



# GUYANA COMPLIANCE COMMISSION ACT 2023

Summary of Main Requirements  
Assented to on 16 August 2023

*Jack A. Alli, Sons & Co.* **JAS**

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**Purpose**

Formation of the Guyana Compliance Commission to maintain general supervision of the following types of entities in relation to the conduct of financial transactions and compliance with the provisions of the AML-CFT Act.

- » designated non-financial businesses or professions
- » non-profit organisations
- » non-bank financial institutions

**Reporting Entities*****Category I***

- » Accountants
- » Attorneys-at-Law
- » Auditors
- » Commissioner of Oaths and Affidavits
- » Notaries

when on behalf of or for a client, they engage in a transaction in relation to the following activities:

- a. buying and selling of real estate;
- b. management of client money, securities or other assets;
- c. management of bank, savings or securities accounts;
- d. organisation of contributions for the creation, operation or management of companies; or
- e. creation, operation or management of legal persons or arrangements, and buying or selling of business entities.

***Category II***

- » Non-financial trust and company service providers

which provides any of the following services to third parties:

- a. formation agent of legal persons;
- b. acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- c. providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- d. acting as or arranging for another person to act as a trustee of an express trust; or
- e. acting as or arranging for another person to act as a nominee shareholder for another person.

Non-bank financial institutions are those carrying out the above functions that are not otherwise subject to regulation by the Bank of Guyana or the Guyana Securities Council.

***Category III***

Such other non-bank financial institutions, non-profit organisations, businesses or professions as may be prescribed by the Minister of Finance.

Non-profit organisations means a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of good works and includes, where the context so applies, societies registered under the Friendly Societies Act, not-for-profit companies registered under the Companies Act and arrangements expressed under a trust deed registered at the Deeds Registry.

**The Commission**

The Commission shall comprise between three to five persons appointed by the Minister of Finance. Persons appointed by the Minister shall be qualified and experienced in matters relating to commerce, economics, real estate, insurance, pensions, securities, credit unions, law or accounting. Each member shall serve a term of three years and be eligible for re-election.

**Commission's Power**

The Commission is permitted to enter the premises of any reporting entity at a reasonable time for purpose of conducting any examination, inspection or investigation. The Commission or an agent is entitled to search the premises, take possession of any documents or materials appearing to be relevant, take steps to preserve such relevant documents or material and take copies or extracts from such documents or material. Where a request for information or documents is made by the Commission, it supersedes any obligation as to confidentiality or non-disclosure imposed by any law or any requirement as imposed thereunder, any rule of law, any contract, or any rule of professional conduct (except in relation to specified circumstances of legal professional privilege in court proceedings). Where the Commission deems it necessary, it may appoint an agent at the expense of the reporting entity to conduct an inspection or investigation.

**Registration**

Every reporting entity within the scope of the Act is required to be registered with the Commission within three months of the coming into force of this Act. A prescribed fee will be required. Failure to register will incur a fine on conviction of between G\$10 million to G\$25 million or five years' imprisonment.

The registration form should be accompanied by a completed AML/CFT/CPF risk assessment questionnaire. Registration lasts for a period of three years. The Commission may also refer the reporting entity to the FIU for registration.

**Audit**

Unless otherwise exempted, the Commission may require a reporting entity to appoint an auditor to examine, inspect or investigate the reporting entity's:

- a. Annual financial statements;
- b. AML/CFT/CPF functions.

A reporting entity not otherwise exempted is required to submit its audited financial statements and any other requested financial records annually to the Commission within three months after the financial year end.

The Commission may exempt a reporting entity from the requirement for audit if it is of the opinion that it would not be practical for the reporting entity to comply with that subsection.

### Compliance Function

A reporting entity is required to establish and maintain adequate systems and controls for compliance with the Guyana Compliance Commission Act, any other relevant legislative enactment, and rules, guidelines, directives, notices and bulletins issued by the Commission. A Compliance Officer is to be appointed by the reporting entity with responsibility for overseeing the reporting entity's compliance function. A Compliance Procedures Manual is also required.

### Beneficial Ownership

Beneficial ownership is required to be disclosed to the Commissioner by every reporting entity.

### International Co-operation

The Commission may disclose to an overseas regulatory authority or overseas relevant competent authority, information necessary to enable that authority to exercise regulatory functions. The Commission may take into account the provisions of the Mutual Legal Assistance in Criminal Matters Act.

### Professional Bodies

The Minister of Finance may designate by order any professional body, association or entity which represents a sector of the reporting entities, with statutory authority to:

- a. regulate the activities of its members;
- b. ensure compliance with the provisions of the Act upon such terms stipulated by the Commission.

The Commission shall issue guidelines and codes of practice for reporting entities and may from time to time consult with the FIU, the Bar Association of Guyana, and the Institute of Chartered Accountants of Guyana, among others.



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#### *Author's Note*

*The information contained in this article is for general guidance on matters of interest only and is not meant to be comprehensive. It is recommended that you obtain advice specific to your circumstances from professional advisors.*