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THE FINANCIAL INTELLIGENCE AND ANTI-MONEY LAUNDERING ACT 2002

Act 6/2002

Proclaimed by [Proclamation No. 31 of 2002] w.e.f. 10 June 2002

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An Act

To provide for the establishment and management of a Financial Intelligence Unit and a Review Committee to supervise its activities; to provide for the offences of money laundering; to provide for the reporting of suspicious transactions; to provide for the exchange of information in relation to money laundering; to provide for mutual assistance with overseas bodies in relation to money laundering; and for matters connected therewith and incidental thereto.

ENACTED by the Parliament of Mauritius, as follows -

PART I - PRELIMINARY

1. Short title

This Act may be cited as the **Financial Intelligence and Anti-Money Laundering Act 2002**.

2. Interpretation

In this Act –

"Agency" means the Integrity Reporting Services Agency established under section 4(1) of the Good Governance and Integrity Reporting Act;

"AML/CFT" means anti-money laundering and combatting the financing of terrorism and proliferation;

"ARID" means the Asset Recovery investigative Division set up under section 5 of the Asset Recovery Act;

"auditor" means a person licensed to practise as an auditor under the Financial Reporting Act;

"bank" –

(a) has the same meaning as in the Banking Act; and

(b) includes –

(i) a non-bank deposit taking institution licensed under the Banking Act;

(ii) a licensee under the National Payment Systems Act;

"Bank of Mauritius" means the Bank of Mauritius established under the Bank of Mauritius Act 2004;

Amended by [Act No. 14 of 2005]

"banking laws" has the same meaning as in the Banking Act;

"Board" means the Board of the Financial Intelligence Unit constituted under section 12;

"business relationship" means an arrangement between a person and a reporting person, where the purpose, or effect, of the arrangement is to facilitate the carrying out of transactions between the person and the reporting person on a frequent, an habitual or a regular basis;

"cash" -

(a) means money in notes or coins of Mauritius or in any other currency; and

(b) includes any cheque which is neither crossed nor made payable to order whether in Mauritian currency or in any other currency;

"cash dealer" has the same meaning as in the Banking Act 2004;

Amended by [Act No. 14 of 2005]

"CDD" means customer due diligence;

"Commission" means the Independent Commission Against Corruption established under the Prevention of Corruption Act 2002;

“company service provider” –

(a) means a person, registered under section 164 or 167A of the Companies Act, that provides any of the services specified in section 167A of that Act; but

(b) does not include –

(i) a barrister, an attorney or a notary, or a law firm, foreign law firm, joint venture or foreign lawyer under the Law Practitioners Act;

(ii) a professional accountant, public accountant and member firm under the Financial Reporting Act; and

(iii) the holder of a management licence under section 77 of the Financial Services Act;

“Comparable Body” - Means an overseas Government agency with functions similar to those of the FIU;

“Core Group” means the Core Group for AML/CFT established under section 19AA of the Act;

“Counterterrorism Unit” means the Counterterrorism Unit referred to in section 18 of the Prevention of Terrorism Act;

“credit union” means a society registered as such under the Co-operatives Act, the objects of which are to promote thrift among, and provide credit to, its members;

"crime" –

(a) means an offence punishable by –

(i) penal servitude;

(ii) imprisonment for a term exceeding 10 days ;

(iii) a fine exceeding 5,000 rupees;

(b) includes an activity carried on outside Mauritius and which, had it taken place in Mauritius, would have constituted a crime; and

(c) includes an act or omission which occurred outside Mauritius but which, had it taken place in Mauritius, would have constituted a crime;

"dealer in jewellery, precious stones or precious metals" –

(a) means a person who deals in jewellery, precious stones or precious metals; and

(b) includes a person who –

(i) manufactures, processes, buys, sells, imports or exports jewellery, or supplies jewellery for sale;

(ii) processes, buys, sells or imports precious metals, or exports melted precious metals; or

(iii) processes, buys, sells or imports precious stones;

"Director" - means the Director of the FIU appointed under section 9;

Added by [Act No. 34 of 2003]

"Enforcement Authority" has the same meaning as in the Asset Recovery Act 2011;

Added by [Act No. 38 of 2011]

"estimates of expenditure" has the same meaning as in the Finance and Audit Act;

"estimates of income" has the same meaning as in the Finance and Audit Act;

"exempt transaction" means a transaction –

(a) between the Bank of Mauritius and any other person;

(b) between a bank and another bank;

(c) between a bank and a financial institution;

(d) between a bank or a financial institution and a customer where –

(i) the transaction does not exceed an amount that is commensurate with the lawful activities of the customer, and –

(A) the customer is, at the time the transaction takes place, an established customer of the bank or financial institution; and

(B) the transaction consists of a deposit into, or withdrawal from, an account of a customer with the bank or financial institution; or

(ii) the chief executive officer or chief operating officer of the bank or financial institution, as the case may be, personally approves the transaction in accordance with any guidelines, instructions or rules issued by a supervisory authority in relation to exempt transactions; or

Amended by [Act No. 27 of 2013]

(e) between such other persons as may be prescribed;

“express trust” –

(a) means a trust clearly created by the settlor, usually in the form of a document; and

(b) includes a written deed of trust;

"Financial Action Task Force" means the independent international standard setter which develops and promotes policies to protect the global financial system against money laundering, the financing of terrorism and the financing of proliferation of weapons of mass destruction, amongst others;

"financial group" means a group which consists of a parent company or of any other entity exercising control and coordinating functions over the rest of the group for the application of group supervision under the core principles, together with branches or subsidiaries that are subject to anti-money laundering and combatting the financing of terrorism and proliferation policies and procedures at the group level;

"financial institution" means –

(a) an institution or a person, as the case may be, licensed, registered or authorised under –

(i) section 14, 77, 77A or 79A of the Financial Services Act;

(ii) the Insurance Act, other than an insurance salesperson;

(iii) the Securities Act, other than an entity registered with that Act as a reporting issuer and which does not conduct any financial activities;

(iv) the Captive Insurance Act; or

(v) the Trusts Act as a qualified trustee; or

(vi) section 12 of the Private Pension Schemes Act; or

(b) a credit union;

"Financial Reporting Council" means the Financial Reporting Council established under section 3 of the Financial Reporting Act;

"financial services" has the same meaning as in the Financial Services Act;

"Financial Services Commission" means the Commission established under the Financial Services Act 2007;

Amended by [Act No. 14 of 2007]

"financial statements", in relation to a financial year –

(a) means –

(i) a statement of financial position;

(ii) a statement of financial performance;

(iii) a statement of changes in net assets or equity;

(iv) a cash flow statement; and

(v) a statement of comparison of annual estimates and actual amounts; and

(b) includes notes, comprising a summary of significant accounting policies and other explanatory notes;

"financial year" has the meaning assigned to it by section 2A of the Finance and Audit Act;

"FIU" means the Financial Intelligence Unit established by this Act;

"high risk country" means a jurisdiction identified under section 17H;

"IFAC" has the same meaning as in the Financial Reporting Act;

"internal controller" has the same meaning as in the Cooperatives Act;

"investigatory authorities" means the Commissioner of Police, the Mauritius Revenue Authority, the ARID, the Agency and the Commission;

Amended by [Act No. 38 of 2011]

"jewellery" means any article made of a precious metal or its alloy, and which exceeds one gramme;

"legal arrangement" means an express trust or any other similar arrangement;

"legal person" –

(a) means any entity, other than a natural person; and

(b) includes a company, a foundation, an association, a limited liability partnership or such other entity as may be prescribed;

"Mauritius Revenue Authority" means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act;

"member firm" means a person registered under section 54 of the Financial Reporting Act, other than an audit firm registered under section 35 of the Act;

"member of a relevant profession or occupation" means a person specified in Column 1 of Part I of the First Schedule and performing any transaction in the manner specified in Part II of that Schedule;

Amended by [Act No. 23 of 2003]; [Act No. 9 of 2007];[Act No. 14 of 2007]; [Act No. 17 of 2007]; [Act No. 27 of 2012]

"Minister" means the Minister to whom responsibility for the subject of money laundering is assigned;

"Ministry" means the Ministry responsible for the subject of money laundering;

"money laundering" means an offence under Part II of this Act

"National Committee" means the National Committee for Anti- Money Laundering and Combating the Financing of Terrorism established under section 19A;

Added by [Act No. 34 of 2003]

“officer” includes a director, an employee, an agent, a legal representative and, in relation to the powers of the ARID under the Asset Recovery Act, includes the Chief Investigating Officer;

"overseas country" means a country or territory outside Mauritius;

"overseas financial intelligence units" means the financial intelligence units constituted in overseas countries and whose functions correspond to some or all of those of the FIU;

“precious metal” –

(a) means gold, silver, platinum or palladium; and

(b) includes any object which is composed of gold, silver, platinum or palladium;

“precious stone” means diamond, sapphire, ruby, emerald, alexandrite or tanzanite;

“Principal Co-operative Auditor” has the same meaning as in the Co-operatives Act;

“proliferation” means –

(a) the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer, import, export, transshipment or use of –

(i) nuclear weapons;

(ii) chemical weapons;

(iii) biological weapons;

(iv) such other materials, as may be prescribed, which are related to nuclear weapons, chemical weapons or biological weapons; or

(b) the provision of technical training, advice, service, brokering or assistance related to any of the activities specified in paragraph (a);

“proliferation financing”, in relation to a person, means the person who –

(a) makes available an asset;

(b) provides a financial service; or

(c) conducts a financial transaction; and

knows that, or is reckless as to whether, the asset, financial service or financial transaction is intended to, in whole or in part, facilitate proliferation regardless of whether the specified activity occurs or is attempted;

"property" means property of any kind, nature or description, whether moveable or immoveable, tangible or intangible and includes -

(a) any currency, whether or not the currency is legal tender in Mauritius, and any bill, security, bond, negotiable instrument or any instrument capable of being negotiated which is payable to bearer or endorsed payable to bearer, whether expressed in Mauritius currency or otherwise;

(b) any balance held in Mauritius currency or in any other currency in accounts with any bank which carries on business in Mauritius or elsewhere;

(c) any balance held in any currency with any bank outside Mauritius;

(d) motor vehicles, ships, aircraft, boats, works of art, jewelry, precious metals or any other item of value; and

(e) any right or interest in property;

