

THE PROCEEDS OF CRIME ACT

REGULATIONS

(under sections 102 and 138)

THE PROCEEDS OF CRIME (MONEY LAUNDERING PREVENTION) REGULATIONS, 2007

(Made by the Minister on the 29th day of March, 2007)

L.N. 44E/2007
26/2013

1. These Regulations may be cited as the Proceeds of Crime (Money Laundering Prevention) Regulations, 2007. Citation.

2.—(1) In these Regulations— Interpretation.

“applicant for business” means a person seeking to form a business relationship, or carry out a one-off transaction, with a regulated business;

“business relationship” means any arrangement between two or more persons where the purpose of the arrangement is to facilitate the carrying out of—

(a) two or more transactions between the persons concerned;
or

(b) transactions between the persons concerned on a frequent, habitual or regular basis;

“competent authority” has the meaning specified in Part V of the Act;

“designated authority” has the meaning specified in Part V of the Act;

“employee” means a person (including a person in a senior management position) who has entered into or works under a contract of services, or a contract for services, with a regulated business, whether such contract is express or implied, oral or in writing;

“money transfer and remittance agent or agency” means an approved money transfer and remittance agent or agency as defined by section 2 of the Bank of Jamaica Act;

“one-off transaction” means any transaction other than a transaction carried out in the course of a business relationship formed with a regulated business;

“regulated business” means a business falling within the regulated sector as defined in the Fourth Schedule to the Act;

“relevant financial business” means any financial business carried on by a regulated business.

(2) Any reference in paragraph (1) 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 regulated business.

(3) In determining whether a person has complied with any of the requirements of these Regulations, a court shall take account of any relevant guidance that was at the time concerned—

- (a) issued by the designated authority or a body that regulates, or is representative of, any trade profession, business or employment concerned;
- (b) approved by the Minister; and
- (c) published in the *Gazette*.

(4) In proceedings against any 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 due diligence to avoid committing the offence.

(5) In this regulation, “supervisory or regulatory guidance” means guidance issued, adopted or approved by the relevant competent authority.

Duty of
financial
institution to
report certain
transactions.

3.—(1) Subject to the provisions of these Regulations, it shall be the duty of a financial institution to make a report to the designated authority, either on its own initiative or in response to a request made to it by the designated authority, in relation to any cash transaction involving the prescribed amount being carried out by any person with that institution.

(2) Subject to paragraph (3), paragraph (1) shall not apply to transactions carried out by—

- (a) a ministry, department or agency of government;
- (b) a statutory body or authority;
- (c) a company registered under the Companies Act, in which the Government or an agency of the Government, whether by the holding of shares or by other financial input, is in a position to influence the policy of the company;

- (d) any Embassy, High Commission, consular office or organization to which the Diplomatic Immunities and Privileges Act applies; or
- (e) any organization in relation to which an order is made under section 3(2) of the Technical Assistance (Immunities and Privileges) Act.

(3) An authorized officer of the designated authority may, without prejudice to its rights to utilize disclosure orders or other remedies against any public body, request in writing information from a body specified in paragraph (2) (a), (b) or (c).

(4) A financial institution that makes a report under paragraph (1) to the designated authority shall not disclose the existence of that report to any other person except the competent authority.

(5) Where a financial institution makes a report in accordance with paragraph (1), that institution, its directors and employees shall, regardless of the outcome of the report, be exempt from—

- (a) any liability to prosecution for an offence under section 92 or 93 of the Act (money laundering), in relation to any conduct disclosed in the report; and
- (b) any criminal, civil or administrative liability, as the case may be, for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.

(6) In making a report under paragraph (1) or a suspicious transactions report under section 94 or 95 of the Act, a regulated business shall comply with such directions as may be given by the designated authority in relation to—

- (a) previous or current reports;
- (b) the provision of information required in such reports; and
- (c) the provision of additional information in relation to queries concerning specific matters arising from the reports, including—
 - (i) due diligence procedures followed in relation to a specific transaction;
 - (ii) persons authorized to sign on the account in question;
 - (iii) errors identified in the reports; and
 - (iv) such other matters as may be specified in the directions.

(7) A financial institution that fails to comply with paragraph (1) or (4), or a regulated business that fails to comply with paragraph (6), commits

an offence and is liable upon conviction before a Resident Magistrate's Court to a fine not exceeding four hundred thousand dollars.

(8) In paragraph (1)—

“cash transaction” means a transaction involving the physical transfer of currency from one person to another;

“prescribed amount” means in relation to—

- (a) a money transfer and remittance agent or agency, five thousand dollars or more;
- (b) *cambios* and *bureaux de change*, eight thousand dollars or more;
- (c) any other financial institution, fifteen thousand dollars or more,

in the currency of the United States of America or an equivalent amount in Jamaican currency or any other currency.

(9) For the purposes of the definition of “cash transaction” and “prescribed amount” in paragraph (8), “currency” refers to the coin and paper money designated as the legal tender of any country and which circulates and is customarily used and accepted as a medium of exchange in the country of issue.

