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NON-PROFIT ORGANISATIONS (ANTI-MONEY LAUNDERING AND COUNTERING TERRORISM FINANCING) REGULATIONS, 2022

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OFFICE OF THE ATTORNEY GENERAL AND MINISTRY OF LEGAL AFFAIRS

S.I. No. 30 of 2022

NON-PROFIT ORGANISATIONS ACT, 2019

(NO. 25 OF 2019)

NON-PROFIT ORGANISATIONS (ANTI-MONEY LAUNDERING AND COUNTERING TERRORISM FINANCING) REGULATIONS, 2022

The Minister, in exercise of powers conferred by section 32 of the Non-Profit Organisations Act, 2019 (*No. 25 of 2019*) makes the following Regulations —

1. Citation.

These Regulations may be cited as the Non-Profit Organisations (Anti-Money Laundering and Countering Terrorism Financing) Regulations, 2022.

2. Interpretation.

In these Regulations—

"**Act**" means the Non-Profit Organisations Act, 2019 (*No. 25 of 2019*);

"**anti-money laundering legislation**" means the Proceeds of Crime Act, 2018 (*No. 4 of 2018*);

"**beneficiary**" means a natural person, or group of natural persons, receiving charitable, humanitarian or other types of assistance through the services of a non-profit organisation;

"**Financial Intelligence Unit**" has the meaning given in section 2 of the Financial Intelligence Unit Act (*Ch. 367*);

"**money laundering**" has the meaning assigned under section 2 of the Proceeds of Crime Act 2018 (*No. 4 of 2018*);

"**officer**" includes an employee or volunteer of the non-profit organisation as designated by the non-profit organisation;

"**partner**" means a person who is funded to implement a project or deliver aid on behalf of the non-profit organisation;

"**senior officer**" means a senior employee or other volunteer designated under regulation 5(a);

"**suspicious transaction**" refers to any matter required to be reported under section 12 of the Proceeds Of Crime Act, 2018;

"**terrorism financing**" refers to the elements of the offence under section 15 of the Anti-Terrorism Act, 2018 (*No. 27 of 2018*);

"**countering terrorism financing legislation**" means the Anti-Terrorism Act, 2018 (*No. 27 of 2018*) and any other legislation governing counter terrorism financing.

3. Application of Regulations.

(1) These Regulations shall apply to all registered non-profit organisations.

(2) Notwithstanding paragraph (1) these Regulations shall not apply to any category of non-profit organisations that the Minister may, by Order, declare as being exempt from these Regulations.

(3) Prior to the making of an Order under paragraph (2), the Minister shall have regard to —

(a) whether the category of non-profit organisation disburses funds to the public or raises funds from the public; and

(b) the money laundering or terrorism financing risk profile of the category of non-profit organisation.

4. Functions of Registrar under these Regulations.

The Registrar shall ensure that every non-profit organisation implement and maintain systems and controls to prevent and detect money laundering and terrorism financing and in doing so, shall —

(a) monitor the compliance by non-profit organisations with the requirements of these Regulations;

(b) monitor the effectiveness of these Regulations to —

(i) protect non-profit organisations from being used for money laundering and terrorist financing; and

(ii) ensure the compliance of The Bahamas with its international obligations, to the extent they apply to non-profit organisations;

(c) undertake periodic review of the non-profit organisations sector in The Bahamas in order to identify the features and types of non-profit organisations that are at risk of being used for money laundering and terrorist financing to ensure effective implementation measures;

(d) ensure effective cooperation, coordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on non-profit organisations;

(e) carry out investigations to examine non-profit organisations suspected of either being exploited for money laundering and terrorism financing or actively supporting, terrorist activity or terrorist organisations;

(f) ensure that full access to information on the administration and management of particular non-profit organisations (including financial and programmatic information) may be obtained during the course of an investigation;

(g) establish appropriate mechanisms to ensure that, when there is suspicion or reasonable grounds to suspect that a particular non-profit organisation is —

(i) involved in money laundering or terrorism financing or is a cover or disguise for fund raising by a terrorist organisation;

