

BELIZE:

STATUTORY INSTRUMENT

NO. 9 OF 2014

**MONEY LAUNDERING AND TERRORISM (PREVENTION)
(DESIGNATED NON-FINANCIAL BUSINESSES AND
PROFESSIONS) REGULATIONS, 2014
ARRANGEMENT OF REGULATIONS**

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BELIZE:

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No. 9 of 2014

REGULATIONS made by the Minister responsible for finance in exercise of the powers conferred upon him by section 86 of the Money Laundering and Terrorism (Prevention) Act, No 18 of 2008, and all other powers thereunto him enabling.

(Gazetted 7th February, 2014)

PART I
Preliminary

1. These Regulations may be cited as the

Citation.

**MONEY LAUNDERING AND TERRORISM
(PREVENTION) (DESIGNATED
NON-FINANCIAL BUSINESSES AND
PROFESSIONS) REGULATIONS, 2014**

2. (1) In these Regulations—

Interpretation.

“Act” means the Money Laundering and Terrorism (Prevention) Act, No 18 of 2008;

“applicable regulator”, in relation to a licensed or regulated reporting entity, means the agency with responsibility for licensing or regulating that reporting entity;

“DNFBP” or “designated non-financial businesses and professions” means those businesses and professions for which the Financial Intelligence Unit is specified as the supervisory authority under the Third Schedule of the Act;

“DNFBP Register” means the register of designated non-financial businesses and professions established and kept under regulation 4;

“licensed or regulated” in relation to a reporting entity, means a business or profession for which a licence is required or which is otherwise regulated;

“registered DNFBP” means a DNFBP registered under regulation 6;

“relevant business” means a business which, if carried on by a person, would result in that person being a reporting entity;

“significant owner” in relation to a reporting entity, means a person who, whether alone or acting together with one or more associates—

- (a) owns, whether legally or beneficially, a 10% or greater interest in the reporting entity or its parent;
- (b) has the power, directly or indirectly, to exercise, or control the exercise of, 10% or more of the voting rights in the reporting entity, or its parent; or
- (c) has the power to appoint or remove one or more directors of the reporting entity.

(2) For the purpose of these Regulations, “supervisory authority” means the Financial Intelligence Unit.

Scope.

3. These Regulations—

- (a) set out the powers and duties of the Financial Intelligence Unit as the supervisory authority

for designated non-financial businesses and professions; and

- (b) have no application to the Financial Intelligence Unit in any other capacity.

PART II

Registration and reporting obligations

4. (1) The supervisory authority shall establish and keep a DNFBP Register.

Registers of
DNFBPs.

(2) The DNFBP Register shall contain the following information in respect of each reporting entity registered in accordance with regulation 6—

- (a) in the case of a reporting entity that is a corporate body, the name, country of incorporation, date of incorporation and registered office of the reporting entity;
- (b) in the case of a reporting entity that is a limited liability partnership, the name, country of formation, date of formation and registered office of the reporting entity;
- (c) in the case of a reporting entity that is not a corporate body or limited liability partnership, the name and address of the reporting entity;
- (d) the principal business address of the reporting entity in Belize and the reporting entity's telephone number and e-mail address, if any;
- (e) in the case of a DNFBP that is licensed or regulated—

- (i) the type of licence held by the DNFBP; and
- (ii) the name and address of the applicable regulator;
- (f) the relevant business for which the reporting entity is registered;
- (g) the date of registration and, if applicable, de-registration of the DNFBP; and
- (h) such other information as the supervisory authority considers appropriate.

(3) The DNFBP Register and the information contained in any document filed with the supervisory authority, may be kept in such manner as the supervisory authority considers appropriate, including either wholly or partly, by means of a device or facility that—

- (a) records or stores information magnetically, electronically or by other means; and
- (b) permits the information recorded or stored to be inspected and reproduced in legible and usable form.

Application to register.

5. (1) In accordance with section 85B of the Act, a person who carries on, or intends to carry on, a relevant business in or from within Belize shall make an application to be registered for that type of relevant business.

(2) Application may be made to the supervisory authority.

(3) An application under subregulation (2) shall—

- (a) be in writing and in the form specified by the supervisory authority;

(b) be signed by the reporting entity applying for registration or by a person acting on the applicant's behalf; and

(c) be accompanied by –

(i) such documents or information as may be specified by these Regulations or on the application form; and

(ii) a non-refundable application fee set pursuant to regulation 21(2).