Exemption
from duty to
report under
regulation 3.

4.—(1) A financial institution may apply in writing to the Minister responsible for finance or a person designated in writing by that Minister for exemption from the requirements of regulation 3 in relation to a transaction or series of transactions carried out or to be carried out by a person who is an established customer of that institution.

(2) The Minister responsible for finance may grant an exemption in relation to a transaction or series of transactions specified in an application under paragraph (1) if the Minister is satisfied that the exemption should be granted, having regard to the matters specified in paragraph (3).

(3) The matters referred to in paragraph (2) are as follows—

- (a) the transaction or series of transactions consists of a deposit into or a withdrawal from an account maintained by that customer with the financial institution;
- (b) the customer carries on—
 - (i) a retail business (other than a business that includes the selling of vehicles, vessels, farm machinery or aircraft);

- (ii) a business declared by the Minister by order to be an entertainment business or a hospitality business for the purposes of these Regulations;
- (c) the account through which the transaction or series of transactions is conducted is maintained for the purposes of any such business; and
- (d) the amount of cash involved in the transaction or series of transactions does not exceed an amount that is reasonably commensurate with the lawful business activities of the customer.

(4) In paragraph (1) “established customer”, in relation to an application for exemption, means a person who has been a customer of the financial institution for not less than a period of twelve months immediately preceding the date of the application.

5.—(1) A regulated business shall establish and implement such programmes, policies, procedures, and controls as may be necessary for the purpose of preventing or detecting money laundering.

Regulatory
controls by
regulated
businesses.

(2) Without prejudice to the generality of paragraph (1), the programmes referred to in that paragraph shall include—

- (a) the establishment of procedures to ensure high standards of integrity of employees;
- (b) the development of a system to evaluate the personal employment and financial history of those employees;
- (c) the establishment of programmes for training of employees on a continuing basis and for instructing employees as to their responsibilities in respect of the provisions of the Act and these Regulations;
- (d) arrangements for an independent audit in order to ensure that the programmes as aforesaid are being implemented; and
- (e) in the case of a regulated business that is a member company of a group of companies, the establishment and implementation by that company and the responsible entity for the group of such programmes, policies and procedures and controls that facilitate the prevention or detection of money laundering within that group of companies, including such as permit the disclosure of information by each member company to other companies within the group other than information which is protected from disclosure under this Act or any other law.

(3) For the purposes of this regulation, a regulated business shall nominate an officer of the business who performs management functions to be responsible for ensuring the implementation of the programmes, policies, procedures and controls referred to in paragraph (1), including the reporting of transactions referred to in regulation 3 or section 94 or 95 of the Act.

(4) A regulated business shall consult with the competent authority for the purpose of carrying out its obligations under this regulation.

(5) A regulated business that fails to comply with paragraph (1) or (3) commits an offence and is liable upon conviction, before a Resident Magistrate's Court to a fine not exceeding four hundred thousand dollars.

(6) In this regulation, "responsible entity", in relation to a member company of a group of companies, is the entity that has responsibility for the development and implementation of anti-money laundering, or terrorism financing prevention, policies and procedures for the group of companies of which the member company forms a part.

Systems and
training to
prevent money
laundering.

6.—(1) No regulated business shall form a business relationship, or carry out a one-off transaction, with or for another person unless the regulated business—

(a) maintains the following procedures in relation to that business relationship or one-off transaction—

- (i) identification procedures and transaction verification procedures in accordance with regulations 7 and 11;
- (ii) record-keeping procedures in accordance with regulation 14;
- (iii) procedures of internal control and communication in accordance with regulation 15;
- (iv) procedures to assess the risk of money laundering arising from—
 - (A) its products and business practices (whether new or existing); and
 - (B) developing technologies applied or used in such products or practices,

and shall not commence or continue any such product or practice without implementing measures to identify, manage or mitigate those risks;

(b) takes appropriate measures from time to time for the purpose of making employees whose duties include the handling of relevant financial business aware of—

- (i) the procedures under sub-paragraph (a) which relate to the relevant financial business in question; and
 - (ii) the provisions of the Act and any regulations made thereunder; and
- (c) 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.

(2) Subject to paragraph (3), a person who fails to comply with paragraph (1) commits an offence and is liable upon conviction—

(a) before a Resident Magistrate—

- (i) in the case of an individual, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment;
- (ii) in the case of a body corporate, to a fine not exceeding three million dollars;

(b) in a Circuit Court—

- (i) in the case of an individual, to a fine or to imprisonment for a term not exceeding twenty years, or to both such fine and imprisonment;
- (ii) in the case of a body corporate, to a fine.

(3) Proceedings for an offence under paragraph (2) shall not be taken against a person for failure to comply with paragraph (1)(c) where another enactment provides for disciplinary or regulatory action that may be taken by the competent authority concerned in respect of the failure and the competent authority opts to take such action in the particular case.

