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LEGAL PROFESSION ACT
(CHAPTER 161)

LEGAL PROFESSION
(PREVENTION OF MONEY LAUNDERING
AND FINANCING OF TERRORISM)
RULES 2015

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In exercise of the powers conferred by section 70H of the Legal Profession Act, the Council of the Law Society of Singapore, with the approval of the Minister for Law, makes the following Rules:

PART 1
PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Legal Profession (Prevention of Money Laundering and Financing of Terrorism) Rules 2015 and come into operation on 23 May 2015.

Definitions

2. In these Rules, unless the context otherwise requires —

“beneficial owner”, in relation to an entity or a legal arrangement —

(a) means —

(i) an individual who ultimately owns or controls the entity or legal arrangement; or

(ii) an individual on whose behalf the entity or legal arrangement conducts a transaction concerning a relevant matter (being a transaction for which a legal practitioner or law practice is engaged); and

(b) includes an individual who exercises ultimate effective control over the entity or legal arrangement;

“client” includes —

(a) in relation to contentious business, any person who, as a principal or on behalf of another person, retains or employs, or is about to retain or employ, a legal practitioner or law practice; and

(b) in relation to non-contentious business, any person who, as a principal or on behalf of another person, or as a trustee, an executor or an administrator, or in any other capacity, has power, express or implied, to retain or employ, and retains or employs or is about to retain or employ, a legal practitioner or law practice;

“close associate”, in relation to a politically-exposed individual, means an individual who is known to be closely connected to

the politically-exposed individual, either socially or professionally, such as, but not limited to —

- (a) a partner of the politically-exposed individual;
- (b) an employee or employer of the politically-exposed individual;
- (c) a person accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the politically-exposed individual; or
- (d) a person whose directions, instructions or wishes the politically-exposed individual is accustomed or under an obligation, whether formal or informal, to act in accordance with;

“Commercial Affairs Officer” means a Commercial Affairs Officer appointed under section 64 of the Police Force Act (Cap. 235);

“countermeasure” means a measure to prevent, or to facilitate the prevention of, money laundering or the financing of terrorism in a country or jurisdiction other than Singapore;

“domestic politically-exposed individual” means an individual who is or has been entrusted with a prominent public function in Singapore;

“entity” means a sole proprietorship, a partnership, a limited partnership, a limited liability partnership, a corporation sole, a company or any other association or body of persons corporate or unincorporate;

“family member”, in relation to a politically-exposed individual, means a spouse, child (including an adopted child or a stepchild), sibling or parent of the politically-exposed individual;

“FATF” means the intergovernmental body known as the Financial Action Task Force created in 1989;

“foreign politically-exposed individual” means an individual who is or has been entrusted with a prominent public function in a country or jurisdiction other than Singapore;

“higher risk business relationship” means a business relationship in relation to which the risks of money laundering and the financing of terrorism are raised under rule 12(4);

“higher risk client” means a client in relation to which the risks of money laundering and the financing of terrorism are raised under rule 12(4);

“legal arrangement” means any express trust or other similar legal arrangement;

“politically-exposed individual” means —

- (a) a foreign politically-exposed individual;
- (b) a domestic politically-exposed individual; or
- (c) an individual who has been entrusted with a prominent function in an international organisation;

“prominent function”, in relation to an international organisation, means the role held by a member of the senior management of the international organisation (including a director, deputy director or member of a board of the international organisation, or an equivalent appointment in the international organisation);

“prominent public function” includes the role held by a head of state, a head of government, a senior politician, a senior government, judicial or military official, a senior executive of a state-owned corporation or a senior political party official;

“relevant Singapore financial institution” means —

- (a) a bank in Singapore licensed under section 7 of the Banking Act (Cap. 19);
- (b) a merchant bank approved under section 28 of the Monetary Authority of Singapore Act (Cap. 186);
- (c) a finance company licensed under section 6 of the Finance Companies Act (Cap. 108);

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- (d) a financial adviser licensed under section 13 of the Financial Advisers Act (Cap. 110), except one which is licensed only in respect of the financial advisory service specified in paragraph 2 of the Second Schedule to that Act (namely, advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product);
 - (e) a holder of a capital markets services licence granted under section 86 of the Securities and Futures Act (Cap. 289);
 - (f) a fund management company registered under paragraph 5(7) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Cap. 289, Rg 10);
 - (g) a person who is exempt from holding a financial adviser's licence under section 23(1)(f) of the Financial Advisers Act read with regulation 27(1)(d) of the Financial Advisers Regulations (Cap. 110, Rg 2), except one who is exempt only in respect of the financial advisory service specified in paragraph 2 of the Second Schedule to that Act (namely, advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product);
 - (h) a person who is exempt from holding a capital markets services licence under section 99(1)(h) of the Securities and Futures Act read with paragraph 7(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;
 - (i) a trustee approved under section 289 of the Securities and Futures Act for a collective investment scheme authorised under section 286 of that Act;
 - (j) a trust company licensed under section 5 of the Trust Companies Act (Cap. 336); or

(k) a direct insurer licensed under section 8 of the Insurance Act (Cap. 142) to carry on life business;

“suspicious transaction report” means a report by which a person —

- (a) discloses, under section 39(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A), any knowledge or suspicion referred to in that provision, or the information or other matter on which that knowledge or suspicion is based, to a Suspicious Transaction Reporting Officer; or
- (b) informs, under section 8(1) of the Terrorism (Suppression of Financing) Act (Cap. 325), a police officer or Commercial Affairs Officer, of any fact or information referred to in that provision;

“Suspicious Transaction Reporting Officer” has the same meaning as in section 2(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act.