“Real Estate Agent Authority” means the Real Estate Agent Authority established under section 3 of the Real Estate Agent Authority Act 2020;

“Registrars” means the Registrar of Associations and the Registrar of Foundations, the Registrar of Companies;

“regulatory body”, in relation to the member of a relevant profession or occupation or an entity, specified in the first column of Part I of the First Schedule, means the corresponding body or person specified in the second column of Part I of that Schedule;

"relevant enactments" means this Act, the Banking Act 2004, the Bank of Mauritius Act 2004, the Financial Services Act 2007, the Prevention of Corruption Act 2002 and the

United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019;

Amended by [Act No. 14 of 2005]; [Act No. 14 of 2007]

"reporting person" means a bank, financial institution, cash dealer or member of a relevant profession or occupation;

"Review Panel" means the Review Panel referred to in section 19Q;

"settlor" means a natural or legal person that transfers ownership of his or its assets to trustees by means of a trust deed or any other similar arrangement;

"supervisory authorities" –

(a) means –

(i) the Bank of Mauritius;

(ii) the Financial Services Commission;

(iii) the Registrar of Co-operative Societies under the Co-operatives Act; and

(b) includes a regulatory body specified in Column 2 of Part I of the First Schedule;

"suspicious transaction" means a transaction which –

(a) gives rise to a reasonable suspicion that it may involve–

(i) the laundering of money or the proceeds of any crime; or

(ii) funds linked or related to, or to be used for, the financing of terrorism or proliferation financing or, any other activities or transaction related to terrorism as specified in the Prevention of Terrorism Act or under any

other enactment, whether or not the funds represent the proceeds of a crime;

(b) is made in circumstances of unusual or unjustified complexity;

(c) appears to have no economic justification or lawful objective;

(d) is made by or on behalf of a person whose identity has not been established to the satisfaction of the person with whom the transaction is made; or

(e) gives rise to suspicion for any other reason.

"transaction" includes -

(a) opening an account, issuing a passbook, renting a safe deposit box, entering into a fiduciary relationship or establishing any other business relationship, whether electronically or otherwise; and

(a) a proposed transaction or an attempted transaction.

Amended by: **[Act No. 34 of 2003]**; **[Act No. 14 of 2005]**; **[Act No. 22 of 2005]**; **[Act No. 17 of 2007]**; **[Act No. 14 of 2007]**; **[Act No. 14 of 2009]**; **[Act No. 20 of 2011]** **[Act No. 27 of 2012]**; **[Act No. 27 of 2013]**; **[Act No. 29 of 2015]**; **[Act No. 18 of 2016]**; **[Act No. 11 of 2018]**; **[Act No. 9 of 2019]**; **[Act No. 5 of 2020]**; **[Act No. 10 of 2020]**; **[Act No. 15 of 2021]**

PART II - MONEY LAUNDERING OFFENCES

3. Money Laundering

(1) Any person who -

(a) engages in a transaction that involves property which is, or in whole or in part directly or indirectly represents, the proceeds of any crime; or

(b) receives, is in possession of, conceals, disguises, transfers, converts, disposes of, removes from or brings into Mauritius any property which is,

or in whole or in part directly or indirectly represents, the proceeds of any crime,

where he suspects or has reasonable grounds for suspecting that the property is derived or realized, in whole or in part, directly or indirectly from any crime, shall commit an offence.

(2) A reporting person who fails to take such measures as are reasonably necessary to ensure that neither he, nor any service offered by him, is capable of being used by a person to commit or to facilitate the commission of a money laundering offence or the financing of terrorism shall commit an offence.

(3) In this Act, reference to concealing or disguising property which is, or in whole or in part, directly or indirectly, represents, the proceeds of any crime, shall include concealing or disguising its true nature, source, location, disposition, movement or ownership of or rights with respect to it.

Amended by [Act No. 14 of 2009]; [Act No. 5 of 2020]

4. Conspiracy to commit the offence of money laundering

Without prejudice to section 109 of the Criminal Code (Supplementary) Act, any person who agrees with one or more other persons to commit an offence specified in section 3(1) and (2) shall commit an offence.

5. Limitation of payment in cash

(1) Notwithstanding section 37 of the Bank of Mauritius Act 2004, but subject to subsection (2), any person who makes or accepts any payment in cash in excess of 500,000 rupees or an equivalent amount in foreign currency, or such amount as may be prescribed, shall commit an offence.

(2) Subsection (1) shall not apply to an exempt transaction.

Amended by [Act No. 34 of 2004]; [Act No. 15 of 2006]

6. Procedure

(1) A person may be convicted of a money laundering offence notwithstanding the absence of a conviction in respect of a crime which generated the proceeds alleged to have been laundered.

(2) Any person may, upon single information or upon separate information, be charged with and convicted of both the money laundering offence and of the offence which generated the proceeds alleged to have been laundered.

(3) In any proceedings against a person for an offence under this Part, it shall be sufficient to aver in the information that the property is, in whole or in part, directly or indirectly the proceeds of a crime, without specifying any particular crime, and the Court, having regard to all the evidence, may reasonably infer that the proceeds were, in whole or in part, directly or indirectly, the proceeds of a crime.

(4) Notwithstanding any other enactment, where the investigations into a money laundering offence and the offence which generated the proceeds alleged to have been laundered have been conducted by different investigatory authorities, a single information may be lodged in the manner specified in subsection (2).

Amended by [Act No. 27 of 2012]; [Act No. 15 of 2021]

7. Jurisdiction – Repealed by [Act No. 9 of 2020]

8. Penalty

(1) Any person who -

(a) commits an offence under this Part; or

(b) disposes or otherwise deals with property subject to a forfeiture order under subsection (2),

shall, on conviction, be liable to a fine not exceeding 10 million rupees and to penal servitude for a term not exceeding 20 years.

(2) Any property belonging to or in the possession or under the control of any person who is convicted of an offence under this Part shall be deemed, unless the contrary is proved, to be derived from a crime and the Court may, in addition to any penalty imposed, order that the property be forfeited.

(3) Sections 150, 151 and Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a conviction under this Part.

Amended by [Act No. 9 of 2019]

PART III - THE FINANCIAL INTELLIGENCE UNIT

9. Establishment of the FIU

(1) There is established for the purposes of this Act a Financial Intelligence Unit which shall have all the powers necessary to administer, and exercise its functions under, this Act.

(2) The head of the FIU shall be the Director who shall be a person of high repute with substantial experience in the financial services industry or law enforcement and experience in management and accounting and appointed by the President on the recommendation of the Prime Minister made in consultation with the Leader of the Opposition, on such terms and conditions as may be determined by the Prime Minister.

(3) The Director shall be responsible for the administration and management of the FIU and shall be assisted by such persons as may be appointed by the Director to assist him.

(4) In the discharge of his functions and the exercise of his powers under this Act, the Director shall act without fear or favour and, subject to section 12, shall not be subject to the direction or control of any other person or authority other than, in matters of discipline, the President acting on the advice of the Prime Minister.

Amended by [Act No. 27 of 2012]; [Act No. 27 of 2013]

10. Functions of the FIU

(1) The FIU shall be the central agency in Mauritius responsible for receiving, requesting, analysing and disseminating to the investigatory and supervisory authorities , the Counterterrorism Unit and Registrars disclosures of information -

(a) concerning suspected proceeds of crime and alleged money laundering offences;

(b) required by or under any enactment in order to counter money laundering; or

(c) concerning the financing of any activities or transactions related to terrorism .

Amended by [Act No. 34 of 2003]

(2) For the purposes of this Act, the FIU shall -

(a) collect, process, analyse and interpret all information disclosed to it and obtained by it under the relevant enactments;

(b) inform, advise and co-operate with the investigatory and supervisory authorities , the Counterterrorism Unit and Registrars;

(ba) issue guidelines to members of a relevant profession or occupation falling under its purview on measures to combat money laundering, financing of terrorism and proliferation;

(c) issue guidelines to auditors, reporting persons and internal controllers of credit unions as to the manner in which –

(i) a report under section 14 shall be made; and

(ii) additional information may be supplied to FIU, on a suspicious transaction, pursuant to a request made under section 13(2), (3) or (6);

(d) & (e) – **Deleted by [Act No. 34 of 2003]**

(f) exchange information with overseas financial intelligence units and comparable Bodies;

(g) undertake, and assist in, research projects in order to identify the causes of money laundering and terrorist financing and its consequences;

(h) perform such other functions as are conferred on it under the Asset Recovery Act.

(3) - (7) **Deleted by [Act No. 9 of 2019]**

Amended by [Act No. 34 of 2003]; [Act No. 15 of 2006]; [Act No. 20 of 2011]; [Act No. 27 of 2012]; [Act No. 27 of 2013]; [Act No. 29 of 2015]; [Act No. 18 of 2016]; [Act No. 9 of 2019]; [Act No. 5 of 2020]

11. Exercise of functions of the FIU

(1) The functions of the FIU shall be exercised by the Director or such of the persons appointed under section 9(3) as the Director may determine.

(2) In furtherance of the functions of the FIU, the Director shall consult with and seek such assistance from such persons in Mauritius concerned with combating money laundering, including law officers, the Police and other Government agencies and reporting persons or auditors, as the FIU considers desirable.

Amended by: [Act No. 5 of 2020]

12. The Board

(1) There is set up for the purposes of this Act a Board which shall consist of -

(a) a Chairperson, who shall be a person who has -

(i) served as a Judge of the Supreme Court; or

(ii) served as a Magistrate, or been a law officer or practised as a barrister, in Mauritius for at least 10 years;

(b) 2 other members of high repute, of whom one shall be a person with substantial experience in the legal profession and the other shall be a person with substantial experience in the financial services industry.

(2) The Chairperson and members of the Board shall be appointed by the President on the recommendation of the Prime Minister made in consultation with the Leader of the Opposition.

(3) The appointment of the Chairperson and each member of the Board shall be on such terms as may be specified in the instrument of appointment of the Chairperson and each such member.

(4) The Board may act notwithstanding the absence of one of its members.

(5) The functions of the Board shall be to –

(a) keep under overall review the manner in which the FIU discharges its functions under this Act and to formulate the necessary policies for implementation by the Director with a view to achieving the objects of the FIU;

(b) review and approve the budgetary estimates of the FIU;

(c) issue such instructions as it considers appropriate with regard to the financial management of the FIU;

(d) advise the Director on matters relating to the discharge by the FIU of its functions; and

(e) consider the annual report of the FIU and report to the Minister on any matter appearing in or arising out of such report.