7.—(1) Subject to regulation 8, identification procedures maintained by a regulated business are in accordance with this regulation if such procedures require that—

Identification
procedures,
business
relationships
and transactions.

- (a) as soon as is practicable after contact is first made between the regulated business and an applicant for business concerning any particular business relationship or one-off transaction—
 - (i) the applicant for business produces satisfactory evidence of his identity to the regulated business; and
 - (ii) the regulated business takes such measures as are specified in its identification procedures as will verify the applicant's identity; and

- (b) where the regulated business is unable to verify the applicant's identity, the business relationship or one-off transaction in question shall not proceed any further, and the regulated business shall make an assessment as to whether any disclosure is required under section 94 of the Act (disclosure as to transactions which constitute or are related to money laundering);
 - (c) as concerns any business relationship, customer information is kept under review with a view to ensuring its accuracy and is updated—
 - (i) at least once in every seven years during the course of the business relationship or at more frequent intervals as warranted by the risk profile of the business relationship as determined by the regulated business in accordance with regulation 7A; and
 - (ii) whenever there is any doubt about the veracity or adequacy of previously obtained customer information; and
 - (d) where customer information is not updated as required under subparagraph (c), the business relationship in question shall not proceed any further, and the regulated business shall make an assessment as to whether any disclosure is required under section 94 of the Act (disclosure as to transactions which could constitute or be related to money laundering).
- (2) Transaction verification procedures maintained by a regulated business are in accordance with the regulation if such procedures require that—
- (a) as concerns any business relationship or one-off transaction, the regulated business takes such measures as are specified in its transaction verification procedures as will produce satisfactory evidence as to the purpose and intended nature of the business relationship or one-off transaction in any of the circumstances specified in paragraph (3); and
 - (b) where such evidence is not obtained, the business relationship or one-off transaction in question shall not proceed any further.
- (3) The circumstances referred to in paragraph (2) are as follows—
- (a) where any transaction involves the prescribed amount;
 - (b) where transactions carried out in a single operation or in several operations appear to be linked;

- (c) where a transaction is carried out by means of wire transfers;
- (d) where there is any doubt about the veracity or adequacy of previously obtained evidence of identity;
- (e) where the reporting entity is required to make a report under section 94 or 95 of the Act.

(4) For the purposes of paragraphs (1) and (2), where the applicant for business is a body corporate—

- (a) the reporting entity shall carry out reasonable due diligence procedures concerning the identification of the body corporate and transaction verification; and
- (b) evidence that such procedures have been carried out shall be sufficient.

(5) In this regulation—

“customer information” includes the applicant for business’s full name, current address, taxpayer registration number or other reference number, date and place of birth (in the case of a natural person) and, where applicable, the information referred to in regulation 13(1) (c);

“prescribed amount” has the meaning assigned to it in regulation 3(8);

“risk profile ” means the formal assessment made by the regulated business concerned as to the level of risk of money laundering posed to the regulated business by the business relationship or transaction concerned;

“satisfactory evidence ” for the purposes of paragraph (1) (a), shall include evidence as to identity from a source independent of the regulated business concerned (for example, a recent bill from a utility provider such as a telephone, internet, cable, water or electricity service provider).

7A.—(1) A business in the regulated sector shall establish a risk profile regarding all its business relationships and one-off transactions, with a view to determining the business relationships or one-off transactions which are high-risk.

Risk profile and ongoing due diligence in verification procedures.

(2) For the purposes of paragraph (1), relationships or transactions which are high-risk include any case where the applicant for business concerned is—

- (a) a person specified in paragraph (6);

- (b) a person who is not ordinarily resident in Jamaica;
- (c) a person acting as a trustee for another in relation to the business relationship or one-off transaction concerned;
- (d) a company having nominee shareholders, or shares held in bearer form; or
- (e) a member of such other class or category of persons as the supervisory authority may specify by notice published in the *Gazette*.

(3) Subject to paragraph (4), a business in the regulated sector shall carry out reasonable due diligence in the conduct of every transaction (whether done in the course of a business relationship or as a one-off transaction) to ensure that the transaction is—

- (a) consistent with its knowledge of the applicant for business, the applicant's trade or profession, the applicant's risk profile and the stated source of the funds involved; and
- (b) verified as to the identity of the applicant for business and the source of the funds involved.

(4) Where a business relationship or one-off transaction is determined to be high-risk, a business in the regulated sector shall carry out enhanced due diligence procedures with respect thereto.

