

THE FINANCIAL INTELLIGENCE AND ANTI-MONEY LAUNDERING ACT 2002

Act No. 6 of 2002

I assent

27 February 2002

K.A. OFFMANN
President of the Republic

- a) Proclaimed by [Proclamation No. 31 of 2002] c.i.o. 10th June 2002
- b) Amended by *The Horse Racing Board Act 2003* [No. 23 of 2003] [c.i.o. 10th October 2003: P 25/03]
- c) Amended by *The Anti-Money Laundering (Miscellaneous Provisions) Act 2003* [No. 34 of 2003 published in Govt. Gazette No. 94 of 27th September 2003]
- d) Amended by *The Mutual Assistance in Criminal and Related Matters Act 2003* [No. 35 of 2003] [c.i.o. 15th November 2003: P 29/03]
- e) Amended by *The Finance Act 2005* [No 14 of 2005] c.i.o 10th November 2004
- f) Amended by *The Financial Intelligence and Anti-Money Laundering (Amendment of schedule) Regulations 2004*. [G.N. 48 of 2004 published in the Govt. Gazette of Mauritius No. 36 of 17 April 2004.]
- g) Amended by *The Finance Act 2006* [No 15 of 2006 published in Govt. Gazette No 71 of 7 August 2006]

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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 –

~~"bank" has the same meaning as in the *Banking Act 1988*, and includes –~~

~~(a) any person engaged in a deposit taking business and authorised to do so under that Act;
and~~

~~(b) any person carrying on any business or activity regulated by the Bank of Mauritius;~~

Deleted and replaced by [\[A 13\(a\)\(i\)/14/2005\]](#)

"bank" –

(a) has the same meaning as in the *Banking Act 2004*; and

(b) includes any person licensed under the *Banking Act 2004* to carry deposit taking business

~~"Bank of Mauritius" means the Bank of Mauritius established under the *Bank of Mauritius Act*;~~

Deleted and replaced by [\[A 13\(a\)\(i\)/14/2005\]](#)

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

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

Added by [\[A 3\(a\)\(iii\)/34/2003\]](#)

"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" means a person authorised under the *Foreign Exchange Dealers Act* to carry on the business of foreign exchange dealer or money changer;~~

Deleted and replaced by [\[A 13\(a\)\(i\)/14/2005\]](#)

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

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

"comparable body" means an overseas Government agency with functions similar to those of the FIU;

Added by [\[A 3\(a\)\(iii\)/34/2003\]](#)

"crime" -

- (a) has the same meaning as in the Criminal Code;
- (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;

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

Added by [\[A 3\(a\)\(iii\)/34/2003\]](#)

"exempt transaction" means 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 customer is, at the time the transaction takes place, an established customer of the bank or financial institution; and
 - (ii) the transaction consists of a deposit into, or withdrawal from, an account maintained by the Customer with the bank or financial institution,

where the transaction does not exceed an amount that is commensurate with the lawful business activities of the customer; or

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

"**financial institution**" means any institution or other person regulated by the *Insurance Act*, the *Securities (Central Depository, Clearing and Settlement) Act*, the *Stock Exchange Act*, the *Unit Trust Act*, any management company or registered agent licensed under the *Financial Services Development Act 2001* and any trustee managing a unit trust established under the *Unit Trust Act*;

"**Financial Services Commission**" means the Commission established under the *Financial Services Development Act 2001*;

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

"**investigatory authorities**" means the Commissioner of Police, the Comptroller of Customs and the Commission;

"**member of the relevant profession or occupation**" -

(a) means an accountant, an attorney-at-law, a barrister, a chartered secretary, a notary; and

(b) includes any person carrying on the business of ~~a casino, a bookmaker or totalisator under the Gaming Act;~~ **a casino under the *Gaming Act* and a bookmaker or an operator of a totalisator under the *Horse Racing Board Act 2003*.**

Deleted and replaced by [\[A 54\(2\)/23/2003\]](#)
c.i.o 10 October 2003: P 25/03