(4) The supervisory authority may require an applicant to—

(a) provide it with such documents and information, in addition to those specified in subregulation (3)(c), as it reasonably requires to determine the application and any such information shall be in such form as the supervisory authority may require; and

(b) verify any document and information provided in support of an application in such manner as the supervisory authority may specify.

(5) If, before a notice of registration referred to in regulation 6(a) is provided to a DNFBP—

(a) there is a material change in any information or documentation provided by or on behalf of the applicant to the supervisory authority in connection with the application; or

(b) the applicant discovers that any such information or documentation is incomplete, inaccurate or misleading,

the applicant shall, as soon as reasonably practicable, give the supervisory authority written particulars of the change or of the incomplete, inaccurate or misleading information or documentation.

Registration.

6. Following receipt of an application for registration under regulation 5(2) and any additional documents or information that it has required under regulation 5(4), the supervisory authority shall—

- (a)** subject to regulation 7(2) and upon payment of the registration fee, register the reporting entity in the DNFBP Register and provide the reporting entity with written notice of its registration as a DNFBP; or
- (b)** refuse the application in accordance with regulation 7.

Refusal of application to register.

7. (1) The supervisory authority may refuse an application for registration if—

- (a)** the application does not comply with regulation 5(3);
- (b)** the applicant fails to provide any information or documents required by the supervisory authority under regulation 5(4);
- (c)** the supervisory authority is of the opinion that, in the case of an applicant for registration that is not licensed or regulated, the applicant does not, or does not intend to, carry on the relevant business for which it seeks registration;
- (d)** any of the applicant's directors, senior officers or owners, or their associates, have committed an offence which constitutes serious crime;

- (e) the applicant, having previously been registered under these Regulations, has been de-registered under regulation 8.

(2) The supervisory authority shall refuse an application for registration if it is of the opinion that—

- (a) the applicant does not, or on registration will not, have the capacity or willingness to comply with its AML/CFT obligations or to identify, mitigate and manage the money laundering and terrorism financing risks to which it is exposed;
- (b) the reporting entity, or its business, represents a significant money laundering or terrorist financing risk; or
- (c) it is contrary to the public interest for the applicant to be registered.

(3) If the supervisory authority refuses an application for registration, it shall send the applicant a written notice of refusal, stating the grounds for its refusal.

8. (1) The supervisory authority may de-register a DNFBP if—

De-registration.

- (a) subject to subregulation (2), the DNFBP applies to be de-registered; or
- (b) subject to subregulation (3), the supervisory authority has reasonable grounds to believe—
 - (i) the DNFBP is in contravention of, or has contravened, any of its AML/CFT obligations,
 - (ii) the DNFBP does not have the capacity or willingness to comply with its AML/CFT

obligations or to identify, mitigate and manage the money laundering and terrorism financing risks to which the DNFBP is exposed,

- (iii) the DNFBP, or its business, represents a significant money laundering or terrorist financing risk,
- (iv) any of the DNFBP's directors, senior officers or owners, or their associates, have carried on a serious crime, or
- (v) it is in the public interest for the DNFBP to be de-registered.

(2) The supervisory authority shall not de-register a DNFBP under paragraph (1)(a) if the supervisory authority is of the opinion that the de-registration of the DNFBP would hinder the supervisory authority in the exercise of its functions.

(3) Subject to subregulation (4), before de-registering a DNFBP under paragraph (1)(b), the supervisory authority shall—

- (a) give written notice to the DNFBP stating—
 - (i) the grounds upon which it intends to de-register the DNFBP; and
 - (ii) that unless the DNFBP, by written notice, shows good reason why it should not be de-registered, it will be de-registered on a date not less than 14 days after the date of the notice; and
- (b) in the case of a DNFBP that is licensed or regulated, consult with the applicable regulator in accordance with regulation 20.

(4) If it is not practicable for the supervisory authority to give notice to the DNFBP under paragraph (3)(a), it may de-register the non-regulated DNFBP without giving such notice.

(5) Where the supervisory authority de-registers a DNFBP, it shall mark the name of the DNFBP in the DNFBP Register as de-registered, showing the date of its de-registration.

9. (1) A registered DNFBP shall provide the supervisory authority with written notice of any change in its directors or senior officers, whether as a result of a director or senior officer ceasing to hold office or the appointment of a new director or senior officer.

