a life insurance policy, a person carrying out relevant financial business shall take reasonable measures, no later than at the time of payout -

- (a) to determine whether the beneficiary and where applicable the beneficial owner of the beneficiary is a politically exposed person;
- (b) that senior management is informed before pay-out of the policy proceeds; and

- (c) to conduct enhanced scrutiny on the whole business relationship with the policy holder and if necessary, to consider making a suspicious activity report.

PART VIII - Record-keeping Procedures

Record-keeping
procedures

31. (1) Record-keeping procedures maintained by a person carrying out relevant financial business are in accordance with this regulation if the procedures require the following records to be kept as follows -

- (a) in relation to a business relationship that is formed or one-off transaction that is carried out, a record that indicates the nature of evidence of customer due diligence obtained under procedures maintained in accordance with Part IV -
 - (i) comprises a copy of the evidence;
 - (ii) provides such information as would enable a copy of it to be obtained; or
 - (iii) where it is not reasonably practicable to comply with sub-paragraph (i) or (ii), that provides sufficient information to enable the details of a person's identity contained in the relevant evidence to be re-obtained;
- (b) a record comprising account files and business correspondence, and results of any analysis undertaken, for at least five years following the termination of the business relationship or after the date of the one-off transaction; and
- (c) a record containing details relating to all transactions carried out by the person carrying out relevant financial business, which should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity.

(2) A person carrying out relevant financial business shall ensure that all customer due diligence information and transaction records are available without delay upon request by competent authorities.

(3) For the purpose of paragraph (1) and subject to paragraph (4), the period for which the records prescribed shall be kept is at least five years commencing with -

- (a) in relation to the records described in paragraph (1)(a), the date on which the relevant business was completed within the meaning of paragraph (5);
- (b) in relation to the records described in paragraph (1)(b), either the date on which the relevant business was completed within the meaning of paragraph (5) or the date on which all activities

taking place in the course of the transaction in question were completed; and

- (c) in relation to the records described in paragraph (1)(c), the date on which all activities taking place in the course of the transaction in question were completed.

- (4) Where a person who is required to comply with regulation 5(1) -

- (a) forms a business relationship or carries out a one-off transaction with another person;
- (b) has reasonable grounds for believing that a person under paragraph (a) has become insolvent; and
- (c) after forming a belief under paragraph (b), makes an attempt to recover all or part of the amount of any debt payable to the person which has fallen due by the person under paragraph (b),

the period for which records under paragraph (1) are to be kept is at least five years commencing with the date on which the first attempt is made.

- (5) For the purpose of paragraph (3)(a) or (b), the date on which relevant financial business is completed is -

- (a) the date of the ending of the business relationship in respect of whose formation the record under paragraph (1)(a) or (b) was compiled;
- (b) the date of completion of all activities taking place in the course of the one-off transaction in respect of which the record under paragraph (1)(a) or (b) was compiled where -
 - (i) in respect of any one-off transaction, a person carrying out relevant financial business knows, suspects, or has reasonable grounds for knowing or suspecting that the customer is engaged in money laundering or terrorist financing or that the transaction is carried out on behalf of another person engaged in money laundering or terrorist financing; or
 - (ii) in respect of any one-off transaction, payment is to be made by or to the applicant for business of the amount of fifteen thousand dollars or more; or
- (c) the date of the completion of all activities taking place in the course of the last one-off transaction in respect of which the record under paragraph (1)(a) or (b) was compiled where -
 - (i) in respect of two or more one-off transactions -
 - (aa) it appears at the outset to a person carrying out relevant financial business -
 - (i) that the transactions are linked; and

- (ii) that the total amount, in respect of all of the transactions, which is payable by or to the applicant for business is fifteen thousand dollars or more; or

(bb) at any later stage, it comes to the attention of such a person that subparagraphs (a)(i) and (ii) are satisfied.

Record-keeping
procedures -
supplementary
provisions

32. (1) For the purpose of regulation 31(4)(b), a person is considered insolvent if -

- (a) the person has been adjudged bankrupt or has made a composition or arrangement with that person's creditors;
- (b) the person has died and the person's estate falls to be administered in accordance with an order under section 66 of the Bankruptcy Law (1997 Revision); or
- (c) a winding up order or an administration order has been made or a resolution for voluntary winding up has been passed with respect to the person, or a receiver or manager of the person's undertaking has been duly appointed, or possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the person comprised in or subject to the charge, or a voluntary arrangement has been sanctioned under section 86 of the Companies Law (2016 Revision).

