NOTICE

Proposed Amendments to the Guidelines on the Prevention of Money Laundering & Countering the Financing of Terrorism

The proposed key amendments to the Central Bank's *Guidelines on the Prevention of Money Laundering & Countering the Financing of Terrorism* (the AML/CFT Guidelines) and the rationale for the amendments are set out below. A tracked version of the AML/CFT Guidelines is set out in Annex A.

A. PROPOSED AMENDMENTS FOLLOWING THE CENTRAL BANK'S ASSUMPTION OF ALL REGULATORY AND SUPERVISORY RESPONSIBILITY FOR CREDIT UNIONS

1. Owing to the Central Bank's assumption of the regulation and supervision of all co-operative credit unions, it is proposed that the reference to 'Licensee' throughout the AML/CFT Guidelines, be replaced with the defined term 'Supervised Financial Institution' or 'SFI' which includes banks, trust companies, credit unions, non-money transmission businesses and any other entity carrying on a business regulated under the laws enforced by the Central Bank of The Bahamas.

   This proposed amendment aims to expand the category of entities which are expected to comply with the AML/CFT Guidelines, and addresses noted deficiencies for the credit union sector as explained below.

   (a) Technical Compliance Criterion 12.1 of the Financial Action Task Force's 2013 Methodology (the Standards) requires that financial institutions take the following measures with regard to Politically Exposed Persons:

   - Put in place risk management systems to determine whether a customer or the beneficial owner is a PEP. Currently there is no requirement in the Anti-Money Laundering and Anti-Terrorism Financing Handbook and Code of Practice for Credit Unions (the AML/ATF Codes) to put a risk

management system in place to determine whether a customer or beneficial owner is a PEP.

- Obtain senior management approval before establishing (or for existing customers, continuing) such business relationships. Under the AML/ATF Codes, larger credit unions are required to have senior management approval to establish or continue a relationship where the PEP became high risk subsequent to establishing the business relationship. This measure does not capture 'smaller' credit unions.

- Take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs. There are no provisions for credit unions to establish the source of wealth and the source of funds of PEPs.

The proposed amendments will make specific provision for credit unions to take the above measures (see paragraphs 159 to 165 of the AML/CFT Guidelines).

(b) Technical Compliance Criterion 10.19 of the Standards requires that where a financial institution is unable to comply with relevant customer due diligence measures:

i. it should be required not to open the account, commence business relations or perform the transaction; or should be required to terminate the business relationship; and
ii. it should be required to consider making a suspicious transaction report (STR) in relation to the customer

The AML/ATF Codes only require credit unions to file STRs when unable to comply with CDD measures. The proposed amendments will therefore require credit unions to take the additional measures set out in sub-paragraph (i) when they are unable to complete relevant Member due diligence (MDD) (see paragraph 44 of the AML/CFT Guidelines).

(c) The proposed amendments will also require credit unions to meet revised provisions relating to the treatment of unverified pre-2000 accounts (see paragraphs 169 to 174 of the AML/CFT Guidelines).

2. New Paragraph 14B. Vulnerability of Credit Unions to Money Laundering and Terrorist Financing

The proposed new paragraph gives an overview of the money laundering and terrorist financing susceptibilities that credit unions are exposed to. While vulnerability to money laundering or terrorist financing is common among financial institutions, the new sections outline the unique way in which credit unions may be targeted by perpetrators.

3. Paragraph 20 – Interpretation

Because of the inclusion of credit unions, the proposed amendments include new definitions for the terms ‘member’ and ‘supervised financial institution’ or ‘SFI in the Interpretation section.

4. Paragraph 47 - Facility Holder

The proposed amendments will incorporate members of credit unions in the term ‘facility holder’.

5. Introductions from Group Companies or Intermediaries – Paragraphs 128(i)

The proposed amendment expands the category of domestic eligible introducers (and by extension, foreign eligible introducers), to include credit unions. As a consequence of the proposed change, credit unions must be satisfied, where business is introduced by an eligible introducer that is part of a Credit Union’s financial group, that the group applies know-your-member (KYM) and record keeping requirements, in line with the AML/CFT laws and with the AML/CFT Guidelines, and that the implementation of those KYM and record-keeping requirements are supervised at a group level by a competent authority.

B. CLARIFICATIONS AND OTHER AMENDMENTS

1. Internal Controls, Policies and Procedures – Paragraph 28

The proposed amendment inserts a new sub-paragraph (c) which requires that supervised financial institutions take enhanced measures to manage and mitigate the risks where higher risks are identified. This change aligns with Technical Compliance Criterion 1.11 of the Standards and the adoption of a risk-based approach.

2. Developing a Risk Rating Framework – Paragraph 35

The proposed amendment to paragraph 35 clarifies that while it is important to review the risk rating of high-risk customers more frequently, senior management must also make a determination as to how these heightened risks are to be managed and mitigated.

3. Nature and Scope of Activity- Paragraph 44 and 45.

Paragraph 44 currently requires Licensees not to commence or continue with the business relationship or undertake any transaction for a customer, and to consider whether a report to the FIU is to be made, in instances where a prospective or an existing customer fails to provide adequate evidence of identity. The proposed amendment clarifies that the foregoing measures that supervised financial institutions must take, apply to instances where a SFI is unable to comply with relevant CDD requirements.

Paragraph 45 –This paragraph allows CDD information to be kept accurate and up to date “as opportunities arise”. As a result of the proposed amendment, the words ‘as

opportunity arise' will be replaced with language that clarifies that the CDD information must be updated on a timely basis.

4. A3. Persons without Standard Identification Documentation - Paragraph 65

The proposed amendments expand on existing guidance and makes provision for supervised financial institutions to, where appropriate, exercise discretion in the use of other source documents, data or information besides a passport or government-issued identification, and document their reasons for doing so.

5. Introductions from Group Companies or Intermediaries – Paragraphs 128(iii) and (iv)

While broker dealers are not defined under the Securities Industry Act 2011 (SIA), broker dealers fall within the interpretation of the term "registrant" which refers to registered persons under Part VI of the SIA. The proposed amendments to the sub-paragraphs reflect the relevant provisions of the SIA and the Investment Funds Act, 2003 respectively.

6. Higher Risk Countries – Paragraph 166

Technical Compliance Criterion 19.3 of the Standards requires that countries should have measures in place to ensure that financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries. Paragraphs 166 and 167 of the AML/CFT Guidelines establish the enhanced due diligence measures that supervised financial institutions should apply to high-risk countries and specify countries that are associated with predicate crimes such as drug trafficking, fraud and corruption; but not countries with weaknesses in relation to terrorist financing. To address this deficiency, paragraph 166 will be amended to make specific reference to countries with identified weaknesses in both the AML and CFT systems as posing a higher risk potential to supervised financial institutions.

7. Section VII - Record Keeping - Paragraphs 199 and 208.1

The proposed amendments require the retention of account files and business correspondence for a minimum period of five (5) years after the end of the business relationship or date of the occasional transaction rather than for a period of five years after the completion of the transaction. Consequently, the information requirement at the end of the bulleted list in paragraph 208.1, has been deleted and replaced with the following:

reliable accounting records.

8. Appendices A, D- Amendments are proposed throughout the appendices to reflect any changes to legislation. In particular, the proposed amendments to Appendix D capture the amendments made to the Financial Transaction Reporting Act (Amendment to First Schedule) Order 2015 by way of inclusion of new countries.

Your comments and questions regarding the proposed changes should be directed to:

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