Prescribed types of advocates and solicitors and foreign lawyers

3. For the purposes of the definition of “legal practitioner” in section 70A(2) of the Act, Part VA of the Act applies to —

- (a) every advocate and solicitor who —
 - (i) has in force a practising certificate; or
 - (ii) is a director, a partner, a consultant or an employee of a law practice, whether or not the advocate and solicitor has in force a practising certificate; and
- (b) every foreign lawyer who —
 - (i) is registered by the Attorney-General under section 130I or 130K of the Act; or
 - (ii) is granted the approval of the Attorney-General under section 130L(1) of the Act.

PART 2

CUSTOMER DUE DILIGENCE MEASURES

Prescribed customer due diligence measures

4. For the purposes of section 70C of the Act, a legal practitioner or law practice must perform the customer due diligence measures prescribed in this Part.

Client suspected of money laundering or financing of terrorism

5.—(1) Where a legal practitioner or law practice has reasonable grounds to suspect that a client may be engaged in money laundering or the financing of terrorism, the legal practitioner or law practice —

- (a) must not establish any new business relationship with, or undertake any new matter for, the client; and
- (b) must disclose the suspicion, or the information on which the suspicion is based, by filing a suspicious transaction report with either or both of the following (as the case may be):
 - (i) a Suspicious Transaction Reporting Officer, if the client may be engaged in money laundering;
 - (ii) a police officer or Commercial Affairs Officer, if the client may be engaged in the financing of terrorism.

(2) Paragraph (1)(a) does not prevent the renewal of an existing retainer of the legal practitioner or law practice.

General customer due diligence measures in relation to client

6.—(1) At the applicable time specified in rule 11, a legal practitioner or law practice must perform the following customer due diligence measures in relation to a client:

- (a) ascertain the identity of the client;
- (b) verify the client's identity using objectively reliable and independent source documents, data or information;
- (c) take reasonable measures to determine whether the client is a politically-exposed individual, or a family member or close associate of any such individual.

(2) Where the client is an entity or a legal arrangement, the customer due diligence measures that a legal practitioner or law practice must perform under paragraph (1)(a) and (b) include identifying the client and verifying the client's identity, respectively, through the following information:

- (a) the name of the client;
- (b) the legal form of the client;
- (c) the documents that prove the existence of the client;
- (d) the documents that regulate and bind the client (such as the constitution, or the memorandum and articles of association, of a company, if the client is a company, or the trust deed of an express trust, if the client is an express trust);
- (e) the individuals in the senior management of the client;
- (f) the address of the registered office of the client;
- (g) the address of a principal place of business of the client, if the registered office of the client is not a principal place of business of the client.

(3) Despite paragraph (2), the legal practitioner or law practice need not perform the customer due diligence measures referred to in that paragraph, if the client is —

- (a) a Ministry or department of the Government, an organ of State or a statutory board; or
- (b) a ministry or department of the government of a foreign country or territory,

unless the legal practitioner or law practice suspects that the client may be engaged in, or the business relationship with the client or the matter undertaken for the client may involve engagement in, money laundering or the financing of terrorism.

General customer due diligence measures in relation to individual purporting to act on behalf of client

7. At the applicable time specified in rule 11, a legal practitioner or law practice must perform the following customer due diligence

measures in relation to an individual purporting to act on behalf of a client:

- (a) verify whether the individual is authorised to act on behalf of the client;
- (b) ascertain and verify the identity of the individual.

General customer due diligence measures in relation to entity or legal arrangement

8.—(1) At the applicable time specified in rule 11, a legal practitioner or law practice must perform the following customer due diligence measures in relation to a client which is an entity or a legal arrangement:

- (a) ascertain whether the client has any beneficial owner;
- (b) ascertain the identity of each beneficial owner (if any);
- (c) take reasonable measures to verify the identity of each beneficial owner (if any) using objectively reliable and independent source documents, data or information;
- (d) take reasonable measures to determine whether each beneficial owner (if any) is a politically-exposed individual, or a family member or close associate of any such individual;
- (e) understand the nature of the client's business;
- (f) understand the ownership and control structure of the client.

(2) Where the client is an entity, the customer due diligence measures that a legal practitioner or law practice must perform under paragraph (1)(b) and (c) include identifying, and taking reasonable measures to verify the identity of, each beneficial owner of the client, through the following information:

- (a) the identity of each individual (if any) who has a controlling ownership interest in the client;
- (b) if there is any doubt as to whether an individual who has a controlling ownership interest in the client is a beneficial owner of the client, or if there is no individual who has a controlling ownership interest in the client, the identity of

each individual (if any) who has control of the client through other means;

- (c) if there is no individual who has a controlling ownership interest in the client or who has control of the client through other means, the identity of each individual in the senior management of the client.

