



# MONEY LAUNDERING (PREVENTION) REGULATIONS\* [Consolidated]

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\* A Consolidation of:

The Money Laundering (Prevention) Regulations 2007

The Money Laundering (Prevention) (Amendment) Regulations 2009

The Money Laundering (Prevention) (Amendment) Regulations No. 43 of 2017

The Money Laundering (Prevention) (Amendment) (No. 2) Regulations No. 44 of 2017

**THE MONEY LAUNDERING (PREVENTION) REGULATIONS 2007**  
**(amended by MLPR 2009, MLPR 2017, and MLPR (No. 2) 2017)**  
**(Unofficial Consolidation)**

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### THE MONEY LAUNDERING (PREVENTION) REGULATIONS, 2007

2007, No. 38

**THE MONEY LAUNDERING (PREVENTION) REGULATIONS 2007** made by the Minister in exercise of the powers conferred on him by section 29 of the Money Laundering (Prevention) Act, 1996 No. 9 of 1996.

## PART I

### GENERAL

#### 1. Short title

These Regulations may be cited as the Money Laundering (Prevention) Regulations 2007.

#### 2. Interpretation

(1) In these Regulations—

"Act" means the Money Laundering (Prevention) Act, 1996, No. 9 of 1996 as amended;

"AML/CFT" means anti-money laundering and combating the financing of terrorism;

**"applicant for business"** means a person, whether natural or legal and whether acting as principal or agent, seeking to form a business relationship or carry out a one-off transaction with another person acting in the course of relevant business;

**“business relationship”** means any arrangement the purpose of which is to facilitate the carrying out of transactions on a frequent, habitual or regular basis where the total amount of any payments to be made by any person to any other in the course of the arrangement is not known or capable of being ascertained at the outset;

**“cash”** means notes, coins or travellers' cheques in any currency;

**“casino”** includes land-based and physical casino, but does not include virtual or internet casino;

**“correspondent banking”** is the provision of a banking service by one bank (the correspondent bank) to another bank (the respondent bank);

**“CFT”** means countering the financial of terrorism;

**“customer”** means an applicant for business, a person with whom a financial institution has a business relationship, or a person seeking to do a one-off transaction;

**“customer due diligence”** includes:

- (a) undertaking the following measures—
  - (i) identifying and verifying the identity of the customer;
  - (ii) identifying and verifying the identity of the beneficial owner;
  - (iii) obtaining information on the purpose and intended nature of a business relationship; and
  - (iv) establishing, as appropriate, the source of funds and source of wealth of a customer or beneficial owner.
  - (v) applying (i) and (iv) above to existing customers on the basis of materiality and risk; also at such appropriate times taking into account whether and when these measures had previously been applied to the customer and the adequacy of the data collected.
- (b) conducting ongoing monitoring of a business relationship and scrutiny of transactions throughout the course of the relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, the business and risk profile, including where necessary, the customer's source of funds and

source of wealth, and keeping the information obtained up to date and relevant, especially for high risk customers and PEP.

The measures in (a) and (b) above relate to the following circumstances—

- (a) when establishing business relationships,
- (b) carrying out one-off transactions at or above the applicable threshold,
- (c) carrying out wire transfers
- (d) when there is a suspicion of money laundering or terrorist financing, or
- (e) when doubts arise about the veracity or adequacy of previously obtained customer identification data.

"EC" means Eastern Caribbean currency;

**“enhanced due diligence”** refers to either (a) the extended customer due diligence procedures, where appropriate, that are part of a financial institution's customer acceptance process or (b) the intensified monitoring of accounts that are appropriate where a customer is or becomes a high risk person, or is or becomes a politically exposed person or is related to such person;

**“financial advising”** means the giving of advice to customers on their investment needs (including long-term savings and pension provision) and selecting the appropriate product;

**"financial institution"** has the same meaning assigned to it in section 2(1) of the Act;

**"high value dealer"** means a person who carries on the activity of dealing in goods of any description by way of business to the extent that the activity involves accepting payment in cash of EC\$30,000 or more (including, in the case of cash payments which are linked, where the total amount of the payments is EC\$30,000 or more);

**"money laundering"** has the meaning assigned to it by section 2(1) of the Act;

**“negotiable instrument”** includes travelers' cheques, drafts, postal orders;

**"ONDCP"** means Office of National Drug and Money Laundering Control Policy established under section 3 of the Office of National Drug and Money Laundering Control Policy Act, 2003 No. 11 of 2003;

"**one-off transaction**" means any transaction other than one carried out in the course of an existing business relationship;

"**ongoing due diligence**" refers to the measures described in paragraph (b) of the definition of "customer due diligence";

"**overseas regulatory authority**" is an authority in a foreign country under a duty to oversee and examine financial institutions or designated non-financial businesses and professions for compliance with procedures for combating money laundering and the financing of terrorism employing standards comparable to those in the Act;

"**PEP**" means politically exposed person;

"**physical presence**" means meaningful mind and management located within a country and does not include mere presence of a local agent or low level staff;

"**politically exposed person**" means a natural person who is or has been entrusted with prominent public functions or an immediate family member, or a person known to be a close associate of such a person;

"**relevant business**" means

(a) the regulated activities as set out in the First Schedule to the Money Laundering Prevention Act 1996; and

(b) financial institutions as defined in the Prevention of Terrorism Act 2005;

"**satisfactory evidence of identity**" is evidence which is reasonably capable of establishing (and does in fact establish to the satisfaction of the person who obtains it) that the applicant for business is the person he claims to be;

"**Shell bank**" means a bank that has no physical presence in the country in which it is incorporated and licensed and which is unaffiliated with a regulated financial services group that is subject to effective supervision.

