

2. The Terrorism Prevention (Reporting Entities) (Amendment) Regulations, 2019, which were laid on the Table of the Senate on the 29th day of November, 2019, are hereby affirmed.

Senator Lambert Brown also spoke on the motion.

Seconded by: Senator Charles Sinclair.

Agreed to.

I certify that the above is a true extract from the Minutes.

HEATHER E. COOKE, CD, JP, (MRS.)
Clerk to the Houses

No. 269G

THE TERRORISM PREVENTION ACT

THE TERRORISM PREVENTION (REPORTING ENTITIES) (AMENDMENT) REGULATIONS, 2019

In exercise of the power conferred upon the Minister by section 47 of the Terrorism Prevention Act, the following Regulations are hereby made:—

Citation and construction. 1. These Regulations may be cited as the Terrorism Prevention (Reporting Entities) (Amendment) Regulations, 2019, and shall be read and construed as one with the Terrorism Prevention (Reporting Entities) Regulations, 2010 (hereinafter referred to as the principal Regulations), and all amendments thereto.

Amendment of regulation 2 of principal Regulations. 2. Regulation 2 of the principal Regulations is amended by deleting the definitions of “competent authority” and “designated authority.”

Amendment of regulation 5 of principal Regulations. 3. Regulation 5 of the principal Regulations is amended by renumbering the regulation as regulation 5(1) and inserting next thereafter the following as paragraph (2) of the regulation—

“ (2) For the purposes of paragraph (1), evidence of the applicant’s identity is satisfactory if it is reliable evidence, of the identity of a customer, from an independent source.”.

Amendment of regulation 6A of principal Regulations. 4. Regulation 6A of the principal Regulations is amended—
(a) by deleting paragraph (1) and substituting therefor the following—
“ (1) A business in the regulated sector shall establish—

(a) a risk profile regarding its operations generally, having regard, for example, to its business products offered, its distribution channels, the national, regional and international environment

in which the regulated business operates and the size and nature of its operations; and

- (b) a risk profile regarding all its business relationships and one-off transactions, with a view to determining the business relationships and one-off transactions that are high-risk,

and shall employ measures commensurate with the risks identified to effectively mitigate those risks, but shall not apply simplified due diligence procedures in respect of a business relationship or one-off transaction which the regulated business knows or believes, or has reasonable grounds to know or believe, is related to money laundering or terrorist financing.”;

- (b) in paragraph (2) by—

- (i) deleting the word “or” at the end of sub-paragraph (c);
- (ii) deleting the full stop at the end of sub-paragraph (d) and substituting therefor the word “; or”; and
- (iii) inserting the following as paragraph (e)—

“(e) not the ultimate beneficial owner of the assets concerned in the business relationship or one-off transaction.”;

- (c) in paragraph (5)(b) by deleting the words “, or wealth,” and substituting therefor the words “and wealth”;
- (d) by inserting next after paragraph (5) the following paragraphs—

“ (5A) Subject to paragraph (1), where a business relationship or one-off transaction is determined to be low-risk, a business in the regulated sector may, with the written approval of the competent authority, apply simplified due diligence procedures with respect thereto.

(5B) The competent authority shall not give written approval under paragraph (5A) unless the competent authority is satisfied that—

- (a) a proper evaluation of the risk was conducted by the regulated business, which justifies the adoption of the simplified due diligence procedures;
- (b) the regulated business has identified and documented the risks of terrorist financing involved and undertakes to—
 - (i) implement appropriate controls and systems to reduce or mitigate those risks; and
 - (ii) review the risks identified, and the controls and systems to reduce or mitigate those risks, on an ongoing basis, and employ enhanced due diligence procedures should there be any change in circumstances which renders the business relationship or one-off transaction high-risk;

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- (c) the regulated business has a satisfactory level of compliance with the Act, regulations made under the Act and all other laws concerning terrorist financing; and
 - (d) with the agreement of the designated authority, the matter is an appropriate one for the application of simplified due diligence procedures.