(3) Where the client is a legal arrangement, the customer due diligence measures that a legal practitioner or law practice must perform under paragraph (1)(b) and (c) include identifying, and taking reasonable measures to verify the identity of, each beneficial owner of the client, through the following information:

- (a) if the client is an express trust, the identities of the settlor, each trustee, the protector (if any) and each beneficiary or class of beneficiaries of the trust, and any other individual exercising effective control over the client (including through a chain of control or ownership);
- (b) if the client is any other legal arrangement, the identity of each person in an equivalent or a similar position to a settlor, trustee, protector or beneficiary of a trust, or to an individual referred to in sub-paragraph (a).

(4) Despite paragraphs (1), (2) and (3), the legal practitioner or law practice need not perform the customer due diligence measures referred to in those paragraphs, if the client is —

- (a) a Ministry or department of the Government, an organ of State or a statutory board;
- (b) a ministry or department of the government of a foreign country or territory;
- (c) an entity listed on a securities exchange as defined in section 2(1) of the Securities and Futures Act (Cap. 289), or a subsidiary of such an entity more than 50% of the shares or other equity interests of which are owned by the entity;
- (d) an entity listed on a stock exchange outside Singapore that is subject to regulatory disclosure requirements;
- (e) a relevant Singapore financial institution;

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- (f) 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 the standards set by the FATF;
 - (g) an investment vehicle every manager of which is a financial institution referred to in sub-paragraph (e) or (f);
 - (h) any of the following universities in Singapore:
 - (i) Nanyang Technological University;
 - (ii) National University of Singapore;
 - (iii) Singapore Institute of Technology;
 - (iv) Singapore Management University;
 - (v) Singapore University of Technology and Design;
 - (i) a Government school as defined in section 2 of the Education Act (Cap. 87);
 - (j) the Society; or
 - (k) an entity that is made up of regulated professionals who are subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism consistent with the standards set by the FATF,

unless the legal practitioner or law practice suspects that the client may be engaged in, or the business relationship with the client or the matter undertaken for the client may involve engagement in, money laundering or the financing of terrorism.

(5) The legal practitioner or law practice must, when determining any of the following, document the basis for making that determination:

- (a) that the client is a financial institution referred to in paragraph (4)(f);
- (b) where the client is an investment vehicle referred to in paragraph (4)(g), that a manager of the client is a financial institution referred to in paragraph (4)(f);

(c) that the client is an entity referred to in paragraph (4)(k).

General customer due diligence measures in relation to business relationships

9.—(1) A legal practitioner or law practice must perform the customer due diligence measures referred to in paragraphs (2) and (3) in relation to a business relationship with a client.

(2) The legal practitioner or law practice must, at the applicable time specified in rule 11, identify and, if appropriate, obtain information on the purpose and intended nature of the business relationship with the client.

(3) The legal practitioner or law practice, must conduct the following ongoing customer due diligence measures on the business relationship with the client during the course of the business relationship:

- (a) the legal practitioner or law practice must scrutinise transactions undertaken throughout the course of the business relationship, to ensure that those transactions are consistent with the legal practitioner's or law practice's knowledge of the client, the client's business, the client's risk profile and, where appropriate, the source of funds for those transactions;
- (b) the legal practitioner or law practice must ensure that the customer due diligence data, documents and information obtained in respect of the client, each individual appointed to act on behalf of the client, and each beneficial owner of the client, are relevant and kept up-to-date, by undertaking reviews of existing customer due diligence data, documents and information, particularly if the client is a higher risk client;
- (c) where the legal practitioner or law practice has reasonable grounds for suspecting that the business relationship with the client involves engagement in money laundering or the financing of terrorism, but the legal practitioner or law practice considers it appropriate to retain the client —

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- (i) the legal practitioner or law practice must substantiate the reasons for retaining the client, and document those reasons; and
 - (ii) the business relationship must be subjected to commensurate risk mitigation measures, including enhanced ongoing monitoring;
- (d) where the legal practitioner or law practice assesses the client to be a higher risk client, or the business relationship with the client to be a higher risk business relationship, the legal practitioner or law practice must —
- (i) perform enhanced customer due diligence measures in accordance with rule 13; and
 - (ii) obtain the approval of the legal practitioner's or law practice's senior management to retain the client.

Specific customer due diligence measures for legal practitioners who act as trustees

10.—(1) A legal practitioner who acts as a trustee must perform the customer due diligence measures referred to in paragraphs (2) to (6).

(2) A legal practitioner who is a trustee of an express trust governed by Singapore law must, at the applicable time specified in rule 11, obtain and must maintain adequate, accurate and current information on the identities of the settlor, each trustee, the protector (if any) and each beneficiary or class of beneficiaries of the trust, and of any other individual exercising effective control over the trust.

(3) A legal practitioner who is a trustee of any trust governed by Singapore law must, at the applicable time specified in rule 11, obtain and must maintain basic information on every other regulated agent of, or service provider to, the trust, including any investment adviser or manager, accountant or tax adviser.