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

"**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 [\[A 3\(a\)\(iii\)/34/2003\]](#)

"**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 the First Schedule and whose functions correspond to some or all of those of the FIU;

"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, jewellery, precious metals or any other item of value; and
- (e) any right or interest in property;

"relevant enactments" means this Act, ~~the Banking Act~~, *the Banking Act 2004*, ~~the Bank of Mauritius Act~~, *the Bank of Mauritius Act 2004*, *the Financial Services Development Act 2001* and *the Prevention of Corruption Act 2002*;

Deleted and replaced by [\[A13 \(a\)\(ii\)/14/2005\]](#)

~~"Review Committee" means the Review Committee constituted under section 12.~~

Deleted by [\[A 3\(a\)\(ii\)/34/2003\]](#)

"supervisory authorities" means the Bank of Mauritius and the Financial Services Commission;

"suspicious transaction" means a transaction which -

~~(a) gives rise to a reasonable suspicion that it may involve the laundering of money or the proceeds of any crime including any offence concerning the financing of any activities or transactions related to terrorism, as specified in Part III of the *Prevention of Terrorism Act 2002*;~~

Deleted and replaced by [\[A 3\(a\)\(i\)/34/2003\]](#)

- (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, terrorism or acts of terrorism 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 shall commit an offence.

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 sections 30 and 31 of the *Bank of Mauritius Act*, but subject to subsection (2), any person who makes or accepts any payment in cash in excess of ~~350,000 rupees~~ **500,000 rupees** or an equivalent amount in foreign currency, or such amount as may be prescribed, shall commit an offence.

Deleted and replaced by [\[A 11\(a\)/15/2006\]](#)

- (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 a 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 appointed by the President on the recommendation of the Prime Minister made in consultation with the Leader of the Opposition.
- (3) The Director shall be assisted by such persons as may be appointed by the Director to assist him.

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 financial 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, ~~as specified in Part III of the *Prevention of Terrorism Act 2002*.~~

Deleted by [\[A 3\(b\)\(i\)/34/2003\]](#)

- (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 Commissioner appointed under section 45(8) of the *Dangerous Drugs Act*** and the investigatory and supervisory authorities;

Added by [\[A 3\(b\)\(ii\)\(A\)/34/2003\]](#)

~~(c) supervise and enforce compliance by banks, financial institutions, cash dealers and members of the relevant professions or occupations, with the provisions of the relevant enactments;~~

~~(d) issue, to banks, financial institutions, cash dealers and members of the relevant professions or occupations, such guidelines as it considers appropriate to combat money laundering activities;~~

~~(e) promote the appointment of persons by banks, financial institutions, cash dealers and members of the relevant professions or occupations to specialise in measures to detect and counter money laundering activities; and~~

Deleted and replaced by [\[A 3\(b\)\(ii\)\(B\)/34/2003\]](#)

- (c) issue guidelines to banks, financial institutions, cash dealers and members of the relevant professions or occupations 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);

~~(f) provide assistance in the investigation or prosecution of money laundering offences to overseas countries.~~

Deleted and replaced by [\[A 3\(b\)\(ii\)\(C\)/34/2003\]](#)

- (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.

Added by [\[A 11\(b\)/15/2006\]](#)

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 desirable.

~~12. The Review Committee~~

12. The Board

Deleted and replaced by [\[A 3\(c\)\(i\)/34/2003\]](#)

- (1) ~~There is established for the purposes of this Act a Review Committee~~ **The FIU shall be administered by a Board** which shall consist of –

Deleted and replaced by [\[A 3\(c\)\(iii\)/34/2003\]](#)

- (a) a Chairperson, who shall be a person who has -
 - (i) served as a Judge of the Supreme Court; or
 - (i) 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 ~~Review Committee~~¹ **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 ~~Review Committee~~¹ **Board** shall be on such terms as may be specified in the instrument of appointment of the Chairperson and each such member.
- (4) The ~~Review Committee~~¹ **Board** may act notwithstanding the absence of one of its members.
- (5) Subject to subsection (4), the ~~Review Committee~~¹ **Board** shall determine its own procedure.