(6) The Board shall not have the power to consider, discuss or deliberate on any matter relating to the lodging, analysing, reporting, requesting or disseminating of information in respect of any suspicious transaction report,

nor will it have access to information concerning any suspicious transaction report.

(7) Subject to subsections (4) to (6), the Board shall determine its own procedure.

Amended by [Act No. 34 of 2003]; [Act No. 27 of 2012]; [Act No. 27 of 2013]

13. Dissemination of information by Director - Amended by [Act No. 27 of 2012]

(1) Where there are grounds to suspect money laundering, predicate offences or terrorism financing, the Director shall disseminate information and the results of the analysis of the FIU to the relevant investigatory authority, supervisory authority, overseas financial intelligence unit, the Counterterrorism Unit, Registrars or comparable body for appropriate action.

(2) Where a report of a suspicious transaction is made under section 14, the Director may, for the purpose of assessing whether any information should be disseminated to investigatory or supervisory authorities, the Counterterrorism Unit or Registrars, request further information in relation to the suspicious transaction from –

(a) the reporting person or auditor who made the report; and

(b) a reporting person or an auditor who is, or appears to be, involved in the transaction.

(3) Where –

(a) FIU becomes aware of any information which gives rise to a reasonable suspicion that a money laundering offence or a

terrorism financing offence might have been committed or is about to be committed; or

(b) a request for information is made by any investigatory or supervisory authority, Government agency, the Counterterrorism Unit, Registrars or overseas financial intelligence unit or comparable body,

the Director may, notwithstanding section 64 of the Banking Act or any other enactment, for the purposes of assessing whether any information should be disseminated to the investigatory or supervisory authority, Government agency, the Counterterrorism Unit, Registrars or overseas financial intelligence unit or comparable body, request further information in relation to the suspicious transaction from any reporting person or auditor who is involved, or appears to be involved, in the transaction.

(4) Where a reporting person or an auditor receives a request for information under subsection (2) or (3), the reporting person or auditor shall, notwithstanding section 300 of the Criminal Code and any other enactment, furnish, as soon as practicable but not later than 15 working days after the request, FIU with the requested information.

(5) Where a report of a suspicious transaction is made under section 14, the Director shall, by written notice, require the reporting person or auditor to keep the records in respect of that suspicious transaction for such period as may be specified in the notice.

(6) The Director may, for the purposes of this Act, request a reporting person or an auditor to inform him whether –

(a) a person is or has been a client of the reporting person or auditor;

(b) a person is acting or has acted on behalf of any client of the reporting person or auditor; or

(c) a client of the reporting person or auditor is acting or has acted for a

person.

(7) A reporting person or an auditor shall comply with the request made under subsection (6), within such time as may be specified in the request.

(8) Any reporting person or auditor, or any director, employee, agent or legal representative of a reporting person or auditor who –

(a) fails to supply any information requested by FIU under section 13(2), (3) or (6) by the date specified in the request; or

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, any information, document or material which is or is likely to be relevant to a request under section 13(2), (3) or (6),

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Amended by [Act No. 34 of 2003]; [Act No. 20 of 2011]; [Act No. 27 of 2012]; [Act No. 27 of 2013]; [Act No. 9 of 2019]; [Act No. 5 of 2020]

PART IV – MEASURES TO COMBAT MONEY LAUNDERING AND THE FINANCING OF TERRORISM

14. Reporting of suspicious transaction by reporting person or auditor

(1) Notwithstanding section 300 of the Criminal Code and any other enactment, every reporting person or auditor shall, as soon as he becomes aware of a suspicious transaction, make a report to FIU of such transaction not later than 5 working days after the suspicion arose.

(1A) FIU shall provide feedback, in any manner that it may determine, to reporting persons and relevant supervisory authorities in relation to the obligations specified in subsection (1).

(1B) A report under subsection (1) shall be of a general nature and shall not be construed to be a substitute for the reporting person's own internal screening mechanisms.

(1C) For the purpose of subsection (1), the burden of reporting a suspicious transaction to FIU shall, in the case of a credit union, be on the internal controller of the credit union.

(2) Repealed by **[Act No. 5 of 2020]**

(3) Where a reporting person or an auditor –

(a) becomes aware of a suspicious transaction; or

(b) ought reasonably to have become aware of a suspicious transaction,

and he fails to make a report to FIU of such transaction not later than 5 working days after the suspicion arose he shall commit an offence and shall, on conviction, be liable to fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Amended by [Act No. 27 of 2013]; [Act No. 18 of 2016]; [Act No. 11 of 2018]; [Act No. 9 of 2019]; [Act No. 5 of 2020]

14A. Cash transaction reports

Every reporting person shall, within the prescribed time, report to FIU the prescribed particulars of any transaction in excess of the prescribed amount.

14B. Electronic transfer of money to or from Mauritius

Where a reporting person sends money through electronic transfer in excess of the prescribed amount out of Mauritius or he receives money in excess of the prescribed amount from outside Mauritius on behalf, or on the instruction of, another person, he shall, within the prescribed period after the money was transferred, report the transfer, together with the prescribed particulars, to FIU.

Added by [Act No. 11 of 2018]

14C. Registration by reporting person

Every reporting person or auditor shall, within such time and in such form and manner as may be prescribed, register with FIU.

Amended by [Act No. 9 of 2019]; [Act No. 5 of 2020]

15. Lodging of reports of suspicious transactions

(1) Every report under section 14 shall be lodged with the FIU.

(2) For the purposes of this Part, every report shall be in such form as the FIU may approve and shall include -

(a) the identification of the party or parties to the transaction;

(b) the amount of the transaction, the description of the nature of the transaction and all the circumstances giving rise to the suspicion;

(c) the business relationship of the suspect with the reporting person or auditor;

(d) where the suspect is an insider, any information as to whether the suspect is still affiliated with the reporting person or auditor;

(e) any voluntary statement as to the origin, source or destination of the proceeds;

(f) the impact of the suspicious activity on the financial soundness of the reporting institution or person; and

(g) the names of all the officers, employees or agents dealing with the transaction.

(3) No report of a suspicious transaction shall be required to be disclosed, or be admissible as evidence, in any court proceedings.

Amended by [Act No. 27 of 2012]; [Act No. 27 of 2013]; [Act No. 5 of 2020]

16. Legal consequences of reporting

(1) Any reporting person and auditor, and any of their officers shall not disclose to any

person that a suspicious transaction report is being or has been filed, or that related information is being or has been requested by, furnished or submitted to FIU.

(1A) Notwithstanding subsection (1), any supervisory authority may, for the sole purpose of discharging its compliance functions, request the FIU to provide it with a copy of the suspicious transaction report made under section 14(1).

(2) No proceedings shall lie against any person for having -

(a) reported in good faith under this Part any suspicion he may have had, whether or not the suspicion proves to be well founded following investigation or prosecution or any other judicial action;

(b) supplied in good faith any information to FIU pursuant to a request made under section 13(2), (3) or (6).

(3) No reporting person and its officers who receives or shares a report made under this Part shall incur liability for –

(a) any breach of confidentiality for any disclosure made in compliance with this Act, or to assist its supervisory authority in the discharge of its functions under this Act;

(b) any disclosure made for compliance, audit or AML/CFT functions within the reporting person or at group level, provided that adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off, are in place within the group.

(3A) Any person who fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5 million rupees and to imprisonment for a term not exceeding 10 years.

(4) For the purposes of this section –

"officer" includes a director, employee, agent or other legal representative.

Amended by [Act No. 34 of 2003]; [Act No. 27 of 2013]; [Act No. 9 of 2019]; [Act No. 5 of 2020]

17. Risk assessment

(1) Every reporting person shall –

(a) take appropriate steps to identify, assess and understand the money laundering and terrorism financing risks for customers, countries or geographic areas and products, services, transactions or delivery channels; and

(b) consider all relevant risk factors before determining what is the level of overall risk and the appropriate level and type of mitigation to be applied.

(2) The nature and extent of any assessment of money laundering and terrorism financing risks under subsection (1) shall be appropriate having regard to the nature and size of the business of the reporting person and shall take into account –

(a) all relevant risk factors including –

(i) the nature, scale and complexity of the reporting person's activities;

(ii) the products and services provided by the reporting person;

(iii) the persons to whom and the manner in which the products and services are provided;

(iv) the nature, scale, complexity and location of the customer's activities;

(v) reliance on third parties for elements of the customer due diligence process; and

(vi) technological developments; and

(b) the outcome of any risk assessment carried out at a national level and any guidance issued.

(3) Prior to the launch of a new product or business practice or the use of a new or developing technology, a reporting person or a supervisory authority shall identify and assess the money laundering or terrorism financing risks that may arise in relation to such new products or business practices, or new or developing technologies for both new and pre-existing products, and take appropriate measures to manage and mitigate these risks.

(4) Every reporting person shall document the risk assessments in writing, keep it up to date and, on request, make it available to relevant competent authorities without delay.

Amended by [Act No. 14 of 2009]; [Act No. 27 of 2012]; [Act No. 11 of 2018]; [Act No. 9 of 2019]

17A. Policies, controls and procedures

(1) Every reporting person shall –

(a) establish policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorism financing identified in any risk assessment undertaken by the reporting person under section 17;

(b) monitor the implementation of, regularly review, update and, where necessary, enhance the, policies, controls and procedures established under paragraph (a);

(c) maintain a record in writing of –

(i) the policies, controls and procedures established under paragraph (a);

(ii) any changes to those policies, controls and procedures made as a result of the review and update required under paragraph (b); and

(iii) the steps taken to communicate those policies, controls and procedures, or any changes to them, internally.

(2) The policies, controls and procedures adopted under paragraph (1) shall be proportionate to the size and nature of the business of a reporting person, as the case may be, and approved by its senior management.

Amended by [Act No. 9 of 2019]

17B. Fictitious and anonymous accounts

A reporting person shall not establish or maintain an anonymous account or an account in a fictitious name.

