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FINANCIAL TRANSACTIONS REPORTING REGULATIONS, 2018

Arrangement of Regulations

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MINISTRY OF FINANCE

S.I. No. 35 of 2018

FINANCIAL TRANSACTIONS REPORTING ACT, 2018

(No. 5 of 2018)

FINANCIAL TRANSACTIONS REPORTING
REGULATIONS, 2018

The Minister, in exercise of the powers conferred by section 59 of the Financial Transactions Reporting Act, 2018, makes the following Regulations —

PART I - PRELIMINARY

1. Citation and commencement.

- (1) These Regulations may be cited as the Financial Transactions Reporting Regulations, 2018.
- (2) These Regulations shall come into force on such date as may be appointed by the Minister by notice published in the *Gazette*.

2. Interpretation.

In these Regulations —

“**the Act**” means the Financial Transactions Reporting Act, 2018 (*No. 5 of 2018*);

“**corporate entity**” includes —

- (a) unless the context otherwise requires, means a company that is incorporated or registered under the Companies Act (*Ch. 308*);
- (b) an international business company as defined in the International Business Companies Act (*Ch. 309*);

“**facility**” has the meaning assigned to in section 2 of the Act;

“**facility holder**” has the meaning assigned to in section 2 of the Act;

“**Financial Intelligence Unit**” means the Financial Intelligence Unit established under section 3 of the Financial Intelligence Unit Act (*Ch. 367*);

“**identified risk**” has the meaning assigned to it in section 2 of the Proceeds of Crime Act, 2018 (*No. 4 of 2018*);

“occasional transaction” means a transaction between a financial institution and a customer who does not have a business relationship with that financial institution:

“partnership” includes —

- (a) a partnership, as defined in the Partnership Act (*Ch. 310*);
- (b) a partnership with limited liability, as defined in the Partnership Limited Liability Act (*Ch. 311*);
- (c) an exempted limited partnership, as defined in the Exempted Limited Partnership Act (*Ch. 312*);

“trust” includes, but is not limited to, a “private trust company” as defined in section 2 of the Banks and Trust Companies Regulation Act (*Ch. 316*).

PART II – DESIGNATED AMOUNTS

3. Designated amounts for due diligence.

For the purposes of Part II of the Act, the designated amounts shall be in respect of —

- (a) occasional transactions, whether such transaction is a single transaction or are linked transactions, which are equal to or not exceeding fifteen thousand dollars;
- (b) the financial transactions of patrons of gaming houses and casinos, whether such transaction is a single or are linked transactions, which are equal to or not exceeding three thousand dollars;
- (c) financial transactions of jewellers and other dealers of precious stones and metals, whether such transaction is a single or are linked which is equal to or not exceeding fifteen thousand dollars.

PART III – VERIFICATION REQUIREMENTS

4. Verification of identity of individuals.

- (1) Where a financial institution is required to verify the identity of any individual pursuant to section 7 of the Act, the following information is required —
 - (a) the full, correct and legal name of the individual;
 - (b) contact information;
 - (c) date and place of birth; and
 - (d) the purpose of the account; and

- (e) the nature of the business relationship to be established.
- (2) In addition to the requirements mentioned in paragraph (1), the following information may be required of the individual —
 - (a) evidence of the source of funds;
 - (b) evidence of the source of wealth;
 - (c) a specimen signature;
 - (d) telephone and fax number, if any;
 - (e) occupation, name of employer, and where self-employed, the nature of the self-employment; or
 - (f) a copy of —
 - (i) the relevant identification pages of passport;
 - (ii) a driver's licence;
 - (iii) a voters card;
 - (iv) a national identity card; or
 - (v) such other identification document bearing a photographic likeness of the individual as is reasonably capable of establishing the identity of the individual.

