

COMMONWEALTH OF DOMINICA

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Short title.
2. Interpretation

PART II

SYSTEMS AND TRAINING TO PREVENT MONEY LAUNDERING

3. Systems and training.
4. Offences by body corporate, partnerships and unincorporated associations.
5. Duty to appoint compliance officer.
6. Staff training.
7. Requirement for refresher training.

PART III

IDENTIFICATION AND OTHER PROCEDURES

8. Identification procedures, business relationships and transactions.
9. Identification and verification of customer identity.
10. Further information to be obtained and measures to be taken.
11. Ongoing diligence.

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

12. Enhanced customer due diligence measures and ongoing due diligence.
13. Identification measures where reliance placed on intermediary.
14. Identification procedure where payment by post, delivered by hand or electronically.
15. Identification procedure where transaction on behalf of another.
16. Obligation where business conducted on behalf of another.
17. Exemption from identification procedure.
18. Evidence of identity not required in certain circumstances.
19. Measures in relation to politically exposed persons.
20. Measures in relation to cross border correspondent banking and similar relationships.
21. Electronic funds transfer to include originator information.
22. Existing customers.
23. Policies required.

PART IV

RECORD-KEEPING PROCEDURES.

24. Record-keeping procedures.
25. Form and retrieval of records.

PART V

INTERNAL REPORTING.

26. Internal reporting procedures.

PART VI

REPORTING OF EVIDENCE OF MONEY LAUNDERING.

27. Reporting of evidence of money laundering.

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

- 28. Use of disclosed information.
- 29. Exoneration from duty of professional secrecy.
- 30. Register of money laundering enforcement enquiries.

MISCELLANEOUS

- 31. Currency reporting.
- 32. Use of guidance notes.

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS NO. 4 OF 2013

REGULATION

MADE by the Minister under section 54 of the Money Laundering (Prevention) Act, 2011 (Act No. 8 of 2011).

(Gazetted 21st February, 2013).

**PART I
PRELIMINARY**

1. These regulations may be cited as the –

Short title.

**MONEY LAUNDERING
(PREVENTION) REGULATIONS, 2013.**

2. (1) In these Regulations –

Interpretation.

“the Act” means the Money Laundering (Prevention) Act, 2011

Act No. 8 of 2011.

“applicant for business” means a person, whether acting as principal or agent, who seeks to form a business relationship, or carry out a transaction with a person who is acting in the course of relevant business;

“Authority” means the Money Laundering Supervisory Authority established under section 7 of the Act;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

“beneficial owner” means —

- (a) the natural person who ultimately owns or controls a customer;
- (b) the person on behalf of whom a transaction is conducted; or
- (c) the person who exercises ultimate control over a legal person or legal arrangement;

“business relationship” means any arrangement between two or more persons, at least one of whom is acting in the course of relevant business, where –

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

“Case 1 (negotiations)” means any case where negotiations take place between the parties with a view to the formation of a business relationship between them;

“Case 2 (suspicion)” means any case where, in respect of any 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;

“Case 3 (single large transaction)” means any case where, in respect of any transaction, payment is to be made by or to the applicant for business of the amount of five thousand United States dollars or the equivalent in any other currency or more;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

“Case 4 (large series of transactions)” means any case where, in respect of two or more transactions it appears to a person dealing with any of the transactions that -

- (a) the transactions are carried out by the same person and are of a similar character; and
- (b) the total amount, in respect of all of the transactions, which is payable by or to the applicant for business is five thousand United States dollars or the equivalent in any other currency or more;

“customer” —

- (a) means a person purchasing or using a service or commodity;
- (b) includes an applicant for the services of a business and a client;

“customer due diligence measures” means -

- (a) identifying a customer and verifying the customer’s identify in accordance with regulations 9 and 10;
- (b) obtaining information on the purpose and intended nature of a business relationship in accordance with regulation 10;

“established business relationship” means a business relationship formed by a person acting in the course of relevant financial business where that person has obtained, under procedures maintained by him in accordance with regulation 5, satisfactory evidence of the identity of the persons who, in relation to the formation of that business relationship, was the applicant for business;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

