



The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

No. 1699/10 - MONDAY MARCH 28, 2011

(Published by Authority)

PART I : SECTION (I) — GENERAL

Central Bank of Sri Lanka Notices

L.D-B 3/2006.

FINANCIAL TRANSACTIONS REPORTING ACT, No. 6 OF 2006

RULES made by Financial Intelligence Unit under subsection (3) of section 2 of the Financial Transactions Reporting Act, No. 6 of 2006.

Financial Intelligence Unit.

28th March, 2011,
Colombo.

Rules

1. These Rules may be cited as the Licensed banks and Registered Finance Companies (Know Your Customer (KYC) and Customer Due Diligence (CDD)) Rules, No.1 of 2011.
2. These Rules shall apply to every Licensed bank and Registered Finance Company (hereinafter referred to as the "Financial Institution").
3. Every Financial Institution shall take such measures as may be specified in these Rules for the purpose of obtaining the customer identification data or information relating to its customers who may be natural or legal persons.

PART I

GENERAL

A. Natural Persons

4. Every Financial Institution shall, obtain from natural persons, the following information :-
 - (a) full name and any other names used (such as maiden name) ;
 - (b) male/female ;
 - (c) permanent address (the full address should be obtained; a post office box number is not sufficient);
 - (d) telephone number, fax number, and e-mail address;
 - (e) date of birth ;
 - (f) place of birth ;

- (g) nationality or citizenship(s) ; current / previous (add period) ;
- (Ii) an official personal identification number or any other identification (e.g. passport, national identity card, driving licence) that bears a photograph of the customer;
- (i) occupation, public position held and/or name of employer ;
- (j) type of account.

5. Every Financial Institution shall verify the above information submitted to it, in any one of the following ways-

- (a) confirming the date of birth from an official document (e.g. birth certificate, passport, national identity card);
- (b) confirming the permanent address (e.g. utility bills, tax assessment, bank statement, a letter from a public authority, Certificate of a Grama Niladhari or electoral register);**
- (c) contacting the customer by telephone, by letter or by e-mail to confirm the information supplied after an account has been opened or conduct a field visit to verify the information given. If the confirmation of information reveals a disconnected phone, returned mail, or incorrect e-mail address, then the Financial Institution shall carry out further investigation;
- (d) confirming the validity of the official documentation provided through certification by an authorized person.

Note : The instances mentioned above are some of the available methods to verify the information, but there may be other documents or information of an equivalent nature which may be produced as satisfactory evidence of customer's identity.

6. Every Financial Institution shall apply effective customer identification procedures in the case of both customers who are available for interview as well as to those customers who are not so available.

7. Every Financial Institution shall make an initial assessment of a customer's risk profile. Particular attention needs to be focused on the customers identified as having a higher risk profile. In such cases additional inquiries shall be made or information shall be obtained, in respect of such customers, including the following:-

- (a) evidence of the customer's permanent address sought through independent verification by field visits;
- (b) personal reference (i.e. by an existing customer of the same institution) ;
- (c) prior bank reference regarding the customer and the customer contact with the Financial Institution;
- (d) the customer's source of wealth ;
- (e) verification of details relating to employment, public position previous/present, if any (where appropriate), supplied by the customer.

8. Every Financial Institution shall with regard to one-off or occasional transactions where the amount of the transaction or series of linked transactions does not exceed the amount prescribed under paragraph (a) of section 6 of the Act, obtain the minimum information specified in rule 4 of these rules.

B. Partnerships

9. In the case of a partnership, every Financial Institution shall verify the identity of each partner of such partnership and also verify the details of immediate family members who have ownership or control thereof.

10. The provisions contained in rule 4 to rule 8 shall *mutatis mutandis* be followed in respect of partnerships.

C. Institutions

11. The customer identification rules shall in relation to the different types of institutions, be applied with particular attention being given to the different levels of risk involved.