17C. Customer due diligence requirements

(1) A reporting person shall undertake CDD measures as may be prescribed, and in the following circumstances –

(a) when opening an account for, or otherwise establishing a business relationship with, a customer;

(b) where a customer who is neither an account holder nor in an established business relationship with the reporting person wishes to carry out –

(i) a transaction in an amount equal to or above 500, 000 rupees or an equivalent amount in foreign currency or such amount as may be prescribed, whether conducted as a single transaction or several transactions that appear to be linked; or

(ii) a domestic or cross-border wire transfer;

(c) whenever doubts exist about the veracity or adequacy of previously obtained customer identification information;

(d) whenever there is a suspicion of money laundering or terrorism financing involving the customer or the customer's account.

(2) A reporting person shall, with respect to each customer and business relationship, when applying CDD measures take into account the outcome of the risk assessment required to be carried out under section 19D.

(3) Where the risks are higher, a reporting person shall conduct enhanced due diligence measures consistent with the risks identified.

(4) Where the risks are lower, a reporting person may conduct simplified due diligence measures, unless there is a suspicion of money laundering or terrorism financing in which case enhanced CDD measures shall be undertaken.

(5) In all cases, a reporting person shall apply such CDD measures as may be prescribed or specified by a supervisory authority.

(5A) The trustee of an express trust shall disclose his status as a trustee to a reporting person when forming a business relationship or carrying out an occasional transaction in an amount equal to or above 500,000 rupees or an equivalent amount in foreign currency.

(6) Any person who knowingly provides any false or misleading information to a reporting person in connection with CDD requirements under this Act or any guidelines issued under this Act shall commit an offence and shall, on conviction,

be liable to a fine not exceeding 500, 000 rupees and to imprisonment for a term not exceeding 5 years.

Amended by [Act No. 9 of 2019]

17D. Third party reliance

(1) Subject to subsection (2), a reporting person may rely on third parties to perform CDD measures to comply with the requirements of section 17C, subject to such terms and conditions as may be prescribed.

(2) Notwithstanding any other provision of this Act, a reporting person relying on a third party shall remain responsible for compliance with the requirements under this Act.

17E. Existing customers

(1) A reporting person shall apply the CDD requirements to customers and beneficial owners with which it had a business relationship on the commencement of this section.

(2) The CDD requirements shall be applied at appropriate times and on the basis of materiality and risk, depending on the type and nature of the customer, the business relationship, products or transactions and taking into account whether and when CDD measures have previously been applied and the adequacy of the data obtained, or as may be specified in any guidelines issued under this Act.

(3) In subsection (1) – "beneficial owner" –

(a) means the natural person –

(i) who ultimately owns or controls a customer;

(ii) on whose behalf a transaction is being conducted; and

(b) includes those natural persons who exercise ultimate control over a legal person or arrangement and such other

persons as may be prescribed.

17F. Record keeping

(1) A reporting person shall maintain all books and records with respect to his customers and transactions in accordance with subsection (2) and shall ensure that such records and books are kept for such time as specified in, and in accordance with, subsection (2).

(2) The books and records referred to in subsection (1) shall include –

(a) all records obtained through CDD measures, including account files, business correspondence and copies of all documents evidencing the identity of customers and beneficial owners, and records and the results of any analysis undertaken in accordance with this Act, all of which shall be maintained for a period of not less than 7 years after the business relationship has ended;

(b) records on transactions, both domestic and international, that are sufficient to permit reconstruction of each individual transaction for both account holders and non-account holders, which shall be maintained for a period of 7 years after the completion of the transaction; and

(c) copies of all suspicious transaction reports made pursuant to section 14 or other reports made to FIU in accordance with this Act, including any

accompanying documentation, which shall be maintained for a period of at least 7 years from the date the report was made.

17G. Obligation to report currency transactions

A reporting person shall, within the prescribed time limit, submit a report to FIU in the prescribed manner of any currency transaction in an amount equal to or above the prescribed amount, whether conducted as a single transaction or several transactions that appear to be linked.

Added by [Act No. 11 of 2018]

17H. High risk country

(1) Where a jurisdiction is identified by the Financial Action Task Force as having significant or strategic deficiencies in its AML/CFT measures, the Minister may –

(a) on the recommendation of the National Committee; and

(b) after giving due consideration to such factors as may be prescribed,

identify that jurisdiction as a high risk country.

(2) A reporting person shall, with respect to business relationships or transactions involving a high risk country, apply such enhanced CDD measures as may be prescribed.

(3) In addition to subsection (2), a reporting person shall, where applicable and proportionate to the risks, apply one or more of the following additional mitigating measures to persons and legal entities carrying out transactions involving a high risk country –

(a) the application of additional elements of enhanced due diligence;

(b) the introduction of enhanced relevant reporting mechanisms or systematic reporting of financial transactions;

(c) the limitation of business relationships or transactions with

natural persons or legal entities from the countries identified as high risk countries.

(4) Where the Minister identifies a high risk country under subsection (1), he shall, on the recommendation of the Financial Action Task Force or the National Committee, and having regard to the level of the risk, specify that one or more of the following countermeasures, and any other measures that have a similar effect in mitigating risks, shall apply to the high risk country –

(a) refusing the establishment of subsidiaries or branches or representative offices of reporting persons from the country concerned, or otherwise taking into account the fact that the relevant reporting person is from a country that does not have adequate AML/CFT systems;

(b) prohibiting reporting persons from establishing branches or representative offices in the high risk country, or otherwise taking into account the fact that the relevant branch or representative office would be in a country that does not have adequate AML/CFT systems;

(c) limiting business relationships or financial transactions with the identified country or persons in that country;

(d) prohibiting reporting persons from relying on parties located in the country concerned to conduct elements of the CDD process;

(e) requiring reporting persons to review and amend, or if necessary terminate, correspondent banking and other similar relationships with institutions in the country concerned;

(f) requiring increased supervisory examination and external audit requirements for branches and subsidiaries of reporting persons based in the country concerned;

(g) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned.

(5) FIU shall immediately disseminate to reporting persons in such manner as it may determine –

(a) any high risk country identified by the Minister under subsection (1);

(b) any countermeasures which are applicable on the country;

(c) the concerns regarding the weaknesses in the AML/CFT systems of that country; and

(d) any publicly available information published by the Financial Action Task Force on any jurisdiction which has been identified by it as having significant or strategic deficiencies in its AML/CFT measures.

Added by [Act No. 9 of 2019]

18. Regulatory action in the event of non-compliance

(1) (a) The supervisory authorities may issue such codes and guidelines as they consider appropriate to combat money laundering activities and terrorism financing, to banks, cash dealers or financial institutions, subject to their supervision.

(b) The Bank of Mauritius shall supervise and enforce compliance by banks and cash dealers with the requirements imposed by this Act, regulations made under this Act and such guidelines as it may issue under paragraph (a).

(c) The Financial Services Commission shall supervise and enforce compliance by financial institutions with the requirements imposed by this Act, regulations made under this Act and such guidelines as it may issue under paragraph (a).

(2) (a) Where it appears to the Bank of Mauritius that a bank or cash dealer subject to its supervision has failed to comply with any requirement imposed under this Act, any regulation made under this Act or any code or guideline issued by it under

subsection (1)(a), and that the failure is caused by a negligent act or an omission or by a serious defect in the implementation of any such requirement, the Bank of Mauritius, in the absence of any reasonable excuse, may –

(i) in the case of a bank, proceed against it under sections 11 and 17 of the Banking Act on the ground that it is carrying on business in a manner which is contrary to the interest of the public; or

(ii) in the case of a cash dealer, proceed against it under section 17 of the Banking Act on the ground that it is carrying on business in a manner which is contrary to the interest of the public.

(b) Notwithstanding paragraph (a), where a bank or cash dealer has failed to comply with any requirement imposed under a code or guideline issued by the Bank of Mauritius under subsection (1)(a), the Bank of Mauritius may impose an administrative penalty on that bank or cash dealer which may be recovered by deduction from any balance of the bank or cash dealer with, or as money owing to, the Bank of Mauritius, as if it were a civil debt.

(c) When determining the quantum of the administrative penalty to be imposed under paragraph (b), the Bank of Mauritius shall consider the seriousness of the breach committed by the bank or cash dealer and the length of time during which the breach has been committed.

(3) Where it appears or where it is represented to the Financial Services Commission that any financial institution has refrained from complying or negligently failed to comply with any requirement of this Act or regulations, the

Financial Services Commission may proceed against the financial institution under section 7 of the Financial Services Act 2007.

(3A) - (4) **Deleted by [Act No. 9 of 2019]**

Amended by [Act No. 34 of 2003]; [Act No. 14 of 2005]; [Act No. 27 of 2012]; [Act No. 11 of 2018]; [Act No. 9 of 2019]

19. Offences relating to obligation to report and keep records and to disclosure of information prejudicial to a request

(1) Any reporting person, or any director, employee, agent or other legal representative of a reporting person who, knowingly or without reasonable excuse –

(a) fails to comply with section 17, 17A, 17B. 17C, 17D, 17E, 17F or 17G;

(b) destroys or removes any record, register or document which is required under this Act or any regulations; or

(c) facilitates or permits the performance under a false identity of any transaction falling within this Part,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10 million rupees and to imprisonment for a term not exceeding 5 years.

(2) Any person who -

(a) falsifies, conceals, destroys or otherwise disposes of or causes or permits the falsification, concealment, destruction or disposal of any information,

document or material which is or is likely to be relevant to a request to under the Mutual Assistance in Criminal and Related Matters Act 2003; or

(b) knowing or suspecting that an investigation into a money laundering offence has been or is about to be conducted, divulges that fact or other information to another person whereby the making or execution of a request to under the Mutual Assistance in Criminal and Related Matters Act 2003 is likely to be prejudiced,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Amended by [Act No. 15 of 2006]; [Act No. 34 of 2003]; [Act No. 27 of 2012]; [Act No. 27 of 2013]; [Act No. 11 of 2018]; [Act No. 9 of 2019]; [Act No. 5 of 2020]

PART IV A – GROUP FOR ANTI-MONEY LAUNDERING AND COMBATTING THE FINANCING OF TERRORISM AND PROLIFERATION AND NATIONAL COMMITTEE FOR ANTI-MONEY LAUNDERING AND COMBATTING THE FINANCING OF TERRORISM AND PROLIFERATION – Amended by [Act No. 15 of 2021]

19A Establishment of National Committee

(1) There is established for the purposes of this Act a National Committee for Anti-Money Laundering and Combating the Financing of Terrorism.