(ii) being exploited as a conduit for money laundering or terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or

(iii) concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of money launderers, terrorists or terrorist organisations,

that such information is promptly shared with the Commissioner of Police and the Financial Intelligence Unit, in order to take preventive or investigative action;

(h) undertake outreach and educational programs to raise and deepen awareness among non-profit organisations as well as the donor community with the objective of protecting the non-profit organisation sector in The Bahamas from being used for money laundering and terrorism financing; and

(i) review the adequacy of measures, including laws that relate to the subset of the non-profit organisation sector in order to take proportionate and effective actions to address money laundering and terrorism financing.

5. General duties of non-profit organisations relating to anti-money laundering and countering terrorism financing.

Every non-profit organisation shall—

(a) designate an officer as its senior officer (whether or not the person is a non-profit organisation trustee of the non-profit organisation) to be responsible for overseeing compliance by the non-profit organisation with these Regulations;

(b) ensure that its senior officer and any other relevant officer receive anti-money laundering and countering terrorism financing training as may be required by the Registrar;

(c) require its officers to disclose any previous convictions for money laundering or terrorism financing offences;

(d) report any suspicious transaction relating to money laundering or terrorism financing to the Financial Intelligence Unit;

(e) keep a record of all suspicious transactions;

(f) conduct ongoing monitoring of its relationships with beneficiaries, donors and partners in accordance with such guidelines as may be issued by the Registrar;

(g) take reasonable measures to verify the identity of beneficiaries, partners and donors, in respect of any donation that is one hundred thousand dollars and above whether the donation is made as one lump sum or as aggregate sums, over a period of one year.

6. Duty of non-profit organisations where reasonable risk of money laundering or terrorism financing.

A non-profit organisation shall take measures, where there is a reasonable risk of money laundering or terrorism financing, to confirm and appropriately record information on the identity, credentials and good standing of its beneficiaries, donors, associate non-profit organisations and partners.

7. Non-profit organisations to establish policies and processes.

(1) Every non-profit organisation shall establish policies and processes relating to—

(a) carrying out of proper due diligence, in accordance with regulation 5 on the individuals and organisations that give money to, receive money from, or work closely with, the non-profit organisation;

(b) identifying international transactions and record-keeping and analysis thereof separately from domestic transactions;

(c) record-keeping and internal controls to ensure that all funds are fully accounted for, and are spent in a legitimate manner that is consistent with the purpose and objectives of the non-profit organisation's stated activities; and

(d) the monitoring and management of compliance with and the internal communication of such policies and processes intended to

prevent or detect activities related to money laundering and terrorism financing which shall include—

(i) the reporting by anyone in the non-profit organisation to whom information or other matters come in the course of the operations as a result of which he knows or suspects that a person is engaged in money laundering or terrorism financing is required to disclose it to the senior officer in order to comply with sections 12 and 13 of the Proceeds of Crime Act, 2018; and

(ii) where a disclosure is made to the senior officer he shall consider it in the light of any relevant information which is available to the non-profit organisation and determine whether it gives rise to knowledge or suspicion that a person is engaged in money laundering or terrorism financing. Suspicious transactions are required to be submitted to the Financial Intelligence Unit without delay.

(2) The policies and processes referred to in paragraph (1) shall be proportionate to the risk of money laundering and terrorism financing associated with the non-profit organisation.

(3) For the purposes of sections 12 and 13 of the Proceeds of Crime Act, 2018, the senior officer of the non-profit organisation shall have the obligation of the Money Laundering Reporting Officer.

8. Offence.

(1) A person who —

(a) does any act; or

(b) fails to do any act,

that does not comply with these Regulations, commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to a term of imprisonment for two years or to both fine and imprisonment.

(2) Where any body corporate is convicted of an offence against these Regulations every director or officer concerned in the management of is guilty of the offence where it is proved that the act or omission that constituted the offence took place with that person's knowledge, authority, permission or consent, express or implied.

Made this 12th day of May, 2022

Signed
RYAN PINDER
Minister Responsible for Non-Profit Organisations