Notification of changes in directors and senior officers.

(2) A written notice under subregulation (1) shall—

- (a) specify the date of the change;
- (b) include the full name of the director or senior officer who has ceased to be, or has been appointed as, a director or senior officer; and
- (c) be provided to the supervisory authority within 14 days of—
 - (i) the change occurring, in the case of the appointment or resignation of a director or senior officer, or
 - (ii) the DNFBP first becoming aware of the change, in the case of the death of a director or senior officer.

(3) A registered DNFBP that fails to provide written notice of a change in its directors or senior officers in accordance with this regulation commits an offence and is

liable on summary conviction to a fine not exceeding \$20,000.

Notification of change in significant owners.

10. (1) A registered DNFBP shall provide the supervisory authority with written notice of any change in its significant owners, whether as a result of a person becoming a significant owner or ceasing to be a significant owner.

(2) A written notice under subregulation (1) shall—

(a) specify the date of the change;

(b) provide details of the identity of the new or former significant owner and the nature of the significant owner's interest in, or control of, the DNFBP;

(c) be provided to the supervisory authority within 14 days of the DNFBP first becoming aware of the change.

(3) A registered DNFBP that fails to provide written notice of a change in its significant owners in accordance with this regulation commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

Notification of change in information required to be registered.

11. (1) A registered DNFBP shall provide the supervisory authority with written notice of any change in the information required to be registered under regulation 4(2)(a), (b), (c) and (d) and, in the case of a DNFBP that is licensed or regulated, regulation 4(2)(e).

(2) A written notice under subregulation (1) shall—

(a) specify the date of the change;

(b) set out the details of the change;

- (c) be provided to the supervisory authority within 14 days of the DNFBP first becoming aware of the change.

(3) A registered DNFBP that fails to provide written notice of a change in its registered information in accordance with this regulation commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

PART III
Administrative Penalties

12. (1) For the purposes of this Part—

Interpretation
for this Part.

“administrative penalty” means a late payment penalty or the penalties specified in column 2 of the Schedule for disciplinary violations specified in column 1 of the Schedule;

Schedule.

“disciplinary violation” includes a contravention of an AML/CFT obligation, failure of a DNFBP to pay any fee payable under the Act or these Regulations on or before the date on which the fee is due for payment as well as the violations categorised in column 1 of the Schedule;

“late payment penalty” means an administrative penalty imposed in respect of the failure of a DNFBP to pay any fee payable under the Act or these Regulations on or before the date on which the fee is due for payment.

(2) For the purposes of determining whether a disciplinary violation has been committed with respect to failure to pay a fee, a fee payable under the Act or these Regulations is deemed not to have been paid until it has been paid in full.

(3) The imposition of an administrative penalty becomes final on the earliest of—

- (a) the payment by the DNFBP of the penalty;

- (b) the date when, in accordance with regulation 17, the DNFBP is considered to have committed the disciplinary violation; or
- (c) the dismissal of any appeal of the DNFBP, provided that the time for any further appeal has expired.

Supervisory authority may take disciplinary action.

13. (1) The supervisory authority may take disciplinary action against a DNFBP under this regulation where it is satisfied that the DNFBP has committed a disciplinary violation.

(2) The supervisory authority takes disciplinary action against a DNFBP by imposing an administrative penalty on the DNFBP.

(3) Disciplinary action may not be taken against a DNFBP in respect of a disciplinary violation committed more than 2 years prior to the date upon which the supervisory authority sends a notice to the DNFBP under regulation 14 or 16.

(4) If the conduct or omission that constitutes a disciplinary violation also constitutes an offence—

- (a) the taking of disciplinary action against a DNFBP does not prevent the DNFBP being also prosecuted for the offence; and
- (b) the prosecution of a DNFBP for the offence does not prevent the taking of disciplinary action against the DNFBP.

Notice of intention to take disciplinary action.

14. (1) Where it intends to take disciplinary action against a DNFBP, other than by imposing a late payment penalty on the DNFBP, the supervisory authority shall send a notice of its intention to the DNFBP—

- (a) specifying—
 - (i) the alleged disciplinary violation and the relevant facts surrounding the violation, and
 - (ii) the amount of the penalty that it intends to impose; and
- (b) advising the DNFBP of his right to make written representations to the supervisory authority in accordance with subregulation (2).

