

**THE ANTI-MONEY LAUNDERING AND COMBATTING THE FINANCING OF
TERRORISM (MISCELLANEOUS PROVISIONS) ACT 2020**

Act No. 5 of 2020

Government Gazette of Mauritius No. 85 of 9 July 2020

I assent

9th July 2020

PRITHVIRAJ SING ROOPUN, G.C.S.K.

President of the Republic of Mauritius

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AN ACT

To amend various enactments with a view to reinforcing the existing legal provisions to further combat money laundering and the financing of terrorism, and to provide for matters related thereto

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the **Anti-Money Laundering and Combatting the Financing of Terrorism (Miscellaneous Provisions) Act 2020**.

2. Banking Act amended

The Banking Act is amended –

- (a) in section 64B, in subsection (2), by deleting the words “one million rupees” and replacing them by the words “10 million rupees”;
- (b) in section 64C, by adding the following new subsections –

(3) The frequency and intensity of an examination conducted under this section shall be determined on the basis of –

- (a) the money laundering or terrorism financing risks and the policies, internal controls and procedures associated with the financial institution or holder of a licence or its group, as identified by the central bank’s assessment of the institution’s or group’s risk profile;
- (b) the money laundering or terrorism financing risks present in Mauritius; and
- (c) the characteristics of the financial institution or holder of a licence or its group, in particular the diversity and

number of financial institutions or holder of a licence and the degree of discretion allowed to them under the risk-based approach implemented by the central bank.

(4) The central bank shall review the assessment of the money laundering or terrorism financing risk profile of a financial institution or holder of a licence or group, including the risks of noncompliance, periodically and when there are major events or developments in the management and operations of the financial institution, holder of a licence or its group.

3. Civil Status Act amended

The Civil Status Act is amended –

(a) by repealing section 8C and replacing it by the following new section –

8C. Access to CPD

The Registrar of Civil Status shall grant access to the CPD to –

- (a) any Ministry and Government department in such manner and to such extent as he may approve;
- (b) the Bank of Mauritius for the purpose of section 52A(1A) and (1B) of the Bank of Mauritius Act.

(b) in section 17B –

(i) in subsection (1) –

(A) in paragraph (a) –

(I) by inserting, after the words “NIC number”, the words “, photograph”;

- (II) by deleting the words “and where applicable, his spouse” and replacing them by the words “, other than a minor”;
- (B) by repealing paragraph (b);
- (ii) in subsection (2), by inserting, after the word “Unit”, the words “established under the Financial Intelligence and Anti Money Laundering Act and the Bank of Mauritius for the purpose of meeting its obligations under section 52A of the Bank of Mauritius Act”;

4. Companies Act amended

The Companies Act is amended –

(a) in section 2 –

- (i) in the definition of “nominee”, by inserting, after the words “some other person either directly or” and “a person is the nominee of another”, the words “indirectly” and “legal or natural”, respectively;
- (ii) by inserting, in the appropriate alphabetical order, the following new definition –

“beneficial owner” or “ultimate beneficial owner” –

- (a) means any natural person who ultimately owns or controls a company or the natural person on whose behalf a transaction or activity is being conducted in relation to a company; and
- (b) includes –
 - (i) the natural person who ultimately owns or controls a company through –
 - (A) direct or indirect ownership of such shares in such percentage as may be prescribed;
 - (B) voting rights;
 - (C) ownership interest; or
 - (D) control by other means;

- (ii) where no natural person under paragraph (i) is identified, or if there is any doubt that the person identified is the beneficial owner, the natural person who controls the company in the manner one company controls another company under section 5;
 - (iii) where no person under paragraphs (i) and (ii) is identified, the natural person who acts as executive director or has equivalent executive powers;
- (b) in section 14, in subsection (8), by adding the following new paragraphs, the comma at the end of paragraph (b) being deleted and replaced by a semi colon and the word “and” at the end of paragraph (a) being deleted –
 - (c) proof of incorporation;
 - (d) legal form and status;
 - (e) basic regulating powers; and
 - (f) list of directors,
- (c) in section 23 –
 - (i) in subsection (1)(c), by adding the following new subparagraph, the full stop at the end of subparagraph (vii) being deleted and replaced by the words “; and” and the word “and” at the end of subparagraph (vi) being deleted –
 - (viii) a declaration regarding beneficial ownership which shall be disclosed in accordance with section 91(3A)(c).
 - (ii) in subsection (2), by inserting, after paragraph (d), the following new paragraph –
 - (da) the full name and the usual residential address of the beneficial owner or ultimate beneficial owner, if any;
- (d) in section 91 –