(2) The National Committee shall consist of –

(a) the supervising officer of the Ministry or his representative, who shall act as Chairperson:

Amended by [Act No. 17 of 2007]

(b) a representative of the Prime Minister's Office;

(ba) Director AML/CFT of the Ministry or his representative;

(bb) a representative of the Registrar of Companies;

(bc) a representative of the Mauritius Institute of Professional Accountants;

(c) a representative of the Attorney-General's Office;

(d) the Director of Public Prosecutions or his representative;

(e) the Registrar of Associations or his representative;

(f) a representative of the Ministry responsible for foreign affairs;

(g) the Commissioner of Police or his representative;

(ga) the Director of the Integrity Reporting Services Agency established under the Good Governance and Integrity Reporting Act, or his representative;

(h) the Director-General of the Mauritius Revenue Authority or his representative;

(i) the Director of the FIU or his representative;

(j) a Deputy Governor of the Bank of Mauritius or his representative;

(k) the Chief Executive of the Financial Services Commission or his representative;

(l) the Commissioner appointed under section 45(8) of the Dangerous Drugs Act or his representative;

(l) the Director of the Real Estate Agent Authority or his representative; - **Added by [Act No. 10 of 2020]**

(m) the Commissioner appointed under section 19 of the Prevention of Corruption Act 2002 or his representative.

(n) the Chief Executive of the Gambling Regulatory Authority or his representative.

(3) The National Committee may co-opt such other persons as appear to it to have special knowledge or experience in anti-money laundering or combating the financing of terrorism.

Amended by [Act No. 15 of 2006]; [Act No. 17 of 2007]; [Act No. 14 of 2009]; [Act No. 20 of 2011]; [Act No. 27 of 2013]; [Act No. 18 of 2016]; [Act No. 11 of 2018]; [Act No. 9 of 2019]; [Act No. 10 of 2020]; [Act No. 15 of 2021]

19AA. Establishment of Core Group

(1) There is established for the purposes of this Act a Core Group for Anti-Money Laundering and Combatting the Financing of Terrorism and Proliferation.

(2) (a) The Core Group shall consist of –

(i) the Financial Secretary, as chairperson;

(ii) the Governor of the Bank of Mauritius, as co-chairperson;

(iii) the Director-General of the Independent Commission Against Corruption,as co-chairperson;

(iv) the Chairperson of the Financial Services Commission;

(v) the Chairperson of the National Committee on AML-CFT;

(vi) a representative of the Ministry responsible for the subject of finance;

(vii) a representative of the Attorney General's Office;

(viii) the Chief Executive, Financial Services Commission; and

(ix) the Director of FIU.

(b) The Core Group –

(i) shall meet at least once every month;

(ii) shall regulate its meetings and proceedings in such manner as it may determine;

(iii) may, in the discharge of its functions, co-opt such other members as it may determine;

(iv) shall, in the discharge of its functions, be assisted by a Secretariat, to be approved by

the Minister to whom responsibility for the subject of finance is assigned.

(c) At any meeting of the Core Group, 5 members shall constitute a quorum.

(3) The functions of the Core Group shall be to –

(a) ensure the effective implementation, by the relevant competent authorities of the Financial Action Task Force international standards on AML/CFT;

(b) make recommendations to the Prime Minister on matters, including implementation, strategy and international developments, pertaining to AML/CFT;

(c) decide on matters pertaining to the implementation of AML/CFT standards which a relevant competent authority may refer to it;

(d) ensure effective coordination and cooperation with the National Committee and among all competent authorities; and

(e) do such acts or things as are incidental or conducive to the fulfillment of its functions.

(4) For the purpose of subsection (2), competent authorities include supervisory authorities, Registrars and law enforcement authorities.

Added by [Act No. 15 of 2021]

19B. Functions of National Committee

The National Committee shall –

(a) coordinate the development, regular review and implementation of national policies and activities to combat money laundering and the financing of terrorism and proliferation;

(b) collect and analyse statistics and other information from competent authorities to assess the effectiveness of policies and measures to combat money laundering and the financing of terrorism and proliferation;

(c) make recommendations to the Minister for legislative, regulatory and policy reforms for the purposes of combating money laundering and the financing of terrorism and proliferation;

(d) promote co-ordination among the public sector authorities with a view to improving the effectiveness of existing policies to combat money laundering and the financing of terrorism and proliferation;

(e) formulate policies to protect the international repute of Mauritius;

(f) generally advise the Minister in relation to such matters relating to combating money laundering and the financing of terrorism and proliferation, as the Minister may refer to the National Committee; and

(g) shall keep the Core Group informed on a regular basis of matters related to its functions.

Amended by [Act No. 11 of 2018]; [Act No. 9 of 2019]; [Act No. 15 of 2021]

19C Meetings of the National Committee

(1) Seven members shall constitute a quorum of the National Committee.

(2) The National Committee shall regulate its meetings and proceedings in such manner as it thinks fit.

(3) The National Committee shall, in the discharge of its functions, be assisted by a Secretariat which shall be constituted with the approval of the Minister.

Amended by [Act No. 34 of 2003]; [Act No. 17 of 2007]; [Act No. 15 of 2021]

19D. National risk assessment

(1) The Ministry shall coordinate and undertake measures to identify, assess and understand the national money laundering and terrorism financing risks and review such risk assessments at least every 3 years.

(2) For the purposes of subsection (1), the Ministry shall conduct an assessment of the risks of money laundering and terrorist financing affecting the domestic market and relating to cross border activities and shall in particular, identify –

(a) the areas of the domestic market that are of greatest risk;

(b) the risk associated with each segment of the financial services sector and the sector relating to members of a relevant profession or occupation;

(c) the most widespread means used by criminals to launder illicit proceeds;

(d) the features and types of non-profit organisations which are likely to be at risk for terrorism financing abuse.

(3) The Ministry shall, to the extent possible, make available the findings of the national risk assessment to –

(a) every supervisory and investigatory authority and the Registrars for the purpose of subsection (4); and

(b) reporting persons, in order to assist them to identify, understand, manage and mitigate the risk of money laundering and terrorism financing and proliferation.

(4) Every supervisory and investigatory authority shall use the findings of the risk assessment to –

(a) assist in the allocation and prioritisation of resources to combat money laundering and terrorism financing;

(b) ensure that appropriate measures are put into place in relevant sectors to mitigate the risks of money laundering and terrorism financing.

(5) Any person involved in conducting a risk assessment, shall sign a confidentiality undertaking in the form set out in the Fourth Schedule and shall not disclose, or make use of, during and after the completion of the risk assessment exercise any confidential information relating to the risk assessment which comes to his knowledge.

(6) Any person who contravenes subsection (5) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Amended by [Act No. 9 of 2019]

19E. Duty to provide information for purpose of conducting risk assessment

(1) For the purpose of risk assessment, a supervisory authority, an investigatory authority or such other prescribed Government agency shall collect and maintain such statistical and other information in the form and manner and for such duration as may be prescribed.

(2) For the purpose of conducting a risk assessment, the Ministry may require any –

(a) supervisory authority, investigatory authority or Government agency to produce such information;

(b) reporting person to furnish such statistical or other relevant information relating to his business or to the business administered or managed by him for his clients,

within such time as the Ministry may determine.

(3) Any information provided to the Ministry shall be used exclusively for the purpose of risk assessment and may be given subject to conditions specified by the person providing the information, including conditions to restrict the use and disclosure of the information imparted.

(4) Any person who fails to comply with a request made under subsection (2)(b) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Amended by [Act No. 11 of 2018]; [Act No. 5 of 2020]

PART IVB – SUPERVISION BY REGULATORY BODIES

Sub-Part A – Application of Part IVB

19F. Application

(1) Any functions or powers required to be discharged or exercised by a regulatory body under this Part shall apply only to a member of a relevant profession or occupation falling under the purview of the regulatory body.

(2) Any reference made to a member under this Part shall be a reference made to a member of a relevant profession or occupation.

19FA. Application

(1) Any regulatory body may require such information as it may determine from any person listed in the first column of Part I of the First Schedule and the person shall, within such time as the regulatory body may determine, provide such information.

(2) Any person who fails to provide any information under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Amended [Act No. 5 of 2020]; [Act No. 15 of 2021]

Sub-Part B – Functions and Powers of Regulatory Body

19G. Functions of regulatory body

(1) Without prejudice to its existing functions under any other enactment, every regulatory body shall, for the purposes of this Act and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, and any regulations made and guidelines issued under those Acts –

(a) supervise, monitor and give guidance to a member falling under its purview;

(b) cooperate with, and assist, investigatory authorities;

(c) exchange information with investigatory authorities and supervisory authorities;

(d) assist and exchange information with overseas comparable regulatory bodies; and

(e) undertake and assist in research projects in order to identify the methods and trends of money laundering activities and the financing of terrorism and proliferation activities in Mauritius and in the region.

(2) A regulatory body may enter into an agreement or arrangement for the exchange of information with an overseas comparable regulatory body, provided that the overseas comparable regulatory body undertakes to protect the confidentiality of any information exchanged.

(3) A regulatory body may consult with, and seek such assistance from, any association or body representing a member or any other person as it may deem appropriate.

19H. Powers of regulatory body

(1) A regulatory body shall have such powers as are necessary to enable it to effectively discharge its functions and may, in particular –

(a) issue guidelines for the purposes of combating money laundering activities and the financing of terrorism and proliferation activities;

(b) give directions to a member falling under its purview to ensure compliance with this Act and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, and any regulations made and guidelines issued under those Acts;

(c) require a member falling under its purview to submit a report on corrective measures it is taking to ensure compliance with this Act and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, and any

regulations made and guidelines issued under those Acts, at such intervals as may be required by the regulatory body;

(d) with respect to a member falling under its purview, apply, subject to subsection (2), any or all of the following administrative sanctions –

(i) issue a private warning;

(ii) issue a public censure;

(iii) impose such administrative penalty as may be prescribed by the regulatory body;

(iv) ban, where the regulatory body has licensed or authorised the member to conduct his business or profession, from conducting his profession or business for a period not exceeding 5 years;

(v) revoke or cancel a licence, an approval or an authorisation, as the case may be.

(2) **(a) Repealed by [Act No. 15 of 2021]**

(b) Where a barrister, an attorney or a notary has failed or is failing to comply with, or has failed or is failing to take such measures as are required under this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, FIU may, in lieu of applying any administrative sanction referred to in subsection(1)(d), pursuant to section 13 of the Law Practitioners Act, report the matter to the Attorney-General.

