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**PROCEEDS OF CRIME LAW, 2008**

**(Law 10 of 2008)**

**MONEY LAUNDERING REGULATIONS**

**(2009 Revision)**

Revised under the authority of the Law Revision Law (1999 Revision).

Money Laundering Regulations, 2000 made the 2nd April, 2000,

consolidated with the -

Money Laundering (Amendment) (Client Identification) Regulations, 2001 made the 26th April, 2001

Money Laundering (Amendment) (Electronic Payments) Regulations, 2001 made the 24th May, 2001

Money Laundering (Amendment) Regulations, 2001 made the 2nd October, 2001

Money Laundering (Amendment) Regulations, 2002 made the 30th April, 2002

Money Laundering (Amendment) (No.2) Regulations, 2002 made the 17th December, 2002

Money Laundering (Amendment) Regulations, 2003 made the 17th June, 2003

Money Laundering (Amendment) Regulations, 2004 made the 1st September, 2004

Money Laundering (Amendment) Regulations, 2005 made the 25th October, 2005

Money Laundering (Amendment) Regulations, 2007 made the 1st June, 2007

Money Laundering (Amendment) (No. 2) Regulations, 2007 made the 7th August, 2007

Money Laundering (Amendment) Regulations, 2008 made the 23rd October, 2008,

and as amended by the -

Cayman Islands (Constitution) (Amendment) Order 2003 (U.K.S.I. 2003 No. 1515) made the 12th day of June, 2003.

Consolidated and revised this 16th day of June, 2009.

*Note (not forming part of the Regulations): This revision replaces the 2008 Revision which should now be discarded.*



**MONEY LAUNDERING REGULATIONS**

**(2009 Revision)**

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**MONEY LAUNDERING REGULATIONS  
(2009 Revision)**

**PART I - Introductory**

1. These regulations may be cited as the Money Laundering Regulations (2009 Revision). Citation

2. (1) In these regulations- Definitions

“applicant for business” means a person seeking to form a business relationship, or carry out a one-off transaction, with a person who is carrying out relevant financial business in the Islands;

“Authority” means the Cayman Islands Monetary Authority;

“batch file transfer” means several individual transfers of funds which are bundled together for transmission;

“business relationship” has the meaning given by regulation 3;

“Case 1”, “Case 2”, “Case 3” and “Case 4” have the meanings given in regulation 7;

“insurance business” means business of any of the classes of business specified in the First Schedule;

“intermediary payment service provider” means a payment service provider, neither of the payer nor of the payee, that participates in the execution of transfers of funds;

“money laundering” means doing any act which constitutes an offence under section 47 or 48 of the Misuse of Drugs Law (2009 Revision), sections 19 to 22 of the Terrorism Law (2009 Revision) or sections 32 to 34 of the Law or, in the case of an act done otherwise than in the Islands, would constitute such an offence if done in the Islands;” 2009 Revisions

“one-off transaction” means any transaction other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant financial business;

“payee” means a person who is the intended final recipient of transferred funds;

“payer” means either a person who holds an account and allows a transfer of funds from that account, or, where there is no account, a natural or legal person who places an order for a transfer of funds;

“payment service provider” means a person whose business includes the provision of transfer of funds services;

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“regulatory laws” means-

- (a) the Banks and Trust Companies Law (2009 Revision);
- (b) the Building Societies Law (2001 Revision);
- (c) the Companies Management Law (2003 Revision);
- (d) the Cooperative Societies Law (2001 Revision);
- (e) the Insurance Law (2008 Revision);
- (f) the Money Services Law (2003 Revision);
- (g) the Mutual Funds Law (2009 Revision);
- (h) the Securities Investment Business Law (2004 Revision); and
- (i) any other Law that may be prescribed by the Governor by regulations made under section 46 of the Monetary Authority Law (2009 Revision);

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“relevant financial business” has the meaning given by regulation 4;

“terrorist financing” means doing any act which constitutes an offence under sections 19 to 22 of the Terrorism Law (2009 Revision) or, in the case of an act done otherwise than in the Islands, would constitute such an offence if done in the Islands;

“transfer of funds” means any transaction carried out on behalf of a payer through a payment service provider by electronic means, with a view to making funds available to a payee at a payment service provider, irrespective of whether the payer and the payee are the same person; and

“unique identifier” means a combination of letters, numbers or symbols, determined by the payment service provider, in accordance with the protocols of the payment and settlement system or messaging system used to effect the transfer of funds.

(2) For the purposes of Part VII, complete information on a payer shall consist of -

- (a) his name;
- (b) (i) his address; or  
(ii) his date and place of birth;  
(iii) his customer identification number; or  
(iv) the number of a Government-issued document evidencing his identity; and
- (c) his account number or a unique identifier which allows the transaction to be traced back to the payer.

