

VIRGIN ISLANDS
ANTI-MONEY LAUNDERING AND TERRORIST FINANCING (AMENDMENT)
CODE OF PRACTICE, 2015

ARRANGEMENT OF SECTIONS

Section

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VIRGIN ISLANDS

STATUTORY INSTRUMENT 2015 NO.

**Proceeds of Criminal Conduct Act, 1997
(No. 5 of 1997)**

**Anti-money Laundering and Terrorist Financing (Amendment)
Code of Practice, 2015**

[Gazetted _____, 2015]

The Financial Services Commission, in exercise of the powers conferred by section 27 (1) of the Proceeds of Criminal Conduct Act, 1997 (No. 5 of 1997) and after consultation with the Joint Anti-money Laundering and Terrorist Financing Advisory Committee, issues this Code.

Citation and commencement

1. This Code of Practice may be cited as the Anti-money Laundering and Terrorist Financing (Amendment) Code of Practice, 2015 and shall come into force on the date that the Anti-money Laundering (Amendment) Regulations, 2015 come into force.

Section 2 amended

2. Section 2 of the Anti-money Laundering and Terrorist Financing Code of Practice, 2008 (hereinafter referred to as “the principal Code of Practice”) is amended in subsection (1) –

(a) by deleting the word “or” at the end of paragraph (b) and substituting the word “and”;

(b) by deleting the words “the applicant” in paragraph (c) (ii) and substituting the words “the applicant for business or customer”;

(c) by inserting after the definition of “Commission”, the following new definition –

““customer” means a party that has entered into a business relationship or one-off transaction with a relevant person;”.

Section 21 amended

3. Section 21 of the principal Code of Practice is amended in subsection (2) by deleting the words “every 3 years” and substituting the words “every 4 years”.

Section 31 amended

4. Section 31 of the principal Code of Practice is amended –

- (a) by deleting the heading “Written introductions” and replacing it with the heading “Reliance on third parties”;
- (b) in subsection (1) by inserting after the words “an applicant for business or customer”, the words “by a third party”;
- (c) by deleting subsection (3) and replacing it with the following subsection –

“(3) Without prejudice to the provisions of the Anti-money Laundering Regulations, 2008 but subject to subsection (5), exemptions for verification of identity in circumstances where an applicant for business or a customer is introduced to an entity or a professional by a third party apply where the entity or professional satisfies itself or himself or herself that –

- (a) the third party has a business relationship with the applicant for business or customer;
- (b) the third party has taken measures to comply with the requirements of regulation 7 (1) of the Anti-money Laundering Regulations, 2008 or, if the third party resides outside the Virgin Islands, their equivalent in the third party’s jurisdiction; and
- (c) the requirements of regulation 7 (2) of the Anti-money Laundering Regulations, 2008 or, if the third party resides outside the Virgin Islands, their equivalent in the third party’s jurisdiction, have been complied with.”;

(d) in subsection (4) –

- (i) by deleting in paragraph (b), the words “subsection (3) (a) (i) and (ii)” and replacing them with the words “subsection (3)”; and
- (ii) by deleting from the closing paragraph, the words “or identity”; and

(e) by deleting subsection (5) and replacing it with the following subsection –

“(5) For the purposes of this section, an entity or a professional that relies on an introduction made of an applicant for business or a customer by a third party shall, prior to establishing a business relationship with the applicant or customer, ensure that –

- (a) the third party has in place a system of monitoring any change in risk with respect to the applicant for business or customer and of reviewing and keeping up-to-date at least once –
- (i) every 4 years the relevant customer due diligence information on the applicant or customer where such applicant or customer is assessed to present a low risk; and
 - (ii) every year the relevant customer due diligence information on the applicant or customer where such applicant or customer is assessed to present a higher risk; and
- (b) it enters into a written agreement with the third party in the terms set out in regulation 7A of the Anti-money Laundering Regulations, 2008 and section 31A of this Code.”.
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The Explanation to section 31 of the Code of Practice is deleted and substituted by the following:

