

SAINT VINCENT AND THE GRENADINES

**ANTI-MONEY LAUNDERING AND TERRORIST FINANCING (NON-REGULATED
SERVICE PROVIDERS) REGULATIONS, 2022**

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

PRELIMINARY

1. Citation
2. Interpretation

PART II

REGISTRATION OF NON-REGULATED SERVICE PROVIDERS

3. Application to register
4. Registration
5. Refusal of application
6. De-registration
7. Notification of change in director and senior officers
8. Notification of change in beneficial owners
9. Notification of change in information required to be registered
10. Register

PART III

MISCELLANEOUS

11. Fit and proper test
12. False and misleading information
13. Transitional

SAINT VINCENT AND THE GRENADINES

STATUTORY RULES AND ORDERS

2022 NO. 5

(Gazetted 23rd February, 2022)

IN EXERCISE of the powers conferred by section 156 of the Proceeds of Crime Act 2013 (No. 38 of 2013) the Minister, after consultation with the Committee and the Cabinet, makes the following Regulations –

ANTI-MONEY LAUNDERING AND TERRORIST FINANCING (NON-REGULATED SERVICE PROVIDERS) REGULATIONS, 2022

PART I

PRELIMINARY

1. These Regulations may be cited as the Anti-Money Laundering and Terrorist Financing (Non-Regulated Service Providers) Regulations, 2022. **Citation**

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

Interpretation

“Act” means the Proceeds of Crime Act, 2013;

No. 38 of 2013

“application” means an application under regulation 3 (1) for registration;

“approved form” means the form approved by the Financial Intelligence Unit under regulation 3 (2) (a);

“person” has the meaning assigned in the Anti-Terrorist Financing and Proliferation Act, 2015;

No. 14 of 2015

“Register” means the Register of Non-Regulated Service Providers established and kept under regulation 10;

“registered” means registered under these Regulations.

(2) For the purposes of these Regulations, a non-regulated service provider is –

(a) a person who, by way of business –

- (i) acts as a real estate agent, when involved in transactions for a client concerning the buying and selling of real estate;
 - (ii) provides gambling services (including internet gambling and floating casinos) or operates a casino or common gaming house;
 - (iii) provides the service of selling or leasing new or used motor vehicles;
 - (iv) deals and trades in goods, including precious stones and precious metals;
- (b) a lawyer, notary or any other independent legal professional, an accountant or auditor (including a sole practitioner, partners or an employed professional within a professional firm), when he prepares for or carries out transactions for his client concerning the following –
- (i) buying and selling of real estate;
 - (ii) managing of client money, securities or other assets;
 - (iii) management of bank, savings or securities accounts;
 - (iv) organisation of contributions for the creation, operation or management of companies; or
 - (v) creation, operation or management of legal persons or arrangements and buying and selling of business entities.

(3) Unless the context otherwise requires, a word or phrase defined in the Anti-Money Laundering and Terrorist Financing Regulations, 2014 has the same meaning in these Regulations.

PART II

REGISTRATION OF NON-REGULATED SERVICE PROVIDERS

3. (1) For the purposes of section 155 of the Act, to carry on any type of relevant business in or from within the State, a person shall apply to the Financial Intelligence Unit to be registered in the Register.

Application to register

(2) An application shall –

- (a) be in the form approved by the Financial Intelligence Unit;
- (b) be signed by the non-regulated service provider applying for registration or by a person acting on behalf of the non-regulated service provider; and
- (c) be accompanied by the documents or information as may be prescribed by these Regulations or specified on the approved form.

(3) The Financial Intelligence Unit may require an applicant to –

- (a) provide it with documents and information, in addition to what is specified in sub-regulation (2) (c), as the Financial Intelligence Unit reasonably requires to determine the application, and the documents and information shall be in the form the Financial Intelligence Unit may require; and
- (b) verify any document and information provided in support of an application in a manner as the Financial Intelligence Unit may specify.

(4) If before the registration of a non-regulated service provider –

- (a) there is a material change in any information or documentation provided by or on behalf of the applicant to the Financial Intelligence Unit in connection with the application; or
- (b) the applicant discovers that the information or documentation is incomplete, inaccurate or misleading,

the applicant shall, as soon as reasonably practicable, and in any event within 14 days of receiving notice of the change or discovery, give the Financial Intelligence Unit written particulars of the change or of the incomplete, inaccurate or misleading information or documentation.