(3) The reference, in the definition of “money laundering”, to doing any act which would constitute an offence under the Law shall, for the purposes of these regulations, be construed as a reference to doing any act which would constitute an offence under the Law if, for the definition of “criminal conduct” in section 22(10) of the Law, there were substituted -

“(10) In this Law-

“criminal conduct” means -

- (a) conduct which constitutes an offence to which this Law applies;  
or
- (b) conduct which-
  - (i) would constitute such an offence if it had occurred in the Islands; and
  - (ii) contravenes the law of the country in which it occurred.”.

(3) For the purposes of this regulation, a business relationship formed by a person acting in the course of relevant financial business is an established business relationship where that person has obtained, under procedures maintained by him in accordance with regulation 7, satisfactory evidence of the identity of the person who, in relation to the formation of that business relationship, was the applicant for business.

3. (1) Any reference in this regulation to an arrangement between two or more persons is a reference to an arrangement in which at least one person is acting in the course of a business.

Business relationships

(2) For the purposes of these regulations-

“business relationship” means any arrangement between two or more persons where -

- (a) the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent, habitual or regular basis; and
- (b) the total amount of any payment or payments to be made by any person to any other in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made.

4. (1) For the purposes of these regulations-

Relevant financial  
business

“relevant financial business”, subject to subregulation (2), means the business of engaging in one or more of the following -

- (a) banking or trust business carried on by a person who is for the time being a licensee under the Banks and Trust Companies Law (2009 Revision);
- (b) acceptance by a building society of deposits made by any person (including the raising of money from members of the society by the issue of shares);
- (c) business carried on by a co-operative society within the meaning of the Co-operative Societies Law (2001 Revision);

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- 2008 Revision (d) insurance business and the business of an insurance manager, an insurance agent, an insurance sub-agent or an insurance broker within the meaning of the Insurance Law (2008 Revision);
- 2009 Revision (e) mutual fund administration or the business of a regulated mutual fund within the meaning of the Mutual Funds Law (2009 Revision);
- 2003 Revision (f) the business of company management as defined by the Companies Management Law (2003 Revision), except that the services specified in section 3(4)(a) of that law shall not be excluded for the purposes of these regulations from the provision of the specified services as defined in subsection (2) of that section; and
- (g) any of the activities set out in the Second Schedule, other than an activity falling within paragraphs (a) to (f) of this subregulation.

(2) In this regulation -

- 2009 Revision “banking business” has the same meaning as in the Banks and Trust Companies Law (2009 Revision); and
- 2001 Revision “building society” means a society incorporated under section 3 of the Building Societies Law (2001 Revision).

**PART II - Systems and Training to Prevent Money Laundering**

Systems and training to prevent money laundering

5. (1) A person shall not, in the course of relevant financial business carried on by him in or from the Islands, form a business relationship, or carry out a one-off transaction, with or for another unless he -
- (a) maintains the following procedures established in relation to that business -
- (i) identification procedures in accordance with regulations 7 and 9;
  - (ii) record-keeping procedures in accordance with regulation 12;
  - (iii) except where the person concerned is an individual who in the course of relevant financial business does not employ or act in association with any other person, internal reporting procedures in accordance with regulation 14; and
  - (iv) such other procedures of internal control (including an appropriate internal audit function) and communication as may be appropriate for the ongoing monitoring of business relationships or one-off transactions for the purposes of forestalling and preventing money laundering;
- (b) complies with the identification and record keeping requirements of Part VII;

- (c) takes appropriate measures from, time to time, for the purposes of making employees whose duties include the handling of relevant financial business aware of -
    - (i) the procedures under paragraph (a) which are maintained by him and which relate to the relevant financial business in question; and
    - (ii) the enactments relating to money laundering;
  - (d) provides such employees from time to time with training in the recognition and handling of transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering; and
  - (e) designates a person, at management level, to be a compliance officer with responsibility for monitoring and ensuring internal compliance with the Laws relating to money laundering.
- (2) A person shall not, in the course of relevant financial business to which this subregulation applies and which is carried on by him in or from the Islands, form a business relationship, or carry out a one-off transaction, with any institution that-
- (a) is carrying on relevant financial business to which this subregulation applies;
  - (b) has no physical presence in the territory in which it is incorporated or in which it is carrying on such business, as the case may be; and
  - (c) is unaffiliated with a regulated financial group that is subject to consolidated supervision.
- (3) Whoever contravenes this regulation is guilty of an offence and liable -
- (a) on summary conviction, to a fine of five thousand dollars; or
  - (b) on conviction on indictment, to a fine and to imprisonment for two years.
- (4) In determining whether a person has complied with any of the requirements of subregulation (1) -
- (a) a court shall take into account any relevant supervisory or regulatory guidance which applies to that person; and
  - (b) a court may take into account any other relevant guidance issued by a body that regulates, or is representative of, any trade, profession, business or employment carried on by that person.
- (5) Subregulation (2) applies to any of the activities set out in-
- (a) regulation 4(1)(a) (insofar as it relates to banking business);
  - (b) regulation 4(1)(b) and (c); and
  - (c) paragraphs 4 and 10 of the Second Schedule.

