



For Public Consultation:

## **DRAFT SECURITIES INDUSTRY (ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM) (AMENDMENT) RULES, 2018**

### **Summary**

The Securities Industry (Anti-Money Laundering and Countering the Financing of Terrorism) (Amendment) Rules, 2018 (the Rules) were developed to amend the Securities Industry (Anti-Money Laundering and Countering the Financing of Terrorism) Rules, 2015.

The main objective of the Rules is to incorporate various international developments in anti-money laundering (AML) and countering the financing of terrorism (CFT) legislation and standards. The Rules are updated to ensure compliance with AML/CFT legislation, including the Financial Transactions Reporting Act, 2018, the Proceeds of Crime Act, 2018 and the Anti-Terrorism Act, 2018. The Rules principally address:

- Customer due diligence measures;
- Proper implementation of new technology and products;
- Third party verification; and
- Internal controls, including those regarding foreign branches and subsidiaries.

### **Scope**

The Rules would apply to all licensees and registrants under the Securities Industry Act, 2011 ("SIA") and the Investment Funds Act, 2003 (IFA).

### **Consultation Period**

The consultation period commences on 21<sup>st</sup> November 2018 and ends on 7<sup>th</sup> December 2018, during which time the Commission invites the public to share comments with regard to the draft Securities Industry (Anti-Money Laundering and Countering the Financing of Terrorism) (Amendment) Rules, 2018 (the Rules). Comments may be submitted via email to [siaconsultation@scb.gov.bs](mailto:siaconsultation@scb.gov.bs).

Alternatively, comments may be submitted to:

#### **The Executive Director**

Securities Commission of The Bahamas  
3<sup>rd</sup> Floor, Charlotte House  
P. O. Box N-8347  
Nassau, The Bahamas

**Issued 21 November 2018**

## **Securities Industry Act**

### **SECURITIES INDUSTRY (ANTI MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM) (AMENDMENT) RULES, 2018**

**The Securities Commission of The Bahamas, in exercise of the powers conferred by section 149 of the Securities Industry Act, 2011 makes the following rules –**

#### **1. Amendment of Rule 3(1)**

a. Rule 3(1) is amended in the chapeau as follows:

- i. By inserting at the beginning of the sentence and before the words “A regulated person”, the words “As part of its implementation of the requirements of section 19 of the Financial Transactions Reporting Act,”;
- ii. By inserting the words, “a compliance officer, who shall be” after the word “appoint” and before the words “senior personnel”; and
- iii. By inserting immediately after the word “controls”, the words “related to identified risks as defined by section 2 of the Financial Transactions Reporting Act”.

b. Rule 3(1)(a) is amended by deleting the words “money laundering or the financing of terrorism”, and substituting therefor the words “identified risks”.

c. Rule 3(1)(b) is amended by inserting after the word “activity”, the words “related to an identified risk”.

d. Rule 3(1)(c) is amended by inserting after the word “activity”, the words “related to an identified risk”.

#### **2. Amendment of Rule 3(2)**

Rule 3(2) is amended by deleting the words “money laundering and terrorist financing activities” and substituting therefor the words “identified risks”.

#### **3. Amendment of Rule 4(1)**

Rule 4(1) is amended by inserting immediately after the words “must be” and before the words “sufficiently senior”, the words “qualified and”.

#### **4. Amendment of Rule 4(2)**

Rule 4(2) is amended by deleting the word “authority” and substituting therefore the word “experience”.

#### **5. Amendment of Rule 4(3)**

Rule 4(3) is amended by deleting the words “money laundering or terrorist financing” and substituting therefor the words “transactions or a proposed transaction is related to proceeds of

criminal conduct or is an offence under the Proceeds of Crime Act, or is an attempt to avoid the enforcement under the Proceeds of Crime Act, or is an identified risk”.

## **6. Amendment of Rule 5**

- a. Rule 5 is amended by inserting the following as the new rule 5,

### **“5. Self-Assessment for risk**

(1) A regulated person shall assess its own risk for vulnerability to breaches of the Proceeds of Crime Act and the Anti-Terrorism Act, in relation to –

- (a) clients and their countries of jurisdiction;
- (b) the country or jurisdiction in which it operates; and
- (c) its products, services, transactions and delivery channels, business practices and technology

and shall take appropriate measures to manage and mitigate those risks, taking into account any national risk assessment and any regulatory guidance issued by the Commission.

