

B E L I Z E:

MONEY LAUNDERING (PREVENTION) REGULATIONS, 1998

ARRANGEMENT OF REGULATIONS

1. Short title
2. Interpretation
3. Business relationships
4. Systems and training to prevent money laundering
5. Identification procedures; business relationships and transactions
6. Payment by post, etc.
7. Identification procedures; transactions on behalf of another
8. Identification procedures; exemptions
9. Identification procedures - supplementary provisions
10. Record-keeping procedures
11. Internal reporting procedures
12. Supervisory Authority to report evidence of money laundering
13. Supervisory Authority to issue guidance notes to financial Institutions
14. Supervisory Authority to report to the Minister of Finance and the Attorney General.
15. Currency reporting upon leaving the country
16. Transitional Provisions
17. Commencement

BELIZE:

STATUTORY INSTRUMENT

No. 6 of 1998

REGULATIONS made by the Attorney General in exercise of the powers conferred upon him by section 29 of the Money Laundering (Prevention) Act, 1996 (No. 12 of 1996), and all other powers thereunto him enabling.

(Gazetted 24th January, 1998.)

1. These Regulations may be cited as the

Short title.

**MONEY LAUNDERING (PREVENTION)
REGULATIONS, 1998.**

2. (1) In these Regulations, unless the context otherwise requires:-

Interpretation.

(a) "Act" means the Money Laundering (Prevention) Act, 1996;

12/1996.

(b) "applicant for business" means a person seeking to form a business relationship, or to carry out a one-off transaction, with a person who is carrying out relevant financial business in or from Belize;

(c) "Case 1", "Case 2", "Case 3" and "Case 4" have the meanings respectively assigned to each of them in Regulation 5 below;

(d) "money laundering" means -

(i) engaging, directly or indirectly, in a transaction that involves property that is the proceeds of

crime, knowing or having reasonable grounds for believing the same to be the proceeds of crime; or

- (ii) receiving, possessing, managing, investing, concealing, disguising, disposing of or bringing into Belize any property that is the proceeds of crime, knowing or having reasonable grounds for believing the same to be the proceeds of crime;
- (e) “one-off transaction” means any transaction other than a transaction carried out in the course of an established business relationship formed with a person acting in the course of relevant financial business;
- (f) “relevant financial business”

12/1996.

- (i) means the business of engaging in one or more of the businesses described in the First Schedule to the Act, or any other activity described as such by the Minister by an Order published in the *Gazette* in accordance with section 2(1) of the Act;
- (ii) does not mean any business activities carried on by the Central Bank of Belize;
- (g) “Supervisory Authority” has the meaning assigned to it by section 2(1) of the Act;

12/1996.

(2) A word or an expression not specifically defined in these regulations but defined in the Act shall have the corresponding meaning assigned to it in the Act.

Business relationships.

3. (1) Any reference in these regulations to an arrangement between two or more persons is a reference to an arrangement in which at least one person is acting in the course of relevant financial business.

(2) For the purpose of these regulations, “business relationship” means any business transaction or arrangement between two or more persons where:-

- (a) the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent, habitual or regular basis; and
- (b) the total amount of any payment or payments to be made by any person to any other person in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made.

4. (1) No person shall, in the course of relevant financial business carried on by him in or from within Belize, form a business relationship, or carry out a one-off transaction, with or for another unless that person -

Systems and training to prevent money laundering.

- (a) maintains the following procedures established in relation to that business relationship or one-off transaction -
 - (i) identification procedures in accordance with regulations 5 and 7 below;
 - (ii) record-keeping procedures in accordance with regulation 10 below;
 - (iii) except where the person concerned is an individual who in the course of relevant financial business does not employ or act in association with any other person, internal reporting procedures in accordance with regulation 11 below; and
 - (iv) such other procedures of internal control and communication as may be appropriate for the

purposes of forestalling and preventing money laundering;

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

 - (i) the procedures under paragraph (a) above which are maintained by him and which relate to the relevant financial business in question; and
 - (ii) enactments relating to money laundering; and
- (c) provides such employees from time to time with training in the recognition and handling of transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

(3) In determining whether a person has complied with any of the requirements of subregulation (1) above, a court may take account of -

- (a) any relevant supervisory or regulatory guidance which applies to that person;
- (b) in a case where no supervisory or regulatory guidance falling within paragraph (a) above applies any other relevant guidance issued by a body that regulates, or is representative of, any trade, profession, business or employment carried on by that person.