(6) In proceedings against a person for an offence under this regulation, it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(7) In determining whether to exercise any of its enforcement powers under the regulatory laws, the Authority shall take into account whether there has been any non-compliance with-

- (a) these regulations; or
- (b) any supervisory or regulatory guidance.

(8) In this regulation -

“enactments relating to money laundering” means the enactments referred to in regulation 2(2) and the provisions of these regulations; and

“supervisory or regulatory guidance” means guidance issued, adopted or approved by the Authority or contained in regulations or a code of practice issued under the principal Law.

Offences by bodies  
corporate, partnerships  
and unincorporated  
associations

6. (1) Where an offence under regulation 5 committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by the members, subregulation (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of a body corporate.

(3) Where an offence under regulation 5 committed by a partnership, or by an unincorporated association other than a partnership, is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, a partner in the partnership or a person concerned in the management or control of the association, he, as well as the partnership or association, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### **PART III - Identification Procedures**

Identification  
procedures; business  
relationships and  
transactions

7. (1) Subject to regulations 8 and 10, identification procedures maintained by a person are in accordance with this regulation if in Cases 1 to 4 they require, as soon as is reasonably practicable after contact is first made between that person

and an applicant for business concerning any particular business relationship or one-off transaction -

- (a) the production, by the applicant for business, of satisfactory evidence of his identity; or
- (b) the taking of such measures specified in the procedures as will produce satisfactory evidence of his identity,

and the procedures are, subject to subregulation (6), in accordance with this regulation if they require that where that evidence is not obtained the business relationship or one-off transaction in question shall not proceed any further.

(2) Case 1 is any case where the parties form or resolve to form a business relationship between them.

(3) Case 2 is any case where, in respect of any one-off transaction, a person handling the transaction-

- (a) knows or suspects that the applicant for business is engaged in money laundering other than terrorist financing, or that the transaction is carried out on behalf of another person engaged in money laundering other than terrorist financing; or
- (b) knows or has reasonable cause to suspect that the applicant for business is engaged in terrorist financing, or that the transaction is carried out on behalf of another person engaged in terrorist financing.

(4) Case 3 is any case where, in respect of any one-off transaction, payment is to be made by or to the applicant for business of the amount of fifteen thousand dollars or more.

(5) Case 4 is any case where, in respect of two or more one-off transactions -

- (a) it appears at the outset to a person handling any of the transactions -
  - (i) that the transactions are linked; and
  - (ii) that the total amount, in respect of all of the transactions, which is payable by or to the applicant for business is fifteen thousand dollars or more; or
- (b) at any later stage, it comes to the attention of such a person that sub-paragraphs (i) and (ii) of paragraph (a) are satisfied.

(6) The procedures referred to in subregulation (1) are in accordance with this regulation if, when a report is made in circumstances falling within Case 2 (whether in accordance with regulation 14 or directly to the Reporting Authority),

they provide for steps to be taken in relation to the one-off transaction in question in accordance with any directions that may be given by the Reporting Authority.

(7) Subject to regulations 8, 9 and 10, where the applicant for business is a legal person or constituted as a legal arrangement, satisfactory evidence of identity shall be obtained in respect of-

- (a) the person acting on behalf of, or with the authority of, the applicant for business, together with evidence of such authority; and
- (b) the natural person who ultimately owns or controls the applicant for business.

(8) In these regulations, references to satisfactory evidence of a person's identity shall be construed in accordance with regulation 11(1).

Payments delivered by hand, or made by post or electronically

8. (1) Where satisfactory evidence of the identity of an applicant for business would, apart from this regulation, be required under identification procedures in accordance with regulation 7 but -

- (a) the circumstances are such that a payment is to be made by the applicant for business; and
- (b) it is reasonable in all the circumstances -
  - (i) for the payment to be sent by post or delivered by hand or by any electronic means which is effective to transfer funds; or
  - (ii) for the details of the payment to be sent by post or delivered by hand, to be given on the telephone or to be given by any other electronic means,

then, subject to subregulation (2), the fact that the payment is debited from an account held in the applicant's name at a licensee under the Banks and Trust Companies Law (2009 Revision) or at a bank that is regulated in, and either based or incorporated in or formed under the laws of, a country specified in the Third Schedule (whether the account is held by the applicant alone or jointly with one or more other persons) shall be capable of constituting the required evidence of identity.

