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## **THE FINANCIAL INTELLIGENCE AND ANTI-MONEY LAUNDERING ACT 2002**

**Act 6/2002 - 10 June 2002**

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# **THE FINANCIAL INTELLIGENCE AND ANTI-MONEY LAUNDERING ACT**

## **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 –

“annual report” means the annual report under section 29 C;

“bank” –

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

(b) includes –

(i) a moneylender;

(ii) a credit union;

(iii) any person carrying on non-bank deposit taking business, licensed under the Banking Act;

“Bank of Mauritius” means the Bank of Mauritius established under the Bank of Mauritius Act;

“banking laws” has the same meaning as in the Banking Act;

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

"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;

“Code of Corporate Governance” has the same meaning as in the Financial Reporting Act;

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

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

"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 -

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

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

“Director” - means the Director of the FIU appointed under section 9 (2);

“Enforcement Authority” has the same meaning as in the Asset Recovery Act;

“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

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

“financial institution” means an institution, or a person, licensed or registered or required to be licensed or registered under –

(a) section 14 or 77 of the Financial Services Act;

(b) the Insurance Act; or

(c) the Securities 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;

"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 under section 9(1);

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

"investigative authorities" means the Commissioner of Police, the Mauritius Revenue Authority, the Enforcement Authority and the Commission;

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

"member of a relevant profession or occupation" means a person specified in Column 1 of Part I of the First Schedule;

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

"money laundering offence" means an offence referred to in Part II;

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

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

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

"property" -

(a) means property of any kind, nature or description, whether moveable or immoveable, tangible or intangible; and

(b) includes -

- (i) 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;
- (ii) any balance held in Mauritius currency or in any other currency in accounts with any bank which carries on business in Mauritius or elsewhere;
- (iii) any balance held in any currency with any bank outside Mauritius;
- (iv) motor vehicles, ships, aircraft, boats, works of art, jewellery, precious metals or any other item of value; and
- (v) any right or interest in property;

"regulatory body", in relation to the member of a relevant profession or occupation specified in Column 1 of Part I of the First Schedule, means the corresponding body specified in Column 2 of Part I of the First Schedule;

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

"supervisory authorities" –

(a) means –

- (i) the Bank of Mauritius;
- (ii) the Financial Services Commission;

(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, terrorist financing or by proscribed organisations, 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
- (b) a proposed transaction.

## **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 bank, financial institution, cash dealer or member of a relevant profession or occupation that fails to take such measures as are reasonably necessary to ensure that neither it nor any service offered by it, 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.

#### **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, 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.

#### **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.

#### **7. Jurisdiction**

Notwithstanding any other enactment, the Intermediate Court shall have jurisdiction to try any offence under this Act or any regulations made thereunder and may, on conviction, impose any penalty including forfeiture.

#### **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 2 million rupees and to penal servitude for a term not exceeding 10 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.

### **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 the Prime Minister may determine.
- (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.

#### **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 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 .
- (2) For the purposes of subsection (1), 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 Enforcement Authority and the investigatory and supervisory authorities;
- (ba) issue guidelines to members of a relevant profession or occupation on measures to combat money laundering or financing of terrorism that are in force in jurisdictions having standards comparable to Mauritius;
- (c) issue guidelines to banks, financial institutions, cash dealers and members of a relevant profession or occupation on the manner in which -
    - (i) a report under section 14 shall be made; and
    - (ii) additional information may be supplied to the FIU, on a suspicious transaction, pursuant to a request made under section 13(2) or (3);
  - (d) - (e) –
  - (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.
- (3) Any institution to which, or person to whom, guidelines are issued under subsection (2) (ba) or (c) shall comply with those guidelines.
  - (4) Where an institution or a person fails to comply with guidelines issued under subsection (3), the institution or person shall be liable to pay a penalty not exceeding 50,000 rupees for each day on which such breach occurs as from the date on which the breach is notified or otherwise comes to the attention of the FIU and such penalty may be recovered by the Director as if it were a civil debt.
  - (5) Any penalty collected by the Director under subsection (4) shall, as soon as practicable, be paid into the Consolidated Fund.

