

LEGAL NOTICE NO. 183

REPUBLIC OF TRINIDAD AND TOBAGO

THE PROCEEDS OF CRIME ACT, CHAP. 11:27

REGULATIONS

MADE BY THE MINISTER OF FINANCE UNDER SECTION 56 OF THE PROCEEDS OF CRIME ACT AND SUBJECT TO NEGATIVE RESOLUTION OF PARLIAMENT

THE FINANCIAL OBLIGATIONS (AMENDMENT)
REGULATIONS 2018

1. These Regulations may be cited as the Financial Obligations (Amendment) Regulations, 2018. Citation

2. In these Regulations, “the Regulations” means the Financial Obligations Regulations, 2010. Interpretation Chap. 11:27

3. Regulation 2 of the Regulations is amended in paragraph (a) of the definition of “Supervisory Authority” by— Regulation 2 amended

(a) deleting the words—

(i) “the National Insurance Board established under the National Insurance Act”; and

(ii) “the Unit Trust Corporation of Trinidad and Tobago established under the Unit Trust Corporation of Trinidad and Tobago Act”; and

(b) deleting the words “Company and” and substituting the words “Company, the Central Bank”;

4. Regulation 3 of the Regulations is amended—

Regulation 3 amended

(a) by inserting after subregulation (1) the following new subregulation:

“(1A) Where a financial institution is part of a financial group it may for the purpose of securing compliance with section 55A of the Act and these Regulations, designate a manager or official employed at managerial level within the financial group as the Compliance Officer for more than one of the financial institutions within the financial group.

(1B) The relevant Supervisory Authority may where a financial institution appoints a Compliance Officer under subsection (1A) approve the Compliance Officer based on the nature and complexity of the financial institutions and the risk posed thereto.”;

(b) in subregulation (4) by deleting the words “in accordance with regulation 6” and substituting the words “to enable them to perform their obligations in accordance with regulation 4(1)”; and

(c) in subregulation (8)—

(i) in the chapeau, delete the word “appoint” and substitute the word “designate”;

(ii) in paragraph (a) by—

(A) deleting the words “senior employee” and substituting the words “a manager or official employed at managerial level”; and

(B) inserting after the word “institution” in the second place where it occurs, the words “or of a financial institution within the financial group”; and

(iii) by inserting after subregulation (8) the following new subregulations:

“(9) Where a financial institution or listed business designates an alternate Compliance Officer under subsection (8), the financial institution or listed business shall notify the relevant Supervisory Authority of the designation of the alternate Compliance Officer and provide, when requested, relevant documentation to the relevant Supervisory Authority.

(10) Notwithstanding subregulation (9), upon the designation of a person as an alternate Compliance Officer, the listed business or financial institution supervised by the FIU shall seek the approval of the relevant Supervisory Authority for such designation.

(11) Where a Compliance Officer is unable to perform his duties as a Compliance Officer for a period in excess of thirty working days, the financial institution shall seek the approval of the relevant Supervisory Authority for the appointment of an alternate Compliance Officer.”.

5. Regulation 4(2) of the Regulations is amended by deleting the words “and alternate Compliance Officer”. Regulation 4
amended

6. Regulation 7 of the Regulations is amended— Regulation 7
amended

(a) by deleting subregulation (1)(h) and substituting the following:

“(h) measures to be applied in respect of jurisdictions identified on a list published by the FIU, as having strategic anti-money laundering and counter-financing of terrorism deficiencies; and”;

(b) in subregulation (2) by deleting all the words after the word “business” and substituting the words—

“shall—

(a) take appropriate steps to identify, assess and understand their money laundering risks for customers, countries or geographic areas and products, services, transactions or delivery channels and what measures are to be taken to manage and mitigate such risks;

(b) document the risk assessment performed under this section and keep the assessment up to date; and

(c) make available its documented risk assessment to the Supervisory Authority upon request and within such time frame as it may specify.”;

(c) by inserting after subregulation (2) the following new subregulation:

“(2A) In developing measures under subregulation (2), a financial institution or listed business shall take into consideration the money laundering risks and any other risks identified in the national risk assessment.”;

- (d) in subregulations (3) and (4) by deleting the words “Financial groups” and substituting the words “A financial group”;
- (e) in subregulation 4(b) by inserting after the word “functions”, the word “,”;
- (f) in subregulation (5) by deleting the words “Financial institution” and substituting the words “A financial institution or listed business”; and
- (g) in subregulation (6) by inserting after the word “institution”, the words “or listed business”; and
- (h) in subregulation (7) by—
 - (i) inserting after the word “institution” the words “listed business”; and
 - (ii) deleting the word “appropriate” and substituting the word “appropriate”.

Regulation 11
amended

7. Regulation 11 of the Regulations is amended—

- (a) in subregulation (1B) by deleting the words “such as” and substituting the words “in respect of the”; and
- (b) in subregulation (8) by deleting the word “may” and substituting the word “shall”.

Regulation 14
amended

8. Regulation 14 of the Regulations is amended—

- (a) by deleting subregulations (2) and (3) substituting the following new subsections:

“(2) A financial institution or listed business where the risks identified under regulation 7(2) or 7(2A) are—

- (a) higher, shall perform enhanced due diligence;
or

(b) lower, may perform simplified due diligence.

(3) A risk assessment performed by a financial institution or listed business that results in the performance of simplified due diligence under subregulation (2), shall be consistent with the money laundering risks of the national risk assessment.”; and

- (b) by inserting after subregulation (4) the following new subregulation:

“(5) Notwithstanding regulation 15(1), where a financial institution or listed business determines that the business relationship is lower risk on the basis of the assessment conducted for the purpose of regulation 7(2), simplified due diligence measures may be applied in accordance with regulation 14(2).”.

9. Regulation 15(3) of the Regulations is amended by deleting the word “shall” and substituting the word “may”. Regulation 15 amended

10. Regulation 17 of the Regulations is amended in subsection (1)— Regulation 17 amended

(a) in paragraph (b) by deleting the word “; and” and substituting the word “;”;

(b) in paragraph (c) by deleting the word “.” and substituting the words “, the protector and the settlor; and”; and

(c) by inserting after paragraph (c) the following new paragraph:

“(d) verification of the identity of the beneficiary or class of beneficiaries and any other person exercising ultimate effective control over the trust.”.

11. Regulation 20 of the Regulations is amended— Regulation 20 amended

(a) in subregulation (4) by deleting the word “exsiting” and substituting the word “existing”; and

(b) in subregulation (6) by deleting the word “insitution” and substituting the word “institution”;

12. Regulation 33 of the Regulations is amended by inserting after subregulation (6) the following new subregulations: Regulation 33 amended

“(7) An intermediary financial institution shall, where the originator or beneficiary information accompanying a cross-border wire transfer cannot be relayed with a related domestic wire transfer due to technical limitations, ensure that all available information received from the originating financial institution or another intermediary financial institution is kept in accordance with regulation 31.

(8) Where a money or value transfer service provider controls both the originating and beneficiary side of a wire transfer, the money or value transfer service provider shall—

- (a) take into account all the originator and beneficiary information in order to determine whether a suspicious activity report is to be submitted to the FIU; and
- (b) where applicable, file a suspicious activity report in any country affected by the suspicious activity report and make relevant transaction information available to the FIU.”.

Regulation 40 amended 13. Regulation 40 of the Regulations is amended in paragraph (b) by deleting the words “, an agent”.

Made this 14th day of December, 2018.

C. IMBERT
Minister of Finance