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PRECIOUS STONES AND PRECIOUS METALS (PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING) ACT 2019

PRECIOUS STONES AND PRECIOUS METALS (PREVENTION OF MONEY LAUNDERING AND TERRORISM FINANCING) (AMENDMENT) REGULATIONS 2023

In exercise of the powers conferred by section 39 of the Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Act 2019, the Minister for Law makes the following Regulations:

Citation and commencement

1. These Regulations are the Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) (Amendment) Regulations 2023 and come into operation on 15 November 2023.

Amendment of regulation 2

2. In the Precious Stones and Precious Metals (Prevention of Money Laundering and Terrorism Financing) Regulations 2019 (G.N. No. S 306/2019) (called in these Regulations the principal Regulations), in regulation 2, after the definition of “Monetary Authority of Singapore”, insert —

““net price”, in relation to any precious stone, precious metal, precious product or asset-backed token sold by a regulated dealer, means the list price of the precious stone, precious metal, precious product or asset-backed token —

(a) deducting any discount or rebate which the regulated dealer proposes to give to the customer in connection with the sale of the

precious stone, precious metal, precious product or asset-backed token; but

(b) including —

(i) any tax charged on the sale of the precious stone, precious metal, precious product or asset-backed token; and

(ii) any fee or charge imposed by the regulated dealer in connection with the sale of the precious stone, precious metal, precious product or asset-backed token;”.

Amendment of regulation 3

3. In the principal Regulations, replace regulation 3 with —

“Cash equivalent

3.—(1) For the purposes of section 15 of the Act, “cash equivalent” means any of the following:

(a) a cash cheque or traveller’s cheque;

(b) a payment account that contains e-money;

(c) a voucher (whether in physical or electronic form) the redemption of which in accordance with its terms entitles the holder to receive goods or services up to the value stated on or recorded in or in respect of the voucher, whether such value is in terms that are monetary or non-monetary;

(d) a token, stamp, coupon or other article (whether in physical or electronic form) the redemption of which in accordance with its terms entitles the holder to receive any precious stone, precious metal or precious product up to the value stated on or recorded in or in respect of the token, stamp, coupon, or other article;

- (e) any negotiable instrument that is in bearer form, indorsed without any restriction, made out to a fictitious payee or otherwise in such form that title thereto passes upon delivery,

and includes a negotiable instrument that has been signed but with the payee's name omitted.

(2) In this regulation, “e-money” and “payment account” have the meanings given by section 2(1) of the Payment Services Act 2019.”.

New regulation 4A

4. In the principal Regulations, after regulation 4, insert —

“Transactions in prescribed circumstances

4A.—(1) For the purpose of section 16(1)(d) of the Act, each of the following circumstances are circumstances in which a regulated dealer must perform the prescribed customer due diligence measures in regulations 5 and 6, and a reference in those regulations to a designated transaction is a reference to a transaction that takes place in any of the circumstances prescribed in this paragraph:

- (a) the regulated dealer makes a sale or barter of any precious stone, precious metal, precious product or asset-backed token to a customer, for which gold (except in the form of jewellery) the value of which exceeds the threshold amount is received as payment;
- (b) the regulated dealer makes 2 or more sales or barter of any precious stone, precious metal, precious product or asset-backed token in a single day to the same customer, or to customers whom the regulated dealer knows act on behalf of the same person, for which gold (except in the form of jewellery) the total value of which exceeds the threshold amount is received as payment;
- (c) the regulated dealer makes a sale of any precious stone, precious metal, precious product or

asset-backed token to a customer, for which digital payment tokens the value of which exceeds the threshold amount are received as payment;

- (d) the regulated dealer makes 2 or more sales of any precious stone, precious metal, precious product or asset-backed token in a single day to the same customer, or to customers whom the regulated dealer knows act on behalf of the same person, for which digital payment tokens the total value of which exceeds the threshold amount are received as payment.

- (2) In this regulation —

“digital payment token” has the meaning given by section 2(1) of the Payment Services Act 2019;

“threshold amount” has the meaning given by section 15 of the Act.”.

Amendment of regulation 5

5. In the principal Regulations, in regulation 5 —

- (a) in the regulation heading, after “**measures**”, insert “**where customer is individual**”;
- (b) after “any designated transaction with a customer”, insert “who is an individual”;
- (c) in paragraph (b), delete “, for a customer who is an individual”; and
- (d) replace paragraph (f) with —
- “(f) ascertain whether the customer is acting on behalf of any other person, and if so —
- (i) if that other person is an individual, identify and take reasonable measures to verify the identity of that individual, using reliable and independent sources;

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- (ii) if that other person is an entity or a legal arrangement, perform the customer due diligence measures specified in regulation 6 on that entity or legal arrangement; and
 - (iii) obtain appropriate documentary evidence to verify that the customer is authorised to act on behalf of that other person;
- (g) ascertain whether any person is acting on behalf of the customer in relation to and for the purpose of the designated transaction, and if so —
- (i) if that other person is an individual, identify and take reasonable measures to verify the identity of that individual, using reliable and independent sources;
 - (ii) if that other person is an entity or a legal arrangement, perform the customer due diligence measures specified in regulation 6 on that entity or legal arrangement; and
 - (iii) obtain appropriate documentary evidence to verify that that other person is authorised to act on behalf of the customer.”.

