



BELIZE

**MONEY LAUNDERING (PREVENTION) ACT
CHAPTER 104**

REVISED EDITION 2003
SHOWING THE SUBSIDIARY LAWS AS AT 31ST OCTOBER, 2003

This is a revised edition of the Subsidiary Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2000.

ARRANGEMENT OF SUBSIDIARY LAWS



BELIZE

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This edition contains a consolidation of the following laws-

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CHAPTER 104

MONEY LAUNDERING (PREVENTION) ACT
(COMMENCEMENT) ORDER

ARRANGEMENT OF PARAGRAPHS

1. Short title.

 2. Commencement.
-

CHAPTER 104

104 of 1996.
Act 12 of 1996.

MONEY LAUNDERING (PREVENTION) ACT
(COMMENCEMENT) ORDER

(Section 30)

[27th July, 1996.]

Short title.

1. This Order may be cited as the

MONEY LAUNDERING (PREVENTION) ACT
(COMMENCEMENT) ORDER.

Commencement
of Act No. 12 of
1996.

2. In exercise of the powers vested in me by section 30 of the Money Laundering (Prevention) Act, 1996 (No. 12 of 1996) and all other powers thereunto me enabling, **IDEAN O. BARROW**, Attorney General, do hereby appoint the **1st day of August, 1996** as the day on which the said Act shall come into force.

MADE this 27th day of July, 1996.

(DEAN O. BARROW)

Attorney General

Minister Responsible for Legal Affairs

CHAPTER 104

MONEY LAUNDERING (PREVENTION) REGULATIONS

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.
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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.

SCHEDULE

CHAPTER 104**MONEY LAUNDERING (PREVENTION) REGULATIONS***(Section 29)*

6 of 1998.
 Act 12 of 1996.
 Act 5 of 2002.

[24th January, 1998.]

Short title.

1. These Regulations may be cited as the

MONEY LAUNDERING (PREVENTION) REGULATIONS.

Interpretation.

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

CAP. 104.

(a) “Act” means the Money Laundering (Prevention) Act;

(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”
- (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; First Schedule. CAP. 104.
- (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.
- (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. CAP. 104.
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 Business relationships.

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.

Systems and training to prevent money laundering.

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 -

- (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 -

CAP. 104. “enactments relating to money laundering” means the Act and regulations made thereunder; and

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

Identification procedures; business relationships and transactions.

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-

- (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.

Payment by post,
etc.

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-

(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 International Banking Act; or
- (b) any other institution prescribed by the Minister and which is a licensed credit or financial institution.

CAP. 263.
CAP. 267.

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.

CAP. 104.

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;
- (c) where the applicant for business is acquiring an equity interest in any type of collective investment

CAP. 263.

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.

CAP. 104. (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 -

- (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. CAP. 104.

- (a) obtains any information; and
- (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.

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 issue guidance notes to financial Institutions. No. 12 of 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.

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

(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.

CAP. 104.

(4) The Supervisory Authority shall maintain at a 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.

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.

Transitional Provisions.

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

Commencement.

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

(DEAN O. BARROW)
Attorney General

SCHEDULE
[Regulation 15 (1)]

CENTRAL BANK OF BELIZE OFFICE OF THE GOVERNOR
CURRENCY DECLARATION FORM

PART I- Identity of Person/Organization Exporting Currency			
Name (Last)	(First)	(Middle)	Passport No. & Country of Issue
Address in Belize		Business, Occupation or profession	
Address (other)		Country to which currency is to be exported	
PART II- Type and Amount of Currency			
Type of Currency		Amount	U.S.\$ Equivalent
Banknotes			
Coins			
other			
PART III- Other questions to be answered by Individual/Organisation Exporting Currency			
- Are you exporting the equivalent of Belize \$20,000.00 or more? _____			
- Did you report to the Supervisory Authority that you were exporting the equivalent of Belize \$20,000.00 or more? _____			
- What is the purpose of exporting the currency? _____			
- Is the currency to be exported not related to money laundering? _____			
PART IV - Declaration			
I _____, declare that the information contained in this (Print Name Clearly) Currency Declaration is true, correct and complete to the best of my knowledge and belief.			
_____ <i>Signature</i>		_____ <i>Date</i>	
Money Laundering (Prevention FORM 001)			



CENTRAL BANK OF BELIZE

Office of the Governor

Money Laundering (Prevention)

Guidance Notes

for

BANKS AND FINANCIAL INSTITUTIONS, 1998.

January 1998

THE SUBSIDIARY LAWS OF BELIZE

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Introduction - Explanatory Notes

The advent of new legislation in Belize – *The Money Laundering (Prevention) Act (the Act)* - has necessitated the preparation and distribution of *Guidance Notes (Notes)* to facilitate the implementation of the Act and Regulations issued thereunder. In preparing these Notes, the Central Bank has sought to take into account not only the views of financial institutions and offshore practitioners in Belize, but also of developments in other jurisdictions.

Most financial institutions are aware of the need to implement proper procedures to combat money laundering, as the potential for abuse of the financial system in Belize by money launderers is a growing concern, particularly in light of Belize's attempts to develop its offshore financial services industry. The co-operation of all institutions to combat money laundering continues to be essential.

These Notes are designed specifically to cover *all categories of banks licensed in Belize, all deposit-taking and lending non bank financial institutions, and trust companies*. In these notes, these entities will be referred to as "financial institutions". Where such financial institutions have branches or subsidiaries in other jurisdictions they are required to ensure that such branches or subsidiaries adhere to these Notes or to those standards prevailing in the host jurisdictions especially where they are more rigorous.

Most of the contents of these Notes may generally be applied to other institutions carrying any of the activities listed in the **FIRST SCHEDULE** to the Act. (vide **APPENDIX I**).

SECTION I - BACKGROUND

What is Money Laundering?

1. Money laundering is a popular term used to describe the methods by which “dirty money” - usually cash received from criminal activities – is processed through the financial system and converted into “clean money”, making it difficult to trace to the person originating the transaction or to the criminal origin of the funds. If undertaken successfully, it also allows criminals to maintain control over those funds and, ultimately, to provide a legitimate cover for their source of income.

