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THE OFFICIAL GAZETTE 19TH JULY, 2023
LEGAL SUPPLEMENT — B

GUYANA No. 9 of 2023

# REGULATIONS

**Made Under**

**THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT**

**(Cap. 10:11)**

**IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 114 OF THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT, I MAKE THE FOLLOWING REGULATIONS:-**

## ARRANGEMENT OF REGULATIONS

**REGULATION**

1. Citation.
2. Amendment of regulation 2 of the Principal Regulations.
3. Amendment of regulation 3 of the Principal Regulations.
4. Amendment of regulation 4 of the Principal Regulations.
5. Insertion of new regulations 14A and 14B into the Principal Regulations.

Citation.

1. These Regulations, which amend the Anti-Money Laundering and Countering the Financing of Terrorism Regulations 2010, may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Regulations 2023.

No. 4 of 2010 (Subsidiary Legislation)

Amendment of regulation 2 of the Principal Regulations.

2. Regulation 2 of the Principal Regulations is amended as follows-

(a) by inserting immediately after the definition of "business relationship" the following definition-

""body corporate" means a legal or juridical person or arrangement, including all legal persons and arrangements, under this Act or any other Act;"; and

(b) by substituting for the definition of "reporting entity" the following definition-

""reporting entity" means any person whose regular occupation or business is the carrying on of-

(a) any activity listed in the First Schedule of the Anti-Money Laundering and Countering the Financing of Terrorism Act; or

First Schedule.

Cap.10:11

(b) any other activity defined by the Minister responsible for finance as such by an order published in the *Gazette* amending the First Schedule of the Anti-Money Laundering and Countering the Financing of Terrorism Act;".

Amendment of regulation 3 of the Principal Regulations.

3. Regulation 3 of the Principal Regulations is amended by inserting immediately after subregulation (3), the following subregulations-

"(4) A reporting entity shall require its branches and subsidiaries, which are located in a country other than Guyana-

(a) to adopt group-wide policies and procedures that-

(i) facilitate the sharing of customer due diligence and transaction information; and

(ii) ensure adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off,

in order to manage the risk of money laundering, terrorist financing and proliferation financing through the application of anti-money laundering and countering the financing of terrorism and countering proliferation financing compliance functions; and

(b) to apply, to the extent permitted by the law of that country, measures at least equivalent to those set out in these Regulations with regard to customer due diligence measures, ongoing monitoring and record-keeping.

(5) Where the law of such a country does not permit the application of such equivalent measures by the branch or subsidiary undertaking located in that country or territory, the reporting entity shall-

(a) inform the supervisory authority accordingly; and

(b) take additional measures to handle effectively the risk of money laundering, terrorist financing and proliferation financing.

(6) A financial group shall implement group-wide policies and procedures against money laundering, terrorist financing and proliferation financing which are applicable and appropriate to all members of the financial group, and these policies and procedures shall include-

(a) procedures and requirements set out in these Regulations;
(b) policies and procedures for sharing information required for the purposes of customer due diligence and money laundering, terrorist financing and proliferation financing risk management, including information on transactions which appear unusual and have generated a suspicious transaction report;
(c) the provision at group level of compliance, audit and anti-money laundering, anti-terrorist financing and anti-proliferation financing functions, of customer, transaction and account information from branches and subsidiaries when necessary for anti-money laundering, anti-terrorist financing or anti-proliferation financing purposes; and
(d) adequate safeguards on the confidentiality and use of information exchanged, including control measures for tipping off.".

Amendment of regulation 4 of the Principal Regulations.

4. Regulation 4 of the Principal Regulations is amended as follows-

(a) in subregulation (5)-

(i) in paragraph (d), by deleting the word "and";

(ii) in paragraph (e), by substituting for the full stop a semicolon;

(iii) by inserting immediately after paragraph (e), as so amended, the following paragraph-

"(f) with regard to trusts and other legal arrangements, information about the true identity of the person on whose behalf an account is opened or a transaction is conducted including if the reporting entity has any doubts as to whether or not the customers is acting on its own behalf, including-

(i) the name, nature and type of trust or legal arrangement;

(ii) the country of establishment of the trust or legal arrangement;

(iii) the identity of the trustee, settlor, protector, controller or similar person holding power to appoint or remove the trustee or persons of equivalent positions in other legal arrangements;

(iv) the names or classes of beneficiaries;

(v) the identity of persons with powers to add beneficiaries, where applicable; and

(vi)the identity of the person providing the funds, if not the ultimate settlor."; and

(b) by inserting immediately after subregulation (5), the following subregulations-

"(6) For customers who are also body corporates, legal persons and legal arrangements, reporting entities shall also obtain and verify-

(a) the address of the registered office; and

(b) the address of the principal place of business, if the principal place of business is different from the customer's registered office.

(7) The verification of beneficial ownership shall be done by reporting entities using information and data from a reliable source.

(8) Where -

(a) there is doubt as to whether the person with the controlling ownership interest is the beneficial owner, or

(b) no natural person exerts control through ownership interests,

the reporting entity shall obtain information on the identity of the natural person exercising control, or who is the senior managing official of the body corporate, legal person or legal arrangement through other means, including the use of information and data from a reliable source.

(9) In the case of a life insurance policy or other investment related insurance policies, a reporting entity shall apply customer due diligence measures on a beneficiary as soon as the beneficiary is designated-

(a) for a beneficiary that is identified as a specifically named natural person, legal entity or legal arrangement, taking the name of the person, entity or arrangement; and

(b) for a beneficiary that is designated by characteristics or by class, obtaining sufficient information concerning the beneficiary to satisfy the reporting entity that it will be able to establish the identity of the beneficiary at the time of payout.