Replacement of regulation 6

6. In the principal Regulations, replace regulation 6 with —

“Customer due diligence measures where customer is entity or legal arrangement

6.—(1) Subject to regulations 8 and 9, for the purposes of section 16 of the Act, the customer due diligence measures to be performed by a regulated dealer before entering into any

designated transaction with a customer who is an entity or a legal arrangement are all of the following:

- (a) identify and verify the identity of the customer by obtaining the following information from reliable and independent sources:
 - (i) the name of the customer;
 - (ii) the legal form of the customer;
 - (iii) proof of the customer's existence;
 - (iv) the place under which the customer is incorporated, registered or otherwise constituted;
 - (v) the documents that constitute, regulate and bind the customer, being the following, or their equivalent:
 - (A) in the case of a body corporate, the constitution, or the memorandum and articles of association, of the body corporate;
 - (B) in the case of a partnership or limited partnership, the partnership deed or agreement;
 - (C) in the case of an express trust, the trust deed of the trust;
 - (D) in the case of a society or an unincorporated association, the rules of the society or unincorporated association;
 - (E) in the case of any other entity or legal arrangement, the instrument or document that constitutes or establishes the entity or legal arrangement;
 - (vi) if the customer is incorporated or registered in Singapore, its unique entity number;

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- (vii) if the customer is incorporated or registered outside Singapore, its foreign incorporation or registration number;
 - (viii) if the customer is an entity, the identity of each individual having a senior management position in the entity;
 - (ix) the address of the customer's registered office or principal place of business;
- (b) subject to paragraph (2), identify each beneficial owner of the customer and take reasonable measures to verify the identity of each beneficial owner by obtaining the following information from reliable and independent sources:
- (i) if the customer is an entity —
 - (A) the identifying information of each individual (if any) who ultimately has a controlling ownership interest in the customer, according to the law and instrument under which the customer is constituted;
 - (B) if it is doubtful whether all or any of the individuals who ultimately have a controlling interest in the customer are its beneficial owners, or where no individual exerts control through ownership interests, the identifying information of each individual (if any) exercising control of the customer through other means; or
 - (C) if no individual is identified under sub-paragraphs (A) and (B), the identifying information of each individual having a senior management position in the customer;

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- (ii) if the customer is a legal arrangement that is a trust, the identities of —
 - (A) the settlor;
 - (B) each trustee;
 - (C) the protector (if any);
 - (D) each beneficiary or class of beneficiaries;
and
 - (E) any other individual exercising ultimate effective control over the trust;
 - (iii) if the customer is a legal arrangement that is not a trust, the identity of each person holding a position equivalent or similar to any position in sub-paragraph (ii);
- (c) ascertain whether any individual is acting on the customer's behalf in relation to and for the purpose of the designated transaction, and if so perform the customer due diligence measures specified in regulation 5 on that individual;
- (d) ascertain whether the customer is acting on behalf of any other person, and if so —
- (i) if that other person is an individual, identify and take reasonable measures to verify the identity of that individual, using reliable and independent sources;
 - (ii) if that other person is an entity or a legal arrangement, perform the customer due diligence measures specified in sub-paragraphs (a), (b), (e) and (f) on that entity or legal arrangement as if the references to the customer in those sub-paragraphs were references to the entity or legal arrangement;
and

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- (iii) obtain appropriate documentary evidence to verify that the customer is authorised to act on behalf of that other person;
 - (e) understand the nature of the customer's business;
 - (f) understand the ownership and control structure of the customer.
- (2) A regulated dealer need not identify each beneficial owner of the entity where the entity is —
- (a) an entity listed on the Singapore Exchange;
 - (b) a financial institution that is subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism by the Monetary Authority of Singapore, as listed in Appendix 1 of the direction known as MAS Notice 626 issued by the Monetary Authority of Singapore; or
 - (c) a financial institution incorporated or established outside Singapore that is subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism, consistent with standards set by the FATF.
- (3) Where a regulated dealer determines that the entity or legal arrangement is of a type specified in paragraph (2), the regulated dealer must record the basis for the determination.”.

Amendment of regulation 7

7. In the principal Regulations, in regulation 7(2)(a) and (b), replace “a beneficial owner of that person” with “a beneficial owner of the customer (where the customer is an entity or a legal arrangement)”.

Amendment of regulation 13

8. In the principal Regulations, in regulation 13, after paragraph (4), insert —

“(5) For the purposes of section 18(4) of the Act, the prescribed manner of making any record kept under paragraph (3)(e) available to the Registrar is by submitting the record to the Registrar through the electronic system of the Ministry of Law at <https://acd.mlaw.gov.sg>.”

