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GOVERNMENT NOTICES

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GAZETTE SUPPLEMENTS

The following Notices and Regulations are published as Legal Supplements to this number of the Official Gazette.

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	Anti-Money Laundering and Countering the Financing of Terrorism Act (Commencement) Notice, 2020. (S.I. 106 of 2020)	1.15
	Beneficial Ownership Regulations, 2020. (S.I. 107 of 2020)	15.00
	Anti-Money Laundering and Countering the Financing of Terrorism Regulations, 2020. (S.I. 108 of 2020)	36.00

S.I. 108 of 2020

**ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM ACT, 2020**

(Act 5 of 2020)

**Anti-Money Laundering and Countering the Financing of
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S.I. 108 of 2020**ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM ACT, 2020***(Act 5 of 2020)***Anti- Money Laundering and Countering the Financing
of Terrorism Regulations, 2020**

In exercise of the powers conferred by sections 7, 14, 15, 31, 34, 40, 41, 47, 48, 58, 61, 62, 74 and section 75 read with section 97 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020), the Minister responsible for Finance makes the following regulations —

**PART I
PRELIMINARY**

1. These regulations may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism Regulations, 2020 and shall come into operation on the 28th day of August, 2020.

Citation and commencement

2.(1) In these regulations, unless the context otherwise requires —

Interpretation

“Act” means the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020);

“Appeals Board” means the Appeals Board constituted under section 61(1) of the Act;

“related staff” means any staff member, of the reporting entity, during the course of performing their normal duties also performs functions that are relevant to the anti-money laundering and countering the financing of terrorism measures and activities;

“staff” means all employees, executives, short and long-term consultants of the reporting entities; and

“transaction” includes an attempted transaction regardless of the amount of the transaction.

(2) Words and expressions used in these regulations and not defined, but defined in the Act, shall have the same meanings assigned to them in the Act.

PART II

NATIONAL ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM COMMITTEE AND THE TECHNICAL COMMITTEE

National Anti-
Money
Laundering and
Countering the
Financing of
Terrorism
Committee

3.(1) The Committee established under section 6(1) of the Act shall continue the actions taken by the National Anti-Money Laundering Committee constituted by the Ministry of Finance in February, 2019.

(2) Members of the Committee shall be paid an allowance for attending the meetings of the Committee, as per the allowances specified in the Remuneration Policy and Framework for Fees on Boards and Government Committees, as amended from time to time.

Technical
Committee

4.(1) The Committee established under section 6(1) of the Act, hereby constitutes a Technical Committee under section 7(6) of the Act, to assist it in the performance of its functions under the Act, consisting of not more than 2 members from each of the following institutions —

- (a) Anti-Corruption Commission of Seychelles;
- (b) Central Bank of Seychelles;
- (c) Financial Intelligence Unit;
- (d) Financial Services Authority;

- (e) Ministry responsible for Finance;
- (f) Ministry responsible for Foreign Affairs;
- (g) Ministry responsible for Home Affairs;
- (h) Office of the Attorney General;
- (i) Office of the Registrar General;
- (j) Seychelles Intelligence Service;
- (k) Seychelles Licensing Authority;
- (l) Seychelles Police; and
- (m) Seychelles Revenue Commission.

(2) The names of the officers nominated to the Technical Committee constituted under subregulation (1) shall be specified by an administrative order issued by the Chairperson of the Committee.

(3) The Technical Committee constituted under subregulation (1) shall continue the actions taken by the Technical Committee constituted by the Ministry of Finance in February, 2019.

(4) Members of the Technical Committee shall be paid an allowance, for attending the meetings of the Committee as per the allowances specified in the Remuneration Policy and Framework for Fees on Boards and Government Committees, as amended from time to time.

(5) Ministry responsible for Finance shall be the Ministry responsible for payment of allowances to the Members of the Committee established under section 6(1) of the Act and the Technical Committee constituted under subregulation (1) read with section 7(6) of the Act.

PART III**TERMS AND CONDITIONS OF SERVICE OF
DIRECTOR AND DEPUTY DIRECTOR OF THE FIU**

Term of office,
terms and
conditions,
salary and
allowances of
Director of FIU

5.(1) The term of office of the Director of the FIU shall be 5 years and shall be eligible for reappointment.

(2) The monthly salary of the Director shall be fixed in accordance with the provisions of the Public Service Salary Act, 2013 (Act 25 of 2013) and section 5(8) of the said Act shall be applied for protecting the adversary to the incumbent, if applicable.

(3) The Director shall be paid such allowances which shall be commensurate with his or her appointment, qualifications and experience.

(4) All other terms and conditions applicable to the employees as provided in the Public Service Orders shall be applicable to the post of Director.

Term of office,
terms and
conditions,
salary and
allowances of
Deputy
Director of FIU

6.(1) The term of office of the Deputy Director of the FIU shall be 5 years and shall be eligible for reappointment.

(2) The monthly salary of the Deputy Director shall be fixed in accordance with the provisions of the Public Service Salary Act, 2013 (Act 25 of 2013) and section 5(8) of the said Act shall be applied for protecting the adversary to the incumbent, if applicable.

(3) The Deputy Director shall be paid such allowances which shall be commensurate with his or her appointment, qualifications and experience.

(4) All other terms and conditions applicable to the employees as provided in the Public Service Orders shall be applicable to the post of Deputy Director.

PART IV**REGISTRATION OF THE REPORTING ENTITIES
WITH THE FIU**

7.(1) Notwithstanding section 100 (4) of the Act, every reporting entity to which the Act applies or commences its business operations in any of the businesses specified in the First Schedule to the Act, shall register with the FIU, within 60 days from the date of coming into force of these regulations or commencement of its business operations, as the case may be.

Obligation of reporting entities to register with FIU

(2) Registration of reporting entities as required under subregulation (1) shall be in an electronic manner and the procedures for registration shall be as per the guidelines issued by the FIU, from time to time.

(3) Every registration under subregulations (1) and (2) shall contain the following particulars in respect of the reporting entity —

- (a) the legal name of the natural person, legal person or legal arrangement;
- (b) registration number, license number, or National Identity Number;
- (c) full contact details of the reporting entity;
- (d) full name and contact details of the compliance officer and the alternative compliance officer; and
- (e) any other particulars, as may be determined by the FIU from time to time.

(4) The particulars registered with the FIU shall be kept either wholly or partly, as may be considered appropriate by the FIU, by means of a device or facility, that —

- (a) records or stores particulars magnetically, electronically or by any other means; and
- (b) permits the particulars recorded or stored to reproduce the same in legible and usable form.

(5) Where a reporting entity plans to cease its operations, it shall notify the FIU, 14 days prior to such cessation, by electronic communication with the justification and effective date of no longer being a reporting entity.

PART V

APPOINTMENT OF COMPLIANCE OFFICER AND ALTERNATIVE COMPLIANCE OFFICER

Appointment of
compliance
officer and
alternative
compliance
officer

8.(1) Subject to section 100(4) of the Act, every reporting entity shall appoint a compliance officer under section 34(1) of the Act and an alternative compliance officer under section 34(3) of the Act, with the approval of the respective supervisory authority, subject to the following —

- (a) reporting entities shall submit the completed applications along with all required documents for appointment of compliance officer and alternative compliance officer together, at the time of initial appointment, as may be specified by the respective supervisory authority for its consideration:

Provided that the reporting entity may submit applications separately for appointment of compliance officer or the alternative compliance officer after the initial appointment under clause (a);

- (b) reporting entities shall ensure that the applicants for compliance officer and alternative compliance officer meets with all

the requirements as provided in section 34 (2) of the Act and the specific requirements of the respective supervisory authority as specified in the First Schedule to these regulations;

- (c) supervisory authority shall examine the applications submitted by the reporting entity for appointment of compliance officer and alternative compliance officer and advise the reporting entity, if any further information is required;
- (d) supervisory authority shall inform the reporting entity upon approving or rejecting the applications for appointment of compliance officer and alternative compliance officer;
- (e) supervisory authority shall provide, upon rejecting the application for appointment of compliance officer or alternative compliance officer —
 - (i) a written notice to the reporting entity about rejection of the application;
 - (ii) the grounds for rejecting the application for appointment of compliance officer or alternative compliance officer;
- (f) any reporting entity aggrieved by the decision of the supervisory authority may appeal to the Appeals Board in the manner specified in regulation 20 of these regulations; and
- (g) alternative compliance officer shall be physically present in Seychelles, when acting in the absence of the compliance officer.

