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JAMAICA GAZETTE
SUPPLEMENT

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No. 60

THE LEGAL PROFESSION ACT

THE LEGAL PROFESSION (COMPETENT AUTHORITY EXAMINATIONS)
REGULATIONS, 2024

In exercise of the powers conferred upon the General Legal Council by section 12(7) of the Legal Profession Act and pursuant to section 91A of the Proceeds of Crime Act and of every other power hereunto enabling, the following Regulations are hereby made:—

PART I—*Preliminary*

1. These Regulations may be cited as the Legal Profession (Competent Authority Examinations) Regulations, 2024.

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

AML/CFT/CFP laws means laws relating to anti-money laundering, counter financing of terrorism and counter financing of proliferation of weapons of mass destruction and without prejudice to the generality of the foregoing include the Proceeds of Crime Act and the Regulations made pursuant thereto, the Terrorism Prevention

Act and the Regulations made pursuant thereto, the United Nations Security Council Resolutions Implementation Act and the Regulations made pursuant thereto and the Legal Profession (Annual Declaration of Activities) Regulations, 2014.

Attorney means a person whose name is entered on the Roll of Attorneys-at-Law pursuant to section 4 of the Legal Profession Act, who carries out any of the Designated Activities on behalf of a client and, where applicable, includes a partnership.

Competent Authority means the General Legal Council as authorized under section 91(g) of the Proceeds of Crime Act and section 18(5) of the Terrorism Prevention Act and Regulation 2 of the United Nations Security Council Resolutions Implementation (Reporting Entities) Regulations, 2019.

Designated Activities are the activities stipulated in the Proceeds of Crime (Designated Non-Financial Institution) (Attorneys-at-Law) Order, 2013 and the Terrorism Prevention (Designated Reporting Entity) (Attorneys-at-Law) Order, 2019.

Examiner means such person as is appointed by the Competent Authority to conduct examinations pursuant to these Regulations and may include an employee of the Competent Authority.

TPA means the Terrorism Prevention Act.

UNSCRIA means the United Nations Security Council Resolutions Implementation Act.

PART II—*Examinations*

3.—(1) The Competent Authority may administer or cause to be administered the following types of examinations in respect of an Attorney's practice:

- (a) routine examinations to test and evaluate compliance with applicable AML/CFT/CFP laws;
- (b) follow-up examinations for the purpose of addressing any inadequacies identified in a routine examination;
- (c) special examinations where the Competent Authority has cause to be concerned about compliance by an Attorney with AML/CFT/CFP laws or otherwise in connection with those laws as it deems appropriate.

(2) The examinations referred to in sub-paragraph (1) above may include offsite examinations.

4. A routine examination shall be conducted—

- (a) by an Examiner; and
- (b) for such examination period as is deemed appropriate by the Competent Authority.

5. The routine examination will evaluate compliance with applicable AML/CFT/CFP laws with a focus on the following:

- (a) programmes, procedures and policies for cash transactions (that is transactions involving notes, coins and bearer negotiable instruments);
- (b) internal reporting procedures for suspicious transactions;
- (c) procedures to ensure high standards of integrity of employees including systems to evaluate the personal employment and financial history of employees (employee due diligence policies and procedures);
- (d) programmes for the training of employees on their legal obligations under, and on the internal systems in place to ensure compliance with, AML/CFT/CFP laws;
- (e) systems to ensure implementation of programmes, policies and procedures for anti-money laundering, countering the financing of terrorism and countering the financing of proliferation of weapons of mass destruction;
- (f) the appointment, role and responsibilities of the Nominated Officer;
- (g) customer due diligence policies and procedures including more rigorous requirements for high-risk clients and transactions (enhanced due diligence policies and procedures);
- (h) the maintenance of records of client identification and verification of identification;
- (i) the maintenance of records on all complex, unusual or large transactions or unusual patterns of transactions whether completed or not;
- (j) procedures for risk identification and assessment in respect of clients and the operations of the Attorney generally.

