

**SAINT VINCENT AND THE GRENADINES**

**STATUTORY RULES AND ORDERS**

2024 NO. 18

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(Gazetted 26th March, 2024)

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**IN EXERCISE** of the power conferred under section 156 of the Proceeds of Crime Act 2013 (No. 38 of 2013) the Minister, after consultation with the Committee and the Cabinet, makes the following Regulations –

**ANTI-MONEY LAUNDERING AND TERRORIST FINANCING (ADMINISTRATIVE PENALTIES) REGULATIONS 2024**

1. These Regulations may be cited as the Anti-Money Laundering and Terrorist Financing (Administrative Penalties) Regulations 2024. **Citation**

2. (1) In these Regulations, unless the context otherwise requires **Interpretation**

“Act” means the Proceeds of Crime Act, 2013; **No. 38 of 2013**

“administrative penalty” means the administrative penalty imposed under regulation 3;

“amounts payable” means the cumulative value of the administrative penalty and the late payment penalty;

“contravention” means a contravention specified in Column 3 of the Schedule;

“late payment penalty” means a penalty imposed under regulation 9.

(2) For the purposes of these Regulations, the imposition of an administrative penalty becomes final on the earliest of –

- (a) the payment by a relevant service provider of the administrative penalty;
- (b) the date when, in accordance with regulation 6, the relevant service provider is considered to have committed the contravention; or
- (c) the dismissal of an appeal of the relevant service provider, where the time for a further appeal has expired.

**Power of supervisory authority to impose administrative penalty**

3. (1) A supervisory authority may impose an administrative penalty on a relevant service provider where the supervisory authority is satisfied that the relevant service provider has committed a contravention.

(2) A supervisory authority may not impose an administrative penalty on a relevant service provider in respect of a contravention committed more than 2 years prior to the date on which a supervisory authority sends a notice to the relevant service provider under regulation 4 or 5.

**Notice of intention to impose administrative penalty**

4. (1) Where a supervisory authority intends to impose an administrative penalty on a relevant service provider, the supervisory authority shall send a notice of its intention to the relevant service provider –

- (a) specifying the –
  - (i) alleged contravention and the relevant facts surrounding the contravention; and
  - (ii) amount of the administrative penalty that it intends to impose; and
- (b) advising the relevant service provider of the right to make written representations to the supervisory authority in accordance with sub-regulation (2).

(2) A relevant service provider which receives a notice under sub-regulation (1) may, within 28 days of the date on which the relevant service provider receives the notice, send written representations to the supervisory authority –

- (a) denying that the relevant service provider has committed the alleged contravention or disputing the facts of the alleged contravention; or
- (b) providing reasons that the relevant service provider considers justify the imposition of a lower administrative penalty.

**Administrative penalty**

5. (1) After the expiration of 28 days from the date that a supervisory authority sent a notice under regulation 4 to a relevant service provider, the supervisory authority may impose an administrative penalty on that relevant service provider by sending the relevant service provider a penalty notice stating –

- (a) the contravention in respect of which the notice is issued;

- (b) the date on which notice of intention to impose an administrative penalty in respect of that contravention was sent to the relevant service provider;
- (c) the amount of the administrative penalty imposed;
- (d) a date, not less than 28 days after the date of the penalty notice, by which the administrative penalty shall be paid to the supervisory authority; and
- (e) that if the relevant service provider does not pay the administrative penalty or exercise the right of appeal under section 159 of the Act, on or before the date referred to in paragraph (d), the relevant service provider shall be considered to have committed the contravention and be liable for the administrative penalty set out in the notice.

(2) The administrative penalty imposed in a penalty notice shall not exceed the amount specified in the notice of intention sent under regulation 4.

(3) Before imposing an administrative penalty on a relevant service provider under sub-regulation (1), a supervisory authority shall consider any written representations that it has received from the relevant service provider and, where it receives representations, it shall provide reasons for the action that it takes.

(4) A relevant service provider that receives a penalty notice under sub-regulation (1) shall pay the administrative penalty stated to the supervisory authority or appeal the imposition of the administrative penalty under section 159 of the Act.

6. (1) If a relevant service provider pays an administrative penalty on or before the last date for payment of the administrative penalty, the relevant service provider is considered to have committed the contravention and the action is over.

**Date relevant  
service provider  
considered to  
c o m m i t  
contravention**

(2) A relevant service provider which neither pays an administrative penalty nor appeals the imposition of the administrative penalty, on or before the last date for payment of the administrative penalty, is considered to have committed the contravention and is liable for the administrative penalty.

7. Where a supervisory authority decides to impose an administrative penalty on a relevant service provider for a contravention, the supervisory authority shall, after taking account of the factors specified in regulation 8, impose an administrative penalty not exceeding

**Amount of  
administrative  
penalty**

the administrative penalty specified in Column 4 of the Schedule for the particular contravention.