12. The provisions contained in rule 4 to rule 8 shall *mutatis mutandis*, be followed in respect of Institutions.

C1. Corporate Entities

13. For corporate entities, the principal guideline is to inquire about the background of the entity to identify those who have control over the business and the entity's assets, including those with whom the control and management finally rests. Particular attention shall be paid to shareholders, signatories, or others who invest a significant proportion of the capital or financial support or otherwise exercise control. Where the owner is another corporate entity or trust, the objective is to undertake reasonable measures to inquire about the background of the company or entity and to verify the identity of its principals.

For the purpose of this Rule "control" means the nature of a corporate entity, and those who are mandated to manage funds, accounts or investments without requiring further authorisation, and who would be in a position to override internal procedures and control mechanisms. Where a corporate entity is listed on the stock exchange, or is a subsidiary of such a company, then the company itself may be considered to be the principal to be identified. However, consideration shall be given to whether there is effective control of a listed company by an individual, small group of individuals or another corporate entity or trust. Under these circumstances those controllers shall also be considered to be principals and identified accordingly.

14. Every Financial Institution shall, obtain the following information from corporate entities :-

- (a) name of corporate entity ;
- (b) the certified copy of the Certificate of Incorporation ;
- (c) the certified copy of Article of Association ;
- (d) the resolution of the Board of Directors to open an account and identification of those who have authority to operate the account;
- (e) nature and the purpose of the business of such corporate entity and its legitimacy;
- (f) principal place of business operation/activity of the corporate entity ;
- (g) details of previous areas or locations where the corporate entity carried out its business operation activities, with duration;
- (i) the mailing address of the corporate entity ;
- (i) the contact telephone and Facsimile numbers ;
- (j) any official identification number, if available (e.g. company registration number, tax identification number).

15. Every Financial Institution shall verify the above information in any one of the following ways : -

- (a) carrying out a review of the latest financial statements (audited, if available) of the corporate entity;
- (b) conducting an enquiry through a business information service, or an undertaking from a reputable firm of lawyers or accountants confirming the documents submitted;
- (c) undertaking a company search or other conducting enquiries as to the financial stability of the corporate entity, to verify to that the corporate entity has not been, or is not in the process of being, dissolved, struck off, wound up or terminated;
- (d) utilizing an independent information verification process, such as by accessing public and private databases;
- (e) obtaining prior bank references ;
- (f) visiting the corporate entity, where practical ;
- (g) contacting the corporate entity by telephone, mail or e-mail.

16. Every Financial Institution shall also take reasonable steps to verify the identity and reputation of any agent that opens an account on behalf of a corporate customer, if that agent is not an officer of the corporate customer.

C2. Pension Programmes or Retirement Benefit Programmes

17. In the case of pension programmes or retirement benefit programmes trustee and any other person who has control over the relationship (e.g. administrator, programme manager, and account signatories) shall be considered as the principal and the Financial Institution shall take steps to verify their identities.

The provision contained in rule 4 to rule 8, shall *mutatis mutandis*, be followed in respect of such programme.

C3. Societies and Cooperatives

18. In the case of societies and cooperatives the principal shall be those exercising control or significant influence over the organisation's assets. This will often include board members and executives and account signatories.

C4. Charities, Clubs and Associations

19. In the case of charities, clubs, and associations, every Financial Institution shall take reasonable steps to identify and verify at least two signatories along with the institution itself. The principal shall be those exercising control or significant influence over the organisation's assets. This will often include members of a governing body or committee, the President/Chairman, the members of the Board of Directors, or managing body, the treasurer, and all signatories.

20. In all cases independent verification shall be obtained that the persons involved are true representatives of the institution. Independent confirmation shall also be obtained of the objective of the institution.

D. Trusts, nominee and fiduciary accounts

21. Every Financial Institution shall establish whether the customer is taking the name of another customer, acting as a "front" or acting on behalf of another person as trustee, nominee or other intermediary. If so, the receipt of satisfactory evidence of the identity of any intermediaries and of the persons upon whose behalf they are acting, as well as details of the nature of the trust or other arrangements in place specifically, the identification of a trust shall include the trustees, settlers, grantors and beneficiaries, shall be an initial requirement.