(4) The legal practitioner referred to in paragraph (2) or (3) must maintain the information referred to in the applicable paragraph for at least 5 years after the legal practitioner's involvement with the trust ceases.

(5) The legal practitioner referred to in paragraph (2) or (3) must ensure that any information maintained pursuant to the applicable paragraph is kept accurate and as up-to-date as possible, and is updated on a timely basis.

(6) Subject to any rule of law relating to a trustee's duty of confidentiality, a legal practitioner must, when forming a business relationship with any person referred to in the following sub-paragraphs in the legal practitioner's capacity as a trustee, disclose to that person the legal practitioner's status as such trustee:

- (a) a financial institution as defined in section 27A(6) of the Monetary Authority of Singapore Act (Cap. 186), read with section 27A(7) of that Act;
- (b) a casino operator as defined in section 2(1) of the Casino Control Act (Cap. 33A);
- (c) a licensed estate agent as defined in section 3(1) of the Estate Agents Act (Cap. 95A);
- (d) a dealer in precious stones or precious metals as defined in regulation 2 of the Corruption, Drug Trafficking and Other Serious Crimes (Cash Transaction Reports) Regulations 2014 (G.N. No. S 692/2014);
- (e) a legal practitioner;
- (f) a foreign lawyer registered under section 36P of the Act;
- (g) a notary public as defined in section 2 of the Notaries Public Act (Cap. 208);
- (h) a public accountant as defined in section 2 of the Accountants Act (Cap. 2);
- (i) a person (not being a legal practitioner or a public accountant) who provides one or more of the following services:
 - (i) acting as an agent for the formation of entities;
 - (ii) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a person holding a similar position in any other entity;

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- (iii) providing a registered office, any business address or any accommodation, correspondence or administrative address for a company, a partnership or any other entity or legal arrangement;
 - (iv) acting as (or arranging for another person to act as) a trustee of an express trust, or performing (or arranging for another person to perform) a function equivalent to the function of a trustee in any other legal arrangement;
 - (v) acting as (or arranging for another person to act as) a nominee shareholder for another person.

Timing of certain customer due diligence measures

11.—(1) Subject to paragraph (2), the applicable time for performing, in relation to a client, the customer due diligence measures referred to in rules 6(1) and (2), 7, 8(1), (2) and (3), 9(2) and 10(2) and (3) is before the start, or during the course, of establishing a business relationship with the client.

(2) A legal practitioner or law practice need not complete the performance, in relation to a client, of a customer due diligence measure referred to in rule 6(1)(b) or (c), 7, 8(1)(b), (c), (d), (e) or (f), (2) or (3), 9(2) or 10(2) or (3), or in rule 6(2) (only insofar as it relates to the customer due diligence measure that a legal practitioner or law practice must perform under rule 6(1)(b)), before the start, or during the course, of establishing a business relationship with the client if —

- (a) a deferral of the completion of that measure is necessary in order not to interrupt the normal conduct of business operations; and
 - (b) the risks of money laundering and the financing of terrorism can be effectively managed.
- (3) Where paragraph (2) applies to a legal practitioner —
- (a) the law practice in which the legal practitioner practises must adopt internal risk management policies and procedures concerning the conditions under which a legal practitioner who practises in the law practice, or the law practice, may

establish a business relationship with a client before the completion of the relevant customer due diligence measure; and

- (b) the legal practitioner must complete the relevant customer due diligence measure as soon as is reasonably practicable.
- (4) Where paragraph (2) applies to a law practice, the law practice must —
- (a) adopt internal risk management policies and procedures concerning the conditions under which a legal practitioner who practises in the law practice, or the law practice, may establish a business relationship with a client before the completion of the relevant customer due diligence measure; and
 - (b) complete the relevant customer due diligence measure as soon as is reasonably practicable.

Risk based approach

12.—(1) A legal practitioner or law practice is to perform, in relation to a client, the customer due diligence measures prescribed in this Part to an extent that is commensurate with the level of risk of money laundering and the financing of terrorism.

- (2) A legal practitioner or law practice must —
- (a) perform, in relation to each client, an adequate analysis of the risks of money laundering and the financing of terrorism;
 - (b) document the analysis and the conclusions reached; and
 - (c) keep the analysis up to date.
- (3) The risks of money laundering and the financing of terrorism are lowered if the client is any of the following:
- (a) a Ministry or department of the Government, an organ of State or a statutory board;
 - (b) a ministry or department of the government of a foreign country or territory;

