



BERMUDA

CHARTERED PROFESSIONAL ACCOUNTANTS OF BERMUDA
AMENDMENT BY-LAWS 2018

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The Chartered Professional Accountants of Bermuda, in exercise of the power conferred by section 7 of the Chartered Professional Accountants of Bermuda Act 1973, make the following By-Laws which, pursuant to section 7(2) of that Act, have been approved by a majority of the members of the Chartered Professional Accountants of Bermuda:

Citation

1 These By-Laws, which amend the Chartered Professional Accountants of Bermuda By-Laws 2006 (“the principal By-Laws”), may be cited as the Chartered Professional Accountants of Bermuda Amendment By-Laws 2018.

Amends by-law 2

2 The principal By-Laws are amended in by-law 2(1) by inserting the following definitions in their proper order—

“the 1997 Act” means the Proceeds of Crime Act 1997;

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“the 2008 Act” means the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;

“the 2008 Regulations” means the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008;

“AML/ATF Board” means the Barristers and Accountants AML/ATF Board designated as a supervisory authority in relation to independent professionals under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Designation Order 2012;

“FIA” means the Financial Intelligence Agency established under section 3 of the Financial Intelligence Agency Act 2007;

“fit and proper person certificate” means a fit and proper person certificate issued by CPA Bermuda;”.

Amends by-law 5

3 The principal By-Laws are amended in by-law 5 by inserting the following after paragraph (2)—

“(3) Application for membership shall be in the form prescribed by CPA Board, and must be accompanied with a fit and proper person certificate.”.

Amends by-law 6

4 The principal By-Laws are amended by revoking and replacing by-law 6(2) with the following—

“(2) Application for admission as a corporate member shall be made in the form prescribed by CPA Board, and shall include—

- (a) a declaration in writing by two directors of the applicant company that the conditions set out in paragraph (1) are satisfied by the company; and
- (b) proof that the applicant company has—
 - (i) registered with the AML/ATF Board pursuant to section 30C of the 2008 Act; and
 - (ii) registered with the FIA for the purpose of making disclosures under section 46(A1) of the 1997 Act.”.

Amends by-law 7

5 The principal By-Laws are amended in by-law 7—

- (a) in paragraph (3)—
 - (i) in sub-paragraph (c) by deleting the word “and” at its last occurrence;

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- (ii) in sub-paragraph (d)(iii) by deleting the full-stop and substituting the word “; and”;
- (iii) by inserting the following after sub-paragraph (d)—
 - “(e) a fit and proper person certificate.”;
- (b) in paragraph (5)—
 - (i) in sub-paragraph (a) by deleting the word “and”;
 - (ii) in sub-paragraph (b) by deleting the full stop and substituting the word “; and”;
 - (iii) by inserting the following after sub-paragraph (b)—
 - “(c) an opinion of the AML/ATF Board.”.

Amends by-law 15

- 6 The principal By-Laws are amended in by-law 15(1)—
- (a) in sub-paragraph (c) by deleting the word “and”;
 - (b) in sub-paragraph (d) by deleting the full-stop and substituting the word “; and”;
 - (c) by inserting the following after sub-paragraph (d)—
 - “(e) the company is registered with—
 - (i) the AML/ATF Board; and
 - (ii) the FIA for the purpose of making disclosures under section 46(A1) of the 1997 Act.”.

Inserts by-law 41A

- 7 The principal By-Laws are amended by inserting the following after by-law 41—

“BARRISTERS AND ACCOUNTANTS AML/ATF BOARD

Duties relating to the AML/ATF Board

41A For the purpose of the AML/ATF Board performing its functions and duties under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, all corporate members, firms and sole practitioners must—

- (a) register with the AML/ATF Board in such manner and form as the AML/ATF Board may specify, and shall provide with the application information including but not limited to name, address, matter types and professional practice areas engaged in by the member (section 30C(1) of the 2008 Act);

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- (b) provide without delay updated information respecting any change or correction of any inaccuracy of information to the AML/ATF Board, if at any time after registration there is a material change affecting any matter contained in the information referred to in sub-paragraph (a), or if it becomes apparent that the information contains a significant inaccuracy (section 30C(2) of the 2008 Act);
- (c) comply with any information requests received from the AML/ATF Board (section 30D of the 2008 Act);
- (d) cooperate with the AML/ATF Board in connection with any site visit (section 30E of the 2008 Act);
- (e) comply with any directives issued by the AML/ATF Board (section 30H of the 2008 Act);
- (f) maintain records of professional practice areas and engagements by matter type in accordance with professional practice areas and matter types designated by the AML/ATF Board;
- (g) as requested by the AML/ATF Board, file a report of activities by professional practice area and matter type; and adapt matter management systems as far as is reasonably practicable accordingly;
- (h) maintain a record of its group structure, including any entities owned or controlled by the member or that own or control it, and provide a copy of the group structure to the AML/ATF Board any time a change in the group structure occurs;
- (i) not establish business relationships or carry out occasional transactions with a customer if unable to apply customer due diligence measures under the 2008 Regulations (regulation 9(1)(b));
- (j) terminate existing business relationships with a client if unable to apply customer due diligence measures in accordance with the 2008 Regulations (regulation 9(1)(c) of the 2008 Regulations), without tipping off the client (section 47 of the 1997 Act and regulation 6(5) of the 2008 Regulations);
- (k) register with the FIA for the purpose of making disclosures under section 46(A1) of the 1997 Act;
- (l) make all such disclosures with the FIA (section 46(A1) of the 1997 Act), and in so doing avoid tipping off the client that a disclosure has been or will be made (section 47 of the 1997 Act);
- (m) screen relevant employees prior to hiring (regulation 18(1)(c) of the 2008 Regulations);
- (n) ensure that relevant employees undergo at regular intervals, being not less than once in every two years, training in the prevention

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and detection of money-laundering and terrorist financing (regulation 18(1)(b) of the 2008 Regulations);

- (o) have regard to the guidance notes published by the AML/ATF Board in relation to anti-money laundering and anti-terrorism financing;
- (p) integrate the practices and procedures recommended by the guidance notes into the professional practice;
- (q) cooperate with AML/ATF Board in the performance of its monitoring and supervisory functions and duties under the 2008 Act.”.

Amends by-law 71

8 The principal By-Laws are amended in by-law 71—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (c) by deleting the word “or” at its last occurrence;
 - (ii) in sub-paragraph (d) by deleting the full-stop and substituting the word “; or”;
 - (iii) by inserting the following after sub-paragraph (d)—
 - “(e) found in contravention of these By-Laws or any rule of professional conduct.”;
- (b) by inserting the following after paragraph (3)—

“(4) The Executive Committee, after consulting with the AML/ATF Board, may charge a member with having failed to maintain the good reputation of the profession and its ability to serve the public interest if the member has failed to comply with—

- (a) a requirement imposed under section 5 or Part 4A of the 2008 Act;
or
- (b) a requirement imposed by the AML/ATF Board acting in the performance of its functions under section 5 or Part 4A of the 2008 Act.”.

Amends by-law 73

9 The principal By-Laws are amended in by-law 73(2) by inserting after “process” the words “, and shall consult with the AML/ATF Board where the complaint, act, omission, matter or thing referred to it by the Executive Committee or a professional conduct committee relates to the member’s admission being revoked or the member being charged by the Executive Committee under by-law 71(4)”.

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Made this 2nd day of October 2018

Chairman
Board of Directors
Chartered Professional Accountants of Bermuda

Secretary

[Operative Date: 04 October 2018]