

**Regulations No. (15) of 2022  
On Legal Arrangements and Waqf**

**The Cabinet,**

After examining the Amended Basic Law of 2003, especially Article (70);  
Decree Law No. (20) of 2015 on AML/CFT and its amendments, especially Article (48);  
The Waqf and Islamic Affairs Law No. (26) of 1966 and its amendments;  
The Waqf and Islamic Affairs Regulations No. (142) of 1966 and their amendments;  
The Law of Justice and Equity;  
The Journal of Judicial Rulings;  
Based on the recommendation of the National Committee on Anti-Money Laundering and Counter-Terrorism Financing;  
And the recommendation of the Council of Ministers on 18/07/2022,  
And the powers granted to it,  
In the interest of the public,

**Has issued the following Regulations:**

**Article (1)**

1. The words and phrases in these Regulations shall have the meanings assigned thereto, unless the context indicates otherwise:

**Decree-Law:** Decree-Law No. (20) of 2015 on AML/CFT and its amendments.

**Competent Authorities:** Every government entity entrusted with AML/CFT responsibilities in accordance with its jurisdiction, including the Public Prosecution and judicial police officers.

**Person:** A natural or legal person.

**Beneficiary of the Waqf:** The person or group of persons entitled to benefit from the waqf and its services.

**Trust fund:** Legal relationships created – inter-vivos or on death – by a person or settlor, when funds have been placed under the control of the trustee, nazeer, mutawalli, or administrator of the waqf, for the benefit of a beneficiary or for a specific purpose, such that those assets constitute independent funds and are not part of the own estate of the trustee, nazeer, mutawalli, or administrator of the waqf, and title to the trust assets stands in the name of the trustee, nazeer, mutawalli, or administrator of the waqf or in the name of another person on their behalf, and they may manage, employ and dispose of the assets in accordance with the terms of the trust and the special obligations imposed upon them by law and its terms of reference.

**Express Trust:** A trust that is clearly and explicitly established by a person or settlor, which is usually in the form of a document such as a written trust instrument. An express trust is different from a trust, which comes into being through the operation of the law and do not result from the clear and explicit intent or decision of the settlor or person to create a trust or similar legal arrangement such as trust funds established by judicial rulings.

**Legal Arrangement:** Express trusts or other similar legal arrangements.

**Mutawalli:** Any person appointed by the Sharia Court according to the determination of the settlor (waqef) in the case of a family waqf, or as determined by the waqf deed issued by the Sharia Court.

**FFU:** The Financial Follow-up Unit.

2. The definitions contained in the Decree Law, the Waqf and Islamic Affairs Law No. (26) of 1966 and its amendments, and the Waqf and Islamic Affairs Law No. (142) of 1966 and its amendments shall apply whenever mentioned in the present Regulations.

### **Article (2)**

1. It is prohibited to register any local or foreign trust funds, or their branches, whose purpose is to carry out, directly or indirectly, the business or activities of a trust fund or legal arrangement similar to it.
2. It is prohibited for all parties, whether local or foreign, or their branches or representative offices, to engage in any business or activities included in the concept of a trust fund or similar legal arrangements, directly or indirectly.
3. Waqf is excluded from the provisions of Paragraphs (1, 2) of this Article. They are considered a form of express trust fund in the State of Palestine. The provisions of the present Regulations shall apply to all types of waqf established in the State of Palestine, whether local or foreign.

### **Article (3)**

1. The Sharia Court and the Mutawalli shall each undertake the following:
  - a. Determine the beneficial owner of the waqf by obtaining and maintaining comprehensive, accurate and updated information about the following:
    - 1) The identity of the settlor (waqef).
    - 2) The identity of the mutawalli when appointed by the Sharia court.
    - 3) The waqf deed.
    - 4) The trusteeship deed.
    - 5) The identity of the waqf beneficiaries or category of beneficiaries such as the family waqf, and if the beneficiaries are defined according to characteristics or categories, sufficient information must be obtained to allow for the identification of the beneficiary upon payment, or when the beneficiary intends to exercise their legally acquired rights.
    - 6) The identity of any other natural person who exercises final effective control over the waqf or falls within the terms of the waqf.
  - b. Obtain and keep comprehensive and accurate basic information on the regulated agents and service providers for the waqf, including lawyers, accountants, and investment advisors, if any. Basic information includes (name, identity document and information, legal form, and documents indicating the establishment of the agent, such as the registration certificate, and address).
2. The Sharia Court and the Mutawalli shall update the information stipulated in Paragraph (1) of this Article when any change occurs.

