

VIRGIN ISLANDS
ANTI-MONEY LAUNDERING (AMENDMENT) REGULATIONS,
2024

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and commencement
2. Regulation 13 revoked and substituted

VIRGIN ISLANDS
STATUTORY INSTRUMENT 2024 NO. 43
PROCEEDS OF CRIMINAL CONDUCT ACT
(REVISED EDITION 2020)

Anti-money Laundering (Amendment) Regulations, 2024

[Gazetted 6th September, 2024]

The Cabinet, in exercise of the powers conferred by section 41 of the Proceeds of Criminal Conduct Act, Revised Edition 2020, and with the advice of the Financial Services Commission, makes these Regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Anti-money Laundering (Amendment) Regulations, 2024.

(2) These Regulations shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Regulation 13 revoked and substituted

2. The Anti-money Laundering Regulations, Revised Edition 2020, is amended by revoking regulation 13 and substituting the following regulation

“Duty to appoint Money Laundering Reporting Officer

13. (1) Subject to sub-regulation (2), a relevant person shall appoint a Money Laundering Reporting Officer who shall, in addition to the requirements outlined in sub-regulation (3), be of sufficient seniority to perform the functions of a Money Laundering Reporting Officer under or relating to the Act, the Code, these Regulations and any other enactment concerning money laundering, terrorist financing and proliferation financing.

(2) A relevant person shall not appoint a Money Laundering Reporting Officer under sub-regulation (1) unless it has applied for and obtained the approval of

(a) the Agency, if the relevant person is

(i) a DNFBP in respect of which the Agency exercises supervisory responsibility for money laundering, terrorist financing and proliferation financing purposes in accordance with section 5C (1) of the Financial Investigation Agency Act, Revised Edition 2020; or

- (ii) an NPO identified by the Agency as engaging primarily in raising and disbursing funds and in respect of which the Agency exercises supervisory responsibility in accordance with section 5C(2) of the Financial Investigation Agency Act, Revised Edition 2020; or
 - (b) the Commission, if the relevant person is regulated by the Commission, save where under any enactment the approval of the Commission is not required.
- (3) A person to be appointed as a Money Laundering Reporting Officer under sub-regulation (1) shall be a natural person who
- (a) at the minimum, holds a diploma or its equivalent with a post qualification experience of not less than 3 years;
 - (b) is fit and proper
 - (i) in the case of an approval by the Agency, in accordance with its Order published under section 5C(12) of the Financial Investigation Agency Act, Revised Edition 2020; and
 - (ii) in the case of an approval by the Commission, in accordance with Schedule 1A of the Regulatory Code, Revised Edition 2020;
 - (c) has a broad knowledge of money laundering, terrorist financing and proliferation financing matters, including knowledge of regional and international treaties (including United Nations Security Council Resolutions) relating to combating money laundering, terrorist financing and proliferation financing;
 - (d) has a good understanding and appreciation of the laws of the Territory relating to money laundering, terrorist financing and proliferation financing; and
 - (e) possesses the ability to make independent decisions and not to be easily susceptible to undue influence in the performance of his or her functions.
- (4) The Agency or the Commission, as the case may be, may utilise varying mechanisms as may be appropriate, for the purposes of establishing the requirements of sub-regulation (3)(b), (c), (d) and (e) in respect of any person to be appointed as a Money Laundering Reporting Officer, including
- (a) requiring the person or the relevant person submitting an application under sub-regulation (2) to submit such documents and provide such information as the Agency or the Commission may require;
 - (b) inviting the person to an interview, if this is considered necessary; or

(c) subjecting the person to such specific or general test as considered necessary.

(5) Where the Agency or the Commission, as the case may be, receives an application under sub-regulation (2), it shall, if satisfied that

(a) the person to be appointed as a Money Laundering Reporting Officer

(i) meets the requirements of sub-regulation (3); and

(ii) will, after his or her appointment, be able to perform the functions of a Money Laundering Reporting Officer; and

(b) it is not against the public interest to appoint the person as a Money Laundering Reporting Officer,

grant approval for the person to be appointed by the relevant person.

(6) Where the Agency or the Commission, as the case may be, after reviewing an application received under sub-regulation (2), forms the opinion that the person to be appointed by a relevant person does not meet the requirements of sub-regulation (3) or that the appointment of the person will not or is not likely to be in the public interest, it shall refuse the application and notify the relevant person of the Agency's or the Commission's decision.