Registration

4. On receipt of an application and any additional documents or information that the Financial Intelligence Unit has required under regulation 3 (3) (a), the Financial Intelligence Unit may register the non-regulated service provider in the Register and provide the non-regulated service provider with a certificate of registration.

Refusal of application

5. (1) The Financial Intelligence Unit may refuse an application if—

- (a) the application does not comply with regulation 3 (2);
- (b) the applicant fails to provide the information or documents required by the Financial Intelligence Unit under regulation 3 (3);
- (c) the Financial Intelligence Unit is of the opinion that the applicant does not or does not intend to, carry on the relevant business for which the applicant seeks registration; or
- (d) the applicant, having previously been registered under these Regulations, has been de-registered under regulation 6.

(2) The Financial Intelligence Unit shall refuse an application if the Financial Intelligence Unit 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 terrorist financing risks to which it is exposed or is likely to be exposed;
- (b) the applicant, 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 Financial Intelligence Unit refuses an application for registration, the Financial Intelligence Unit shall send the applicant a written notice of refusal, stating the grounds for the refusal.

De-registration

6. (1) The Financial Intelligence Unit may de-register a registered non-regulated service provider if—

- (a) subject to sub-regulation (2), the registered non-regulated service provider applies to be de-registered; or

(b) subject to sub-regulation (3), the Financial Intelligence Unit is of the opinion that –

- (i) the registered non-regulated service provider is in contravention of, or has contravened, any of its AML/CFT obligations;
- (ii) the registered non-regulated service provider does not have the capacity or willingness to comply with its AML/CFT obligations or to identify, mitigate and manage the money laundering and terrorist financing risks to which the registered non-regulated service provider is exposed or is likely to be exposed;
- (iii) the registered non-regulated service provider, or its business, represents a significant money laundering or terrorist financing risk; or
- (iv) it is in the public interest for the registered non-regulated service provider to be de-registered.

(2) The Financial Intelligence Unit shall not de-register a registered non-regulated service provider under sub-regulation (1) (a) if the Financial Intelligence Unit is of the opinion that the de-registration of the non-regulated service provider would hinder the Financial Intelligence Unit in the exercise of its functions.

(3) Subject to sub-regulation (4), before de-registering a registered non-regulated service provider under sub-regulation (1) (b), the Financial Intelligence Unit shall give written notice to the registered non-regulated service provider stating –

- (a) the grounds on which it intends to de-register the registered non-regulated service provider; and
- (b) that unless the registered non-regulated service provider, in writing, shows good reason why it should not be de-registered, it will be de-registered on a date not less than fourteen days after the date of the notice.

(4) If it is not practicable for the Financial Intelligence Unit to give notice to the registered non-regulated service provider under sub-regulation (3), the Financial Intelligence Unit may de-register the registered non-regulated service provider without giving the notice.

(5) Where the Financial Intelligence Unit de-registers a registered non-regulated service provider, the Financial Intelligence Unit

shall mark the name of the registered non-regulated service provider in the Register as de-registered, showing the date of its de-registration.

**Notification of
change in
director and
senior officers**

7. (1) A registered non-regulated service provider shall provide the Financial Intelligence Unit 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.

(2) A written notice under sub-regulation (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, a director or senior officer; and
- (c) be provided to the Financial Intelligence Unit 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 registered non-regulated service provider first becoming aware of the change, in the case of the death of a director or senior officer.

(3) A registered non-regulated service provider 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 of \$50,000.

**Notification of
change in
beneficial
owners**

8. (1) A registered non-regulated service provider shall provide the Financial Intelligence Unit with written notice of any change in its beneficial owners, whether as a result of a person becoming a beneficial owner or ceasing to be a beneficial owner.

(2) A written notice under sub-regulation (1) shall –

- (a) specify the date of the change;
- (b) provide details of the identity of the new or former beneficial owner and the nature of the beneficial owner's interest in, or control of, the registered non-regulated service provider; and

- (c) be provided to the Financial Intelligence Unit within 14 days of the registered non-regulated service provider becoming aware of the change.

