



FijiFIU

Fiji Financial Intelligence Unit



FIU Policy Advisory Financial Transactions Reporting Act

Reference: 2/2018

Date: 23 November 2018

Re: Change in Account Name for Existing Private Companies

This Policy Advisory is issued pursuant to the powers of the Financial Intelligence Unit under section 25(1)(j) of the Financial Transactions Reporting Act (FTR) and regulations 21(6) and 35 of the FTR Regulations to provide guidance to financial institutions on the risk-based implementation of the requirements of the FTR Act and the FTR Regulations

A. Application of Policy Advisory

1. This *Policy Advisory* is applicable to financial institutions in relation to customers who are Private Companies.
2. This *Policy Advisory* is effective from 1 December 2018.

B. Purpose of Policy Advisory

3. The purpose of this *Policy Advisory* is to provide clarification on the customer due diligence (CDD) requirements under the Financial Transactions Reporting (FTR) Act and how it aligns to the requirements under the Companies Act on changes to names of existing Private Companies.

C. CDD Requirements under the FTR Act

4. Financial institutions are required to identify and verify their customers under Part 2 of the FTR Act, Part 2 of the FTR Regulations and Part 3 of the FTR Enforceable Guideline 4.
5. Under section 9 of the FTR Act, financial institutions:
 - (i) are required to maintain accounts in the **true name** of the account holder; and
 - (ii) must **not** open, operate or maintain any anonymous or numbered only account or any account which is in a fictitious, false or incorrect name.
6. These identification and verification measures may be applied on a risk-based approach as outlined in regulation 3 of the FTR Regulations.
7. Under regulation 10(1)(a) of the FTR Regulations, for a customer that is a legal entity, financial institutions are required to identify and verify the customer's name, address, and legal form.
8. FTR Enforceable Guideline 4 provides detailed customer identification and verification requirements.

D. Requirement on Private Company's Name under the Companies Act

9. Under section 26(1)(b) of the Companies Act, a limited Private Company's name must include the words "Pte Limited" or the abbreviation "Pte Ltd" at the end of its name.
10. Under section 726(1) of the Companies Act, the name of an existing company immediately before the commencement of the Companies Act which was registered under the repealed Companies Act is taken to be a company's name after the commencement date.
11. Furthermore, under section 726(2), an existing company which is deemed to be a Private Company under the Act, must comply with section 26(1)(b) within 3 years of the commencement date but is not required to change its company name with the Registrar.

E. Alignment of the CDD Process under the FTR Act with Requirements on a Private Company Name Change under the Companies Act

12. Financial institutions, as part of its ongoing CDD process, must update its records to reflect any change in the name and other details of its customers.
13. Given section 726(2) of the Companies Act, financial institutions may change the account name of an existing customer to include the words "Pte Limited" or "Pte Ltd" at the end of its existing name, upon written instruction from the customer. The financial institution is not required to rely on a revised Company Certificate when making these changes to the account name.
14. Financial institutions should consult the Financial Intelligence Unit (FIU) should they wish to seek further clarification.

F. Compliance

15. The FIU and/or the relevant supervisory authority, in the course of its supervision, may assess the compliance of financial institutions with the requirements of this Policy Advisory.
16. Non-compliance may result in sanctions as specified in section 43(2) of the FTR Act and regulation 42(2) and 42(3) of the FTR Regulations.



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