

REGULATION FOR SECURITIES INSTITUTIONS ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

(unofficial English translation)

NOTES

- 1- This regulation was published on Government Gazette on 5th April 2016, and as per Section 3, this regulation came into effect on the date of publication.
- 2- This is a reasonably accurate English translation of the regulation. The original Dhivehi text shall prevail over any discrepancies or differences between this translated version and the original text.

REGULATION FOR SECURITIES INSTITUTIONS ON PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

CHAPTER ONE

PRELIMINARY

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| Introduction | 1. This Regulation is issued pursuant to subparagraph (3), paragraph (a) of section 75 of Law No. 10/2014 (Prevention of Money Laundering and Financing of Terrorism Act). |
| Short title | 2. This Regulation shall be cited as “Regulation for Securities Institutions on Prevention of Money Laundering and Financing of Terrorism.” |
| Commencement | 3. This Regulation shall come into effect from day of publication in the government Gazette. |
| Applicability | 4. Unless expressly provided otherwise in this Regulation, this Regulation applies to the institutions licensed by the Capital Market Development Authority to conduct securities business. |
| Responsibility for compliance | 5. (a) Each Licensee shall comply with the provisions of this Regulation and the board of directors shall ensure that its subsidiaries, branches, employees, Agents and third parties to whom it outsources any of its functions, complies with this Regulation.

(b) A Licensee may comply with the requirements of this Regulation on a risk-based approach. |

CHAPTER TWO

CUSTOMER DUE DILIGENCE

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| Prohibition | 6. Licensees shall not keep anonymous accounts, or accounts in obviously fictitious names. |
| When customer due diligence is required | 7. Each Licensee shall perform customer due diligence measures provided in this Regulation when:
(a) establishing Business Relationship with a customer;

(b) carrying out a Single Transaction of an amount equivalent to 50,000 |

(fifty thousand) Maldivian Rufiyaa and above, whether such transaction is conducted as a Single Transaction or several transactions that appear to be linked. If the amount of the transaction is unknown at the time of the operation, the customer due diligence measures shall be performed as soon as the amount becomes known or the threshold is reached;

- (c) there is suspicion of money laundering or financing of terrorism activities, regardless of the amount, and notwithstanding that the Licensee would otherwise not be required under this Regulation to perform customer due diligence measures; and
- (d) doubts exist about the veracity or adequacy of previously obtained customer identification data.

**Identification of
customers, beneficial
owners and third parties**

8. (a) Where a Licensee is required to perform customer due diligence under this Regulation, the Licensee shall:

- (1) identify the customer and verify the identity of the customer;
- (2) identify beneficial owner in relation to a customer, and shall verify the identity of the beneficial owner using reliable, independent sources; and
- (3) ascertain the nature or intended purpose of the Business Relationship or of conducting a Single Transaction.

(b) When a customer appoints a person to act on behalf in establishing a Business Relationship or to conduct a Single Transaction, the Licensee shall:

- (1) identify the person that acts on behalf of the customer and verify the identity using reliable, independent sources; and
- (2) verify the authority of such person to act on behalf of the customer and retain copies of documents used to verify such authority (such as copy of a valid power of attorney or equivalent document or the official document) and shall ensure that such copies are copies of the original.

(c) For the purpose of identification requirement in paragraphs (a) and (b) above, the Licensee shall obtain and record information of the customer, beneficial owner and third party, including but not limited

to the following:

