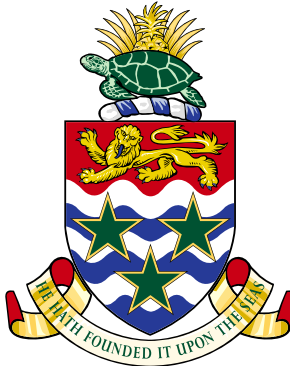


CAYMAN ISLANDS



**Proceeds of Crime Law
(2020 Revision)**

**ANTI-MONEY LAUNDERING
(AMENDMENT) (NO. 2) REGULATIONS,
2020**

(SL 73 of 2020)

Supplement No. 2 published with Legislation Gazette No. 39 dated 22nd May, 2020.

PUBLISHING DETAILS



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CAYMAN ISLANDS**Proceeds of Crime Law
(2020 Revision)****ANTI-MONEY LAUNDERING (AMENDMENT)
(NO. 2) REGULATIONS, 2020
(SL 73 of 2020)**

In exercise of the powers conferred by section 145 of the Proceeds of Crime Law (2020 Revision), the Cabinet makes the following Regulations —

Citation and commencement

1. (1) These Regulations may be cited as the Anti-Money Laundering (Amendment) (No. 2) Regulations, 2020.
- (2) Regulation 8 shall come into force on such date as may be appointed by Order made by the Cabinet.

Amendment of regulation 2 of the Anti-Money Laundering Regulations (2020 Revision) - definitions

2. The *Anti-Money Laundering Regulations (2020 Revision)*, in these Regulations referred to as the “principal Regulations”, are amended in regulation 2 as follows —
 - (a) by inserting after the definition of the words “Financial Action Task Force”, the following definition —

“**Financial Action Task Force - style regional body**” means an associate member of the Financial Action Task Force comprised of states or territories which have collectively agreed to implement common counter-measures against money laundering, terrorist

financing and the proliferation of weapons of mass destruction, based on the policies developed and promoted by the Financial Action Task Force;”;

- (b) by deleting the definition of the words “overseas regulatory authority” and substituting the following definition —

“ **“overseas regulatory authority”** means an authority which —

- (a) is located in a country other than the Islands that is a member of the Financial Action Task Force or a member of a Financial Action Task Force-style regional body; and
- (b) exercises a function corresponding to a statutory function of a Supervisory Authority in relation to relevant financial business in the Islands;”;
- (c) by inserting after the definition of the words “unique identifier”, the following definition —

“ **“virtual asset service provider”** has the meaning assigned under section 3 of the *Virtual Asset (Service Providers) Law, 2020*;”.

Amendment of regulation 6 - group-wide programmes

3. The principal Regulations are amended in regulation 6(1)(d) by inserting after the word “exchanged” the words “, including safeguards to prevent tipping-off”.

Amendment of regulation 11 - when customer due diligence is required

4. The principal Regulations are amended in regulation 11 as follows —
- (a) by renumbering regulation 11 as regulation 11(1); and
- (b) by inserting after regulation (11)(1) as renumbered, the following paragraph —
- “(2) Notwithstanding paragraph (1)(b), a virtual asset service provider shall undertake customer due diligence measures in respect of each one-off transaction it carries out.”.

Amendment of regulation 17 - failure to complete customer due diligence

5. The principal Regulations are amended in regulation 17 by deleting the regulation heading and substituting the following regulation heading —

“Duty to perform enhanced due diligence”.

Amendment of regulation 25 - eligible introducer

6. The principal Regulations are amended in regulation 25(1) as follows —
- (a) by deleting the words “regulation 22(d)” and substituting the words “regulation 22(1)(d)”;



- (b) in paragraph (d), by deleting the words “for business; and” and substituting the words “for business;”; and
- (c) by inserting after paragraph (d), the following paragraph —
 - “(da) that the introducer —
 - (i) is supervised or monitored by a Supervisory Authority or overseas regulatory authority; and
 - (ii) has measures in place,
 - for compliance with customer due diligence and record keeping requirements; and”.

Amendment of regulation 35 - application of this Part

7. The principal Regulations are amended in regulation 35 by inserting after paragraph (2), the following paragraph —

“(3) This Part does not apply to transfers of virtual assets.”.

