

SAINT CHRISTOPHER AND NEVIS

**STATUTORY RULES AND ORDERS**

**No. 26 of 2022**

**Financial Services (Implementation of Industry Standards)  
(Amendment) Regulations**

In exercise of the power conferred by section 52 of the Financial Services Regulatory Commission Act, Cap. 21.10, the Minister makes the following Regulations:

*[Published 27<sup>th</sup> September 2022 – Extra-Ordinary Gazette No. 57 of 2022]*

**1. CITATION.**

These Regulations may be cited as the Financial Services (Implementation of Industry Standards) (Amendment) Regulations, 2022.

**2. INTERPRETATION.**

In these Regulations, unless the context otherwise requires, the expression, “principal Regulations” means the Financial Services (Implementation of Industry Standards) Regulations, No. 51 of 2011.

**3. AMENDMENT OF SCHEDULE - PARAGRAPH 3.**

The principal Regulations are amended in the Schedule by replacing paragraph 3 as follows:

“ 3. These include a certificate of compliance with Anti-Money Laundering, Countering the Financing of Terrorism or Counter Proliferation Financing legislation, to be submitted annually together with the audited financial statements.”.

**4. AMENDMENT OF SCHEDULE - PARAGRAPH 18A.**

The principal Regulations are amended in the Schedule in paragraph 18A as follows:

(a) by inserting immediately after subparagraph (4)(b)(v), the following new subsubparagraph (vi):

“ (vi) the results of any national risk assessments and follow-up national risk assessments including those referring to high risk countries, products, services, delivery channels and situations.”;

(b) by inserting immediately after paragraph (5)(b)(ix), the following new subsubparagraph (x):

“ (x) threats and vulnerabilities identified during any relevant National Risk Assessments or Follow-Up Risk Assessments as the case may be, including those referring to products, services, delivery channels, trends, relevant situations and high risk countries.”.

## 5. AMENDMENT OF SCHEDULE - PARAGRAPH 26.

The principal Regulations are amended in the Schedule in paragraph 26 by inserting immediately after subparagraph (k), the following new subparagraph (l) as follows:

“ (l) on the risk management processes and procedures to identify, assess and mitigate customer, product and enterprise-wide risks.”.

## 6. AMENDMENT OF SCHEDULE - PARAGRAPH 28A.

The principal Regulations are amended in the Schedule in paragraph 28A as follows:

- (a) by inserting immediately after the heading and expression, “28A(a) Independent Audit” the following expression:

“ In relation to the conducting of an effective, independent anti-money laundering, counter terrorist financing or counter proliferation financing audit, a regulated business shall be guided by the principles and procedures set out in subparagraphs (b), (c) and (d).”.

- (b) by inserting immediately after the expression, “The tests should include interviews with employees, reviews of policies, procedures and systems and an assessment of the internal controls”, the following expression

“ The assessment of the internal controls should include a review and analysis of the following:

- o Board of Directors oversight of internal controls;
- o Implementation of the compliance procedures and systems by Senior Management;
- o Compliance Oversight function;
- o AML/CFT/CPF Manual to determine any deficiencies or breaches in internal controls;
- o Know Your Customer (KYC) Procedures;
- o Know Your Employee (KYE) Procedures;
- o Risk Management procedures including customer, product and enterprise-wide risk assessment;
- o Record Keeping Procedures;
- o AML/CFT/CPF Monitoring Procedures and Systems;
- o Reporting Procedures and Maintenance of the relevant Registers;
- o AML/CFT/CPF Training Program.

The independent auditor should determine whether the entity has adequate, effective and efficient internal controls and identify any deficiencies or breaches.”;

- (c) by inserting immediately after the expression, “The final report should be prepared with the Management’s Response and the follow-up process to review the implementation of recommended actions.”, the following new expression: “The overall rating of the entity should be determined and stated within the report. The independent auditor may also provide a rating for each area reviewed and assessed.”.

- (d) by inserting immediately after the expression, “Notwithstanding the risk-based approach, a comprehensive independent audit should be completed every two (2) years.” The approved independent audit reports should be submitted to the Commission.

#### **7. AMENDMENT OF SCHEDULE - PARAGRAPH 43.**

The principal Regulations are amended in the Schedule in paragraph 43 by inserting immediately after the expression, “otherwise to give relevant instructions”, the following expression,

“ The verification of a new and existing individual trustee should be completed in accordance with the requirements of paragraphs 74-81. Customer risk assessment should be completed during the onboarding process as well as on an ongoing basis as outlined in paragraph 34.”.

