

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 6 of 2021

Anti-Money Laundering (Amendment) Regulations, 2021

In exercise of the power conferred by section 67 of the Proceeds of Crime Act, Cap. 4:28, the Minister makes the following Regulations:

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1. Citation.

These Regulations may be cited as the Anti-Money Laundering (Amendment) Regulations, 2021.

2. INTERPRETATION.

In these Regulations,

“Regulations” means the Anti-Money Laundering Regulations, No. 46 of 2011;

“regulated business” includes the business of being engaged in or providing financial services or related products or any regulated business activity that is referred to in Schedule 1 of the POCA;

3. AMENDMENT OF REGULATION 2.

Regulation 2 of the Regulations is amended as follows:

(a) in the definition of “politically exposed person”, by inserting immediately after paragraph (c) a new paragraph (d) as follows:

“ (d) an individual who is or who has been entrusted domestically with prominent public functions including Heads of State or of Government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, and important political party officials.”;

(b) in the definition of “equivalent business” by inserting immediately after paragraph (e), a new paragraph (f) as follows:

“ (f) carried on in a country or territory other than St. Christopher and Nevis where the level of the country’s risk is assessed and the information on this risk assessment is available.”;

(c) by inserting in the correct alphabetical order the following new definition,

“ “sufficient information” means any information obtained by applying the identification procedures in Regulation 4;”.

4. AMENDMENT OF REGULATION 3.

The Regulations are amended in regulation 3 as follows

- (a) by deleting subregulation (3) paragraph (c) and replacing it as follows
 - “ (c) determine whether for money laundering purposes a customer is a foreign politically exposed person, domestic politically exposed person or a person who has been entrusted with a prominent function by an international organization;”
- (b) by deleting subregulation (3) paragraph (d) and replacing it as follows:
 - “ (d) identify and assess the money laundering risks that may arise in relation to
 - (i) the development of new products and new business practices, including new delivery mechanisms; and
 - (ii) the use of new or developing technologies for both new and pre-existing products, however in the case of financial institutions, such risk assessment should take place prior to the launch of the new products, business practices or the use of new or developing technologies provided that a relevant person shall take appropriate measures to manage and mitigate the risks that have been identified and assessed.”

5. AMENDMENT OF REGULATIONS.

The Regulations are amended by inserting immediately after regulation 3, the following new regulation

- “ 3A. **RISK ASSESSMENT.**
 - (1) A regulated person is required to take appropriate steps to identify, assess, and understand its ML risks for the following
 - (a) customers, countries or geographic areas; and
 - (b) products, services, transactions or delivery channels.
 - (2) Where a regulated person acts in accordance with the provisions of subregulation (1), the steps taken shall include requirements to
 - (a) document their risk assessments;
 - (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 risk assessments up to date; and
 - (d) have appropriate mechanisms to provide risk assessment information to the Commission.
 - (3) A regulated person is required to:

- (a) have policies, controls and procedures, which are approved by senior management, to enable it to manage and mitigate the risks that have been identified either by the country or by the financial institution;
- (b) monitor the implementation of those controls and to enhance them if necessary; and
- (c) take enhanced measures to manage and mitigate the risks where higher risks are identified.

(4) In the case of new products, services and delivery channels, the regulated person is required to:

- (a) identify and assess the ML 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.
- (b) undertake the risk assessments prior to the launch or use of such products, practices and technologies; and
- (c) take appropriate measures to manage and mitigate the risks.

6. AMENDMENT OF REGULATION 4.

The Regulations are amended in regulation 4 by

- (a) deleting in subregulation (1) paragraph (c), the expression, “or” occurring immediately after subparagraph (i);
- (b) inserting in subregulation (1) paragraph (c), immediately after subparagraph (ii), the expression, “or” and the following new subparagraph (iii)
 - “ (iii) a customer is carrying out occasional transactions, including wire transfers, above the applicable designated threshold, including situations where the transaction is carried out in a single operation or in several operations that appear to be linked.”.
- (c) inserting in subregulation (2) paragraph (b) immediately after subparagraph (iii), the following new subparagraph (iv)
 - “ (iv) identifying the person acting on behalf of a third party who is an individual”.
- (d) deleting in subregulation (9), the expression “one-off” occurring in the first line thereof.
- (e) replacing in subregulation (12), paragraph (b) as follows:
 - “ (b) determine from publicly available information the reputation of the respondent and the quality of its supervision, including whether it has been subject to a money laundering investigation or regulatory action.”.