(4) In proceedings against any person for an offence under this regulation, it shall be a defence for that person to show that

he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(5) In this regulation -

“enactments relating to money laundering” means the Act and regulations made thereunder; and 12/1996.

“supervisory or regulatory guidance” means guidance notes issued, adopted or approved by the Supervisory Authority.

5. (1) Subject to regulations 6 and 8 below, identification procedures; maintained by a person are in accordance with this regulation if in Cases 1 to 4 set out below they require, as soon as is reasonably practicable after contact is first made between that person and an applicant for business concerning any particular business relationship or one-off transaction-

Identification procedures; business relationships and transactions.

- (a) the production by the applicant for business of satisfactory evidence of his identity; or
- (b) the taking of such measures specified in the procedures as will produce satisfactory evidence of his identity; and the procedures are, subject to subregulation (6) below, in accordance with this regulation if they require that where that evidence is not obtained the business relationship or one-off transaction in question shall not proceed any further.

(2) **“Case 1”** means any case where the parties form or resolve to form a business relationship between them.

(3) **“Case 2”** means any case where, in respect of any one-off transaction, any person handling the transaction knows or suspects that the applicant for business is engaged in money laundering, or that the transaction is carried out on behalf of another person engaged in money laundering.

(4) “**Case 3**” means any case where, in respect of any one-off transaction, payment is to be made by or to the applicant for business in the amount of Belize twenty thousand dollars (BZ\$20,000) or its equivalent in foreign currency, or more.

(5) “**Case 4**” means any case where, in respect of two or more one-off transactions it appears:-

- (a) at the outset to a person handling any of the transactions:
 - (i) that the transactions are linked; and
 - (ii) that the total amount, in respect of all of the transactions, which is payable by or to the applicant for business is Belize twenty thousand dollars (BZ\$20,000) or its equivalent in foreign currency or more; or
- (b) at any later stage, to the person handling or who handled any of the transactions that the provisions of subparagraphs (i) and (ii) of paragraph (a) above are satisfied.

(6) The procedures referred to in subregulation (1) above are in accordance with this regulation if, when a report is made in circumstances falling within Case 2 (whether in accordance with regulation 11 or directly to the relevant law enforcement authority), they provide for steps to be taken in relation to the one-off transaction in question in accordance with any directions that may be given by the Supervisory Authority or a law enforcement officer.

(7) For the purposes of subregulation (1) (a) above where the applicant for business is a body corporate, evidence that reasonable due diligence concerning the identification of the body corporate, its owners and controllers have been carried out shall be sufficient.

(8) In these regulations references to satisfactory evidence of a person’s identity shall be construed in accordance with regulation 9(1) below.

6. (1) Where satisfactory evidence of the identity of the applicant for business would, apart from this regulation, be required under identification procedures in accordance with regulation 5 above but-

Payment by
post, etc.

- (a) the circumstances are such that a payment is to be made by the applicant for business; and
- (b) it is reasonable in all the circumstances -
 - (i) for the payment to be sent by post or by any electronic means which is effective to transfer funds; or
 - (ii) for the details of the payment to be sent by post, to be given on the telephone or to be given by any other electronic means; then, subject to subregulation (2) below, the fact that the payment is debited from an account held in the applicant's name at an institution mentioned in subregulation (4) below (whether the account is held by the applicant alone or jointly with one or more persons) shall constitute the required evidence of identity for the purpose of regulation 5.