5. Verification of corporate entity.

- (1) Where a financial institution is required to verify the existence of a corporate entity, the financial institution shall require that corporate entity to submit —
 - (a) a certified copy of the certificate of incorporation;
 - (b) a certified copy of the Memorandum of Association and Articles of Association of the entity;
 - (c) a certified copy of the resolution of the Board of Directors of the corporate entity authorizing the opening of the account and conferring authority on the natural person who will operate the facility;
 - (d) documentary evidence as is required under regulation 6 for the verification of the natural person who will operate the facility;
 - (e) documentary evidence to satisfy the requirements for the identification and verification of the identity of the beneficial owners of the corporate entity —
 - (i) who have a ten percent or more controlling interest in the corporate entity;
 - (ii) to the extent that there is doubt under subparagraph (i) as to whether the person with the controlling interest is the beneficial owner or where no natural person exerts control

- through ownership interests, the identity of the natural person if any exercising control of the legal person or arrangement through other means; or
- (iii) where no natural person is identified under subparagraph (i) or (ii), the identity of the relevant natural person who holds the position of senior managing official;
 - (f) a certificate of good standing;
 - (g) the location of the registered office and, if different, the location of the principal place of business;
 - (h) a description of the nature of the business including —
 - (i) the date of commencement of the business;
 - (ii) a description of the products or services provided by the business;
 - (iii) the location of the principal place of business; and
 - (i) such other official documentary and other information as is reasonably capable of establishing information on the customer's ownership and control structure of the corporate entity.
- (2) In addition to the requirements specified in paragraph (1), a financial institution may require —
- (a) the names and addresses of all officers and directors of the corporate entity;
 - (b) the purpose of the facility and the potential parameters of the facility including —
 - (i) size, in the case of investment and custody facilities;
 - (ii) balance ranges, in the case of deposit facilities;
 - (iii) the expected transaction volume of the facility; and
 - (c) written confirmation that all credits to the facility are and will be beneficially owned by the facility holder except in circumstances where the facility is being operated by an intermediary for the purpose of holding funds in his professional capacity.

6. Verification of identity of partnership or unincorporated business.

- (1) Where a financial institution is required to verify the identity of a partnership or other unincorporated business, pursuant to section 7(1) of the Act, the following information shall be required —
 - (a) verification of all partners or beneficial owners in accordance with regulation 4;
 - (b) a copy of the partnership agreement, if any, or other agreement establishing the unincorporated business;

- (c) the mandate from the partnership or beneficial owner authorizing the opening of the account and conferring authority on those who will operate the account; and
 - (d) any documentary evidence as is required under regulation 6 for the verification of the natural person who will operate the facility.
- (2) In addition to the requirements specified in paragraph (1) the financial institution may require—
- (a) the description and nature of the business including —
 - (i) the date of commencement of the business;
 - (ii) a description of the product or service provided the business;
 - (iii) the location of the principal place of business;
 - (b) the purpose of the account and the potential parameters of the facility including —
 - (i) size, in the case of investment and client facilities;
 - (ii) balance ranges, in the case of deposit and client facilities;
 - (iii) the expected transaction volume of the facility;
 - (c) written confirmation that all credits to the facility are and will be beneficially owned by the facility holder except in circumstances where the facility is being operated by an intermediary for the purpose of holding funds in his professional capacity; and
 - (d) such documentary or other evidence as is reasonably capable of establishing the identity of a partner or beneficial owner.

7. Verification of trust and other legal arrangement.

- (1) This regulation shall apply to the verification of identity in relation to a trust and other legal arrangement pursuant to section 7 of the Act.
- (2) For the purpose of this regulation, “facility” includes a trust.
- (3) Where a financial institution is required to verify identity in relation to a trust, the financial institution shall, in addition to carrying out the obligations imposed by the Act and these Regulations, take reasonable measures to determine the identity of the —
 - (a) settlor of the trust;
 - (b) beneficiaries or class of beneficiaries of the trust;
 - (c) protector, if any; and
 - (d) the natural person exercising effective control over the trust.
- (4) Where a financial institution is required to verify identity in relation to a legal arrangement other than a trust, the financial institution shall, in addition to the obligations imposed by the Act and these Regulations, take reasonable measures to determine the identity of —

- (a) the legal person exercising effective control over the legal arrangement;
- (b) the beneficiary, if any; and
- (c) the natural person establishing such arrangement.