(2016 Revision)

(2) Where a person required to comply with regulation 5(1) -

- (a) is an appointed representative; and
- (b) is not -
 - (i) a licensee under the Banks and Trust Companies Law (2016 Revision);
 - (ii) a licensee under the Insurance Law, 2010;
 - (iii) a licensed mutual fund administrator under the Mutual Funds Law (2015 Revision); or
 - (iv) the holder of a licence under the Companies Management Law (2003 Revision),

(2016 Revision)

(Law 32 of 2010)

(2015 Revision)

(2003 Revision)

it is the responsibility of the principal of the person to ensure that record-keeping procedures in accordance with regulation 31 are maintained in respect of any relevant financial business carried out by the appointed representative which is investment business carried on by the person for which the principal has accepted responsibility.

(4) In this regulation -

“appointed representative” means a person -

- (a) who is employed by another person under a contract for services which-
 - (i) requires or permits the person to carry out relevant financial business and either prohibits the person from giving advice about entering into investment agreements with persons other than the person's principal, or enables the person's principal to impose such a restriction or to restrict or prohibit the kinds of advice which the person may give; or
 - (ii) either prohibits the person from procuring persons to enter into investment agreements with persons other than the person's principal, or enables the person's principal to impose such a prohibition or to restrict the kinds of investment to which the agreements may relate or the other persons with whom they may be entered into; and
- (b) who has accepted responsibility in writing for carrying on the whole or part of a relevant financial business.

PART IX - Money Laundering Reporting Officer

33. (1) A person carrying out relevant financial business shall for the purpose of securing compliance with any requirement set out in Part IV of the Law, designate a person employed at managerial level as the Money Laundering Reporting Officer.

Appointment of the
Money Laundering
Reporting Officer

(2) A person carrying out relevant financial business shall designate a manager or official employed at managerial level as an alternate for the Money Laundering Reporting Officer who shall be referred to as the Deputy Money Laundering Reporting Officer and who shall in the absence of the Money Laundering Reporting Officer, discharge the functions of the Money Laundering Reporting Officer.

34. Internal reporting procedures maintained by a person are in accordance with this regulation if the procedures include provisions -

Internal reporting
procedures

- (a) identifying the Money Laundering Reporting Officer and specifying that the Money Laundering Reporting Officer is the person to whom a report is to be made of any information or other matter which comes to the attention of a person carrying out relevant financial business and which, in the opinion of the person, gives rise to -
 - (i) a knowledge or suspicion or reasonable grounds for knowing or suspecting that another person is engaged in money laundering or terrorist financing; or

- (ii) a knowledge or suspicion or reasonable grounds for knowing or suspecting that the transaction or attempted transaction relates to money laundering or terrorist financing;
- (b) requiring that a report under subparagraph (a) be considered in light of all other relevant information by the Money Laundering Reporting Officer, or by the Deputy Money Laundering Reporting Officer, for the purpose of determining whether or not the information or other matter contained in the report gives rise to such a knowledge or suspicion;
- (c) for a person charged with considering a report in accordance with subparagraph (b) to have access to other information which may be of assistance to the person and which is available to the person who is responsible for maintaining the internal reporting procedures concerned; and
- (d) for ensuring that any information or other matter contained in a report is disclosed to the Financial Reporting Authority where the person who has considered the report under subparagraph (b) -
 - (i) knows or has reasonable cause to suspects that another person is engaged in money laundering other than terrorist financing; or
 - (ii) knows, suspects or has reasonable cause to suspect that another person is engaged in terrorist financing.

PART X - Identification and record-keeping requirements relating to Wire Transfers

Application of this Part

35. (1) This Part applies to transfers of funds, in any currency, which are sent or received by a payment service provider carrying on business in or from within the Islands.

(2) Notwithstanding paragraph (1) -

- (a) this Part does not apply to transfers of funds carried out using a credit or debit card, if -
 - (i) the payee has an agreement with the payment service provider permitting payment for the provision of goods and services; and
 - (ii) a unique identifier, allowing the transaction to be traced back to the payer, accompanies such transfer of funds; and
- (b) this Part does not apply to transfers of funds -
 - (i) where the payer withdraws cash from the payer's own account;
 - (ii) where there is a debit transfer authorisation between two parties permitting payments between them through

accounts, if a unique identifier accompanies the transfer of funds, enabling the person to be traced back;

- (iii) where truncated cheques are used;
- (iv) for fines, duties or other levies within the Islands; or
- (v) where both the payer and the payee are payment service providers acting on their own behalf.