6. Where on a routine examination deficiencies are found in the practice of an Attorney, the Competent Authority shall issue a notice to the Attorney advising of:

- (a) the deficiencies noted in the routine examination;
- (b) the steps which the Attorney should take to remedy the deficiencies and the timeline for remedying same; and
- (c) a follow up examination, on the date set out in the notice.

7. At a follow-up examination, the Examiner will review and assess the progress of the steps taken by the Attorney to remedy the deficiencies identified on the routine examination and set out in the notice referred to in Regulation 6 and make a report of the findings on the review to the Attorney. A written report is to be prepared by the Examiner and delivered to the Attorney who shall promptly sign and return to the Examiner a copy of the report.

8.—(1) Where an Attorney has not addressed the deficiencies identified in the notice referred to in Regulation 6, the Competent Authority shall—

- (a) send a letter to the Attorney, together with a copy of the written record of the review, informing the Attorney of the steps required to address the deficiencies; and
- (b) give to the Attorney a reasonable period of time set out in the letter referred to in paragraph (a) above within which to remedy the deficiencies;

and at the end of the period referred to in sub-paragraph (b) of this paragraph, an Examiner shall interview the Attorney for the purpose of ascertaining whether the deficiencies have been remedied.

(2) A written report as to whether the deficiencies have been remedied shall be submitted by the Examiner to the Competent Authority within 30 days of the interview of the Attorney.

(3) Failure by the Attorney to address the deficiencies identified during the follow up examination shall constitute misconduct in a professional respect.

9. Upon giving no less than three days' notice to the Nominated Officer or to the Attorney in the form set out in the Second Schedule, the Competent Authority may conduct special examinations, including in any of the following circumstances:

- (a) where the Competent Authority has cause to be concerned about the compliance of an Attorney with AML/CFT/CFP laws; or
- (b) where the Competent Authority has cause to believe that the Attorney is engaging in Designated Activities but has declared otherwise in the Annual Declaration required under section 5(3C) of the Legal Profession Act.

10. The special examination may, at the discretion of the Competent Authority, be either a full examination or an examination focused on specific issues only.

11.—(1) For the purpose of complying with the requirements of an examination pursuant to these Regulations, an Attorney shall maintain and make available to the Examiner for inspection:—

- (a) the risk assessment for the Attorney's practice;
- (b) client and business records and files in respect of Designated Activities as requested by the Examiner; and
- (c) a list of all clients and matters in respect of Designated Activities categorized in accordance with the risk rating assigned to them by the Attorney.

(2) This provision does not apply to disclosure of records and files that are subject to legal professional privilege and the disclosures which would constitute tipping off under AML/CFT/CFP laws.

12. An Attorney shall not obstruct an Examiner in the due performance of his functions under these Regulations.

13. A breach of Regulations 11 and 12 of these Regulations by an Attorney shall constitute misconduct in a professional respect for the purposes of section 12(7) of the Legal Profession Act.

FIRST SCHEDULE

THE LEGAL PROFESSION (COMPETENT AUTHORITY EXAMINATIONS)
REGULATIONS, 2024GENERAL LEGAL COUNCIL'S EXAMINATION FORM TO BE COMPLETED
BY EXAMINER

Instructions

Please read all instructions carefully before completing this form

Examination Period: _____

Name of Examiner: _____

What is the purpose of this form?

The purpose of this form is to assess the level of compliance of Attorneys with the requirements of the Jamaican AML/CFT/CFP laws and regulatory guidance.

Who should complete this form?

This form shall be used by the General Legal Council, and Examiners.

Please indicate below the type of examination to be conducted:

Routine Examination Follow-up Examination Special Examination

Notice:

1. All examinations are risk-based. An examiner shall not proceed with an examination where he has determined that the Attorney has not at a minimum categorized clients into "high" "low" risk. The examiner shall advise the GLC in writing immediately if this has not been done.
2. The Examination Form should be type-written and returned to the General Legal Council upon completion.