"**Supervisory Authority**" refers to the person appointed under section 10 of the Act;

"**transaction**" means any transaction (including the opening of an account or a safe deposit facility) other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant business.

"**WMD**" means weapons of mass destruction.

**“weapons of mass destruction”** has the same meaning assigned to it by the Prevention of Terrorism Act 2005.

(2) In these Regulations, references to amounts in EC dollars include references to equivalent amounts in another currency.

## PART II

### OBLIGATIONS ON PERSONS WHO CARRY ON RELEVANT BUSINESS

#### AND ENFORCEMENT

### 3. Systems and training to prevent money laundering **the financing of terrorism** **and the financing of the proliferation of weapons of mass destruction**

(1) Every person who carries on relevant business in the jurisdiction of Antigua and Barbuda shall—

- (a) comply with the requirements of:
  - (i) regulation 4: **Customer Due Diligence**,
  - (ii) regulation 5: Record Keeping Procedures,
  - (iii) regulation 6: Internal Reporting Procedures;
  - (iv) **regulation 6A: Hiring Procedures**;
  - (v) **regulation 15: Annual Review and Audit Report**;
  - (vi) **Directives and guidelines issued by the Supervisory Authority.**
- (b) **establish—**
  - (i) **procedures and controls to address any specific risks associated with non face-to-face business relationships and transactions. These procedures and controls shall include specific and effective customer due diligence in respect of non-face-to-face customers;**
  - (ii) **procedures to evaluate any new or developing technologies to identify any risks that may arise from them including, but not limited to, any technological development that might allow or facilitate customer or beneficiary anonymity,**



- (iia) assess the risks of money laundering and terrorist financing from new delivery mechanisms for both new and existing products.
  - (iib) undertake the risk assessments prior to the launch or use of such products, practices and technologies.
  - (iii) and implement measures to prevent the use of new or developing technologies in or in connection with money laundering and the financing of terrorism;
  - (iv) maintain and communicate to its employees, policies, controls and procedures of internal control and communication as may be appropriate for the purposes of forestalling and preventing money laundering and the financing of terrorism.
- (c) take appropriate measures so that employees are—
- (i) made aware of the provisions of these Regulations and of sections 3, 4, 5, 6, 7, 8, 11, 11 A, 12, 12 A, 12B, 13 and 18 of the Act and the definition of money laundering and money laundering offence under section 2(1) of the Act;
  - (ii) given training in how to recognize and deal with transactions or activities which may be related to money laundering or the financing of terrorism; and the provisions of sections 6, 12B, 33, 34 and any other relevant provisions of the Prevention of Terrorism Act 2005 and subsidiary regulations made thereunder..
  - (iii) competent for the work they do, remain competent, appropriately supervised, and have their competence regularly reviewed.
- (d) ensure that—
- (i) domestic branches and majority owned subsidiaries observe the provisions of these regulations and the Act;

- (ii) foreign branches and majority owned subsidiaries observe the provisions of these regulations, the Act or foreign measures consistent with them to the extent permitted by the laws of the foreign jurisdiction;
- (iii) where the standards of a foreign jurisdiction differ to those set out in these regulations or the Act, then the higher standard should be applied, to the extent permitted by the laws of the foreign jurisdiction;
- (iv) where the laws, regulations or other measures of a foreign jurisdiction do not permit the application of the measures set out in these regulations or the Act, the Supervisory Authority and the regulator are informed of that fact, and
- (v) where the foreign jurisdiction does not permit the proper implementation of measures consistent with the Act and these Regulations, appropriate additional measures should be applied to manage the money laundering and terrorist financing risks, and the Supervisory Authority shall be informed of the measures taken.

### **Criminal Offences**

(2) (a) A person who contravenes these Regulations, commits an offence and is liable—

- (i) on summary conviction, to a fine of \$300,000.00
- (ii) on conviction on indictment, to a fine of \$500,000.00, or to imprisonment for a term not exceeding 2 years, or to both.

(b) For the purposes of paragraph (a) fines and penalties may be assessed and imposed on the directors and senior management of a person who carries on relevant business.

(3) In deciding whether a person has committed an offence under this regulation, the court shall consider whether that person followed any relevant guidance which at the time concerned was—

- (a) issued by the Supervisory Authority under section 11 of the Act, and which takes primacy in the setting of minimum standards;

- (b) issued by a regulator or
- (c) issued by any other appropriate body;

(4) An "appropriate body" for purposes of this regulation is any body which regulates or is representative of any trade, profession, business or employment carried on by the alleged offender.

(5) In proceedings against any person for an offence under this regulation, it is a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence, having regard to the nature of his functions in that capacity and in all the circumstances.