(2) Reporting entities, who have not more than five staff members may apply to their respective supervisory authority to have an individual appointed as the compliance officer and in the event of the absence of the appointed compliance officer, the reporting entity shall notify the same to the respective supervisory authority:

Provided that the reporting entity falling under this subregulation shall not be required to appoint an alternative compliance officer along with the compliance officer.

Provided further that a sole trader falling under this subregulation shall not be required to appoint an alternative compliance officer and he or she shall be the sole compliance officer.

(3) Reporting entities, who have not more than five staff members are not permitted to conduct its business to a lower regulatory standard and the responsibility is always on the reporting entity to ensure adherence with the established compliance measures and is not in any way constitute an absolution for compliance with any other requirements that may be established under law or any directives, guidelines or policies issued thereunder.

(4) Reporting entities who have not more than five staff members are not required to develop a separate training programme or conduct training as required under subparagraph (ii) of paragraph (e) of subregulation (1), but shall ensure that all relevant staff members participate in anti-money laundering and countering the financing of terrorism trainings offered, or recommended by or on behalf of their respective supervisory authority at least once in every two years and the supervisory authorities may provide guidance to the reporting entities concerning the categories of relevant staff.

Time frame for approval of applications

9. Time taken by the supervisory authorities to approve the application for appointment of compliance officer and alternative compliance officer shall not exceed 60 days and

the time taken for processing the application shall be excluded from the period provided under section 34(1) of the Act.

10. Supervisory authority may suspend or withdraw the approval granted for the appointment of compliance officer or an alternative compliance officer under regulation 8 —

Suspension or
withdrawal of
appointment

- (a) until the decision of the supervisory authority is decided by the Appeals Board under section 62(3) of the Act;
- (b) upon receipt of the decision of the supervisory authority under regulation 8 (1), the reporting entity shall designate the alternative compliance officer to assume the functions of compliance officer; and
- (c) upon withdrawal of the appointment of compliance officer, it is the responsibility of the reporting entity to identify a suitably qualified candidate for appointment as compliance officer and the subsequent appointment shall be completed within 90 days from the date of withdrawal of the approval of the appointment of compliance officer by the supervisory authority.

11.(1) Subject to the requirements under sections 34 (2) of the Act, the supervisory authority shall be satisfied that the individual is fit and proper before granting approval for appointment of a compliance officer and alternative compliance officer and to determine the person's suitability, the supervisory authority shall assess —

Fitness and
proprietary

- (a) the person's probity, competence, experience and soundness of judgment for fulfilling the responsibilities and the functions;

- (b) the diligence with which the person has fulfilled similar functions;
- (c) the person's educational and professional qualifications and the membership of professional or other relevant bodies, as applicable;
- (d) the person's knowledge and understanding of the professional obligations to be assumed or undertaken; and
- (e) any other relevant information as may be determined by the respective supervisory authority.

(2) While considering the suitability of an individual, the supervisory authority shall have regard to the current, past, and prospective matters of each case on its own merits, to include the assessing of money laundering and terrorist financing risks related to the business operations of the reporting entity.

(3) While assessing the suitability of an individual, requirements for different sectors shall be assessed based on the specific requirements of the sector provided in the First Schedule to these regulations.

(4) Reporting entity shall be responsible to satisfy the supervisory authority that the proposed compliance officer and alternative compliance officer have the relevant qualities, experience and skills to perform the duties of compliance officer or the alternative compliance officer, as the case may be.

(5) Upon appointment, it is the responsibility of the compliance officer to participate in all mandatory anti-money laundering and countering the financing of terrorism trainings provided by the respective supervisory authority and the

supervisory authority may suspend or withdraw the fitness and propriety of the compliance officer, if he or she fails to participate in the mandatory trainings stipulated by the respective supervisory authority.

12.(1) Compliance officer shall —

Independent
decisions by
compliance
officer

- (a) have sufficient seniority to enable him or her, to apply sound and independent judgment; effective interaction with the supervisory authority and senior management regarding the reporting entity's compliance, with the established guidelines, policies, laws and practices;
- (b) have the independence required to objectively perform his or her duties and the reporting entity shall not interfere in any activity that may hinder the independence of the compliance officer; and
- (c) be insulated from undue influence from other parts of the business regarding the manner and extent to which he or she is performing the functions and the compliance officer shall have access to the senior management as appropriate; to the Board of Directors and the supervisory authority to discuss the significant compliance matters.

(2) Compliance function shall be autonomous and the compliance officer shall not be permitted to serve in any functional capacity as a Chief Executive Officer, Deputy Chief Executive Officer, Chief Operating Officer, Chief Financial Officer or anyone in an official advisory capacity, unless otherwise authorised by the respective supervisory authority on a request made by the reporting entity to its supervisory authority with proper justification.

Duties and responsibilities of compliance officer

13. Compliance officer shall also have the following responsibilities in the discharge of his or her duties under section 34(2) of the Act —

- (a) identify, assess, advise on, monitor and report on the reporting entity's compliance with regulatory requirements and the suitability of its internal procedures on an on-going basis to the Board or senior managers and to the respective supervisory authority upon request and if the compliance officer is the sole senior manager, the report shall be submitted to the respective supervisory authority;
- (b) ensure that the reporting entity maintains a manual of compliance of the policies, procedures, and systems, —
 - (i) with a compliance framework, which shall be submitted to the supervisory authority for review, upon request;
 - (ii) with all relevant anti-money laundering and countering the financing of terrorism legal and regulatory obligations of the reporting entity and the processes to allow the staff to report violations confidentially to the compliance officer; and
 - (iii) to identify the procedures to be followed when there have been breaches or suspected breaches of regulatory requirements or internal policies;
- (c) compliance officer shall ensure the compliance by staff of the reporting entity with the provisions of the manual of compliance

maintained under paragraph (b) and the non-compliance of the provisions of the manual shall be recorded, showing the nature, form and period of non-compliance and such non-compliances shall be made available to the on-site examiners of the respective supervisory authority, for examination.

- (d) to develop a compliance culture —
- (i) to ensure that all directors and relevant staff are familiar with the laws and regulations of the Seychelles to combat money laundering and terrorist financing activities, which includes an understanding of the relevant compliance policies, procedures and systems of the reporting entity as well and the compliance officer imparts awareness of the need for compliance, thereby developing within the reporting entity a robust compliance culture;
 - (ii) to monitor the developments and changes in the legislations, policies, standards and other guidelines issued by the international bodies in order to keep the reporting entity updated with the regulatory developments and changes in international requirements;
- (e) to implement the training programme —
- (i) for directors and relevant staff which includes the training programme on general anti-money laundering and countering the financing of terrorism awareness, client acceptance procedures, know your customer (KYC) procedures,

- remediation and suspicious activity reporting relevant to the reporting entity's activities;
- (ii) at least once in every year and whenever there are changes in the laws, regulations or international requirements to ensure that the directors and related staff are aware of the latest developments in the anti-money laundering and countering the financing of terrorism activities;
 - (iii) to undergo additional training, in order to enhance his or her professional skills, at least once in every year;
- (f) to perform review of the compliance framework and make regular assessment reports to the senior management, identify the deficiencies and making recommendations for any updates or revisions;
- (g) reporting entities who have not more than five staff members shall conduct self-assessment of their compliance framework and institute any necessary updates or revisions and make available the self-assessment report to the respective supervisory authority, upon request;
- (h) to ensure the preparation and submission of an annual compliance report to the supervisory authority for information within 90 days after each calendar year and the reporting entities who have not more than five staff members may request authorisation from their respective supervisory authority to submit a compliance report, as may be determined by the supervisory authority, for information.