¹Deleted and replaced by [A 3(c)(ii)/34/2003]

13. Dissemination of information to investigatory or supervisory authorities

- (1) Where the ~~FIU~~¹ **Director** considers that information on any matter should be disseminated to the investigatory or supervisory authorities, ~~it shall refer~~² **he shall refer** the information to the ~~Review Committee~~¹ **Board** which shall consider the information and either -
 - (a) consent to the ~~FIU~~¹ **Director** referring the information to such of the investigatory or supervisory authorities as may be specified by the ~~Review Committee~~¹ **Board** with a view to the determination of any criminal liability and the prosecution of or the action against, the persons accordingly; or
 - (b) refer the information back to the ~~FIU~~¹ **Director** with a view to determining whether further supporting information can be found which would justify a subsequent reference to one of the investigatory or supervisory authorities.

¹Deleted and replaced by [A 3(d)(i)/34/2003]

² Deleted and replaced by [A 3(d)(ii)/34/2003]

2. **Where a report of a suspicious transaction has been made under section 14, the Director may, 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 the relevant profession or occupation who made the report; and**
 - (b) **any other bank, financial institution, cash dealer or member of the relevant profession or occupation who is, or appears to be, involved in the transaction.**

Added by [A 3(d)(iii)/34/2003]

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 forthwith 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.
- (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 the 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.

~~16. Legal consequences of reporting~~

- ~~(1) No person directly or indirectly involved in the reporting of a suspicious transaction under this Part shall communicate to any person involved in the transaction or to an unauthorised third party that the transaction has been reported.~~
- ~~(2) No proceedings shall lie against any person for having 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 any prosecution or other judicial action.~~

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

Deleted and replaced by [\[A 3\(e\)/34/2003\]](#)

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 unauthorized 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).
- (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).
- (3) No officer who receives a report made under 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" does not include 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 the 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; and
- (c) upon a Court order, make available such records, registers and documents as may be required by the order.

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 or cash dealers subject to their supervision or to financial institutions, as the case may be.

(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).

Added by [\[A 3\(f\)/34/2003\]](#)

~~(1)~~(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 7 and 8 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 person carrying on a deposit taking business, cancel that person's authorisation under section 13A of the Banking Act; and~~
- ~~(c) in the case of a cash dealer, inform the Minister to whom responsibility for the subject of finance is assigned that it has reason to believe that the cash dealer is carrying on business under the Foreign Exchange Dealers Act in a manner which is not conducive to the orderly operation or development of the foreign exchange market in Mauritius.~~

Repealed and replaced by [\[A 13\(b\)/14/2005\]](#)

- (a) in the case of a bank, proceed against it under sections 11 and 17 of the Banking Act 2004 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 or a person's licensed to carry on deposit taking business, proceed against him under sections 16 and 17 of the Banking Act 2004 on the ground that he is carrying on business in a manner which is contrary to the interest of the public.

~~(2)~~(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 Development Act 2001 on the ground that it is carrying on its business in a manner which is contrary or detrimental to the interest of the public.

~~(3)~~(4) Where it appears or is represented to any disciplinary 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 disciplinary body may take, against the member concerned, any action which it is empowered to take in the case of professional misconduct 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, financial institution, cash dealer or any director or employee thereof or member of a relevant profession or occupation who, knowingly or without reasonable excuse -

(a) fails to make a report, **supply any information requested by the FIU under section 13(2)** verify, identify or keep records, registers or documents, as required under section 17;

Added by [A 3(g)(i)/34/2003]

(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

Added by [A 3(g)(ii)/34/2003]

(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 which section 23 applies~~ **under the Mutual Assistance in Criminal and Related Matters Act 2003**; or

Deleted and replaced by [A 11(c)/15/2006]