(6) In this regulation, the term "employees" means employees whose duties include the handling of relevant business.

(7) Where an offence under the provisions of [the Regulations](#) is committed by a body whether of persons, corporate or unincorporate, every person who, at the time of the commission of the offence acted in an official capacity for or on behalf of the body of persons in respect of that offence whether as a director, manager, secretary or other similar officer or was purporting to act in such capacity, commits that offence and shall be tried under regulation 3.

### **Regulatory Civil Penalties**

(8)(i) The Supervisory Authority may impose an administrative penalty of an amount that he considers appropriate but not exceeding one hundred thousand dollars (\$100,000.00) on a person who fails to comply with the requirements of these regulations, directives, or guidelines issued by the Supervisory Authority. For the purpose of this paragraph, "appropriate" means dissuasive and proportionate.

- (ii) If the Supervisory Authority serves a notice of non-compliance on a person for breach of these Regulations, directives or guidelines then failure to remedy the breach by the time specified in the notice shall constitute a fresh breach and each day that the breach continues thereafter shall constitute a new and separate breach. For each breach resulting from failure to remedy the original breach the Supervisory Authority may impose a penalty not exceeding \$ 15,000 per day.
- (iii) The Supervisory Authority shall not impose an administrative penalty on a person under paragraphs (d)(i) or (d)(ii) where that person

produces information or evidence to satisfy the Supervisory Authority that he took all reasonable steps and exercised all due diligence to ensure compliance with the regulation, directive or guideline.

- (iv) In deciding whether a person has breached these Regulations, the Supervisory Authority must consider whether that person followed any relevant directives of the Supervisory Authority or guidelines issued by the Supervisory Authority or any other appropriate body and published in a manner likely to have brought the guidance to the attention of that person.
- (v) In paragraph (iv), an "appropriate body" means any body which regulates or is representative of any trade, profession, business or employment carried on by the person alleged to have breached the regulation.
- (v) Where the Supervisory Authority decides to impose a penalty under this regulation, he must give the person, on whom the penalty would be imposed, written notice of—
  - (a) the decision to impose the penalty and the amount;
  - (b) the reasons for imposing the penalty;
  - (c) the right to a request a review of the decision under regulation 3(9);and
  - (d) the right to an appeal against the decision under regulation 3(10).
- (vi) A penalty imposed under this regulation is a debt due to the Crown payable to the Supervisory Authority.

### **REVIEW PROCEDURE**

(9)(i) A person who is the subject of a decision by the Supervisory Authority to impose a penalty may, by written notice to the Supervisory Authority, request a review of the decision.

- (ii) A request for review of a decision shall be made and delivered to the Supervisory Authority within 45 days, beginning with the day on which the Supervisory Authority first gave notice of the decision to impose the penalty.
- (iii) The Supervisory Authority need not consider requests made otherwise than in accordance with subparagraphs (i) and (ii).
- (iv) After reviewing a decision, the Supervisory Authority shall either—
  - (a) confirm the decision; or
  - (b) withdraw or vary the decision and take any further steps as may be necessary in consequence of the withdrawal or variation, as he considers appropriate.
- (v) Where the Supervisory Authority does not within 45 days, beginning with the day on which the review was requested by a person, give notice to that person of the determination of the review, the Supervisory Authority is to be taken for the purposes of these Regulations to have confirmed the decision.

## **APPEALS**

- (10)(i) After requesting a review of a decision, a person may appeal, to a Magistrate, against a decision by the Supervisory Authority made under regulation 3(8)(i).
- (ii) An appeal shall be filed within (14) days of the expiration of the time period in subparagraph (9)(v) or within 14 days of receipt of the Supervisory Authority's determination upon review.

### **4. Customer Due Diligence procedures**

(1) In this regulation and in regulations 5 to 7A

- (a) "A" means a person who carries on relevant business; and
- (b) "B" means a customer.

(2) This regulation applies —

- (a) if A and B agree to form a business relationship;
- (b) if, in respect of one-off transactions—
  - (i) payment of or equivalent to twenty five thousand dollars (\$25,000) or more is to be made by A to B; or B to A; or
  - (ii) where two or more one-off transactions are concerned, it appears to A, whether at the outset or subsequently, that the transactions are linked and involve, in total, payment of or equivalent to twenty five thousand dollars (\$25,000) or more by A to B or by B to A.
- (c) if A sends or receives a wire transfer for or on behalf of B;
- (d) in respect of existing business relationships between A and B, but on the basis of risk and materiality and at appropriate times. Appropriate times in respect of existing business relationships include where—
  - (i) a transaction of significance takes place;
  - (ii) customer documentation standards change substantially;
  - (iii) there is a material change in the way that an account is operated,
  - (iv) A becomes aware that it lacks sufficient information about B.
- (e) if in respect of any transaction, A knows or suspects the transaction to involve money laundering or the financing of terrorism, regardless of any thresholds or exemptions stated in the law.