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(2) Subregulation (1) shall-

- (a) not have effect to the extent that the circumstances of the payment fall within Case 2;
- (b) not have effect to the extent that the payment is made by a person for the purpose of opening a relevant account with a licensee under the Banks and Trust Companies Law (2009 Revision); and
- (c) cease to have effect in relation to an applicant for business where onward payment is to be made in any way other than results in -

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- (i) a reinvestment on behalf of the applicant with the same institution engaged in relevant financial business; or
- (ii) a payment made directly to the applicant,

so that the evidence of identity of the applicant which would have been required but for the operation of subregulation (1) shall be obtained before payment of the proceeds is made (unless by operation of law the payment of the proceeds requires to be made to a trustee in bankruptcy, a liquidator, a trustee for an insane person or a trustee of the estate of a deceased person).

(3) For the purposes of subregulation (1)(b), it shall be immaterial whether the payment or its details are sent or given to a person who is bound by regulation 5(1) or to some other person acting on his behalf.

(4) In this regulation-

“relevant account” means an account from which a payment may be made by any means to a person other than the applicant for business, whether such a payment -

- (a) may be made directly to such a person from the account by or on behalf of the applicant for business; or
- (b) may be made to such a person indirectly as a result of-
  - (i) a direct transfer of funds from an account from which no such direct payment may be made to another account; or
  - (ii) a change in any of the characteristics of the account.

9. (1) This regulation applies where, in relation to a person who is bound by regulation 5(1), an applicant for business is or appears to be acting otherwise than as principal.

Identification procedures; transactions on behalf of another

(2) Subject to regulation 10, identification procedures maintained by a person are in accordance with this regulation if, in a case to which this regulation applies, they require reasonable measures to be taken for the purpose of establishing the identity of any person on whose behalf the applicant for business is acting,

(3) In determining, for the purposes of subregulation (2), what constitutes reasonable measures in any particular case, regard shall be had to all the circumstances of the case and, in particular, to best practice which, for the time being, is followed in the relevant field of business and which is applicable to those circumstances.

(4) Without prejudice to subregulation (3), if the conditions mentioned in subregulation (5) are fulfilled in relation to an applicant for business who is, or appears to be, acting as an agent for a principal (whether undisclosed or disclosed for reference purposes only) it shall be reasonable for a person bound by regulation 5(1) to accept a written assurance from the applicant for business to the

effect that evidence of the identity of any principal on whose behalf the applicant for business may act in relation to that person will have been obtained and recorded under procedures maintained by the applicant for business.

(5) The conditions referred to in subregulation (4) are that, in relation to the business relationship or transaction in question, there are reasonable grounds for believing that the applicant for business -

- (a) acts in the course of a business in relation to which an overseas regulatory authority exercises regulatory functions; and
- (b) is based or incorporated in, or formed under the law of, a country specified in the Third Schedule.

(6) In subregulation (5) and regulation 10-

“overseas regulatory authority” means an authority which, in a country outside the Islands, exercises a function corresponding to a statutory function of the Authority in relation to relevant financial business in the Islands.

Identification  
procedures; exemptions

10. (1) Subject to subregulation (2), identification procedures under regulations 7 and 9 shall not require any steps to be taken to obtain evidence of any person’s identity-

- (a) where there are reasonable grounds for believing that the applicant for business is a person who is bound by regulation 5(1);
- (b) where there are reasonable grounds for believing that the applicant for business is himself-
  - (i) acting in the course of a business in relation to which an overseas regulatory authority, as defined in regulation 9(6), exercises regulatory functions; and
  - (ii) is based or incorporated in, or formed under the law of, a country specified in the Third Schedule;
- (c) where a business relationship is formed or a one-off transaction is carried out with or for a third party pursuant to an introduction effected by a person who has provided an assurance that evidence of the identity of all third parties introduced by him will have been obtained and recorded under procedures maintained by him, where that person identifies the third party and where-
  - (i) that person falls within paragraph (a);
  - (ii) there are reasonable grounds for believing that the conditions mentioned in regulation 9(5)(a) and (b) are fulfilled in relation to him; or
  - (iii) that person provides the identification information in relation to which he has obtained and recorded evidence;

- (d) where the person who would otherwise be required to be identified, in relation to a one-off transaction, is the person to whom the proceeds of that transaction are payable but to whom no payment is made because all of those proceeds are directly reinvested on his behalf in another transaction-
  - (i) of which a record is kept; and
  - (ii) which can result only in another reinvestment made on that person's behalf or in a payment made directly to that person;
- (e) in relation to insurance business consisting of a policy of insurance in connection with a pension scheme taken out by virtue of a person's contract of employment or occupation where the policy -
  - (i) contains no surrender clause; and
  - (ii) may not be used as collateral for a loan;
- (f) in relation to insurance business in respect of which a premium is payable in one instalment of an amount not exceeding two thousand dollars; or
- (g) in relation to insurance business in respect of which a periodic premium is payable and where the total payable in respect of any calendar year does not exceed eight hundred dollars.