(5) For the purposes of paragraph (4), enhanced due diligence procedures shall require—

- (a) obtaining senior management approval to commence or continue the business relationship or one-off transaction;
- (b) verification of the source of funds or wealth held by the applicant for business and all other persons concerned in the business relationship or one-off transactions;
- (c) enhanced monitoring throughout the course of the business relationship or one-off transaction, which shall include—
 - (i) a requirement for more frequent updating of customer information;
 - (ii) a requirement for more detailed information as to the nature of the business relationship or one-off transaction;
 - (iii) a requirement for more detailed information about the applicant for business and other parties concerned in the transaction;
 - (iv) an increase in the number and timing of controls applied to the transaction;

- (v) the selection of patterns of actions that require more detailed examination; and
 - (vi) a requirement that the first payment in the transaction be carried through an account, in the name of the applicant for business, with a financial institution; and
- (d) identification and verification standards equivalent to those required by the Act and any regulations made under the Act.
- (6) The persons specified for the purposes of paragraph (2)(a) are—
- (a) any individual who, in relation to any State, carries out functions analogous to the functions of any of the following persons—
 - (i) a head of State;
 - (ii) a head of Government;
 - (iii) a member of any House of Parliament;
 - (iv) a Minister of Government;
 - (v) a member of the judiciary;
 - (vi) a military official above the rank of Captain;
 - (vii) a member of the police of or above the rank of Assistant Commissioner;
 - (viii) a Permanent Secretary, Chief Technical Director or chief officer in the charge of the operations of a Ministry, department of Government, executive agency or statutory body, as the case may be;
 - (xi) a director or chief executive of any company in which the Government owns a controlling interest;
 - (x) an official of any political party; and
 - (b) an individual who holds or has held a senior management position in an international organization; and
 - (c) an individual who is a relative or is known to be a close associate of a person described in sub-paragraph (a) or (b).

(7) In this regulation—

“close associate” means an individual who is a business partner, or associated in any other form, in a common commercial enterprise with the person concerned;

“relative”, in relation to the person concerned, means his spouse, his child (including his step child or adopted child), the spouse of his child, his parents, his brother or his sister;

“spouse” includes—

(a) a single woman who has lived and cohabited with a single man, as if she were, in law, his wife for a period of not less than five years immediately preceding the date of application; and

(b) a single man who has lived and cohabited with a single woman, as if he were, in law, her husband for a period of not less than five years immediately preceding the date of application;

“single woman” and “single man” used with reference to the definition of “spouse” include a widow or a widower, as the case may be, or a divorcee.

De minimis
amounts not
requiring
identifica-
tion.

8.—(1) Unless the nature of the transaction is such as to give rise to the knowledge or belief, or reasonable grounds for the knowledge or belief, that the transaction constitutes or is related to money laundering, the identification procedures set out in regulation 7 shall not be required in the case of customer transactions of a value of—

(a) two hundred and fifty dollars in the currency of the United States of America or its equivalent in any other currency or less; or

(b) such other amounts as the Minister may by order published in the *Gazette* prescribe, in relation to any category of regulated business specified in the order (and different amounts may be prescribed in respect of different categories of regulated business).

(2) The provisions of paragraph (1) do not apply to a money transfer and remittance agent or agency.

Electronic
funds
transfers.

9.—(1) Every regulated business conducting wire transfers or any other electronic funds transfer shall ensure that it receives and includes in its records accurate and relevant information on funds transfers throughout the

payment process and chain, including the correct name, address and account number (if any), of the persons involved, the reference number assigned to the transaction, any other relevant reference numbers and the instructions given in relation to the transfer.

(2) For the purposes of paragraph (1), "persons involved" means—

- (a) the holder of the account that is the source from which the funds are transferred;
- (b) the person that places the order for the transfer of the funds; and
- (c) every recipient of the funds transferred.

(2A) In the case of a transfer involving an amount exceeding one thousand dollars in the currency of the United States of America or its equivalent in any other currency the relevant information for the purposes of paragraph (1) shall include—

- (a) a national identification number;
- (b) the customer identification number; or
- (c) the date and place of birth,

of the person who places the order for the transfer and the holder of the account that is the source from which the funds are transferred.

(2B) The business from which the transfer originates shall give to the business to which the funds are transferred the information mentioned in paragraphs (1) and (2A) as relates to the persons mentioned in paragraph (2A), within three days (excluding Saturdays, Sundays and public general holidays) of being requested to do so by the business to which the funds are transferred.

(3) A person who breaches this regulation commits an offence and is liable on conviction before a Resident Magistrate to—

- (a) in the case of an individual, a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment;
- (b) in the case of a body corporate, a fine not exceeding three million dollars.

10.—(1) Paragraph (2) shall apply in any case where—

- (a) a payment is to be made by an applicant for business;
- (b) it is reasonable in all the circumstances for the payment to be made, or the details thereof to be sent, by post or by telephone or any other electronic means; and

Payment by
post, etc.

- (c) satisfactory evidence of the identity of the applicant for business would, but for this regulation, be required under identification procedures adopted in accordance with regulation 7.

(2) The fact that the payment is debited from an account held in the applicant's name at any of the financial institutions specified in paragraph (4) (whether the account is held by the applicant alone or jointly with one or more other persons) shall constitute the required evidence of identity for the purpose of regulation 7.

(3) For the purposes of paragraph (1), it shall be immaterial whether the payment or its details are sent or given to a regulated business or to some other person acting on its behalf.

