



**ANTI-MONEY LAUNDERING AND COUNTERING THE
FINANCING OF TERRORISM (SECOND AMENDMENT) ACT, 2021**

(Act 62 of 2021)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

17th December, 2021

AN ACT TO AMEND THE ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT, 2020 (ACT 5 OF 2020).

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Second Amendment) Act, 2021.

Amendments to Act 5 of 2020

2. The Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (hereinafter referred to as the principal Act) is hereby amended as follows —

(a) in section 2 of the principal Act,

(i) by repealing the definition of “beneficial owner” and therefor substituting the following definition —

‘ “beneficial owner” shall have the meaning assigned to it under the Beneficial Ownership Act, 2020 (Act 4 of 2020) and the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);”;

(ii) by repealing the definition of “Suspicious Transaction Report” and therefor substituting the following definition —

‘ “Suspicious Transaction Report or Suspicious Activity Report” means a report that shall be submitted by a reporting entity to the FIU under section 48, if there are reasonable grounds to suspect that an activity or a transaction or series of transactions made or attempted in the course of their activities relating to the commission or the attempted commission of criminal conduct including money laundering and terrorist financing offences;”;

(b) in section 13 of the principal Act, by inserting after paragraph (e), the following paragraph —

“(ea) direct any reporting entity which is in the possession of any record, document or information that is necessary for the discharge of the functions of the FIU to produce such record, document or information to the FIU”;

- (c) by replacing section 21 (b) of the principal Act with “any Government grants, including sums from the Asset Recovery Fund and the designated account, made to it; and”
- (d) in section 27 (1) of the principal Act —
- (i) in paragraph (d), by repealing the words “for a period not exceeding five working days”;
- (ii) in paragraph (e), by repealing the words “for a period not exceeding five working days”;
- (iii) after paragraph (e), by adding the following proviso —
- “Provided that the period for refraining the reporting entity from completing the transaction under paragraph (d) and freezing of banking or similar account of the entity or person under paragraph (e), shall not exceed ten working days.”;
- (e) in section 29 (6) of the principal Act, by repealing the words “requesting FIU's” and therefor substituting the words “requesting foreign counterpart agencies”;
- (f) in section 30A of the principal Act, by inserting after subsection (5), the following subsection —
- “(6) The designated high-risk NPO's under subsection (1) shall be regulated in accordance with the regulations, as may be prescribed by the Minister in consultation with the Committee.”;
- (g) in section 32(6) of the principal Act, by repealing the words “money laundering and the terrorist financing activities” and substituting therefor the following words “money laundering and terrorist financing activities”;
- (h) in section 34 of the principal Act —

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- (a) in subsection (3)
- (i) by inserting after the words “management level”, the words “or employee with the same qualifications prescribed for the compliance officer,”;
- (ii) by repealing the words “absence of a compliance office” and substituting therefor the words “absence of a compliance officer”;
- (b) in subsection (4), by adding after the words “under subsection (1)” the words “or an alternate compliance officer under subsection (3)”;
- (i) in section 35 (2)(c) of the principal Act by inserting after the words “identify the beneficial owner”, the words “in accordance with the determination provided under regulation 3 of the Beneficial Ownership Regulations, 2020 (S.I. 107 of 2020);
- (j) section 45 of the principal Act —
- (a) by repealing subsection (2) and therefor substituting the following subsection —
- “(2) The following particulars shall be made available by the ordering financial institution —
- (a) in the case of domestic wire transfers, full details of the originator information within three business days from the date of request from the beneficiary financial institution or from the appropriate competent authority; and
- (b) in the case of cross-border transfers, where individual transfers from a single originator are bundled in a batch file,

the originator's account number, full beneficiary information and the unique reference number allocated for such transfer including the full details of the originator information traceable in the recipient jurisdiction.”;

- (b) in subsection (5)(b), by repealing the words “section 35” and substituting therefor the words “section 47”;
- (c) by repealing subsection 5 (c) and renumbering subsection 5 (d) as subsection 5(c);
- (d) by inserting a new subsection after subsection (5) —

“(5A) Every reporting entity receiving a wire transfer shall ensure that the identity of the beneficiary is verified, where the identity has not been previously verified and maintain the information in accordance with the provisions of section 47.”;

- (k) in section 50(1) of the principal Act, by repealing paragraphs (f) and (g) and substituting therefor the following paragraph —

“(f) an investigation has commenced concerning the circumstances that gave rise to the suspicious transaction report, the warrant or the production order,

makes any disclosure which could or may or be likely to prejudice the implementation of the warrant, the making available of the material in accordance with the production order, or the investigation, commits an offence and is liable on conviction to imprisonment up to six months or to a fine not exceeding SCR200,000 or to both.”;