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- (c) an entity listed on a securities exchange as defined in section 2(1) of the Securities and Futures Act (Cap. 289), or a subsidiary of such an entity more than 50% of the shares or other equity interests of which are owned by the entity;
 - (d) an entity listed on a stock exchange outside Singapore that is subject to regulatory disclosure requirements;
 - (e) a relevant Singapore financial institution;
 - (f) 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 the standards set by the FATF;
 - (g) an investment vehicle every manager of which is a financial institution referred to in sub-paragraph (e) or (f);
 - (h) any of the following universities in Singapore:
 - (i) Nanyang Technological University;
 - (ii) National University of Singapore;
 - (iii) Singapore Institute of Technology;
 - (iv) Singapore Management University;
 - (v) Singapore University of Technology and Design;
 - (i) a Government school as defined in section 2 of the Education Act (Cap. 87);
 - (j) the Society;
 - (k) an entity that is made up of regulated professionals who are subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism consistent with the standards set by the FATF.
- (4) The risks of money laundering and the financing of terrorism are raised, if —
- (a) the client is from or in, or the transaction relates to, any country or jurisdiction in relation to which the FATF has called for countermeasures or enhanced customer due

diligence measures, as notified to the legal practitioner or law practice generally by the Society;

- (b) the client is from or in any country or jurisdiction known to have inadequate measures to prevent money laundering and the financing of terrorism, as determined by the legal practitioner or law practice, or as notified to the legal practitioner or law practice generally by the Society; or
- (c) the legal practitioner or law practice suspects that the client is engaged in, or the transaction involves, money laundering or the financing of terrorism.

Enhanced customer due diligence measures

13.—(1) A legal practitioner or law practice must, in addition to performing the other customer due diligence measures prescribed in this Part, perform the enhanced customer due diligence measures mentioned in paragraph (2), if —

- (a) the risks of money laundering and the financing of terrorism are raised under rule 12(4);
- (b) the client, or the beneficial owner of the client (being an entity or a legal arrangement), is a foreign politically-exposed individual, or a family member or close associate of any such individual; or
- (c) both of the following apply:
 - (i) the legal practitioner or law practice assesses the business relationship with the client to be a higher risk business relationship;
 - (ii) the client, or the beneficial owner of the client (being an entity or a legal arrangement), is —
 - (A) a domestic politically-exposed individual;
 - (B) an individual who has been entrusted with a prominent function in an international organisation; or

(C) a family member or close associate of any individual mentioned in sub-paragraph (A) or (B).

(2) The enhanced customer due diligence measures to be performed by the legal practitioner or law practice are as follows:

- (a) obtain the approval of the legal practitioner's or law practice's senior management before —
 - (i) in the case of a new client, establishing a business relationship with the client; or
 - (ii) in the case of an existing client, continuing a business relationship with the client;
- (b) take reasonable measures to establish the source of wealth, and the source of funds, of the client and, if the client is an entity or a legal arrangement, of the beneficial owner of the client;
- (c) conduct enhanced ongoing monitoring of the business relationship with the client.

Existing clients

14.—(1) A legal practitioner or law practice must perform, in relation to an existing client, the customer due diligence measures prescribed in this Part that are applicable to the client, based on the legal practitioner's or law practice's assessment of the materiality and risks of money laundering and the financing of terrorism, taking into account —

- (a) any previous customer due diligence measures performed in relation to the client;
- (b) the time when any customer due diligence measures were last performed in relation to the client; and
- (c) the adequacy of the data, documents or information obtained from any previous customer due diligence measures performed in relation to the client.

(2) In paragraph (1)(a), (b) and (c), “customer due diligence measures” includes any customer due diligence measures performed under —

- (a) the Legal Profession (Professional Conduct) Rules (R 1) as in force before 23 May 2015; or
- (b) any practice directions, guidance notes and rulings issued by the Council or the Society, whether before, on or after 23 May 2015.

Inability to complete customer due diligence measures

15.—(1) Where a legal practitioner or law practice is unable to complete any customer due diligence measures prescribed in this Part in relation to a client, the legal practitioner or law practice —

- (a) must not commence any new business relationship, and must terminate any existing business relationship, with the client;
- (b) must not undertake any transaction for the client; and
- (c) must consider whether to file a suspicious transaction report in relation to the client.

(2) For the purposes of paragraph (1), the legal practitioner or law practice is unable to complete those customer due diligence measures, if —

- (a) the legal practitioner or law practice is unable to obtain, or to verify, any information required as part of those customer due diligence measures; or
- (b) the legal practitioner or law practice does not receive a satisfactory response to any inquiry in relation to any information required as part of those customer due diligence measures.

Tipping-off

16. Where a legal practitioner or law practice suspects that a client may be engaged in money laundering or the financing of terrorism, and has reasonable grounds to believe that the performance of any

customer due diligence measures prescribed in this Part will tip-off the client, the legal practitioner or law practice —

- (a) need not perform those customer due diligence measures; but
- (b) must instead file a suspicious transaction report with either or both of the following (as the case may be):
 - (i) a Suspicious Transaction Reporting Officer, if the client may be engaged in money laundering;
 - (ii) a police officer or Commercial Affairs Officer, if the client may be engaged in the financing of terrorism.

Performance of customer due diligence measures by third parties

17.—(1) A legal practitioner or law practice cannot rely on a third party to perform any customer due diligence measures prescribed in rule 9(3).

(2) Even if a legal practitioner or law practice relies on a third party to perform any customer due diligence measures prescribed in this Part (other than rule 9(3)), the legal practitioner or law practice remains responsible for the performance of those measures.