(2) A person who is bound by regulation 5(1) and is relying on an introduction effected under subregulation (1)(c) in respect of a third party, remains liable for any failure of the person making the introduction to obtain and record satisfactory evidence of the identity of the third party.

(3) Nothing in this regulation shall apply in circumstances falling within Case 2.

(4) In this regulation-

“calendar year” means a period of twelve months beginning on the 31st December.

11. (1) For the purposes of these regulations, evidence of identity is satisfactory if-

- (a) it is reasonably capable of establishing that the applicant is the person he claims to be; and
- (b) the person who obtains the evidence is satisfied, in accordance with the procedures maintained under these regulations in relation to the relevant financial business concerned, that it does establish that fact,

Identification  
procedures;  
supplementary  
provisions

but where a person who is bound by regulation 5(1) has doubts as to the veracity or accuracy of any evidence of identity, that evidence shall be satisfactory only if that person obtains satisfactory additional evidence of identity .

(2) In determining for the purposes of regulation 7(1) the time span in which satisfactory evidence of a person's identity has to be obtained, in relation to any particular business relationship or one-off transaction, all the circumstances shall be taken into account including, in particular -

- (a) the nature of the business relationship or one-off transaction concerned;
- (b) the geographical locations of the parties;
- (c) whether it is practical to obtain the evidence before commitments are entered into between the parties or before money passes; and
- (d) in relation to Case 3 or 4, the earliest stage at which there are reasonable grounds for believing that the total amount payable by an applicant for business is fifteen thousand dollars or more.

(3) The simplified identification procedures permitted in regulations 8 and 10 shall not be applied in any case where a person bound by regulation 5(1) has reasonable grounds to assess that the case presents a higher risk of money laundering.

#### **PART IV - Record-keeping Procedures**

Record-keeping  
procedures

12. (1) Record-keeping procedures maintained by a person are in accordance with this regulation if they require the keeping, for the prescribed period, of the following records -

- (a) in any case where, in relation to any business relationship that is formed or one-off transaction that is carried out, evidence of a person's identity is obtained under procedures maintained in accordance with regulation 7 or 9, a record that indicates the nature of the evidence and -
  - (i) comprises a copy of the evidence;
  - (ii) provides such information as would enable a copy of it to be obtained; or
  - (iii) in a case where it is not reasonably practicable to comply with sub-paragraph (i) or (ii), provides sufficient information to enable the details as to a person's identity contained in the relevant evidence to be re-obtained;
- (b) a record comprising any relevant account files and business correspondence;
- (c) a record containing details relating to all transactions carried out by that person in the course of relevant financial business.

(2) For the purposes of subregulation (1), the prescribed period is, subject to subregulation (3), the period of at least five years commencing with -

- (a) in relation to such records as are described in paragraph (a), the date on which the relevant business was completed within the meaning of subregulation (4); and
- (b) in relation to such records as are described in subregulation (1)(b), either the date on which the relevant business was completed within the meaning of subregulation (4) or the date on which all activities taking place in the course of the transaction in question were completed, as the case may be; and
- (c) in relation to such records as are described in paragraph (b), the date on which all activities taking place in the course of the transaction in question were completed.

(3) Where a person who is bound by regulation 5(1) -

- (a) forms a business relationship or carries out a one-off transaction with another person;
- (b) has reasonable grounds for believing that that person has become insolvent; and
- (c) after forming that belief, takes any step for the purpose of recovering all or part of the amount of any debt payable to him by that person which has fallen due,

the prescribed period for the purposes of subregulation (1) is the period of at least five years commencing with the date on which the first such step is taken.

(4) For the purposes of subregulation (2)(a) or (b), the date on which relevant business is completed is -

- (a) in circumstances falling within Case 1, the date of the ending of the business relationship in respect of whose formation the record under subregulation (1)(a) or (b) was compiled;
- (b) in circumstances falling within Case 2 or 3, the date of the completion of all activities taking place in the course of the one-off transaction in respect of which the record under subregulation (1)(a) or (b) was compiled; or
- (c) in circumstances falling within Case 4, the date of the completion of all activities taking place in the course of the last one-off transaction in respect of which the record under subregulation (1)(a) or (b) was compiled,

and where the formalities necessary to end a business relationship have not been approved, but a period of five years has elapsed since the date on which the last transaction was carried out in the course of that relationship, then the date of the

completion of all activities taking place in the course of that last transaction shall be treated as the date on which the relevant business was completed.