8. Exemption from verification.

Subject to the provisions of section 8 of the Act, documentary evidence shall not normally be required for verification of identity of —

- (a) any financial institution licensed by the Central Bank of The Bahamas, The Securities Commission of The Bahamas, The Inspector, Financial Corporate Service Providers, The Insurance Commission of The Bahamas, or the Gaming Board;
- (b) a financial institution which —
 - (i) is subject to anti-money laundering and countering the financing of terrorism obligations;
 - (ii) is under supervision for compliance with the obligations referred to in subparagraph (i); and
 - (iii) has adequate procedures for compliance with customer due diligence and record keeping requirements;
- (c) any central or local government agency or statutory body; and
- (d) a publicly traded company listed on The Bahamas International Stock Exchange or any other Stock Exchange specified in the *Schedule* and approved by the Securities Commission of The Bahamas.

9. Reliance on due diligence by third party.

Subject to section 9 of the Act and any directions or guidance issued by the relevant supervisory authority, where a financial institution has obtained written confirmation from either —

- (a) a local financial institution; or
- (b) a foreign financial institution,

which has verified the identity of an individual, corporate entity, partnership or other unincorporated business entity, the financial institution may rely on the verification by the local financial institution or by the foreign financial institution.

10. Verification of beneficial owner.

Where a financial institution is required to verify the identity of a facility holder under Part II of the Act, the financial institution shall verify the identity of the beneficial owner of such facility in accordance with these Regulations.

11. Verification of facilities established by telephone or Internet.

- (1) Where an individual, corporate entity or partnership makes a request to establish a facility —
 - (a) by telephone;
 - (b) by the Internet; or
 - (c) by written communication,the financial institution shall verify, in accordance with these Regulations, the identity of that individual, corporate entity or partnership for whom the facility is to be established.
- (2) Notwithstanding paragraph (1), the financial institution may rely on the verification of the identity of the individual, corporate entity or partnership in accordance with regulation 9.

12. Continued verification of accounts.

- (1) Where the identity of a facility holder has been verified, no further verification of identity is necessary unless there is a material change in the operation of the facility.
- (2) For the purposes of this regulation, a material change in the operation of a facility includes but is not limited to —
 - (a) change in the ownership of the facility;
 - (b) activity which gives rise to the suspicion of any identified risk.
- (3) Every financial institution must carry out monitoring of all facility holders for consistency with the facility holders stated account purposes during the business relationship.

13. Transfer of records.

Where an existing facility holder closes one facility and opens another facility the financial institution shall confirm the identity of the facility holder and obtain any additional information with respect to the facility holder and all records relating to the existing account shall be transferred to the new facility and retained in accordance with the Act and any regulations made thereunder.

PART IV – OBLIGATIONS OF GENERAL INSURERS

14. Suspicious transaction reporting by general insurers.

- (1) A general insurer must file a suspicious transaction report with the Financial Intelligence Unit where a proposal, a proposer, or a circumstance raises suspicion that the proposal, proposer, or circumstance —
 - (a) involves the proceeds of criminal conduct as defined in the Proceeds of Crime Act, 2018 (*No 4 of 2018*);
 - (b) is related to an offence under the Proceeds of Crime Act, 2018 (*No. 4 of 2018*);
 - (c) is an attempt to avoid the enforcement of any provision of the Proceeds of Crime Act, 2018 (*No. 4 of 2018*); or
 - (d) is an identified risk.
- (2) A general insurer who intentionally fails to submit a report to the Financial Intelligence Unit as required by paragraph (1) commits a summary offence and is liable to imprisonment for a term of up to five years or to a fine of up to five hundred thousand dollars or to both such fine and imprisonment.
- (3) For the purposes of this regulation —

“**general insurance**” has the meaning as assigned to it in section 2 of the Insurance Act (*Ch. 347*); and

“**general insurer**” means an individual or corporate entity carrying out the business of general insurance.

PART V - MISCELLANEOUS

15. Revocation.

The Financial Transactions Reporting Regulations, 2000 (*S.I. No 111 of 2000*) is hereby revoked.