Stages of Money Laundering

2. A criminal’s objective in laundering illicit proceeds is to:

Conceal the origin and the ownership of the funds;

Change the form of the money to re-cycle it into the economy;
and

Control the movement of the funds to avoid detection.

3. The process of money laundering usually occurs in the following three stages:

(a) The first is the *placement* of proceeds derived from criminal activity into the financial system. The objective of this is to convert funds from cash to a financial instrument, such as a bank account or insurance product.

(b) The second is *layering* or the separating of the illicit proceeds from its source by creating a complex layer of financial

transactions designed to obscure the audit trail and sever the link with the original crime.

- (c) Finally, there is *integration*, the process of attaching legitimacy to criminally derived proceeds so that no suspicion of its origins remains. If placement and layering have succeeded, integration schemes give the appearance of legitimizing the proceeds.

4. The most common form of money laundering encountered by financial institutions is the laundering of cash which criminals or their agents seek to deposit in the financial system or exchange for items of value. Often the criminal's targets have been deposit-taking institutions. Commonly, the earliest stage for detection and prevention of money laundering is the point where cash seeks entry to the financial system. Once in the system, a sophisticated web of financial transactions may be engineered to complete the laundering process. The following provides some typical examples.

Placement Stage

Cash paid into banks sometimes with the assistance of staff or mixed with the proceeds of legitimate business. Cash may also be physically exported or used to buy high value goods, property or business assets.

Layering Stage

Wire transfers abroad using shell companies or funds disguised as proceeds of legitimate business. Cash may also be deposited in overseas banks. High value goods and assets may be resold for cash.

Integration Stage

False loan repayments or forged invoices may be used as cover for laundered money. A complex web of transfers both domestically and internationally may be used to make tracing of the original source of

funds virtually impossible. When businesses and other assets are involved, the income earned from those assets appears to be “clean”.

Vulnerability of Banks to Money Laundering

5. Efforts to combat money laundering should focus on those points in the process where the launderer’s activities are more easily recognized. In the case of banks and other deposit-taking institutions, these efforts should be concentrated on the deposit taking procedures, that is, the placement stage. In those cases where cash is not involved, staff should be aware of the more sophisticated schemes that may be utilized by launderers to place their dirty money.

6. The most common form of money laundering that financial institutions will encounter involve the accumulation of cash transactions which will be deposited in the financial system or used to acquire assets. Electronic funds (wire) transfer systems increase their vulnerability by enabling the cash deposits to be switched rapidly between accounts in different names or different jurisdictions.

7. Because of the large range of services provided by financial institutions, they may be used in the layering and integration stages as well. For instance, mortgage and other loan accounts may be used to create complex layers of transactions.

**SECTION II - BELIZE'S ANTI-MONEY LAUNDERING
LEGISLATION***Money Laundering (Prevention) Act***Money Laundering Offence**

8. Section 3 of this Act makes it an offence for anyone to engage in money laundering as defined under that Act. This offence also includes any attempt or assistance to commit the offence of money laundering. It is important to note that officers and employees of companies engaged in money laundering may also be personally guilty of a money laundering offence if they cannot adduce evidence to show that the offence was committed without their knowledge, consent or connivance. Anyone found guilty of a money laundering offence **shall be punishable with a fine of not less than \$25,000 and up to \$100,000 and/or imprisonment of not less than 3 years and up to 6 years.**

9. The crime that may be subject to money laundering offences are prescribed in the **FIRST SCHEDULE** to the Act. (vide **APPENDIX II**). They include serious crimes such as drug trafficking, counterfeiting, false accounting, forgery, illegal deposit taking, arms trafficking, robbery and theft involving more than \$ 10,000, and fraud.

Tipping Off

10. It is an offence under the Act for a person who knows or suspects that an investigation into money laundering was, is or will be conducted to divulge such information if in doing so the investigation is likely to be prejudiced. **Punishment for such “tipping-off” is a fine of up to \$50,000 and/or imprisonment of up to 3 years.**

Falsification, Destruction, Concealment and Disposal of Documents

11. It is an offence for any person to falsify, destroy, conceal or otherwise dispose of documents or material that may be relevant to a money laundering investigation. **Such offence may attract a fine, of up to \$100,000 and/or imprisonment of up to 5 years.**

Failure to Report Suspicion of Money Laundering

12. Section 13 of the Act makes it an offence for any financial institution or its employees to fail to promptly report any suspected money laundering activity. Failure to make such reports or to wilfully falsify such reports constitutes an offence that is **punishable with a fine of up to \$50,000.** The licence of any such financial institution may also be suspended or revoked by the relevant authority.

Money Laundering (Prevention) Regulations

13. The Regulations place additional administrative duties and requirements on the financial sector that go beyond the Money Laundering (Prevention) Act. In particular, the relevant financial business covered by the Regulations are defined by Regulation 4 which states that it constitutes any such business as described in the **FIRST SCHEDULE** of the Act including domestic and offshore banks, insurance companies, building societies, credit unions, trust business, money lending/pawning, money exchange houses, etc. (vide **APPENDIX I**).

14. The Regulations do not differentiate between principal activities carried out by a business and those that may be ancillary to its main line of business. Therefore, it is incumbent on businesses to assess the extent to which the Regulations apply to the relevant financial business that they undertake and take a reasonable but common sense approach as to where their activities cease to be applicable for the purposes of the Regulations.

15. Regulation 5 requires financial institutions to establish a system of formal internal control procedures to deter and detect money laundering. It follows from this that management of financial businesses should formulate a formal statement of policy that clearly enunciate their commitment to combat the abuse of their facilities for the purpose of money laundering. When read with these Notes, the Regulations establish clear responsibilities and accountabilities to ensure that policies, procedures and controls are introduced and maintained which deter criminals from using their facilities for money laundering. These Regulations are described in greater detail in the sections that follow and cover:

- control systems and training requirements;
- identification requirements and procedures;
- record keeping procedures;
- internal reporting procedures.