(i) In the nature of business transactions, it is not unusual for an applicant for business or a customer to straddle between two or more entities with respect to the applicant’s or customer’s business relationships. It is therefore possible that the first entity or entities that dealt with the applicant or customer would be able to introduce the applicant or customer to a new entity with which the same applicant or customer wishes to enter into a business relationship. The person introducing the applicant or customer would thus qualify as a third party. Such an introduction may emanate either from a domestic third party or a foreign third party; in either case, the new entity is able to rely on the introduction received from the third party. It is considered an unnecessary duplication for two entities to seek to obtain and verify the same information relating to the same applicant or customer

(ii) However, before an entity or a professional can rely on an introduction by a third party in the terms outlined in paragraph (i) above, it needs to be satisfied that –

- *the requirements of the Anti-money Laundering Regulations, 2008 (specifically regulations 7, 7A and 7B) have been complied with in respect of the need for verification;*
- *the third party has the relevant records concerning the applicant’s or customer’s identification and fully complies with the obligations set out in regulation 7 (1) of the Anti-money Laundering Regulations, 2008;*
- *in the case of a foreign third party, that third party is regulated in his or her jurisdiction to the standards consistent with and meeting the requirements of the FATF Recommendations and, in any case, satisfies the definition of “foreign*

regulated person” in regulation 2 (1) of the Anti-money Laundering Regulations, 2008 ; and

- in the case of a professional third party, that third party is governed by established rules of professional conduct or statutory compliance measures with proportionate penalties for breaches (see section 31 (3) (c) of this Code and regulation 7 (2) (iii) of the AMLR).

An entity or a professional must not rely on an introduction from a third party that does not meet the relevant requirements for introducing an applicant for business or a customer. The onus is therefore on the entity or professional accepting or seeking to enter into a business relationship with an applicant for business or a customer to ensure that the necessary customer due diligence in respect of that applicant or customer has been carried out by the third party concerned. In addition, the entity or professional must carry out its own due diligence obligations in respect of the third party in order to satisfy itself of the matters specified in the 4 bullet points outlined above. This effectively requires the entity or professional to test the third party to establish whether there is compliance and, if so, the extent of the compliance. This testing must be carried out periodically as provided in section 31 (5) (a) of the Code.

(iii) *It should be understood that the essence of identification and verification of an applicant for business or a customer is to prevent, especially in the case of legal persons (companies) and legal arrangements (partnerships and trusts), these entities from being used to carry out money laundering, terrorist financing and other financial crime activities; the verification enables a better assessment and understanding of the risks they pose or are likely to pose in the business relationship. Such an assessment and understanding in turn assists in framing and adopting appropriate measures to mitigate the risks or potential risks associated with an applicant for business or a customer.*

(iv) *Regulation 7 (1) (a) of the Anti-money Laundering Regulations, 2008 makes it clear that identification and verification should be based on “reliable, independent source documents, data or information”. This effectively calls for the application of good judgment on the part of an entity in identifying the methods on which it wishes to rely to effect its identification and verification; such method, however, must be a reliable one and one that is independent and unbiased. In identifying and verifying an applicant for business or customer or the beneficial owner of an applicant for business, verification may take different forms. For example, in relation to a person’s name, legal form and proof of existence (that is, getting to know who an applicant for business or customer or beneficial owner is), verification may be conducted by viewing or obtaining a copy of an entity’s certificate of incorporation, certificate of good standing, partnership agreement, deed of trust, or other document secured from an independent source that proves the name, form and current existence of the applicant for business or customer or beneficial owner. In particular, the entity or professional must be satisfied that it or he or she knows the identity of the beneficial owner(s) connected to the applicant for business or customer. In order to avoid reliance on documents that may be forged or that are suspect, certified copies of the documents may be relied upon if the originals are not available. Where considered appropriate (especially with respect to the reliability and independence of the source of data or information), reliance may be placed on a search engine (such as World Check and*

World Compliance) to verify an applicant for business or a customer or a beneficial owner connected to an entity. [For further information on verification, refer to paragraph (ii) of the Explanation to section 19 of the Code.]