Record-keeping procedures; supplementary provisions

13. (1) For the purposes of regulation 12(3)(b), a person shall be taken to be insolvent if, but only if -

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- (a) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
- (b) he has died and his estate falls to be administered in accordance with an order under section 66 of the Bankruptcy Law (1997 Revision); or
- (c) where that person is a company, a winding up order or an administration order has been made or a resolution for voluntary winding up has been passed with respect to it, or a receiver or manager of its undertaking has been duly appointed, or possession has been taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge, or a voluntary arrangement has been sanctioned under section 86 of the Companies Law (2007 Revision).

2007 Revision

(2) Where a person bound by regulation 5(1) -

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- (a) is an appointed representative; and
- (b) is not -
  - (i) a licensee under the Banks and Trust Companies Law (2009 Revision);
  - (ii) a licensee under the Insurance Law (2008 Revision);
  - (iii) a licensed mutual fund administrator under the Mutual Funds Law (2009 Revision); or
  - (iv) the holder of a licence under the Companies Management Law (2003 Revision),

it shall be the responsibility of the appointed representatives' principal to ensure that record-keeping procedures in accordance with regulation 12 are maintained in respect of any relevant financial business carried out by the appointed representative which is investment business carried on by him for which the principal has accepted responsibility.

(3) Where record-keeping procedures in accordance with regulation 12 are not maintained in respect of business relationships formed, and one-off transactions carried out, in the course of such relevant financial business as is referred to in subregulation (2), an appointed representative's principal shall be regarded as having contravened regulation 5 in respect of those procedures and he, as well as the appointed representative, shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(4) In this regulation-

“appointed representative” means a person -

- (a) who is employed by a person under a contract for services which
  - (i) requires or permits him to carry on relevant financial business; and
  - (ii) either prohibits him from giving advice about entering into investment agreements with persons other than his principal, or enables his principal to impose such a restriction or to restrict or prohibit the kinds of advice which he may give; or
  - (iii) either prohibits him from procuring persons to enter into investment agreements with persons other than his principal, or enables his principal to impose such a prohibition or to restrict the kinds of investment to which the agreements may relate or the other persons with whom they may be entered into; and
- (b) for whose activities in carrying on the whole or part of that relevant financial business his principal has accepted responsibility in writing,

and the relevant financial business carried on by the appointed representative as such is the relevant financial business for which his principal has accepted responsibility.

#### **PART V - Internal reporting procedures**

14. Internal reporting procedures maintained by a person are in accordance with this regulation if they include provisions-

Internal reporting  
procedures

- (a) identifying a person (“the appropriate person”) to whom a report is to be made of any information or other matter which comes to the attention of a person handling relevant financial business and which, in the opinion of the person handling that business, gives rise to -
  - (i) a knowledge or suspicion that another person is engaged in money laundering other than terrorist financing; or
  - (ii) a knowledge or reasonable suspicion that another person is engaged in terrorist financing;
- (b) requiring that any such report be considered in the light of all other relevant information by the appropriate person, or by another designated person, for the purpose of determining whether or not the information or other matter contained in the report does give rise to such a knowledge or suspicion;
- (c) for any person charged with considering a report in accordance with paragraph (b) to have access to other information which may

be of assistance to him and which is available to the person responsible for maintaining the internal reporting procedures concerned; and

- (d) for securing that the information or other matter contained in a report is disclosed to the Reporting Authority where the person who has considered the report under the procedures maintained in accordance with the preceding provisions of this regulation -
  - (i) knows or suspects that another person is engaged in money laundering other than terrorist financing; or
  - (ii) knows or has reasonable cause to suspect that another person is engaged in terrorist financing.

#### **PART VI - Duty to Report Evidence of Money Laundering Other Than Terrorist Financing**

Application

15. (1) Subject to subregulation (2), this Part applies to the Authority and to a minister or official member in the exercise, in relation to any person carrying on relevant financial business, of his statutory or official functions.

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(2) This Part does not apply to any disclosure of information to which Part 2 of the First Schedule to the Terrorism Law (2009 Revision) relates.

Supervisors, etc. to report evidence of money laundering

16. (1) Subject to subregulation (2), where the Authority, a minister or official member -

- (a) obtains any information; and
- (b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering,

he shall, as soon as is reasonably practicable, disclose that information to the Reporting Authority.

(2) Where any person is a secondary recipient of information obtained by the Authority, a minister or official member, and that person forms such an opinion as is mentioned in subregulation (1)(b), that person may disclose the information to the Reporting Authority.

(3) Where any person employed by the Authority, appointed by the Authority to act as the Authority's agent, employed by any such agent or employed by the Government in the ministry or portfolio of a minister or official-

- (a) obtains any information whilst acting in the course of any investigation, or discharging any functions, to which his appointment or authorisation relates; and
- (b) is of the opinion that the information indicates that a person has or may have been engaged in money laundering,

that person shall, as soon as is reasonably practicable, either disclose that information to the Reporting Authority or disclose that information to the Authority, minister or official member by whom he was appointed or authorised.