#### **8. AMENDMENT OF SCHEDULE - PARAGRAPH 44.**

The principal Regulations are amended in the Schedule in paragraph 44 by inserting immediately after the expression, “as a result of such monitoring or otherwise”, the following expression,

“ The verification of new and existing general and limited partners should be completed in accordance with the requirements of paragraphs 74-81. Customer risk assessment should be completed during the onboarding process as well as on an ongoing basis as outlined in paragraph 34.”.

#### **9. AMENDMENT OF SCHEDULE - PARAGRAPH 45.**

The principal Regulations are amended in the Schedule in paragraph 45 by inserting immediately after the expression, “such monitoring or otherwise.”, the following expression,

“ The verification of a new and existing beneficial owner should be completed in accordance with the requirements of paragraphs 74-81. Customer risk assessment should be completed during the onboarding process as well as on an ongoing basis as outlined in paragraph 34.”.

#### **10. AMENDMENT OF SCHEDULE - PARAGRAPH 83.**

The principal Regulations are amended in the Schedule in paragraph 83 by

- (a) inserting immediately before the expression, “The relevance and usefulness in this context”, the following expression,  
“As part of the verification procedure,”;
- (b) by replacing the second bullet point containing the wording, “the name(s) and address(es) of the beneficial owner(s) and/or the person(s) on whose instructions the signatories on the account are empowered to act”, with the following wording:
  - “the name(s) and address(es) of the beneficial owner(s), controller(s), shareholder(s), director(s), senior manager(s), signatories or the person(s) on whose instructions the signatories on the account are empowered to act. The verification of these individuals whether they are new or existing

should be completed in accordance with the requirements of paragraphs 74–81. Customer risk assessment should be completed during the onboarding process as well as on an ongoing basis as outlined in paragraph 34”;

- (c) by replacing the third bullet point containing the wording, “memorandum and articles of association and statutory statement (if applicable)”, with the following wording:
  - “ memorandum and articles of association and statutory statement including the address of the registered office and, if different, a principal place of business”

#### **11. AMENDMENT OF SCHEDULE - PARAGRAPH 92.**

The principal Regulations are amended in the Schedule in paragraph 92 by replacing the second bullet point containing the wording, “information listed in the ‘personal information’ (paragraph 79) in respect of the partners and managers relevant to the application for business” with the following new bullet points:

- • Certificate of Establishment, if applicable
- Name and addresses of the limited and general partners and any other natural person exercising ultimate effective control over the partnership. The verification of a new and existing partners should be completed in accordance with the requirements of paragraphs 74 – 81. Customer risk assessment should be completed during the onboarding process as well as on an ongoing basis as outlined in paragraph 34
- The Statement of the General Partner including the address of the registered office and, if different, a principal place of business; and
- Declaration of Partners.”.

#### **12. AMENDMENT OF SCHEDULE - PARAGRAPH 93.**

The principal Regulations are amended in the Schedule in paragraph 93, by inserting immediately after the expression, “onwards, as appropriate”, the following new paragraphs (a) and (b) as follows:

- “ (a) Trusts Established under the Trusts Act, Cap. 519

As part of the verification procedure, the relevance and usefulness in this context of the following documents (or their foreign equivalents) shall be routinely obtained and carefully considered as part of the verification procedures:

- Certificate of Establishment;
- Name and addresses of the settlors, trustees, protectors - if any, the beneficiary or beneficiaries and any other natural person exercising ultimate effective control over the trust, including through a chain of ownership or control. The verification of new and existing settlors, trustees and protectors should be completed in accordance with the requirements of paragraphs 74 – 81. In case of a corporate trustee, the requirements of paragraphs 82 – 83 should be applied. Customer risk assessment should be completed during the onboarding process as well

as on an ongoing basis as outlined in paragraph 34. The verification (paragraphs 74 – 81) of the beneficiary or beneficiaries should be completed on payout.

- Attestation of the Trust including the address of the registered office and, if different, a principal place of business;
- Statement of the Trust; and
- Status of all trustees.

(b) Foundations – Cap. 21.19

“As part of the verification procedure, the relevance and usefulness in this context of the following documents shall be routinely obtained and carefully considered as part of the verification procedures. This would also apply to the foreign equivalents of those documents.

- Certificate of Establishment
- Name and address of the founders, councillors and secretary. The verification of a new and existing founders, councillors and secretary should be completed in accordance with the requirements of paragraphs 74 – 81. If the founder, councillor or secretary is a company, the requirements of paragraphs 82 – 83 should be applied. Customer risk assessment should be completed during the onboarding process as well as on an ongoing basis as outlined in paragraph 34.
- Statement of Founder including the address of the registered office and, if different, a principal place of business; and
- Articles of Foundation

(c) Nevis International Exempt Trust Ordinance, Cap. 7.03

- Certificate of Registration
- Trust Deed
- Deed of Settlement
- Declaration of Trust
- Letter of Wishes or similar document creating or establishing the trust
- Name and addresses of the settlors, trustees, protectors, if any, the beneficiary or beneficiaries and any other natural person exercising ultimate effective control over the trust including through a chain of ownership or control. The verification of a new and existing settlors, trustees and protectors should be completed in accordance with the requirements of paragraphs 74 – 81. In case of a corporate trustee, the requirements of paragraphs 82 – 83 should be applied. Customer risk assessment should be completed during the onboarding process as well as on an ongoing basis as outlined in paragraph 34. The verification (paragraphs 74 – 81) of the beneficiary or beneficiaries should be completed on payout.