(v) For purposes of identification and verification, there is no obligation for the entity or professional to obtain upfront a copy of any document or other data in respect of the applicant for business or customer. The verification methods identified in paragraph (iv) above are cited only as examples and an entity or professional may rely on other forms of identification and verification to establish the identity of the applicant for business or customer and the beneficial owner associated therewith. Each entity and professional must apply good judgment to ensure that whichever method of identification or verification is used it achieves the objectives of section 31 of this Code and regulation 7 (1) of the Anti-money Laundering Regulations, 2008.

(vi) It is permissible for entities within the same group of entities to rely on each other's introduction with respect to the establishment of a business relationship or the conduct of transactions. The caveat is that the entity which receives the introduction must satisfy itself that relevant records relative to the identity of the applicant or customer are maintained by the introducing entity. Where such a satisfaction is not obtained, no reliance must be placed on the introduction. Thus any attempt to rely on any exemption provided in the AMLR with respect to identifications must be predicated on full compliance with the established records relating to an applicant for business or a customer and the fact that the introducing entity needs to be a regulated entity or a foreign regulated entity or, in the case of a professional third party, that third party is appropriately subjected to established rules of conduct and compliance, including compliance with the requirements of section 31 (3).

(vii) It is important to note that reliance on an introduction does not shift an entity's or a professional's responsibility from ensuring that customer due diligence information in respect of an applicant for business or a customer would be available at all times whenever required pursuant to the AMLR, this Code or any other relevant enactment. It is therefore the duty of the entity or professional to satisfy itself or himself or herself that, prior to establishing a business relationship with an introduced applicant or customer, the third party gives the necessary assurance in writing that it or he or she has a system of monitoring any change in the applicant's or customer's risk and of reviewing the applicant's or customer's due diligence information for the applicable period stated and that the applicant's or customer's due diligence information will be made available or satisfactory arrangements will be put in place in the event that the business relationship between the introducer and the applicant or customer terminates (see the Explanation to section 31A for further details). It should be noted that the ultimate responsibility lies on the entity or professional to ensure that it has obtained and verified the identity of the applicant for business or customer and the beneficial owner or owners connected to such applicant for business or customer .

(viii) One of the fundamental elements of customer due diligence is the need to update information on the applicant for business or customer. Accordingly, an entity or a professional that relies on an introduction by a third party must ensure that the third party has in place appropriate measures for updating information on the applicant or customer. This will include changes in the applicant's general profile (business or otherwise), name, address, registered

office or principal place of business, senior management, beneficial ownership or controller, purpose and nature of business, risk profile, etc. The obligation to review and update an applicant's or a customer's due diligence information must be carried out periodically, with that for high risk applicants or customers being at least once every year and that for applicants or customers assessed as presenting low risk being at least once every four years. While this obligation lies with the third party, the entity or customer is equally obligated to test and ensure that the third party is complying with its system of reviewing and updating the applicants' or customers' customer due diligence information.

(ix) *A written agreement with a third party is not required each time an entity or a professional enters into a business relationship with an applicant for business or a customer. A single agreement that meets all the necessary legal requirements (see section 31A) may be treated as governing all business introductions between the third party and the entity or professional, although the agreement may be supplemented in any particular case having regard to the particular nature and circumstance of the case and the requirements of the Regulations and this Code.*

Sections 31A and 31B inserted

5. The principal Code is amended by inserting after section 31, the following new sections –

“Contents of written agreements

31A. (1) A written agreement between an entity or a professional and a third party (referred to in regulation 7A of the Anti-money Laundering Regulations, 2008) may contain such conditions as the entity or professional and the third party may agree upon but shall, at the minimum, contain the following conditions –