36. (1) Subject to regulation 37, a payment service provider of a payer shall ensure that transfers of funds are accompanied by complete information on the payer.

Information
accompanying transfers
of funds and record-
keeping

(2) For the purpose of this Part, complete information on a payer shall consist of -

- (a) the payer's name;
- (b) the payer's address; or
- (c) the payer's date and place of birth;
- (d) the payer's customer identification number; or
- (e) the number of a Government-issued document evidencing the payer's identity; and
- (f) the payer's account number or a unique identifier which allows the transaction to be traced back to the payer.

(3) The payment service provider of the payer shall, before transferring the funds, verify the complete information on the payer on the basis of documents, data or information that meet the requirements of regulation 20(1).

(4) A payment service provider of the payer shall collect beneficiary or payee information including the name and account number or unique transaction reference in order to facilitate the traceability of the transaction.

(5) In the case of transfers of funds from an account, verification may be deemed to have taken place if -

- (a) the payer's account is held at a licensee under the Banks and Trust Companies Law (2013 Revision); or
- (b) the payer is a person who is required to comply with regulation 5(1).

(2013 Revision)

(6) The payment service provider of the payer shall, for five years, keep records of complete information on the payer and payee which accompanies transfers of funds.

37. Where both the payment service provider of the payer and the payment service provider of the payee are situated in the Islands, transfers of funds shall be required to be accompanied only by the account number of the payer or a

Transfers of funds
within the Islands

unique identifier allowing the transaction to be traced back to the payer; but, if requested by the payment service provider of the payee, the payment service provider of the payer shall make available to the payment service provider of the payee complete information on the payer, within three working days of receiving that request.

Batch file transfers

38. (1) For batch file transfers from a single payer where the payment service providers of the payees are situated outside the Islands, regulation 36(1) shall not apply to the individual transfers bundled together, if the batch file contains that information about the payer and the individual transfers carry the account number of the payer or a unique identifier.

(2) A batch file shall contain the name, account number or unique identifier number of a payee or beneficiary that is traceable in the payee country.

Obligations of payment
of service provider of
payee

39. The payment service provider of a payee shall have effective procedures in place in order to detect whether, in the messaging or payment and settlement system used to effect a transfer of funds, the information required under regulations 37, 38 and 47 is obtained in accordance with these Regulations.

Transfers of funds with
missing or incomplete
information about the
payer

40. (1) The payment service provider of a payer shall not execute wire transfers where the payment service provider is unable to collect and maintain information on the payer and payee as required under regulation 36, 37 and 38(1).

(2) A payment service provider of the payee shall have effective systems in place to detect missing required information on both the payer and payee.

(3) Where the payment service provider of the payee detects, when receiving transfers of funds, that information on the payer required under this Part is missing or incomplete the payment service provider shall either reject the transfer or request complete information on the payer; and, in any event, the payment service provider of the payee shall comply with the Law, the Terrorism Law (2015 Revision) and these Regulations.

(2015 Revision)

(4) A beneficiary or payee financial institution shall verify the identity of payee information and shall, for five years, keep records of the information.

(5) A payment service provider of a payee shall adopt risk-based policies and procedures for determining when to execute, reject or suspend a wire transfer where the required payee information is incomplete and the resulting procedures to be applied.

(6) Where a payment service provider regularly fails to supply the required information on the payer, the payment service provider of the payee shall adopt reasonable measures to rectify noncompliance with these Regulations, before -

- (a) rejecting any future transfers of funds from that payment service provider;
- (b) restricting its business relationship with that payment service provider; or
- (c) terminating its business relationship with that payment service provider,

and the payment service provider of the payee shall report to the Financial Reporting Authority and to the relevant Supervisory Authority any such decision to restrict or terminate its business relationship with that payment service provider.