(c) On receipt of a report under paragraph (b), the Attorney-General shall take such measures as are required under section 13 of the Law Practitioners Act.

(3) Any person who fails to comply with a direction issued under subsection (1)(b) and (c) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(4) A regulatory body may publish any of its decision or determination, or

the decision of the Review Panel, or any other information the regulatory body may deem appropriate.

Amended by [Act No. 15 of 2021]

Sub-Part C – Supervisory Powers of Regulatory Body

19J. Request for information

(1) A regulatory body may, in the discharge of its functions under this Act, require a member falling under its purview to furnish it with any information and produce any record or document within such time and at such place as it may determine.

(2) A member referred to in subsection (1) shall, immediately, comply with any request under subsection (1).

(3) The regulatory body may require any information or document furnished to it to be verified or authenticated in such manner as it may determine, and at the expense of the member.

(4) Any person who fails to comply with this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 2 years.

19K. On-site inspections

(1) (a) A regulatory body may, at any time, cause to be carried out on the business premises of a member falling under its purview an inspection and an audit of its books and records to verify whether the member is complying or has complied with this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts.

(b) A regulatory body may, when exercising a power under subsection (1), request such assistance as may be necessary from FIU or any supervisory authorities.

(2) For the purpose of subsection (1), the regulatory body may –

(a) direct, orally or in writing –

(i) the member; or

(ii) any other person whom the regulatory body reasonably believes has in its possession or control a document or thing that may be relevant to the inspection,

to produce the document or thing as specified in the direction;

(b) examine, and make copies of or take extracts from, any document or thing that it deems necessary to be relevant to the inspection;

(c) retain any document or thing it deems necessary; and

(d) direct a person who is or apparently is an employee of the member to give information about any document or thing that it deems necessary to be relevant to the inspection.

(3) The member referred to in subsection (1), or where applicable, its employee, shall give the regulatory body full and free access to the records and other documents of the member as it deems necessary to be relevant for the inspection.

(4) Any person who –

(a) intentionally obstructs the regulatory body in the performance of any of its duties under this section; or

(b) fails, without reasonable excuse, to comply with any direction of the regulatory body in the performance of its duties under this section,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(5) Any person who destroys, falsifies, conceals or disposes of, or causes or permits the destruction, falsification, concealment or disposal of, any document, information stored on a computer or other device or other thing that the person knows or ought reasonably to have known is relevant to an on-site inspection or investigation, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5 million rupees and to imprisonment for a term not exceeding 10 years.

(6) In this section –

"regulatory body" includes any person designated in writing by the regulatory body.

Sub-Part D – Powers of Regulatory Body to Give Directions

19L. Directions by regulatory body

(1) Where a regulatory body has reasonable cause to believe that a member falling under its purview –

(a) has failed or is failing to take such measures as are required under this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts; or

(b) is involved in money laundering activities and the financing of terrorism and proliferation activities,

the regulatory body may give the member such written direction as it may, in the circumstances, determine.

(2) Without prejudice to the generality of subsection (1), the regulatory body may direct the member referred to in subsection (1) –

(a) where he has failed or is failing to take such measures as are required under this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, to do a specified act, or refrain from doing a specified act;

(b) to comply with this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, which may be relevant to the circumstances;

(c) to remove or take steps to remove any specified employee from office, or ensure that a specified employee does not take part in his management or conduct of his business, except as permitted by the regulatory body;

(d) to appoint a specified person to a specified office for a period specified in the direction;

(e) to implement corrective measures and provide, at such intervals as may be specified in the direction, reports on the implementation of the corrective measures.

(4) A direction under this section may specify the time by which, or period during which, it shall be complied with.

(5) A member referred to in subsection (1) who has been given a direction shall comply with the direction notwithstanding anything in its constitution or any contract or arrangement to which it is a party.

(6) The regulatory body shall not give a direction under this section before giving the member to whom it is to be addressed reasonable opportunity to make written representations on the matter.

(7) The regulatory body may revoke a direction under this section at any time by notice to the member.

19M. Non-compliance with directions

(1) Any person to whom a direction is given under this Act shall comply with the direction and where he fails to comply with the direction and a time period is specified for compliance, the person shall commit a separate offence for each day on which the direction is not complied with, after the time period for compliance has elapsed, and shall, on conviction, in respect of each offence, be liable to a fine of 5,000 rupees per day.

(2) A person who knowingly hinders or prevents compliance with a direction given under this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Sub-Part E – Administrative Sanction and Compounding of Offences

19N. Administrative sanction

(1) Subject to subsection (2), where a regulatory body has reasonable

cause to believe that a member falling under its purview –

(a) has contravened this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts;

(b) is involved in money laundering activities and the financing of terrorism and proliferation activities;

it may, subject to this Act, impose such administrative sanction as it may determine.

(2) Where the regulatory body intends to impose an administrative sanction under section 19H(1)(d) against the member referred to in subsection (1), it shall issue a notice to the member stating –

(a) its intention to impose the administrative sanction;

(b) the type and terms of the administrative sanction; and

(c) the right of the member to make written representations to the regulatory body within 21 days of the notice.

(3) Where, after considering the written representations under subsection (2)(c) and the regulatory body is satisfied that the member has contravened subsection (1), or where no written representations are received, it shall impose the administrative sanction on the member.

(4) In addition to any administrative sanction imposed by the regulatory body, the Review Panel may direct the member to take such remedial action as it may determine.

(5) Any administrative penalty shall be a debt due to the regulatory body and may be recovered by the regulatory body as a civil debt in a court of competent jurisdiction.

(6) Any administrative penalty paid to the regulatory body shall be credited to the Consolidated Fund.

19P. Compounding of offences

(1) The regulatory body may, with the consent of the Director of Public Prosecutions, compound any offence committed under this Act or the United

Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, by a member falling under its purview where the member agrees, in writing, to pay such amount not exceeding the maximum penalty specified for the offence as may be acceptable to the regulatory body.

(2) Every agreement to compound shall be final and conclusive and on payment of the agreed amount, no further proceedings in regard to the offence compounded shall be taken against the member who agreed to the compounding.

(3) Where the regulatory body compounds an offence in accordance with this section, no further proceedings shall be initiated in respect of the offence so compounded against the person.

(4) Where the Director of Public Prosecutions does not give his consent to compound the offence or a person does not agree to compound the offence, the regulatory body may, with the consent of the Director of Public Prosecutions refer the case to the Police for legal proceedings.

Sub-Part F – Review Panel

19Q. Review Panel

(1) There shall be, for the purposes of this Part, a Review Panel which shall –

(a) be responsible to review a decision of a regulatory body to impose an administrative sanction under section 19N;

(b) be responsible to review a decision of the Financial Reporting Council under section 23A of the Financial Reporting Council;

(c) be responsible to review a decision of the Registrar of Associations under section 14K of the Registration of Associations Act; and

(d) have such other functions and powers as may be prescribed.

(2) (a) The Review Panel shall consist of –

(i) a Chairperson, who shall be a retired Judge or a barrister of not less than 15 years' standing; and

(ii) 2 other members who shall have sufficient knowledge and

experience in the field of AML/CFT, law or accountancy,

to be appointed by the Prime Minister on such terms and conditions as he may determine.

(b) A member of the Review Panel may resign by giving one month notice in writing to the Prime Minister.

(c) A member of the Review Panel shall cease to hold office where he is unfit to be a member, or on grounds of breach of trust, misconduct or default in the discharge of his functions.

(3) (a) The Review Panel may, where necessary, co-opt such other person having experience in the field of the business conducted by the aggrieved person the purposes of dealing with the particular application for review.

(b) A person co-opted under paragraph (a) shall be deemed to be a member of the Review Panel for the purposes of that particular application for review.

(4) In the discharge of its functions, the Review Panel shall not be subject to the direction or control of any other person or authority.

(5) A member of the Review Panel shall, during and after his period of service with the Review Panel, maintain the confidentiality of any matter which comes to his knowledge in the performance of his duties under this Act, except where he is required to so by law.

(6) Any member of the Review Panel shall, in relation to any matter before it, in which he or any person related to him by blood or marriage has a pecuniary or other material interest –

(a) disclose the nature of the interest in writing to the Chairperson and where the member is the Chairperson, to the other members of the Review Panel, before the meeting is convened to discuss that matter; and

(b) not take part in any deliberations of the Review Panel.

(7) Any member of the Review Panel shall, before he begins to perform any duties under this Act, take an oath of confidentiality in such form as the Permanent Secretary of the Ministry may determine.

19R. Staff of Review Panel

The Ministry shall extend such administrative and secretarial assistance as may be necessary to enable the Review Panel to properly discharge its functions under this Act.

19S. Application for review

(1) A member who is aggrieved by the decision of the regulatory body under section 19N –

(a) may, within 21 days of the decision of the regulatory body, make an application to the Review Panel for a review of that decision, specifying the reasons thereof; and

(b) shall, at the same time, forward a copy of his application by registered post to the regulatory body.

(2) Where a member is unable to make an application within the period of 21 days referred to in subsection (1)(a), the Review Panel may, on good cause shown, accept to hear the application.

(3) The decision of the regulatory body under section 19N shall be given effect immediately after the period of 21 days from the date of the decision.

(4) The Review Panel may, after hearing the aggrieved member, suspend the implementation of the decision of the regulatory body under section 19N on such terms and conditions as it may determine.

Amended by [Act No. 15 of 2021]

19T. Proceedings of Review Panel

(1) The Review Panel shall sit as and when required and at such place and time as the Chairperson may determine.

(2) At any meeting of the Review Panel, 2 members shall constitute a quorum.

(3) (a) Subject to this Act, the Review Panel shall regulate its proceedings in such manner as it may determine

and shall ensure, subject to paragraph (b), that proceedings are conducted in a manner which is consistent with the rules of natural justice and procedural fairness.

(b) The Review Panel shall not be bound by the rules of evidence but may remain guided by them on any matter as it considers appropriate in the circumstances.

(4) The relevant regulatory body or the Financial Reporting Council shall be a party to the review proceedings.

(5) Any party to the proceedings before the Review Panel may be represented by counsel or attorney or any other representative duly authorised by him who shall be allowed reasonable opportunity to present the case and in particular, to inspect documents which the Review Panel proposes to consider in determining the case.

(6) (a) The Chairperson of the Review Panel may make rules, not inconsistent with this Act, for or with respect to the proceedings of the Review Panel.