14. Reporting entity shall immediately inform the respective supervisory authority as soon as the alternative compliance officer assume the functions of compliance officer, for more than five consecutive business days, subject to —

Assumption of functions by an alternative compliance officer

- (a) an alternative compliance officer may assume the functions of compliance officer up to an initial period of 90 days;
- (b) where a reporting entity needs to extend the term of the alternative compliance officer beyond 90 days, the reporting entity shall request the supervisory authority for an extension with reasonable justification for such extension and specifying the duration of the said extension.

PART VI

CUSTOMER DUE DILIGENCE, SUBMISSION OF RECORDS ON CESSATION, SUSPICIOUS TRANSACTION REPORT

15.(1) Subject to the provisions of section 40 (1) and (2) of the Act, a reporting entity may apply simplified customer due diligence measures in relation to a particular business relationship or transaction, by taking the following into account —

Simplified customer due diligence

- (a) the risk factors, risk assessment and mitigating measures in accordance with the provisions of section 32 of the Act;
- (b) relevant information produced or made available by the supervisory authority; and
- (c) result of the national risk assessment.

(2) While assessing whether there is a low degree of risk of money laundering and terrorist financing in a particular

situation and the extent to which it is appropriate to apply simplified customer due diligence measures in that situation, the reporting entity shall consider specific risk factors including, among other things —

- (a) customer risk factors, including whether the customer is —
 - (i) a licensed bank which is —
 - (A) subject to the requirements of the domestic legislations to implement the standards set forth by the Financial Action Task Force;
 - (B) supervised for compliance with the requirements under domestic legislations by a regulatory body;
 - (ii) a recognised foreign bank;
 - (iii) the Central Bank of Seychelles;
 - (iv) a public body in Seychelles; or
 - (v) a legal entity, partnership or trust, the securities of which are listed on a recognised exchange which is licensed under the Securities Act (Cap.208) or in a jurisdiction that is an ordinary member of the International Organisation of Securities Commissions;
- (b) product, service, transaction or delivery channel risk factors, including whether —
 - (i) the product or service is a life insurance policy for which the premium is low;

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- (ii) the product or service is an insurance policy for a pension scheme which does not provide for an early surrender option, and cannot be used as collateral;
 - (iii) there are reasonable grounds for believing that the product related to the relevant transaction is a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme;
 - (iv) it is a product where the risks of money laundering and terrorist financing are managed by other factors such as transparency of ownership; and
 - (c) geographical risk factors, including whether the country where the customer is resident, established or registered or in which it operates is —
 - (i) a country which has effective system to counter the money laundering and terrorist financing activities;
 - (ii) a country identified by credible sources as having a low level of corruption or other criminal activity such as money laundering and the production and supply of illicit drugs; and
 - (iii) a country which, on the basis of credible sources, such as evaluations, detailed

assessment reports or published follow-up reports by the Financial Action Task Force, the International Monetary Fund, the World Bank, the Organisation for Economic Co-operation and Development or other international bodies or non-profit organisations —

- (A) has requirements to counter money laundering and terrorist financing that are consistent with the revised Recommendations set forth by the Financial Action Task Force in February, 2012 and updated from time to time; and
- (B) effectively implements the said Recommendations of the Financial Action Task Force.

(3) Where a reporting entity applies simplified customer due diligence, in addition to retaining sufficient information in order to demonstrate that the particular business relationship or transaction presents a low degree of risk of money laundering and terrorist financing, it shall —

- (a) continue to comply with the requirements of section 35 of the Act and it may, however, adjust the extent, timing or type of measures it undertakes to reflect the lower risk identified under subregulations (1) and (2); and
- (b) carry out the monitoring of any business relationships or transactions, which are subject to the measures to enable it to identify any unusual or suspicious activities or transactions.

(4) Simplified customer due diligence measures required under this regulation may include, depending on the requirements of the case, one or more of the following measures —

- (a) verifying the identity of the customer and the beneficial owner after the establishment of the business relationship;
- (b) reducing the frequency of customer identification updates;
- (c) reducing the degree of on-going monitoring and scrutinising transactions, based on the monetary threshold; or
- (d) not collecting specific information or carrying out specific measures to understand the purpose and intended nature of the business relationship but inferring the purpose and nature from the type of transactions or business relationship established.

(5) In determining the application of simplified customer due diligence measures and the extent of those measures, reporting entities shall apply the guidelines issued by the supervisory authority in that regard from time to time.

(6) Reporting entity shall not apply simplified customer due diligence measures under subregulation(1) —

- (a) if it doubts the accuracy of the documents or information previously obtained for the purposes of identification or verification;
- (b) if its risk assessment changes and it no longer considers that there is a low degree of risk of money laundering and terrorist financing; or

- (c) if the provisions of section 41 or section 43 (1) of the Act applies to a particular business relationship or transaction.

Enhanced
customer due
diligence

16.(1) A reporting entity shall, in addition to the customer due diligence measures required under section 35 of the Act, apply on a risk-sensitive basis enhanced customer due diligence measures and enhanced ongoing monitoring in any other situation which by its nature presents a higher risk of money laundering, terrorist financing activities or other criminal conduct, or in respect of a business relationship with persons from, and transactions in, countries which do not apply or fully apply the Financial Action Task Force Recommendations.

(2) While assessing whether there is a high degree of risk of money laundering or terrorist financing in a particular situation, and the extent to which it is appropriate to apply enhanced customer due diligence measures in that situation, the reporting entity shall take into account specific risk factors including, amongst others —

- (a) customer risk factors, including whether the —
 - (i) business relationship is conducted in unusual circumstances;
 - (ii) customer is a resident or is transacting in a geographical area of high risk;
 - (iii) customer is a legal person or legal arrangement that is a vehicle for holding personal assets;
 - (iv) customer or potential customer, is a politically exposed person as per section 36 of the Act;
 - (v) customer is a company that has nominee shareholders or shares in bearer form;

- (vi) customer is a business that is cash intensive;
- (vii) corporate structure of the customer is unusual or excessively complex given the nature of the company's business;
- (viii) customer is a foreign financial institution or non-bank financial institution;
- (ix) customer is a non-profit organisation (hereinafter referred to as the NPO);
- (x) customer is a professional service provider; and
- (xi) customer is a or is associated with a high net worth individual.

(b) product, service, transaction or delivery channel risk factors, including whether the —

- (i) payments are being received from un-associated third parties;
- (ii) service involves the provision of directorship services or nominee shareholders;
- (iii) situation involves non-face-to-face business relationship or transactions without the necessary safeguards, specified by relevant supervisory authorities through the directions or guidelines;
- (iv) situation involves reliance on regulated person under section 42 of the Act;
- (v) product involves private banking;

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- (vi) product or transaction is one which might favour anonymity;
 - (vii) new products and new business practices are involved, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products;
 - (viii) product or service enables significant volumes of transactions to occur rapidly;
 - (ix) product or service allows the customer to engage in transactions with minimal oversight by the institution;
 - (x) product or service has a high transaction or investment value; and
 - (xi) product or service has unusual complexity.
- (c) geographical risk factors, includes —
- (i) the countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective systems to counter the money laundering or terrorist financing activities;
 - (ii) the countries identified by credible sources such as mutual evaluations, detailed assessment reports or published follow up reports, as having significant levels of corruption or other criminal activity, such as terrorist financing activities, money laundering and the production and supply of illicit drugs;

- (iii) the countries subjected to sanctions, embargos or similar measures issued by the European Union or the United Nations and countries that feature on non-compliant lists (black and grey lists);
- (iv) the countries providing funding or support for terrorism or have designated terrorist organisations operating within their country; and
- (vi) other countries identified by the reporting entity as higher-risk because of its prior experiences or other factors.