- (6) For the purposes of section 18(3A), a regulatory body which exercises control over members of a relevant profession or occupation may require any member of the relevant profession or occupation to furnish it with such information and produce such record or document at such time and place as may be required in writing by the regulatory body.
- (7) Any member of a relevant profession or occupation who fails to furnish the information or produce the record or document required under subsection (6) 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.

## **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 persons representing banks, financial institutions, cash dealers and members of the relevant professions or occupations, as the FIU considers appropriate.

## **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.

(4A) -

(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.

### **13. Dissemination of information by Director**

(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 or comparable body for appropriate action.

- (2) Where a report of a suspicious transaction has been made under section 14, the Director may, notwithstanding section 300 of the Criminal Code or any other enactment for the purposes of assessing whether any information should be disseminated to investigatory or supervisory authorities, request further information in relation to the suspicious transaction from -
- (a) the bank, financial institution, cash dealer or member of a relevant profession or occupation who made the report; and
  - (b) any other bank, financial institution, cash dealer or member of a relevant profession or occupation who is, or appears to be, involved in the transaction.

(3) Where –

- (a) the 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 or overseas financial intelligence unit or comparable body,

the Director may, notwithstanding section 300 of the Criminal Code, 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 or overseas financial intelligence unit or comparable body, request further information in relation to the suspicious transaction from any bank, cash dealer, financial institution or member of a relevant profession or occupation which is or who is involved, or appears to be involved, in the transaction.

- (4) Where a bank, financial institution, cash dealer or member of a relevant profession or occupation receives a request for further information under subsection (2) or (3), the bank, financial institution, cash dealer or member of the relevant profession or occupation shall, as soon as practicable, but not later than 15 working days, furnish the FIU with the requested information.

- (5) Where a report of a suspicious transaction has been made under section 14, the Director shall –
- (a) in the case of a bank, financial institution or cash dealer, not later than 15 days before the end of the 7th year following the completion of the transaction to which the suspicious transaction report relates; or
  - (b) in the case of a member of a relevant profession or occupation, at any time,

by written notice, require the bank, financial institution, cash dealer or member of the relevant profession or occupation, as the case may be, to keep the records in respect of that suspicious transaction for such period as may be specified in the notice.

#### **PART IV - REPORTING AND OTHER MEASURES TO COMBAT MONEY LAUNDERING**

##### **14. Reporting obligations of banks, financial institutions, cash dealers and members of relevant professions or occupations**

- (1) Every bank, financial institution, cash dealer or member of a relevant profession or occupation shall, as soon as practicable, but not later than 15 working days, make a report to the FIU of any transaction which the bank, financial institution, cash dealer or member of the relevant profession or occupation has reason to believe may be a suspicious transaction.
  - (1A) Where the FIU receives a report under subsection (1), it shall provide feedback in writing on the outcome of the report to the bank, financial institution, cash dealer or member of the relevant profession or occupation and to the relevant supervisory authority.
- (2) Nothing in subsection (1) shall be construed as requiring a law practitioner to report any transaction of which he has acquired knowledge in privileged circumstances unless it has been communicated to him with a view to the furtherance of a criminal or fraudulent purpose.

##### **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 to the bank, financial institution, cash dealer or member of relevant profession or occupation, as the case may be;
  - (d) where the suspect is an insider, any information as to whether the suspect is still affiliated with the bank, financial institution, cash dealer, or member of a relevant profession or occupation, as the case may be;
  - (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.

## **16. Legal consequences of reporting**

- (1) No person directly or indirectly involved in the reporting of a suspicious transaction under this Part shall inform any person involved in the transaction or to an unauthorised third party that the transaction has been reported or that information has been supplied to the FIU pursuant to a request made under section 13(2) or (3).
- (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 any information to the FIU pursuant to a request made under section 13(2) or (3).
- (3) No officer who receives a report made under this Part shall incur liability for any breach of confidentiality for any disclosure made in compliance with this Act.
- (4) For the purposes of this section –
  - “officer” includes a director, employee, agent or other legal representative;
  - “unauthorised third party” includes any of the supervisory authorities.