(4) The financial institutions referred to in paragraph (1) are—

- (a) a bank licensed under the Banking Act;
- (b) a financial institution licensed under the Financial Institutions Act;
- (c) a building society registered under the Building Societies Act;
- (d) a society registered under the Co-operative Societies Act.

Identification
procedures re
transactions
on behalf of
another.

11.—(1) This regulation applies where, in relation to any relevant financial business, a person is, or appears to be an agent, whether acting on behalf of another person or on behalf of a body corporate or other legal arrangement (such as a trust or settlement).

(2) For the purposes of this regulation, “agent” means an applicant for business who acts otherwise than as principal.

(3) Identification procedures maintained by a regulated business are in accordance with this regulation if, in a case to which this regulation applies, the regulated business requires reasonable measures to be taken for the purpose of—

- (a) establishing the identity of the principal, the agent, each beneficiary and the ultimate beneficial owner of the property or funds the subject of the relevant financial business concerned;
- (b) verifying that the agent is authorized to act on behalf of the principal.

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

(5) Without prejudice to the generality of paragraph (4), if the conditions mentioned in paragraph (6) are fulfilled in relation to an agent (whether the principal is undisclosed or disclosed for reference purposes

only) it shall be reasonable for a regulated business to accept a written assurance from the agent to the effect that evidence of the identity of any principal on whose behalf the agent may act in relation to the regulated business has been obtained and recorded under procedures maintained by the agent.

(6) The conditions referred to in paragraph (5) are that, in relation to the business relationship or transaction in¹ question, there are reasonable grounds for believing that—

- (a) the agent is based or incorporated in, or formed under the law of, a country in which there are in force provisions at least equivalent to those mentioned in Part V of the Act; and
- (b) the agent—
 - (i) would be a regulated business if the agent were situated in Jamaica; and
 - (ii) acts in the course of a business in relation to which a foreign regulatory authority exercises regulatory functions and control.

12.—(1) Subject to paragraph (2), where—

Identification
procedures,
exemption.

- (a) there are reasonable grounds for believing that the applicant for business is a regulated business; or
- (b) any one-off transaction is carried out with or for a third party pursuant to an introduction effected by a person who identifies the third party and has provided an assurance in accordance with paragraph (2),

paragraph (1A) shall apply.

(1A) Where this paragraph applies, regulations 7 and 11 shall be construed as entitling the regulated business to rely on the steps taken by the person giving the assurance in accordance with paragraph (2), as to the carrying out the identification procedures required under those regulations, if—

- (a) the information required to be obtained pursuant to the procedures is transmitted by that person to the regulated business as soon as is reasonably practicable after the introduction or without delay upon request by the regulated business; and
- (b) the regulated business is satisfied, based on a risk profile determined in accordance with regulation 7A, that the business relationship or one-off transaction is not high-risk.

(2) The assurance referred to in paragraph (1) is that evidence of the identity of all third parties introduced by that person will have been obtained and recorded under procedures maintained by him and—

(a) that person falls within sub-paragraph (1) (a); or

(b) there are reasonable grounds for believing that the conditions mentioned in regulation 11 (6)(a) and (b) are fulfilled in relation to that person.

(3) Nothing in this regulation shall apply in any circumstances where any person handling the transaction knows or suspects that the applicant for business is engaged in money laundering or that the transaction is carried out on behalf of another person engaged in money laundering.

13.—(1) For the purposes of these Regulations, evidence of identity is satisfactory if—

(a) it is reasonably capable of establishing that the applicant for business is the person he claims to be;

(b) the person who obtains the evidence is reasonably satisfied, in accordance with the procedures maintained under these Regulations in relation to the regulated business concerned, that such evidence establishes the fact that the applicant for business is the person he claims to be;

(c) in the case of any transaction involving—

(i) a settlement, trust or other type of legal arrangement, it—

(A) establishes the identity of (as the case may require) the settlor, legal owner or other person who exercises effective control of the legal arrangement, and each beneficiary under the legal arrangement (including the ultimate beneficial owners of the property concerned in the arrangement); and

Identification
procedures,
supplemen-
tary
provisions.

- (B) discloses the legal status of the arrangement and the provisions regulating the power to bind the parties involved;

(ii) a person other than an individual—

- (A) it establishes the identity of the individuals who exercise ultimate effective control over that person; or

- (B) in any case where an individual who exercises ultimate effective control over that person cannot be identified, it establishes the identity of the senior manager who makes or implements decisions with respect to the activities of that person;

(iii) a body corporate (other than a body corporate listed on a stock exchange) which is licensed or otherwise authorized under the laws of the jurisdiction in which the body corporate is registered, it—

- (A) establishes the identity of each director and shareholder (if any) holding ten *per cent* or more of the voting rights in the body corporate;

- (B) discloses the address of the body corporate and the provisions regulating the power to bind the body corporate; and

- (C) provides evidence of incorporation.