(3) Where a reporting entity applies enhanced customer due diligence, in addition to retaining sufficient information in order to demonstrate that the particular business relationship or transaction presents a higher degree of risk of money laundering and terrorist financing, it shall —

- (a) adjust the extent, or type of measures it undertakes to reflect the higher risk identified under subregulation (2); and
- (b) carry out enhanced on going monitoring of any business relationship or transactions which are subject to those measures to enable it to identify any unusual or suspicious activities or transactions.

(4) Enhanced customer due diligence measures required under this regulation, includes —

- (a) obtaining the approval of senior management before a business relationship is established with the customer;

- (b) taking adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or one-off transaction;
- (c) seeking additional independent, reliable sources, to verify information provided or made available to the reporting entity;
- (d) taking additional measures to understand the background, ownership and financial situation of the customer and other parties to the transaction;
- (e) taking further steps to satisfy that the transaction is consistent with the purpose and intended nature of the business relationship;
- (f) increasing the monitoring of the business relationship, including greater scrutiny of transactions; and
- (g) applying such other measures provided in the guidelines issued by the respective supervisory authorities to identify the higher risk of money laundering, terrorist financing activities or other criminal conduct.

(5) In the case, where the customer is an NPO associated with a high-risk jurisdiction or in any other case which by the nature of its activities may present a higher risk of money laundering and terrorist financing or any other criminal conduct, the reporting entity shall determine —

- (a) that the NPO is properly licensed or registered;
- (b) the adequacy of the NPO's anti-money laundering and countering the financing of terrorism policies, procedures and controls;

- (c) the NPO's legal, regulatory and supervisory status including requirements relating to regulatory disclosure, accounting, financial reporting and audit;
- (d) the NPO's ownership and management structure, to include the possibility of politically exposed person's involvement;
- (e) the nature and scope of the NPO's activities, nature of its donor base, and the beneficiaries of its activities and programs; and
- (f) thorough background checks on the NPO's key persons, senior management, branch or field managers, major donors and major beneficiaries and to screen for possible matches with targeted and other international financial sanctions lists, indications of criminal activity or any other adverse information.

17. Every suspicious transaction report (hereinafter referred to as the STR) required to be submitted by the reporting entities under section 48 of the Act to the FIU, shall contain the following details of the person conducting the suspicious transaction —

Suspicious
transaction
report

- (a)
 - (i) the name of the natural person, legal person or legal arrangement;
 - (ii) physical address of the person;
 - (iii) date of birth;
 - (iv) nationality;
 - (v) government issued identification information; and

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- (vi) telephone number and email address;
 - (b) if the transaction is conducted on behalf of another person, the STR shall include the following details of the natural person, legal person or legal arrangement on whose behalf the transaction was conducted —
 - (i) name of the person;
 - (ii) physical address of the person;
 - (iii) date of birth;
 - (iv) nationality;
 - (v) government issued identification information; and
 - (vi) telephone number and email address;
 - (c) where an account with a reporting entity is involved in the transaction —
 - (i) the type and identifying number of the account;
 - (ii) the name of the person in whose name the account is operated;
 - (iii) the names of the signatories to the account;
 - (d) the description of the nature of the transaction and the circumstances giving rise to the suspicion;
 - (e) the amount involved in the transaction;

- (f) description of the cash or currency involved in the transaction;
- (g) the date and time of the transaction;
- (h) in relation to the reporting entity through which the transaction was conducted, the name of the officer, employee or agent of the reporting entity who handled the transaction;
- (i) the name of the reporting entity and natural person who prepared the report; and
- (j) any other particular, as may be determined by the FIU from time to time.

18. Every reporting entity, which ceases to operate in the Republic shall, within 30 days from the date of ceasing its operations, handover all the records required to be maintained under section 47 of the Act to their respective supervisory authority in electronic format.

Submission of records to the supervisory authority in case of cessation of the reporting entity

PART VII

APPEALS BOARD

19.(1) Subject to section 61(1) of the Act, former Governor of the Central Bank of Seychelles, Attorney General, Chief Executive Officer of the Financial Services Authority and the Director of the Financial Intelligence Unit shall be eligible to be appointed as a Member of the Appeals Board after a cooling-off period of 12 months from the date of demitting the office, of the Governor of Central Bank of Seychelles, the Attorney General, the Chief Executive Officer of the Financial Services Authority or the Director of the Financial Intelligence Unit, as the case may be.

Terms and conditions for appointment of Members of Appeals Board

(2) Members of the Committee and Technical Committee shall not be eligible to be appointed as Member of the Appeals Board.

(3) Staff of the supervisory authorities shall not be eligible to be appointed as Member of the Appeals Board.

(4) A Member of the Appeals Board shall hold office for a period of 3 years and shall be eligible for reappointment for one more term.

(5) A Member of the Appeals Board shall, in the performance of his or her duties, conduct themselves in a manner that upholds the integrity of the office of the Member of the Appeals Board.

(6) Three members of the Appeals Board shall constitute the quorum.

(7) (a) The Minister shall, upon determining, terminate the appointment of a Member —

(i) who has been found guilty of any misconduct, default or breach of trust in the discharge of that Member's duties; or

(ii) who has been found guilty of an offence of such nature, which renders it desirable that the Member's appointment be terminated; or

(iii) has been found guilty of failure to declare their direct or indirect interest in the outcome of any appeal under section 61(4) of the Act;

(b) Who is mentally or physically incapable of efficiently discharging functions as a Member of the Appeals Board; and

- (c) Who has been absent from the Appeals Board for more than three consecutive meetings without any just cause and after giving a reasonable notice in that regard and an opportunity was given to explain the reasons for not attending the meetings.

(8) Upon submission of a notice in writing to the Minister of the intention to resign from the Membership of the Appeals Board, the Minister may terminate the appointment of such Member after such period as the Member and the Minister may agree.

(9) The Committee shall appoint from amongst the staff of the members of the National Anti-Money Laundering and Countering the Financing of Terrorism Committee, other than those from the Supervisory Authorities, a Secretary to the Appeals Board and the Secretary shall —

- (a) be responsible to maintain the records of the Appeals Board; and
- (b) perform such other duties as the Appeals Board may direct.

(10) (a) Member of the Appeals Board shall be paid remuneration as per the Remuneration Policy and Framework on Fees for Boards and Government Committees, as amended from time to time.

(b) The remuneration, expenditure and administrative support for the Appeals Board shall be the shared responsibility of the anti-money laundering and countering the financing of terrorism supervisory authorities in accordance with section 61 (6) of the Act.

20.(1) Any person aggrieved by the decision of a supervisory authority may within 30 days of the delivery of the decision, make an appeal against the said decision, to the Appeals Board in the Form of a memorandum of appeal

Form, manner
and fee for
filing an appeal
before Appeals
Board

specified in the Second Schedule to these regulations, before an officer of the Ministry of Finance as may be designated by that Ministry.

(2) An appeal under sub-regulation (1) shall be accompanied by —

- (a) a fee of SCR1,000; and
- (b) a copy of the decision of the supervisory authority against which the appeal has been filed.

(3) The Secretary of the Appeals Board shall enter the particulars of the appeal received under sub-regulation (1) in the register maintained for the said purpose.

(4) The memorandum of appeal submitted under sub-regulation (1) shall state —

- (a) the name, address and contact information of the appellant;
- (b) the name, address and contact information of the appellant's legal representative, if any;
- (c) the address for service in Seychelles;
- (d) the name of the supervisory authority whose decision has been appealed;
- (e) a brief statement of the facts and dates necessary for the decision of the Appeals Board;
- (f) a summary of the grounds on which appeal has been preferred;

- (g) the relief sought by the appellant and whether an order is sought; and
- (h) a copy of the determination, direction, decision, sanction or remedy of the supervisory authority.

(5) The memorandum of appeal shall be signed by the appellant or the authorised legal representative.

