

BELIZE:

**FINANCIAL SERVICES COMMISSION (COMPLIANCE
FUNCTION) REGULATIONS, 2024**

ARRANGEMENT OF REGULATIONS

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BELIZE:

STATUTORY INSTRUMENT

No. 106 of 2024

REGULATIONS made by the Financial Services Commission with the approval of the Minister, in exercise of the powers conferred upon it by sections 44 (7), 45 (13) and 76 of the Financial Services Commission Act, Act No. 8 of 2023, and all other powers thereunto it enabling.

(Gazetted 10th August, 2024)

PART I

Preliminary

1. These Regulations may be cited as the

Citation.

**FINANCIAL SERVICES COMMISSION
(COMPLIANCE FUNCTION) REGULATIONS, 2024.**

2. In these Regulations—

Interpretation.

“body corporate” means an entity who, pursuant to section 45 of the Act, has been granted an approval to provide compliance function services; and

“serious compliance breach” means a breach which has any of the following characteristics—

- (a) the breach that may have significant impact on the reputation of the licensee or Belize;
- (b) the breach that may have a significant impact on the customer of the licensee; or

- (c) the breach that may have a significant impact on one or more other licensees.

Requirements for body corporate providing compliance function services.

3.—(1) A Body Corporate who intends to provide compliance function services and obligations shall submit an application to the Commission for approval to act in that capacity.

(2) Every person employed by the Body Corporate to perform compliance duties shall be approved by the Commission and possess all the qualifications set out in regulation 5.

(3) A Body Corporate shall seek annual renewal of its approval to provide compliance function services.

(4) Subject to section 44(9) of the Act, with the approval of the Commission, the compliance officer of a licensee may also be appointed to act as its money laundering compliance officer provided that the size and nature of the business carried on by the licensee do not make it impractical for one individual to fulfil both roles.

Application requirements.

4.—(1) An application for appointment of compliance officer shall be made via the electronic application form published on the Commission's website.

(2) An application for appointment of a person at management level as compliance officer shall be accompanied by an organizational chart evidencing the person's seniority.

Qualifications.

5. A person shall be eligible for appointment as a Compliance Officer under these Regulations if that person—

- (a) satisfies the Commission's fit and proper criteria;
- (b) is at a management level and can carry out their duties independently and effectively;

- (c) has at least five years relevant working experience;
- (d) has comprehensive knowledge and excellent understanding of the regulatory regime that applies to a licensee; and
- (e) possesses–
 - (i) an associate degree in business, banking, accounting, finance, audit, risk management, paralegal or law from a recognized university; or
 - (ii) an AML specialist certification from an institution recognized by the Commission, provided that where a certification has not been obtained at the time of an application for appointment, the Commission may approve the appointment on the condition that the person shall be certified within a timeframe specified by the Commission.

6.–(1) A licensee shall establish, implement and maintain a compliance policy and compliance systems and controls.

**Responsibilities
of a licensee.**

(2) The compliance policy shall be appropriate for the nature, scale, complexity and diversity of the business carried on by a licensee.

(3) The compliance systems and controls shall be–

- (a) sufficient to ensure compliance–
 - (i) by the licensee with its compliance policies and its regulatory obligations;
 - (ii) by the licensee’s board, senior management and employees with its compliance policies

and any obligations that may be imposed on them by relevant Acts, regulations, or guidelines; and

(iii) with the licensee's internal controls;

(b) adequate to identify compliance breaches; and

(c) effectively implemented by the licensee.

(4) The directors of a licensee shall—

(a) approve the licensee's compliance policy; and

(b) at least on an annual basis—

(i) review the compliance policy; and

(ii) independently assess the effectiveness of the compliance policy, systems and controls in managing the licensee's compliance risk.

(5) The compliance policy, systems and controls of a Licensee shall be—

(a) documented in the compliance procedures manual that the licensee is required to maintain under section 44(2) of the Act; and

(b) communicated, and readily available to the directors and to those senior managers and staff who have responsibility for implementing them.

7.-(1) The compliance procedures manual of a licensee shall provide sufficient detail and structure to ensure that the directors, managers, ultimate beneficial owners, and employees of the licensee understand the compliance function and their roles in the compliance framework.

(2) The contents of the compliance procedures manual shall be determined based on the nature, size, and complexity of the business of the licensee.

(3) The compliance procedures manual shall provide information concerning the applicable regulatory framework and be sufficiently practical to enable employees to apply general principles to specific situations that may be outside the precise scope of the manual.

(4) The compliance procedures manual shall not be considered as simply a “tick box” checklist of procedures.

(5) The general areas covered by the compliance manual shall include but not be limited to the following–

- (a) the purpose and importance of the compliance function;
- (b) the role of the compliance officer and any compliance committee that may be established and how the compliance function will be monitored and reviewed;
- (c) the risks associated with the proposed business and the risk management systems in place;
- (d) an organizational chart clearly indicating who is responsible for various procedures and tasks within the licensee and a description of those tasks and the compliance reporting structure;
- (e) a description of the regulatory framework insofar as it is relevant to the licensee and of the regulatory obligations of the licensee; and
- (f) the procedures that will be used to test compliance and how breaches in compliance shall be reported and rectified.

Obligations of licensee with respect to compliance officer.