## **17. Other measures to combat money laundering**

Without prejudice to section 3(2), every bank, financial institution, cash dealer or member of a relevant profession or occupation shall -

- (a) verify, in such manner as may be prescribed, the true identity of all customers and other persons with whom they conduct transactions;
- (b) keep such records, registers and documents as may be required under this Act or by regulations;

- (c) upon a Court order, make available such records, registers and documents as may be required by the order; and
- (d) put in place appropriate screening procedures to ensure high standards when recruiting employees.

## **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) Where it appears to the Bank of Mauritius that any bank or cash dealer subject to its supervision has failed to comply with any requirement imposed by this Act or any regulations applicable to that bank or cash dealer and that the failure is caused by a negligent act or 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 -
  - (a) 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;
  - (b) in the case of a cash dealer, proceed against him under section 17 of the Banking Act on the ground that he is carrying on business in a manner which is contrary to the interest of the public.
- (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 on the ground that it is carrying on its business in a manner which is contrary or detrimental to the interest of the public.



- (3A) A regulatory body shall supervise and enforce compliance by members of a relevant profession or occupation with the requirements imposed by this Act, the regulations made under this Act and such guidelines as may be issued under section 10(2) (ba) and (c).
- (4) Where it appears or is represented to any regulatory body that any member of a relevant profession or occupation over which it exercises control has refrained from complying or negligently failed to comply with any requirement of this Act or regulations, the regulatory body may take, against the member concerned, any action which it is empowered to take in the case of professional misconduct, or dishonesty, malpractice or fraud, by that member.

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

- (1) Any bank, cash dealer, financial institution or member of a relevant profession or occupation or any director, employee, agent or other legal representative thereof, who, knowingly or without reasonable excuse -
- (a) fails to –
- (i) supply any information requested by the FIU under section 13(2) or 13(3) within the date specified in the request;
  - (ii) make a report under section 14; or
  - (iii) verify, identify or keep records, registers or documents, as required under section 17;
- (b) destroys or removes any record, register or document which is required under this Act or any regulations;
- (c) warns or informs the owner of any funds of any report required to be made in respect of any transaction, or of any action taken or required to be taken in respect of any transaction, related to such funds; or
- (d) 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 one 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; 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 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.

## **PART IV A – NATIONAL COMMITTEE FOR ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM**

### **19A Establishment of National Committee**

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

(2) The National Committee shall consist of –

- (a) the Financial Secretary or his representative, who shall act as Chairperson;
- (b) a representative of the Prime Minister's Office;
- (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;
- (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;
- (m) the Commissioner appointed under section 19 of the Prevention of Corruption Act 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 a

## **19B Functions of the National Committee**

The National Committee shall –

- (a) assess the effectiveness of policies and measures to combat money laundering and the financing of terrorism;
- (b) make recommendations to the Minister for legislative, regulatory and policy reforms in respect of anti-money laundering and combating the financing of terrorism;
- (c) promote co-ordination among the FIU, investigatory authorities, supervisory authorities and other institutions with a view to improving the effectiveness of existing policies to combat money laundering and the financing of terrorism;
- (d) formulate policies to protect the international reputation of Mauritius with regard to anti-money laundering and combating the financing of terrorism;
- (e) generally advise the Minister in relation to such matters relating to anti-money laundering and combating the financing of terrorism, as the Minister may refer to the National Committee.

## **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.

## **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 unit or comparable body**

- (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.

## **21. Provision of information to investigatory or supervisory authorities**

- (1) Where it becomes aware of any information, which-
  - (a) may be relevant to the functions of any of the supervisory authorities; 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, subject to subsection (4), pass on the information to the relevant supervisory authority.
- (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.