(6) Where the appellant is a body corporate, the memorandum of appeal shall be signed by any director or other officer or a legal representative authorised by it, to do so.

(7) Where the appellant is a partnership, the memorandum of appeal shall be signed by one of the partners or its legal representative authorised by the partners, to do so.

(8) The appellant may, at any time with the permission of the Appeals Board amend the memorandum of appeal on an application submitted to the Appeals Board in writing giving the details of the amendments proposed in the memorandum of appeal.

(9) The Appeals Board shall not grant permission under sub-regulation (8), where the appellant proposes a new ground for contesting the decision unless —

- (a) the ground is based on matters of law or fact which have come to light after the appeal was filed;
- (b) it was not practicable at the time of filing the appeal, to include that ground in the memorandum of appeal;
- (c) it is reasonable in the circumstances to allow the amendment; and

- (d) the request to amend the memorandum of appeal is made as soon as reasonably practicable after the relevant matter of law or fact have been identified by the appellant.

(10) An appeal against the decision of the supervisory authority shall not be construed as a suspension of the decision of the supervisory authority unless otherwise directed by the Appeals Board.

(11) On receiving the memorandum of appeal, the Appeals Board shall as soon as reasonably practicable —

- (a) send an acknowledgement of the receipt to the appellant; and
- (b) serve a copy of the memorandum of appeal to the relevant supervisory authority.

(12) Where the Appeals Board considers that the memorandum of appeal is materially incomplete or lacking in clarity, the Appeals Board may issue such orders, as may be necessary for the admission of the appeal.

(13) Where the appellant has not remedied the defect pursuant to an order under sub-regulation (12), the Appeals Board may dismiss the appeal with or without an order for costs.

(14) The Appeals Board shall proceed to hear the appeal on such date and time as the Appeals Board may determine, from the date of submission of the documents by the parties to the appeal.

(15) All the documents filed with the Appeals Board, except exhibits and forms supplied by the Committee, shall be printed or typewritten on one side only of plain white paper measuring eight and one-half by eleven inches with adequate

margins and shall be clearly legible, and signed by the party or their legal practitioner.

(16) No document, including letters or other writings, shall be filed by a party with the Appeals Board unless service of a copy thereof is made on all parties together with the filing of proof of service.

(17) The Appeals Board, before making any order, shall give the appellant an opportunity to be heard and to produce the relevant documents, the appellant wishes to produce.

(18) The Appeals Board shall, at the request of the appellant, supervisory authority or on its own motion, summon any witnesses to give evidence or produce documents.

(19) The Appeals Board shall —

- (a) duly consider the written decision of the supervisory authority and any other document that forms part of the record of appeal; and
- (b) advise the party to the proceedings of their right to be represented by a legal practitioner of their choice.

(20) Where the legal practitioner representing the party to the proceedings fails to attend the proceedings before the Appeals Board, the Appeals Board may proceed in their absence.

(21) The appellant may by written notice to the Appeals Board withdraw an appeal.

(22) Save as otherwise provided, the practice and procedure before the Appeals Board shall be as informal as possible, to the end that a final determination of the matter

before it may be promptly reached and as far as practicable, conform to the practice and procedure of the Supreme Court.

(23) Where two or more appeals have been made in respect of the same subject matter or which involve the same or similar facts, the Appeals Board may order that the appeals or any particular issue or matter raised in the appeals be consolidated or heard together, and —

- (a) before making an order under this sub-regulation, the appellants and the supervisory authority shall be invited to make representations in writing or orally on the consolidation of the proceedings;
- (b) the Secretary shall as soon as practicable, notify the appellants and the supervisory authority of any order consolidating the proceedings.

(24) Hearing of the appeal may be adjourned by the Appeals Board of its own motion or where it is shown to the satisfaction of the Appeals Board that the adjournment is required to, inter alia, permit a thorough hearing to be held or to allow the party to be represented.

(25) An appeal against the decision of the Appeals Board shall not operate as a suspension of the decision of the Appeals Board unless otherwise directed by the Supreme Court.

PART VIII

APPOINTMENT OF EXAMINERS

Appointment of
examiners

21.(1) The head of a supervisory authority may appoint a suitably qualified person as an examiner under section 58(3) or (4) of the Act, for the purpose of ensuring the compliance with the provisions of the Act by the respective reporting entity.

(2) For the purposes of subregulation (1), “suitably qualified person” means any person, who in the opinion of the supervisor, has the qualifications and experience necessary to exercise the powers conferred under section 58 of the Act.

(3) The head of a supervisory authority may determine the remuneration to be paid to the person who has been appointed as examiner under subregulation (1).

(4) The head of a supervisory authority shall issue a letter of appointment to the examiner appointed under subregulation (1), signed and stamped under name and seal.

(5) A letter of appointment issued under subregulation (4) shall contain the following details of the examiner —

- (a) full name of the person so appointed;
- (b) capacity in which he or she has been appointed;
- (c) name of the reporting entity to which the appointment refers; and
- (d) duration of the appointment.

(6) (a) Where the head of a supervisory authority is authorised by any other Act to appoint examiners, he or she may extend the appointment and functions of examiner under that Act to include undertaking of examination under the provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 and these regulations.

(b) In undertaking the examination under these regulations, an examiner whose appointment or functions have been extended under paragraph (a), may, in addition to the functions imposed upon such examiner under any other Act

contemplated in paragraph (a), perform any of the functions assigned under the provisions of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020.

(c) Any extended appointment contemplated under paragraph (a) shall be reflected in the appointment letter issued by the head of the supervisory authority to the examiner.

(7) When an examiner undertakes the examination under the provisions of these regulations, the examiner shall produce the appointment letter upon request by the reporting entity.

PART IX

INFORMATION ON SEARCH AND SEIZURE

Information to be furnished to the FIU in case of search and seizure and cash declaration Form

22.(1) When an officer of the Seychelles Police Force, Anti-Corruption Commission of Seychelles, Customs Department, Immigration or an officer of any authority specified under section 74 (1) of the Act seizes the cash, he or she shall notify the FIU about the seizure of cash under section 74 of the Act in writing or in electronic form, within 7 business days of the seizure with the following details —

- (a) full name of the subject;
- (b) residential address;
- (c) government issued identification information;
- (d) date of birth;
- (e) nationality;
- (f) telephone number and email address;
- (g) date and time of seizure;
- (h) details of the conveyance;

- (i) description of the cash seized;
- (j) personal details of others present, identified and directly related;
- (k) detailed report on the nature of the seizure to include origin of the cash, intended use, etc.;
- (l) case incident report number; and
- (m) travel itinerary.

(2) The cash declaration Form presently used by the Customs Department shall be continued under these regulations in the same manner until a new Form is specified under section 75 of the Act.

PART X

MISCELLANEOUS

23. The Anti-Money Laundering Regulations, 2012 (S.I.18 of 2012) are hereby repealed. Repeal

FIRST SCHEDULE

[See regulation 8(1)(b) and 11(3)]

SPECIFIC REQUIREMENTS FOR APPOINTMENT OF COMPLIANCE OFFICER AND ALTERNATIVE COMPLIANCE OFFICER FOR DIFFERENT SUPERVISORY AUTHORITIES

1. CENTRAL BANK OF SEYCHELLES:

In addition to the requirements under section 34 (2) of the Anti-Money Laundering the Countering the Financing of Terrorism Act, 2020, reporting entities under the regulatory ambit and licensed by the Central Bank of Seychelles specified in Part A of the First Schedule to the Act, shall appoint compliance officer and alternative compliance officer —

-
- (a) in respect of Banks, Housing Finance Companies, Development Bank of Seychelles, Seychelles Credit Union, Class A Bureau de Change's and Payment System Provider's having the following qualifications etc., —
- (i) at least 3 years' experience in compliance, anti-money laundering, risk management function or any other related field deemed suitable by the respective supervisory authority;
 - (ii) knowledge of relevant legal requirements and controls;
 - (iii) familiarity with industry practices and professional standards;
 - (iv) integrity and professional ethics;
 - (v) BSc or BA in law, accounting, finance, business administration or a related field; or
 - (vi) Professional certification (e.g., Certified Anti-Money Laundering Specialist (CAMS) or International Compliance Association (ICA) Certification in Anti-Money Laundering).
- (b) in respect of Class-B BDCs, having the following qualifications etc., —
- (i) knowledge of relevant legal requirements and controls;
 - (ii) familiarity with industry practices and professional standards;
 - (iii) integrity and professional ethics; and
 - (iv) certificate of participation in the training on anti-money laundering and countering the financing of terrorism matters.