(2) In determining for the purposes of regulation 7 the period within which satisfactory evidence of the identity of the applicant for business 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 the one-off transaction concerned;
- (b) the geographical locations of the parties; and
- (c) whether it is practical to obtain the evidence before commitments are entered into between the parties or before any money is transferred.

(3) Nothing in paragraph (1)(c)(iii) shall be construed as exempting a body corporate, or a director or shareholder of a body corporate, from the identification procedures required by these Regulations in any case where any person handling a transaction involving any of those entities suspects that the transaction amounts to money laundering.

Record-
keeping
procedures.

14.—(1) Record-keeping procedures maintained by a person under regulation 6(1)(a) are in accordance with this regulation if they require the keeping of a record for the prescribed period in accordance with paragraphs (2), (3) and (4).

(2) A record shall be kept in any case where evidence of the identity of an applicant for business is obtained under procedures maintained in accordance with regulation 7 or 11.

(3) The record referred to in paragraph (2) shall indicate the nature of the evidence and shall—

- (a) comprise a copy of the evidence;

- (b) provide such information as would enable a copy of it to be obtained; or
- (c) in a case where it is not reasonably practicable to comply with sub-paragraph (a) or (b), provide sufficient information to enable the details as to a person's identity contained in the relevant evidence to be re-obtained.

(4) In relation to all relevant financial business a record shall be kept of each transaction, in such manner and form as shall facilitate the reconstruction of transactions and the provision of information to the designated authority or competent authority as may be required under any provision of the Act, these Regulations, or any other enactment.

(5) For the purposes of this regulation, the prescribed period is—

- (a) a period of seven years commencing on the date on which the relevant financial business was completed or the business relationship was terminated, whichever occurs later; or
- (b) such other period as may be specified by the designated authority, by notice in writing given to the business concerned, before the expiration of the period referred to in sub-paragraph (a).

15. Internal reporting procedures maintained by a regulated business shall include provisions—

Internal
reporting
procedures.

- (a) for identifying a person in accordance with regulation 5 (3) (in this regulation referred to as “the nominated officer”) to whom a report is to be made of any information or other matter which—
 - (i) comes to the attention of a person handling relevant financial business; and
 - (ii) in the opinion of the person handling that business, gives rise to some knowledge or suspicion that another person is engaged in money laundering;
- (b) for requiring that any such report be considered in the light of all other relevant information by the nominated officer, or by another person, acting on behalf of the nominated officer, for the purpose of determining whether or not the information or other matter contained in the report gives rise to such knowledge or suspicion;
- (c) for any person charged with considering a report in accordance with paragraph (b) to have reasonable access to other information that may be of assistance to him and is available to the regulated business; and

- (d) for any person charged with considering a report in accordance with sub-paragraph (b) to make such reports to the designated authority as may be required under section 95 of the Act.

Regulated
businesses
not to operate
anonymous
accounts, etc.

16.—(1) A regulated business shall not, in the course of its relevant financial business, permit any person to conduct any transaction with the regulated business by means of a numbered account, an anonymous account or any account in a fictitious name.

- (2) In this regulation—

“anonymous account” means any account for which the regulated business does not have such information as would, when subjected to the identification and transaction verification procedures required by these Regulations, constitute evidence of identity which meets the requirements of regulations 11 and 13;

“fictitious name” means any name which when subjected to the identification procedures required by these Regulations does not constitute, in relation to the person conducting the transaction, such evidence of identity as meets the requirements of regulations 11 and 13;

“numbered account” means an account that is identifiable solely by reference to the number or numbers assigned to that account.

Form in
which reports
shall be made.

17.—(1) Subject to paragraph (4), every disclosure to the designated authority made pursuant to section 94 or 95 of the Act (suspicious transactions reporting) shall be contained in a report in accordance with Form 1 of the Schedule.

Schedule.
Form 1.

(2) Subject to paragraph (4), every report made pursuant to regulation 3 (threshold transactions reporting) shall be in accordance with Form 2 of the Schedule.

Form 2.

- (3) A report made under paragraph (1) or (2) may—

- (a) contain such adjustments to the applicable form set out in the Schedule as may be approved by the designated authority; and
(b) be submitted in electronic form.

(4) A report from a regulated business in respect of relevant financial business conducted outside of Jamaica, submitted pursuant to paragraph (1) or (2), may be in such form as may be approved by the designated authority.

(5) Upon receiving a report submitted pursuant to paragraph (1) or (2), the designated authority shall issue to the regulated business a receipt therefor:

Provided that no such receipt shall be construed as signifying compliance with these Regulations as regards the contents of the report.

18.—(1) Every regulated business shall ensure that its branches and subsidiaries situated outside of Jamaica implement, where necessary, and conform with, the standards and conduct set out in the Part V of the Act and in these Regulations:

Application
of standards
to overseas
branches and
subsidiaries

Provided that wherever there is a difference in applicable standards between the jurisdiction where the regulated business is located and the jurisdiction where any of its branches or subsidiaries is located there shall be compliance with the higher required standard.