(2) A DNFBP who receives a notice under subregulation (1) may, within 30 days of the date upon which he receives the notice, send written representations to the supervisory authority—

- (a) denying that he has committed the alleged disciplinary violation or disputing the facts of the alleged disciplinary violation; or
- (b) providing reasons that he considers justify the imposition of a lower penalty.

15. (1) After the expiration of 30 days from the date that the supervisory authority sent a notice under regulation 14 to a DNFBP, the supervisory authority may take disciplinary action against that DNFBP by sending him a penalty notice stating—

**Disciplinary
action.**

- (a) the disciplinary violation in respect of which the notice is issued;
- (b) the date on which notice of intention to take disciplinary action in respect of that violation was sent to the DNFBP;

- (c) the amount of the administrative penalty imposed;
- (d) a date, not less than 30 days after the date of the penalty notice, by which the administrative penalty shall be paid to the supervisory authority; and
- (e) that if the DNFBP does not pay the administrative penalty or exercise his rights of appeal under section 22B of the Act, on or before the date referred to in paragraph (d), the DNFBP shall be considered to have committed the disciplinary violation and be liable for the penalty set out in the notice.

(2) The penalty imposed in a penalty notice shall not exceed the amount specified in the notice of intention sent under regulation 14.

(3) Before taking disciplinary action against a DNFBP under subregulation (1), the supervisory authority shall—

- (a) consider any written representations that it has received from the DNFBP and, where it receives such representations, it shall provide reasons for the action that it takes; and
- (b) in the case of a DNFBP that is licensed or regulated, consult with the applicable regulator in accordance with regulation 20.

(4) A DNFBP who receives a penalty notice under subregulation (1) shall pay the penalty stated to the supervisory authority, or appeal the imposition of the penalty under section 22B of the Act, on or before the date specified in the notice.

16. (1) Where the supervisory authority decides to take disciplinary action against a DNFBP by imposing a late payment penalty on the DNFBP, it shall send the DNFBP a penalty notice stating—

Late payment penalties.

- (a) the fee or charge in respect of which the late payment penalty is being imposed; and
- (b) the amount of the penalty.

(2) A DNFBP who receives a penalty notice under subregulation (1) shall pay the late payment penalty stated in the notice to the supervisory authority, or appeal the imposition of the penalty under section 22B of the Act, within 30 days of the date of the penalty notice.

17. (1) If a DNFBP pays an administrative penalty imposed on him under regulation 15 or 16 on or before the last date for payment of the penalty, the DNFBP is considered to have committed the disciplinary violation and the action is over.

Date DNFBP considered to commit disciplinary violation.

(2) A DNFBP who neither pays an administrative penalty imposed on him under regulation 15 or 16 nor appeals the imposition of the administrative penalty, on or before the last date for payment of the penalty, is considered to have committed the disciplinary violation and is liable for the administrative penalty.

18. (1) Where the supervisory authority decides to impose an administrative penalty on a DNFBP, other than a late payment penalty, for a disciplinary violation of a category specified in Column 1 of the Schedule, it shall, after taking account of the factors specified in regulation 19, fix the amount of the administrative penalty within the range specified in Column 2 of the Schedule.

Fixing of penalties.

Schedule.

(2) Where the supervisory authority decides to impose a late payment penalty on a DNFBP, the late payment penalty shall be calculated as follows—

- (a) subject to paragraph (c), where the fee is paid 1-30 days after the due date, 10% of the fee payable;
- (b) subject to paragraph (c), for each additional period of 30 days, or any part, during which the fee remains unpaid, 10% of the fee payable;
- (c) for the purpose of paragraphs (a) and (b), where the late payment penalty calculated is less than \$20, the late payment penalty payable shall be \$20.

(3) The amounts payable under subregulation (2)(a) and (b) are cumulative, but may not exceed 100% of the fee payable.

Factors to be considered by supervisory authority.

19. In determining the administrative penalty to be imposed on a DNFBP, other than a late payment penalty, the supervisory authority—

- (a) shall take into account the following factors—
 - (i) the nature and seriousness of the contravention committed by the DNFBP,
 - (ii) whether the DNFBP has previously committed a disciplinary violation and if so, the number and seriousness of the DNFBP's previous disciplinary violations,
 - (iii) whether the disciplinary violation was deliberate or reckless or caused by the negligence of the DNFBP,

- (iv) whether any loss or damage has been sustained by third parties as a result of the disciplinary violation,
 - (v) whether there has been any gain to the DNFBP as a result of the disciplinary violation, and
 - (vi) the ability of the DNFBP to pay the penalty; and
- (b) may take into account such other matters as it considers appropriate.