2. FINANCIAL INTELLIGENCE UNIT:

In addition to the requirements under section 34 (2) of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, reporting entities specified in Part C of the First Schedule to the Act (except entities at serial numbers 7 and 8), shall be supervised by the Financial Intelligence Unit and shall appoint compliance officers with the following requirements—

- (a) knowledge of relevant legal requirements and controls (e.g., Anti-Money Laundering, Beneficial Ownership and other relevant laws);
- (b) familiarity with industry practices and professional standards;
- (c) liaison functionality;
- (d) awareness relative to integrity and professional ethics; and
- (e) aptitude to participate and realise anti-money laundering and countering the financing of terrorism training provided by or on behalf of the FIU.

3. FINANCIAL SERVICES AUTHORITY:

In addition to the requirements under section 34 (2) of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, reporting entities under the regulatory ambit of the Financial Services Authority specified in Part B of the First Schedule and entities at serial numbers 7 and 8 of Part C of the First Schedule to the Act, shall appoint compliance officers —

- (a) in respect of all reporting entities (except Brokers and Agents) having the following qualifications etc.,—
 - (i) at least 2 years' experience in anti-money laundering or compliance related functions in the last 4 years immediately prior to the date of the application;

-
- (ii) knowledge of relevant legal requirements and controls (e.g., Anti-Money Laundering, Beneficial Ownership and other relevant laws);
 - (iii) familiarity with industry practices and professional standards;
 - (iv) awareness relative to integrity and professional ethics.
 - (v) liaison functionality; and
 - (vi) BSc or BA in law, accounting, finance, business administration or a related field deemed suitable to the Financial Services Authority or a professional certification at Diploma level (or equivalent) in Compliance or anti-money laundering from an internationally accredited institution. (e.g., Certified Anti-Money Laundering Specialist (CAMS) or International Compliance Association (ICA) Certification in Anti-Money Laundering).
- (b) in respect of Brokers and Agents, having the following qualifications etc.,—
- (i) at least 2 years' experience in anti-money laundering or compliance related functions in the last 4 years immediately prior to the date of the application;
 - (ii) knowledge of relevant legal requirements and controls;
 - (iii) familiarity with industry practices and professional standards;
 - (iv) awareness relative to integrity and professional ethics;
 - (v) liaison functionality; and

- (iv) professional certification at Advanced Certificate level (or equivalent) in Compliance or anti-money laundering from an internationally accredited institution. (e.g., Certified Anti-Money Laundering Specialist (CAMS) or International Compliance Association (ICA) Certification in Anti-Money Laundering).

SECOND SCHEDULE

[See regulation 20 (1)]

Form for memorandum of appeal

BEFORE THE APPEALS BOARD

MEMORANDUM OF APPEAL UNDER SECTION 62 (2) OF THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT, 2020

Appellant

(furnish here complete name, postal and service address, telephone number and email address)

Appellant's legal representative (if any)

(furnish here complete name, postal and service address, telephone number and email address)

Vs.

Supervisory Authority

(furnish here supervisory authority name)

- (1) The appellant named above, hereby prefers this appeal under section 62 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 against the decision of the supervisory authority, received on _____.
- (2) The facts of the case are as under:
(here briefly mention the facts of the case)

- (3) The grounds on which the appellant relies for the purpose of this appeal are as below:
(here mention the grounds on which the appeal is made)
- (4) Considering the above grounds, the appellant respectfully requests that the decision of the supervisory authority be set aside or varied in the following manner—
(here mention the manner in which the relief is sought)
- (5) Fee of SCR1000 has been paid and a copy of the receipt for payment of fee is enclosed herewith as Annexure-_____

VERIFICATION

I, the Appellant herein above declare that the facts stated above are all true and correct to the best of my knowledge, belief and information and based on the official records.

Dt:

Signature of the Appellant or
the Legal Representative

Counsel for Appellant or
Legal Representative with date

List of Annexures:

- 1.....
- 2.....
- 3.....

MADE this 27th day of August, 2020.

**MAURICE LOUSTAU-LALANNE
MINISTRY OF FINANCE, TRADE,
INVESTMENT AND ECONOMIC PLANNING**

S.I. 105 of 2020

BENEFICIAL OWNERSHIP ACT, 2020

(Act 4 of 2020)

Beneficial Ownership Act (Commencement) Notice, 2020

In exercise of the powers conferred by section 1 of the Beneficial Ownership Act, 2020, the Minister responsible for Finance makes the following notice —

1. This notice may be cited as the Beneficial Ownership Act (Commencement) Notice, 2020.

Citation

2. Save as otherwise provided in the Beneficial Ownership Act, 2020, it shall come into operation on the 28th day of August, 2020.

Commencement
of Act 4 of 2020

MADE this 27th day of August, 2020.

**MAURICE LOUSTAU-LALANNE
MINISTER FOR FINANCE, TRADE
INVESTMENT AND ECONOMIC PLANNING**

S.I. 106 of 2020

**ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM ACT, 2020**

(Act 5 of 2020)

**Anti-Money Laundering and Countering the Financing
of Terrorism Act (Commencement) Notice, 2020**

In exercise of the powers conferred by section 1 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020, the Minister responsible for Finance makes the following notice —

1. This notice may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism Act (Commencement) Notice, 2020.

Citation

2. Save as otherwise provided, the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 shall come into operation on the 28th day of August, 2020.

Commencement
of Act 5 of 2020

MADE this 27th day of August, 2020.

**MAURICE LOUSTAU-LALANNE
MINISTER FOR FINANCE, TRADE
INVESTMENT AND ECONOMIC PLANNING**

S.I. 107 of 2020**BENEFICIAL OWNERSHIP ACT, 2020***(Act 4 of 2020)***Beneficial Ownership Regulations, 2020**

In exercise of the powers conferred by sections 5, 8, 10, 11 and section 13 read with section 17 of the Beneficial Ownership Act, 2020, the Minister responsible for Finance, makes the following Regulations —

1. These regulations may be cited as the Beneficial Ownership Regulations, 2020 and shall come into operation on the 28th day of August, 2020.

Citation and commencement

2. In these Regulations, unless the context otherwise requires —

Interpretation

“Act” means the Beneficial Ownership Act, 2020 (Act 4 of 2020);

“authorised officer” means a person appointed under regulation 16(2);

“database” means the Seychelles Beneficial Ownership database maintained under section 13 of the Act;

“foreign counterparts” means the foreign competent authorities exercising functions and responsibilities in relation to the cooperation which is sought, though such foreign competent authorities have different nomenclature or status; and

“specified entities” means the entities specified in the Second Schedule and referred to in section 13(4) of the Act.

Determination
of beneficial
owners

3.(1) For the purposes of these regulations, the beneficial owner in relation to a legal person or legal arrangement includes but is not limited to —

- (a) one or more natural persons who ultimately have a controlling ownership interest in a legal person or legal arrangement; and
- (b) to the extent that there is doubt under sub-regulation (1)(a), the natural person or persons, if any, exercising control of the legal person or legal arrangement through other means; or
- (c) if no such person exists or such person may be identified under sub-regulation (1)(a) and (b), the natural person or persons who holds the position of a senior managing official of the legal person or legal arrangement, as the case may be.