16. **Failure to comply with the requirements of Regulation 5 constitutes an offence that is punishable with a fine of up to \$10,000.**

SECTION III - INTERNAL CONTROLS, POLICIES AND PROCEDURES

17. **“Knowing Your Customer”** - The strength of any internal control procedures to deter and detect money laundering is best measured by how well the financial institution knows with whom it is doing business. How well an employee knows its customer and how well that employee knows the financial institution’s internal anti-money laundering control procedures are the most effective weapons that financial institutions have to combat money laundering.

Designated Officer(s)

18. Regulation 12 requires financial institutions to formally designate a **‘money laundering reporting officer’** to be responsible for anti-money laundering processes. This person is to report to the Supervisory Authority or law enforcement authorities any suspicion of money laundering activity. This officer shall also establish adequate communication lines to facilitate co-operation and liaison with the Supervisory Authority in the discharge of his duties under the Act and Regulations.

19. Every financial institution should ensure that the Reporting Officer obtains adequate regular training on the subject of money laundering and introduces management information systems and controls to ensure that suspicions coming to the attention of its employees are promptly analyzed and reported to the Supervisory Authority or the relevant law enforcement authorities.

20. It shall be the duty of the person(s) carrying on the functions of internal auditor to ensure compliance with policies, procedures and controls relating to money laundering.

21. Financial institutions are encouraged to establish anti-money laundering systems of control and procedures that are more rigorous than the statutory requirements.

SECTION IV - IDENTIFICATION PROCEDURES

22. Regulation 6 states that in conducting its business, a financial institution should not form a business relationship or carry out a “one-off transaction” with another person unless it has obtained satisfactory evidence of identity as soon as is reasonably practicable after contact is first made between the financial institution and the person applying for business.

23. In deciding what constitutes a reasonable span of time to obtain evidence of a person’s identity, Regulation 10 states that a financial institution should have regard to:

- (a) all circumstances of the case;
- (b) the geographical locations of the parties;
- (c) whether it is practical to obtain the evidence before commitments are entered into or money changes hands; and
- (d) the nature of the business relationship or one-off transaction.

It follows, therefore, that a bank can start processing the business or application for opening an account immediately, provided that it promptly takes appropriate steps to verify the customer’s identity. **Please note that this requirement does not apply retrospectively and applies only to new business relationships and one-off transaction.**

24. For purposes of the Regulations, identification requirements apply to all types of banking business including deposit taking, commercial and mortgage lending, credit card loans and other similar undertakings.

When Must Identity be Verified

25. In deciding when to verify the identity of an applicant for business, the financial institution shall take into account the exemptions and concessions set out in Regulations 6, 8, and 9. **Irrespective of any exemptions (set out below), in all cases where money laundering is known or suspected, evidence of identity must be obtained and reported in accordance with the procedures set out in Part VI of these Notes.**

Identification Procedures: Exemptions

26. Regulation 9 states that no steps are required to obtain evidence of a person's identity in the following circumstances:

- (i) in the case of a “one-off transaction” or a series of linked “one-off transactions” where the amount is less than \$20,000;
- (ii) 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 –
 - (a) that person falls within sub-paragraph (i) above; or
 - (b) there are reasonable grounds for believing that the conditions mentioned in Regulation 8(5)(a) and (b) are fulfilled in relation to him. Regulation 8 (5) exemptions apply only where the applicant for business:
 - acts in the course of a business in relation to which an overseas regulatory authority exercises

regulatory functions and control; and

- 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;

(iii) 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 and that amount is less than \$20,000.

One-Off Transactions: Single or Linked (Regulations 6 & 9)

27. For the purpose of these Notes, single transactions that are separated by an interval of 3 months or more need not, in the absence to specific evidence to the contrary, be treated as linked.

28. The need to aggregate linked transactions is designed to identify those who might structure their business to avoid identification procedures and controls. In recognizing and aggregating linked transactions amounting to \$20,000 or more, financial institutions may use existing systems. No additional systems requirements are imposed by the Regulations.

29. Regulations 8(5) and 9(1) state that where an applicant for business who is effecting a one-off transaction is introduced by a branch or subsidiary of the financial institution or by another financial institution licensed in Belize, or a regulated institution from another country with at least equivalent money laundering legislation, it is not necessary to verify the identity of the applicant even if the transaction is in excess of \$20,000. Under these circumstances, the introducer only needs to provide the name of the customer and give a written assurance that evidence of identity will have been taken and recorded. This assurance can be given separately by the introducer for each customer or by way of a general written assurance.

30. The exemption under Note 29 applies only to one-off transactions and not to business relationships being established. In the case of the latter, evidence of the applicant's identity must be obtained either from the applicant or from the introducer, whichever is more expedient.

Verification of Identity Procedures: General

31. The primary duty to verify identity using the best evidence and means available rests with the management of financial institutions. Although the Regulations do not prescribe what may or may not represent adequate evidence of identity, banks and financial institutions are expected to reasonably adhere to good industry practice as set out in this Part of the Notes.

32. Section 12(1) of the Act requires financial institutions to keep business transaction records for a period of 5 years after the termination of a business transaction. This requires that the records of the supporting evidence and methods used to verify identity must be retained for at least 5 years after an account is closed or a business relationship ended.

33. It is important for financial institutions to verify that they are dealing with real persons (natural, corporate or legal). Whenever possible, the prospective customer should be interviewed personally.

34. Although there is no single form of identification that can be fully guaranteed to be genuine, the best identification documents may be those that are the most difficult to obtain illicitly. For practical purposes, a person's current address is an essential part of identity and should be verified.

35. In respect of joint accounts where the surname and/or address of the account holders differ, the name and address of all account holders, not only the first named, should normally be verified.

36. Where a customer is introduced by one part of a financial institution to another, it is not necessary for identity to be re-verified or for the records to be

duplicated: providing the identity of the customer has been verified by the introducing branch or subsidiary in line with Belizean money laundering requirements and those identification records are freely available on request to the other parts of the group.