(2) Where any regulated business becomes aware of any instance in which any of its overseas branches or subsidiaries is unable to conform to the standard and conduct referred to in paragraph (1), the regulated business shall ensure that in each such instance—

- (a) the branch or subsidiary advises it of such inability; and
- (b) the regulated business advises the competent authority of the inability and the reason therefor.

(3) A person who contravenes this regulation commits an offence and is liable on conviction before a Resident Magistrate—

- (a) in the case of an individual, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment;
- (b) in the case of a body corporate, to a fine not exceeding three million dollars.

19.—(1) Except as otherwise provided in this regulation, the obligations of a regulated business under these Regulations shall apply, in respect of any business relationship formed by the regulated business prior to the relevant date, as it applies in respect of an applicant for business.

Requirements
re existing
customers.

(2) Nothing in these Regulations shall require a regulated business to obtain information or evidence in respect of any transaction conducted prior to the relevant date.

(3) For the purposes of this regulation, the “relevant date” is the 29th day of March, 2007.

*THE PROCEEDS OF CRIME (MONEY LAUNDERING PREVENTION)
REGULATIONS, 2007*

SCHEDULE

(Regulation 17)

FORM 1

PROCEEDS OF CRIME (*MONEY LAUNDERING
PREVENTION*) REGULATIONS

Suspicious Transactions Report

PART 1	Reporting Financial Institution Information		
1. Name of Financial Institution			
2. Address of Financial Institution		3. TRN.	
		4. Branch Address	
5. Type of Financial Institution			
PART 2	Person(s) involved in Transaction(s)		
Section A	Persons on whose behalf Transaction is conducted (Customer)		6. Multiple persons [☐]
7. Individual's last name or organization's name		8. First name	9. M.I.
10. Permanent Address		11. Date of Birth (DD/MM/YYYY)	
		12. TRN.	
13. Method used to verify identity: a. [☐] Examined identification credential/document b. [☐] Known Customer - Information on file			
14. Describe identification credential: a. [☐] Driver's licence b. [☐] Passport c. [☐] National I.D. d. [☐] Other, specify e. issued by: f. Number:			
15. Customer's Account No. and Type			
16. Occupation/Business/Principal Activity:			
Section B	Person(s) conducting transaction (Agent)		17. Multiple persons [☐] See Part 6
18. Individual's last name or organization's name		19. First Name	20. M.I.
21. Permanent Address		22. Date of Birth (DD/MM/YYYY)	
		23. TRN.	
24. Method used to verify identity: a. [☐] Examined identification credential/document b. [☐] Known Customer- Information on file			
25. Describe identification credential: a. [☐] Driver's licence b. Passport [☐] c. [☐] National I.D. d. [☐] Other, specify e. issued by: f. Number:			
Section C	Person(s) benefitting from transaction		26. Multiple persons [☐] See Part 6
27. Individual's last name or organization's name		28. First Name	29. M.I.

30. Permanent Address			
PART 3 <i>Preparer Information</i>			
31. Last Name		32. First Name	33. M.I.
34. Title		35. Phone No.	
36. Signature		37. Date of Signature (DD/MM/YYYY)	
PART 4 <i>Contact for Assistance (If different than preparer info. in Part 3)</i>			
38. Last Name		39. First Name	40. M.I.
41. Title		42. Phone No.	
PART 5 <i>Transaction Details</i>		1. Multiple Transaction (s)	
2. Transaction Type		3. Date (DD/MM/YYYY)	4. Title
5. Transaction Currency	6. Transaction Account		
7. Accounts Affected (if any)		8. JA\$ Equivalent	9. JA\$ Exchange Rate
Type	Number	10. US\$ Equivalent	11. US\$ Exchange Rate
		12. Source of funds	
13. Transaction Type		14. Date (DD/MM/YYYY)	15. Time
16. Transaction Currency	17. Transaction Amount		
18. Accounts Affected (if any)		19. JA\$ Equivalent	20. JA\$ Exchange Rate
Type	Number	21. US\$ Equivalent	22. US\$ Exchange Rate
		23. Source of funds	
24. Transaction Type		25. Date (DD/MM/YYYY)	26. Time
27. Transaction Currency		28. Transaction Account	