(2) For the purposes of sub-regulation (1)(a), the beneficial owner of a legal person (except the beneficial owner of a foundation), shall —

- (a) be a natural person or persons, who ultimately owns or controls, whether directly or indirectly, ten percent or more of controlling ownership interest including the shares or voting rights of the said legal person;
- (b) hold the right directly or indirectly, to appoint or remove majority of the board of directors of the said legal person.

(3) For the purposes of sub-regulation (1)(b), exercising control through other means includes, but is not limited to —

-
- (a) the right to appoint or remove the majority of the board of directors or general partners of a legal person or legal arrangement, as the case may be;
 - (b) where the person with controlling ownership interest is dominated by another person because of a familial or employment relationship;
 - (c) where another person holds certain powers in relation to the legal person or legal arrangement which are likely to be used in practice to affect the decisions taken by that person with the controlling ownership interest; or
 - (d) any control over a legal person or legal arrangement other than the control by ownership of any interest.
- (4) The beneficial owner in the case of a foundation shall be a natural person or persons —
- (a) who holds, whether directly or indirectly, absolute decision or veto rights in the conduct and management of the foundation;
 - (b) who holds the right, directly or indirectly to appoint or remove majority of the councilors of the foundation;
 - (c) who is a beneficiary in whom an interest is vested;
 - (d) who is the default recipient of the assets of the foundation in the event of its termination; or
 - (e) any other person, who benefits from the foundation.

(5) The beneficial owner in the case of a partnership with legal personality shall be a natural person or persons who —

- (a) ultimately owns or controls, whether directly or indirectly, absolute decision or veto rights in the conduct or management of the partnership;
- (b) holds the right, directly or indirectly to appoint or remove majority of the general partners of the partnership; or
- (c) is entitled to the assets of the partnership in the event of the dissolution of the partnership.

(6) The beneficial owner in the case of a trust and other legal arrangements shall be a natural person or persons who is —

- (a) the trustee or, in the case of a legal arrangement other than a trust, any person in an equivalent or similar position of a trustee;
- (b) the settlor or in the case of a legal arrangement other than a trust, any person in an equivalent or similar position of a settlor;
- (c) the protector, if any or in the case of a legal arrangement other than a trust, any person in an equivalent or similar position of a protector;
- (d) the beneficiaries or class of beneficiaries or in the case of a legal arrangement other than a trust, any person in an equivalent or similar position of a beneficiary or class of beneficiaries;
- (e) any other natural person exercising ultimate effective control over the trust or the legal

arrangement, including any person who has, under the trust deed of the trust or any similar document, power to —

- (i) appoint or remove any of the trustees of the trust;
 - (ii) direct the distribution of funds or assets of the trust;
 - (iii) direct investment decisions of the trust;
 - (iv) amend the trust deed; or
 - (v) revoke the trust; and
- (f) any other person, known by the resident agent of the legal arrangement, who is exercising control over the legal arrangement.

(7) In the case of a legal person or legal arrangement, which is in insolvent liquidation, administration or receivership proceedings, the natural person who has been appointed as a liquidator, administrator or receiver of the legal person or legal arrangement, shall be the beneficial owner.

(8) In the case of a receiver being appointed over ten percent or more of the shares or voting rights in a legal person or legal arrangement, the creditor who appoints the receiver shall be the beneficial owner.

(9) In the case of a deceased shareholder in the legal person, the natural person or persons acting as executor or a personal representative of the deceased's estate shall be the beneficial owner.

(10) A person shall not be treated as a beneficial owner only by reason of —

- (a) having the benefit of a security interest over the shares or voting rights in a legal person or legal arrangement; or
- (b) having commercial exposure to the financial performance of a legal person or legal arrangement pursuant to financial derivatives or similar contractual arrangements.

(11) Where two or more persons hold any interest jointly as joint owners, then each such joint owner shall be treated as a separate beneficial owner.

(12) For the purpose of these regulations, a legal person is a subsidiary of another legal person, if the parent entity —

- (a) holds, directly or indirectly, ninety percent or more beneficial interest in the shares of the subsidiary;
- (b) hold, directly or indirectly, more than ninety percent of the voting rights in the subsidiary; or
- (c) is irrespective of percentage has direct or indirect interest.

Holding of
shares

4.(1) In these regulations, holding shares in a legal person means holding a right to share in the capital or, as the case may be, profits of that person.

(2) In these regulations, holding ten percent or more of the shares in that legal person means holding a right or rights to shares in ten percent or more of the capital or, as the case may be, profits of that person.

Voting rights

5.(1) For the purposes of these regulations, voting rights refers to the rights conferred on shareholders in respect of their shares or, in the case of a legal person not having a share capital,

on members or officers, to vote at general meetings of the legal person or legal arrangement on all or substantially all matters.

(2) In relation to a legal person or legal arrangement that does not have general meetings at which matters are decided by the exercise of voting rights —

- (a) exercising voting rights means to exercise rights in relation to a person or persons that are equivalent to those of a person entitled to exercise voting rights in a company; and
- (b) exercising ten percent or more of the voting rights in the legal person or legal arrangement means to exercise the right under the constitutional document of the legal person or legal arrangement to effect changes to the overall policy of the legal person or legal arrangement.

6. Shares or rights held —

- (a) by a legal person, which is under the control of an individual; or
- (b) by multiple legal persons, which are under the control of the same individual,

Holding shares and rights indirectly

shall be an indication of indirect ownership by such individual.

7. For avoidance of doubt, the reference of right to appoint or remove majority of the board of directors of a legal person in these regulations refers to the right to appoint or remove directors holding majority of the voting rights at the meetings of the board on all or substantially all matters.

Rights to appoint or remove members of the Board of a legal person

8. For the purposes these regulations, shares held by a nominee on behalf of a nominator shall be treated as the shares were held by the nominator.

Shares held by nominees

Rights treated as held by person who controls their exercise

9.(1) For the purposes of these regulations, where a person controls a right, the right shall be treated as held by that person and not by the person who in fact holds the right, unless that person also controls it.

(2) A person controls a right if, by virtue of any arrangement between that person and other person or persons, the right is exercisable only —

- (a) by that person;
- (b) in accordance with that person's directions or instructions; or
- (c) with that person's consent or concurrence.

Rights exercisable only in certain circumstances

10.(1) Rights that are exercisable only in certain circumstances are to be taken into account —

- (a) when the circumstances have arisen, and for so long as they continue; or
- (b) when the circumstances are within the control of the persons having the rights.

(2) Notwithstanding sub-regulation (1), rights that are exercisable by a liquidator, administrator, receiver or creditor for the purposes of regulations 3(6) and (7), are not to be taken into account even when the legal person or legal arrangement is in any insolvency proceedings.

(3) For the purposes of sub-regulation (2), insolvency proceedings includes, when —

- (a) a liquidator has been appointed to act;
- (b) a receiver has been appointed to act;
- (c) a creditor has been appointed to act; or

(d) a winding-up process has commenced.

(4) Rights that are normally exercisable but are temporarily incapable of exercise shall also be taken into account.

11. Rights attached to shares held by way of security provided by a person shall be treated, as held by that person —

Rights attached to shares held by way of security

(a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable in accordance with that person's instructions only; and

(b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in that person's interest only.

12.(1) Every legal person and legal arrangement shall maintain a register of beneficial owners in the Form specified in the First Schedule to these regulations.

Form of register of beneficial owners

(2) Every legal person and legal arrangement shall include and update the register of beneficial owners, the details of each beneficial owner's beneficial interest consisting of the —

(a) type and nature of the interests held; and

(b) numerical value of interest held or management position held by the beneficial owner.

(3) The registrable particulars of a beneficial owner shall be entered in the register of beneficial owners, if all the registrable particulars relating to the beneficial owner have been provided in full and have been confirmed.

(4) For the avoidance of doubt, a legal person or legal arrangement shall not enter the particulars of the beneficial owner in the register of beneficial owners until all the registrable particulars have been provided in full and have been confirmed.