## **22. Reference of information by the supervisory authorities**

- (1) Notwithstanding any other enactment, where, at any time in the course of the exercise of its functions, any supervisory authority receives, or otherwise becomes aware of, any information suggesting the possibility of a money laundering offence or suspicious transaction, the supervisory authority, shall, forthwith pass on that information to the FIU.
- (2) -

(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.

## **PART VI - EXTRADITION IN RELATION TO CASES OF MONEY LAUNDERING**

**Amended by [Act No.35 of 2003]**

**23- 28 -**

### **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**

- (a) 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.
- (b) 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.
- (c) 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.

## **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.
- (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.

### **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.

**32. Immunity**

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.

**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. -**

**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.
- (3) Regulations, other than those referred to in subsection (2), may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding 2 years.
- (4) Regulations made under subsection (1) may provide for the amendment of the Schedules.

**36. – 37. -**

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# FIRST SCHEDULE

[Section 2]

## PART I - REGULATORY BODIES

<b>Member of a relevant profession or occupation</b>	<b>Regulatory body</b>
1. Professional accountant , public accountant and member firm under the Financial Reporting Act	Mauritius Institute of Professional Accountants established under the Financial Reporting Act
2. Licensed auditor under the Financial Reporting Act	Financial Reporting council established under the Financial Reporting Act
3. Law firm, foreign law firm, joint law venture and foreign lawyer and, under the Law Practitioners Act	Attorney General
4. Barrister	Bar Council established under the Mauritius Bar Association Act
5. Attorney	Mauritius Law Society Council referred to in the Mauritius Law Society Act
6. Notary	Chamber of notaries established under the Gambling Regulatory Authority Act
7. Person licensed to operate a casino, gaming house, gaming machine totalisator, bookmaker and interactive gambling under the Gambling Regulatory Authority Act	Gambling Regulatory Authority established under the Gambling Regulatory Authority Act
8. Dealer under the Jewellery Act	FIU
9. Agent in land and/or building or Estate Agency under the Local Government Act	FIU
10. Land promoter and property developer under the Local Government Act	FIU

## PART II - OVERSEAS FINANCIAL INTELLIGENCE UNITS

COUNTRY	NAME OF FINANCIAL INTELLIGENCE UNIT
Afghanistan	Financial Transactions and Reports Analysis Center of Afghanistan ( FinTRACA )
Albania	General Directorate for the Prevention of Money Laundering (GDPML)
Andorra	Money Laundering Prevention Unit (UPB)
Anguilla	Money Laundering Reporting Authority (MLRA)
Antigua and Barbuda	Office of National Drug and Money Laundering Control Policy (ONDCP)
Argentina	Unidad de Información Financiera (UIF-AR)
Armenia	Financial Monitoring Center (FMC)
Aruba	Reporting Center for Unusual Transactions (f
Australia	Australian Transaction Report & Analysis Centre (AUSTRAC)
Austria	Bundeskriminalamt-Austrjan                      Financial Intelligence Unit (A-Flu)
Azerbaijan	Financial Monitoring Service (FMS-AZ)
Bahamas	Financial Intelligence Unit Bahamas (FIU-BS)
Bahrain	Anti-Money Laundering Unit (AMLU)
Barbados	Financial Intelligence Unit (FIU)
Belarus	The Department of Financial Monitoring of the State Control  Committee of the Republic of Belarus (DFM)
Belgium	Belgian Financial Intelligence Processing Unit (CTIF-CFI)
Belize	Financial Intelligence Unit Belize (FIU-BZ)
Bermuda	Financial Intelligence Agency (FIA)
Bosnia & Herzegovina	Financial Intelligence Department (FID)
Brazil	Council for Financial Activities Control (COAF)
British Virgin Islands	Financial Investigation Agency (FIA-VG)
Bulgaria	Financial Intelligence Directorate of National Security Agency (FID)
Cameroon	National Agency for Financial Investigation (NAFI)
Canada	Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)
Cayman Islands	Financial Reporting Authority (CAYFIN)
Chile	Unidad de Análisis Financiero (UAF-CL)
Colombia	Unidad de Información y Análisis Financiero (UIAFCO)
Cook Islands	Cook Islands Financial Intelligence Unit (CLFIU)
Costa Rica	Financial Analysis Unit Costa Rican Institute on Drugs(1CD)
Côte d'Ivoire~	National Unit for the Processing of Financial Information in Côte d'Ivoire (CENTIF-CI)
Croatia	Anti-Money Laundering Office (AMLO)
Curacao	Unusual Transactions Reporting Centre (MOT—NA)
Cyprus	Unit for Combating Money Laundering (MOKAS)