**Factors to be considered by supervisory authority**

8. In determining the administrative penalty to be imposed on a relevant service provider, a supervisory authority –

- (a) shall take into account the following factors –
  - (i) the nature and seriousness of the contravention committed by the relevant service provider;
  - (ii) whether the relevant service provider has previously committed a contravention and if so, the number and seriousness of the relevant service provider's previous contraventions;
  - (iii) whether the contravention was deliberate or reckless or caused by the negligence of the relevant service provider;
  - (iv) whether any loss or damage has been sustained by third parties as a result of the contravention;
  - (v) whether there has been any gain to the relevant service provider as a result of the contravention; and
  - (vi) the ability of the relevant service provider to pay the administrative penalty; and
- (b) may take into account other matters as the supervisory authority considers appropriate.

**Late payment penalties**

9. (1) A supervisory authority may impose a late payment penalty on a relevant service provider if the relevant service provider fails to pay an administrative penalty on or before the date the administrative penalty is due for payment.

(2) Where a supervisory authority decides to impose a late payment penalty on a relevant service provider, the supervisory authority shall send the relevant service provider a penalty notice stating –

- (a) the administrative penalty in respect of which the late payment penalty is being imposed; and
- (b) the amount of the late payment penalty.

(3) A relevant service provider which receives a penalty notice under sub-regulation (2) shall pay the late payment penalty and the administrative penalty stated in the notice to the supervisory authority

or appeal the imposition of the late payment penalty under section 159 of the Act.

(4) For the purposes of determining whether an administrative penalty has been paid, an administrative penalty is deemed not to have been paid until it has been paid in full.

10. Where a supervisory authority decides to impose a late payment penalty on a relevant service provider, the late payment penalty shall be calculated as follows – **Amount of late payment penalty**

- (a) where the administrative penalty is paid 28 days, or any part thereof after the due date, 10 percent of the administrative penalty; and
- (b) for each additional period of 28 days, or any part thereof during which the administrative penalty remains unpaid, 10 percent of the amounts payable.

11. The imposition of a penalty under these Regulations creates a debt due from a relevant service provider to the supervisory authority imposing the penalty and the supervisory authority may recover the penalties in a court of competent jurisdiction. **Recovery of penalties imposed**

12. Penalties collected or recovered under these Regulations shall be paid into the Fund. **Penalties to be paid into Fund**

## SCHEDULE

(regulation 2, 7)

## ADMINISTRATIVE PENALTIES

| COLUMN 1<br>Item | COLUMN 2<br>Provision of Act,<br>Regulations or Code                                       | COLUMN 3<br>Nature of the contravention   | COLUMN 4<br>Administrative penalty |              |
|------------------|--|---|------------------------------------|--------------|
|                  |  |   | (Body<br>Corporate)                | (Individual) |
|                  | <b>Proceeds of Crime<br/>Act 2013</b>  |   |                                    |              |
| 1.               | Section 155  | Failure to Register   | 15,000                             | 7,500        |
| 2.               | Schedule<br>paragraph 3  | 4 Failure to comply with the<br>notice to provide and produce<br>specified documents                      | 15,000                             | 7,500        |
| 3.               | Schedule<br>paragraph 5  | 4 Failure to permit the<br>Supervisory Authority to<br>enter the premises to conduct<br>compliance visits | 10,000                             | 5,000        |
| 4.               | Schedule<br>paragraph 11   | 4 Failure to comply with a<br>directive pursuant to<br>paragraph 11                                       | 15,000                             | 7,500        |
|                  | <b>A n t i - M o n e y<br/>Laundering and<br/>Terrorist Financing<br/>Regulations 2014</b> |   |                                    |              |
| 5.               | Regulation 11(1), (2),<br>(3) and (4)  | Failure to carry out effective<br>customer due diligence<br>measures pursuant to<br>regulation            | 15,000                             | 7,500        |
| 6.               | Regulation 11(5)   | Failure to conduct ongoing<br>monitoring  | 10,000                             | 5,000        |
| 7.               | Regulation 12 (1), (2),<br>(3) and (4)   | Failure to cease transaction<br>or terminate business<br>relationship                                     | 15,000                             | 7,500        |
| 8.               | Regulation 13 (1), (2),<br>(3) and (5)   | Failure to apply a risk based<br>approach and conduct<br>customer risk based<br>assessment activities     | 15,000                             | 7,500        |