(b) Rules made under paragraph (a) may provide for the payment of costs by the parties in relation to the matter before the Review Panel.

19U. Powers of Review Panel

For the purpose of reviewing a decision, the Review Panel may –

(a) summon and hear witnesses;

(b) call for the communication or production of any relevant record, document or article; and

(c) proceed in the absence of a party who, by notice, has been given reasonable opportunity to attend the proceedings.

19V. Determination of Review Panel

(1) On the hearing of an application for review, the Review Panel may –

(a) confirm, amend or cancel a decision made by the regulatory body;

(b) remit the matter to the regulatory body for reconsideration.

(2) Where there is a disagreement among the members of the Review Panel, the decision of the majority shall be the determination of the Review Panel.

(3) Any determination of the Review Panel shall be in writing, and shall include the reasons for the determination, a statement of its findings on material questions of fact and a reference to the evidence or other material on which the findings are based.

(4) The Review Panel shall cause its determination to be served on each party to the proceedings and any determination of the Review Panel shall be published in such form and manner as it may determine.

(5) (a) Subject to paragraph (b), a determination of the Review Panel shall come into operation on the date of the determination.

(b) The Review Panel may specify in the determination the date on which the determination is to come into operation.

(6) Any decision of the Review Panel shall not be altered or set aside, or a new decision taken thereon, by the regulatory body, except by the Review Panel or with the consent of the parties to the proceedings and with the concurrence of the Review Panel.

19W. Offences relating to proceeding of Review Panel

Any person who, without reasonable cause –

(a) fails to attend the Review Panel after having been summoned to do so under section 19U;

(b) knowingly gives false evidence, or evidence which he knows to be misleading, before the Review Panel; or

(c) at any hearing of the Review Panel –

(i) wilfully insults a member;

(ii) wilfully interrupts or disturbs the proceedings,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 3 years.

19X. Judicial review

Any party who is dissatisfied with the determination of the Review Panel may apply to the Supreme Court for a judicial review of the determination.

19Y. Application of Sub-part

This Sub-part shall apply, with such modifications and adaptations as may be necessary, for the review of the decision of –

(a) the Financial Reporting Council under section 23A of the Financial Reporting Council; and

(b) the Registrar under section 14K of the Registration of Associations Act.

Added by [Act No. 9 of 2019]

PART V - PROVISION AND EXCHANGE OF INFORMATION IN RELATION TO MONEY LAUNDERING AND FINANCIAL INTELLIGENCE INFORMATION

20. Membership of international financial intelligence groups and provision of information to overseas financial intelligence units

(1) The FIU shall be the only body in Mauritius which may seek recognition by any international group of overseas financial intelligence units which exchange financial intelligence information on the basis of reciprocity and mutual agreement.

(2) Where it becomes a member of any such international group as is referred to in subsection (1), the FIU may exchange information with other members of the group in accordance with the conditions for such exchanges established by the group.

(3) Without prejudice to subsections (1) and (2), where the FIU becomes aware of any information which may be relevant to the functions of any overseas financial intelligence unit, or comparable body it may, offer to pass on that information to the overseas financial intelligence unit or comparable body on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(4) Subject to subsection (5), where a request for information is received from an overseas financial intelligence unit or comparable body, the FIU shall pass on any relevant information in its possession to the overseas financial intelligence unit or comparable body, on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(5) Where a request referred to in subsection (4) concerns information which has been provided to the FIU by a supervisory authority, a Ministry or other Government department or statutory body, the information shall not be passed on without the consent of that supervisory authority, Ministry, Government department or statutory body, as the case may be.

Amended by [Act No. 34 of 2003]

21. Provision of information by FIU to investigatory authorities, supervisory authorities, Counterterrorism Unit, Real Estate Agent Authority, Financial Reporting Council or Registrars

(1) Where it becomes aware of any information, which-

(a) may be relevant to the functions of any of the supervisory authorities, the Counterterrorism Unit, the Real Estate Agent Authority, the Financial Reporting Council or Registrars; and

(b) does not of itself justify a dissemination to any of the investigatory authorities under section 13,

the FIU may, by itself or at the request of the supervisory authorities the Counterterrorism Unit, the Real Estate Authority or the Financial Reporting Council or Registrars, subject to subsection (4), pass on the information to the relevant supervisory authority the Counterterrorism Unit the Real Estate Agent Authority, the Financial Reporting Council or Registrar.

(1A) FIU may, at the request of any supervisory authority and for the sole purpose of assisting the supervisory authority to discharge its compliance functions, provide it with a copy of the suspicious transaction report made under section 14(1).

(2) Where it becomes aware of any information which may be relevant to an investigation or prosecution being conducted by one of the investigatory authorities, the FIU shall, subject to subsection (4), pass on the information to that investigatory authority.

(3) Where it becomes aware of any information which may be relevant to a possible corruption offence, within the meaning of the Prevention of Corruption Act 2002, the FIU shall, subject to subsection (4), pass on the information to the Commission.

(4) If any information falling within subsections (1), (2) or (3) was provided to the FIU by a body outside Mauritius on terms of confidentiality, the information shall not be passed on as specified in those subsections without the consent of the body by which it was provided.

Amended by [Act No. 34 of 2003]; [Act No. 9 of 2019]; [Act No. 5 of 2020]; [Act No. 10 of 2020]

22. Provision of information by supervisory authorities, Counterterrorism Unit, Real Estate Agent Authority, Financial Reporting Council or Registrars to FIU

(1) Notwithstanding any other enactment, where, at any time in the course of the exercise of its functions, any supervisory authority, the Counterterrorism Unit, the Real Estate Authority, the Financial Reporting Council or Registrar receives, or otherwise becomes aware of, any information suggesting the possibility of a money laundering offence or suspicious transaction, the supervisory authority, the Counterterrorism Unit, the Real Estate Authority, the Financial Reporting Council or Registrar, shall, forthwith pass on that information to the FIU.

(2) **Repealed by [Act No. 34 of 2003]**

(3) No liability shall be incurred under any enactment, whether for breach of confidentiality or otherwise, in respect of the disclosure of any information to the FIU pursuant to this section by the supervisory authority or any of its officers or members of its Board.

(4) For the purposes of this subsection, "officer" includes a director, employee, agent or other legal representative.

Amended by [Act No. 34 of 2003]; [Act No. 9 of 2019]; [Act No. 5 of 2020]; [Act No. 10 of 2020]

PART VI - EXTRADITION IN RELATION TO CASES OF MONEY LAUNDERING

Amended by [Act No.35 of 2003]

23- 28 Repealed by [Act No. 35 of 2003]

29. Money laundering offence to be extraditable

Any money laundering offence shall be deemed to be an extradition crime for which extradition may be granted or obtained under the Extradition Act.

PART VIA – ACCOUNTS, AUDIT AND ANNUAL REPORT

29A. Accounting records

The FIU shall keep and maintain proper accounting records for the purpose of recording all transactions relating to its undertakings, funds, activities and property.

29B. Strategic plan and annual estimates

(1) The FIU shall submit to the Minister, not later than 30 June in

every year, in respect of the next financial year, a 3-year strategic plan in line with the programme-based budgeting indicating the vision and goals of the FIU with a view to attaining its objects and appreciation of the state of its affairs.

(2) The FIU shall submit to the Minister, not later than 31 August in every year, in respect of the next financial year, estimates of income and estimates of expenditure of the FIU, duly approved by the Board.

29C. Annual report

(1) The FIU shall cause to be prepared an annual report.

(2) The annual report under subsection (1) shall consist of –

(a) the financial statements in respect of the financial year, prepared in compliance with the International Public Sector Accounting Standards (IPSAS) issued by IFAC;

(b) a report on the activities of the FIU, its outcomes and outputs together with information on its key performance indicators, during the financial year; and

(c) a corporate governance report in accordance with the National Code of Corporate Governance.

(3) The Director shall be responsible for the proper and timely performance of the requirements of this section.

29D. Submission of annual report

(1) The Director shall, not later than 3 months after the end of every financial year, submit to the Board for approval the annual report referred to in section 29C in respect of that year, duly signed by him.

(2) After approval by the Board, the Director shall, not later than 30 April after the end of every financial year, submit the annual report to the Director of Audit.

(3) The Director of Audit shall, within 6 months of the date of receipt of the annual report pursuant to subsection (2), submit the annual report and his audit report to the Board.

29E. Disciplinary action for non-compliance

Where, in the opinion of the Director, any officer of the FIU –

(a) has not properly performed his duties with the result that the requirements of sections 29A to 29C cannot be complied with within the prescribed time; or

(b) has not complied with any other provision of this Act,

the Board may, after giving an opportunity for the officer to be heard, take appropriate disciplinary action against the officer.

29F. Submission of annual report to the Minister

(1) On receipt of the annual report referred to in section 29D(3), the Director shall, not later than one month from the date of receipt, submit the annual report to the Minister.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report of the FIU before the Assembly.

Added by [Act No. 27 of 2013]

PART VII-MISCELLANEOUS

30. Confidentiality

(1) The Director, every officer of the FIU, and the Chairperson and members of the Board shall -

(a) before they begin to perform any duties under this Act, take an oath of confidentiality in the form set out in the Second Schedule; and

(b) maintain during and after their relationship with the FIU the confidentiality of any matter relating to the relevant enactments.

(2) No information from which an individual or body can be identified and which is acquired by the FIU in the course of carrying out its functions shall be disclosed except where the disclosure appears to the FIU to be necessary -

(a) to enable the FIU to carry out its functions;

(b) in the interests of the prevention or detection of crime; or

(c) in connection with the discharge of any international obligation to which Mauritius is subject.

(2A) (a) Notwithstanding subsection (2), any information disclosed by FIU shall only be disclosed according to the terms and conditions specified in the disclosure.

(b) Where a person who receives the information disclosed under paragraph (a) fails to comply with those terms and conditions, he shall commit an offence.

(3) Any person who contravenes this section shall commit an offence and, on conviction, shall be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 3 years.

Amended by [Act No. 34 of 2003]; [Act No. 27 of 2013]; [Act No. 11 of 2018]

31. Declaration of assets

(1) The Director, every officer of the FIU, and the Chairperson and every member of the Board shall file with the Commission, not later than 30 days from his appointment, a declaration of his assets and liabilities in the form set out in the Third Schedule.