Account Opening for Personal Customers

Belizean Residents

37. (i) Obtain their true name(s) used; permanent Belize address; date of birth.
- (ii) Verify name(s) using official documents that bear photographs such as passport, drivers license, social security card, voters card, armed forces identity card, and employer identity card. Record this information. Other supporting documents may be used but not solely for verification purposes. These are those that are easily obtained in any name, eg. credit cards, student cards.
- (iii) In verifying the current permanent address, the following **original** documents may be used: voters card, recent utility bills, telephone directory and tax bill.
- (iv) It is not sufficient to accept an introduction from a respected customer of the bank who is personally known to the Manager or another member of staff. Under such circumstances, verification procedures as stated under (iii) above are still required.
- (v) There may be exceptional circumstances in which, because of the nature of the case, the Manager in Belize may authorize the opening of an account or a significant one-off transaction without verification of identity. Such a case may be where

young persons and the elderly are involved. This authority may not be delegated. Any decisions taken must be recorded in writing, together with a description of the circumstances and the basis of the decision and the written record should be maintained for the statutory period of 5 years.

Opening Accounts by Post

38. Particular care should be taken when dealing with applications for accounts providing chequing and money transmission facilities which are opened by post and where face to face contact with customers makes photographic evidence of identity inappropriate. Every effort should be made to ensure that personal verification and the guidance given in paragraph 37(iii) above for verification of address has been followed in all respects as a minimum.

Postal and Telephone Business-Fixed Term and Fixed Amounts

39. Regulation 7 provides that where a customer would normally be required to produced evidence of identity before entering into business, save where it is reasonable in all the circumstances for payment to be made by post, or electronically, or for the details of the payment to be given by telephone, then if payment is to be made from an account held in the customer's name at another bank or financial institution, identification requirements can be waived. In such circumstances, a record must be made of the customer's drawee bank/branch sorting code number and account number, as the case may be. **This will only be allowable where the bank or financial institution is licensed in Belize or in another country which has money laundering legislation at least as rigorous as Belize.**

40. A cheque drawn on another bank or other deposit-taking institution may only be relied upon where there is no apparent variation between the name on the application form and the name on the cheque. Payments from joint accounts are considered acceptable for this purpose.

41. **Any waiver of verification requirements for postal business or otherwise shall not apply where there is any suspicion of money laundering.**

42. In the rare event that an account opening institution is not satisfied with documentary evidence of identity as required under Note 37 above because of exceptional circumstances surrounding the applicant for business, and it is of the opinion that the information may be available at another bank or financial institution, it may approach another institution, on a non-competitive basis, for the purpose of verifying identity. Such requests should be answered by the requested institution without undue delay. The format for such requests is to be decided by each institution depending on the nature of the information required but may include at a minimum verification of the customer's full name, address, date of birth, account number (if known), and confirmation of signature.

Account Opening Procedures for Non-Resident Persons

43. Although it is impractical to set out detailed identification requirements for non-residents, an attempt should be made to obtain evidence equivalent to those required for residents. At a minimum, passport information and other national identity cards will be available and should be used. In addition, banker's reference from the applicant's country of residence should also be requested.

44. In the event non-resident customers wish to open accounts by post, it is necessary to see verification of identity from a reputable bank or financial institution in the applicant's country of residence. Verification detail should include, at a minimum, the full true name(s), current permanent address and verification of signature.

Account Opening for Clubs, Societies, Associations and Charities

45. The legality of the organization should be established by requesting, for example, a copy of the constitution and the identity of at least two signatories (authorized by resolution or other similar means), if there is more than one.

Any changes to the signatories should similarly be verified.

Unincorporated Businesses

46. In the case of partnerships and other unincorporated businesses whose partners/directors are not known to the financial institution, the identity of at least two partners should be verified in line with the requirements for personal customers. In certain cases, the partnership agreement or other similar document, as well as formal authorization to open an account, should be obtained.

Trust, Nominee and Fiduciary Accounts

47. Where an applicant for business who wishes to either open an account or effect a one-off transaction is a trustee, nominee or a person acting in a fiduciary capacity (a “**fiduciary**”) in relation to a third party, the financial institution should obtain satisfactory evidence of the identity of the fiduciary, and the nature of his fiduciary capacity and duties. The fiduciary should be requested to confirm in writing that he has verified the identity of any and every party (including the fact that there are or may be discretionary or contingent beneficiaries) for whom he/she is acting in the particular application and the source or origin of the assets under his control or which he holds as trustee or nominee. Banks and financial institutions may also consider it desirable to obtain a copy of the trust documentation, if applicable.

“Client Accounts” opened by intermediaries

48. In all cases where an applicant for business is or appears to be acting on behalf of another, Regulation 8 requires the financial institution not only to verify the identity of the intermediary but also to take all reasonable steps to identify the person(s) on whose behalf the applicant for business is acting.

49. Intermediaries may be stockbrokers, fund/asset managers, solicitors, accountants, real estate agents and other professional service providers who frequently hold funds on behalf of their clients in “client accounts”.

50. Basically there are four scenarios that may be encountered:
- (i) **The Intermediary is a licensed financial institution in Belize that is covered by the Act and the Regulations.** In this case the financial institution need concern itself only with its immediate customer - **the intermediary.**
 - (ii) **The Intermediary is a firm of solicitors or accountants whose investment-related activities are covered by the Act and the Regulations.** In such cases, solicitors and accountants will generally open “**omnibus or umbrella accounts**” that will contain the proceeds of a number of activities that are not designated as relevant financial business under the Regulations. Verification of identity for the underlying clients on whose behalf these accounts are opened and transactions undertaken will therefore not have been undertaken in accordance with the Regulations and these Notes.

In the event that a money laundering enquiry arises in respect of such a client account, the Supervisory Authority and/or the law enforcement agencies will seek information directly from the intermediary as to the identity of the underlying client and the nature of the relevant transaction.

