

**CAYMAN ISLANDS**



**Proceeds of Crime Law  
(2020 Revision)**

# **ANTI-MONEY LAUNDERING (AMENDMENT) REGULATIONS, 2020**

**(SL 2 of 2020)**

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**Arrangement of Regulations**

Regulation	Page
1. Citation .....	5
2. Amendment of regulation 2 of the Anti-Money Laundering Regulations (2018 Revision) - definitions .....	5
3. Amendment of regulation 5 - systems and training to prevent money laundering .....	6
4. Amendment of regulation 8 - assessment of risk.....	6
5. Insertion of regulation 8A - risk assessment of a country or geographic area .....	6
6. Amendment of regulation 21 - simplified customer due diligence application .....	7
7. Amendment of regulation 22 - acceptable applicants .....	8
8. Amendment of regulation 23 - payments delivered in person or electronically.....	8
9. Amendment of regulation 53C - requirement to share information.....	8
10. Insertion of Part XIB - reporting requirements of supervisory authorities .....	9
11. Amendment of regulation 55D - duties of Supervisory Authorities .....	10
12. Amendment of regulation 55S - fine amounts .....	10
13. Amendment of regulation 55Z - power to discount usual fine to reflect agreement .....	10
14. Amendment of regulation 55ZA - steps required .....	10
15. Amendment of regulation 55ZC - requirements for breach notice.....	10
16. Amendment of regulation 55ZD - duty to consider reply.....	11
17. Repeal of regulation 55ZE - rectification of a breach subject to a minor fine.....	11
18. Amendment of regulation 55ZF - decision about fine .....	11
19. Amendment of regulation 55ZG - requirements for fine notice .....	11
20. Amendment of Schedule 2 - prescribed provisions and breach categories.....	12
21. Transitional provision.....	12





**CAYMAN ISLANDS****Proceeds of Crime Law  
(2020 Revision)****ANTI-MONEY LAUNDERING (AMENDMENT)  
REGULATIONS, 2020  
(SL 2 of 2020)**

In exercise of the powers conferred by section 145 of the Proceeds of Crime Law (2020 Revision) the Cabinet makes the following Regulations —

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**Citation**

1. These Regulations may be cited as the Anti-Money Laundering (Amendment) Regulations, 2020.

**Amendment of regulation 2 of the Anti-Money Laundering Regulations (2018 Revision) - definitions**

2. The *Anti-Money Laundering Regulations (2020 Revision)*, in these Regulations referred to as the “principal Regulations”, are amended in regulation 2 as follows —
  - (a) by deleting the definition of the words “**Money Laundering Reporting Officer**” and substituting the following definition —

““**Money Laundering Reporting Officer**” means the “nominated officer” as defined in the Law and “Deputy Money Laundering Reporting Officer” shall be construed accordingly;”;
  - (b) by inserting in the appropriate alphabetical sequence the following definition —

“ **“proliferation”** means the development or production, or the facilitation of the development or production, of nuclear, radiological, biological or chemical weapons or systems for their delivery;”.

### **Amendment of regulation 5 - systems and training to prevent money laundering**

3. The principal Regulations are amended in regulation 5(a)(viiiia) by deleting the words “procedures for the ongoing monitoring of business relationships or one-off transactions” and substituting the words “procedures for the assessment of one-off transactions and the ongoing monitoring of business relationships”.

### **Amendment of regulation 8 - assessment of risk**

4. The principal Regulations are amended in regulation 8 by deleting the header and substituting the following header —

**“Part III - Assessing Risk and Applying a Risk-Based Approach”.**

### **Insertion of regulation 8A - risk assessment of a country or geographic area**

5. The principal Regulations are amended by inserting after regulation 8, the following regulation —

#### **“Risk assessment of a country or geographic area**

- 8A.** (1) When assessing the risk of money laundering or terrorist financing in a particular country or geographic area and the extent of the measures which should be taken to manage and mitigate that risk, a person carrying out relevant financial business shall take account of credible sources related to —
- (a) money laundering;
  - (b) terrorist financing;
  - (c) proliferation financing;
  - (d) corruption; and
  - (e) any other criminal activity.
- (2) When conducting a risk assessment, a person carrying out relevant financial business shall not assess a country or geographic area as having a low risk of money laundering or terrorism financing where any of the following factors are present —