- (a) the third party undertakes to provide the information referred to in regulation 7 (2) of the Anti-money Laundering Regulations, 2008 at the time of entering into a business relationship with the entity or professional;
- (b) the third party undertakes, at the request of the entity or professional, to provide copies of all identification data and other relevant documentation concerning an applicant for business or a customer whenever required by the Agency, Commission or other competent authority in the Virgin Islands;
- (c) the third party undertakes to provide the entity or professional with the requested information without any delay and, in any case, within a period of forty eight hours, but not exceeding seventy-two hours (calculated from the time of dispatch of the request);

- (d) the third party confirms that it is regulated, supervised or monitored in the country or territory in which it is based by a competent authority (who must be named);
- (e) the third party confirms that it has in place measures that comply with customer due diligence and record keeping requirements that are at least equivalent to the FATF Recommendations;
- (f) the laws of the country or territory in which the third party is based and regulated, supervised or monitored do not prohibit or restrict the third party from providing to the entity or professional without delay copies of identification data and other relevant documentation concerning the customer due diligence carried out by the third party pursuant to any agreement with the applicant for business or customer;
- (g) the relevant person undertakes to inform the third party immediately of any change in the laws or practices of the Virgin Islands which will or is likely to affect the business relationship between them in the context of the agreement;
- (h) the third party undertakes to inform the entity or professional immediately of any change in the laws or practices of the country or territory of the third party which places prohibition or restriction on the ability of the third party to provide the entity or professional copies of identification data and other relevant documentation concerning the customer due diligence carried out by the third party;
- (i) the third party undertakes to immediately notify the entity or professional of any legal, criminal or regulatory action taken against the third party or any of its members or senior officers including, where the third party is licensed, authorised, approved or a member of a professional body, whether the licence, authorisation, approval or membership has been suspended, cancelled, revoked or withdrawn or in any other way restricted;
- (j) the third party agrees to, and the entity or professional undertakes to conduct, a periodic test of the business relationship between them, including the terms and conditions of the agreement to establish compliance therewith;
- (k) confirmation that the third party is based in a country or territory that is recognised by the Virgin Islands under Schedule 2 of the Code;

- (l) the third party undertakes not to amend or in any way modify any agreement it may have with an applicant for business or a customer so as to defeat the third party's obligations to the entity or professional under the written agreement between the entity or professional and the third party;
- (m) the third party undertakes to immediately notify the entity or professional if the business relationship between the third party and the applicant for business or customer is terminated for whatever reason; and
- (n) in a case where the business relationship between the third party and the applicant for business or customer is terminated, the third party undertakes to –
 - (i) provide the entity or professional, within seven days of the date of termination of the business relationship, with all the customer due diligence information and other relevant documents maintained by the third party in respect of the applicant for business or customer; or
 - (ii) advise the entity or professional in writing, within seven days of the date of termination of the business relationship, of the arrangements the third party has made to ensure that the entity or professional shall be able to access the customer due diligence information and other relevant documentation in respect of the applicant for business or customer whenever requested.

(2) For the purposes of –

(a) subsection (1) (i), the reference to –

- (i) “members” means members or shareholders, in the case of an entity that is a legal person, or partners, in the case of an entity that is a partnership; and
- (ii) “senior officers” means persons who are appointed to and have responsibility for performing managerial or supervisory functions within an entity;

(b) subsection (1) (n) (i), the entity or professional shall, upon receipt of the customer due diligence information and other relevant documentation, review the information and documentation and update it where the entity or professional reasonably forms the view that such action is necessary to ensure full compliance with the requirements of the Anti-money Laundering Regulations, 2008 or this Code; and

(c) subsection (1) (n) (ii), the third party shall, where the arrangements include another person having custody of the customer due diligence information and other relevant documents, undertake to provide the entity or professional with the name, address and other relevant detail of that other person;

(3) The periods specified in subsection (1) (c) shall be in effect for a period of 2 years from the date of the coming into force of this Code after which the undertaking to provide the requested information shall be performed within a period of twenty-four hours, and every written agreement referred to in subsection (1) shall be deemed to be amended accordingly.