(3) A registered non-regulated service provider that fails to provide written notice of a change in its beneficial owners in accordance with this regulation commits an offence and is liable on summary conviction to a fine of \$50,000.

9. (1) A registered non-regulated service provider shall provide the Financial Intelligence Unit with written notice of any change in the information required to be registered under regulation 3.

**Notification of
change in
information
required to be
registered**

(2) A written notice under sub-regulation (1) shall –

- (a) specify the date of the change;
- (b) set out the details of the change; and
- (c) be provided to the Financial Intelligence Unit within 14 days of the registered non-regulated service provider first becoming aware of the change.

(3) A registered non-regulated service provider 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 of \$50,000.

10. (1) The Financial Intelligence Unit shall establish and keep a register to be known as the Register of Non-Regulated Service Providers.

Register

(2) The Register shall contain the following information in relation to a registered non-regulated service provider –

- (a) the name, address in the State and the telephone number and email address, if any, of the registered non-regulated service provider;
- (b) the purpose, objectives and activities of the registered non-regulated service provider;
- (c) the identity of the persons who own, control or direct the registered non-regulated service provider;
- (d) the date of registration and, if applicable, de-registration of the registered non-regulated service provider; and
- (e) such other information as the Financial Intelligence Unit considers appropriate.

(3) The Register and the information contained in any document filed with the Financial Intelligence Unit may be kept in a manner the Financial Intelligence Unit 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.

PART III

MISCELLANEOUS

Fit and proper
test

11.(1) The following persons are subject to a fit and proper test –

- (a) a person who effectively directs or controls the business of an applicant, including a director or senior officer; and
- (b) a compliance or reporting officer appointed under regulation 25 or 26 of the Anti-Money Laundering and Terrorist Financing Regulations, 2014.

No. 20 of 2014

(2) In deciding whether a person is a fit and proper person to hold any particular position, regard shall be had to –

- (a) the probity of the person;
- (b) the competence and soundness of judgment of the person for fulfilling the responsibilities of that position;
- (c) the diligence with which the person is fulfilling or likely to fulfil those responsibilities; and
- (d) whether the interests of the non-regulated service provider are, or are likely to be, in any way threatened by the person holding that position.

(3) Without prejudice to subsection (2), regard may be had to the previous conduct and activities in business or financial matters of the person in question and, in particular, to any evidence that he has –

- (a) committed an offence involving fraud or other dishonesty or violence;
- (b) contravened any provision made by or under any written law appearing to the Financial Intelligence Unit to be designed for protecting members of the public against financial loss due to –

- (i) dishonesty, incompetence or malpractice by persons concerned in the provision of services by the service provider; or
- (ii) the conduct of discharged or undischarged bankrupts;
- (c) engaged in any business practices appearing to the Financial Intelligence Unit to be deceitful or oppressive or otherwise improper (whether lawful or not) or which otherwise reflect discredit on his method of conducting business; and
- (d) engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment.

12.(1) A non-regulated service provider commits an offence if the non-regulated service provider –

False and
misleading
information

- (a) provides any information, makes any representation or submits any document that the non-regulated service provider knows, suspects or has reasonable grounds to suspect 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.

(2) A non-regulated service provider who commits an offence under sub-regulation (1) is liable –

- (a) on summary conviction to a fine of \$50,000 and to imprisonment for two years or to both; or
- (b) on conviction on indictment to a fine of \$100,000 and to imprisonment for two years or to both.

Transitional

13. A non-regulated service provider which is in existence at the commencement of these Regulations, does not contravene section 155 of the Act if within ninety days of the commencement of these Regulations, the non-regulated service provider –

- (a) is registered under regulation 4; or
- (b) has made an application to be registered in compliance with regulation 3 which has not been refused.

Made this 23rd day of February, 2022.

HON. CAMILLO GONSALVES

Minister of Finance, Economic Planning
and Information Technology

Printed by the Government Printer at the Government Printing Office,
Campden Park Industrial Estate, St. Vincent and the Grenadines.

2022

[Price \$6.00]