- (a) the country or geographic area has been identified by credible sources as not having effective systems to counter money laundering, terrorist financing and proliferation financing;
  - (b) the country or geographic area has been identified by credible sources as having significant levels of corruption, terrorism and money laundering;
  - (c) the country or geographic area is subject to sanctions related to its risk of money laundering, terrorist financing or proliferation financing by —
    - (i) the United Kingdom; or
    - (ii) the United Nations;
  - (d) the country or geographic area has been identified by the Financial Action Task Force as a country or geographic area to which counter-measures or enhanced due diligence measures proportionate to the risks arising from the country or geographic area should be applied; and
  - (e) the country or geographic area is subject to an Order made under section 201(3) of the Law.
- (3) In this regulation, “**credible sources**” includes evaluations, detailed assessment reports or follow-up reports published by —
- (a) the Financial Action Task Force;
  - (b) the International Monetary Fund;
  - (c) the World Bank;
  - (d) the Organisation for Economic Co-operation and Development;
  - (e) the United Nations; or
  - (f) any competent authority or government body designated in writing by the Cabinet.”.

### **Amendment of regulation 21 - simplified customer due diligence application**

6. The principal Regulations are amended in regulation 21 as follows —

- (a) by repealing paragraph (1) and substituting the following paragraphs —
  - “(1) Notwithstanding Part IV, a person carrying out relevant financial business may apply simplified customer due diligence measures under this Part where it has identified and assessed a low level of risk in accordance with regulation 8.
  - (1A) The simplified customer due diligence measures applied under paragraph (1) shall be commensurate with the lower risk factors

identified in the risk assessment carried out in accordance with regulation 8.”; and

- (b) in paragraph (4), by deleting the words “money laundering and terrorist financing” and substituting the words “money laundering, terrorist financing and proliferation financing”.

### **Amendment of regulation 22 - acceptable applicants**

7. The principal Regulations are amended in regulation 22 as follows —

- (a) by renumbering the regulation as regulation 22(1);
- (b) in paragraphs (1)(d)(ii) and (iii) by deleting the words “specified in the list published by the Anti-Money Laundering Steering Group” wherever they appear and substituting the words “assessed by the person carrying out relevant financial business as having a low degree of risk of money laundering and terrorist financing”; and
- (c) by inserting after paragraph (1) the following paragraph —

“(2) A person carrying out relevant financial business shall evidence in writing the basis for its determination of the applicability of paragraph (1) to the customer or applicant for business.”.

### **Amendment of regulation 23 - payments delivered in person or electronically**

8. The principal Regulations are amended in regulation 23(1) by deleting the words “specified in the list published by the Anti-Money Laundering Steering Group” and substituting the words “assessed by the person carrying out relevant financial business as having a low degree of risk of money laundering and terrorist financing”.

### **Amendment of regulation 53C - requirement to share information**

9. The principal Regulations are amended in regulation 53C(1) by repealing paragraph (a) and substituting the following paragraph —

- “(a) assessing money laundering, terrorist financing and proliferation financing risks; or”.





**Insertion of Part XIB - reporting requirements of supervisory authorities**

10. The principal Regulations are amended by inserting after Part XIA, the following Part —

**“PART XIB – Reporting requirements of Supervisory Authorities****Supervisory authorities to submit annual report**

**53D.** Every Supervisory Authority shall, no later than three months after the end of its financial year —

- (a) submit to the Steering Group an annual report on its activities; and
- (b) publish the annual report in such detail and manner as it thinks appropriate.

**Contents of annual report**

**53E.** An annual report under regulation 53D shall contain information with respect to —

- (a) the number of persons under the supervision of the Supervisory Authority including the proportion of natural and legal persons;
- (b) the relevant financial business carried on by persons under the supervision of the Supervisory Authority and its methodology for risk-rating such persons;
- (c) the number of contraventions of the Regulations by persons under the supervision of the Supervisory Authority which the Supervisory Authority has identified;
- (d) the number of inspections of persons under its supervision for the purposes of the Regulations conducted by the Supervisory Authority;
- (e) the number and amount of fines imposed by the Supervisory Authority;
- (f) the number of times that the Supervisory Authority has exercised its enforcement powers;
- (g) the number of persons under the supervision of the Supervisory Authority who, following the exercise of enforcement powers by the Supervisory Authority, have contravened the requirements imposed by such enforcement measures;

- (h) the activities that the Supervisory Authority has engaged in to educate persons under its supervision with respect to their responsibilities under the Regulations;
- (i) anti-money laundering, combating terrorist financing, and combating proliferation financing training and development undertaken within the Supervisory Authority;
- (j) a summary of any money laundering, terrorist financing and proliferation financing risk assessments conducted for sectors under the supervision of the Supervisory Authority during the relevant period; and
- (k) any updates to the description of indications which may suggest that a transfer of criminal funds is taking place in the sectors under the supervision of the Supervisory Authority.”.