22. Every Financial Institution shall take reasonable steps to verify the trustee, the settler of the trust (including any persons settling assets into the trust) any protector, beneficiary, and signatory. Beneficiaries shall be identified where they are defined.

23. In the case of a foundation, every Financial Institution shall verify the founder, the managers, directors and the beneficiaries.

E. Beneficial Owners

24. Every Financial Institution shall be able to justify the reasonableness of the measures taken to identify the beneficial owners, having regard to the circumstances of each case. Every Financial Institution may also consider obtaining an undertaking or declaration from the customer, on the identity of, and the information relating to, the beneficial owner.

F. Professional Intermediaries

25. Every Financial Institution shall identify every single client on behalf of whom a professional intermediary such as a lawyer, notary, other independent legal professional or accountant, opens a client account. Where funds held by the intermediary are not co-mingled but where there are "sub-accounts" which can be attributable to each beneficial owner, all beneficial owners of the account held by the intermediary shall be identified. Where the funds are co-mingled, the Financial Institution shall look through to the beneficial owners; however, there may be circumstances which should be set out in supervisory guidance where the Financial Institution may not need to look beyond the intermediary (e.g. When the intermediary is subject to the same due diligence standards in respect of its client base as the Financial Institution).

26. In the above circumstances where an account is opened for an investment company, unit trust or limited partnership and the same due diligence requirements are applicable to Financial Institution are applicable in respect of its client base, the following shall be considered as principals, and the Financial Institution shall take steps to identify:

- (a) the fund itself ;
- (b) its directors or any controlling board where it is a company ;
- (c) its trustee where it is a unit trust ;
- (d) its managing (general) partner ;
- (e) account signatories;
- (f) any other person who has control over the relationship (e.g. fund administrator or manager).

27. Where other investment methods are involved, the same steps shall be taken as in rule 25 where it is appropriate to do so. In addition all reasonable steps shall be taken to verify the identity of the beneficial owners of the funds and the identity of those who have control of the funds.

28. Every Financial Institution shall treat intermediaries as individual customers of such Institution and shall verify separately the standing of the intermediary. The provision of rule 10 and rule 11 shall *mutatis mutandis* apply in this instance.

G. Other Types of Institutions

29. For the categories of accounts referred to in the headings under B, C1 - C4, D, E and F of these Rules, the following information shall be obtained in addition to the requirements needed to verify the identity of the principal :-

- (a) name of account ;
- (b) mailing address ;
- (c) contact telephone and fax numbers ;
- (d) any official identification number, if available (e.g. company registration number, tax identification number);
- (e) description of the purpose/activities of the account holder (e.g. in a formal constitution);
- (f) copy of documentation confirming the legal existence of the account holder (e.g. registration document of charity).

30. Every Financial Institution shall verify this information in any one of the following ways :-

- (a) obtaining an independent undertaking from a reputable firm of lawyers or accountants confirming the documents submitted;
- (b) obtaining prior bank references ;
- (c) accessing public and private databases or official sources.

H. Introduced Business

31. **No Financial Institutions shall rely on introducers who are subject to weaker standards than those governing the Financial Institutions' own KYC procedures or those who are unwilling to furnish copies of their own due diligence documentation.**

32. **Every Financial Institution that relies on an introducer shall always carefully assess whether the introducer is a fit and proper person who exercises the necessary due diligence in accordance with the standards set out in these Rules.**

33. Every Financial Institution shall use the following criteria to determine whether an introducer can be relied upon:

- (a) complying with the minimum customer due diligence practices set out in these Rules;
- (b) adapting the same customer due diligence procedures which a Financial Institution shall observe with respect to customer identification;
- (c) satisfying itself as to the reliability of the system put in place by the introducer to verify the identity of the customer;
- (d) reaching agreement with the introducer that it will be permitted to verify the due diligence undertaken by the introducer at any stage;
- (e) all relevant identification data and other documentation pertaining to the customer's identity shall be immediately submitted by the introducer to a Financial Institution who shall carefully review the documentation provided. Such information shall be available for review by the supervisory authority and the Financial Intelligence Unit; and
- (f) conducting periodic reviews to ensure that an introducer whom/which it relies on, continues to conform to the criteria set out above.

