



THE

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The following Notification is, by command of His Excellency the Governor-General, published for general information.

CLAUDINE HEAVEN, JP (MRS.)
Governor-General's Secretary and
Clerk to the Privy Council.

GOVERNMENT NOTICE

MISCELLANEOUS

No. 486

FINANCIAL SERVICES COMMISSION STATUTORY NOTICE

Notice of Designation of Specified Territories

Pursuant to section 94A of the Proceeds of Crime Act ("POCA"), the Financial Services Commission ("FSC") hereby gives notice of its designation of the following jurisdictions as specified territories:

1. Democratic People's Republic of Korea (DPKR);
2. Iran; and
3. Myanmar.

What the designation means

This designation means that the named territories ("the Specified Territories") have been deemed to be territories in respect of which there is a greater associated risk of money laundering ("ML"), terrorist financing ("TF") and/or proliferation financing ("PF").

The Financial Action Task Force (“FATF”) issued a statement on October 21, 2022 (entitled ‘*High-Risk Jurisdictions subject to a call for action*’) in respect of the Specified Territories. This FATF Statement indicates that the Specified Territories have significant strategic deficiencies in their regimes to counter ML, TF and PF. By virtue of the Statement, the FATF calls on all jurisdictions such as Jamaica to apply enhanced due diligence (“EDD”) measures and in the most serious cases, counter-measures, to protect the international financial system from the ongoing ML, TF, and PF risks emanating from the Specified Territories.

The nature of the FATF call for action

The FSC’s regulated entities within the life insurance, trust and corporate services and securities sectors (“regulated entities”) are required to apply EDD measures and appropriate counter-measures regarding all business relationships and one-off transactions with any customer domiciled or resident in the Specified Territories; or in the case of a body corporate, with any incorporated in the Specified Territories. This means that all financial transactions, business relationships and counterparties’ transactions originating from or involving both legal and natural persons from the Specified Territories should be subject to enhanced ML and TF countermeasures as prescribed, to mitigate any ML/TF risks.

Regulated Entities’ obligations regarding EDD measures and other counter-measures

In compliance with the provisions of section 94A(1) of the POCA, and section 16A(1) of the Terrorism Prevention Act (“TPA”) regulated entities are required to do the following with regard to all business relationships and transactions with customers resident or domiciled, and in the case of a body corporate, incorporated in a Specified Territory:

- apply EDD procedures;
- ensure that they examine the background and purpose of all such relationships and transactions (“R&T Analysis”);
- ensure that the findings of the EDD procedures and the R&T Analysis are committed to writing;
- ensure that the findings are made available upon request to the FSC or the designated authority (that is, the Financial Investigations Division) as the case may require; and
- limit those business relationships or one-off transactions.

The abovementioned actions must be taken in accordance with the enhanced ML counter-measures outlined in regulation 7B of the Proceeds of Crime (Money Laundering Prevention) Regulations (“POC-MLPR”) and regulation 6B of the Terrorism Prevention (Reporting Entities) Regulations (“TP-RER”). Those counter-measures are any directions from the FSC to the regulated entities which:

- institute transaction or relationship limits;
- require more frequent intervals for the provision of certain reports;
- require the conduct of additional audit requirements; and
- deny any exemption of identification procedures.

The minimum EDD obligations with which regulated entities ought to comply, are set out in regulation 6A(5) of the TP-RER and regulation 7A(5) of the POC-MLPR. These obligations require regulated entities to:

- obtain senior management approval to commence/continue the business relationship or one-off transaction;
- verify the source of funds and source of wealth held by the applicant for business, all parties to a one-off transaction, and all other persons concerned in the business relationship or one-off transaction;
- conduct enhanced monitoring throughout the course of the business relationship or one-off transaction; and
- maintain identification and verification standards as required by the POCA, TPA and all attendant regulations.

Enhanced monitoring requires:

- more frequent updating of customer information;
- obtaining more detailed information regarding the nature of the business relationship or one-off transaction;
- obtaining more detailed information about the applicant for business, and other persons concerned in the transaction;
- increasing the number and timing of controls applied to the transaction;
- selecting patterns of transaction that require more detailed examination; and
- requiring the first payment in the transaction to be carried through an account in the applicant for business’ name, with a financial institution.

Consequences of Non-Compliance

A failure to apply the required EDD measures and other counter-measures as may be prescribed, is an offence under section 94A(3) of the POCA. In that regard, a regulated entity would be liable on conviction before a Parish Court to a maximum fine of Three Million Dollars or on indictment before a Circuit Court to a fine.

General obligation and awareness of Regulated Entities

The regulated entities are obliged to inform themselves at all times of the applicable AML/CFT statutory obligations/requirements for EDD measures and counter-measures in relation to the Specified Territories. The regulated entities are further required to exercise full compliance with these obligations/requirements, in order to maintain an effective AML/CFT regime and to avert individual and/or national consequences/sanctions associated with non-compliance.

In this regard, the regulated entities must additionally be guided by the FSC's AML/CFT/CFP Guidelines, Supplemental Guidelines and Advisories with specific reference to EDD measures and other counter-measures in respect of FATF high-risk jurisdictions. The regulated entities should also periodically monitor the FSC's website at <http://www.fscjamaica.org> for updates in this regard.

Date the 6th day of December, 2022.

Signed by: EVERTON MCFARLANE
 Executive Director
 Financial Services Commission.