(4) Where, prior to the coming into force of this Code, an agreement between an entity or a professional and a third party in respect of an applicant for business or a customer did not contain any or all of the conditions outlined in subsections (1) and (2), the entity or professional shall, on or before 31st December, 2016, have the agreement amended or revised to embody the conditions outlined in subsections (1) and (2).

(5) Where an entity or a professional fails to comply with subsection (4), it or he or she is liable to the penalty prescribed in Schedule 4 in respect of that non-compliance.

[Explanation:

(i) *The Anti-money Laundering Regulations, 2008 require that, prior to entering into a business relationship in respect of an applicant for business or a customer who is the subject of an introduction by a third party, the entity or professional shall conclude a written agreement that requires the performance of certain obligations by the third party. Those obligations relate to the matters identified in regulation 7 of the Anti-money Laundering Regulations, 2008 in relation to the third party, namely: obtaining and verifying the identities of the applicant for business and the beneficial owner of the applicant, understanding (in the case of an applicant that is a body corporate) the ownership and control structure of the corporate body, and understand and, where appropriate, obtain information on the nature or intended nature of the business relationship. The performance of these obligations effectively aids the process of ensuring compliance with regulatory, law enforcement and cooperation obligations of the Virgin Islands.*

(ii) *The entity or professional relying on an introduction by a third party as a basis for entering into a business relationship with an applicant for business takes on the responsibility of satisfying itself or himself or herself that the third party has performed the necessary customer due diligence in respect of the applicant or customer. This responsibility cannot be transferred and ultimate compliance rests with the entity or professional. It is therefore important that the entity or professional satisfies itself or himself or herself at the time of entering into the written*

agreement that the third party is a regulated person, foreign regulated person or a member of a professional body which regulates its members for AML/CFT compliance and has appropriate enforcement powers for non-compliance. The entity or professional must also obtain the necessary customer due diligence information outlined in regulation 7 at the time of receiving or accepting the business relationship with the applicant or customer and be satisfied that whenever it so requires the third party will provide the entity or professional with copies of the customer due diligence information maintained by the third party. Furthermore, it is the responsibility of the entity or professional to ensure that the third party has the necessary measures in place to establish and maintain the identification of applicants for business and customers and to update such information, having regard to the risk profile of each.

(iii) *In order to ensure that a written agreement with respect to the formation of a business relationship founded on an introduction by a third party fully ensures compliance with the obligations outlined in the Anti-money Laundering Regulations and this Code, certain conditions (provided in section 31A (1)) must be incorporated in the written agreement. Both the entity or professional and the third party will be held to the agreement, and the agreement may also form the basis of dialogue between the Agency and the Commission with the (foreign) regulator or supervisor of the third party where any non-compliance on the part of the third party is detected.*

(iv) *In the event that the business relationship between the third party and the applicant for business or customer is terminated for whatever reason, the third party is obligated to either transfer to the entity or professional all the customer due diligence information it has maintained in respect of the applicant or customer or advise the entity or professional of the arrangements the third party has put in place to ensure that the entity or professional can have access to the necessary customer due diligence information or other relevant documentation in respect of the applicant or customer. As a base standard, the termination of a business relationship with the applicant for business or customer must be notified to the entity or professional within 7 days of the termination. In the event that the third party fails to provide notification of the necessary arrangements to enable the entity or professional to access customer due diligence information whenever required, the entity or professional should be guided by the following steps:*

- notify the Agency and the Commission in writing of the failure to notify contrary to the written agreement by providing the name, address, competent authority by which the third party is regulated, supervised or monitored for compliance with anti-money laundering and terrorist financing obligations, and other details of the third party as would enable the Agency or the Commission to properly identify the third party;*
- seek to perform the customer due diligence exercise in respect of the applicants for business or customers whose information the third party has not made satisfactory arrangements to enable access to;*
- terminate the business relationships with the applicants for business or customers whose customer due diligence information it or he or she has been unable to obtain, and notify the Agency and Commission in writing of that fact, providing the names of the applicants or customers concerned.*