“identification record” means —

(a) where the person is a corporate body, the details -

(i) of the certificate of incorporation, to be notarized where the corporate body is incorporated outside Dominica;

(ii) except in respect of International Business Companies, of the most recent annual return of the corporate body filed at the Registry, the return to be notarized where the corporate body is incorporated outside of Dominica;

(iii) of any officer of the corporation as required in paragraph (b) of this definition; and

(b) in any case, sufficient documentary evidence to prove to the satisfaction of a financial institution that the person is who that person claims to be;

and for these purposes “person” includes any person who is a nominee, agent, beneficiary, or principal in relation to a business transaction;

“money laundering” has the same meaning assigned to it in the Act;

“politically exposed person” means any individual who is or has been entrusted with prominent public functions in Dominica or in another country or territory, including Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials including family members or close associates of the politically exposed person;

“relevant business” means –

(a) any business of banking carried on by a person or

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

institution who is for the time being authorised, or required to be authorised, under the Banking Act, 2005, Dominica Agricultural Industrial and Development Bank Act or the Offshore Banking Act, 1996.

Act No. 16 of 2005.
Chap. 74:03.

Act No.8 of 1996.

(b) trust business carried on by a person or institution who is for the time being authorised, or required to be authorised, under the Offshore Banking Act, 1996 or the International Exempt Trust Act, 1997

Act No. 8 of 1996.

(c) insurance business carried on by a person or institution who is for the time being authorised, or required to be authorised, under the Insurance Act, 1974 or the Exempt Insurance Act, 1997;

Act No.10 of 1997.

(d) investment business carried on by a person or institution licensed, or required to be licensed, under any law in force in Dominica;

(e) any activity carried on by a person pursuant to any law authorizing the business of property business, credit union and building societies;

(f) any activity carried on by a person pursuant to any law in relation to money broking, money lending and pawning;

(g) the business of company management within the meaning of the Exempt Insurance Act, 1997;

Act No.10 of 1997.

(h) any activity involving money transmission services;

(i) the business of a mutual fund or providing services as manager or administrator of a mutual fund;

(j) the business of car dealerships;

(k) the business of casinos (gaming houses), Internet gaming and wagering services;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

- (l)* the business of courier services or jewellery business;
- (m)* the business of securities dealing and brokering;
- (n)* the business of nominee services;
- (o)* the business of registered agent;
- (p)* the business of asset management and advice custodial services;
- (q)* telecommunications business; and
- (r)* any activity which is associated with a business falling within paragraphs *(a)* to *(q)*;

“transaction” means any transaction (including the opening of an account and a safe deposit facility) other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant business.

**PART II
SYSTEMS AND TRAINING TO PREVENT MONEY
LAUNDERING**

Systems and training.

3. (1) A person shall not, in the course of conducting a relevant business, form a business relationship or carry out any transaction with or for another person unless the person carrying on the relevant business —

- (a)* maintains the following procedures established in relation to that business —
 - (i)* identification procedures in accordance with regulations 8, 9, 10, and 15;
 - (ii)* record-keeping procedures in accordance with regulation 24;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

(2) A person who contravenes this regulation commits an offence and is liable on conviction to a fine not exceeding forty thousand dollars or imprisonment for a term not exceeding two years.

(3) In determining whether a person has complied with any of the requirements of subregulation (1) a court —

(a) shall take into account any relevant guidance notes issued, approved or adopted by the Authority, which applies to that person; and

(b) may take into account in a case where no guidance falling within paragraph (a) applies, any other relevant guidance issued by a body which regulates, or is representative of, any trade, profession, business or employment carried on by that person.

(4) In proceedings against a person for an offence against this regulation, it is a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(5) In this regulation, “employees” means employees whose duties include the handling of relevant business.

Offences by body
corporate, partnerships
and unincorporated
associations.

4. (1) Where an offence under regulation 3 committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity he, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

(2) Where the affairs of a body corporate are managed by the members, sub-regulation (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he was a director of the body corporate.