(3) A must maintain customer due diligence procedures which—

- (a) require as soon as is reasonably practicable after contact is first made between A and B or in respect of an existing business relationship, at an appropriate time
  - (i) B must produce satisfactory evidence of his identity; or
  - (ii) those measures specified in the procedures shall be taken in order to produce satisfactory evidence of B's identity;

- (iii) B 's identity shall be verified using reliable, independent source documents data or information.
- (aa) require the procedures of regulation 4(3)(a) to be completed before or in the course of establishing a business relationship or conducting a one-off transaction.
- (ab) (i) prohibit the opening or maintaining of an account in a fictitious name or for an anonymous customer.
- (ii) require that numbered accounts must be established in full compliance with customer due diligence requirements, and require that the customer identification records must be available for the money laundering compliance officer, appropriate members of staff, the Supervisory Authority, regulators, and for law enforcement purposes.
- (b) take into account the greater potential for money laundering which arises when B is not physically present when being identified;
- (c) require that where satisfactory evidence of identity is not obtained—
- (i) A shall not open an account for B, otherwise commence business relations with B or perform the one-off transaction for B.
  - (ii) but the business relationship or the one-off transaction had commenced, A must not proceed any further with the business relationship or the one-off transaction or shall proceed only in accord with the direction from the Supervisory Authority.
  - (iii) an existing or established business relationship must be terminated;
  - (iv) A should consider making a suspicious activity report.
- (d) require that where B is or becomes a high risk customer or politically exposed person enhanced due diligence procedures must be taken. Without limiting the generality of the foregoing, A shall—

- (i) establish appropriate risk management systems to determine whether a customer, a potential customer, or the beneficial owner is a PEP;
  - (ii) require that senior management approval be obtained for establishing a business relationship with a PEP;
  - (iii) require that senior management approval be obtained to continue a business relationship when a customer or beneficial owner is subsequently found to be or subsequently becomes a PEP;
  - (iv) conduct ongoing and enhanced monitoring of a business relationship with a PEP.
- (e) require that where B acts or appears to act for another person, reasonable measures must be taken for the purpose of establishing the identity of that person.
- (f) require that where B acts in a professional capacity as attorney, notary public, chartered accountant, certified public accountant, auditor or nominee of a company on behalf of another person, reasonable measures must be taken for the purpose of establishing the identity of that person on whose behalf B acts.
- (g) require that where B purports to act for another person which is a legal person or trust, verification must be obtained of B's authorisation to so act.
- (h) require that where B is a legal person, trust or other legal arrangement, measures must be taken to determine who are the natural persons that ultimately own or control B, and reasonable measures must be taken to understand the ownership and control structure of B. Where there is doubt that the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests of the legal person or legal arrangement, A should identify the natural person (if any) exercising control through other means. Where, however, no natural person who ultimately has a controlling ownership interest is identified, A should identify the relevant natural person who holds the position of senior management official.



- (i) require that where B is a business, reasonable measures must be taken sufficient to **establish** the purpose and intended nature of the business.
- (ia) **require that reasonable measures must be taken to obtain information on the purpose and intended nature of the business relationship.**
- (j) require that reasonable measures be taken sufficient to establish the source of funds and the source of wealth of B or the person on whose behalf B acts.
- (k) require that when doubts arise about the veracity or adequacy of previously obtained identification data, then the identification process must be carried out again.
- (l) require the conducting of ongoing due diligence.
- (m) **require that wire transfers be accompanied by accurate and meaningful originator information that must include the name and address of the originator and where an account exists, the number of that account, or in the absence of an account, a unique reference number.**

(3a) The requirements of regulation 4(3) must be implemented using a risk based approach, taking into account the risk posed by a customer; country or geographic region; product, service, transaction or delivery channel; and taking into consideration the results of the country's National Risk Assessment and the updates thereto or an adequate analysis by the financial institution of the risk of money laundering and terrorist financing that relate to it. Where the risk is determined to be lower, the institution may apply appropriate simplified CDD measures, consistent with any guidelines issued by the Supervisory Authority. The simplified measures should be commensurate with the risk factors. However, a financial institution shall not use simplified CDD measures whenever there is a suspicion of money laundering or terrorist financing, the financing of the proliferation of WMD, or where specific high-risk scenarios apply.

(3b) The Supervisory Authority in examining financial institutions for compliance with these Regulations should do so using a risk based approach.

(4) (a) Where B:

- (i) makes a payment to A through the post or by any electronic means, or

- (ii) sends details of payment to A by post or any electronic means,

then the fact that the payment is debited from an account held in the applicant's name at a bank shall be capable of constituting the evidence of identity required under this regulation.

(b) Subregulation (4) (a) shall not apply

- (i) Where there is suspicion of money laundering or terrorist financing or,
- (ii) in relation to the opening of an account.

(5) Where A relies upon a third party to perform elements of the customer due diligence process, including but not limited to, identifying or verifying the identity of the customer, identifying or verifying the identity of the beneficial owner, obtaining information on the purpose and intended nature of the business relationship, and conducting ongoing due diligence, then A shall—

(a) immediately obtain from the third party the necessary information concerning the elements of the customer due diligence,

(b) satisfy itself that, upon request, copies of identification data and other relevant documentation will be made available, without delay, from the third party;

(c) satisfy itself that the third party is regulated and supervised to standards established in this jurisdiction or that of the foreign jurisdiction if higher, relating to customer identification, record keeping, regulation and supervision;

(d) satisfy itself that the third party has measures in place to comply with the requirements of customer due diligence;

(e) not rely on a third party based in a country named by the Supervisory Authority as inadequately applying FATF Recommendations;

(f) retain ultimate responsibility for ensuring compliance with customer due diligence requirements, particularly the identification and verification of customers.