(v) *Where, following the termination of the business relationship between a third party and an applicant for business, an entity or a professional decides to continue its or his or her business relationship with the applicant or customer, the entity or professional must ensure that it or he or she acquires all the necessary customer due diligence information in respect of the applicant or customer. In addition, the entity or professional must review the customer due diligence information and other relevant documentation received with a view to supplementing it to ensure full compliance with the requirements of the Anti-money Laundering Regulations, 2008 and this Code. Any failure in this regard shall be presumed to have been occasioned by the entity's or professional's failure to review the customer due diligence information and other relevant documentation.*

(vi) *With regard to a third party's undertaking in a written agreement to provide relevant information whenever requested by the entity or professional within the prescribed time of 48 hours (but not exceeding 72 hours), the time must be reckoned taking into account public holidays. Neither the Agency nor the Commission will compute public holidays in determining whether the stipulated period has been complied with. Accordingly, if an entity or a professional requests information from a third party with which it or he or she has a written agreement, the period must be reckoned in a way that excludes any public holiday. It is, however, important that the entity or professional takes the further step of informing the competent authority requiring the information of that fact; otherwise a failure to provide the requested information within the stipulated period may be interpreted as a failure to comply.*

(vii) *Furthermore, the provision of requested information within a period of 48 hours but not exceeding 72 hours is a temporary arrangement to enable a smooth transitioning into a more effective information provision arrangement. This arrangement is valid only for 2 years from the date the amendments to this Code are brought into force. After the 2 year period, all written agreements shall require and shall, in any case, be construed to require the provision of requested information within a period of 24 hours from the time the request is made. All entities and professionals must therefore pay close attention to the stipulated period and ensure that they incorporate this requirement into their written agreements or, at the relevant time, amend their written agreements to comply accordingly.*

(viii) *In relation to written agreements in existence before the coming into force of this Code (effective 1st October, 2015), a transitional period of up to 31st December, 2016 is provided to review and update those agreements to reflect the conditions outlined in section 31A (1) and (2). Failure to do so will attract the imposition of an administrative penalty as provided for in Schedule 4 of the Code. It is important therefore that all efforts are expended to ensure compliance with this legal requirement within the stipulated period.*

Testing business relationships

31B. (1) An entity or a professional shall test its or his or her business relationship with a third party with which it or he or she has a written agreement at least once every three years.

(2) Subsection (1) does not prevent an entity or a professional from testing its or his or her business relationship with a third party in a shorter period.

(3) The testing shall be carried out with the objective of establishing whether or not and to what extent –

- (a) customer due diligence and other relevant documentation in respect of applicants for business or customers is maintained by the third party;
- (b) the other requirements of the Anti-money Laundering Regulations, 2008 and this Code are being complied with;
- (c) the conditions stipulated in the written agreement between the entity or professional and the third party are being observed by the third party; and
- (d) the agreement between the entity or professional and the third party should be reviewed to ensure a better level of adherence.

(3) The testing of the business relationship between an entity or a professional and a third party may take different forms (such as through an onsite review and examination of information and documents or a desk-based review through electronic means), but the entity or professional shall adopt the form that best achieves the objective of such an exercise, having regard to the requirements of the Anti-money Laundering Regulations, 2008 and this Code.

(4) An entity or a professional that has carried out a testing of its or his or her business relationship with a third party shall –

- (a) keep a record of the testing ; and
- (b) make a copy of the record of its testing available whenever requested by the Commission.