(2) Subregulation (1) above shall not have effect to the extent that -

- (a) the circumstances of the payment fall within Case 2; or
- (b) the payment is made by any person for the purpose of opening an account with an institution falling within subregulation (4)(a) or (b) below.

(3) For the purposes of subregulation (1) (b) above, it shall be immaterial whether the payment or its details are sent or given to a person to whom regulation 5(1) above applies or to some other person acting on his behalf.

(4) The institutions referred to in subregulation (2)(b) above are

- (a) an institution which is for the time being licensed under the Banks and Financial Institutions Act or the Offshore Banking Act; or
- (b) any other institution prescribed by the Minister and which is a licensed credit or financial institution.

No. 13/1995
No. 11/1996.

**Identification
procedures;
transactions
on behalf of
another.**

7. (1) This regulation applies where, in relation to a person to whom regulation 4 (1) applies, an applicant for business is or appears to be acting otherwise than as principal.

(2) Subject to regulation 8 below, identification procedures maintained by a person are in accordance with this regulation if, in a case to which this regulation applies, they require reasonable measures to be taken for the purpose of establishing the identity of any person on whose behalf the applicant for business is acting.

(3) In determining, for the purposes of subregulation (2) above, what constitutes reasonable measures in any particular case, regard shall be had to all the circumstances of the case, and in particular, to the best practice which, for the time being, is followed in the relevant field of business and which is applicable to those circumstances.

(4) Without prejudice to the generality of subregulation (3) above, if the conditions mentioned in subregulation (5) below are fulfilled in relation to an applicant for business who is, or appears to be, acting as an agent for a principal (whether undisclosed or disclosed for reference purposes only) it shall be reasonable for a person to whom regulation 4(1) above applies to accept a written assurance from the applicant for business to the effect that evidence of the identity of any principal on whose behalf the applicant for business may act in relation to that person will have been obtained and recorded under procedures maintained by the applicant for business.

(5) The conditions referred to in subregulation (4) above are that, in relation to the business relationship or one-off transaction in question, there are reasonable grounds for believing that the applicant for business -

- (a) acts in the course of a business in relation to which an overseas regulatory authority exercises regulatory functions and control; and
- (b) is based or incorporated in, or formed under the law of, a country in which there are in force provisions at least equivalent to those required by the Act.

No. 12/1996.

8. (1) Subject to subregulation (2) below, identification procedures under regulations 5 and 7 above shall not require any steps to be taken to obtain evidence of any person's identity-

Identification
procedures;
exemptions.

- (a) where, in respect of any one-off transaction, payment is to be made by or to the applicant for business of an amount not exceeding Belize twenty thousand dollars (BZ\$20,000) or its equivalent in foreign currency;
- (b) where any one-off transaction is carried out with or for a third party pursuant to an introduction effected by a person who has provided an assurance that evidence of the identity of all third parties introduced by him will have been obtained and recorded under procedures maintained by him, where that person identifies the third party and where -
 - (i) that person falls within paragraph (a) above; or
 - (ii) there are reasonable grounds for believing that the conditions mentioned in regulation 7 (5)(a) and (b) above are fulfilled in relation to him;

No. 13/1995.

- (c) where the applicant for business is acquiring an equity interest in any type of collective investment scheme as described in the Schedule to the Banks and Financial Institutions Act.

(2) Nothing in this regulation shall apply in circumstances falling within Case 2.

Identification procedures - supplementary provisions.

9. (1) For the purposes of these regulations, evidence of identity is satisfactory if:-

- (a) it is reasonably capable of establishing that the applicant is the person whom he claims to be; and
- (b) the person who obtains the evidence is reasonably satisfied, in accordance with the procedures maintained under these regulations in relation to the relevant financial business concerned, that such evidence does establish the fact that the applicant is the person whom he claims to be.