(6) (1) In relation to cross-border correspondent banking, in addition to normal due diligence, where A acts as a correspondent bank, A shall—

- (a) gather sufficient information about a respondent bank to understand fully the nature of the respondent bank's business and to determine from publicly available information the reputation of the respondent bank and the quality of its supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;
- (b) assess the respondent bank's anti-money laundering and terrorist financing controls;
- (c) obtain approval from senior management before establishing new correspondent relationships;
- (d) *clearly understand and* document the respective AML/CFT responsibilities of each institution in the correspondent banking relationship;
- (e) with respect to "payable-through accounts", satisfy itself—
  - (i) that the respondent bank has verified the identity of and performed normal customer due diligence in respect of those of the respondent's customers having direct access to accounts of the correspondent bank, and
  - (ii) that, upon request, the respondent bank is able to provide relevant customer identification data to the correspondent bank.

(6)(2) The provisions of regulation (6)(1) apply to relationships established for securities transactions, fund transfers, whether for the respondent bank as principal or for the respondent bank's customer.

(7) The requirements set out in this regulation are part of customer due diligence.

## 5. Record-keeping procedures

(1) A must maintain procedures which require the retention of the records prescribed in paragraph (2) for the period prescribed in the Act, and which enable A to, upon request and in a timely manner, provide the records or other information to the Supervisory Authority or other competent and authorised domestic authorities;

(la) Records retained must be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. Records must include the amounts and types of currency involved and sufficient customer and beneficiary identification information; and

(lb) A must ensure that documents, data or information collected under the customer due diligence process are kept up-to-date and relevant by undertaking

reviews of existing records. An appropriate time to review records is when a transaction of significance takes place, when customer documentation standards change substantially, or when there is a material change in the way that the account is operated. If a financial institution becomes aware at any time that it lacks sufficient information about an existing customer, it should take steps to ensure that all relevant information is obtained as soon as possible;

(1c) A must maintain all records obtained through CDD measures, account files and business correspondence and the result of any analysis taken for the minimum retention period.

(2) The records referred to in paragraph (1) are—

- (a) where evidence of identity has been obtained under the procedures stipulated by regulation 4 (identification procedures) or pursuant to regulation 7 (casinos)—
  - (i) a copy of that evidence;
  - (ii) information as to where a copy of that evidence may be obtained; or
  - (iii) information enabling the evidence of identity to be re-obtained, but only where it is not reasonably practicable for A to comply with sub-paragraph (i) or (ii); and
- (aa) records of business correspondence following the termination of an account or business relationship.
- (b) where A carries on relevant business (other than operating a casino by way of business), a *record* containing details relating to all transactions carried out by or for B in the course of relevant business;
- (c) where A carries on relevant business of operating a casino by way of business, a record containing details relating to any transaction carried out by A in the course of that business involving the payment of US\$3,000. or more; or its equivalent in Eastern Caribbean currency; save that in circumstances where there is a suspicion of money laundering or the financing of terrorism, the records shall contain details relating to the transaction regardless of the amount involved.

(3) Where A is an appointed representative, his principal must ensure that A complies with this regulation in respect of any financial business carried out by A for which the principal has accepted responsibility.

(4) Where the principal fails to do so, he is to be treated as having contravened regulation 3 and he, as well as A, commits an offence.

## 6. Internal reporting procedures

(1) A must maintain internal reporting procedures which require that—

(a) someone in A's organisation **at management level** is designated as the **AML/CFT** compliance officer.

(aa) **the compliance officer and other appropriate staff should have timely access to customer identification data and other customer due diligence information, transaction records, and other relevant systems and information.**

(b) anyone in As organisation handling relevant business who knows, suspects, or has reasonable grounds to suspect that a transaction involves money laundering or the financing of terrorism must report the matter to the compliance officer.

(ba) **where an employee of A handling relevant business, determines that though a transaction does not, in itself, appear to be suspicious, in relation to the customer it constitutes an unusual transaction or is part of an unusual pattern of transactions, then that determination should be reported to the compliance officer;**

(bc) **where the compliance officer receives a report under subparagraph (ba), the compliance officer must make a record of the report which is to be kept as part of the financial transaction record;**

(c) the compliance officer, must consider the report in the light of any relevant information which is available to A and determine whether it gives rise to such knowledge or suspicion; and

(d) **where the compliance officer determines that the report does give rise to the knowledge or suspicion of money laundering or the financing of terrorism, then A shall report the matter to the Supervisory Authority pursuant to section 13 of the Act. Reports should be made on the standardized reporting form issued by the Supervisory Authority. Initial reports made orally shall be followed by a written report. Where A**

acquires or becomes aware of significant new information after making a report then A shall make a further written report updating the previous report. Where there is need to correct information in a previously made report A shall also do this by way of a written report.