### **Amendment of regulation 55D - duties of Supervisory Authorities**

11. The principal Regulations are amended in regulation 55D by repealing paragraph (2).

### **Amendment of regulation 55S - fine amounts**

12. The principal Regulations are amended in regulation 55S by inserting after paragraph (1), the following paragraph —

“(1A) Notwithstanding section 43 of the *Interpretation Law (1995 Revision)*, where the fine under paragraph (1) is imposed as an administrative fine by the Supervisory Authority, the fine is the exact amount stated in paragraph (1) and not the maximum amount.”.

### **Amendment of regulation 55Z - power to discount usual fine to reflect agreement**

13. The principal Regulations are amended in regulation 55Z(2) by deleting the words “55ZE”.

### **Amendment of regulation 55ZA - steps required**

14. The principal Regulations are amended in regulation 55ZA(1)(b) by deleting the words “or 55ZE”.

### **Amendment of regulation 55ZC - requirements for breach notice**

15. The principal Regulations are amended in regulation 55ZC(1) by repealing paragraphs (g) and (h) and substituting the following paragraphs —

“(g) that, for a discretionary fine, the party may give the Supervisory Authority a reply within the reply period under paragraph (2);



- (h) that, for a minor fine, the party shall rectify the breach and submit a rectification notice to the Supervisory Authority indicating that the breach has been rectified within thirty days of receipt of the notice.”.

#### **Amendment of regulation 55ZD - duty to consider reply**

- 16.** The principal Regulations are amended in regulation 55ZD(1)(a) by deleting the words “minor fine, minor fine (continuing) or”.

#### **Repeal of regulation 55ZE - rectification of a breach subject to a minor fine**

- 17.** The principal Regulations are amended by repealing regulation 55ZE and inserting immediately below the division heading “Imposing a fine”, the following regulation —

##### **“Imposition of a minor fine or minor fine (continuing)**

**55ZE.**(1) A Supervisory Authority designated for a DNFBP which issues a breach notice for a minor fine shall impose a fine in accordance with regulation 55S(1).

- (2) Where a breach notice is issued for a minor fine and a Supervisory Authority is not satisfied that the breach was rectified within thirty days of receipt of the notice, the Supervisory Authority may impose a fine in accordance with regulation 55S (2).
- (3) Where a Supervisory Authority designated for a DNFBP imposes a minor fine or a minor fine (continuing), it may decide that the fine is payable immediately on the giving of a fine notice or within a particular period stated in the fine notice.”.

#### **Amendment of regulation 55ZF - decision about fine**

- 18.** The principal Regulations are amended in regulation 55ZF as follows —
- (a) in subsection (1) by repealing paragraph (c); and
- (b) by repealing subsection (2).

#### **Amendment of regulation 55ZG - requirements for fine notice**

- 19.** The principal Regulations are amended in regulation 55ZG as follows —
- (a) in subsection (2) by repealing paragraphs (c) and (d); and
- (b) in subsection (3) by repealing paragraphs (a) and (b) and substituting the following paragraphs —
- “(a) the date of the fine notice given for the relevant minor fine;
- (b) if a rectification notice was given within thirty days of the issue of a breach notice for the relevant minor fine, the reasons why the Supervisory Authority is not satisfied that the breach

was rectified within thirty days of the issue of the breach notice; and

- (c) that the party may, within thirty days after receiving the fine notice, apply to the relevant person or body within the Supervisory Authority to review the decision to impose the fine.”.

### **Amendment of Schedule 2 - prescribed provisions and breach categories**

**20.** The principal Regulations are amended in Schedule 2 as follows —

- (a) by deleting the reference to regulation “53A” in column 1 and “Minor” in column 2 and substituting the following —

“53A	Very serious”;
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- (b) by deleting the reference to regulation “55M” in column 1 and “Minor” in column 2 and substituting the following —

“55M	Very serious”; and
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- (c) by deleting the reference to regulation “55O” in column 1 and “Minor” in column 2 and substituting the following —

“55O	Very serious”.
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### **Transitional provision**

**21.** The matters under regulations 5, 7 and 8 of these amending Regulations shall not apply for a period of six months after the day on which these Regulations come into force.

**Made in Cabinet the 4th day of February, 2020.**

**Kim Bullings**  
*Clerk of the Cabinet*