(3) Where an offence under regulation 3 committed by a partnership, or by an unincorporated association other than a partnership, is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, a partner in the partnership or a person concerned in the management or control of the association, he, as well as the partnership or association, is guilty of that offence and is liable to be proceeded against and punished accordingly.

5. (1) A person carrying on a relevant business shall appoint or designate one of his staff as a Compliance Officer for the purposes of these Regulations.

Duty to appoint compliance officer.

(2) A Compliance Officer shall -

- (a) be a senior officer with relevant qualifications and experience to enable him to respond sufficiently well to enquiries relating to the relevant business;
- (b) be responsible for establishing and maintaining such manual of compliance procedures in relation to the relevant business;
- (c) be responsible for ensuring compliance by staff of the relevant business with -
 - (i) these Regulations and other law relating to money laundering;
 - (ii) any manual of compliance procedures established under paragraph (b); and
 - (iii) the internal reporting procedures established under regulation 26;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

(d) act as the liaison between the relevant business and the Authority and the Unit in matters relating to compliance with these Regulations and other law or directive with respect to money laundering.

Staff training.

6. (1) A person carrying on a relevant business shall provide education and training for all directors or, as the case may be, partners, all other persons involved in its management, and all key staff to ensure that they are aware of —

(a) the Act, and these Regulations;

(b) their personal obligations under those enactments;

(c) the manual of compliance procedures established under regulation 5(2)(b) and the internal reporting procedures established under regulation 26;

(d) the procedures maintained by the relevant business in compliance with the duties imposed under these Regulations; and

(e) their personal liability for failure to report information or suspicions in accordance with internal procedures.

(2) A person carrying on a relevant business shall, in addition, provide training in accordance with the requirements of this paragraph to all new key staff as soon as practicable after their appointment.

Requirement for refresher training.

7. A person carrying on a relevant business shall, at least once in every year, make arrangements for refresher training to remind key staff of their responsibilities and to make them aware of any changes in the laws relating to money laundering and the internal procedures of the relevant business.

PART III
IDENTIFICATION AND OTHER PROCEDURES

8. (1) Subject to 14 and 17, identification procedures maintained by a person carrying on a relevant business are deemed to be in accordance with this regulation if, in Cases 1 to 4 they require as soon as it is reasonably practicable after contact is first made between that person and an applicant for business concerning any particular business relationship or transaction –

Identification procedures, business relationships and transactions.

- (a) the production by the applicant for business of satisfactory evidence of his identity; or
- (b) the taking of measures specified in the procedures as will produce evidence of identity and where that evidence is not obtained, the procedures shall require that the business in question shall not proceed.

(2) Notwithstanding subregulation (1)(b), where to refrain from proceeding with a transaction is likely to frustrate efforts of investigating a suspected money laundering operation, that transaction shall proceed only on the direction of the Unit.

(3) The procedures referred to in subregulation (1) are in accordance with this regulation if, when a report is made in circumstances falling within Case 2 (suspicion) whether in accordance with regulation 24 or directly to the Unit as required in regulation 27, they provide for steps to be taken in relation to the transaction in question in accordance with any directions that may be given by the Unit.

(4) For the purposes of these regulations, evidence of identity is deemed to be satisfactory if -

- (a) it is reasonably capable of establishing that the applicant is the person he claims to be; and

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

(b) the person who obtains the evidence is satisfied, in accordance with the established internal procedures and policies of the business concerned, that it does establish that fact.

(5) In determining for the purposes of these regulations what is reasonably practicable in relation to any particular business relationship or transaction, all the circumstances shall be taken into account including, in particular –

(a) the nature of the business relationship or transaction concerned;

(b) the geographical locations of the parties;

(c) whether it is possible to obtain the evidence before commitments are entered into between the parties or before money is exchanged; and

(d) in relation to Case 3 (single large transaction) or Case 4 (large series of transactions), the earliest stage at which there are reasonable grounds for presuming that the total amount payable by an applicant for business is five thousand United States dollars or equivalent in any other currency or more.