(4) Any disclosure made by virtue of subregulations (1) to (3) shall not be treated as a breach of any restriction imposed by statute or otherwise.

(5) Any information -

- (a) which has been disclosed to the Reporting Authority by virtue of subregulations (1) to (4); and
- (b) which would, apart from subregulation (4), be subject to such a restriction as is mentioned in that subregulation,

may be disclosed by the Reporting Authority, or any person obtaining the information directly or indirectly from the Reporting Authority, in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings, but not otherwise.

(6) In this regulation-

“secondary recipient”, in relation to information obtained by the Authority, a minister or official member, means any person to whom that information has been passed by the Authority, a minister or official member.

#### **PART VII - Identification and Record Keeping Requirements Relating to Wire Transfers**

17. (1) Subject to subregulations (2) and (3), this Part applies to transfers of funds, in any currency, which are sent or received by a payment service provider carrying on business in or from within the Islands.

Application of this Part

(2) This Part does not apply to transfers of funds carried out using a credit or debit card, if -

- (a) the payee has an agreement with the payment service provider permitting payment for the provision of goods and services; and
- (b) a unique identifier, allowing the transaction to be traced back to the payer, accompanies such transfer of funds.

(3) This Part does not apply to transfers of funds -

- (a) where the payer withdraws cash from his or her own account;
- (b) where there is a debit transfer authorisation between two parties permitting payments between them through accounts, if a unique identifier accompanies the transfer of funds, enabling the person to be traced back;

- (c) where truncated cheques are used;
- (d) for fines, duties or other levies within the Islands; or
- (e) where both the payer and the payee are payment service providers acting on their own behalf.

Information accompanying transfers of funds and record-keeping

18. (1) Subject to regulation 19, a payment service provider of a payer shall ensure that transfers of funds are accompanied by complete information on the payer.

(2) The payment service provider of the payer shall, before transferring the funds, verify the complete information on the payer on the basis of documents, data or information that meet the requirements of regulation 11(1).

(3) In the case of transfers of funds from an account, verification may be deemed to have taken place if -

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- (a) the payer's account is held at a licensee under the Banks and Trust Companies Law (2009 Revision); or
- (b) the payer is a person who is bound by regulation 5(1),

but regulation 8(2)(a) and (b) shall, with necessary changes, apply.

(4) The payment service provider of the payer shall, for five years, keep records of complete information on the payer which accompanies transfers of funds.

Transfers of funds within the Islands

19. Where both the payment service provider of the payer and the payment service provider of the payee are situated in the Islands, transfers of funds shall be required to be accompanied only by the account number of the payer or a unique identifier allowing the transaction to be traced back to the payer; but, if so requested by the payment service provider of the payee, the payment service provider of the payer shall make available to the payment service provider of the payee complete information on the payer, within three working days of receiving that request.

Batch file transfers

20. In the case of batch file transfers from a single payer where the payment service providers of the payees are situated outside the Islands, regulation 18(1) shall not apply to the individual transfers bundled together therein, if the batch file contains that information and the individual transfers carry the account number of the payer or a unique identifier.

Obligations of payment service provider of payee

21. (1) The payment service provider of a payee shall have effective procedures in place in order to detect whether, in the messaging or payment and settlement system used to effect a transfer of funds, the following information on the payer is missing -

- (a) for transfers of funds where the payment service provider of the payer is situated in the Islands, the information required under regulation 19;
- (b) for transfers of funds where the payment service provider of the payer is situated outside the Islands, complete information on the payer, or where applicable, the information required under regulation 26; and
- (c) for batch file transfers where the payment service provider of the payer is situated outside the Islands, information on the payer as referred to in regulation 20 in the batch file transfer only, but not in the individual transfers bundled therein.

22. (1) Where the payment service provider of the payee detects, when receiving transfers of funds, that information on the payer required under this Part is missing or incomplete it shall either reject the transfer or ask for complete information on the payer; and, in any event, the payment service provider of the payee shall comply with the Law, the Terrorism Law (2009 Revision) and these regulations.

Transfers of funds with missing or incomplete information on the payer

2009 Revision

(2) Where a payment service provider regularly fails to supply the required information on the payer, the payment service provider of the payee shall adopt reasonable measures to have the payment service provider of the payer correct the failures, before -

- (a) rejecting any future transfers of funds from that payment service provider;
- (b) restricting its business relationship with that payment service provider; or
- (c) terminating its business relationship with that payment service provider,

and the payment service provider of the payee shall report to the Reporting Authority and to the Authority any such decision to restrict or terminate its business relationship with that payment service provider.

23. The payment service provider of the payee shall consider missing or incomplete information on the payer as a factor in assessing whether the transfer of funds, or any related transaction, is suspicious, and whether it must be reported to the Reporting Authority, in accordance with the Law and these regulations.