- (iii) **The Intermediary is a regulated financial institution from a country other than Belize which has equivalent or more rigorous money laundering legislation.** In such a case Regulation 8 provides that the requirement to take reasonable measures to establish the identity of the person on whose behalf the intermediary is acting can be satisfied by obtaining from the intermediary account holder a general undertaking in writing that he will have obtained and recorded evidence of the identity of any client whose funds he deposits in the account.

Countries that qualify as having equivalent or more rigorous money laundering legislation are members of the Financial Action Task Force (FATF) and the Caribbean Financial Action Task Force (CFATF). A current list of these countries is attached at **APPENDIX VI**.

- (iv) **The Intermediary is from a country without equivalent money laundering legislation.** This will require financial institutions to take reasonable measures to establish the identity of the underlying client. What is reasonable will depend on the circumstances of each case having regard to the nature of the intermediary and the degree of confidence in his integrity, the type of business being transacted by the client and any legal prohibitions that would preclude the intermediary from divulging client information. If there are reasonable grounds to suspect that the intermediary is simply acting as a “**front**”, a general undertaking that the identity of clients has been obtained will not be adequate and full verification procedures will be required if the account opening and/or transactions are to proceed.

51. In cases where a financial institution satisfies all of the provisions of Note 50 above but is concerned that there may be undisclosed principals (whether individual or corporate), it should monitor the account activity closely for unusual or suspect transactions.

Account Opening for Corporate Customers

52. **Corporate accounts are one of the most likely vehicles for money laundering, particularly when fronted by a legitimate trading company. It is therefore important to identify directors, account signatories and the nature of the business. If not already known, the financial institution should establish the identity of all those persons with whom it deals in relation to the company as if they were “Personal Customers”.**

53. Before a business relationship is established, measures should be taken by way of a company search and/or other enquiries that the applicant company has not been, or is not in the process of being dissolved, struck off, wound-up or terminated. In addition, if changes to the company structure or ownership occur subsequently, or suspicions are aroused by a change in the profile of deposits/payments through company accounts, further checks should be made.

Companies Registered in Belize

54. The following documents should be obtained in respect of 'new accounts':

- (a) The original or certified copy of the Certificate of Incorporation;
- (b) The memorandum and articles of association;
- (c) Resolution of the Board of Directors, Powers of Attorney or other similar authority given by the directors to open the account and confer authority on those who will sign and operate it;
- (d) a file search at the Registrar of Companies can be made from time to time;
- (e) the name and address of the beneficial owner and/or the person on whose instructions the signatories on the account are to act or may act (if appropriate).
- (f) bank or credit reference (if appropriate).

Companies Registered Abroad

55. The institution should seek to identify the directors and influential shareholders of the company in accordance with the requirements for

non-Belizean personal customers. These steps should extend as far as practicable to identifying those who ultimately own and control the company. Evidence that the individual representing the company has the necessary authority to do so should be sought and retained.

56. Comparable documents and information to those listed for Belizean companies should be obtained as far as is practicable when opening accounts for non-Belizean companies. Financial institutions are expected to exercise judgment and take account of the place of incorporation of the company, whether the company is quoted on a recognized stock exchange, and the background against which documents or other evidence is produced. It is particularly important that all those with whom the financial institution deals or conducts business are properly identified in accordance with the requirements for Personal Customers (see above).

Provision of Safe Custody and Safety Deposit Boxes

57. Special precaution needs to be exercised in relation to requests to hold boxes, parcels and sealed envelopes in safe custody. Where such facilities are made available to non-account holders, the identification procedures set out in these Notes should be followed.

SECTION V - RECORD KEEPING

58. Section 12 of the Act and Regulation 11 require financial institutions to retain records concerning customer identification and transactions for use as evidence in any money laundering investigations. These record keeping requirements are essential constituents of the audit trail procedures that would assist in money laundering investigations and prosecutions.

59. Regulation 11 states that these records shall be maintained for a period of **at least 5 years** for the following:

- (a) in the case of business relations formed or one-off transactions carried out, the financial institution shall maintain a record showing evidence of the identity of the applicant for business for five years after the institution has ceased carrying on relevant financial business; and
- (b) in the case of each transaction carried out by the financial institution while it is in business, it shall maintain a record of particulars for each transaction carried out for 5 years after the date when all activities related to such transactions were completed.

Where formalities to end a business relationship have not been undertaken, but a period of 5 years has elapsed since the date when the last transaction was carried out, then the 5 years retention period commences on the date of the completion of the last transaction.

Documents Verifying Evidence of Identity of Applicant for Business

60. For purposes of identification records, Regulation 11 further specifies that a financial institution shall establish and maintain a record that:

- (i) indicates the nature of the evidence obtained;

- (ii) comprises a copy of the evidence or provides such information as would enable a copy of it to be obtained or sufficient information to enable the details of identity to be re-obtained.

61. Section IV of these Notes sets out the nature of the evidence to be obtained.

Transaction Records

62. For purposes of Regulation 11, financial institutions should maintain a record of all transactions undertaken with any person whose identity is required to be verified in the form of original documents or copies which are admissible in court proceedings. These will be records in support of entries in the accounts in whatever form is appropriate to the business of the financial institution such as credit/debit slips or cheques, etc.

63. In compiling a satisfactory audit trail and financial profile of suspected money laundering activities, investigating authorities should be able to ascertain, at a minimum:

- (i) the beneficial owner of an account;
- (ii) the volume of funds flowing through an account;
- (iii) for certain transactions:
 - the origin of funds (if known);
 - the form in which funds were deposited or withdrawn;
 - the identity of the person undertaking the transaction;
 - the destination of funds;
 - the form of instruction and authority.

64. It is recognized that it is unrealistic to expect copies of all material to be retained indefinitely and it is accepted that some prioritization is necessary. The

objective is to allow the retrieval of relevant information, to the extent that it is available, **without undue delay**.