(6) The procedures referred to in subregulation (1) are in accordance with this regulation if they require a person carrying on a relevant business to take measures to renew the evidence of identification of an existing client, whenever any doubt arises as to the true identity of that client.

Identification and verification of customer identity.

9. (1) Subject to subregulation (2), a person carrying on a relevant business shall establish and verify the identity of a customer by requiring the customer to produce an identification record or other reliable and independent source document when —

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

- (a) it establishes a business relationship;
- (b) in the absence of a business relationship, conducts –
 - (i) a transaction of an amount of at least ten thousand dollars whether conducted as a single transaction or several transactions that appear to be linked and where the amount of the transaction is unknown at the time of the transaction, the identification and verification shall be undertaken as soon as the amount becomes known or the said threshold is reached;
 - (ii) an electronic funds transfer referred to in regulation 21;
- (c) there is a suspicion of money laundering; or
- (d) it has doubts about the veracity or adequacy of previously obtained customer identification data.

10. (1) Without limiting the generality of regulation 9, a person carrying on a relevant business shall –

Further information to be obtained and measures to be taken.

- (a) when establishing a business relationship, obtain information on the purpose and nature of the business relationship;
- (b) if a transaction is conducted by a natural person, adequately identify and verify his identity including his –
 - (i) name and address;
 - (ii) social security card, passport or other official identifying document;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

(c) if a transaction is conducted by a legal entity, adequately identify the beneficial owner of the entity and take reasonable measures to identify and verify its ownership and control structure, including -

(i) the customer's name, legal form, head office address and identities of directors;

(ii) the principal owners and beneficiaries and control structure;

(iii) provisions regulating the power to bind the entity;

and to verify that any person purporting to act on behalf of the customer is so authorised, and identify those persons.

Ongoing due diligence.

11. A person carrying on a relevant business shall employ ongoing customer due diligence measures with respect to every business relationship and closely examine the transactions conducted in the course of a business relationship to determine whether the transactions are consistent with its knowledge of the relevant customer, his commercial activities, if any, and risk profile and, where required, the source of his funds.

Enhanced customer due diligence measures and ongoing due diligence.

12. A person carrying on a relevant business shall apply on a risk-sensitive basis enhanced customer due diligence measures and enhanced ongoing due diligence under regulation 11 in any situation which by its nature can present a higher risk of money laundering.

Identification measures where reliance placed on intermediary.

13. Where a person carrying on a relevant business relies on an intermediary or third party to undertake its obligations under regulations 8, 9, 10 or 19 or to introduce business to it –

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

- (a) it must be satisfied that the third party is able to provide copies of identification data and other documents relating to the obligation of due diligence under regulations 8, 9, 10 or 19 without delay;
- (b) it shall satisfy itself that the third party or intermediary is regulated and supervised, and has measures in place to comply with the requirements set out in regulations 8, 9, 10, 19, 20 and 24.

14. (1) Where an applicant would, apart from this subregulation, be required under regulation 8, to produce evidence of his identity, but -

Identification procedure where payment by post, delivered by hand or electronically.

- (a) the circumstances are such that a payment is to be made by the applicant for business; and
- (b) it is reasonable in all circumstances —
 - (i) for the payment to be sent by post, by hand or by any electronic means which is effective to transfer funds; or
 - (ii) for the details of the payment to be sent by post or delivered by hand or to be given by any other electronic means;

then, subject to subregulation (3), the fact that the payment is debited from an account held in the applicant's name at a bank domiciled in Dominica is capable of constituting the required evidence of identity.

(2) For the purposes of paragraph (b) of subregulation (1), it is immaterial whether the payment or its details are sent or given to a person who is bound by subregulation (1) of regulation 8 or to some other person acting on his behalf.

(3) Sub-regulation (1) does not have effect to the extent that-

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

(a) Case 2 (suspicion) applies to the circumstances of the payment; or

(b) the payment is made by a person in the course of opening an account with any financial institution.