(2) A regulated person shall conduct the risk assessment required under subparagraph (1) –

- (a) prior to the launch of a new or existing product or business practice;
- (b) prior to the use of new, existing or developing technologies; and
- (c) where the regulated person is part of a group, when there is a major event or development in the management or operation of group.

(3) The risk assessment shall be a part of a comprehensive risk management system approved by senior management which shall be consistent with the scope of the regulated person’s activities and incorporate continuous identification, measurement, monitoring and controlling of risks.”

- b. Rule 5 shall be renumbered as Rule 6 with renumbering of all other rules.

## **7. Amendment of Rule 6**

- a. Rule 6 is amended by renumbering as rule 7 and deleting all words and substituting the following:

### **“ 7. Standard**

(1) A regulated person shall verify the identity of each customer, new and existing, and of each person acting on behalf of a customer.

(2) In verifying customer identity, a regulated person shall use reliable, independent source documents, data or information taking into account the outcome of any relevant risk assessment.

(3) When verifying customer identity, a regulated person shall –

- (a) satisfy itself that the –
  - (i) customer is who they claim to be; or

- (ii) person acting on behalf of a customer is who they claim to be and is properly authorised to act on behalf of the customer;
- and
- (b) ensure that sufficient information is obtained –
    - (i) on the nature of the business that the customer expects to undertake; and
    - (ii) concerning any expected or predictable pattern of transactions.

(4) For the purpose of verifying the identity of customers, a regulated person shall ensure that verification is carried out on an ongoing basis to ensure that all information concerning the customer’s identity are kept up to date.”

**8. Amendment of Rule 7**

a. Rule 7 is amended by deleting paragraph (3) and renumbering all subsequent paragraphs.

**9. Amendment of Rule 8**

a. Rule 8 is amended by inserting as new paragraph (b), the following –

“(b) in the case of an existing customer, before conducting any further business or transactions by the customer;”

b. Rule 8 is amended by relettering the remaining subparagraphs (b) as subparagraph (c) to (e).

**10. Amendment of Rule 22**

a. Rule 22 is amended by inserting as new subparagraph 2(a) the following:

“(a) that financial institution is not suspected of breaching the identified risk framework or where the customer is not suspected of having committed an identified risk offence;”

b. Rule 22 is amended by relettering subparagraph 2(a) and 2(b) as new subparagraphs 2(b) and (c).

c. Rule 22 is amended in the chapeau by inserting the word “immediately” after the word “shall”.

**11. Amendment of Rule 23**

a. Rule 23 is amended in subparagraph 5(b) by deleting the words “section 34 of”.

b. Rule 23 is amended in subparagraph 6(b) by deleting the words “listed in the *First Schedule* of the Financial Transactions Reporting Act” and substituting therefore the words “which is not listed by the IRF Steering Committee”.

**12. Amendment of Rule 24**

a. Rule 24 is amended in subparagraph 2(d) is amended by deleting all words after the word “jurisdiction” and substituting therefore the following –

“(d) a foreign financial institution located in a jurisdiction which is –
 

- (i) not listed by the IRF Steering Committee; and

- (ii) regulated by a body having equivalent regulatory and supervisory responsibilities as the Securities Commission, the Central Bank of The Bahamas, the Insurance Commission, or the Gaming Board;”

b. Rule 24 is amended in subparagraph 2(g) by deleting the words “specified in the *First Schedule* to the Financial Transactions Reporting Act” and substituting therefore the words “which is not listed by the IRF Steering Committee”.

### **13. Amendment of Rule 25**

a. Rule 25 is amended in paragraph (1) by inserting immediately after the words “the regulated person”, the following “ – (a)”

b. Rule 25 is amended in paragraph (1) by inserting immediately after the words “terrorist financing”, the words “ – ; or”.

c. Rule 25 is amended in paragraph (1) by inserting as new subparagraph (b) the following –

“(b) “suspects that a customer is from a country which is listed by the IRF Steering Committee.”

### **14. Amendment of Rule 26**

a. Rule 26 is amended by inserting as new subparagraph (3), the following –

“(3) A regulated person shall conduct enhanced ongoing monitoring of the business relationship with a politically exposed person.”