65. Where a report has been made to the appropriate authorities of suspected money laundering activities or where they relate to on-going investigations, they should be retained until it is confirmed by the relevant authority that the case has been closed.

Format of Records

66. A financial institution should ensure that (however they may be stored) any records required to be maintained under the Act, Regulations and these Notes are capable of retrieval and are admissible in court proceedings. Special attention needs to be paid to this requirement when it relates to computerized evidence, records on microfilm, magnetic tape or any other form of mechanical or electronic data retrieval mechanism.

Wire Transfer Transactions

67. A financial institution should do all it reasonably can to ensure that details of senders and beneficiaries are incorporated in all payment messages sent via electronic payment systems. This includes credit transfers both domestic and international and **SWIFT MT 100** (customer transfer) messages. **This does not include messages where the sender and beneficiary are both banks acting on their own account.** Records of all electronic payments and messages must be retained for a minimum of 5 years.

**SECTION VI - RECOGNITION AND REPORTING OF
SUSPICIOUS TRANSACTIONS**

68. Section 12 of the Act requires all financial institutions to report suspicious transactions promptly to the Supervisory Authority (currently the Governor of the Central Bank). Regulation 12 further sets out the reporting procedures to be followed by reporting institutions.

Recognition of Suspicious Transactions

69. As the types of transactions which may be used by money launderers are almost unlimited, it is difficult to define precisely what constitutes a suspicious transaction. **However, a suspicious transaction will often be one which is inconsistent with a customer’s known, legitimate business or personal activities or with the normal business for that type of customer.** Therefore, the first key to recognition is knowing enough about the customer’s business to recognize that a transaction, or series of transactions, is unusual.

Examples of Suspicious Transactions

70. Examples of what might constitute suspicious transactions are given in **APPENDIX III. These are not intended to be exhaustive and only provide examples of the most basic ways by which money may be laundered.** However, identification of any of the types of transactions listed in this Appendix should prompt further investigation and be a catalyst towards making at least initial enquiries about the source of funds.

Reporting of Suspicious Transaction - Money Laundering Reporting Officer

71. Regulation 12 imposes a statutory obligation on all staff to report suspicions of money laundering and requires the designation of a **“money laundering reporting officer”** to whom such reports are to be made. In these Notes, this person is called the **“Money Laundering Reporting Officer”**. It

would be acceptable, however, if the internal reporting practice of financial institutions require that such unusual or suspicious transactions be drawn initially to the attention of supervisory management to ensure that there are no known facts that would negate the suspicion before reporting further to the Money Laundering Reporting Officer or an appointed deputy.

72. All financial institutions should establish written internal reporting procedures to ensure:

- (i) that all employees know to whom they should report any suspicions of money laundering activity or behaviour; and
- (ii) that there is a clear reporting chain under which those suspicions will be passed without undue delay to the Money Laundering Reporting Officer.

Once an employee has reported his/her suspicion to the Money Laundering Reporting Officer he/she has fully satisfied the statutory obligation.

The Role of the Reporting Officer (the “Reporting Officer”)

73. The Reporting Officer should be sufficiently senior to command the necessary authority. This person may be a senior member of a financial institution’s internal audit or fraud unit or the Chief Executive Officer of a small organization.

74. In making a judgement as to whether information reported to him gives rise to a knowledge or suspicion of money laundering, he shall consider all relevant information available within the financial institution concerning the person or business to whom the initial report relates. This may include a review of other transaction patterns and volumes through the account or accounts in the same name, the length of business relationship, and referral to identification records held. If after completing this review, he decides that the initial report

gives rise to a knowledge or suspicion of money laundering, then he must disclose this information to the law enforcement agencies.

75. In determining whether information received or contained in a report gives rise to knowledge or suspicion of money laundering, it would be prudent for the Reporting Officer to receive reports in writing and that his determination also be recorded in writing.

76. If the Reporting Officer acts **in good faith** in deciding not to pass on any report of suspected money laundering, he will not be liable for non reporting if the judgement is, later found to be wrong.

Reporting Procedures

77. Section 12 of the Act requires that the Reporting Officer reports to the Supervisory Authority any suspicion of money laundering using the form illustrated in **APPENDIX IV**. Disclosures can be forwarded by post, facsimile or in person. The report should contain sufficient information that would enable an investigating officer to obtain a Court Order if necessary.

78. On receipt of a suspicious report by the Supervisory Authority, the reporting institution may be given written consent to continue with the transaction or to operate the customer's account. However, in exceptional circumstances, such as the imminent arrest of a customer and consequential restraint of assets, consent to continue the transaction or account may not be given. In this case the institution concerned will be made aware of the situation.

79. Following the submission of a suspicious report a financial institution is not precluded from subsequently terminating its relationship with the customer provided it does so for commercial or risk containment reasons and does not alert the customer to the fact of the suspicious report, **since this would constitute the offence of tipping off**. In such situations, close liaison with the Supervisory Authority and/or the Director of Public Prosecutions is clearly desirable to ensure that the interests of all parties involved are fully considered.

80. It is also recognized that as a result of a disclosure, a financial institution may leave itself open to risk of being considered as a constructive trustee¹ if funds are paid out other than to the true owner. The financial institution must therefore make a commercial decision as to whether funds which are the subject of any suspicious report - made either internally or to the Supervisory Authority - should be paid out under instruction from the account holder.

Reporting of Suspicious Transactions - Supervisory Authority

81. Following receipt of a report of suspected money laundering by the Supervisory Authority, Regulation 13 requires the Supervisory Authority to analyze the information in order to form an opinion as to whether the information indicates that money laundering has or may have occurred. In its analyses, the Supervisory Authority may seek supplementary information from the reporting institution. This may be done by way of a Court Order or from other sources depending on the circumstances of the case. The Customer is not to be approached in the initial stages of investigating a disclosure and will not be approached unless criminal conduct is identified.

82. Regulation 13 also requires that once the Supervisory Authority receives a suspicious report and has formed an opinion that money laundering has or may have occurred, he shall pass on that information to the Director of Public Prosecutions and/or to the Police Department for further investigation. The legislation does not permit information to be passed to the Income Tax Department either in Belize or elsewhere for offenses that are not prescribed in the SCHEDULE to the Act.