- (l) in section 57 of the principal Act i —
 - (a) in subsection (1), by inserting after paragraph (g), the following paragraphs —

- “(ga) to caution a reporting entity not to repeat a non-compliant conduct;
- (gb) to direct a reporting entity to take remedial action;”;
- (b) by repealing subsection (3) and therefor substituting the following subsection —
- “(3) Every reporting entity, including a director, manager or other officer involved in the control or management of the entity, that —
- (i) obstructs or interferes with the exercise of the powers of a supervisory authority;
- or
- (ii) fails to comply with a direction or request made by the supervisory authority within such timeframe as may be specified by the supervisory authority,
- commits an offence and is liable on conviction to a fine not exceeding SCR200,000.”;
- (m) in section 58 of the principal Act, by repealing subsection (9) and therefor substituting the following subsections —
- “(9) Every supervisory authority and every other relevant authority shall when called upon to do so by the Financial Action Task Force or on the Committee's independent determination specify the countermeasures that shall apply to a high-risk country as may be necessary and proportionate to the risk, business relationship and transaction.
- (10) The countermeasures referred to in subsection (9) may be prescribed by regulations or by other enforceable ity

means as may be deemed necessary by a supervisory authority or other relevant authority.

(11) Every supervisory authority shall take measures to ensure that reporting entities are advised of concerns about weaknesses in the AMLCFT systems of other countries.

(12) For the purposes of subsection (9), “relevant authority” refers to every public authority with designated responsibilities for combating money laundering or terrorist financing, including the FIU, authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing or freezing and confiscating criminal assets, authorities receiving reports on cross-border transportation of currency and bearer negotiable instruments and authorities that have Anti-Money Laundering and Countering the Financing of Terrorism supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and Designated Non-Financial Businesses or Professions with Anti-Money Laundering and Countering Financing of Terrorism requirements.

- (n) in section 60 of the principal Act —
- (a) in subsection (1), by adding after the words “directive issued under the Act” the words “,within the timeframe specified by the supervisory authority”;
 - (b) in subsection (3), by repealing paragraphs (a) and (b) and consequentially renumbering paragraphs (c), (d) and (e) as paragraphs (a), (b) and (c);
 - (c) by inserting after subsection (3), the following subsection —

“(3A) (i) Any financial penalty imposed by the supervisory authorities under this section or under any other provision of the Act shall be credited to a separate

designated account maintained by the Ministry of Finance for this purpose and the funds so accrued in the account shall be utilised only for the purpose of anti-money laundering and countering the financing of terrorism compliance awareness, education and capacity building for implementing the provisions of the Act.

(ii) The designated account shall be audited by the Auditor-General in accordance with the provisions of Article 158 of the Constitution.”

- (o) in section 61(2)(a) of the principal Act, by repealing the words “at least 10 years' experience” and therefor substituting the words “at least 3 years' experience”;
- (p) in section 67(1)(b) of the principal Act, by repealing the words “FCIU officer” and therefor substituting the words “law enforcement officer”;
- (q) in section 69 of the principal Act —
 - (i) in subsection (4), by adding after the words “Attorney General” the words “or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
 - (ii) in subsection (6), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of Anti-Corruption Commission of Seychelles”;
- (r) in section 69A of the principal Act —
 - (i) in subsection (1), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
 - (ii) in subsection (2), by adding after the words “Attorney General” the words “ or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles”;
- (s) by repealing section 74 (2) of the principal Act and substituting therefor the following subsection —

- “(2) The officers referred to in subsection (1) may seize, any cash found during a search under subsection (1) if they have reasonable grounds for suspecting that it represents proceeds of crime, or is intended by any person to be used in connection with any criminal conduct and shall have the authority to seek further information from the carrier regarding the origin of the cash and its intended use and notify the FIU regarding such cash seizure in such form and manner as may be prescribed.”;
- (s) in section 90(1) of the principal Act, by repealing the words “Asset Recovery Fund established under section 93 of this Act” and substituting therefor the words “Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (t) in section 92 (2) of the principal Act, by repealing the words “paid into the Asset Recovery Fund.” and substituting therefor the words “paid into the Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act, 2021.”;
- (u) by repealing PART XI of the principal Act; and
- (w) by repealing paragraph (f) of section 97(1) of the principal Act and renumbering subsection (g) as (f).

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th December, 2021.



Mrs. Tania Isaac
Clerk to the National Assembly