|     |                             |   |        |       |
|-----|-----------------------------|---|--------|-------|
| 9.  | Regulation 14 (2)           | Failure to engage in enhanced customer due diligence or enhanced ongoing monitoring where necessary   | 15,000 | 7,500 |
| 10. | Regulation 15               | Failure to adopt relevant measures or additional measure of checks in non-face to face relationships  | 10,000 | 5,000 |
| 11. | Regulation 16 (4)           | Failure to provide documentation establishing proof for not applying customer due diligence measures before establishing a business relationship  | 10,000 | 5,000 |
| 12. | Regulation 17 (2), (3)      | Failure to obtain adequate assurance in writing from the intermediary or introducer or customer due diligence information   | 10,000 | 5,000 |
| 13. | Regulation 18 (1)           | Failure to apply the measures necessary before reliance on an introducer or intermediary  | 10,000 | 5,000 |
| 14. | Regulation 18 (2)           | Failure to make and retain records pursuant to regulation 18(2)   | 15,000 | 7,500 |
| 15. | Regulation 19               | Failure to comply with regulation 19  | 10,000 | 5,000 |
| 16. | Regulation 20 (1), (2), (3) | Failure to establish, maintain and implement appropriate risk-sensitive policies, procedures, systems and controls  | 15,000 | 7,500 |
| 17. | Regulation 20 (4)           | Failure to maintain adequate procedures for monitoring and testing effectiveness  | 10,000 | 5,000 |
| 18. | Regulation 21               | Failure to keep records for at least the minimum retention period or in a readily available format or make records available to a second service provider pursuant to regulation 21(1), (2) and (3) | 15,000 | 7,500 |

|     |                                 |  |        |       |
|-----|---------------------------------|--|--------|-------|
| 19. | Regulation 21 and 22            | Failure to keep records specified in regulation 21 and 22  | 15,000 | 7,500 |
| 20. | Regulation 24                   | Failure to train employees   | 10,000 | 5,000 |
| 21. | Regulation 25 (1)               | Failure to appoint an AML/CFT Reporting Officer / Compliance Officer   | 10,000 | 5,000 |
| 22. | Regulation 25 (2) and 26(3)     | Failure of the AML/CFT Reporting Officer / Compliance Officer to comply with the prescribed obligations  | 10,000 | 5,000 |
| 23. | Regulation 28 (1)               | Failure to comply with the restrictions on correspondent banking   | 15,000 | 7,500 |
| 24. | Regulation 29                   | Failure to comply with the measures pursuant to regulation 29  | 15,000 | 7,500 |
| 25. | Regulation 33 (1) and (2)       | Failure to ensure transfer of funds accompanied by full originator information, or to verify full originator information   | 15,000 | 7,500 |
| 26. | Regulation 33 (6)               | Failure to keep records of full originator information on the payer or for the specified period  | 15,000 | 7,500 |
| 27. | Regulation 33 (8), (9) and (10) | Failure of the payment service provider to comply with a request to make available the full originator information within the specified time                         | 15,000 | 7,500 |
| 28. | Regulation 34 (4)               | Failure of the payment service provider of the payee to put in place effective procedures for the detection of any missing or incomplete full originator information | 15,000 | 7,500 |



|     |   |   |        |       |
|-----|---|---|--------|-------|
| 29. | Regulation 21 and 22  | Failure to comply with the measures pursuant to regulation 34(4)  | 10,000 | 5,000 |
| 30. | Regulation 34 (6)   | Failure of the payment service provider of the payee to keep records of information received on the payer for the specified period  | 15,000 | 7,500 |
| 31. | Regulation 35 (2)   | Failure of an intermediate payment service provider to keep information received on payer with the transfer of funds  | 15,000 | 7,500 |
| 32. | Regulation 35 (5)   | Failure of an intermediate payment service provider to make available all the information on the payer within the specified period to the payment service provider of the payee | 15,000 | 7,500 |
| 33. | Regulation 35 (6)   | Failure to keep records within the specified period pursuant to regulation 35(6)  | 15,000 | 7,500 |
|     | <b>Anti - Money Laundering and Terrorist Financing (Non-Regulated Service Providers) Regulations 2022</b> |   |        |       |
| 34. | Regulation 7 (1) and (2)  | Failure to provide written notice of change in directors and senior officers  | 15,000 | 7,500 |
| 35. | Regulation 8 (1) and (2)  | Failure to provide written notice of change in beneficial owners  | 15,000 | 7,500 |
| 36. | Regulation 9 (1) and (2)  | Failure to provide written notice of change in registered information   | 15,000 | 7,500 |

|     | <b>Other</b> |   |        |        |
|-----|--------------|---|--------|--------|
| 37. |              | Contravention of any other AML/CFT obligations not specified herein | 20,000 | 20,000 |

Made this 19th day of March, 2024.

**HON. CAMILLO GONSALVES**  
 Minister of Finance, Economic Planning  
 and Information Technology

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