[Explanation:

(i) A third party from a recognised jurisdiction (under Schedule 2) is expected to be regulated, supervised or monitored for AML/CFT compliance to the standards provided by the FATF Recommendations. On that basis, it may be arguable that the testing of the third party is not necessary as the regulator or supervisor of the third party would ensure that the third party maintains the required customer due diligence information. However, it should be noted that (under the FATF Recommendations) the obligations in relation to ensuring compliance with third party introductions is placed on the jurisdiction. Accordingly, the Virgin Islands is obligated to ensure that the rules governing the sourcing and maintaining of customer due

diligence information relative to third party introductions are embodied in law. This is effectively premised on the basis that the Virgin Islands should be able to independently source and provide information in relation to any person in respect of whom customer due diligence should be carried out. Hence the need that entities and professionals relying on third party introductions should satisfy themselves that the third party has carried out and maintains the necessary customer due diligence information regarding an applicant for business or a customer before a business relationship is entered into with that applicant or customer.

(ii) *It is not enough that a third party claims or enters into an agreement that it has carried out the necessary customer due diligence or that it is maintaining information relative in that regard. The claim or the agreement are not necessarily doubted, but they must be verified through a testing process that provides the necessary assurance and confidence that in the event that the information is requested by the Agency or the Commission (or other competent authority) the information will be available and provided without delay. The “without delay” obligation is reckoned to be within a period of 48 hours – but not more than 72 hours – from the point of request for information to the point of delivery of that information to the requesting authority – the Agency, Commission or other competent authority.*

(iii) *It is up to the entity or professional to determine its own formula as regards how it conducts a testing of its or his or her relationship with the third party in order to ascertain the status of the third party’s legal obligations under the Anti-money Laundering Regulations, 2008, this Code and the written agreement of the parties. However, the entity or professional must adopt the formula that best achieves the objectives set out in regulation 7 of the Anti-money Laundering Regulations, 2008 and section 31A of this Code as well as the written agreement between the parties. In addition, the entity or professional is required to keep and maintain a record of any testing that has been carried out. The objective here is two-fold: to establish whether the entity or professional is in fact carrying out its or his or her obligation to test the business relationship with the third party (the evidence); and to determine whether the testing is being effectively carried out. All testing records held or maintained by an entity or a professional must be made available to the Commission whenever the Commission makes a request in that regard.*

(iv) *An entity or a professional may conduct a test of its relationship with a third party through a physical process of reviewing the relevant files (or a reasonable sample thereof in relation to many applicants for business or customers). This should provide the entity or professional the opportunity to analyse the files and develop an objective position as to whether or not all the required legal obligations with respect to customer due diligence information are being met and, if not, to determine what needs to be done to ensure that. Where an entity or a professional is satisfied that the third party has all of its customer due diligence information available electronically to which the entity or professional can have unhindered access for purposes of verifying the customer due diligence information maintained by the third party, the entity or professional may conduct its testing of the relationship with the third party by electronic means. This will be in addition to satisfying itself or himself or herself that copies of the customer due diligence information can and will be made available to the entity or professional upon request without any delay.”*

Schedule 4 amended

6. Schedule 4 of the principal Code of Practice is amended –

- (a) by deleting under Column 1, the figure “11” and replacing it with the figure “11A”; and
- (b) by inserting in the appropriate numerical order (in respect of the first two items) and adding at the end (in respect of the third item), the following –

“11	Failure to establish and maintain a written and effective system of internal controls	\$75,000	\$70,000
31A (4)	Failure to amend or revise a written agreement within the prescribed period to comply with a condition stipulated in section 31A	\$75,000	\$50,000
31B	(a) Failure to test a business relationship with a third party	\$65,000	\$60,000
	(b) Failure to maintain a record of testing of business relationship with a third party or to provide copy of testing to the Commission	\$60,000	\$55,000
	The breach of or non-compliance with any provision for which a penalty is not specifically provided	\$50,000	\$50,000”.

Issued by the Financial Services Commission this 27th day of October, 2015.

[Sgd]: Robert Mathavious
Managing Director/CEO
Financial Services Commission