(3) Where a legal practitioner or law practice relies on a third party to perform any customer due diligence measures prescribed in this Part (other than rule 9(3)), the legal practitioner or law practice must obtain from the third party all information required as part of those customer due diligence measures.

(4) Before a legal practitioner or law practice relies on a third party to perform any customer due diligence measures prescribed in this Part (other than rule 9(3)), the legal practitioner or law practice must be satisfied that —

- (a) where necessary, the legal practitioner or law practice will be able to obtain from the third party, upon request and without delay, all source documents, data or information required to verify the information referred to in paragraph (3); and

(b) the third party —

- (i) is subject to and supervised for compliance with requirements for the prevention of money laundering and the financing of terrorism consistent with the standards set by the FATF; and
- (ii) has measures in place for compliance with those requirements.

Internal controls and foreign branches and subsidiaries

18.—(1) A law practice must implement programmes for the prevention of money laundering and the financing of terrorism which have regard to —

- (a) the risks of money laundering and the financing of terrorism; and
- (b) the size of the law practice.

(2) Where a Singapore law practice has any branch or subsidiary (whether in Singapore or elsewhere), the Singapore law practice must implement group-wide programmes for the prevention of money laundering and the financing of terrorism that apply to, and are appropriate for —

- (a) every such branch; and
- (b) every such subsidiary more than 50% of the shares or other equity interests of which are owned by the Singapore law practice.

(3) The programmes for the prevention of money laundering and the financing of terrorism referred to in paragraphs (1) and (2) must include the following:

- (a) the development and implementation of internal policies, procedures and controls for the prevention of money laundering and the financing of terrorism, including —
 - (i) appropriate compliance management arrangements; and

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- (ii) adequate screening procedures when hiring employees;
 - (b) the confirmation of the implementation, and the review, by an independent party of the internal policies, procedures and controls referred to in sub-paragraph (a).
- (4) Where a Singapore law practice has any foreign branch or foreign subsidiary, the Singapore law practice must, as far as possible, ensure that the following entities apply measures for the prevention of money laundering and the financing of terrorism that are consistent with the measures for the prevention of money laundering and the financing of terrorism that are applicable in Singapore:
- (a) every such foreign branch;
 - (b) every such foreign subsidiary more than 50% of the shares or other equity interests of which are owned by the Singapore law practice.
- (5) A law practice must ensure that its partners, directors and employees are regularly and appropriately trained on —
- (a) the laws and regulations relating to the prevention of money laundering and the financing of terrorism; and
 - (b) the law practice's internal policies, procedures and controls for the prevention of money laundering and the financing of terrorism.

PART 3

KEEPING OF RECORDS

Period of maintenance of documents and records relating to relevant matters

19.—(1) For the purposes of section 70E(1)(a) and (3) of the Act, a legal practitioner must maintain a document or record relating to a relevant matter in which the legal practitioner acted for at least 5 years after the completion of the relevant matter.

(2) For the purposes of section 70E(2)(a) and (3) of the Act, a law practice must maintain a document or record relating to a relevant

matter in which the law practice, or any legal practitioner in the law practice, acted for at least 5 years after the completion of the relevant matter.

(3) Despite paragraphs (1) and (2), where a legal practitioner who practises in a law practice, and who acted in a relevant matter while practising in the law practice, ceases to practise —

(a) subject to sub-paragraph (b) —

(i) the legal practitioner's obligation under paragraph (1) to maintain a document or record relating to the relevant matter ceases when the legal practitioner ceases to practise; but

(ii) the obligation of the law practice under paragraph (2) to maintain that document or record continues; or

(b) if the law practice is dissolved, or the licence issued to the law practice is revoked, when the legal practitioner ceases to practise, and paragraph (5) does not apply —

(i) the obligation of the law practice under paragraph (2) to maintain a document or record relating to the relevant matter ceases when the law practice is dissolved or the licence issued to the law practice is revoked (as the case may be); but

(ii) the legal practitioner's obligation under paragraph (1) to maintain that document or record continues, despite the legal practitioner ceasing to be a legal practitioner or to practise.

(4) Despite paragraphs (1) and (2), where a legal practitioner who practises in a law practice ("Law Practice A"), and who acted in a relevant matter while practising in Law Practice A, joins a different law practice ("Law Practice B") —

(a) if Law Practice A (instead of the legal practitioner) continues to deal with the relevant matter, or continues to hold the documents and records relating to the relevant matter —

(i) the legal practitioner's obligation under paragraph (1) to maintain a document or record relating to the

relevant matter ceases when the legal practitioner joins Law Practice B; but

- (ii) the obligation of Law Practice A under paragraph (2) to maintain that document or record continues;
- (b) if the legal practitioner (instead of Law Practice A) continues to deal with the relevant matter, or continues to hold the documents and records relating to the relevant matter —
- (i) the obligation of Law Practice A under paragraph (2) to maintain a document or record relating to the relevant matter ceases when the legal practitioner joins Law Practice B; but
 - (ii) the legal practitioner’s obligation under paragraph (1) to maintain that document or record continues; or
- (c) if Law Practice A is dissolved, or the licence issued to Law Practice A is revoked, when the legal practitioner joins Law Practice B, and paragraph (5) does not apply —
- (i) the obligation of Law Practice A under paragraph (2) to maintain a document or record relating to the relevant matter ceases when Law Practice A is dissolved or the licence issued to Law Practice A is revoked (as the case may be); but
 - (ii) the legal practitioner’s obligation under paragraph (1) to maintain that document or record continues, whether or not the legal practitioner continues to deal with the relevant matter, and whether or not the legal practitioner subsequently ceases to practise.