- (1) full name, including any aliases;
 - (2) identification number (e.g. identity card number, passport number, Visa number, the incorporation number or business registration number);
 - (3) current residential and permanent residential, registered or business address, and contact information; and
 - (4) nationality or place of incorporation or registration.
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- (d) Where a customer is a legal entity or a partnership, Licensees are required to understand the nature of the customer's business and its ownership structure.
 - (e) Where a customer is a legal entity, Licensee shall apart from identifying the customer, identify the directors of the company.
 - (f) Where a customer is a partnership, Licensee shall apart from identifying the customer, identify the partners of the partnership.
 - (g) Where a customer is a legal arrangement, the Licensee is required to understand the nature of the customer's business and its ownership structure. In addition, Licensees shall apart from identifying the customer, identify and verify the identity of beneficial owners.
 - (h) Where the customer or beneficial owner in relation to a customer is a government entity, the Licensee shall only be required to obtain such information as may be required to confirm that the customer is a government entity as asserted, unless it suspects that the transaction is connected with money laundering or financing of terrorism.
 - (i) Licensees may, apply simplified customer identification and due diligence measures on Business Relationships and Single Transactions that they consider low risk of money laundering or financing of terrorism.
 - (j) Licensees shall update and verify customers' identification information and monitor customers' financial transactions on an ongoing basis to detect extra-ordinary or unusual financial activities.

Verification of identity	9.	Each Licensee shall verify the identity of the customer and the beneficial owner using reliable independent sources.
Timing of verification	10.	Each Licensee shall verify the identity of the customer and beneficial owner, before establishing a Business Relationship and before conducting a Single Transaction.
Failure to complete customer due diligence	11.	If a Licensee cannot fulfil the obligation of due diligence measures provided in this Regulation, it shall not establish a Business Relationship or conduct a Single Transaction and, if circumstance warrant, shall submit a suspicious transaction report to the Financial Intelligence Unit.
Customer not physically present for the Business Relationships and transactions	12.	Licensees shall establish policies and procedures and take adequate measures to address the risk of money laundering and financing of terrorism when establishing Business Relationships and conducting transactions where the customer is not physically present for the Business Relationship or transaction.
Enhanced due diligence measures	13.	<p>(a) In addition to the due diligence measures provided in this Regulation, each Licensee shall perform enhanced due diligence measures in relation to Business Relationships and transactions that may pose high risk of money laundering and financing of terrorism</p> <p>(b) Each Licensee shall classify customers and transactions that are assessed as high risk for money laundering and financing of terrorism. The following customers and transactions shall be classified as high risk customers and transactions.</p> <ul style="list-style-type: none"> (1) politically exposed persons; (2) persons from countries that have inadequate measures for prevention of money laundering and financing of terrorism; (3) customers not physically present to establish Business Relationships and carry out transactions; and (4) any other customer and transaction designated by the Authority. <p>(c) Each Licensee shall exercise enhanced due diligence measures where money laundering or financing of terrorism risk is assessed as high risk. Enhanced due diligence measures shall include, but not limited to the following.</p>

- (1) obtaining additional information on customer and the beneficial owner;
- (2) establishing, by appropriate and reasonable means, the source of wealth and source of funds of the customer and the beneficial owner;
- (3) obtaining approval from the senior management of the Licensee before establishing, or continuing for existing customer, Business Relationship with the customer; and
- (4) conducting enhanced monitoring of the Business Relationship with the customer and regularly updating the identification information of the customer and the beneficial owner.

On-going due diligence **14.** (a) Each Licensee shall perform on-going due diligence on the Business Relationship with its customers, and monitor transactions that are carried out in order to ensure that they are consistent with their knowledge of their customer, his commercial activities, risk profile and where required, the source of fund.

(b) The frequency of the on-going due diligence shall commensurate with the level of money laundering or financing of terrorism risks posed by the customer based on the risk profiles and nature of the transactions.

Monitoring transactions **15.** (a) Licensees shall examine with particular care all extraordinary, unusually large transactions and all transactions with unusual patterns, which have no apparent economic or visible lawful purpose.

(b) Licensees shall pay special attention to transactions with persons or legal entities, residing in countries that do not apply the relevant international standards to combat money laundering and financing of terrorism. The Financial Intelligence Unit shall provide information of such countries to the Licensees.

CHAPTER THREE

RECORD KEEPING

Recordkeeping **16.** (a) Each Licensee shall maintain relevant records and documentation

including business correspondence and transactions, in particular those obtained during customer due diligence process. These include copies of documents used to verify the identity of customers, beneficial owners and those persons required under this Regulation.