Identification procedure where transaction on behalf of another.

15. (1) Subject to the exemptions provided in regulation 26, this regulation applies in relation to a person who is bound by subregulation (1) of regulation 3 where an applicant for business is or appears to be acting otherwise than as principal.

(2) Identification procedures maintained by a person are deemed to be in accordance with this regulation if, in a case to which subregulation (1) applies-

(a) 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 in addition to identification of the applicant for business; and

(b) they require that, where such measures cannot be taken, the business relationship or transaction shall only proceed as provided for under subregulation (1) of regulation 8.

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

(4) For the purposes of subregulation (2), it is reasonable for a person carrying on a relevant business bound by subregulation (1) of regulation 3, to obtain from the applicant for business a written declaration in which he discloses satisfactory identification of his principal.

(5) Notwithstanding subregulation (4),

- (a) where the principal is a body corporate, satisfactory identification shall also be disclosed of all directors of the principal; and
- (b) the applicant for business shall be duly authorized in writing by the principal; and
- (c) subregulation (4) does not apply where the applicant for business is a person acting in accordance with subregulation (6).

(6) A person carrying on a relevant business shall establish the true identity of each account holder and in the case of an account held by a business trust, fiduciary agent, nominee company or professional intermediary, such as an attorney, chartered accountant, certified public accountant or auditor the financial institution shall –

- (a) obtain sufficient evidence of the true identity of the beneficial interest in the account; and
- (b) verify the nature of the business, the source of the funds of the account holder and the beneficiaries.

(7) An applicant for business who makes a false declaration for the purposes of this regulation commits an offence and is liable, on conviction, to a fine not exceeding twenty thousand dollars.

16. If it appears to a person carrying on a relevant business that a person requesting it to enter into any business relationship or transaction, whether or not in the course of a continuing business relationship, is acting on behalf of another person, the person carrying on the relevant business shall establish the true identity of any person on whose behalf or for whose ultimate

Obligation where
business conducted on
behalf of another.

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

benefit the applicant may be acting in the proposed transaction, whether as a trustee, nominee, agent or otherwise.

Exemption from identification procedure.

17. (1) Subject to subregulation (2), identification procedures under regulations 8 and 14 do not require any steps to be taken to obtain evidence of any person's identity -

- (a) where there are reasonable grounds for believing that the applicant for business is a financial institution which is bound by subregulation (1) of regulation 3;
- (b) in relation to life insurance business in respect of which a premium is payable in one installment of an amount not exceeding one thousand and eighty five dollars; or
- (c) in relation to life insurance business in respect of which a periodic premium is payable and where the total payable in respect of any calendar year does not exceed five hundred and forty- five dollars.

(2) This regulation does not apply in circumstances falling within Case 2 (suspicion).

Evidence of identity not required in certain circumstances.

18. Notwithstanding regulations 9, 10, 11 and 12, evidence of identity is not required if -

- (a) the customer is a person carrying on a relevant business which has been licensed or registered, and is supervised for anti-money laundering by the Authority and the Authority has satisfied itself as to the adequacy of the measures to prevent money laundering; or
- (b) there is a transaction or a series of transactions taking

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

place in the course of a business relationship, in respect of which the customer has already produced satisfactory evidence of identity.

19. (1) Without limiting the generality of regulation 9, a person carrying on a relevant business shall put appropriate risk management systems in place to determine if a customer or beneficial owner is a politically exposed person.

Measures in relation to politically exposed person.

(2) Where a person carrying on a relevant business determines that a customer is a politically exposed person it shall –

- (a) adequately identify and verify his identity in accordance with regulations 9 and 10;
- (b) require its officers and employees to obtain the approval of senior management before establishing or continuing a business relationship with the person;
- (c) take reasonable measures to establish the source of funds and source of property; and
- (d) conduct regular enhanced monitoring of the business relationship.

20. (1) A bank shall, in relation to its cross-border correspondent banking and other similar relationships –

Measures in relation to cross border correspondent banking and similar relationships.