(5) Despite paragraph (2), where a relevant matter in which a law practice (“Law Practice A”) acted is transferred to a different law practice (“Law Practice B”) before or when Law Practice A is dissolved, or the licence issued to Law Practice A is revoked, the obligation under that paragraph to maintain a document or record relating to the relevant matter is transferred, for the remainder of the period under that paragraph, from Law Practice A to Law Practice B together with the relevant matter.

Period of maintenance of documents and records obtained through customer due diligence measures

20.—(1) For the purposes of section 70E(1)(b) and (3) of the Act, a legal practitioner must maintain a document or record obtained by the legal practitioner through customer due diligence measures performed under section 70C of the Act —

- (a) where the document or record is in relation to a client, for at least 5 years after the termination of the business relationship with the client; or
- (b) where the document or record is in relation to an occasional transaction, for at least 5 years after the date of that transaction.

(2) For the purposes of section 70E(2)(b) and (3) of the Act, a law practice must maintain a document or record obtained by the law practice, or by any legal practitioner in the law practice, through customer due diligence measures performed under section 70C of the Act —

- (a) where the document or record is in relation to a client, for at least 5 years after the termination of the business relationship with the client; or
- (b) where the document or record is in relation to an occasional transaction, for at least 5 years after the date of that transaction.

(3) Despite paragraphs (1) and (2), where a legal practitioner who practises in a law practice ceases to practise —

- (a) subject to sub-paragraph (b) —
 - (i) the legal practitioner's obligation under paragraph (1) to maintain a document or record obtained by the legal practitioner ceases when the legal practitioner ceases to practise; but
 - (ii) the obligation of the law practice under paragraph (2) to maintain that document or record continues; or

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- (b) if the law practice is dissolved, or the licence issued to the law practice is revoked, when the legal practitioner ceases to practise, and paragraph (5) does not apply —
- (i) the obligation of the law practice under paragraph (2) to maintain a document or record obtained by the legal practitioner ceases when the law practice is dissolved or the licence issued to the law practice is revoked (as the case may be); but
 - (ii) the legal practitioner’s obligation under paragraph (1) to maintain that document or record continues, despite the legal practitioner ceasing to be a legal practitioner or to practise.
- (4) Despite paragraphs (1) and (2), where a legal practitioner who practises in a law practice (“Law Practice A”) joins a different law practice (“Law Practice B”) —
- (a) if Law Practice A (instead of the legal practitioner) continues to hold a document or record obtained by the legal practitioner through customer due diligence measures performed under section 70C of the Act —
 - (i) the legal practitioner’s obligation under paragraph (1) to maintain that document or record ceases when the legal practitioner joins Law Practice B; but
 - (ii) the obligation of Law Practice A under paragraph (2) to maintain that document or record continues;
 - (b) if the legal practitioner (instead of Law Practice A) continues to hold a document or record obtained by the legal practitioner through customer due diligence measures performed under section 70C of the Act —
 - (i) the obligation of Law Practice A under paragraph (2) to maintain that document or record ceases when the legal practitioner joins Law Practice B; but
 - (ii) the legal practitioner’s obligation under paragraph (1) to maintain that document or record continues; or

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- (c) if Law Practice A is dissolved, or the licence issued to Law Practice A is revoked, when the legal practitioner joins Law Practice B, and paragraph (5) does not apply —
- (i) the obligation of Law Practice A under paragraph (2) to maintain a document or record obtained by the legal practitioner ceases when Law Practice A is dissolved or the licence issued to Law Practice A is revoked (as the case may be); but
 - (ii) the legal practitioner’s obligation under paragraph (1) to maintain that document or record continues, whether or not the legal practitioner subsequently ceases to practise.

(5) Despite paragraph (2), where any matter in which a law practice (“Law Practice A”) acted is transferred to a different law practice (“Law Practice B”) before or when Law Practice A is dissolved, or the licence issued to Law Practice A is revoked, the obligation under that paragraph to maintain a document or record obtained by Law Practice A, or by any legal practitioner in Law Practice A, in relation to that matter is transferred, for the remainder of the period under that paragraph, from Law Practice A to Law Practice B together with that matter.

Sufficiency of documents and records relating to relevant matters

21.—(1) A legal practitioner must take reasonable steps to ensure that the documents and records relating to a relevant matter in which the legal practitioner has acted are sufficient —

- (a) to substantially permit a reconstruction of the relevant matter and of any transaction relating to the relevant matter; and
- (b) if necessary, to provide evidence for the prosecution of an offence relating to the relevant matter.