(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 which section 23 applies 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 Anti-Money Laundering and Combating the Financing of Terrorism.
- (2) The National Committee shall consist of –
 - (a) the Supervising Officer of the Ministry responsible for financial services, who shall act as Chairperson;
 - (b) a representative of the Prime Minister’s Office;
 - (c) a representative of the Attorney-General’s Office;
 - (d) a representative of the Ministry responsible for finance;
 - (e) a representative of the Ministry responsible for financial services;
 - (f) a representative of the Ministry responsible for foreign affairs;
 - (g) the Commissioner of Police or his representative;
 - (h) the Comptroller of Customs or his representative;
 - (i) the Director of the FIU or his representative;
 - (j) the ~~Managing Director~~ a Deputy Governor of the Bank of Mauritius or his representative;

Deleted and replaced by [\[A 11\(d\)/15/2006\]](#)

 - (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 2002 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.

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

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

Added by [\[A 3\(h\)/34/2003\]](#)

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,² it may, ~~with the consent of the Review Committee,~~¹ offer to pass on that information to the overseas financial intelligence unit or comparable body³ on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

¹ Deleted by [\[A 3\(i\)\(A\)/34/2003\]](#)

² Added by [\[A 3\(i\)\(B\)/34/2003\]](#)

³ Added by [\[A 3\(i\)\(C\)/34/2003\]](#)

- (4) Subject to subsection (5), where a request for information is received from and 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.

Added by [\[A 3\(i\)\(ii\)/34/2003\]](#)

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, ~~subject to subsection (4) and with the consent of the Review Committee,~~ **by itself or at the request of the supervisory authorities, subject to subsection (4),** pass on the information to the relevant supervisory authority.

Deleted and replaced by [\[A 3\(j\)\(i\)/34/2003\]](#)

- (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) ~~and with the consent of the Review Committee,~~ pass on the information to that investigatory authority.

Deleted by [\[A 3\(j\)\(ii\)/34/2003\]](#)

- (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), ~~and with the consent of the Review Committee,~~ pass on the information to the Commission.

Deleted by [\[A 3\(j\)\(iii\)/34/2003\]](#)

- (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) ~~if,~~ **Notwithstanding any other enactment, where**^{1.} 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 ~~subject to subsection (2),~~^{2.} forthwith pass on that information to the FIU.

^{1.} Deleted and replaced by [\[A 3\(k\)\(i\)\(A\)/34/2003\]](#)

^{2.} Deleted by [\[A 3\(k\)\(i\)\(B\)/34/2003\]](#)

- ~~(2) If any such information as is referred to in subsection (1) was received by the supervisory authority on terms of confidentiality requiring the consent of the person from whom it was received before being passed on to another person, the information shall not be passed on to the FIU without the consent of the person from whom it was received, irrespective of whether that person is a bank, regulatory authority or any other person.~~

Repealed by [\[A 3\(k\)\(ii\)/34/2003\]](#)

- (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.

PART VI - ~~MUTUAL ASSISTANCE AND~~ EXTRADITION IN RELATION TO CASES OF MONEY LAUNDERING

Deleted by [\[A 25\(2\)/35/2003\]](#)

~~23. Providing assistance to overseas countries~~

- (1) ~~Where a request is received from an appropriate body in an overseas country seeking assistance in the investigation or prosecution of a money laundering offence the FIU, with the consent of the Review Committee, shall either—~~
- ~~(a) execute the request by referring it together with any accompanying documents to the Commission or any other investigatory authority;~~
 - ~~(b) inform the body making a request—~~
 - ~~(i) of any reason for not so referring the request forthwith;~~
 - ~~(ii) of any reason for delaying the reference of the request; or~~
 - ~~(iii) that it is refusing the request for one of the reasons specified in subsection (2).~~
- (2) ~~Subject to subsection (3), the FIU, with the concurrence of the Review Committee, may refuse any request received under subsection (1) where—~~
- ~~(a) the action sought by the request contravenes or is likely to contravene any provision of the Constitution;~~
 - ~~(b) the execution of the request is likely to prejudice the national interest; or~~
 - ~~(c) the FIU, with the concurrence of the Review Committee, is not satisfied that a similar request made by Mauritius to an appropriate body in the overseas country concerned would be complied with.~~
- (3) ~~Subsection (2)(c) shall not apply in any case where—~~
- ~~(a) there is a treaty between Mauritius and the overseas country concerned relating to the provision of assistance in relation to money laundering; or~~
 - ~~(b) the law applicable in that overseas country permits the granting of assistance to Mauritius in similar circumstances.~~
- (4) ~~In this section, "appropriate body", in relation to an overseas country, means an overseas financial intelligence unit or other body having legal competence and authority to make, in respect of that country, requests of the kind referred to in subsection (1).~~