SCHEDULE

(regulation 8(d))

APPROVED STOCK EXCHANGES

American Stock Exchange (AMEX)

Amsterdam Stock Exchange (Amsterdamse Effectenbeurs)

Antwerp Stock Exchange (Effectenbeurs vennootschap van Antwerpen)

Athens Stock Exchange (ASE)
Australian Stock Exchange
Barcelona Stock Exchange (Bolsa de Valores de Barcelona)
Basle Stock Exchange (Basler Borse)
Belgium Futures & Options Exchange (BELFOX)
Berlin Stock Exchange (Berliner Borse)
Bergen Stock Exchange (Bergen Bors)
Bermuda Stock Exchange
Biblao Stock Exchange (Borsa de Valores de Bilbao)
Bologna Stock Exchange (Borsa Valori de Bologna)
Bordeaux Stock Exchange
Boston Stock Exchange
Bovespa (S3o Paulo Stock Exchange)
Bremen Stock Exchange (Bremener Wertpapierborse)
Brussels Stock Exchange (Societe de la Bourse des Valeurs Mobilieres/Effecten
Beursvennootschap van Brussel)
Cayman Islands Stock Exchange
Cincinnati Stock Exchange
Copenhagen Stock Exchange (Kobenhayns Fondsbors)
Dusseldorf Stock Exchange (Rheinsch-Westfililische Borse Zu Düsseldorf)
Florence Stock Exchange (Borsa Valori di Firenze)
Frankfurt Stock Exchange (Frankfurter Wertpapierborse)
Fukuoka Stock Exchange
Geneva Stock Exchange
Genoa Stock Exchange (Borsa Valori de Genova)
Hamburg Stock Exchange (Hanseatische Vertpapier Borse Hamburg)
Helsinki Stock Exchange (Helsingen Arvopaperiporssi Osuuskunta)
Hong Kong Stock Exchange
Irish Stock Exchange
Johannesburg Stock Exchange
Korea Stock Exchange
Kuala Lumpur Stock Exchange
Lille Stock Exchange

Lisbon Stock Exchange (Borsa de Valores de Lisboa)
London Stock Exchange (LSE)
Luxembourg Stock Exchange (Societe de la Bourse de Luxembourg SA)
Lyon Stock Exchange
Madrid Stock Exchange (Bolsa de Valores de Madrid)
Marseille Stock Exchange
Mexican Stock Exchange (Bolsa Mexicana de Valores)
Midwest Stocks Exchange
Milan Stock Exchange (Borsa Valores de Milano)
Montreal Stock Exchange
Munich Stock Exchange (Bayerische Borse in Miinchen)
Nagoya Stock Exchange
Nancy Stock Exchange
Nantes Stock Exchange
Naples Stock Exchange (Borsa Valori di Napoli)
NASDAQ (The National Association of Securities Dealers Automated
Quotations)
New York Stock Exchange
New Zealand Stock Exchange
Oporto Stock Exchange (Bolsa de Valores do Porto)
Osaka Stock Exchange
Oslo Stock Exchange (Oslo Bors)
Pacific Stock Exchange
Palermo Stock Exchange (Borsa Valori di Palermo)
Paris Stock Exchange
Philadelphia Stock Exchange
Rio de Janeiro Stock Exchange (BVRJ)
Rome Stock Exchange (Borsa Valori di Roma)
Singapore Stock Exchange
Stockholm Stock Exchange (Stockholm Fondbors)
Stuttgart Stock Exchange (Baden-Wiirtembergische Wertpapierborse Zu
Stuttgart)
Taiwan Stock Exchange
The Stock Exchange of Thailand

Tokyo Stock Exchange
Toronto Stock Exchange
Trieste Stock Exchange (Borsa Valori di Trieste)
Trondheim Stock Exchange (Trondheims Bors)
Turin Stock Exchange (Borsa Valori de Torino)
Valencia Stock Exchange (Borsa de Valores de Valencia)
Vancouver Stock Exchange
Venice Stock Exchange (Borsa Valori de Venezia)
Vienna Stock Exchange (Wiener Wertpapierborse)
Zurich Stock Exchange (Ziircher Borse)

Made this 6th day of June, 2018.

Signed
KEVIN PETER TURNQUEST
Minister of Finance