

ANTIGUA AND BARBUDA



**THE MONEY LAUNDERING (PREVENTION) (AMENDMENT)
REGULATIONS, 2017**

STATUTORY INSTRUMENT

2017, No. 43

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THE MONEY LAUNDERING (PREVENTION) (AMENDMENT) REGULATIONS, 2017

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THE MONEY LAUNDERING (PREVENTION) (AMENDMENT) REGULATIONS 2017 made by the Minister under section 29 of the Money Laundering (Prevention) Act, 1996 No. 9 of 1996.

1. Short title

These Regulations may be cited as the Money Laundering (Prevention) (Amendment) Regulations 2017.

2. Interpretation

In these Regulations—

“principal Act” means the Money Laundering (Prevention) Act, 1996.

“principal Regulations” means the Money Laundering (Prevention) Regulations 2007.

3. Amendment of Regulation 2(1) of the principal Act

Regulation 2(1) of the principal Regulations is amended:

- (a) in the definition of “customer due diligence”:
 - (i) by adding the following at the end of paragraph (a) the following words:

“(v) applying (i) to (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.”;
 - (ii) by inserting a comma before the full stop at the end of paragraph (b) and adding the following:

“and keeping the information obtained up to date and relevant, especially for high risk customers and PEP”;

(*b*) by deleting the definition “relevant business” and substituting the following:

“relevant business” means the regulated activities set out in the First Schedule to the Act, with respect to a financial institution as defined in section 2 of the Prevention of Terrorism Act, 2005;

(*c*) by inserting in their appropriate alphabetical order, the following definitions:

““CFT” means countering the financing of terrorism;”

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

“WMD” means weapons of mass destruction.”.

4. Amendment of Regulation 3 of the principal Act

(1) Regulation 3 of the principal Regulations is amended as follows:

(*a*) in the heading, by adding after the word “laundering”, the words “the financing of terrorism and the financing of the proliferation of weapons of mass destruction”;

(*b*) by inserting after subregulation 3(1)(*b*)(ii) the following:

“(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.”;

(*c*) in subregulation 3(*c*)(i) by adding a semicolon before the full stop and the following words: “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.”

(*a*) in subregulation 3(1)(*a*):

(i) by deleting the word “and” at the end of paragraph 3(1)(*a*)(iii)

(ii) by replacing the full stop with a comma at the end of paragraph 3(1)(*a*)(iv), followed by the word “and”, and inserting the following:

- “(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.”;
- (e) in subregulation 3(2) by deleting paragraph (b), and replacing it with the following:
 - “(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.”;
- (j) in subregulation 3(7) by replacing the words “regulation 3” with “the Regulations”;
- (g) in subregulation 3(10), by deleting paragraph (g).

5. Amendment of Regulation 4(3) of the principal Act

(1) Subregulation 4(3) of the principal Regulations is amended:

(a) by deleting paragraphs (a) and (b) substituting the following:

“(a) that 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 or where specific higher-risk scenarios apply.

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

(b) by deleting paragraph (h) and substituting the following:

“(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.”

6. Amendment of Regulation 4(6) of the principal Act

Subregulation 4(6)(a) of the principal Regulations is amended by inserting before the word “document” the words:

“clearly understand and”.

7. Amendment of Regulation 5(1) of the principal Act

Subregulation 5(1) of the principal Regulations is amended by inserting at the end thereof the following:

“(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.”

8. Amendment of Schedule II of the principal Act

Schedule II of the principal Regulations is amended by inserting at the end thereof the following business activity:

“Credit unions”

Made by the Minister this 13th day of June, 2017.

Hon. Gaston A. Browne,
*Prime Minister and
Minister Responsible
for the ONDCP.*