(2) In determining for the purposes of regulation 5 (1) above the time period in which satisfactory evidence of a person's identity has to be obtained in relation to any particular business relationship or one-off transaction, all the circumstances shall be taken into account including, in particular -

- (a) the nature of the business relationship or one-off transaction concerned;
- (b) the geographical locations of the parties;
- (c) whether it is practical to obtain the evidence before commitments are entered into between the parties or before money is transferred; and
- (d) in relation to Case 3 or Case 4, the earliest stage at which there are reasonable grounds for believing that

the total amount payable by or to an applicant for business is Belize twenty thousand dollars (BZ\$20,000) or its equivalent in foreign currency or more.

10. (1) Record-keeping procedures maintained by a person under regulation 4 (1) are in accordance with this regulation if they require the keeping, for the prescribed period, of the following records -

Record-keeping procedures.

- (a) in any case where, in relation to any business relationship that is formed or one-off transaction that is carried out, evidence of the identity of the applicant for business is obtained under procedures maintained in accordance with regulation 5 or 7 above, a record that indicates the nature of the evidence and -
 - (i) comprises a copy of the evidence; or
 - (ii) provides such information as would enable a copy of it to be obtained; or
 - (iii) in a case where it is not reasonably practical to comply with subparagraph (i) or (ii) above, provides sufficient information to enable the details as to a person's identity contained in the relevant evidence to be re-obtained; and
- (b) a record containing particulars relating to each transaction carried out by that person in the course of relevant financial business.

(2) For the purposes of subregulation (1) above, the prescribed period is the period of at least five years as prescribed in section 12(1) of the Act commencing with -

No. 12/1996.

- (a) in relation to such records as are described in paragraph (a) of subregulation (1) above, the date on which the relevant financial business was completed; and

- (b) in relation to such records as are described in paragraph (b) of subregulation (1) above, the date on which all activities taking place in the course of the transaction in question were completed.

**Internal
reporting
procedures.**

11. For the purposes of section 13 of the Act, internal reporting procedures maintained by a person shall include provisions-

- (a) identifying a person (in this regulation referred to as “the money laundering reporting officer”) to whom a report is to be made of any information or other matter which comes to the attention of a person handling relevant financial business and which, in the opinion of the person handling that business, gives rise to a knowledge or suspicion that another person is engaged in money laundering;
- (b) requiring that any such report be considered in light of all other relevant information by the money laundering reporting officer, or by another person, acting on behalf of the reporting officer, for the purpose of determining whether or not the information or other matter contained in the report does give rise to such a knowledge or suspicion;
- (c) for any person charged with considering a report in accordance with paragraph (b) above to have reasonable access to other information which may be of assistance to him and which is available to the person responsible for maintaining the internal reporting procedures concerned; and
- (d) for ensuring that the information or other matter contained in the report is disclosed to the Supervisory Authority or to the relevant law enforcement authorities where the person who has considered the report under the procedures maintained in accordance with

the preceding provisions of this regulation knows or reasonably suspects that another is engaged in money laundering.

12. (1) For the purposes of section 11 of the Act and subject to subregulation (2) below, where the Supervisory Authority -

**Supervisory
Authority to
report
evidence of
money
laundering.**

(a) obtains any information; and

**No. 12 of
1996.**

(b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering;

the Supervisory Authority shall, as soon as is reasonably practicable, disclose that information to the relevant law enforcement authorities and to the Director of Public Prosecutions.

(2) Where any person receives information obtained by the Supervisory Authority under subregulation (1) above and that person forms such an opinion as is mentioned in paragraph (b) of subregulation (1) above, that person shall disclose all information available to him on the matter to the Director of Public Prosecutions for further action.

(3) Where any person -

(a) obtains information whilst acting in the course of any investigation, or discharging any functions to which his appointment or authorisation relates; and

(b) is of the opinion that the information indicates that any person has or may have been engaged in money laundering;

that person shall, as soon as is reasonably practicable, either disclose that information to the relevant law enforcement authorities, to the Director of Public Prosecutions or to the person by whom

he was appointed or authorised, as the case may be, for further action.