(e) where the compliance officer determines that an internal report does not warrant the making of a suspicious activity report to the Supervisory Authority, a record should be made of the internal report and the reasons why it did not generate a suspicious activity report. This record should be reviewed as part of the preparation of the annual review and audit report required to be made under regulation 15 and should be retained as a financial transaction document.

(1a) (1) A must pay special attention to business relationships and transactions with persons from or in countries which A knows or has reason to believe insufficiently apply international standards against money laundering or the financing of terrorism.

(2) If the Supervisory Authority notifies A that a country has weaknesses in its AML/CFT systems, then A must pay special attention to business relationships and transactions from or in that country.

(1b) Where transactions have no apparent economic or visible lawful purpose, A should examine as far as possible, the background and purpose of such transactions, and written findings should be kept as a financial transaction document.

(1c) A should adhere to any countermeasures that the Supervisory Authority or the regulator advises should be implemented.

(2) Subregulation (1) does not apply where A is an individual who neither employs nor acts in association with any other person.

(3) Subregulation (1)(b) does not apply where A is a professional legal adviser and the knowledge or suspicion is based on information or other matter which came to him in privileged circumstances.

(4) Information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him—

(a) by (or by a representative of) a client of his in connection with the giving by the adviser of legal advice to the client;

(b) by (or by a representative of) a person seeking legal advice from the adviser; or

(c) by a person in connection with legal proceedings or contemplated legal proceedings.

(5) Subregulations (3) and (4) do not apply to information or other matter which is communicated or given with a view to furthering a criminal purpose.

**6A. Hiring Procedures A must put in place screening procedures to ensure high standards when hiring employees.**

## 7. Casinos

(1) Where A carries on relevant business of a casino, he must obtain satisfactory evidence of identity of any person before allowing that person to use the casino's gaming facilities.

(2) Where A fails to do so, he is to be treated as having contravened regulation 3.

## **7A. Shell Banks**

**(1) A should not enter into, or continue, correspondent banking relationships with a shell bank.**

**(2) A should satisfy itself that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.**

## 8. Use of disclosed information

(1) Any information disclosed under these regulations shall be used only in connection with investigations of money laundering and terrorist financing activities.

(2) Names and personal details of the employees of a financial institution that make a suspicious activity or transaction report to the Supervisory Authority are to be kept confidential by the Supervisory Authority and members of the ONDCP.

## **PART III**

### **PRESCRIBED FORMS FOR PURPOSES OF SECTIONS 18, 18A and 18B OF THE ACT**

## **9. Form for reporting by person transferring currency**

(1) A report under section 18(1) of the Act made by a person of the transfer by him personally of currency of not less than US \$10,000 in value into or out of Antigua and Barbuda shall be made in Form 1 in Schedule I.

(2) The form shall be given by that person to the customs officer assigned for duty at the point of entry or departure.

#### **10. Form for reporting by person transferring currency by consigning it to another**

Any person who pursuant to —

- (a) section 18(1) of the Act, consigns currency of an amount of US\$ 10,000.00 or more through the post or to another person for transfer out of Antigua and Barbuda; or
- (b) section 18(2) of the Act receives currency of an amount of US\$10,000.00 or more, shall make a report to the Supervisory Authority by completing Form 2 in Schedule I”

#### **10A. Forms for notice or applications for continued detention or Forfeiture**

- (1) An application for the continued detention of seized currency under section 18A of the Act is to be made on Form 3a in Schedule I
- (2) Notice of an Order for continued detention, to the respondent and affected persons is to be filed on Form 3b in Schedule I.
- (3) An application for the forfeiture of detained currency under section 18B of the Act is to be made on Form 4a in Schedule I."
- (4) Forms 3a, 3b and 4a shall be used from the commencement of these regulations but are deemed to have been valid as of the 1st day of July, 2009.

#### **11. Reportable details under section 18C**

(1) For the purposes of section 18C of the Act. the reportable details are the details for which provision is made to be reported in the forms specified in the Schedule.

#### **12. Further details in respect of inaccurate report**



(1) Upon discovery that a section 18 report is not fully or accurately completed or upon discovery of a failure to make such a report, a customs officer, police officer or an officer of the ONDCP may, as deemed appropriate, require that the report be corrected or filled out and may request further information from the person transporting, transferring or receiving the currency regarding the origin and intended use of the currency.

(2) A person who, on being requested to provide further information by a customs officer, police officer or an officer of the ONDCP, refuses or fails to provide information, or who provides false information commits an offence and is liable on summary conviction to a fine not exceeding ECS5,000.00, in addition to any other sanction provided by law.

### **13. Penalty for disclosure of information**

A person who discloses any of the contents of a report made under section 18 of the Act, or any information obtained under regulation 5( 1), without lawful authority commits an offence and is liable on summary conviction to a fine not exceeding EC\$5,000.00.

## **PART IV**

### **MISCELLANEOUS**

#### **14. Regulators etc. to report evidence of money laundering**

Where a regulator or examiner of a financial institution, in the light of any information obtained by him, knows or suspects that someone has or may have been engaged in money laundering, the regulator must disclose the information to the Supervisory Authority as soon as is reasonably practicable. However, such disclosure does not exempt or discharge the financial institution of its obligations to make a report under section 13 of the Act.