8. The compliance officer of a licensee shall—
- (a) possess sufficient independence to perform the role of a the compliance officer objectively and without limiting this section, the compliance officer shall not be—
 - (i) involved in the performance of services or activities that he is responsible for monitoring;
 - (ii) placed in a position where the compliance officer is expected to perform functions that conflict with his role as compliance officer; or
 - (iii) subjected to any undue influence or pressure with respect to the carrying out of the compliance functions;
 - (b) have sufficient seniority in the organizational structure of the licensee to—
 - (i) effectively undertake the compliance function;
 - (ii) communicate freely with the Commission concerning compliance matters on his own initiative; and
 - (iii) ensure that his requests, where appropriate, are acted upon by the staff and his recommendations are properly considered by the board and by senior management; and
 - (c) have sufficient resources to perform the compliance function effectively.

9. Without limiting section 44(3) and (6) of the Act, the compliance officer of a licensee—

Duties and responsibilities of compliance officer.

- (a) has functional responsibility for—
 - (i) ensuring that the licensee complies with its obligations with respect to the establishment and maintenance of compliance systems and controls;
 - (ii) identifying, measuring and assessing the compliance risks associated with the licensee's business, including the compliance risks associated with the material changes in, or the development of new products, types of business or customer relationships;
 - (iii) keeping the regulatory obligations of the licensee and the compliance systems and controls under review, identifying any deficiencies, making regular assessment reports to the board and senior management and making recommendations for any updates or revisions;
 - (iv) establishing and maintaining a compliance procedures manual and keeping the manual current and under regular review;
 - (v) maintaining a register of compliance breaches containing information on the date, nature and extent of each compliance breach, the remedial action taken to address the breach, and the timeframe within which it was addressed and whether the breach has been reported to the Commission;

- (vi) ensuring that the staff of the licensee are aware of the need for and the objectives of compliance and that they are familiar with, and understand to the extent necessary to undertake their responsibilities such as the regulatory regime and any changes to it and the licensee's compliance manual;
 - (vii) ensuring that the licensee complies with its reporting obligations to the Commission including that returns submitted to the Commission are accurate, complete and filed within the relevant time period; and
 - (viii) establishing and maintaining procedures for the monitoring and handling of complaints, and keeping the complaints procedures under review; and
- (b) has responsibility for–
- (i) immediately reporting to the Commission any serious compliance breach that the compliance officer becomes aware of;
 - (ii) preparing and submitting to the Commission, on behalf of the licensee, an annual compliance report as outlined in regulation 10; and
 - (iii) preparing and submitting to the board of directors an annual compliance report.

(2) The annual compliance report shall be prepared and submitted to the Commission within 3 months after the end of the year to which the report relates.

(3) The Commission may request for the compliance report at the earlier date if it deems it necessary.

(4) Subject to regulation 9(b)(ii), the compliance report shall, at a minimum, contain the following–

- (a) the number of employees within the licensee, the names and positions of the employees that underwent training, including, training in AML/CFT obligation, the content of material covered, the dates of the training, and a copy of the licensee's training register;
- (b) a list of any Belize laws that may have been breached by the licensee, the remedial action taken and within what time frame, and a copy of the licensee's register of compliance breaches;
- (c) the number of suspicious activity reports made during the year of the report;
- (d) a list of significant complaints made by the customers of the licensee, indicating the dates of the complaints, the nature of the complaints, and how the complaints were dealt with;
- (e) an indication of whether there has been a significant breakdown in the internal control structure of the licensee, including any compliance risk that may be associated with the Licensee's business relative to–
 - (i) its existing risk management strategy, policies, systems and controls, and whether

- the internal controls remain sufficient and appropriate for the licensee's business; and
- (ii) whether the strategy, policies, systems and internal controls are being implemented and complied with in an effective manner;
 - (f) confirmation of whether the licensee remains properly resourced, structured and organized to enable it to effectively undertake its business activities, including serving the number and types of its customers; and
 - (g) reporting, filing and other obligations to the Commission under the relevant laws, regulations, and guidelines.

Absence of compliance officer.

11.—(1) Where an approved compliance officer is absent for more than 10 but less than 30 working days, the licensee shall identify and appoint another individual to perform the compliance functions set out under these Regulations during the period of temporary absence of the compliance officer.

(2) A person appointed under sub-regulation (1) to temporarily perform the compliance functions shall not require approval by the Commission.

(3) A Licensee shall immediately notify the Commission about the absence of the compliance officer and details of the individual that is appointed to temporarily carry out the compliance function.

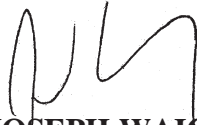
(4) Where an approved compliance officer is absent for more than 30 days, the licensee shall appoint another individual approved by the Commission to perform the compliance functions during the absence of the compliance officer.

(5) A person appointed to perform the compliance functions under sub-section (4) shall satisfy the qualification requirements set out in regulation 5.

12. An application and approval pursuant to these Regulations are subject to the fees set out in Schedule II, Item No. 1 of the Financial Services Commission (Licensing) Regulations, 2023.

Fees.
S.I. 120 of
2023

MADE by the Financial Services Commission this 6th day of August, 2024.

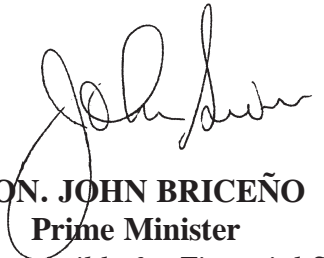


JOSEPH WAIGHT

Chairman

Financial Services Commission

APPROVED by the Minister responsible for financial services this 6th day of August, 2024.



HON. JOHN BRICEÑO

Prime Minister

(Minister responsible for Financial Services)