83. Access to any disclosure made by a financial institution shall be restricted to trained financial investigation officers who have been authorized by the Supervisory Authority, the Police Department or the Director of Public Prosecutions for such purposes.

¹A constructive trust is a trust relationship imposed by law independently of the financial institution's intention.

84. In the event of a prosecution the source of the information shall be protected as far as the disclosure of evidence rules allow. **Maintaining the integrity of the confidential relationship to be established between the Supervisory Authority/law enforcement authorities and reporting institutions is considered to be of paramount importance.**

Feedback from the Investigating Authorities

85. It is recognized that the provision of information provoking the inference that a customer is suspected of involvement in criminal activity might influence the commercial decisions made subsequent to a disclosure by the reporting institution. For this reason, the draft letter at **APPENDIX V** is to be sent by the Director of Public Prosecutions in charge of the investigation. The provision of feedback by the investigating authorities to the reporting financial institution is important to both the law enforcement authorities and the financial institutions. Therefore, general feedback to the financial sector will be provided on a regular basis through the Supervisory Authority.

86. Financial Institutions should ensure that all contact between particular departments/branches and law enforcement authorities is reported back to the Money Laundering Reporting Officer so that an informed overview of the situation can be maintained. In addition, the Director of Public Prosecutions will continue to provide information on request to a reporting institution in order to establish the current status of a specific investigation.

SECTION VIII - EDUCATION AND TRAINING**Statutory Requirements**

87. Regulation 5(1) (b) and (c) requires financial institutions to take appropriate measures to make relevant categories of staff aware of procedures (including policies) which are in place to prevent money laundering. In particular, institutions should provide education and training appropriate to particular categories of staff in:

- (i) its policies and procedures to prevent money laundering;
- (ii) its customer identification, record keeping and other procedures; and
- (iii) the recognition and handling of suspicious transactions.

88. Which categories of staff require training and what training they should receive is a matter for each institution to decide in light of its own circumstances, but the following categories should be considered:

- (i) new employees;
- (ii) cashiers/foreign exchange staff;
- (iii) account opening/new customer staff;
- (iv) administration/operations supervisors and managers;
- (v) money laundering reporting officers.

89. Special arrangements should be made to ensure that the Money Laundering Reporting Officer is fully conversant with the Money Laundering Act, Regulations and these Notes, the reporting and feedback arrangements

with the law enforcement authorities and the Supervisory Authority, and the typology of money laundering.

90. It will also be necessary to make arrangements for refresher training at regular intervals (at least annually for key staff) to remind employees of their responsibilities and to make them aware of any developments in money laundering legislation, these Notes, internal procedures, etc.

APPENDIX I

ACTIVITIES LISTED IN THE FIRST SCHEDULE OF THE ACT

- | | |
|--|---|
| 1. Banking Business and financial business as defined in the Banks and Financial Institutions Act, 1995 and in the Schedule to that Act; | contacts, foreign exchange contacts, etc.);

(d) Transferrable/negotiable instruments |
| 2. Offshore Banking business as defined in the Offshore Banking Act, 1996; | 8. Money broking. Money lending and pawning. |
| 3. Venture risk capital; | 9. Money exchange (e.g. "casa de cambio"). |
| 4. Money transmission services; | 10. Insurance business. |
| 5. Issuing and administering means of payments (e.g. credit cards, travellers' cheques and bankers' drafts); | 11. Real property business. |
| 6. Guarantees & commitments; | 12. Credit unions. |
| 7. Trading for own account or for account of customers in: | 13. Building societies. |
| (a) money market instruments (e.g. cheques, bills, certificates of deposits, commercial paper, acceptances, etc.); | 14. Trust business; |
| (b) foreign exchange; | 15. Safe custody services. |
| (c) financial and commodity-based derivative instruments (e.g. futures contracts, options, interest rate | 16. International financial services. |
| | 17. Accounting services. |
| | 18. Legal services. |

SECOND SCHEDULE TO THE ACT

Prescribed Offences

8. Blackmail
9. Counterfeiting
10. Drug trafficking and related offences
11. Extortion
12. False accounting
13. Forgery
14. Fraud
15. Illegal deposit taking
16. Robbery involving more than \$ 10,000
17. Terrorism
18. Thefts involving more than \$ 10,000
19. Arms trafficking
20. Kidnapping

APPENDIX III**EXAMPLES OF SUSPICIOUS TRANSACTIONS****Money Laundering Using Cash Transactions**

- (a) Unusually large cash deposits made by an individual or company whose ostensible business activities would normally be generated by cheques and other instruments.
- (b) Substantial increases in cash deposits of any individual or business without apparent cause, especially if such deposits are subsequently transferred within a short period out of an account and/or to a destination not normally associated with the customer.
- (c) Customers who deposit cash by means of numerous credit slips so that the total of each deposit is unremarkable, but the total of all credits is significant.
- (d) Company accounts whose transactions, both deposits and withdrawals, are denominated by cash rather than the forms of debit and credit normally associated with commercial operations (e.g. cheques, letters of credit, bills of exchange, etc.).
- (e) Customers who constantly pay in or deposit cash to cover requests for bankers drafts, money transfers or other negotiable and readily marketable money instruments.
- (f) Customers who seek to exchange large quantities of low denomination notes for those of higher denomination.
- (g) Frequent exchange of cash into other currencies.

- (h) Branches that have a great deal more cash transactions than usual.
- (i) Customers whose deposits contain counterfeit notes or forged instruments.
- (j) Customers transferring large sums of money to or from overseas locations with instructions for payments in cash.
- (k) Large cash deposits using night safe facilities, thereby avoiding direct contact with banks or other financial institution staff.