- (a) adequately identify and verify respondent institutions with whom it conducts such a business relationship;
- (b) gather sufficient information about the nature of the business of the person;
- (c) determine from publicly available information the reputation of the person or entity and the quality of supervision to which the person is subject to

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

including whether it has been subject to a money laundering investigation or regulatory action;

- (d) assess the person's or entity's anti-money laundering controls and ascertain that they are adequate and effective;
- (e) obtain approval from senior management before establishing a new correspondent relationship;
- (f) document the responsibilities of the financial institution and the person.

(2) Where a cross-border correspondent banking relationship involves the maintenance of payable-through accounts, the bank or the financial institution shall ensure that the person or entity with whom it has established the relationship —

- (a) has verified the identity of and performed on-going due diligence on such of that person's customers that have direct access to accounts of the financial institution; and
- (b) is able to provide the relevant customer identification data upon request to the financial institution.

(3) A bank shall not maintain a business relationship with banks that do not maintain a physical presence under the laws of which they were established, unless they are part of a financial group subject to effective consolidated supervision.

Electronic funds transfer to include originator information.

21. (1) A financial institution shall —

- (a) verify, maintain and include accurate originator information on outgoing electronic funds transfers and related outgoing messages;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

(b) when acting as an intermediary, ensure that it retains all originator information that accompanies the transfer; and

(c) ensure that the originator information is set out in the message or payment form which accompanies the transfer.

(2) Subregulation (1) does not apply to —

(a) electronic funds transfer from a transaction carried out using a credit or debit card if the credit or debit card number accompanies the transaction, unless the debit or credit card is used as a payment system to effect a money transfer; and

(b) electronic funds transfers and settlements between financial institutions where the originator and beneficiary of the transfer are the financial institutions.

(3) For the purposes of this regulation —

(a) originator information includes the name, place, where the account exists, the account number or in the absence of the account number, a unique reference number; and

(b) “financial institution” means a bank under the Banking Act 2005, and a money services business under the Money Services Business Act, 2010.

Act No.16 of 2005.

Act No. 8 of 2010.

22. (1) A person carrying on a relevant business shall, in relation to an existing customer, verify the identity of the customer within six months from the date of commencement of this Act.

Existing customers.

(2) Notwithstanding subregulation (1), the Authority may,

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

in special circumstances, extend the period under subregulation (1) months for a further period of up to six months.

(3) Where at the end of the six months or further period a person carrying on a relevant business is unable to verify the identity of a customer, the a person carrying on a relevant business shall terminate the business relationship with the customer.

Policies required.

23. (1) A person carrying on a relevant business shall put policies in place and take measures necessary —

(a) to prevent the misuse of technological development in money laundering;

(b) to address any specific risks associated with non-face to face business relationships or transactions.

(2) The policies referred to under subregulation (1) should apply when establishing customer relationships and when conducting ongoing due diligence.

**PART IV
RECORD-KEEPING PROCEDURES**

Record-keeping procedures.

24. (1) Record-keeping procedures maintained by a person carrying on a relevant business are deemed to be in accordance with this regulation if they make provision for the keeping, for the prescribed period, of the following records -

(a) in any case where evidence of a person's identity is obtained under procedures maintained in accordance with regulations 8 or 15, a record that —

(i) indicates the nature of the evidence;

(ii) comprises a copy of the evidence of identity; and

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

(iii) provides such information authenticated by the applicant for business as would enable a copy of the evidence of identity to be obtained; or

(iv) in a case where it is not reasonably practicable to comply with items (i) or (ii) of this paragraph, provide 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 details relating to all business transacted including any business transacted in the course of a business relationship.

(2) For the purposes of sub-regulation (1) the "prescribed period" is the period of at least seven years commencing with in relation to such records as are described —

(a) in paragraph (a), the date on which the relevant business was completed; and

(b) in paragraph (b), the date on which all dealings taking place in the course of the business in question were completed.