(10) Where a reporting entity is required to apply customer due diligence measures in the case of a life insurance policy or other investment related insurance policies, the reporting entity shall include the beneficiary as a risk factor in determining the extent of customer due diligence measures required.

(11) A reporting entity shall verify the identity of the beneficiary under a life insurance policy or other investment related insurance policies, at or before the time of payout, or at or before the time the beneficiary exercises a right vested under the policy.

(12) A reporting entity shall have adequate policies and risk-identifying procedures in place designed to determine whether a customer, potential customer, ultimate beneficial

owner, beneficiary of a life insurance policy or other investment related insurance policy, or a beneficiary's ultimate beneficial owner is a politically exposed person.

(13) A reporting entity shall-

(a) determine the extent of customer due diligence measures on a risk-sensitive basis depending on the type of customer, business relationship, geographic areas, services, delivery channels, product or transaction; and

(b) be able to demonstrate to its supervisory authority that the extent of customer due diligence measures is appropriate in view of the risks of money laundering and terrorist financing.

(14) Where a reporting entity is required to apply customer due diligence measures in the case of a trust or life insurance policy, the reporting entity shall include the beneficiary as a risk factor in determining the extent of customer due diligence measures required in accordance with subregulation (13).

(15) In addition to the other requirements under this regulation, a reporting entity shall have procedures in place to determine the source of wealth of customers and ultimate beneficial owners who are considered politically exposed persons.

(16) A non-profit organisation shall-

(a) create and implement clear policies and procedures to prevent the misuse of their

organisation for money laundering and terrorism financing purposes, and

(b) that business is transacted by way of regulated channels.

(17) In this regulation-

"beneficiary" means the person named as beneficiary in a life insurance policy, trust, legal arrangement or other investment related insurance policies.".

Insertion of new regulations 14A and 14B into the Principal Regulations.

5. The Principal Regulations are amended by inserting immediately after regulation 14, the following new regulations-

"Enhanced due diligence.

14A. (1) A reporting entity shall apply on a risk-sensitive basis enhanced customer due diligence measures to business relationships with customers-

(a) in accordance with subregulations (2) to (4);

(b) in instances where a person or a transaction is from or in a country that has been identified as having a higher risk by the Financial Action Task Force or the Caribbean Financial Action Task Force;

(c) in instances where a person or a transaction is from or in a country which represents a higher risk of money laundering, corruption, terrorist financing or being subject to international sanctions; or

(d) in any other situation which by its nature may present a higher risk of

money laundering, terrorist financing or proliferation financing.

(2)Where the customer has not been physically present for identification purposes, a reporting entity shall take specific and adequate measures to compensate for the higher risk, for example by applying one or more of the following measures-

(a)ensuring that the customer's identity is established by additional documents, data or information;

(b)supplementary measures to verify or certify the documents supplied, or requiring confirmatory certification by a reporting entity which is subject to equivalent regulations; or

(c)ensuring that the first payment is carried out through an account opened in the customer's name with a banking institution.

(3) A financial institution which has or proposes to have a correspondent banking relationship with a respondent institution (the "respondent") shall-

(a) gather sufficient information about the respondent to understand fully the nature of its business;

(b) determine from publicly-available information the reputation of the respondent and the quality of its supervision;

(c) assess the respondent's controls relating to anti-money laundering control and anti-terrorism financing controls;

(d) obtain approval from senior management before establishing a new correspondent banking relationship;

(e) document the respective responsibilities of the respondent and correspondent;

(f) be satisfied that, in respect of those of the respondent's customers who have direct access to accounts of the correspondent, the respondent-

(i) has verified the identity of, and performs ongoing due diligence on, such customers; and

(ii) is able upon request to provide relevant customer due diligence data to the correspondent.

Timing of verification.

14B. (1)Subject to subregulations (2) to (4), a reporting entity shall verify the identity of the customer and any beneficial owner before the establishment of a business relationship or the carrying out of an occasional transaction.

(2) The verification may be completed during the establishment of a business relationship or after the establishment of a business relationship or an account has been opened as provided under subregulations (3) and (4) if-

(a) this is necessary not to interrupt the normal conduct of business;

(b) there is little risk of money laundering, terrorist financing or proliferation financing occurring, provided that the verification is completed as soon as practicable after contact is first established; and

(c) any money laundering, terrorist financing or proliferation financing risks that may arise are effectively managed.

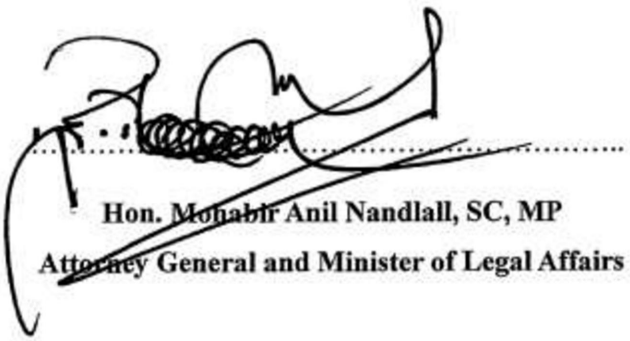
(3)The verification of the identity of the beneficiary under a life insurance policy or a trust may, subject to subregulation (4), take place after the business relationship has been established provided that it takes place at or before the time of payout or at or before the time the beneficiary exercises a right vested under the policy or trust.

(4) The verification of the identity of an account holder may, subject to subregulation (2), take place after the account has been opened provided that there are adequate safeguards in place to ensure that-

(a) the account is not closed; and

(b) transactions are not carried out by or on behalf of the account holder, including any payment from the account to the account holder, before verification has been completed.".

Made this 19th day of July, 2023



**Hon. Mohabir Anil Nandlall, SC, MP**
**Attorney General and Minister of Legal Affairs**