- | | |
|--|---|
| 41. The payment service provider of the payee shall consider incomplete information about the payer as a factor in assessing whether the transfer of funds, or any related transaction, is suspicious, and whether the suspicion should be reported to the Financial Reporting Authority, in accordance with the Law and these Regulations. | Risk-based assessment |
| 42. The payment service provider of the payee shall, for five years, keep records of any information received on the payer. | Record-keeping by payment service provider of payee |
| 43. Intermediary payment service providers shall ensure that all information received on the payer and the payee that accompanies a transfer of funds is kept with the transfer. | Information accompanying a transfer of funds |
| 44. An intermediary payment service provider shall take reasonable measures, which are consistent with straight-through processing, to identify cross-border transfers that lack required payer or payee information and shall adopt risk-based policies and procedures for determining when to execute, reject or suspend a wire transfer where the required payer or payee information is incomplete and the resulting procedures to be applied. | Straight-through processing |
| 45. A money services licensee shall comply with all of the relevant requirements under this Part in the countries in which they operate, directly or through the agents of the licensee. | Obligation to comply with requirements |
| 46. A money services licensee, that controls both the ordering institution and the beneficiary institution, shall - | Obligation to file suspicious activity report |

- (a) consider the information from both the ordering institution and the beneficiary institution to determine whether a suspicious activity report should be filed; and
- (b) further to subparagraph (a) file the suspicious activity report in the country from or to which the suspicious wire transfer originated or was destined, respectively and make relevant transaction information available to the Financial Reporting Authority and the relevant authorities in the country.

Technical limitations

47. (1) This regulation applies where the payment service provider of the payer is situated outside the Islands and the intermediary payment service provider is situated within the Islands, in respect of transfers of funds by the intermediary payment service provider within the Islands.

(2) Subject to paragraph (3), the intermediary payment service provider may use a payment system with technical limitations which prevent information on the payer from accompanying the transfer of funds to send transfers of funds to the payment service provider of the payee.

(3) Where the intermediary payment service provider receives a transfer of funds with incomplete information about the payer as required under this Part, the intermediary payment service provider shall only use a payment system with technical limitations if the intermediary payment service provider is able to provide the payment service provider of the payee, with the information about the payer, using a manner of communication accepted by, or agreed between, both payment service providers.

(4) Where the intermediary payment service provider uses a payment system with technical limitations, the intermediary payment service provider shall, upon request from the payment service provider of the payee, make available to the payment service provider of the payee all the information on the payer which the intermediary payment service provider has received, irrespective of whether the information is complete or not, within three working days of the date of receiving that request.

(5) In the cases referred to in paragraphs (2) and (3), the intermediary payment service provider shall, for five years, keep records of all information received.

Cooperation

48. A payment service provider shall respond fully and without delay to enquiries from the Reporting Authority concerning the information about the payer accompanying transfers of funds and corresponding records.

49. Where there is an inconsistency between the provisions of this Part and any other provision of these Regulations, the provisions of this Part shall prevail, to the extent of the inconsistency. Conflict between Parts

PART XI - Shell Banks and Correspondent Banks

50. (1) A person carrying out relevant financial business to which regulation 5(1) applies and which is carried on by the person in or from the Islands, shall not form a business relationship, or carry out a one-off transaction, with a shell bank. Shell banks
51. For the avoidance of doubt, a person carrying out relevant financial business shall not enter into or shall discontinue correspondent banking and other similar relationships with a shell bank and shall satisfy the person that respondent financial institutions do not permit their accounts to be used by shell banks. Correspondent Banks
52. In relation to cross-border correspondent banking and other similar relationships, a person carrying out relevant business, in addition to conducting customer due diligence procedures pursuant to these Regulations shall - Cross-border correspondent banking
- (a) collect information to understand the nature of a respondent institution's business and determine from publically available information the reputation of the institution and the quality of supervision, including whether the institution has been subject to money laundering or terrorist financing investigation or regulatory action;
 - (b) assess respondent institution's anti-money laundering and countering financing of terrorist controls;
 - (c) obtain approval from senior management before establishing new correspondent relationships; and
 - (d) clearly understand and document the respective responsibilities of each institution.
53. With respect to payable-through accounts, a person carrying out relevant financial business shall be satisfied that the respondent bank - Payable-through accounts
- (a) has performed customer due diligence obligations on its customers that have direct access to the accounts of the correspondent bank; and
 - (b) is able to provide relevant customer due diligence information to the correspondent bank upon request.

PART XII - Disclosure Obligations of Supervisory Authorities

Disclosure - application
of Part

54. (1) This Part applies to the Supervisory Authorities and to a minister or official member, in relation to any person carrying on relevant financial business, of the person's statutory or official functions.

(2) Notwithstanding paragraph (1) this Part does not apply to any disclosure of information to which Part 2 of Schedule 1 to the Terrorism Law (2015 Revision) relates.