PART II

REQUIREMENTS

34. Every Financial Institution shall comply with such requirements as specified below:-

Opening of Accounts

(1) Individual Accounts :

(a) The following information shall be obtained :-

- (i) Full name as appearing in the identification document ;
- (ii) Identification document to be specified as, national identity card, valid passport or valid driving licence;
- (iii) Permanent address as appearing on the identification document. Any other address to be accepted should be supported by a utility bill not over three months old. Utility bills are to be specified as electricity bill, water bill and telecom or any fixed line operator's bill. No post-box number should be accepted. In the case of 'C/o', property owner's consent and other relevant address verification documents are required to be obtained;
- (iv) Telephone number, facsimile number, and e-mail address ;
- (v) Nationality ;
- (vi) Occupation, business, public position held and the name of the employer;
- (vii) Purpose for which the account is opened ;
- (viii) Expected turnover/volume of business ;
- çx) The reason for choosing to open the account in a foreign jurisdiction in case of NRFC/NRRAs;
- (x) Satisfactory reference ;
- (xi) Verification of Signature.

(b) The following documents shall be obtained (each copy should be verified against the original)

- (i) Mandate/Account Opening form.
- (ii) Copy of identification document.
- (iii) Copy of address verification documents.
- (iv) Copy of the valid visa/permit in the case of RNNFC/NRRA/RGFC accounts for non-nationals.
- (v) Copy of the business registration if the account is opened for such purpose.

(2) Proprietorship/Partnership Accounts :

(a) The following information shall be obtained :-

- (i) Full name as appearing in the registration document.
- (ii) Personal details of the proprietor/partners as in the case of individual accounts.
- (iii) Registered address or the principle place of business and the permanent address of the proprietor/partners.
- (iv) Contact telephone, fax numbers.
- (v) Tax file number.
- (vi) Satisfactory reference.
- (vii) Signature.
- (viii) The extent of the ownership controls.
- (ix) Other connected business interests.

(b) The following documents shall be obtained (each copy should be verified against the original)

- (i) Mandate/Account opening form.
- (ii) Copy of the business registration document.
- (iii) Proprietors'/partners' information document.
- (iv) Copy of identification and address verification documents.

(3) Corporations/Limited Liability Company :

(a) The following information shall be obtained :-

- (i) Registered name of the institution.
- (ii) Principal place of institution's business operations.
- (iii) Mailing address, if any.
- (iv) Nature and purpose of business.
- (v) Telephone/Fax/E-mail.
- (vi) Income Tax file number.
- (vii) Bank references.
- (viii) Personal details of all Directors as in the case of individual customers.
- (ix) Major share holders and their financial interests and control.
- (x) List of subsidiaries/associates and other business connections.
- (xi) Signatures.

(b) The following documents shall be obtained (each copy should be verified against the original)

- (i) Mandate/Account Opening form.
- (ii) Copy of the Certificate of Incorporation, Copy of the Form 40 or Form 1 and Articles of Association.
- (iii) Board Resolution authorizing the opening of the account.
- (iv) Copy of Form 18.
- (v) Copy of Form 20.
- (vi) Copy of Form 44 (applicable for offshore companies).
- (vii) Copy of Form 45 (applicable for offshore companies).
- (viii) Copy of the Board of Investment Agreement if a BOI approved company.
- (ix) Copy of the Export Development Board (EDB) approved letter if EDB approved company.

- (x) Copy of the certificate to commence business if a public quoted company.
- (xi) Latest audited accounts if available.

Note : The above documents should apply to a company registered abroad as well. The non-documentary methods in the absence of the above documents would entail a search at the Credit Information Bureau (CRIB), bank references, site visits and visiting the business website of the customer.