Amendment of regulation 14

9. In the principal Regulations, in regulation 14, in the regulation heading, after “**assessment**”, insert a comma.

New regulation 14A

10. In the principal Regulations, after regulation 14, insert —

“Group policy for branches and subsidiaries

14A.—(1) A regulated dealer that has one or more branches or subsidiaries (whether located or incorporated in Singapore or in a foreign country or territory) must —

- (a) implement a group policy for preventing money laundering and terrorism financing, and for managing and mitigating the risks of money laundering and terrorism financing; and
- (b) extend the group policy to all of those branches and subsidiaries.

(2) The group policy referred to in paragraph (1) must include the following:

- (a) the development and implementation of internal policies, procedures and controls, which must be approved by the regulated dealer’s senior management, to manage and effectively mitigate the money laundering and terrorism financing risks identified by the regulated dealer or notified to it by the Registrar, including —
 - (i) making appropriate compliance management arrangements, including the appointment of a compliance officer at the management level; and

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- (ii) applying adequate screening procedures when hiring employees;
 - (b) enhanced measures to manage and mitigate the risk of money laundering or terrorism financing where higher risks are identified;
 - (c) the implementation of an ongoing programme to train employees on the internal policies, procedures and controls in sub-paragraph (a);
 - (d) the monitoring of the implementation of the internal policies, procedures and controls in sub-paragraph (a), and enhancement of them if necessary;
 - (e) subject to paragraph (3), measures to share information among the regulated dealer's branches and subsidiaries for the purpose of conducting customer due diligence or managing the risk of money laundering and terrorism financing.
- (3) The measures mentioned in paragraph (2)(e) —
- (a) must incorporate adequate safeguards, implemented by the regulated dealer, to protect the confidentiality and use of any information that is shared; and
 - (b) may only apply to the extent permitted by the law of the foreign country or territory that the regulated dealer's branch or subsidiary (as the case may be) is in.
- (4) Where the regulated dealer has a branch or subsidiary in a foreign country or territory that has laws for the prevention of money laundering or terrorism financing that differ from those of Singapore —
- (a) the regulated dealer must require the management of that branch or subsidiary to apply the more stringent of the laws, to the extent that the law of the foreign country or territory permits; and

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- (b) where the management of that branch or subsidiary is unable to fully apply the more stringent law, the regulated dealer must report this to the Registrar and must, instead of sub-paragraph (a) —
- (i) perform such additional measures as are appropriate to managing the risk of money laundering and terrorism financing; and
 - (ii) comply with such directions as may be given by the Registrar.

(5) In this regulation, “subsidiary”, in relation to a regulated dealer that is a company, has the same meaning as in section 5 of the Companies Act 1967.”.

Amendment of regulation 16

11. In the principal Regulations, in regulation 16 —

- (a) in paragraph (1), replace “or any person on whose behalf the customer is acting,” with “any person on whose behalf the customer is acting, or a beneficial owner of the customer (where the customer is an entity or a legal arrangement)”;
- (b) in paragraph (1)(a), delete “or” at the end;
- (c) in paragraph (1)(b), replace the full-stop at the end with “; or”;
- (d) in paragraph (1), after sub-paragraph (b), insert —
 - “(c) a person notified by the Registrar to the regulated dealer as a person to whom the additional measures in paragraph (2) are to apply.”;
- (e) in paragraph (2), replace “paragraph (1)(a) or (b)” with “paragraph (1)(a), (b) or (c)”;
- (f) in paragraph (2)(b), delete “and” at the end;
- (g) in paragraph (2)(c), replace the full-stop at the end with “; and”; and

(h) in paragraph (2), after sub-paragraph (c), insert —

“(d) at the time of making the report to the police under sub-paragraph (c) or immediately thereafter, submit a copy of the report to the Registrar.”.

Amendment of regulation 20

12. In the principal Regulations, in regulation 20, after paragraph (2), insert —

“(2A) Paragraph (2) does not apply if the registered dealer’s cessation of the regulated activity is due to —

- (a) where the registered dealer is a company or a limited liability partnership, the registered dealer being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) the registered dealer’s registration being cancelled under section 10 of the Act; or
- (c) the registered dealer’s registration expiring without having been renewed.”.

Amendment of regulation 21

13. In the principal Regulations, in regulation 21 —

- (a) in paragraph (1)(d), replace the full-stop at the end with a semi-colon;
- (b) in paragraph (1), after sub-paragraph (d), insert —
 - “(e) any change in any telephone number, facsimile number, electronic mail address or any other contact details of the registered dealer’s key personnel that had been provided to the Registrar.”; and
- (c) in paragraph (5)(b), after “secretary”, insert “, compliance officer”.

Made on 25 October 2023.

LUKE GOH
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