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**THE CUSTOMS LAW
(2007 REVISION)**

**THE CUSTOMS (MONEY DECLARATIONS AND DISCLOSURES)
REGULATIONS, 2007**

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CAYMAN ISLANDS

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In exercise of the powers conferred by sections 12 and 75 of the Customs Law (2007 Revision), the Governor in Cabinet makes the following regulations -

1. These regulations may be cited as the Customs (Money Declarations and Disclosures) Regulations, 2007. Citation

2. In these regulations - Definitions

“Department” means the Department of Customs and, where the context so requires, includes an officer;

“false declaration” means making a misrepresentation of the value of money that is being transported into the Islands (by undervaluing it or stating that there is none) and includes failing to make a declaration;

“false disclosure” means making, in response to an inquiry by an officer, a misrepresentation of the value of money that is being transported out of the Islands (by undervaluing it or stating that there is none) and includes failing to make a disclosure in response to such inquiry;

“money laundering” means doing an act which constitutes an offence under section 47 or 48 of the Misuse of Drugs Law (2000 Revision) or section 32, 33 or 34 of the Proceeds of Criminal Conduct Law (2007 Revision) or, in the case of an act done otherwise than in the Islands, would constitute an offence if done in the Islands; (2000 Revision)
(2007 Revision)

“officer” means an officer appointed under section 6 of the Law and includes any police officer or other person assisting the Department of Customs in any matter;

(Law 14 of 2003) “terrorist financing” means doing any act which constitutes an offence under sections 19, 20, 21 or 22 of the Terrorism Law, 2003 or, in the case of an act done otherwise than in the Islands, would constitute an offence if done in the Islands.

Obligation to declare money: in-bound

3. (1) Any person transporting into the Islands money amounting in aggregate to fifteen thousand dollars or more, or its equivalent, shall declare such amount in writing to an officer at the time of entry, and supply such other particulars in relation thereto as are required by the form provided for the purpose.

(2) The Collector shall determine the forms to be used for purposes of the declaration and other particulars referred to in paragraph (1) and may combine the declaration with any other declaration that he may, under any Law, require to be made.

(3) Any person who makes a false declaration or supplies false particulars commits an offence and is liable on summary conviction to -

- (a) a fine of six thousand dollars and imprisonment for six months; and
- (b) forfeiture of up to twenty-five per cent of the amount actually transported.

(4) The operation of paragraph (3) shall not limit the operation of any other law in relation to other conduct associated with the money.

(5) Subject to paragraph (6), this regulation applies to money being transported or imported-

- (a) on a natural person, including in his accompanying luggage or vehicle;
- (b) in containerised or loose cargo; or
- (c) by way of postal or courier services.

(6) The following shall be exempt from this regulation -

- (a) the Cayman Islands Monetary Authority;
- (b) a common carrier of passengers with respect to money being transported or imported by its passengers;
- (c) a common carrier of goods in respect of shipment of money by third parties; or
- (d) any other legal person or category of legal persons exempted by Order made by the Governor in Cabinet, on the recommendation of the Financial Secretary.

4. Regulation 3 shall apply to money being transported or exported out of the Islands in the same way it applies to money being transported or imported into the Islands except that the disclosure is only required to be made upon verbal or written inquiry by an officer. Obligation to disclose money: out-bound
5. (1) An officer may, on the basis of suspicion or randomly, question any person entering or leaving the Islands, whether or not that person has made a declaration under regulation 3 or made a disclosure under regulation 4, with a view to ensuring compliance with these regulations. Duties and powers of officers
- (2) Where an officer forms a reasonable suspicion of money laundering or terrorist financing (whether or not the amount of money is such that it has to be declared under regulation 3 or where a person has made a false declaration or disclosure) -
- (a) section 26 of the Misuse of Drugs Law (2000 Revision) shall, (2000 Revision)
without limiting the operation of other provisions of that Law, apply as if the money were cash constituting the proceeds of drug trafficking or intended for use in drug trafficking contrary to that Law;
 - (b) Schedule 3 of the Terrorism Law, 2003 shall, without limiting the (Law 14 of 2003)
operation of other provisions of that Law, apply as if the “money” were “terrorist cash” as defined in paragraph 1 of that Schedule.
- (3) Without limiting the scope of anything that is stipulated in these regulations or the Law, an officer shall have all such powers as he may have in relation to customs matters in general.
6. The Collector shall cause to be collected, compiled and retained for at least five years the particulars relating to - Duty of Collector to retain information
- (a) declarations or disclosures where the sum met the threshold set out in regulation 3;
 - (b) false declarations or disclosures;
 - (c) declarations or disclosures with respect to which an officer formed reasonable suspicion of money laundering or terrorist financing; and
 - (d) such other matters in relation to declarations or disclosures as the Collector may consider necessary or expedient.
7. Without prejudice to the obligations in or relating to Part VI of the Money Laundering Regulations (2006 Revision), Part 2 of Schedule 1 to the Terrorism Law, 2003 or any law for the time being in force relating to the duty to report, where an officer forms a reasonable suspicion that a person is transporting money that is related to money laundering or terrorist financing, whether or not the Reports relating to money laundering or terrorist financing (2006 Revision) (Law 14 of 2003)

money meets the threshold prescribed by regulation 3, he shall report the matter to the Reporting Authority established under the Proceeds of Criminal Conduct Law (2005 Revision).

(2005 Revision)

Confidentiality and
divulgement

8. (1) Subject to paragraphs (2) and (3), an officer who divulges any information which has been acquired in the course of his duties or in exercise of powers or functions under these regulations commits an offence and is liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year, or both, and on conviction on indictment to a fine of fifteen thousand dollars and to imprisonment for three years, or both.

(2) Paragraph (1) does not apply to a divulgement -

- (a) lawfully required or permitted by any court of competent jurisdiction within the Islands;
- (b) where a person making a declaration or disclosure has voluntarily given consent for the information to be divulged;
- (c) where the information divulged is or has been lawfully available to the public from any other source;
- (d) where the information divulged is in a summary or in statistics expressed in a manner that does not enable the identity of any individual person to which the information relates to be ascertained;
- (e) lawfully ordered in the Islands in exercise of statutory powers which require such divulgement;
- (f) lawfully made -
 - (i) to the Attorney-General or a law enforcement agency in the Islands with a view to the institution of, or for the purpose of, criminal proceedings;
 - (ii) pursuant to regulation 7 or to subparagraph (3).

(3) Subject to paragraph (4), the Department may disclose to an overseas customs authority information in its possession necessary to enable that authority to enforce laws, regulations and rules concerning the transportation of money administered by that authority.

(4) Nothing in paragraph (3) authorises a disclosure by the Department unless -

- (a) the Department has a memorandum of understanding with the recipient authority, approved by the Financial Secretary, governing cooperation in customs matters and such memorandum includes provisions for disclosures that may be made under these regulations;

- (b) the Department has satisfied itself that the recipient authority is subject to adequate legal restrictions on further disclosure;
- (c) the Department has been given an undertaking by the recipient authority not to disclose the information provided without the consent of the Department; and
- (d) the Department is satisfied that information provided will not be used in criminal proceedings against the person providing the information, other than proceedings for an offence of perjury.

Made in Cabinet the 10th day of August, 2007.

Carmena Watler

Clerk of the Cabinet.