(3) For the purposes of paragraph (a) of subregulation (2) the date on which relevant business is completed is in circumstances falling within —

(a) Case 1 (negotiations), deemed to be the date of the ending of the business relationship in respect of whose formation the record under this regulation was completed;

(b) Case 2 (suspicion) or Case 3 (single large transaction), deemed to be the date of the carrying

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

out of the transaction in respect of which the record under this regulation was compiled; and

- (c) Case 4 (large series of transactions), deemed to be the date of the carrying out of the last transaction in respect of which the record under this regulation was compiled;

and where the formalities necessary to end a business relationship have not been observed, but a period of six years has elapsed since the date of the last transaction in the course of that relationship, then the date of that transaction shall be treated as the date on which the relevant business was completed.

Form and retrieval of records.

25. (1) A person carrying on a relevant business shall ensure that any records required to be maintained under the Act and these Regulations are capable of retrieval in legible form without undue delay.

(2) A person carrying on a relevant business may rely on the records of a third party in respect of the details of payments and transactions by customers, provided that the third party is willing and able to retain and, if asked, to produce in legible form, copies of the records required.

**PART V
INTERNAL REPORTING.**

Internal reporting procedures.

26. (1) A relevant business shall establish and maintain written internal reporting procedures which, in relation to its relevant business, will—

- (a) enable all its directors or, as the case may be, partners, all other persons involved in the management, all key staff to know to whom they should report any knowledge or suspicion of money laundering activity;

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

- (b) ensure that there is a clear reporting chain under which suspicions of money laundering activity will be passed to the Compliance Officer;
 - (c) identify a Compliance Officer to whom a report is to be made of any information or other matter which comes to the attention of the person handling that business and which in that person's opinion gives rise to a knowledge or suspicion that another person is engaged in money laundering;
 - (d) require the Compliance Officer to consider any report in light of all other relevant information available to him for the purpose of determining whether or not it gives rise to a knowledge or suspicion of money laundering;
 - (e) ensure that the Compliance Officer has reasonable access to any other information which is available to the relevant person; and
 - (f) require that the information or other matters contained in a report is disclosed within five days to the Unit where the compliance officer knows or suspects that another person is engaged in money laundering.
- (2) A person carrying on a relevant business shall maintain a register of all reports made to the Unit in pursuance of sub-regulation (1) (i).
- (3) The register maintained under subregulation (2) shall contain details of the date on which the report is made, the person who makes the report and information sufficient to identify the relevant papers.
- (4) The failure of the Compliance Officer of a relevant

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

business to maintain such procedures in accordance with this regulation shall not constitute an offence but will be subject to a penalty of fifty thousand dollars.

**PART VI
REPORTING OF EVIDENCE OF MONEY
LAUNDERING.**

Reporting of evidence of money laundering.

27. Where the compliance officer of a relevant business or a person subject to regulation 3(1) —

(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 Compliance Officer or the person subject to regulation 3 (1) shall, as soon as is reasonably practicable, disclose that information to the Unit.

Use of disclosed information.

28. Any information disclosed under these regulations shall be used only in connection with the investigation of money laundering activities.

Exoneration from duty of professional secrecy.

29. Any *bona fide* communication or disclosure made in accordance with regulation 10 or regulation 11 shall not be treated as a breach of the duty of professional secrecy or any other restriction upon the disclosure of information.

Register of money laundering enforcement enquiries.

30. (1) A person carrying on a relevant business shall maintain a register of all enquires made of it by the Authority and other law authorities acting under powers provided by the Act, and any Regulations made thereunder.

(2) The register maintained under sub-regulation (1) shall be kept separate from other records and shall contain as a minimum the date and nature of the enquiry, the name and agency

of the inquiring officer, the powers being exercised, and details of the accounts or transactions involved.

**PART VII
MISCELLANEOUS**

31. (1) A report under section 28 of the Act shall be made in the form set out in the Schedule and shall be - Currency reporting.

(a) signed by the person making the report;

(b) submitted to -

(i) the Comptroller of Customs, where the transfer is effected by a person taking the cash out of or bringing the cash into Dominica on his person, in his luggage or as cargo; or

(ii) in any other case to the Unit of Comptroller of Customs.