Insertion of Part XA - identification and record-keeping requirements relating to transfers of virtual assets

8. The principal Regulations are amended by inserting after Part X, the following Part —

“PART XA - Identification and record-keeping requirements relating to transfers of virtual assets

Definitions under Part XA

49A. In this Part —

“**batch file transfer of virtual assets**” means several individual transfers of virtual assets which are bundled together for transmission;

“**beneficiary**” has the meaning assigned under section 2 of the *Virtual Asset (Service Providers) Law, 2020*;

“**beneficiary virtual asset service provider**” means a virtual asset service provider which receives a transfer of virtual assets on behalf of a beneficiary;

“**intermediary virtual asset service provider**” means a virtual asset service provider which —

- (a) participates in the execution of a transfer of virtual assets; and
- (b) is not the originating virtual asset service provider or the beneficiary virtual asset service provider;

“**obliged entity**” has the meaning assigned under section 2 of the *Virtual Asset (Service Providers) Law, 2020*;

“**originating virtual asset service provider**” means a virtual asset service provider which conducts a transfer of virtual assets on behalf of an originator;

“**originator**” has the meaning assigned under section 2 of the *Virtual Asset (Service Providers) Law, 2020*; and

“**transfer of virtual asset**” has the meaning assigned under section 2 of the *Virtual Asset (Service Providers) Law, 2020*.

Application of this Part

49B. This Part applies to transfers of virtual assets.

Transfers of virtual assets to a beneficiary

- 49C.**(1) An originating virtual asset service provider shall, when conducting a transfer of virtual assets to a beneficiary, collect and record the following information —
- (a) the name of the originator and the beneficiary;
 - (b) where an account is used to process the transfer of virtual assets by —
 - (i) the originator, the account number of the originator; or
 - (ii) the beneficiary, the account number of the beneficiary;
 - (c) the address of the originator, the number of a Government-issued document evidencing the originator’s identity or the originator’s customer identification number or date and place of birth; and
 - (d) where an account is not used to process the transfer of virtual assets, the unique transaction reference number that permits traceability of the transaction.
- (2) An originating virtual asset service provider shall, before conducting the transfer of virtual assets, verify the information on the originator under paragraph (1) on the basis of documents, data or information that meet the requirements of regulation 20(1).
- (3) An originating virtual asset service provider shall provide the information under paragraph (1) to the beneficiary virtual asset service provider or obliged entity simultaneously or concurrently with the transfer of virtual assets.
- (4) An originating virtual asset service provider may provide the information under paragraph (1) to the beneficiary virtual asset service provider or obliged entity directly by attaching the



information to the transfer of virtual assets or providing the information indirectly.

- (5) An originating virtual asset service provider shall ensure that transfers of virtual assets are conducted using a system which prevents the unauthorised disclosure of the information under paragraph (1) to a person other than the originating virtual asset service provider, the beneficiary virtual asset service provider or the obliged entity.
- (6) An originating virtual asset service provider shall, for at least five years, keep records of complete information on the originator and beneficiary which accompanies each transfer of virtual assets.

Obligations of a beneficiary virtual asset service provider

- 49D.**(1) A beneficiary virtual asset service provider shall, on receipt of a transfer of virtual assets, collect and record the following information —
- (a) the name of the originator and the beneficiary;
 - (b) where an account is used to process the transfer of virtual assets by —
 - (i) the originator, the account number of the originator; or
 - (ii) the beneficiary, the account number of the beneficiary;
 - (c) the address of the beneficiary, the number of a Government-issued document evidencing the beneficiary's identity or the beneficiary's customer identification number or date and place of birth; and
 - (d) where an account is not used to process the transfer of virtual assets, the unique transaction reference number that permits traceability of the transaction.
- (2) A beneficiary virtual asset service provider shall verify the accuracy of information on the beneficiary under paragraph (1) on the basis of documents, data or information that meets the requirements of regulation 20(1).
 - (3) A beneficiary virtual asset service provider shall, for at least five years, keep records of complete information on the originator and beneficiary which accompanies each transfer of virtual assets.

Duty to produce information

- 49E.** (1) A competent authority may, by notice in writing, require an originating virtual asset service provider or a beneficiary virtual asset service provider to provide information in respect of a transfer of virtual assets carried out under this Part.
- (2) An originating virtual asset service provider or a beneficiary virtual asset service provider which receives a notice under paragraph (1) shall comply with that notice within the period and in the manner specified in the notice.

Batch file transfers of virtual assets

- 49F.** (1) For batch file transfers of virtual assets from a single originator, regulation 49C(1) shall not apply to the individual transfers of virtual assets bundled together if —
- (a) the batch file contains —
- (i) the name of the originator;
 - (ii) where an account is used to process the transfer of virtual assets by the originator, the account number of the originator;
 - (iii) the address of the originator, the number of a Government-issued document evidencing the originator's identity or the originator's customer identification number or date and place of birth; and
- (b) the individual transfers of virtual assets carry the account number of the originator or a unique identifier.
- (2) A batch file shall contain the name, account number or unique identifier of the beneficiary that is traceable in the beneficiary country.