#### **15. Annual Review and Audit Report**

(1) Every financial institution must review annually its system and procedures for combating money laundering and the financing of terrorism, even where there is unlikely to be a need to effect changes. A written record of this review must be kept for regulators and the Supervisory Authority.

(2) Financial institutions listed in Schedule II must annually instruct their internal and external auditors to review their AML/CFT system and submit to

the Supervisory Authority each year by 30 September, an Annual Audit Report of the system.

(3) A financial institution shall maintain an adequately resourced and independent audit function to test compliance (including sample testing) with AML/CFT procedures, policies and controls.

## 16. Revocation

(1) The following Regulations are revoked—

- (a) The Money Laundering (Prevention) Regulations SI No. 35 of 1999; and
- (b) The Money Laundering (Prevention) Regulations SI No. 38 of 2000.

## SCHEDULE I

(Regulations 9 and 10)

## FORM 1

### Section 18 (1) of the Money Laundering (Prevention) Act 1996

Complete this form and give to a: Transferring Cash

or negotiable

CUSTOMS OFFICER at an ANTIGUA and BARBUDA SEA PORT/AIRPORT/POINT OF ENTRY  
financial instruments into or out of Antigua and Barbuda

This form should be completed by a person who transfers on arrival or departure or carries Eastern Caribbean and/or foreign currency in cash or negotiable instruments into or out of Antigua and Barbuda and the currency involved is of a total value of **US\$10,000. or more or its equivalent in other currency.**

Negotiable instruments include travellers cheques and other monetary instruments. Reporting of transfers of cash or negotiable financial instruments

valued at US\$10,000. or more, or equivalent in other currency into or out of Antigua and Barbuda is required by law under Section 18 of the Money Laundering (Prevention) Act 1996 as amended.

**The Money Laundering (Prevention) Act 1996**

The Money Laundering (Prevention) Act [No. 9 of 1996] as amended assists in the detection of serious criminal activity, including money laundering from drug trafficking and organised crime

**Penalties**

There are penalties for failure to make a report to a customs officer assigned for duty at the point of arrival or departure or to supply full and correct information. The penalties include:

- imprisonment for a period not exceeding two years; and/or
- a fine of up to EC\$50,000.00; and
- the confiscation of the cash or negotiable instruments being transported.

Further information or assistance  
The office of the Supervisory Authority is at the Headquarters of the Office of National

Drug and Money Laundering Control Policy (ONDCP). Staff of the ONDCP financial intelligence unit can assist with any inquiries. Telephone (268) 562-3265 or (268) 562-3255

**CUSTOMS USE ONLY**

Verified (name, DOB, Passport)  
YesD No D  
Verified currency

Ye

sn No D  
Officer i  
Port  
Customs Report No. i  
Date i

SUPERVISORY AUTHORITY USE ONLY

ONDCP Report No.

PLEASE PRINT

PART A

Are you carrying or transferring currency 4. valued at US\$10,000 or more United States dollars INTO Antigua and Barbuda  E  
OUT OF Antigua and Barbuda

Permanent address in home country

City  
State

Postal code

Country

PART B Details of the person carrying or transferring the currency into or out of Antigua and Barbuda 6

2. Given Names

Are you a resident of Antigua and Barbuda?

Yes D No D

Address while in Antigua and Barbuda<sup>0</sup>

>uname

**J**

City/Town

Date of Birth

Da\ Month Year

Occupation or business activity

i

Number of valid passports held by you?

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Details of passports

PASSPORT NO. COUNTRY OF ISSUE

16.

If so, state the person's name and address

17.

10.

18.

11

**PART C**

or wholly on your own behalf?

12.

Port of arrival	or departure
<b>i</b>	
Date of arrival	or departure
<b>i</b>	<b>i</b>

**Details of currency being carried or transferred**

How much currency is the person carrying?

Are you carrying or transferring the currency: wholly or partly on behalf of another person, business or organisation

- Fill out Part D and E Go straight to PARTE

B C

D

**13.**

Country of Issue    Amount of EC or foreign    approximate US rate of exchange    Value in US dollars

E a s t e r n  C a r i b b e a n			
U n i t e d  S t			

a t e s			
	( fatal sum in U add lines A, B	S \$  = C a n d D )	

What city and country is the currency being imported from or taken to?

**PART D (a) Details of the person, business or organisation on whose behalf  
currency is being transferred**

19.

Give name of person or or organisation

20.

Address

City/Town

Country

City

14.

15

Are you travelling in a group? Yes rjNoj-]

Is any member of the group transporting currency on your behalf not accounted for in item 12 above?      Yes  No

State

Country

Postal code

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21.      Occupation or business activity

(b)

Details **of the person, business or organisation to whom** currency is being **transferred**

22.

23.

24.