(4) Clubs, Societies, Charities, Associations and NGO :

(a) The following information shall be obtained : -

- (i) Name and address as appearing in Charter, Constitution etc.
- (ii) Detailed information of at least two office bearers, signatories, administrators, members of the governing body or committee or any other person who has control and influence over the operations of the entity as in the case of individual accounts.
- (iii) The purpose for which the account is opened, the objectives and the areas of activities.
- (iv) The source and level of income/funding.
- (v) Other connected institutions/associates/organizations.
- (vi) Telephone/Facsimile numbers/e-mail address.

(b) The following documents shall be obtained (each copy should be verified against the original)

- (i) Copy of the registration document/constitution, charter etc.
- (ii) Customer information form as in the case of individual accounts.
- (iii) Mandate/Account Opening Form.

(5) Trust, nominees, and fiduciary accounts :

(a) The following information shall be obtained : -

- (i) Identification of all trustees, settlers/grantors and beneficiaries in case of trustees;
- (ii) Whether the customer is acting as a 'front' or acting as a trustee, nominee, or other intermediary.

(b) The following documents shall be obtained (each copy should be verified against the original)

- (i) Mandate/Account Opening Form.
- (ii) Copy of the Trust Deed.
- (iii) Particulars of all individuals.

(6) Sole proprietorship :

A copy of the business registration licence/permit (should be verified against the original).

Maintenance of Accounts

1. No Financial Institution shall open an account unless and until adequate identity of the prospective customer is obtained. If there appears to be any discrepancy in the information furnished at a subsequent date the account shall be suspended until the veracity of such information is confirmed.

2. The general customer information to be recorded at the outset shall include details of the customer's business, profession, level of income, economic profile, business associates and other connections, source of funds, and the purpose for which the account is opened.

3. Every Financial Institution shall retain copies of all identification and address verification documents.

4. Where the permanent address given in the application is at a location far away from that of the branch which receives the account opening request, the request shall be discouraged or turned down and the prospective customer shall be requested to open the account at the closest branch to his residence or his business, unless an acceptable and a valid reason is given. Such exceptions shall be recorded in file. If a change of address is made after the opening of the account, the account shall be transferred to the nearest branch of that bank.

5. Where two or more accounts are opened in the same bank by a customer the Financial Institution shall record the specific purpose for which such accounts are opened, in order to enable continued due diligence of all accounts.

6. Every Financial Institution shall verify whether any prospective customer appears on any list of any known suspected terrorist list or alert, list issued by the relevant government authorities, such as the Controller of Immigration, Director General of Customs, the Governor of the Central Bank, Ministry of Foreign Affairs.

7. When instructions are received from customer to transfer funds from one account to another account numbers should be recorded internally to aid future reference.

8. When foreign currency accounts and temporary rupee accounts are opened for non-nationals/foreign passport holders who are resident in Sri Lanka, a local address shall be obtained as their permanent address during their stay in the Island. A copy of the passport, visa with validity period, foreign address and the purpose for which the account is opened shall be made available in the file. On the expiry of the visa, the account shall cease to operate unless and otherwise appropriate instructions are received. On leaving the Island the account shall either be closed or be converted into a nonresident account. Financial Institutions must ensure that a valid visa is held at all times by the clients during the continuation of the account with them.

9. Every Financial Institution shall, when rupee accounts are opened and maintained for non-residents (foreign passport holders), use a foreign address as a permanent address and for all correspondence. The reason for choosing to open the account in a foreign jurisdiction should be recorded.

10. All rupee accounts for resident non-nationals shall carry a Sri Lankan address. A foreign address shall be used temporarily until the account holder is resident abroad. Every Financial Institution shall update the address on the client's return, under the ongoing due diligence standards. In the case of joint accounts a foreign address may be used only when all parties are domiciled abroad. If any one party remains in the Island, the local address needs to be maintained.