(4) Any disclosure made by virtue of the preceding provisions of this regulation shall not be treated as a breach of any restriction or duty of confidentiality imposed by statute, business practice or otherwise.

(5) Any information -

- (a) which has been disclosed to the Supervisory Authority or the Director of Public Prosecutions or other law enforcement authority by virtue of regulation 11 or the preceding provisions of this regulation; and
- (b) which would, apart from the provisions of subregulation (4) above, be subject to such a restriction or duty as is mentioned in that paragraph;

shall be disclosed by the Supervisory Authority or the Director of Public Prosecutions or any person obtaining that information, when lawfully required by any court of competent jurisdiction within Belize, or under the provisions of any law of Belize, but not otherwise.

**Supervisory
Authority to
issue
guidance
notes to
financial
Institutions.
No. 12/1996.**

13. For the purposes of section 11(7) of the Act and regulation 4 above, the Supervisory Authority may from time to time issue guidance notes to one or more types of financial institutions listed in the First Schedule of the Act as the said Schedule may be amended from time to time.

**Supervisory
Authority to
report to the
Minister of
Finance and
the Attorney
General.
12/1996.**

14. (1) For the purposes of section 11(7) of the Act, the Supervisory Authority shall prepare and submit an annual report to the Minister of Finance and to the Attorney General, under conditions of confidentiality, providing details on the implementation of the Act and these regulations, investigations and prosecutions relating to money laundering offences, money laundering trends and typologies, and any recommendations or other matters that

would assist in the prevention of money laundering in Belize. Such report shall be submitted not later than three months following the end of every calendar year to which it relates.

(2) In the preparation and submission of the annual report referred to in subregulation (1) above, the Supervisory Authority shall exclude any material the disclosure of which is likely in his opinion to prejudice any pending investigations or prosecutions of money laundering offences.

15. (1) For the purposes of section 18 of the Act, the Supervisory Authority shall prescribe the form and content of the currency declaration report to be completed by persons leaving Belize with more than Belize twenty thousand dollars (BZ\$20,000) in cash or negotiable bearer instruments or its equivalent in foreign currency. Such form shall be as prescribed in the Schedule hereto.

Currency
reporting
upon leaving
the country.

Schedule.

(2) For the purposes of subregulation (1) above, the Supervisory Authority shall establish suitable arrangements with Immigration, airport and/or airline authorities for the distribution and collection of the prescribed currency declaration forms.

(3) The Supervisory Authority shall, *mutatis mutandis*, treat the information provided on the currency declaration report in the same manner as information obtained pursuant to section 11 of the Act and regulations 11 and 12 above.

12/1996.

(4) The Supervisory Authority shall maintain at all times a Reported Currency Register (hereinafter referred to as "the Register") showing:

- (a) the name of the person intending to take out the currency from Belize;
- (b) the amount of the currency;
- (c) the denomination of the currency;

- (d) the purpose for taking out the currency from Belize;
- (e) such other information which the Supervisory Authority deems necessary.

(5) Whenever an application has been made pursuant to this section, the Supervisory Authority shall give to the applicant a slip certifying that application to take currency out of Belize in accordance with this section has been duly made.

(6) A certified copy of the entry in the Registry shall be received as evidence of the facts stated therein.

(7) Proof that a particular transaction is not recorded in the Register shall be officially and judicially noticed as *prima facie* evidence that the transaction was not reported to the Supervisory Authority.

Transitional Provisions.

16. (1) Nothing in these regulations shall require a person to whom regulation 4 (1) applies to maintain procedures in accordance with regulations 5 and 10 which require evidence to be obtained, in respect of any business relationship formed by him prior to the date on which these regulations come into force, as to the identity of the person with whom that relationship has been formed.

Commencement.

17. These Regulations shall come into force on the 2nd day of February, 1998.

MADE by the Attorney General this 19th day of January, 1998.

(DEAN O. BARROW)
Attorney General