PART IV
Miscellaneous

20. The supervisory authority shall consult with the applicable regulator before taking any of the following action in relation to a licensed or regulated reporting entity—

Consultation with applicable regulator.

- (a) registering or refusing to register an applicant;
- (b) de-registering; or
- (c) imposing an administrative penalty, other than a late payment penalty.

21. (1) In accordance with section 85B of the Act, a DNFBP shall pay to the supervisory authority the following fees—

(a) a non-refundable application fee under regulation 5(3)(ii) on submitting an application for registration under regulation 6;

Fees.

- (b) a registration fee on registration under regulation 6; and
- (c) an annual fee on each anniversary of its registration.

(2) The application, registration and annual fees shall be set by the supervisory authority and different fee levels may be set for different types, categories and descriptions of DNFBP.

(3) In determining the fees payable by different types, categories and descriptions of DNFBP, the supervisory authority shall have regard to the following criteria—

- (a) the fee chargeable shall take account of the estimated average cost of supervising DNFBPs of the particular type, category or description to which the fee will apply;
- (b) the fees should be set with the objective that the total fees paid to the supervisory authority are sufficient—
 - (i) to cover the costs to the supervisory authority of discharging its functions under the Act and these Regulations; and
 - (ii) to enable the supervisory authority to accumulate a reserve sufficient to cover the costs of ad hoc investigations and other enforcement action that may be required from time to time.

Offence, false and misleading information.

22. A person who, for any purpose of these Regulations—

- (a) provides any information, makes any representation or submits any document or return that he knows to be false or materially misleading or does not believe to be true; or
- (b) recklessly provides any information, makes any representation or submits any document or return that is false or materially misleading,

commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years, or to both.

23. A person who, at the commencement of these Regulations, is a DNFBP does not contravene section 85B(1) of the Act if, within 90 days of the date when these Regulations come into force, it—

Transitional provisions.

(a) is registered under regulation 6(a); or

(b) has made an application in compliance with regulation 5 which has not been refused.

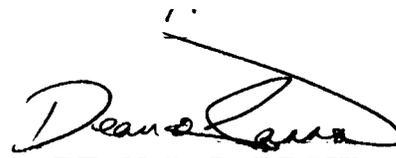
24. These Regulations shall come into force on the 7th day of February, 2014.

Commencement.

Column 1	Column 2
Category of Disciplinary Violation and Description	Penalty Range
<p>1. Registration Contravention Reporting entity carrying on a type of relevant business for which it is not registered</p>	\$5,000 to \$50,000
<p>2. Late filing or Notification Reporting entity filing any document required to be filed or notifying the supervisory authority of any matter required to be notified after the last date on which the document is required to be filed or the matter is required to be notified to the supervisory authority—</p> <p>(a) 1 – 30 business days late; (b) 31 – 60 business days late; (c) 61 – 90 business days late; (d) 91 – 120 business days late; (e) 121 – 150 business days late; (f) 151 or more business days late.</p>	<p>\$250 to \$1,250 \$1,250 to \$5,000 \$1,875 to \$7,500 \$2,500 to \$10,000 \$6,250 to \$15,000 \$7,500 to \$20,000</p>
<p>3. Record Keeping Contravention Reporting entity failing to maintain any records required to be maintained or failing to maintain records in the manner or at the place required.</p>	\$1,250 to \$12,500
<p>4. Contravention Relating to Policies, Procedures, Systems and Controls Reporting entity failing to—</p> <p>(a) establish or maintain policies, systems and controls or procedures required by the Act or any regulations made, or guidelines issued, under the Act to be established or maintained by the reporting entity; (b) establish or maintain a function required by the Act or any regulations made, or guidelines issued, under the Act to be established or maintained by the reporting entity, including to appoint a compliance officer.</p>	\$5,000 to \$25,000
<p>5. Contravention of AML/CFT Obligations Reporting entity contravening any AML/CFT obligation.</p>	\$15,000 to \$500,000

<p>6. Other Contravention Reporting entity committing any other contravention of any directive or guideline not falling within a category specified above.</p>	<p>\$250 to \$12,500</p>
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MADE this 7th day February, 2014.



DEAN O. BARROW

Minister responsible for Finance