11. Accounts for charitable and aid organizations, non governmental organisations and non profit organisations shall be opened only with the registration of the regulatory authority empowered to regulate charitable and aid organizations, non governmental organisations and non profit organisations for the time being and with other appropriate credentials. Due regard shall be paid to specific directions governing their operations i.e. issued by the Department of Bank Supervision and Department of Supervision of non-bank Financial Institute of the Central Bank and the Controller of Exchange.

12. Opening of accounts for 'politically exposed persons' (PEPs) shall be required to obtain the authorization of senior management.

For the purpose of this paragraph politically exposed persons means "individuals in Sri Lanka or abroad who are, or have been, entrusted with prominent public functions" e.g. Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of State owned corporations, important political party officials. Business relationships with family members or close associates of such person involve reputational risks similar to those of such persons themselves. This is not intended to cover middle ranking or more junior officials in the forgoing

categories.

13. All cash deposits made into savings and/or current accounts by third parties shall have on record, the identity of the depositor. The required details are, the name, address, identification number of a valid identification document, purpose and the signature. However, clerks, accountants and employees of business houses who are authorized to deal with the accounts do not come within the definition of ‘third parties’ .

14. When outward remittances/wire transfers are made out of Foreign Currency accounts, it shall be mandatory that a complete application be forwarded to the Financial Institution incorporating important and meaningful originator information such as name, address, account number, identification number together with a brief account of the purpose for such transfers. This is applicable to domestic wire transfers as well.

15. In the event foreign currency brought into the country is accepted to the credit of any foreign currency account the Financial Institution shall be satisfied of the source of funds.

16. A proper customer identification or relationship shall be established when import documents on collection basis are released to non customers of Financial Institutions. Identification shall include the correct address of the person or the business.

17. Every Financial Institution to whom these rules apply shall be required to complete the updating of all accounts with all relevant information by June 30, 2011.

18. Accounts which record frequent transactions below the threshold limit as prescribed by Order published in the *Gazette* in terms of the section 6(a) of the Act, in such a manner which shows that the customer client is attempting to circumvent the mandatory reporting requirement, shall be reported to the Financial Institution’s Compliance Officer for appropriate action.

19. Every Financial Institution shall ensure that account transactions are consistent with the customer profile on record. Any inconsistency should be inquired into and the correct position recorded. Inconsistent transactions should be reported to the Financial Institution’s compliance officer for appropriate action.

Introduction of new technologies

1. Every Financial Institution shall pay special attention to any money laundering threats that may arise from new or developing technologies, including internet banking, that might favour anonymity and where so required take measures, to prevent their use in money laundering schemes. Financial Institutions should be mindful of a variety of Electronic Cards that are used by customers for buying goods and services, drawing cash from ATMs and for the electronic transfer of funds. Pre-loading of credit cards in particular can be resorted to, *inter-alia*, for money laundering and terrorist financing purposes and should not be permitted, as to do so would tantamount to the abuse of credit cards.

2. Additional KYC and CDD on existing and new credit card merchant bases with a special focus on the nature of business of credit card merchants, shall be undertaken and appropriate measures taken in terms of the provisions of the FTRA against any customer, transaction or merchant involved in any unlawful activity. Payments made through the internet by credit card customers in particular warrant very close attention to ensure that payments are not made for unlawful activities.

3. Every Financial Institution shall ensure that appropriate KYC procedures are duly applied to the customers as well as to the agents where marketing of credit cards is done through agents.

4. When applications for opening of accounts are received by mail or e-mail due care shall be exercised to record the true identity of the client prior to opening the accounts or activating them. In any event Financial Institutions shall not deviate from the required identity procedures just because the prospective client is unable to present himself in person.

5. Every Financial Institution shall preserve Society for Worldwide Inter bank Financial Telecommunication (SWIFT) messages that accompany inward remittances for a period of six years.

6. Every Financial Institution shall when Financial Institution maintain accounts for money changers/money remitters they need to be aware that such clients are engaged exclusively in the money changing/money remitting business in compliance with the terms and conditions of the permit issued to them. Since money changers are covered by the provisions of the Act and the Prevention of Money Laundering Act, No.5 of 2005, it is the duty of the Financial Institutions to ensure that they fully comply with the requirements of law. Any unauthorized engagement in financial transactions should be brought to the notice of the Financial Institution's Compliance Officer, for appropriate action.