~~24. Obtaining assistance from overseas countries~~

- (1) ~~With the concurrence of the Review Committee, the FIU may seek assistance from an overseas financial intelligence unit or other body in an overseas country where the FIU considers that the unit or body may be able to provide evidence or information relevant to a possible money laundering offence or a suspicious transaction.~~
- (2) ~~With the concurrence of the Review Committee, the FIU may direct a request to the authorities in an overseas country for the restraint and forfeiture of property which is located in that country and liable to be forfeited by reason of being the proceeds of a money laundering offence.~~
- (3) ~~A request under subsection (1) or subsection (2) may be made on the initiative of the FIU or at the request of one of the investigatory authorities.~~

~~(4) Where a body in an overseas country to which a request under this section is addressed requires the request to be signed or otherwise authenticated by an appropriate competent authority in Mauritius, the Director of the FIU shall be the appropriate competent authority for that purpose.~~

~~25. Requests~~

~~(1) Subject to subsection (2), a request under section 23 shall be in writing and shall be dated and signed by or on behalf of the person making the request.~~

~~(2) A request under section 23 may be transmitted by facsimile or by any other electronic means and, where it is so transmitted, the FIU may require it to be authenticated in such manner as the FIU considers appropriate.~~

~~(3) For the purposes of section 23, a request shall—~~

~~(a) confirm either that an investigation or prosecution is being conducted in respect of a suspected money laundering offence or that a person has been convicted of a money laundering offence;~~

~~(b) state the grounds on which any person is being investigated or prosecuted for money laundering or details of the conviction of the person;~~

~~(c) give sufficient particulars of the identity of the person;~~

~~(d) give particulars sufficient to identify any bank, financial institution, cash dealer or other person believed to have information, documents or material which may be of assistance to the investigation or prosecution;~~

~~(e) request assistance to obtain from a bank, financial institution, cash dealer or other person all and any information, document or material which may be of assistance to the investigation or prosecution;~~

~~(f) specify the manner in which and to whom any information, document or material obtained pursuant to the request is to be produced;~~

~~(g) state whether a freezing order or forfeiture order is required and identify the property to be the subject of such an order; and~~

~~(h) contain such other information as may assist the execution of the request.~~

~~26. Request not to be invalidated~~

~~A request shall not be invalidated for the purposes of this Act or any legal proceedings by virtue of any failure to comply with this Part where the Director is satisfied that there is sufficient compliance to enable him to execute the request.~~

~~27. Evidence pursuant to a request~~

~~Evidence taken, pursuant to a request, in any proceedings in a Court of a foreign State may, if it is authenticated, be prima facie admissible in any proceedings to which such evidence relates.~~

~~28. Relationship with Letters of Request Rules~~

~~Nothing in this Part shall affect the operation of the Letters of Request Rules 1985.~~

Repealed by [\[A 25\(2\)\(b\)/35/2003\]](#)