(5) Where there is a *bona fide* legal dispute as to the beneficial ownership of any interest in a legal person or legal arrangement which is in the process of being adjudicated by a court, no change should be recorded in the register of beneficial ownership before the determination of that matter by the court or the court orders, to do so.

(6) For the purposes of section 5(1) of the Act, it shall be sufficient if the register of beneficial owners contains the particulars of the current beneficial owners of the legal person or legal arrangement as on the date of commencement of the Act and any change thereof shall be updated under section 5(2) of the Act.

Submission of
records to
Competent
Authority

13.(1) Where a legal person or legal arrangement dissolves or ceases to exist, the legal person or legal arrangement shall handover the following records to the Competent Authority, through its resident agent, within 14 days from the date that it is dissolved or ceases to exist —

- (a) register of beneficial owners of the legal person or legal arrangement;
- (b) the declarations of beneficial ownership; and
- (c) the copy of the written notices issued under section 10(3) of the Act.

(2) Where a resident agent ceases to be a reporting entity under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020) or otherwise ceases to operate in the Republic, the former resident agent shall handover the relevant records specified under sub-regulation (1) relating to every legal person or legal arrangement under its administration to the Competent Authority, within 14 days from the date that it ceases to be a reporting entity or it ceases to operate.

(3) All records submitted to the Competent Authority shall be in digital form unless otherwise agreed upon between the Competent Authority and the resident agent.

14. Every person, upon becoming a beneficial owner, shall submit to the relevant legal person or legal arrangement, a declaration of beneficial ownership, detailing the registrable particulars of the person in the Form specified in the Second Schedule to these regulations.

Disclosure of
a new
beneficial
owner

15. Any person seeking inspection and obtaining copies thereof of the register of beneficial owners of an extractive company filed with the office of the Registrar General shall submit an application to the Registrar General in the Form specified in the Third Schedule along with payment of a fee of SCR200 to the office of the Registrar General.

Inspection of
the beneficial
ownership
register of
extractive
companies

16.(1) No person, other than an authorised officer of a specified entity, shall have access to the database.

Access to the
database

(2) The Heads of specified entities shall appoint one authorised officer and an alternative authorised officer to access the database.

(3) An authorised officer shall access the database to execute a search only for the permitted purpose.

(4) For the purposes of these regulations, “permitted purpose” means searches related to —

- (a) the prevention, detection, investigation or prosecution of criminal offences;
- (b) the prevention, detection or investigation of civil offences;
- (c) the prevention, detection, investigation of or the bringing of proceedings for conduct, in which penalties other than criminal penalties are provided; and
- (d) the furtherance or discharge of any function under this regulation or any other laws under the purview of the specified entities.

(5) The FIU shall maintain a record of searches conducted by every authorised officer.

(6) Every authorised officer shall receive training conducted by the FIU to foster appropriate utilisation of the database.

(7) Every authorised officer conducting or prompting a search on the database shall ensure that the search is fully in conformity with the requirements of these regulations.

(8) An authorised officer who —

- (a) fails to comply with any requirement of these regulations;
- (b) accesses the database for any purpose other than the permitted purpose under these regulations,

shall be terminated from employment and also liable to a fine not exceeding SCR20,000 or to imprisonment for a term not exceeding one year or to both.

(9) Notwithstanding sub-regulation (2), in circumstances where direct access to the database by the authorised officers of the specified entities is not available, search shall be managed through an authorised officer of the FIU.

(10) In the event that search on the database is to be managed through an authorised officer of the FIU, a written request shall be submitted to the FIU which shall include —

- (a) name of specified entity and authorised officer;
- (b) case reference number of specified entity;
- (c) nature of the request;
- (d) subject details of the entity to be searched;
- (e) any other relevant information, to include but not limited to, the urgency of the request; and
- (f) disclaimer that the request conforms to the requirements of these regulations.

(11) Upon receipt of a request under sub-regulation (10), the FIU's authorised officer shall conduct the search and the result of the search shall be provided —

- (a) within 14 days of receipt of the request; or
- (b) where the request is urgent, within a shorter period of time as may be mutually agreed upon by the parties.

17.(1) Information obtained from the search on the database shall be treated as confidential and shall not be disclosed except for a permitted purpose under these regulations.

Disclosure of
information
from the
database

(2) Notwithstanding sub-regulation (1), any information obtained from the database by a specified entity may be shared with any foreign counterpart agency —

- (a) if the disclosure is made in response to a formal request made by the foreign counterpart agency;
- (b) the request is made in furtherance of the agency's functions; and
- (c) the request and response are made in such manner and form consistent with the appropriate laws governing foreign information sharing by those specified entities.

(3) Any person who discloses any information obtained from the database other than for what is permitted under these regulations, shall be terminated from employment and also liable to a fine not exceeding SCR20,000 or to imprisonment for a term not exceeding one year or to both.

(4) Any person who discloses information accessed from the database commits an offence, if the person knows or suspects that any information or other matter disclosed may prejudice a criminal, civil or regulatory investigation which is being or may be carried out, or which have been or may be initiated.

(5) A person guilty of an offence under sub-regulation (4), shall be terminated from employment and also liable to a fine not exceeding SCR20,000 or to imprisonment for a term not exceeding one year or to both.

FIRST SCHEDULE*[See regulation 12(1)]*

REGISTER OF BENEFICIAL OWNERS	
Name of legal person or arrangement	
Identification number	

Name of beneficial owner	Residential and service address of beneficial owner	Date of birth of the beneficial owner	Nationality of the beneficial owner	Nature of Interest held**	If interest is held by nominee			Date on which the person became a beneficial owner	Date on which a person ceased to be a beneficial owner
					Name, residential address, service address, date of birth and nationality of each nominee	Particulars and details of the interest held by nominee	Name, residential address, service address, date of birth and nationality of each of nominator		

****Numerical value of interest held (if applicable, e.g., number, percentage and par value of shares), management position held (if applicable) or other forms of control (if applicable).**

SECOND SCHEDULE*(See regulation 14)*

TO: (Legal person/Legal arrangement Name)

Dated: _____

RE: Declaration of Beneficial Ownership

I, the undersigned, hereby confirm that I have become a beneficial owner (the “BO”) as defined in the Beneficial Ownership Act, 2020 in respect of the above legal person or legal arrangement.

Therefore, I hereby provide you with the below particulars as required under section 10(1) of the Act, which I confirm to be true and correct:

1. Name:
2. Residential address:
3. Service address:
4. Nationality:
6. Date of birth:
7. Date on which the person became the BO:
8. Particulars of the BO’s beneficial interest (tick at least one point):
 - Number and class of shares held (>10%): «Share Total» registered shares, or
 - Exercise (directly or indirectly) ultimate control over more than 10% of total voting rights of members in the legal person, or
 - Is entitled (directly or indirectly) to appoint or remove a majority (>10%) of the directors of the legal person, or
 - Is otherwise entitled to exercise or actually exercise control over the legal person or legal arrangement or its management.
 - Others: (Specify type or nature of the interest held, numerical value of interest held or management position held)

Details (name, residential address, service address, date of birth and nationality) of any person holding the interest on behalf of the beneficial owner and the particulars and details of the interest held by each nominee:

I, (name of the beneficial owner), am cognizant that enforcement actions that may be taken against me pursuant to section 10 (7) of the Beneficial Ownership Act, 2020, if it is found that I provided false or misleading information in this declaration.

Yours sincerely,

Signature with date
(Full name of the beneficial owner)

THIRD SCHEDULE

(See regulation 15)

The Registrar of Companies

Request form to inspect and obtain copies of the register of beneficial owners for extractive companies

I, holding ID number...../...../...../..... hereby submit this request for the inspection and to obtain a copy of the register of beneficial owners relating to I have paid prescribed fee of SCR200 to the office of the Registrar General and copy of the receipt is enclosed herewith.

Date:

Signature:

MADE this 27th day of August, 2020.

**MAURICE LOUSTAU-LALANNE
MINISTRY OF FINANCE, TRADE,
INVESTMENT AND ECONOMIC PLANNING**