Czech Republic	Financial Analytical Unit (FAU-CR)
Denmark	Money Laundering Secretariat (HVIDVASK)
Dominica	Financial Intelligence Unit (FIU-Dominica)
Egypt	Egyptian Money Laundering Combating Unit (EMLCU)
El Salvador	Financial Investigation Unit El Salvador(UIF-SV)
Estonia	Money Laundering Information Bureau (MLIB)
Fiji	Fiji Financial Intelligence Unit (FIJI-FIU)
Finland	Financial Intelligence Unit (MLCH)
France	Intelligence Processing and Action against Illicit Financial Networks Unit (TRACFIN)
Gabon	National Agency for Financial Investigation (NAFI)
Georgia	Financial Monitoring Service of Georgia (FMS)
Germany	Financial Intelligence Unit Germany (FIU-Germany)
Gibraltar	Gibraltar Financial Intelligence Unit (GFIU)
Greece	Anti-Money Laundering Counter-Terrorist Financing and Source of Funds Investigation Authority (CFCI)
Grenada	Financial Intelligence Unit (FLU- Grenada)
Guatemala	Special Verification Intendancy (IVE)
Guernsey	Financial Intelligence Service (FIS)
Honduras	Unidad de Informacion Financiera (UIF- Honduras)
Hong Kong	Joint Financial Intelligence Unit (JFIU)
Hungary	Hungarian Financial Intelligence Unit (HFIU)
Iceland	FIU-Iceland (RLS)
India	Financial Intelligence Unit-India (FIU-IND)
Indonesia	Indonesian Financial Transaction Reports and Analysis Centre (INTRAC)
Ireland	Bureau of Fraud Investigation (MLIU)
Isle of Man	Financial Crime Unit (FCU — IOM)
Israel	Israel Money Laundering Prohibition Authority (IMPA)
Italy	Italian Foreign Exchange Office / Anti-Money Laundering Service(UIC)
Japan	Japan Financial Intelligence Center (JAFIC)
Jersey	States of Jersey Police & Customs Joint Financial Crime Unit (JFCU)
Jordan	Anti-Money Laundering and Counter Terrorist Financing Unit (AMLU Jordan)
Kazakhstan	Kazakhstan Financial Monitoring (KFM)
Korea (Republic of)	Korea Financial Intelligence Unit (KoFIU)
Kyrgyz (Republic)	Financial Intelligence Service of the Kyrgyz Republic (FISKyrgyz)
Latvia	Office for Prevention of Laundering of Proceeds derived from Criminal Activity (Control Service)(KD)
Lebanon	Special Investigation Commission (SIC)