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 VII - MISCELLANEOUS

30. Confidentiality

- (1) The Director, every officer of the FIU, and the Chairperson and members of the ~~Review Committee~~ 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.
Deleted and replaced by [\[A 3\(l\)\(i\)/34/2003\]](#)
- (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 ~~with the prior approval of the Review Committee and~~ 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;
 - (c) in connection with the discharge of any international obligation to which Mauritius is subject; or
 - (d) pursuant to an order of a Judge.
Deleted by [\[A 3\(l\)\(ii\)/34/2003\]](#)
- (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) Subject to subsection (2), the Director, every officer of the FIU, and the Chairperson and members of the ~~Review Committee~~ Board shall file with the Commission a declaration of his assets and liabilities in the form specified in the Third Schedule –
- (a) not later than 30 days after his appointment; and
 - (b) on the termination of his appointment.
Deleted and replaced by [\[A 3\(m\)/34/2003\]](#)
- (2) Where, subsequent to a declaration made under subsection (1), the state of assets and liabilities is so altered as to be reduced or increased in value by a minimum of 200,000 rupees, the Director or officer shall make a fresh declaration.
- (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 ~~Review Committee~~,¹ 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 ~~Review Committee~~,¹ **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.

¹Deleted and replaced by [\[A 3\(n\)/34/2003\]](#)

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. Annual Report

The FIU shall make an annual report on its activities to the Minister, containing such statistical and other information as the Minister may require.

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 First Schedule.**

Added by [\[A 3\(o\)/34/2003\]](#)

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 Development 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

- (1) Subject to subsection (2), this Act shall come into force on a day to be fixed by proclamation.
- (2) Different days may be fixed for the coming into force of different sections of this Act.

Passed by the National Assembly on the fourth day of February two thousand and two.

André Pompon
Clerk of the National Assembly

FIRST SCHEDULE
—(section 2)
OVERSEAS FINANCIAL INTELLIGENCE UNITS

-
- 1. — Aruba
- 2. — Australia
- 3. — Austria
- 4. — Bahamas
- 5. — Belgium
- 6. — Bermuda
- 7. — Bolivia
- 8. — Brazil
- 9. — British Virgin Islands
- 10. — Bulgaria
- 11. — Cayman Islands
- 12. — Chile
- 13. — Colombia
- 14. — Costa Rica
- 15. — Croatia
- 16. — Cyprus
- 17. — Czech Republic

18. Denmark
19. Dominican Republic
20. El Salvador
21. Estonia
22. Finland
23. France
24. Greece
25. Guernsey
26. Hong Kong, China
27. Hungary
28. Iceland
29. Ireland
30. Isle of Man
31. Italy
32. Japan
33. Jersey
34. Latvia
35. Liechtenstein
36. Lithuania
37. Luxembourg
38. Mexico
39. Monaco
40. Netherlands
41. Netherlands Antilles
42. New Zealand
43. Norway
44. Panama
45. Paraguay
46. Portugal
47. Romania
48. Slovakia
49. Slovenia
50. Spain
51. Sweden
52. Switzerland
53. Taiwan
54. Thailand
55. Turkey
56. United Kingdom
57. United States
58. Venezuela

Repealed and replaced by [G.N. No. 48 of 2004
Published in the Govt. Gazette of Mauritius
No. 36 of 17 April 2004]

FIRST SCHEDULE (section 2)

OVERSEAS FINANCIAL INTELLIGENCE UNITS

Albania
Andorra
Anguilla
Antigua and Barbuda
Argentina
Aruba

Australia
Austria
Bahamas
Bahrain
Barbados
Belgium
Bermuda
Bolivia
Brazil
British Virgin Islands
Bulgaria
Canada
Cayman Islands
Chile
Colombia
Costa Rica
Croatia
Cyprus
Czech Republic
Denmark
Dominica
Dominican Republic
El Salvador
Estonia
Finland
France
Germany
Greece
Guatemala
Guernsey
Hong Kong, China
Hungary
Iceland
Ireland
Isle of Man
Israel
Italy
Japan
Jersey
Korea (Republic of)
Latvia
Lebanon
Liechtenstein
Lithuania
Luxembourg
Malaysia
Malta
Marshall Islands
Mexico

Monaco
Netherlands
Netherlands Antilles
New Zealand
Norway
Panama
Paraguay
Poland
Portugal
Romania
Russia
Serbia
Singapore
Slovakia
Slovenia
South Africa
Spain
St Vincent & the Grenadines
Sweden
Switzerland
Taiwan
Thailand
Turkey
United Arab Emirates
United Kingdom
United States
Vanuatu
Venezuela

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
 - (i) 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