(2) Every person referred to in subsection (1) shall make a fresh declaration of his assets and liabilities, every year, and also on the expiry of his employment or termination of his employment on any ground.

(3) No declaration of assets filed under subsection (1) or subsection (2) shall be disclosed to any person except with the consent of the Director or officer concerned or, on reasonable grounds being shown, by order of a Judge.

(4) Any person referred to in subsection (1) who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 2 years.

Amended by [Act No. 34 of 2003]; [Act No. 27 of 2012]; [Act No. 9 of 2019]

32. Immunity

(1) No action shall lie against the FIU, the Director, any officer of the FIU, or the Chairperson and members of the Board, as the case may be, in respect of any act done or omission made by the FIU, the Director, any officer of the FIU, or the Chairperson or members of the Board, as the case may be, in good faith, in the exercise of the functions conferred on the FIU under this Act or any other enactment.

(2) No action shall lie against the Review Panel or any member of the Review Panel, in respect of any act done or omission made by it or any member, in good faith, in the exercise of its or his functions conferred under this Act or under any other enactment.

Amended by [Act No. 34 of 2003]; [Act No. 9 of 2019]

32A. Offence in respect of contravention of Act

Any person who contravenes this Act shall commit an offence and shall, on conviction, be liable, where no specific penalty is provided, to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Added by [Act No. 11 of 2018]

33. Funding

(1) The expenses of the FIU shall be met out of-

(a) money appropriated annually by Parliament for the purposes of the FIU; and

(b) any government grants made to it.

(2) (a) With the consent of the Minister, the FIU may accept donations.

(b) Article 910 of the Code Civil Mauricien shall not apply to a donation to the FIU.

34. Repealed by [Act No. 27 of 2013]

35. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may make provisions, not inconsistent with this Act or any other Act of Parliament in order to enable Mauritius to comply with any international obligation relating to the prevention or detection of money laundering, or terrorism financing and proliferation financing.

(3) Regulations made under this section may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a

fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

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(5) Regulations made under subsection (1) may provide for the amendment of the Schedules.

Amended by [Act No. 34 of 2003]; [Act No. 27 of 2012]; [Act No. 11 of 2018]; [Act No. 9 of 2019]

36. Consequential amendments

(1) The **Banking Act** is amended -

(a) in section 39A(3) -

(i) by inserting immediately after the words "arms trafficking", the words ",offences related to terrorism under the Prevention of Terrorism Act 2002";

(ii) by adding after the words "money laundering", the words "under the Financial Intelligence and Anti-Money Laundering Act 2002";

(b) in section 40(1), by deleting the words "Economic Crime and Anti-Money Laundering Act 2000" and replacing them by the words "Financial Intelligence and Anti-Money Laundering Act 2002".

(2) The **Financial Services Act 2001** is amended in section 33(6), by deleting the words "or money laundering under the Economic Crime and Money Laundering Act 2000" and replacing them by the words ", terrorism under the Prevention of Terrorism Act 2002 or money laundering under the Financial Intelligence and Anti- Money Laundering Act 2002".

(3) The **Foreign Exchange Dealers Act** is amended in section 6(2)(a)(i)(E), by deleting the words "or the Economic Crime and Anti-Money Laundering Act

2000" and replacing them by the words "or the Financial Intelligence and Anti-Money Laundering Act 2002".

37. Commencement

Proclaimed by [Proclamation No. 31 of 2002] w.e.f. 10th June, 2002

FIRST SCHEDULE

[Section 2]

PART I - REGULATORY BODIES

Member of a relevant profession or occupation	Regulatory body
1. Professional accountant, and public accountant under the Financial Reporting Act only where they are sole practitioners, partners or employed professionals within member firms – **Amended by [Act No. 15 of 2021]**	Mauritius Institute of Professional Accountants established under the Financial Reporting Act
2. Member firms under this Act **Amended by [Act no. 5 of 2020]; [Act No. 15 of 2021]**	Mauritius Institute of Professional Accountants, established under the Financial Reporting Act
3. Law firm, foreign law firm, joint law venture, foreign lawyer, under the Law Practitioners Act	Attorney-General
4. Attorney	FIU
5. Barrister	FIU

6. Notary	FIU
7. Person licensed to operate a casino, a hotel casino, as a horse racing organiser, the Mauritius National Lottery, a limited payout machine, a sweepstake, as a local pool promoter, as the agent of a local pool promoter, a gaming house, a gaming machine, as a totalisator, as a bookmaker and interactive gambling under the Gambling Regulatory Authority Act	Gambling Regulatory Authority established under the Gambling Regulatory Authority Act
8. Dealer in jewellery, precious stones or precious metals	FIU
9. Real Estate Agents, including Land Promoters and Property Developers (in so far as it relates to AML/CFT under this Act or under any other relevant enactment)	FIU
10. **Deleted by [Act No. 10 of 2020]**	
11. **Deleted by [Act No. 5 of 2020]**	
12. Company Service Provider	Registrar of Companies

Amended by [GN No. 110 of 2013]; [Act No. 18 of 2016]; [Act No. 9 of 2019]; [Act No. 5 of 2020]; [Act No. 10 of 2020]; [Act No. 15 of 2021]

PART II – TRANSACTIONS UNDERTAKEN BY MEMBERS OF A RELEVANT PROFESSION OR OCCUPATION

(1) The members of a relevant profession or occupation shall comply with this Act or any regulations made or any guidelines issued under this Act, in the following situations –

(a) a person licensed, under the Gambling Regulatory Authority Act, to operate a casino, hotel casino, limited payout machine, sweepstake, gaming house, gaming machine, where any of his customers engages in, on any given date, a total cumulative financial transaction equal to or above 20,000

rupees or an equivalent amount in foreign currency;

(b) a totalisator, a bookmaker, a local pool promoter, the agent of a foreign pool promoter and pool collector, under the Gambling Regulatory Authority Act, where any of his customers engages in , on any given date, a total cumulative financial transaction equal to or above 20,000 rupees or an equivalent amount in foreign currency;

(c) a real estate agent where he is involved in real estate transactions concerning the sale, exchange, purchase or lease of real estate for a client;

(ca) a land promoter and property developer who, in the course of a business, is involved in real estate transactions concerning the sale, exchange, purchase or lease of real estate;

(d) a dealer in jewellery, precious stones or precious metals who engages in any transaction of at least 500,000 rupees in total, whether the transaction is executed in a single operation or in several operations which appear to be linked;

(e) a barrister, an attorney, a notary, a law firm, a foreign law firm, a joint law venture, a foreign lawyer under the Law Practitioners Act, and a professional accountant, a public accountant and a member firm licensed under the Financial Reporting Act, who prepares for, or carries out, transactions for his client concerning the following activities –

(i) buying, selling or rental of real estate;

(ii) managing of client money, securities or other assets;

(iii) management of bank, savings or securities accounts;

(iv) organisation of contributions for the creation, operation or management of legal persons such as a company, a foundation, a limited liability partnership or such other entity as may be prescribed;

(v) creating, operating or management of legal persons such as a company, a foundation, an association, a limited liability partnership or such other entity as may be prescribed, or legal arrangements, and buying and selling of business entities; or

(vi) any activity for a client specified in item (f);

(f) a company service provider who prepares, or carries out, transactions for a

client concerning the following activities –

(i) acting as a formation agent of a legal person with a view to assisting another person to incorporate, register or set up, as the case may be, a company, a foundation, a limited liability partnership or such other entity as may be prescribed;

(ii) acting, or causing another person to act, as a director, as a secretary, as a partner or in any other similar position, as the case may be, of a legal person such as a company, foundation, a limited liability partnership or such other entity as may be prescribed;

(iii) providing a registered office, a business address or an accommodation, a correspondence or an administrative address for a legal person such as a company, a foundation, a limited liability partnership or such other entity as may be prescribed; or

(iv) acting, or causing for another person to act, as a nominee shareholder for another person.

(2) In this Part –

"given date" means a period of 24 hours starting at 10 o'clock in the morning on a day and ending at 10 o'clock in the morning on the following day.

Repealed and Replaced by [Act No. 9 of 2019]

Amended by [GN No. 48 of 2004]; [Act No. 27 of 2012]; [GN No. 27 of 2013]; [GN No. 110 of 2013]; [Act No. 5 of 2020]; [Act No. 10 of 2020]; [Act No. 15 of 2021]

SECOND SCHEDULE

(section 30)

Oath of confidentiality

IN THE SUPREME COURT OF MAURITIUS

I, ...being appointed.....do hereby swear/solemnly affirm that I will, to the best of my judgment, act in furtherance of the objects of the Financial Intelligence Unit and shall not, on any account and at any time, disclose, otherwise than with the authorisation of the Financial Intelligence Unit or where it is strictly necessary for the performance of my duties, any confidential information obtained by me during or after my relationship with the Financial Intelligence Unit.

Taken before me,

The Master and Registrar of the Supreme Court on ... (date)

THIRD SCHEDULE

(section 31)

DECLARATION OF ASSETS AND LIABILITIES

I, ...of the Financial Intelligence Unit

make oath/solemn affirmation as a and declare that -

1. I am unmarried/married under the system of (matrimonial regime)
2. My assets and those of my spouse and minor children (extent and nature of interests therein) in Mauritius and outside Mauritius are as follows -

    (a) immoveable property –

(i) freehold

(ii) leasehold

(b) motor vehicles

(c) interest in any partnership, société, joint venture or succession

(d) securities including treasury bills, units, etc. ,

(e) cash in bank ;

(f) cash in hand exceeding 50,000 rupees

(g) jewellery and precious metals

(h) other assets exceeding 50,000 rupees in the aggregate (specify)

3. My liabilities and those of my spouse and minor children are as follows -

Signature Sworn/solemnly affirmed by the abovenamed before me at this..... day of....

Master and Registrar

Supreme Court

FOURTH SCHEDULE

[Section 19D(5)]

CONFIDENTIALITY UNDERTAKING

I, the undersigned, holder of National Identity Card Number/Passport number……..... .. residing at .....……..……..... having been nominated by [name of institution …….....

.....…….....….] to participate in the National Risk Assessment exercise undertaken by the Ministry, hereby undertake to keep as confidential all information and documents of such nature imparted to me or generated in the course of this process. I further undertake not to disclose to any third party or make use of any such information or document during or after the completion of the National Risk Assessment exercise.

Signature: ……

Full Name: ……

Date: ……

Added by [Act No. 11 of 2018]