Form II				(Regulation 17)
Proceeds of Crime (Money Laundering Prevention) Regulations Threshold Transactions Report				
PART I	Reporting Financial Institution Information			
1. Name of Financial Institution				
2. Address of Financial Institution			3. TRN.	
			4. Branch address	
5. Type of Financial Institution				
PART 2	Person(s) involved in Transaction(s)			
Section A	Persons on whose behalf Transaction is conducted (Customer)		6. Multiple persons [] See Part 6	
7. Individual's last name or organization's name			8. First name	9. M.I.
10. Permanent Address			11. Date of Birth (DD/MM/YYYY)	
			12. TRN.	
13. Method used to verify identity: a. [] Examined identification credential/document b. [] Known Customer – Information on file				
14. Describe identification credential: a. [] Driver's licence b. [] Passport c. [] National I.D. d. [] Other, specify				
e issued by: f. Number:				
15. Customer's Account No. and Type				
16. Occupation/Business/Principal Activity:				
Section B	Person(s) conducting transaction (Agent)		17. Multiple persons [] See Part 6	
18. Individual's last name or organization's name			19. First Name	20. M.I.
21. Permanent Address			22. Date of Birth (DD/MM/YYYY)	
			23. TRN.	
24. Method used to verify identity a [] Examined Identification credential/document b [] Known Customer-Information on file				
25. Describe identification credential: a. [] Driver's licence b. [] Passport c. [] National I. D. d. [] Other specify				
e. Issued by: f Number				

THE PROCEEDS OF CRIME (MONEY LAUNDERING PREVENTION)
REGULATIONS, 2007

Section C	Person(s) benefiting from transaction (Agent)	26. Multiple persons [] See Part 6	
27. Individual's last name or organization's name		28. First Name	29. M.I.
30. Address			
PART 3	<i>Preparer Information</i>		
31. Last Name		32. First Name	33. M.I.
34. Title		35. Phone No.	
36. Signature		37. Date of Signature (DD/MM/YYYY)	
PART 4	Contact for Assistance (If different than preparer info. in Part 3)		
38. Last Name		39. First Name	40. M.I.
41. Title		42. Phone No.	
PART 5	Transaction Details		1. Multiple Transaction []
2. Transaction Type		3. Date (DD/MM/YYYY)	4. Title
5. Transaction Currency	6. Transaction Account		
7. Accounts Affected (if any) Type Number		8. JAS Equivalent	9. JAS Exchange Rate
		10. US\$ Equivalent	11. US\$ Exchange Rate
		12. Source of funds	
13. Transaction Type		14. Date (DD/MM/YYYY)	15. Time

16. Transaction Currency		17. Transaction Amount			
18. Accounts Affected (if any) Type Number _____ _____ _____			19. JA\$ Equivalent		20. JA\$ Exchange Rate
			21. US\$ Equivalent		22. US\$ Exchange Rate
			23. Source of funds		

24. Transaction Type		25. Date (DD/MM/YYYY)		26. Time	
27. Transaction Currency		28. Transaction Account			
29. Account Affected (if any) Type Number _____ _____ _____			30. JA\$ Equivalent		31. JA\$ Exchange Rate
			32. US\$ Equivalent		33. US\$ Exchange Rate
			34. Source of funds		

35. Transaction Type		36. Date (DD/MM/YYYY)		37. Time	
38. Transaction Currency		39. Transaction Account			
40. Account Affected (if any) Type Number _____ _____ _____			41. JA\$ Equivalent		42. JA\$ Exchange Rate
			43. US\$ Equivalent		44. US\$ Exchange Rate
			45. Source of funds		

PART 6		Multiple Persons			
1. Person Involvement					
a. ☐ On behalf of (customer) b. ☐ Conducting (agent) c. ☐ Beneficiary					
2. Individual's last name or organization's name			3. First name		4 M.I.

5. Permanent address		6. Date of Birth (DD/MM/YYYY)	
		7. TRN No.	
8. Method used to verify identity: a. ☐ Examined identification credential/ document b. ☐ Known Customer – Information on file			
9. Describe identification credential: a. ☐ Driver's licence b. ☐ Passport c. ☐ National I.D. d. ☐ Other. specify:			
e. Issued by:		f. Number:	
10. Account No. and Type (if customer):			
11. Occupation/Business/Principal Activity:			
12. Person Involvement			
a. ☐ On behalf of (customer) b. ☐ Conducting (agent) c. ☐ Beneficiary			
13. Individual's last name or organization's name		14. First name	15. M. I.
16. Permanent address		17. Date of Birth (DD/MM/YYYY)	
		18. TRN.	
19. Method used to verify identity: a. ☐ Examined identification credential/document b. ☐ Known Customer – Information on file			
20. Describe identification credential: a. ☐ Driver's licence b. ☐ Passport c. ☐ National I.D. d. ☐ Other. specify			
e. Issued by:		f. Number:	
21. Account No. and Type (if customer):			
22. Occupation/ Business/ Principal Activity:			
23. Permanent Involvement			
a. ☐ On behalf of (customer) b. ☐ Conducting (agent) c. ☐ Beneficiary			
24. Individual's last name or organization's name		25. First name	26. M.I.
27. Permanent address		28. Date of Birth (DD/MM/YYYY)	
		29. TRN.	
30. Method used to verify identity: a. ☐ Examined identification credential/document b. ☐ Known Customer – Information on file			
31. Describe identification credential: a. ☐ Driver's licence b. ☐ Passport c. ☐ National I.D. d. ☐ Other. specify:			
e. Issued by:		f. Number:	
32. Account No. and Type (if customer):			
33. Occupation/Business/Principal Activity:			