

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 22 of 2022

**ANTI-PROLIFERATION (FINANCING OF WEAPONS OF MASS
DESTRUCTION) (AMENDMENT) REGULATIONS**

In exercise of the powers conferred by Sections 3 and 8 of the Anti-Proliferation (Financing of Weapons of Mass Destruction) Act, No. 9 of 2021, the Minister makes the following Regulations:

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1. CITATION.

These Regulations may be cited as the Anti-Proliferation (Financing of Weapons of Mass Destruction) (Amendment) Regulations, 2022.

2. INTERPRETATION.

In these Regulations, unless the context otherwise requires,

“principal regulations” means the Anti-Proliferation (Financing of Weapons of Mass Destruction) Regulations, No. 9 of 2021.

3. AMENDMENT OF REGULATION 2.

Regulation 2 of the principal Regulations is amended by inserting in the correct chronological order the following new definitions

“customer” includes an individual, beneficial owner, shareholder, beneficiary, settlor, director, senior manager, partner, trustee, founder, legal person including a corporate trustee and a legal arrangement;

“legal person” includes any entities, other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property such as companies, bodies corporate, foundations, anstalts, partnerships or associations, and any other relevantly similar entities;

“legal arrangements means express trusts or other similar legal arrangements;

“senior manager” includes a senior management official.”.

4. AMENDMENT OF REGULATION 4.

Regulation 4 of the principal regulations is amended

(1) in subregulation (2) by

(a) replacing subregulation (2)(c)(iii) as follows

“ (iii) identifying the individuals who are the customer’s beneficial owners or controllers through the following measures

(A) obtaining and understanding the identity of the natural person, if any, who ultimately has a controlling ownership interest in a legal person;

(B) where there is a doubt under (A) as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests, identifying the natural person, if any, exercising control of the legal person or arrangement through other means; and

(C) where no natural person is identified under (A) or (B) above, identifying the relevant natural person who holds the position of a senior management official.”.

(b) by replacing paragraph (d) as follows:

“ (d) understanding and as appropriate, obtaining information on the purpose and intended nature of the business relationship or one-off transaction;”;

(c) by replacing paragraphs (e) and (f) as follows:

“ (e) existing customers on the basis of materiality and risk, and to conduct identification procedures on such existing relationships at appropriate times, taking into account whether and when identification procedures measures have previously been undertaken and the adequacy of data obtained.

(f) where a relevant person fails to institute the requisite procedures as contemplated by this subregulation, it commits an offence and shall be liable on conviction to a fine of fifty thousand dollars and if after conviction, the contravention of the offence continues, to a further fine of two hundred and fifty dollars for each day that the matter remains unresolved.”.

(2) In subregulation (4) by inserting immediately after paragraph (b), the following new paragraph (c),

“ (c) identifying, assessing and understanding the level of proliferation financing risks associated with the customer.”.

(3) In subregulation (5), by replacing that subregulation as follows

“ (5a) The identification of a person in the manner that is described in subregulation (4)(a) and (b) may be completed as soon as reasonably practicable after the establishment of a business relationship, if the customer is assessed as being low risk or in a low risk situation.

(5b) Notwithstanding the provisions of subregulation (5a), the provisions of regulation 4(1) will apply where the transaction

(a) exceeds ten thousand dollars or its equivalent; or

(b) the aggregate of the transaction exceeds ten thousand dollars or its equivalent,

(5c) Notwithstanding the provisions of subregulation (5a) and (5b), where there is a suspicion of proliferation financing, a relevant person shall take the necessary enhanced due diligence actions pursuant to the provisions of regulation 5.”.

(4) In subregulation (9), by inserting immediately after paragraph (f)(iv) a new subparagraph (v) as follows:

“ (v) In cases where the relevant person forms a suspicion of proliferation financing and it is determined that performing the customer due diligence process will tip off the customer, the relevant person shall not pursue the identification procedures and instead, shall file a suspicious transaction report.”.

5. **AMENDMENT OF REGULATION 6.**

Regulation 6 of the principal regulations is amended by

(a) Replacing subsection (2) as follows

“ (2) The simplified customer due diligence referred to in subregulation (1), shall be commensurate with the lower risk factors such as

- (a) public companies listed on a stock exchange and subject to disclosure requirements, either by stock exchange rules or through law or enforceable means, which impose requirements to ensure adequate transparency of beneficial ownership;
- (b) public administrations or enterprises;
- (c) insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral;
- (d) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member’s interest under the scheme;
- (e) countries identified by credible sources, such as mutual evaluation or detailed assessment reports, as having effective anti-money laundering, counter terrorist financing or counter-proliferation financing systems; and
- (f) countries identified by credible sources as having a low level of corruption or other criminal activity.”.

(b) by inserting immediately after subsection (2), the following new subsections

“ (3) Notwithstanding the provisions of subregulation (1), where there is a suspicion of proliferation financing or identification of specific higher risk scenarios, a relevant person shall not use simplified due diligence measures but shall take the necessary actions pursuant to the provisions of regulation 5 on enhanced due diligence.

(4) Where a relevant person identifies lower risk situations, the following simplified customer due diligence measures should be taken

- (a) reducing the frequency of customer identification updates; and
- (b) reducing the intensity of monitoring and scrutinising of transactions, based on a monetary threshold of three thousand dollars.”.

6. **AMENDMENT OF REGULATION 7.**

The principal regulations are amended in regulation (7) subregulation (6) as follows

- (a) in paragraph (b)(ii) by replacing the expression, “4(4)”, with the expression, “4”; and
- (b) by inserting immediately after paragraph (b)(iii), the following new subparagraph (iv)
 “ (iv) has applied the record keeping procedures referred to in regulation 8.”.

7. **AMENDMENT OF REGULATION 8.**

The principal regulations are amended in regulation 8 as follows

- (a) in subregulation (2), by replacing the expression, “upon request” with the expression, “within twenty four hours”;
- (b) in subregulation (3)(a), by inserting immediately after subparagraph (ii), the following new subparagraph (iii)
 “ (iii) a record of any asset or property held or managed by the relevant person on behalf of the customer with whom the relevant person has a business relationship or has undertaken an occasional transaction.”; and
- (c) by replacing subregulation (5) as follows
 “ (5) The relevant person shall keep the records to which subregulation (3) refers in such a manner that those records can be made available within twenty four hours to domestic competent authorities including the Commission, police officer or customs officer for the purposes of complying with a request for information or complying with a requirement under any relevant enactment.”

Made this 14th day of September, 2022.

TERRANCE M DREW
Minister responsible for Finance