Risk-based assessment

24. The payment service provider of the payee shall, for five years, keep records of any information received on the payer.

Record-keeping by payment service provider of payee

25. Intermediary payment service providers shall ensure that all information received on the payer that accompanies a transfer of funds is kept with the transfer.

Keeping of information accompanying a transfer of funds

- Technical limitations 26. (1) This regulation applies where the payment service provider of the payer is situated outside the Islands and the intermediary payment service provider is situated within the Islands, in respect of transfers of funds by the intermediary payment service provider within the Islands.
- (2) Subject to subregulation (3), the intermediary payment service provider may use a payment system with technical limitations which prevent information on the payer from accompanying the transfer of funds to send transfers of funds to the payment service provider of the payee.
- (3) Where the intermediary payment service provider receives a transfer of funds that does not have complete information on the payer as required under this Part, it shall only use a payment system with technical limitations if it is able to inform the payment service provider of the payee thereof, using a manner of communication accepted by, or agreed between, both payment service providers.
- (4) Where the intermediary payment service provider uses a payment system with technical limitations, the intermediary payment service provider shall, upon request from the payment service provider of the payee, make available to the payment service provider of the payee all the information on the payer which it has received, irrespective of whether it is complete or not, within three working days of receiving that request.
- (5) In the cases referred to in subregulations (2) and (3), the intermediary payment service provider shall, for five years, keep records of all information received.
- Cooperation obligations 27. Payment service providers shall respond fully and without delay to enquiries from the Reporting Authority concerning the information on the payer accompanying transfers of funds and corresponding records.
- Conflicts between Parts 28. Where there is an inconsistency between the provisions of this Part and any other provision of these regulations, the provisions of this Part shall prevail, to the extent of the inconsistency.

**FIRST SCHEDULE**

regulation 2

**CLASSES OF LONG TERM BUSINESS**

Number	Description	Nature of Business
I	Life and annuity	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Class III below.
II	Marriage and birth	Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.
III	Linked long term	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).
IV	Permanent health	Effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident, of an accident of a specified class or of sickness or infirmity, being contracts that- (a) are expressed to be in effect for a period of not less than five years or until the normal retirement age for the persons

concerned, or without limit of time; and  
(b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.

V	Tontines	Effecting and carrying out tontines.
VI	Capital redemption	Effecting and carrying out capital redemption contracts.
VII	Pension fund management	Effecting and carrying out- (a) contracts to manage the investments of pension funds; or (b) contracts of the kind mentioned in paragraph (a) that are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.

**SECOND SCHEDULE**

regulation 4(1)(g)

**LIST OF ACTIVITIES FALLING WITHIN THE DEFINITION OF  
“RELEVANT FINANCIAL BUSINESS”**

1. Acceptance of deposits and other repayable funds from the public.
2. Lending.
3. Financial leasing.
4. Money transmission services.
5. Issuing and administering means of payment (e.g. credit cards, travellers cheques and bankers drafts).
6. Guarantees and commitments.
7. Trading for own account or for account of customers in -
  - (a) money market instruments (cheques, bills, CDs, etc.);
  - (b) foreign exchange;
  - (c) financial futures and options;
  - (d) exchange and interest rate instruments; or
  - (e) transferable securities.
8. Participation in securities issues and the provision of services related to such issues.
9. Advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchase of undertakings.
10. Money broking.
11. Portfolio management and advice.
12. Safekeeping and administration of securities.
13. Safe custody services.
14. Financial, estate agency and legal services provided in the course of business relating to the sale, purchase or mortgage of land or interests in land on behalf of clients or customers.

15. The services of listing agents and broker members of the Cayman Islands Stock Exchange as defined in the CSX Listing Rules and the Cayman Island Stock Exchange Membership Rules respectively.

16. The conduct of securities investment business.

17. Dealing in precious metals or precious stones, when engaging in a cash transaction of fifteen thousand dollars or more.

18. The provision of registered office services to a private trust company by a company that holds a Trust licence under section 6(5)(c) of the Banks and Trust Companies Law (2009 Revision).

2009 Revision

### **THIRD SCHEDULE**

regulation 9(5)(b)

#### **COUNTRIES AND TERRITORIES WITH EQUIVALENT LEGISLATION**

Argentina	Israel
Australia	Italy
Austria	Japan
Bahamas	Jersey
Bahrain	Liechtenstein
Barbados	Luxembourg
Belgium	Malta
Bermuda	Mexico
Brazil	Netherlands
British Virgin Islands	New Zealand
Canada	Norway
Denmark	Panama
Finland	Portugal
France	Singapore
Germany	Spain
Gibraltar	Sweden
Greece	Switzerland
Guernsey	Turkey
Hong Kong	United Arab Emirates
Iceland	United Kingdom
Ireland	United States of America
Isle of Man	

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Carmena Watler  
Clerk of Cabinet





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