(7) The appointment of a Money Laundering Reporting Officer under sub-regulation (1) may relate to an individual who

(a) is an employee of the relevant person; or

(b) is not an employee of the relevant person but meets the requirements of this regulation to perform the functions of a Money Laundering Reporting Officer.

(8) A person who is appointed as a Money Laundering Reporting Officer shall have access to all relevant information and material of the relevant person to enable him or her to perform the functions reposed in him or her under the Act, the Code, these Regulations and any other enactment concerning money laundering, terrorist financing and proliferation financing.

(9) Where a person appointed under sub-regulation (1) as a Money Laundering Reporting Officer ceases to hold such office, the relevant person that appointed him or her shall

(a) no later than 14 days after the person has ceased to hold such office, notify the Agency or the Commission, as the case may be, of that fact; and

(b) within 21 days after the date the person ceased to hold such office, submit an application under sub-regulation (2) for the appointment of a new Money Laundering Reporting Officer, and sub-regulations (3) to (7) shall apply accordingly.

(10) A Money Laundering Reporting Officer shall be responsible for ensuring compliance by staff of the relevant person with

- (a) the provisions of the Act, the Code, these Regulations and any other enactment relating to money laundering, terrorist financing and proliferation financing;
- (b) the provisions of any internal reporting and manual of compliance procedures relating to money laundering, terrorist financing and proliferation financing; and
- (c) any additional reporting and related obligations provided in any other enactment relating to money laundering, terrorist financing and proliferation financing.

(11) The Money Laundering and Reporting Officer shall, in addition to the functions reposed in him or her by these Regulations and the Code, act as the liaison between the relevant person and the Agency or the relevant person and the Commission, as the case may be, in matters relating to compliance with the provisions of the Act, the Code, these Regulations and any other enactment relating to money laundering, terrorist financing and proliferation financing.

(12) Where the Agency or the Commission, as the case may be

- (a) forms the opinion that
 - (i) a Money Laundering Reporting Officer no longer satisfies any of the requirements of sub-regulation (3);
 - (ii) the Agency's or the Commission's approval of appointment of a Money Laundering Reporting Officer was founded on fraud or misrepresentation; or
 - (iii) a Money Laundering Reporting Officer has otherwise contravened or failed to comply with a provision of the Act, the Code, these Regulations or any other enactment relating to money laundering, terrorist financing and proliferation financing;
- (b) is satisfied that enforcement action has been taken against a Money Laundering Reporting Officer in accordance with the Financial Investigation Agency Act or the Financial Services Commission Act, Revised Edition 2020; or
- (c) considers, for any other good reason, that the continued approval of a person as a Money Laundering Reporting Officer is no longer in the public interest,

it may issue a warning to, or suspend or withdraw the approval of appointment of, the Money Laundering Reporting Officer.

(13) The Agency or the Commission shall

- (a) before suspending or withdrawing an approval under sub-regulation (12), indicate its intention to do so by giving the relevant person that appointed the Money Laundering Reporting Officer a written notice of not less than 14 days, inviting the relevant person to make such written representations as it considers necessary; and
- (b) after the end of the notice period referred to in paragraph (a) and following a review of representations, if any
 - (i) act in accordance with sub-regulation (12); or
 - (ii) rescind its intention to issue a warning to, or suspend or withdraw the approval of appointment of, the Money Laundering Reporting Officer.

(14) Where the Agency or the Commission suspends the approval of appointment of a Money Laundering Reporting Officer under sub-regulation (12), the suspension shall be for an initial period not exceeding 30 days, which may be renewed for such further period not exceeding another 30 days.

(15) For the avoidance of doubt, it is declared that the appointment of a person as a Money Laundering Reporting Officer is valid only

- (a) in relation to the relevant person that appointed him or her; and
- (b) for so long as he or she holds that office in or in relation to the relevant person.

(16) Subject to sub-regulation (12), any person who was appointed and holds office as a Money Laundering Reporting Officer prior to the coming into force of these Regulations (Anti-money Laundering (Amendment) Regulations, 2024) shall, upon the coming into force of the Regulations continue to hold office as a Money Laundering Reporting Officer as if his or her appointment was approved in accordance with this regulation.”.

Made by the Cabinet this 6th day of September, 2024.

(Sgd.) Sandra Ward,
Cabinet Secretary.