FINANCIAL INSTITUTIONS COMMISSION

SECURED TRANSACTIONS REGULATIONS 2012

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1. Effective Date

PART I: PRELIMINARY

1. **Short Title** – Secured Transactions Regulations 2012

2. **Authorization** – The Financial Institutions Commission (the Commission) of the Republic of Palau (ROP) is authorized to promulgate regulations under Section 48 of RPPL No. 8-42, the Secured Transactions Act (the Act).

3. **Application** – This regulation applies to the operation of the filing office registry established under Section 47 of the Act.

4. **Definitions** – Terms used within this regulation are as defined in the Act and as defined in this regulation. In this Regulation, unless the context otherwise requires:

   "Access information" means information assigned for the purpose of maintaining the integrity of the filing office registry (for example, passwords, access numbers, user identification (IDs), secured party IDs, and notice filing personal identification numbers (PINs)

   "Act" means the Secured Transactions Act.

   "Authorized user" means a person who has log-on access to the filing office registry.

   "Filing number" in relation to a notice of security interest means the unique identifier assigned to the notice of security interest on its filing

   "Government agency" means the Division of Revenue and Taxation and the Social Security Administration. The term "government agency" does not include any semi-governmental or quasi-governmental entity in which the Republic of Palau holds a partial interest including, but not limited to, the National Development Bank of Palau, Palau National Communications Corporation and Palau Public Utility Corporation.

   "Registry" means the electronic information system provided for in Section 46 of the Act.

PART II: STATEMENT OF POLICY

1. **Purpose** – This regulation is issued pursuant to provisions in the Act that require the Commission to charge fees to defray the costs of operating the filing office registry established under the Act. This regulation establishes rules relating to the operation of the filing office registry including the fees which will be charged.

2. **Scope** – This regulation will apply to the recording of security interests and any subsequent amendment or termination of security interests under the Act.

PART III: IMPLEMENTATION AND SPECIFIC REQUIREMENTS

1. **Fees** - The fees that shall be charged under the Act are as follows:

   a. Filing a notice of security interest shall be Twenty-Five Dollars ($25.00).

   b. Filing an amended notice of security interest or continuation statement shall be Fifteen Dollars ($15.00).

   c. Requesting a certified report of a search of the records of the registry shall be Fifty Dollars ($50.00).

   d. Requesting a data extract of the entirety of the filing office registry shall be Three Hundred Dollars ($300.00).

   e. There shall be no fee for filing a transitional notice under Section 70 of the Act that is filed within sixty (60) days from the commencement of the Act.

   f. There shall be no fee for filing a termination statement.

   g. There shall be no other filing fees charged under the Act except as provided herein.

2. **Government agencies -** The government agencies and the Courts of the Republic of Palau shall not be charged any fees except the fee for data extract of the entirety of the filing office registry. Any government agency that is entitled to take a lien in personal property to secure an obligation of a person to the government may request that the filing office establish an account to be used by the government agency for access to the registry to file notices of lien and related notices.

3. **Creation of client accounts**

   a. Any person, including any legal entity, foreign legal entity or government agency, may establish accounts for payment of fees to the registry to be known as client accounts.

   b. An application to establish a client account must be submitted to the Commission. The application shall be on a form provided by the Commission and shall be accompanied by documentation sufficient to authenticate the identity of the person or legal entity seeking to establish a client account to the reasonable satisfaction of the Commission.

   c. There shall be no fee for the establishment of a client account.

4. **Management of client accounts**

a. The registry will generate a statement each month for each client account. The statement will be available in the client account record on the registry website. It will be accessible only to the client for which it is generated.

b. Payments on client accounts may be made by cash or check and shall be delivered to the payment intake point. The payment intake point will be the National Treasury of the ROP. The National Treasury will issue a receipt indicating the amount of the payment. The client will present this receipt to the Commission. The Commission will credit the client account within the registry with the amount of the payment made to the National Treasury.

c. Clients may transact business with the registry that incurs fees. The registry will debit the client account for each fee-based transaction. If there are insufficient funds within the client account to allow a transaction to be processed within the registry, the registry will not process the transaction.

d. In the event a client account incurs a balance due for services rendered and fails to pay the amount owing on a statement by the 30th day after the statement date, the client account will be suspended. Fees may not be charged to a suspended account. When the past-due amount is paid, the client account will be restored to active status, and fees may be charged to it. A client whose client account is suspended may not open another client account.

5. **Payments by users without a client account** - Any person may pay fees in advance of filing by cash or check, delivered to the National Treasury.

a. The National Treasury will give the user a receipt. The user will present this receipt to the Commission. The Commission will credit a user account within the registry with the amount of the payment made to the National Treasury and issue a registry receipt number to the user. The user may use the registry receipt number when logging in to the registry website to file a notice or request a certified report of search.

b. The user may make a single payment for multiple services, and the payment may be used in more than one logged-in session on the registry website.

c. If the user overpays or does not use the full amount it has paid, the user may request a refund from the Commission.

d. If a payment made by a non-client account user is not used or refunded within sixty (60) days after it is made, it will be deemed to be abandoned and considered to be earned revenue.

6. **Accessing the Registry** - In order for an authorized user to have access to the registry, the authorized user shall enter the relevant access information. The Commission is not required to verify that :

   a. An authorized user is entitled to use the access information entered by the authorized user; or

   b. A filing party is entitled to file a notice of security interest or change notice, as the case may be.

7. **Disclosure of access information** - The Commission may disclose access information only if :

   a. the Commission is reasonably satisfied that the person to whom the access information is to be disclosed is entitled to the information; and

   b. the disclosure of the access information is necessary to facilitate the operation of the registry

8. **Certified copies** - The Commission may certify a copy of a filed notice of security interest as a true copy.

9. **Forms** - The format provided by the electronic registry shall be used for all notices of security interests and liens and any change notices that relate to a notice of security interest.

PART IV: EFFECTIVE DATE

1. **Effective date** –The effective date of this regulation shall be December 21, 2012.

Questions relating to this regulation may be addressed to the Financial Institutions Commission of the Republic of Palau.

Adopted Nov. 21, 2012

[redacted]

Chairman, Governing Board
Financial Institutions Commission, Republic of Palau

Approved [redacted], ~~2012~~

December 17, 2012

His Excellency Johnson Toribiong
President, Republic of Palau