(5C) Written approval given under paragraph (5B) shall be subject to such conditions specified therein as the competent authority considers appropriate.

(5D) For the purposes of paragraph (5A), simplified due diligence procedures include any one or more of the following—

- (a) requiring only one form of Government-issued identification from the applicant for business concerned, or accepting forms of identification other than Government-issued identification;
- (b) accepting identification verification from third parties who are under analogous obligations with respect to customer identification and transaction verification procedures as concerns the prevention of terrorist financing;
- (c) collecting only basic identification information, such as names, addresses and

dates of birth or, in the case of bodies corporate, dates and places of incorporation;

- (d) reliance on publicly available documents or such other documents as the competent authority may specify; or
- (e) such other procedures as the competent authority may specify.”.

Insertion of new regulation 6B in principal Regulations.

5. The principal Regulations are amended by inserting next after regulation 6A the following regulation—

“Special counter-measures.

6B.—(1) In respect of any business relationship or transaction with any class or category of persons specified under regulation 6A(2)(e) or any applicant for business resident or domiciled in a territory specified in a list published under section 16A(2) of the Act, the competent authority may direct that businesses in the regulated sector—

- (a) apply all or any one or more of the enhanced due diligence procedures set out in regulation 6A(5); and
- (b) provide any reports required under these Regulations at more frequent intervals, as specified in the direction.”.

Amendment of regulation 11 of principal Regulations.

6. Regulation 11 of the principal Regulations is amended in—

- (a) paragraph (2) by deleting the words “requires reasonable measures to be taken” and substituting therefor the words “takes reasonable measures”;
- (b) paragraph (2)(a) by deleting the word “establishing” and substituting therefor the words “identifying and verifying”.

Amendment of regulation 13 of principal Regulations.

7. Regulation 13 of the principal Regulations is amended—

- (a) in paragraph (1)(a) and (b) by deleting the words “is the person the applicant claims them to be” and substituting therefor in each case the words “and all persons on whose behalf the applicant acts in relation to that business are the persons the applicant claims them to be”;

- (b) in paragraph (1)(c)(i) by deleting the word “and” at the end of sub-paragraph (A), inserting the word “and” at the end of sub-paragraph (B), and inserting next thereafter the following as sub-paragraph (C)—

“(C) in the case of an insurance contract, it identifies, and verifies the identity of, the beneficiary;”;

- (c) in paragraph (1)(c)(ii) by deleting the word “establishes” and substituting therefor the words “identifies and verifies”;

- (d) in paragraph (1)(c)(iii) by—

- (i) inserting next after the words “body corporate” the words “, other than a body corporate”;

- (ii) deleting sub-paragraph (A) and substituting therefor the following—

“(A) it identifies and verifies the identity of the individuals who hold ten percent or more of the ownership of that person and the individuals who exercise ultimate effective control over that person; or”.

Amendment
of regulation
18 of
principal
Regulations.

8. Regulation 18 of the principal Regulations is amended—

- (a) in paragraph (3) by deleting sub-paragraphs (a) and (b) and substituting therefor the following—

“(a) the branch or subsidiary advises it of such inability, and applies appropriate measures to minimise the risk of terrorist financing posed to the regulated business; and

(b) the regulated business advises the competent authority concerned of the inability, the reason therefor, and the measures taken to minimise the risk of terrorist financing posed to the regulated business.”;

- (b) by deleting paragraph (4) and substituting therefor the following—

“(4) A person who contravenes this regulation commits an offence and is liable, in the case of—

- (a) an individual, upon conviction before—

- (i) a Parish Court, to a fine not exceeding three million dollars or to imprisonment for a term not

exceeding three years, or to both such fine and imprisonment; or

- (ii) a Circuit Court, to a fine, or to imprisonment for a term not exceeding twenty years; or

(b) a body corporate, upon conviction before—

- (i) a Parish Court, to a fine not exceeding five million dollars; or
- (ii) a Circuit Court, to a fine.”.

Dated this 28th day of November, 2019.

KAMINA JOHNSON SMITH
Minister of Foreign Affairs and Foreign Trade.