(2) A law practice must take reasonable steps to ensure that the documents and records relating to a relevant matter in which the law practice, or any legal practitioner in the law practice, has acted are sufficient —

- (a) to substantially permit a reconstruction of the relevant matter and of any transaction relating to the relevant matter; and
- (b) if necessary, to provide evidence for the prosecution of an offence relating to the relevant matter.

Documents and records to be made available to Council

22.—(1) A legal practitioner must ensure that the documents and records maintained by the legal practitioner are made available to the Council or any person appointed by the Council under section 70F(1) of the Act, should the need arise.

(2) A law practice must ensure that the documents and records maintained by the law practice are made available to the Council or any person appointed by the Council under section 70F(1) of the Act, should the need arise.

PART 4

NEW TECHNOLOGIES, SERVICES AND BUSINESS PRACTICES

Identification and assessment of risks from new technologies, etc.

23. A legal practitioner or law practice must identify and assess the risks of money laundering and the financing of terrorism that may arise in relation to —

- (a) the development of any new service or new business practice (including any new delivery mechanism for any new or existing service); and
- (b) the use of any new or developing technology for any new or existing service.

Management and mitigation of risks from new technologies, etc.

24. A legal practitioner or law practice must —

- (a) before offering any new service or starting any new business practice referred to in rule 23(a), or using any new or developing technology referred to in rule 23(b), undertake an

assessment of the risks of money laundering and the financing of terrorism that may arise in relation to the offering of that service, the starting of that business practice or the use of that technology; and

- (b) take appropriate measures to manage and mitigate those risks.

PART 5

MISCELLANEOUS

Basis for determination whether to file suspicious transaction report

25. A legal practitioner or law practice must document the basis for the legal practitioner's or law practice's determination whether to file a suspicious transaction report with a Suspicious Transaction Reporting Officer, a police officer or a Commercial Affairs Officer.

Powers of inspection by Council

26.—(1) A requirement of the Council for a legal practitioner, or a sole proprietor, partner or director of a law practice, to produce any document or provide any information or explanation under section 70F(1) of the Act —

- (a) must be made in writing by a member of the Council; and

- (b) may be served —

(i) by delivering the requirement to the legal practitioner or the sole proprietor, partner or director of the law practice; or

(ii) by sending the requirement by registered post to the usual or last known address, as maintained by the Society, of the legal practitioner or the sole proprietor, partner or director of the law practice.

(2) Before appointing a person under section 70F(1) of the Act, the Council must consider any objection to the appointment of that person, on personal or other proper grounds, made by the legal practitioner or the sole proprietor, partner or director of the law practice.

Prescribed types of disciplinary proceedings

27.—(1) The types of disciplinary proceedings that may be taken, for a contravention of Part VA of the Act, against an advocate and solicitor who has in force a practising certificate at the time of the contravention are —

- (a) disciplinary proceedings under Part VII of the Act; and
- (b) if the advocate and solicitor is registered under section 130N of the Act, disciplinary proceedings under section 130R of the Act.

(2) The types of disciplinary proceedings that may be taken, for a contravention of Part VA of the Act, against an advocate and solicitor who is a director, a partner, a consultant or an employee of a law practice, but does not have in force a practising certificate at the time of the contravention, are —

- (a) disciplinary proceedings under section 82A of the Act; and
- (b) if the advocate and solicitor is registered under section 130O of the Act, disciplinary proceedings under section 130R of the Act.

(3) The types of disciplinary proceedings that may be taken, for a contravention of Part VA of the Act, against a foreign lawyer who is registered under section 130I of the Act at the time of the contravention are —

- (a) disciplinary proceedings under section 82B of the Act; and
- (b) disciplinary proceedings under section 130R of the Act.

(4) The disciplinary proceedings that may be taken, for a contravention of Part VA of the Act, against a foreign lawyer who is registered under section 130K of the Act, or who is granted an approval under section 130L(1) of the Act, are disciplinary proceedings under section 130R of the Act.

Prescribed types of regulatory actions

28.—(1) The regulatory actions that may be taken, for a contravention of Part VA of the Act, against any Qualifying

Foreign Law Practice or licensed foreign law practice are the regulatory actions under section 130H of the Act.

(2) The regulatory actions that may be taken, for a contravention of Part VA of the Act, against a Joint Law Venture, the constituent foreign law practice of a Joint Law Venture, a Formal Law Alliance or a foreign law practice which is a member of the Formal Law Alliance are the regulatory actions under section 130G of the Act.

Practice directions, guidance notes and rulings

29. To the extent of any inconsistency, these Rules prevail over any practice directions, guidance notes and rulings issued by the Council in respect of any matter relating to these Rules.

Savings and transitional provision

30. Anything done by the Council, or by a member of the Council, under rule 11I of the Legal Profession (Professional Conduct) Rules (R 1) as in force immediately before 23 May 2015 is, on and after that date, to be treated as done under section 70F of the Act read with rule 26.

Made on 22 May 2015.

THIO SHEN YI, SC
President,
Council of the Law Society of
Singapore.

[LAW 06/005/8.1; AG/LEGIS/SL/161/2015/1 Vol. 1]

(To be presented to Parliament under section 131 of the Legal Profession Act).