Give name	of person or	organisation.
Address		
City		
State	Postal code	
Country		
Occupation	or businesses	activity



PART K

**Declaration and Signature**

I declare that the above information is correct Dale:

DAY MONTH /  
YEAR

Signature

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**FORM II**

**Section 18 (1) and 18 (2) of the Money Laundering (Prevention) Act 1996**

**Complete this form and deliver to:**

**SUPERVISORY AUTHORITY ONDCP Headquarters Camp Blizzard, Antigua**

Telephone number:269 562-3255 Fax number: 268 460-8818

This form should be completed by a person who transfers by consigning to a postal service, courier or other third party, Eastern Caribbean currency and/or foreign currency to be taken into or out of Antigua and Barbuda and the currency involved is of a total value of **US\$10,000 or more or its equivalent in other currency.**

"Currency" means cash or bearer negotiable Instruments.

Reporting of transfers of currency valued at US\$10,000 or more, or the equivalent in other currency into or out of Antigua and Barbuda is required by law under Section 18 of the Money Laundering (Prevention) Act 1996 as amended.

Currency not reported according to sections 18(1), (2) and (6) of The Money Laundering (Prevention) Act [No.9 of 1996] as amended may be seized by law enforcement Officers.

**The Money Laundering (Prevention) Act 1996** The Money Laundering (Prevention) Act [No.9 of 1996] as amended makes provisions under section 18 for currency reporting in order to assist law enforcement in the detection of serious criminal activity, including money laundering, drug, trafficking and organised crime.

### **USE of the information reported**

Reports received by the Supervisory Authority under the Money Laundering (Prevention) Act 1996 are processed by the financial intelligence unit of the ONDCP. The information reported is confidential.

### **Penalties**

There are penalties for failure to lodge a report with Comptroller of Customs or a customs officer assigned for duty at the point of mailing/ shipping or receiving currency or failure to supply full and correct information. The penalties include:

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imprisonment for a period not exceeding two years; and/or .  
a fine of up to EC\$50,000.00;  
and

the confiscation of the cash or negotiable instruments being transported.

### **Further information or assistance**

The Supervisory Authority's office is located at the Headquarters of the Office of National Drug and Money Laundering Control Policy (ONDCP), Camp Blizzard, St. Georges, Antigua. ONDCP Staff will be ready to assist with any. enquires Telephone (268) 562-3265.

**MAILING or TRANSFER by a third party of currency out of Antigua and Barbuda or Receipt of currency mailed or transferred by a third party into Antigua and Barbuda**

PLEASE PRINT

**PART A**

1. Report of currency valued at  
or US\$10,000 or more:

**MAILED or CONSIGNED** to  
someone else for TRANSFER out of Antigua and Barbuda

Address

City

State

Country

Postal code

**RECEIVED** from courier or  
consignee on TRANSFER into  
Antigua and Barbuda

**PART B** **Detail of person**  
**or Organisation sending or receiving currency**

2. Give name of person or organisation

**PART C**

Occupation or nature of business

**Details of person or organisation to whom currency is being sent or from whom currency is being received**

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Give name of person or the organisation

**PART E            Details of  
currency being transferred by consignment**

Address

**12.**

City	
State	Postal code
Country	
Occupation or nature of business	

**B**

**D**

Country of Lsue	Amount of or foreign currency	EC US rate of exchange	Approximate Value in US dollars
--------------------	-------------------------------------	------------------------------	------------------------------------

Eastern Caribbean  
United States

Total sum in U.S \$ = (add lines A, B, C and D)

8. Is the transfer or receipt of the currency:  
Wholly or partly on behalf of another  
person, business or organisation  
n GO TO Part D  
Wholly on your own  
behalf D Go straight to  
PARTE

**PART D Details of person or organisation on whose behalf the currency is  
being transferred**

9. Give name of person, business or  
Organisation

**If you are sending currency, go to Part F If you are receiving currency , go straight  
to Part G**

**PART F Details of courier taking**

**currency out of country**

13.

To whom has the currency been considered for transfer out of Antigua and  
Barbuda? Name of courier or consignee

10.

Address

14. Address of courier or consignee

City

State

Country

Postal code

City

State

Country

Postal code

11

Occupation or nature of business

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15. Date of delivery of currency to post,  
courier or consignee

DAY

/

/

MONTH YEAR

Signature

**PART G**                    **Details of courier  
bringing currency into country**

16.

From whom has the currency been received in Antigua and Barbuda?

Name and courier or consignee

<b>OFFICIAL USE ONLY</b>
<b>Customs Report No.</b>
<b>ONDCP Report No.</b>

17. Address of courier or consignee

City

State

Postal code

Country

18. Date of receipt of currency from

post, courier or consignee

/  
/

DAY MONTH YEAR

**PARTH**  
**Declaration and Signature**

I declare that the above information is correct

DAY / MONTH / YEAR

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**SCHEDULE II**

(Regulation 15)

Financial Institutions are required to submit an Annual AML/CFT Audit Report to the Supervisory Authority where they engage in the following financial activities:—

Banking business

International offshore banking business

Insurance business

Internet gambling

Sports betting

Casinos

**Trust business**

Money Services Business (Money changers and money transmitters)

**Credit unions.**

Made the 22nd day of May, 2007.

**Justin L. Simon, Q.C.,**  
*Attorney General and*  
*Minister responsible for*  
*Legal Affairs.*