(2) A report under -

(a) subregulation (1)(b)(i) shall be submitted at the time the cash is brought into or taken out of Dominica; and

(b) subregulation (1)(b)(ii), five days before the transportation takes place.

32. In the preparation of procedures required to be maintained in accordance with these Regulations, a person carrying on a relevant business may adopt and have regard to the Guidance Notes issued by the Authority. Use of guidance notes.

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

SCHEDULE

FORM

MINISTRY OF TOURISM AND LEGAL AFFAIRS

(Section 31)

FINANCIAL INTELLIGENCE UNIT

DOMFIU Form (CR1) <p align="center">DATE (Date of Travel)</p> <p align="center">____/____/____</p> <p align="center">mm dd yyyy</p>	<p align="center">CASH TRANSPORTATION REPORT</p> <p align="center">(Complete all parts that apply)</p>	
PART I Person (s) Involved in Cash Transportation		
1. Last Name:	2. First Name:	3. Middle Name:
4. Nationality:	5. Passport No.:	6. Date of Issue (mm/dd/yyyy):
7. Date of Expiry (mm/dd/yyyy):	8. Address: (Number, Street, and Apt. or Suite No., City, State, Zip Code, Country)	
9. Country of Birth:		
10. Occupation/Profession:		
PART II Amount and Type of Cash. (Check all boxes that apply)		
11. Total Cash /Value of Negotiable Instrument:		
12. Currency: <input type="checkbox"/> Euro (•) <input type="checkbox"/> US (US) <input type="checkbox"/> EC (XCD) <input type="checkbox"/> Pound (£)		
<input type="checkbox"/> Other (Specify):		

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

PART III Financial Institution Where Transaction (s) Was Conducted		
13. Name of Financial Institution:	14. Address of Financial Institution (Number, Street, and Apt. or Suite No., City, State, Zip Code, Country):	
15. Date of Transaction (mm/dd/yyyy):	16. Approximate Date of Transaction (mm/dd/yyyy):	
17. Account No. (s) Associated with Transaction: a. _____ b. _____	18. Account Type: <input type="checkbox"/> Savings <input type="checkbox"/> Checking <input type="checkbox"/> Fix Deposit <input type="checkbox"/> Other:	
PART IV Other Person (s) on Whose Behalf Cash is Being Transported		
19. Last Name:	20. First Name:	21. Middle Name:
22. Place of Birth:	23. Date of Birth (mm/dd/yyyy):	
24. Relationship: (Indicate extent of yours relationship with the person named in this Part):	25. Address of Individual (number, street, and Apt. or Suite No., City, State, Zip Code Country):	
PART V Source and Intended Use of Funds/Declaration:		
<p>I certify that all statements I have made in this declaration are true, correct and complete. I understand that failure to make a full declaration is an offence and can result in seizure of the cash, fines and or imprisonment. I further declare that to the best of my knowledge and belief that the cash was not derived from or is intended for use in any illegal activity.</p>		
<p>.....</p> <p align="center">Signature</p>	<p>.....</p> <p align="center">Date (mm/dd/yyyy):</p>	

2013 MONEY LAUNDERING (PREVENTION) S.R.O. 4

PART VI For Official Use Only		
26. Received by (Customs Officer):	27. Signature:	28. Date(mm/dd/yyyy):
29. FIU Informed: <input type="checkbox"/> Yes <input type="checkbox"/> No	30. Date Informed: (mm/dd/yyyy):	
31. Received by (FIU Officer):	32. Signature	33. Date (mm/dd/yyyy):
34. Entered in Database: <input type="checkbox"/> Yes <input type="checkbox"/> No		
35. Date Entered in Database (mm/dd/yyyy):	36. Verified by:	

Made this 15th day of February, 2013.

IAN DOUGLAS

Minister for Legal Affairs

DOMINICA

Printed by the Government Printer at the Government Printery, Roseau
(Price \$6.80 cents).