7. AMENDMENT OF REGULATION 5.

The Regulations are amended in regulation 5 as follows

- (a) by deleting subregulation (1) paragraph (b) and replacing it as follows:

- “ (b) a relevant person proposes to have a business relationship or carry out a transaction with a foreign politically exposed person, a domestic politically exposed person or a person who has been entrusted with a prominent function by an international organization, when there is a higher risk business relationship with such a person;
- (b) inserting in subregulation (2) immediately after paragraph (b), a new paragraph (c) as follows:
 - “ (c) enhanced customer due diligence procedures in business relationships and transactions with natural and legal persons, including financial institutions, from countries for which this is called for by the FATF.”
- (c) by deleting in subregulation (4) paragraph (a) the expression, “with the consent of the Commission”.
- (d) by deleting subregulation (5) and replacing it as follows
 - “ (5) A relevant person shall:
 - (a) establish risk management systems to determine whether a customer or the beneficial owner is a high risk person or a politically exposed person;
 - (b) obtain senior management approval before establishing or continuing, for existing customers, business relationships where a customer or beneficial owner is a high risk person or a politically exposed person;
 - (c) take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as a high risk person or a politically exposed person; and
 - (d) conduct enhanced ongoing monitoring in relation to the business relationship between itself and a high risk person or a politically exposed person.

8. **AMENDMENT OF REGULATIONS.**

The Regulations are amended by inserting immediately after regulation 5, the following new regulation 5A.

“ 5A. **THRESHOLD TRANSACTIONS.**

Where a customer seeks to transact in an amount that is equivalent to or greater than a threshold of ten thousand dollars, a relevant person shall apply customer due diligence measures in relation to that transaction.”.

9. **AMENDMENT OF REGULATION 6.**

The Regulations are amended in Regulation 6 as follows

- (a) by deleting the heading, “**REDUCED CUSTOMER DUE DILIGENCE FOR LOW RISK SITUATIONS**” and replacing it with the expression, “**SIMPLIFIED CUSTOMER DUE DILIGENCE FOR LOW RISK SITUATIONS**”;

(b) by deleting subregulations (1) to (9) and replacing them with the following:

“ (1) A relevant person shall only apply simplified customer due diligence measures where lower risks have been identified through an adequate analysis of risks by the relevant person, by competent authorities of St. Christopher and Nevis or by a credible standards-setting international institution or body.

(2) Notwithstanding the provisions of subregulation (1), where there is a suspicion of money laundering, a relevant person shall not use simplified due diligence measures but shall take the necessary actions pursuant to the provisions of regulation 5 on enhanced due diligence.

10. AMENDMENT OF REGULATION 7.

The Regulations are amended in Regulation 7 by

(a) replacing subregulation (6) paragraph (b), subparagraph (i) as follows:

“ (i) has applied the identification procedures referred to in Regulation 4”.

(b) inserting immediately after subregulation 10, the following new subregulation 11

“ (11) Notwithstanding the provisions of this regulation, the relevant person shall retain ultimate responsibility for ensuring compliance with customer due diligence requirements, particularly the identification and verification of customers.”.

11. AMENDMENT OF REGULATION 11.

The Regulations are amended in Regulation 11 as follows:

(a) in subregulation (1) paragraph (e), by deleting the expression “within twenty-four hours of such determination or knowledge of suspicion of information obtained by him or her” and replace it with the expression, “as soon as reasonably practicable but not more than five working days”.

(b) in subregulation (2) paragraph (b), by deleting the expression, “within twenty-four hours of the matter coming to its attention,” and inserting immediately after the expression, “Authority”, the expression, “as soon as reasonably practicable but not more than five working days”.

Made this 11th day of February, 2021.

TIMOTHY HARRIS
Minister responsible for Finance