Disclosure obligation

55. (1) Subject to paragraph (2), where a Supervisory Authority, a minister or official member -

- (a) obtains any information; and
- (b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering,

the Supervisory Authority, a minister or official member shall, as soon as is reasonably practicable, disclose that information to the Financial Reporting Authority.

(2) Where any person is a secondary recipient of information obtained by a Supervisory Authority, a minister or official member, and that person forms such an opinion as is mentioned in paragraph (1)(b), that person may disclose the information to the Financial Reporting Authority.

(3) Where any person employed by a Supervisory Authority, appointed by a Supervisory Authority to act as that Supervisory Authority's agent, employed by any such agent or employed by the Government in the ministry or portfolio of a minister or official -

- (a) obtains any information whilst acting in the course of any investigation, or discharging any functions, to which the person's appointment or authorisation relates; and
- (b) is of the opinion that the information indicates that a person has or may have been engaged in money laundering,

that person shall, as soon as is reasonably practicable, either disclose that information to the Financial Reporting Authority or disclose that information to the Supervisory Authority, minister or official member by whom the person was appointed or authorised.

(4) Any disclosure made by virtue of paragraphs (1) to (3) shall not be treated as a breach of any restriction imposed by statute or otherwise.

(5) Any information -

- (a) which has been disclosed to the Financial Reporting Authority by virtue of paragraphs (1) to (4); and
- (b) which would, apart from paragraph (4), be subject to such a restriction as is mentioned in that paragraph,

may be disclosed by the Financial Reporting Authority, or any person obtaining the information directly or indirectly from the Financial Reporting Authority, in connection with the investigation of any criminal offence or for the purpose of any criminal proceedings, but not otherwise.

(6) In this regulation -

“secondary recipient”, in relation to information obtained by a Supervisory Authority, a minister or official member, means any person to whom that information has been passed by the Supervisory Authority, a minister or official member.

PART XIII - Offences, Repeal and Savings

56. (1) A person who contravenes these Regulations commits an offence and is liable - Offences

- (a) on summary conviction, to a fine of five hundred thousand dollars; or
- (b) on conviction on indictment, to a fine and to imprisonment for two years.

(2) In determining whether a person has complied with any of the requirements of these Regulations -

- (a) a court shall take into account any relevant supervisory or regulatory guidance which applies to that person; and
- (b) a court may take into account any other relevant guidance issued by a body in the Islands that regulates, or is representative of, any trade, profession, business or employment carried on by that person.

(3) In proceedings against a person for an offence under these Regulations, it shall be a defence for the person to show that that person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) In determining whether to exercise any of its enforcement powers for a breach of these Regulations, the Supervisory Authority shall take into account -

- (a) these Regulations; and

(b) any applicable supervisory or regulatory guidance.

Offences by bodies
corporate, partnerships
and unincorporated
associations

57. (1) Where an offence under these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity the person, as well as the body corporate, commits that offence and is liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by the members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if that member were a director of a body corporate.

(3) Where an offence under these Regulations committed by a partnership, or by an unincorporated association other than a partnership, is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, a partner in the partnership or a person concerned in the management or control of the association, the partner or person, as well as the partnership or association, commits that offence and is liable to be proceeded against and punished accordingly.

Repeal and savings

58. (1) Subject to paragraph (2) the Money Laundering Regulations (2015 Revision) are repealed.

(2) All proceedings in respect of offences committed against the Regulations repealed in paragraph (1) prior to the coming into force of these Regulations may be commenced or continued as if these Regulations had not come into force.

SCHEDULE

regulation 2

CLASSES OF LONG TERM BUSINESS

Number	Description	Nature of Business
I	Life and annuity	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Class III below.

II	Marriage and birth	Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.
III	Linked long term	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).
IV	Permanent health	<p>Effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident, of an accident of a specified class or of sickness or infirmity, being contracts that-</p> <ul style="list-style-type: none"> (a) are expressed to be in effect for a period of not less than five years or until the normal retirement age for the persons concerned, or without limit of time; and (b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.
V	Tontines	Effecting and carrying out tontines.
VI	Capital redemption	Effecting and carrying out capital redemption contracts.
VII	Pension fund management	<p>Effecting and carrying out-</p> <ul style="list-style-type: none"> (a) contracts to manage the

investments of pension funds; or
(b) contracts of the kind mentioned
in paragraph (a) that are combined
with contracts of insurance
covering either conservation of
capital or payment of a minimum
interest.

Made in Cabinet the 19th day of September, 2017.

Kim Bullings

Clerk of the Cabinet.