Obligations of a beneficiary virtual asset service provider

- 49G.** A beneficiary virtual asset service provider shall have effective procedures in place in order to detect whether, in the messaging or payment and settlement system or equivalent system used to effect a transfer of virtual assets, the information required under regulations 49C(1), 49F and 49N is obtained in accordance with these Regulations.



Transfers of virtual assets with missing or incomplete information about the originator

- 49H.**(1) An originating virtual asset service provider shall not execute transfers of virtual assets where the originating virtual asset service provider is unable to collect and maintain information on the originator and beneficiary as required under regulation 49C(1) and 49F.
- (2) A beneficiary virtual asset service provider shall have effective systems in place to detect missing required information on both the originator and beneficiary.
- (3) Where a beneficiary virtual asset service provider detects, when receiving transfers of virtual assets, that information on the originator required under this Part is missing or incomplete, the beneficiary virtual asset service provider shall either reject the transfer of virtual assets or request complete information on the originator.
- (4) A beneficiary virtual asset service provider shall adopt risk-based policies and procedures for determining —
- (a) whether to execute, reject or suspend a transfer of virtual assets; and
- (b) the resulting procedures to be applied,
- where the required originator or beneficiary information is incomplete.
- (5) Where an originating virtual asset service provider regularly fails to supply the required information on the originator, the beneficiary virtual asset service provider shall adopt reasonable measures to rectify noncompliance with these Regulations before —
- (a) rejecting any future transfers of virtual assets from that originating virtual asset service provider;
- (b) restricting its business relationship with that originating virtual asset service provider; or
- (c) terminating its business relationship with that originating virtual asset service provider,
- and the beneficiary virtual asset service provider shall report to the Financial Reporting Authority and to the relevant Supervisory Authority any such decision to restrict or terminate its business relationship with that originating virtual asset service provider.

Assessment and reporting of suspicious transfers of virtual assets

49I. A beneficiary virtual asset service provider shall consider incomplete information about the originator as a factor in assessing whether a transfer of virtual assets, or any related transaction, is suspicious and where it is determined that the transaction is suspicious, the suspicious transaction shall be reported to the Financial Reporting Authority in accordance with the Law.

Information accompanying a transfer of virtual assets

49J. An intermediary virtual asset service provider which participates in a transfer of virtual assets shall ensure that all information received on the originator and the beneficiary that accompanies a transfer of virtual assets is kept with the transfer of virtual assets.

Straight-through processing of transfers of virtual assets

49K. An intermediary virtual asset service provider shall —

- (a) take reasonable measures, which are consistent with straight-through processing, to identify transfers of virtual assets that lack required originator or beneficiary information; and
- (b) adopt risk-based policies and procedures for determining —
 - (i) when to execute, reject or suspend a transfer of virtual assets; and
 - (ii) the resulting procedures to be applied, where the required originator or beneficiary information is incomplete.

Obligation of a virtual asset service provider to comply with requirements

49L. A virtual asset service provider shall comply with all of the relevant requirements under this Part in the countries in which they operate, either directly or through the agents of the virtual asset service provider.

Obligation of a virtual asset service provider to file suspicious activity report

49M. A virtual asset service provider, that controls both the originating virtual asset service provider and the beneficiary virtual asset service provider, shall —

- (a) consider the information from both the originating virtual asset service provider and the beneficiary virtual asset service provider to determine whether a suspicious activity report should be filed; and



- (b) further to paragraph (a), file the suspicious activity report in the country from which the transfer of virtual assets originated or to which the transfer of virtual assets was destined and make relevant transaction information available to the Financial Reporting Authority and the relevant authorities in the country from which the transfer originated or to which it was destined.

Technical limitations related to transfers of virtual assets

49N. Where technical limitations prevent an intermediary virtual asset service provider from sending the required originator or beneficiary information with the transfer of virtual assets, the intermediary virtual asset service provider shall keep a record of all the information received from the originating virtual asset service provider, obliged entity or other intermediary, for at least five years.

Obligation to have risk-based policies

49O. An intermediary virtual asset service provider shall have risk-based policies and procedures for determining —

- (a) when to execute, reject, or suspend a transfer of virtual assets lacking required originator or required beneficiary information; and
- (b) the appropriate follow-up action.

Interpreting inconsistencies with other Parts

49P. Where there is an inconsistency between the provisions of this Part and any other provision of these Regulations, the provisions of this Part shall prevail to the extent of the inconsistency.”

Made in Cabinet the 22nd day of May, 2020.

Kim Bullings
Clerk of the Cabinet