- (b) In addition to the information specified in paragraph (a), each Licensee shall keep the following information and documentation.
 - (1) identification information and copies of documents collected to verify the identity;
 - (2) records and documentation collected for the internal analysis conducted on matters that are considered suspicious; and
 - (3) records of suspicious transaction reports submitted to the Financial Intelligence Unit.
- (c) The following record-keeping periods shall apply for the records kept under this Section:
 - (1) records and documents collected for a Single Transaction, 5 (five) years following the completion of the Single Transaction. This includes, but not limited to the customer identification information and any other information and documents relating to the respective Single Transaction.
 - (2) records and documents collected for Business Relationships, 5 (five) years following the termination of the Business Relationship. This includes, but not limited to the customer identification information, transaction history, and any other information and documents related to the respective Business Relationship.
 - (3) suspicious transaction reports and information and documents related to such reports, unless the Financial Intelligence Unit has instructed otherwise, 5 (five) years following the report was made to the Financial Intelligence Unit.

CHAPTER FOUR

REPORTING AND MONITORING

Providing information to 17. Each Licensee shall provide any such information requested by the Financial

**the Financial Intelligence
Unit**

Intelligence Unit in carrying out its functions under the Act.

**Reporting suspicious
transactions**

- 18.** (a) A Licensee that suspects or has grounds to suspect that funds or property are proceeds of crime, or are related to money laundering or the financing of terrorism, is required to submit a report setting forth it's suspicion to the Financial Intelligence Unit, as soon as practicable and not later than 3 (three) working days after forming such suspicion or grounds for suspicion.
- (b) A Licensee that suspects or has grounds to suspect that funds or property are of or related to the following, shall submit a report setting forth it's suspicion to the Financial Intelligence Unit, as soon as practicable and not later than 3 (three) working days after forming such suspicion or grounds for suspicion.
- (1) any party designated by the United Nations Security Council pursuant to Resolutions issued under Chapter VII of the UN Charter; and
- (2) any other party determined by the Financial Intelligence Unit.

**Suspension of
transactions**

- 19.** (a) Licensees shall inform the Financial Intelligence Unit, any transaction which they suspect to be related to money laundering or financing of terrorism or the proceeds of crime, and shall follow the instructions of the Financial Intelligence Unit in relation to the said transaction.
- (b) Where the seriousness or urgency of the case warrants, the Financial Intelligence Unit may order the suspension of a transaction reported under paragraph (a) of this Section for a period not exceeding 72 (seventy two) hours.
- (c) Where refraining from carrying out the transactions set out in paragraph (a) of this Section is impossible or is likely to frustrate the efforts to identify the beneficiary of a suspected transaction, the Licensee may execute the transaction and shall inform the Financial Intelligence Unit immediately afterwards.

**Reporting cash
transactions**

- 20.** Each Licensee shall submit a weekly report to the Financial Intelligence Unit of all cash transactions of 200,000 (two hundred thousand) Maldivian Rufiyaa or more or its equivalent in a foreign currency, or any other amount prescribed by the Authority, and as a single or several transactions that appear

to be linked. For the purposes of this provision, cash transactions shall mean those transactions made using cash and other bearer negotiable instruments such as cheques, bank drafts, traveler's cheques and other negotiable instruments in bearer form.

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| Prohibition against tipping off | 21. A Licensee, its director, officer or an employee, shall not disclose to its customers or a third party that information of a customer is being, was or will be provided to the Financial Intelligence Unit, or that a report concerning money laundering or financing of terrorism is being, was or will be submitted to the Financial Intelligence Unit, or that a money laundering or financing of terrorism investigation is being carried out or will be carried out. |
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CHAPTER FIVE

EXEMPTION FROM LIABILITY FOR LICENSEES

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| Exemption from liability for reporting suspicious transaction in good faith | 22. No criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract may be instituted against Licensees or their directors, officers or employees who in good faith submit reports or provide information in accordance with the provisions of this Regulation. |
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| Exemption from liability for executing suspicious transactions | 23. (a) No criminal action of money laundering and financing of terrorism shall be brought against Licensees, or their directors, officers or employees in connection with the execution of a suspicious transaction where a suspicious transaction report was made in good faith in accordance with the Act and this Regulation.