### **Article (4)**

1. The Sharia Court and the Mutawalli shall keep all information about the waqf with which they have a relationship, in particular the information stipulated in Article (3) Paragraph (1) of the present Regulations, for a period of at least (10) years from the date of the end of their relationship or the cessation of their participation in the waqf. Information on the waqf and waqf funds can be obtained through the following sources:
  - a. Records available in the State of Palestine, such as the waqf registry and the waqf property registry, or records of land, property, vehicles, shares, or other funds.
  - b. Other competent authorities which maintain information about the waqf and Mutawalli.
  - c. Agents and waqf service providers, including investment advisors, lawyers, or other service providers to the waqf.
2. In the event of an investigation, the information and documents contained in this Article must be kept until the investigation is complete, provided the record keeping mechanism is acceptable to Palestinian courts or the Laws in force in the State.

### **Article 5**

1. The Mutawalli shall disclose their status to financial institutions and designated non-financial businesses and professions (DNFBPs) when establishing a business relationship or when carrying out an occasional transaction of a value equal to or exceeding the value specified in the applicable regulations and instructions for financial institutions and designated non-financial businesses and professions.
2. The Ministry of Awqaf and Religious Affairs and the Office of the Chief Justice, in coordination with supervisory authorities over financial institutions and designated non-financial businesses and professions, shall determine the necessary measures to implement Paragraph (1) of this Article.

### **Article (6)**

1. The Sharia Court and the Mutawalli shall provide information to the competent authorities, the FFU, financial institutions, and DNFBPs, upon request and without delay, and in particular the following information:
  - a. Information on the beneficial owners of the waqf.
  - b. Information on the waqf funds which will be held or managed under the terms of the business relationship.
2. Based on a decision issued by the competent court, the Public Prosecution, whether based on its investigations, or on a request from the competent authorities to conduct investigations or inquiries, may request financial institutions to provide any information they hold on the waqf in accordance with the applicable laws and regulations, especially the following information:
  - a. Information on beneficial ownership and control of the waqf.
  - b. Information on the funds they hold or manage, in relation to any Mutawalli with whom they have a business relationship or for whom they conducted an occasional transaction.
  - c. Information on the Mutawalli's place of residence.
3. The Public Prosecution has the power to access, in a timely manner, the information contained in Paragraph (2) of this Article, which is in the possession of the Mutawalli, the Sharia Court, or any other party.

### **Article (7)**

1. Based on bilateral or multilateral agreements, MoUs, or on the principle of reciprocity, competent authorities, the Office of the Chief Justice, and the Ministry of Awqaf and Religious Affairs shall promptly provide international cooperation with regard to the information related to the waqf stipulated in Article (3) of the present Regulations, through the Ministry of Justice and the Ministry of Foreign and Expatriates Affairs, in a manner that does not conflict with the laws and legal provisions of the waqf, including:
  - a. Facilitating the access of foreign competent authorities to the information stipulated in Article (3) of the present Regulations available in the records of the Office of the Chief Justice or the Ministry of Awqaf and Religious Affairs or available to the competent authorities.
  - b. Exchanging waqf information available locally to the Sharia Court, the Ministry of Awqaf and Religious Affairs, or the competent authorities.
  - c. Competent authorities using their powers to investigate or inquire and obtain information on beneficial owners on behalf of foreign counterparts in accordance with the Law.
2. Any official entity that keeps information on waqf may refrain from providing such information if it deems that this contravenes the highest interest of the State of Palestine.

### **Article (8)**

1. Without prejudice to any specific measures stipulated in any other laws, upon discovering any violation by the Mutawalli of their obligations under the present Regulations and the applicable laws, and when the case is proven when dismissing or holding the Mutawalli accountable, the Sharia Court shall impose one or more of the following disciplinary measures based on its assessment of the seriousness of the breach:
  - a. Warning.
  - b. Written warnings.

- c. Termination of the Mutawalli who committed the violation and appointment of another to take charge of the waqf.
  - d. Prohibiting the Mutawalli who committed the violation from working as a Mutawalli of another waqf for a period determined by the Sharia court.
  - e. If it is decided to take any action or disciplinary measure stipulated in this Article, this shall not preclude civil and criminal liability under any other legislation.
2. The Sharia Court shall keep a record of the disciplinary measures imposed under the provisions of this Article, in which it shall record the name and identity number of the Mutawalli and the nature, date and reasons of the disciplinary measure. It shall also notify the FFU of the disciplinary measures taken.

#### **Article (9)**

The Office of the Chief Justice and the Ministry of Awqaf and Religious Affairs, in cooperation with the National Committee for Anti-Money laundering and counter-terrorism financing, shall issue the necessary instructions, decisions, and measures to implement the present Regulation.

#### **Article (10)**

Any provision that contradicts the present Regulations shall be repealed.

#### **Article (11)**

All competent authorities, each within their own purview, shall implement the provisions of the present Regulations. They shall come into effect on the date of their publication in the Official Gazette.

**Issued in Ramallah on 07/18/2022 AD**

**Corresponding to: 19 Dhu al-Hijjah 1443 AH**

**Dr. Mohammad Shtayyeh**

**Prime Minister**