Liechtenstein	Financial Intelligence Unit Liechtenstein (EFFI)
Lithuania	Financial Crime Investigation Service under the Ministry of Interior (FCIS)
Luxembourg	Cellule de Renseignement Financier (FIU-LUX)
Macau	Financial Intelligence Office (GIF)
Macedonia	Money Laundering Prevention Directorate (MLPD)
Malawi	Financial Intelligence Unit (FIU-Malawi)
Malaysia	Financial Intelligence Unit Malaysia (UPW)
Mali	National Financial Intelligence Processing Unit (CENTIFMALI)
Malta	Financial Intelligence Analysis Unit (FIAU)
Marshall Islands	Domestic Financial Intelligence Unit (DFIU)
Mexico	Financial Intelligence Unit (FIU-Mexico)
Moldova	Office for Prevention and Control of Money Laundering ( SPCSB )
Monaco	Service for Information and Monitoring of Financial Networks (SICCFIN)
Mongolia	Mongolia Financial Intelligence Unit (FIU-MONGOLIA)
Montenegro	Administration for the Prevention of Money Laundering ( APMLTF )
Morocco	Financial Information Processing Unit (UTRF)
Netherlands	Financial Intelligence Unit — Nederland (FIU-Netherlands)
New Zealand	New Zealand Police Financial Intelligence Unit (FIU-NZ)
Nigeria	Nigerian Financial Intelligence Unit (NFIU)
Niue	Niue Financial Intelligence Unit (FIU-NU)
Norway	Financial Intelligence Unit Norway (EFE)
Panama	Financial Analysis Unit Panama (UAF-PA)
Paraguay	Financial Intelligence Unit-Paraguay (UAF-PY)
Peru	Financial Intelligence Unit of Peru (UIF-PERU)
Philippines	Anti-Money Laundering Council (AMLC)
Poland	General Inspector of Financial Information (GIIF)
Portugal	Financial Intelligence Unit Portugal (UIF-PORTUGAL)
Qatar	Qatar Financial Information Unit (QFIU)
Romania	National Office for the Prevention and Control of Money Laundering (ONPCSB)
Russia	The Federal Financial Monitoring Service/ Rosfinmonitoring ( FSFM )
Samoa Islands	SAMOA Financial Intelligence Unit (SFIU)
San Marino	Financial Intelligence Agency (BCSM)
Saudi Arabia	Saudi Arabia Financial Investigation Unit (SAFIU)
Senegal	National Financial Intelligence Processing Unit (CENTIF)

Serbia	Administration for the Prevention on Money Laundering ( FCPML )
Singapore	Suspicious Transaction Reporting Office (STRO)
Slovakia	Financial Intelligence Unit of the Bureau of Organised Crime (SJFP-UBPOK)
Slovenia	Office for Money Laundering Prevention (OMLP)
Solomon Islands	Solomon Islands Financial Intelligence Unit (SIFIU)
South Africa	Financial Intelligence Centre (FIC)
Spain	Executive Service of the Commission for the Prevention of Money Laundering and Monetary Infractions (SEPBLAC)
Sri Lanka	Sri Lanka Financial Intelligence Unit (CBSL)
St. Kitts & Nevis	Financial Intelligence Unit (FIU-SKN)
St. Lucia	Financial Intelligence Agency (FIA-St. Lucia)
St. Vincent & Grenadines	Financial Intelligence Unit St. Vincent and the Grenadines ( FIU-VC )
Sweden	National Criminal Intelligence Service, Financial Unit ( NFIS )
Switzerland	Money Laundering Reporting Office Switzerland (MROS)
Syria	Combating Money Laundering and Terrorism Financing Commission (CMLC)
Taiwan	Money Laundering Prevention Center (MLPC)
Tajikistan	Financial Monitoring Department (FMD)
Thailand	Anti-Money Laundering Office Thailand (AMLO-TH)
Tunisia	Tunisian Financial Analysis Committee (CTAF)
Turkey	Financial Crimes Investigation Board (MASAK)
Turks & Caicos	Royal Turks and Caicos Islands Police Force Financial Intelligence Unit (FCU)
Ukraine	The State Financial Monitoring Service of Ukraine (SCFM)
United Arab Emirates	Anti-Money Laundering and Suspicious Cases Unit (AMLSCU)
United Kingdom	Serious Organised Crime Agency (SOCA)
United States	Financial Crimes Enforcement Network (FinCEN)
Uruguay	Unidad de Informacion y Analisis Financiero (UIAF)
Uzbekistan	Department on struggle against tax currency crimes and legalization of criminal incomes at the Prose (FIUUZBEKISTAN)
Vanuatu	Financial Intelligence Unit (FIU-Vanuatu)
Venezuela	National Financial Intelligence Unit (UNIF)

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**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)

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**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