(b) The exemption from liability provided in this Section shall apply if a person carries out a transaction at the request of the law enforcement authorities, acting in the manner specified in paragraph (d) of subparagraph (1) of Section 27 and Section 44 of the Act. |
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CHAPTER SIX

PROGRAMS TO COMBAT MONEY LAUNDERING AND FINANCING OF TERRORISM

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| Programs to combat money laundering and financing of terrorism | 24. (a) Each Licensee shall develop and implement internal programs for the prevention of money laundering and financing of terrorism. Such programs shall include, but not limited to the following:

(1) establishing internal policies, procedures and controls to ensure high standards in hiring employees, and prescribe compliance management arrangements and adequate |
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screening procedures;

- (2) carrying out internal audit arrangements to check conformity, compliance with and effectiveness of the measures taken to implement the Act and this Regulation; and
- (3) internal control measures to ensure safety and security of the systems and records.

(b) Each Licensee shall ensure that its employees and Agents appointed to act on its behalf are trained on:

- (1) the Act and this Regulations, and the Licensees' internal policies and procedure on prevention of money laundering and financing of terrorism;
- (2) customer due diligence measures, and identification of customers and their beneficiaries;
- (3) the detecting and reporting of suspicious transactions; and
- (4) duties and responsibility of the employees and Agents in preventing money laundering and financing of terrorism.

(c) Each Licensee shall designate a compliance officer at management level for the implementation of the Act and this Regulation within the Licensee, and shall inform the name and contact details of the officer to the Financial Intelligence Unit.

Administrative penalties **25.** (a) The Financial Intelligence Unit may impose any of the following administrative penalties, against a Licensee, its directors, officers or employees who fail to comply with any of the provisions of this Regulation.

- (1) issue a notice in writing to comply within a specified period;
- (2) impose a fine between 10,000.00 (ten thousand) Maldivian Rufiyaa and 500,000.00 (five hundred thousand) Maldivian Rufiyaa; and
- (3) where failing to comply within the specified period, impose a daily fine of amount between 10,000.00 (ten thousand)

Maldivian Rufiyaa and 100,000.00 (one hundred thousand)
Maldivian Rufiyaa until compliance is achieved.

CHAPTER SEVEN

TRANSITIONAL PROVISIONS AND DEFINITIONS

Existing customers **26.** Each Licensee shall, within 3 (three) months following the commencement of this Regulation, perform customer due diligence measures stipulated in this Regulation for existing customers when this Regulation come into effect.

Definitions **27.** The terms and expressions used in this Regulation shall, except where expressly defined below in this Regulation or where the context otherwise requires, have the same respective meaning as in the Act.

“*Agent*” means any natural or legal person that carries out any function or obligation of a Licensee at its request with a formalized agreement.

“*Beneficial Owner*” has the same meaning assigned to it in the Act.

“*Business Relationship*” means a business, professional or commercial relationship, with an element of duration, between a Licensee and a customer, which is expected by the Licensee at the time when relation is established.

“*Capital Market Development Authority*” refers to the authority established under the Law No. 2/2006 (Maldives Securities Act).

“*Financial Intelligence Unit*” or “Unit” refers to the Financial Intelligence Unit established under Section 27 of the Act.

“*Licensee*” or “*Securities Institutions*” means any of the following persons licensed and regulated by the Capital Market Development Authority:

- 1- Dealing company;
- 2- Investment advisers;
- 3- Fund managers;
- 4- Underwriters; and
- 5- Any other person designated by the Maldives Monetary Authority.

“*Single Transaction*” means any transaction conducted without or outside a Business Relationship.

“*Legal Arrangement*” shall mean express trusts and other similar legal arrangements.

“*Maldives Monetary Authority*” or “*Authority*” refers to the authority established under the Law No. 6/81 (Maldives Monetary Authority Act)

“*Politically exposed person*” has the meaning assigned to it in the Act.

“*Proceeds of Crime*” has the meaning assigned to it in the Act;

“*the Act*” means the Law No. 10/2014 (Prevention of Money Laundering and Financing of Terrorism Act).