Money Laundering Using Financial Institutions Accounts & Trust Companies

- (a) Customers who wish to maintain a number of trustee or clients' accounts which do not appear consistent with the type of business, including transactions which involve nominee names.
- (b) Customers who have numerous accounts and pay in amounts of cash to each of them in circumstances in which the total of credits would be a large amount.
- (c) Any individual or company whose account shows virtually no normal personal banking or business related activities, but is used to receive or disburse large sums which have no obvious purpose or relationship to the account holder and/or his business (e.g. a substantial increase in turnover on an account).
- (d) Reluctance to provide normal information when opening an account, providing minimal or fictitious information or, when applying to open an account, providing information that is difficult or expensive for the financial institution to verify.

- (e) Customers who appear to have accounts with several financial institutions within the same locality, especially when the institution is aware of a regular consolidation process from such accounts prior to a request for onward transmission of the funds.
- (f) Matching of payments out with credits paid in by cash on the same or previous day.
- (g) Paying in large third party cheques endorsed in favour of the customer.
- (h) Large cash withdrawals from a previously dormant/inactive account, or from an account which has just received an unexpected large credit from abroad.
- (i) Customers who together, and simultaneously, use separate tellers to conduct large cash transactions or foreign exchange transactions.
- (j) Greater or unusual use of safe deposit facilities.
- (k) Companies' representatives avoiding contact with the branch.
- (l) Substantial increases in deposits of cash or negotiable instruments by a professional firm or company, using client accounts or in-house company or trust accounts, especially if the deposits are promptly transferred between other client company and trust accounts.
- (m) Customers who decline to provide information that in normal circumstances would make the customer eligible for credit or for other banking services.

- (n) Large number of individuals making payments into the same account without an adequate explanation.

Money Laundering Through Insurance Products

- (a) A request by a client to purchase an insurance product(s) where the source of the funds to purchase the product is unclear or inconsistent with the customer's financial standing.
- (b) A sudden request for the purchase of a substantial policy with a lump sum payment by an existing client whose other policies or transactions are small and based on a regular payment structure.
- (c) A request for an insurance product that has no discernible purpose and reluctance to divulge the reason for the investment.
- (d) A proposal to purchase an insurance product using a cheque drawn upon an account other than the personal account of the purchaser.
- (e) A client who does not wish to know about the performance of an investment but is concerned only about the early cancellation or surrender of a particular product.

Money Laundering Using Investment Related Transactions

- (a) Purchasing of securities to be held by the financial institution in safe custody, where this does not appear appropriate given the customer's apparent standing.
- (b) Back-to-back deposit/loan transactions with subsidiaries of, or affiliates of, overseas financial institutions in known drug trafficking areas.

- (c) Requests by customers for investment management services (either foreign currency or securities) where the source of the funds is unclear or not consistent with the customer's apparent standing.
- (d) Larger or unusual settlements of securities in cash form.
- (e) Buying and selling of a security with no discernible purpose or in circumstances which appear unusual.

Money Laundering by Off-Shore International Activity

- (a) Customer introduced by an overseas branch, affiliate or other bank based in countries where production of drugs or drug trafficking may be prevalent.
- (b) Use of Letters of Credit and other methods of trade finance to move money between countries where such trade is not consistent with the customer's usual business.
- (c) Customers who make regular and large payments, including wire transactions, that cannot be clearly identified as *bona fide* transactions to, or receive regular and large payments from, countries which are commonly associated with the production, processing or marketing of drugs, identified terrorist organizations or offshore centres of dubious standing.
- (d) Accumulation of large balances, inconsistent with the known turnover of the customer's business, and subsequent transfer to account(s) held overseas.
- (e) Unexplained electronic fund transfers by customers on an in and out basis or without passing through an account.

- (f) Frequent requests for travellers cheques or foreign currency drafts or other negotiable instruments to be issued.
- (g) Frequent paying in of travellers cheques or foreign currency drafts particularly if originating from overseas.

Money Laundering Involving Financial Institution Employees

- (a) Changes in employee characteristics, e.g. lavish life styles or avoiding taking holidays.
- (b) Changes in employee performance (e.g. acting as insurance agent selling products for cash) shows remarkable or unexpected increase in business volume.

Money Laundering by Secured and Unsecured Lending

- (a) Customers who repay problem loans unexpectedly.
- (b) Request to borrow against assets held by the financial institution or a third party, where the origin of the assets is not known or the assets are inconsistent with the customer's standing.

APPENDIX IV**SUSPICIOUS TRANSACTIONS DISCLOSURE FORM**

APPENDIX V
Director of Public Prosecutions
Belize City
Belize

Your Ref.
Our Ref

Date:

The Manager
Anybank
Anystreet
Belize City
Belize

Dear Sir/Madam:

RE: FEEDBACK REPORT

Following the receipt of disclosures made by you and subsequent dissemination for enquiries by the concerned authorities, I enclose for your information a summary of the present position of those cases as reported to the Supervisory Authority/ Director of Public Prosecutions.

The current status shown, whilst accurate at the time of making this report, should not be treated as a basis for subsequent decisions, without reviewing the up-to-date position.

Please do not hesitate to contact this office if you require any further information or assistance.

Yours faithfully,

Authorized Officer

enclosure

APPENDIX VI**FINANCIAL ACTION TASK FORCE MEMBER COUNTRIES**

Australia	Japan
Austria	Luxembourg
Belgium	Netherlands
Canada	New Zealand
Denmark	Norway
Finland	Portugal
France	Singapore
Germany	Spain
Greece	Sweden
Hong Kong	Switzerland
Iceland	Turkey
Ireland	United Kingdom
Italy	United States

CARIBBEAN FINANCIAL ACTION TASK FORCE MEMBER COUNTRIES

Anguilla	Dominican Republic
Antigua and Barbuda	Grenada
Aruba	Guatemala
Bahamas	Jamaica
Barbados	Montserrat
Belize	Netherlands Antilles
Bermuda	Nicaragua
British Virgin Islands	Saint Lucia
Cayman Islands	Saint Vincent & the Grenadines
Costa Rica	Turks & Caicos Islands
	Trinidad and Tobago