Alternative Remittance Systems (Hundi, Hawala etc.)

Every Financial Institution shall exercise extra vigilance to distinguish between formal money transmission services and other money or value transfer systems through which funds or value are moved from one geographic location to another through informal and unsupervised networks or mechanisms. To ascertain the sources of funds thus becomes an imperative.

Correspondent Banks and Shell Banks

Prior to commencing banking relationships with 'correspondent Banks/ financial institutions', the Financial Institutions should gather sufficient information with regard to their management, major business activities, and their money laundering prevention and detection efforts. It is also the duty of the Financial Institutions to ensure that the purpose of the account is exclusively for correspondent banking activities and that the bank is effectively supervised by the relevant authorities for their due diligence and anti money laundering standards in that country. The Financial Institutions should refuse to enter into, or conduct business and provide services to, financial institutions that are located in jurisdictions that have poor KYC standards or have been identified as being 'non-co-operative' in the fight against money laundering and terrorist financing. It is also imperative that the Financial Institutions ensure that their correspondent financial institutions do not undertake business with shell financial institutions. No accounts for 'shell' financial institutions should be opened without the prior approval of the Controller of Exchange, being obtained.

Treasury Dealings

With regard to dealings in Forex, money market, bonds, securities, precious metals etc. confirmations shall be obtained from the counter-parties on their adherence to Anti Money Laundering/Counter Financing of Terrorism rules to prevent transactions with non-compliant countries/entities.

Trade Finance/Letters of Credit and other contingencies

Trade-based money laundering and terrorist financing usually involves invoice manipulation and uses trade finance routes and commodities to avoid financial transparency, laws and regulations. The use of these facilities needs to be reviewed from time to time. Facilities requested by customers who have borrowing facilities or large deposits with other institutions shall be brought under close scrutiny. Other examples are the assignment of proceeds to an apparently unconnected third party, the use of *pro forma* invoices without a description of the goods and a reticence to provide a description of goods and other appropriate supporting documentation.

Part III

Miscellaneous

35. Every Financial Institution is required to appoint a compliance officer in terms of section 14 of the Act, who shall be responsible for ensuring the institution's compliance with the requirements of the Act. These officers must be at the senior management level.

36. Every Financial Institution shall establish an audit function to test its procedures and systems for compliance, in terms of subsection (l)(c) of section 14 of the Act.

37. Every Financial Institution is required to make its officers and employees aware of the laws relating to money laundering and financing of terrorism and to train its officers, employees and agents to recognize suspicious transactions. Financial Institutions are also required to screen all persons before hiring them as employees.

38. Every Financial Institution shall ensure that its domestic and foreign branches, and subsidiaries adopt and observe measures to the extent that local laws and regulations are applicable and where the foreign branches/subsidiaries are unable to adopt and observe such measures in jurisdictions which do not comply with or insufficiently comply with the recommendations of the Financial Action Task Force, such matter shall be reported to the Financial Institution's Compliance Officer for appropriate action.

39. Every Financial Institution shall scrutinize and examine the background of all their relatively large transactions that are complex, unusual or have no apparent economic and lawful purpose and retain a written record of such examination.

40. The provisions contained in Rule 14 to Rule 15 shall, *mutatis mutandis*, be followed in respect of such persons specified in items C3, C4, D and E of Part 1 of these Rules.

41. I n t h e s e R u l e s - "Act" means the Financial

Transactions Reporting Act, No.6 of 2006;

"Licensed bank" means any commercial bank and specialized bank, licensed under the Banking Act, No. 30 of 1988;

"Registered Finance Companies" means finance companies registered in terms of the Finance Companies Act, No. 78 of 1988; and

"stock exchange" means the stock exchange licensed under the Securities and Exchange Commissions Act, No.36 of 1987.