PART I:
PARTICULARS OF THE ATTORNEY/FIRM

1. Name of Attorney/Firm: _____

2. TRN: _____

3. Street Address: _____

4. Postal Address: _____

FIRST SCHEDULE, *contd.*

- 5. Telephone #: _____ Fax #: _____
- 6. Email Address: _____
- 7. Number of premises/
locations from which the
attorney operates: _____
- 8. Address and contact
details for other locations _____
- 9. Number of Staff: _____
- 10. Details of Partners over the examination period:

PARTNERS:

<u>Name</u>	<u>Position</u>	<u>Appointment Date</u>	<u>Cessation Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- 11. Details of Attorneys employed or contracted to the firm over the examination period?

ATTORNEYS:

<u>Name</u>	<u>Date Admitted</u>	<u>Starting Date</u>	<u>Ending Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

FIRST SCHEDULE, *contd.*

PART II: RISK-BASED CUSTOMER VERIFICATION PROCEDURES AND RECORDS	COMMENTS (for General Legal Council use only)
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12. Are there policies and procedures for assessing AML/CFT/CFP risk?
13. Are the policies and procedures implemented in accordance with AML/CFT/CFP Laws?
14. Is there categorization of operations and clients services at a minimum into "high" and "low" risk for money laundering and terrorist financing and proliferation financing showing the criteria used for such categorization?
- Yes No

If the answer to this Question is "No", the examiner should not proceed with the examination and should immediately notify the General Legal Council.

15. Total number of client files on record for designated activities
- Number of high risk files
- Number of medium risk files
- Number of low risk files
16. Total number of client files for designated activities examined
- Number of high risk files
- Number of medium risk files
- Number of low risk files
17. Has the identity of each client for the file examined been established and verified in accordance with the AML/CFT/CFP laws.
- Yes No
18. What number and percentage of the files examined did not comply with question 17?
- # %

FIRST SCHEDULE, *contd.*

COMMENTS (for General Legal Council use only)
PART III: TRANSACTIONS RECORD KEEPING PROCEDURES

19. What is the number of the client files examined that did not have all transaction records including verification in accordance with Jamaican Anti-Money Laundering and Counter Terrorism Financing and Counter Proliferation Financing laws?

PART IV: NOMINATED OFFICER

20. Name of Nominated Officer (NO) _____

21. Has he/she confirmed he/she is aware of his/her responsibilities under the AML/CFT/CFP laws?

Yes No

22. Is there an internal AML/CFT/CFP staff training programme in place?

Yes No

If "Yes", please attach list of the session topics and attendees.

COMMENTS (for General Legal Council use only)	
PART V: TRAINING AND STAFF AWARENESS PROCEDURES	
<p>23. Has any staff attended/participated in AML/CFT/CFP training sessions conducted either locally or abroad during the examination period?</p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If "Yes", please attach list of venue(s), participant(s), date(s) and proof of attendance</p>	
<p>24. Does the General Legal Council's most current Guidance form part of the AML/CFT/CFP training and awareness procedures for staff ?</p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p>	
<p>25. Do internal AML/CFT/CFP compliance reviews take place?</p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p>	
<p>26. What is the frequency of such reviews?</p> <p style="text-align: right;">_____</p>	

SECOND SCHEDULE

(Regulation 16)

NOTICE OF SPECIAL EXAMINATION

[Name and Address of Nominated Officer]

Dear _____,

We refer to section 91A of the Proceeds of Crime Act and the Legal Profession (Competent Authority Examinations) Regulations, 2024.

The regulated business of [name of Attorney/firm] has been selected for a special examination which will be conducted by [name of Examiner] on the _____ day of _____, _____, commencing at []

To facilitate the examination, you are asked to make available to the Examiner such records, whether written or electronic, as he or she may require. The Examiner will take such time as necessary in all the circumstances to conduct the random examination but it is not anticipated that this examination should take longer than [] days.

Should you have any queries concerning the proposed examination kindly direct same to:

The POCA Compliance Manager,
General Legal Council,
78–80 Harbour Street,
Kingston,
Telephone 922-2319

DENIESE E. KITSON, KC
Chairman, General Legal Council.

DONETTE MCLEAN
Secretary, General Legal Council.