(d) Multiform Foundations Ordinance, Cap. 7.08

- Memorandum of Establishment
- Statement Given in respect of an application for registration of a multiform foundation (Form 4)
- By-laws

- Names and addresses of the subscriber, promotor, founder, settlor, management board, supervisory board, secretary, etc.
- Registered office and, if different, a principal place of business
- Name and address of the founders, councillors and secretary. The verification of a new and existing founders, councillors and secretary should be completed in accordance with the requirements of paragraphs 74 – 81. If the founder, councillor or secretary is a company, the requirements of paragraphs 82 – 83 should be applied. Customer risk assessment should be completed during the onboarding process as well as on an ongoing basis as outlined in paragraph 34.”.

### **13. AMENDMENT OF SCHEDULE - PARAGRAPH 116.**

The principal Regulations are amended in the Schedule in paragraph 116 by replacing the paragraph as follows:

“ 116. Regulated businesses engaged in financial services must submit to the Commission, its annual reports on compliance with Anti-Money Laundering, Countering the Financing of Terrorism and Counter Proliferation Financing legislation with audited financial statements. The annual report may be prepared by the Compliance Officer or Independent/Internal AML/CFT/CPF Auditor.”.

### **14. AMENDMENT OF SCHEDULE - PARAGRAPH 123.**

The principal Regulations are amended in the Schedule in paragraph 123 by inserting immediately after paragraph 123E, the following new paragraph 123F

“ 123F. Where a money services business controls both the ordering and the beneficiary side of a wire transfer, the money services business should be required to:

- (a) take into account all the information from both the ordering and beneficiary sides in order to determine whether an STR has to be filed; and
- (b) file a suspicious transaction report in any country affected by the suspicious wire transfer, and make relevant transaction information available to the Financial Intelligence Unit or equivalent Reporting Authority.”.

### **15. AMENDMENT OF SCHEDULE - PARAGRAPH 183A.**

The principal Regulations are amended in the Schedule in paragraph 183A

- (a) by replacing subparagraph (a) as follows:

“ (a) in relation to life insurance business and other investment related insurance policies, identification and verification of a beneficiary should take place as soon as the beneficiary is identified or designated, and in all cases at or before the payout or the time when the beneficiary intends to exercise vested rights under the policy. Where a beneficiary of a payout is designated by characteristics or by class or by other means, the beneficiary should be identified and verified by the regulated business.

- (b) by inserting the expression, “and other investment related insurance policies” as follows:
  - (i) in the Heading, immediately after the expression, “life insurance business”;
  - (ii) in subparagraph (b), immediately after the expression, “life insurance policies”; and
  - (iii) in subparagraph (c), immediately after the expression, “life insurance policy”.”.

## 16. AMENDMENT OF SCHEDULE - APPENDIX L.

The principal Regulations are amended in the Schedule in Appendix L, by replacing the Appendix as follows:

“Specimen Certificate of Compliance (See Paragraph 3)

We have reviewed records concerning the Company’s compliance with the Proceeds of Crime, Cap 4.28, Anti-Terrorism Act, Cap 4.02 and Anti-Proliferation (Financing of Weapons of Mass Destruction) Act, No. 10 of 2020, and all relevant regulations made pursuant thereto, and the Financial Services (Implementation of Industry Standards) Regulations, No. 51 of 2011 for the year ended.....

Compliance with the Regulations is the responsibility of Management. Our examination was limited to procedures and implementation thereof, adopted by the Company for ensuring the compliance with those provisions.

We have conducted our review, on a test basis, of relevant records and documents maintained by the Company and furnished to us for the review, and the information and explanations given to us by the Company. Based on such a review and to the best of our information and according to the explanations given to us, in our opinion, the Company has complied with the provisions of the relevant Anti-Money Laundering, Anti-Terrorism and Anti-Proliferation laws and regulations of Saint Christopher and Nevis.

We state that such compliance is not an assurance as to the efficiency or effectiveness with which management has conducted the affairs of the company.”.

Made this 27<sup>th</sup> day of September, 2022.

GEOFFREY HANLEY  
*Ag. Minister responsible for Finance*