(i) in subsection (3A) –

(A) in paragraph (a)(ii), by deleting the words “in accordance with subsection (8)”;

(B) by repealing paragraph (c) and replacing it by the following paragraph –

(c) The information referred to in subsection (3)(a)(ii) shall be lodged with the Registrar through the CBRIS or such other electronic system or in such other manner as the Registrar may approve –

(i) at the time of incorporation of a company;

(ii) at the time of registration of a foreign company;

(iii) at the time of registration by way of continuation of a company;

(iv) on filing of the annual return of the company;

(v) in the case of a foreign company, on filing the financial statements of the company;

(vi) upon any change, including transfer, in the shareholding of a company;

(vii) at the time of an issue of shares.

(C) by adding the following new paragraph –

(d) The information referred to in paragraph (c)(vi) and (vii) shall be filed with the Registrar within 14 days from the date by which any entry or alteration is made in the share register.

(ii) in subsection (3C), by adding the following new paragraph –

(c) The Court shall, in addition to any penalty imposed under paragraph (a), order the company to comply with subsection (3)(a)(ii), (3A) or (3B), as the case may be.

(iii) by repealing subsection (8);

(e) in section 190, by adding the following new subsection –

(6) (a) Notwithstanding any other enactment, a company shall authorise at least one officer, who shall be ordinarily resident in Mauritius, to provide, upon request by any competent authority, all basic information and beneficial ownership information of the company.

(b) A company shall, within 14 days of an authorisation under paragraph (a) or of any change of an officer under paragraph (a), notify the Registrar, in such form as the Registrar may approve, the name and particulars of the officer.

(c) In this subsection –

“basic information”, in relation to a company means –

(a) the company name, proof of incorporation, legal form and status, the address of its registered office, basic regulating powers, a list of its directors; and

(b) a register of its shareholders or members, containing the names of the shareholders and members and number of shares held by each shareholder and categories of shares, including the nature of the associated voting rights;

“competent authority” –

(a) means a public body responsible to combat money laundering or terrorist financing; and

(b) includes an investigatory authority;

“investigatory authority” has the same meaning as in the Financial Intelligence and Anti-Money Laundering Act.

(f) in section 281, by inserting, after subsection (5), the following new subsection—

(5A) Any information regarding the beneficial ownership of a foreign company shall be disclosed in accordance with section 91(3A)(c).

(g) in section 309, in subsection (1), by adding the following new paragraph, the full stop at the end of paragraph (e) being deleted and replaced by the words “; or” and the word “or” at the end of paragraph (d) being deleted –

(f) the company fails to comply with section 91(3A)(c).

(h) in section 342A –

(i) in subsection (1), by inserting, after the words “Director of Public Prosecutions”, the words “and subject to subsection (2A)”;

(ii) by inserting, after subsection (2), the following new subsection –

(2A) An offence referred to in section 91(3)(a)(ii), (3A) or (3B) shall not be compounded unless the company agrees in writing to—

(a) pay an amount, acceptable to the Registrar, not exceeding the maximum penalty imposable under this Act for that offence; and

(b) comply with section 91(3)(a)(ii), (3A) or (3B).

5. Co-operatives Act amended

The Co-operatives Act is amended, in section 57 –

- (a) by repealing subsections (1) and (2) and replacing them by the following subsections –

(1) (a) Subject to this section, every internal controller of a credit union shall, as soon as he becomes aware of a suspicious transaction, make a report to FIU of such transaction not later than 5 working days after the suspicion arose.

(b) Where, at any time in the course of the discharge of his functions under this Act, the Principal Co-operative Auditor of a credit union becomes aware of a suspicious transaction, the Principal Co-operative Auditor shall inform the Registrar who shall forthwith pass on that information to FIU.

(2) FIU may, in relation to any suspicious transaction or information that is reported to it pursuant to subsection (1), require such further information as it may determine from the auditor, internal controller or Principal Co-operative Auditor and the auditor, internal controller or Principal Co-operative Auditor shall provide such information.

- (b) by inserting, after subsection (2), the following new subsection –

(2A) The Registrar shall ensure that every credit union complies with the relevant guidelines issued by FIU.

- (c) by repealing subsection (5) and replacing it by the following subsection –

(5) Where an internal controller of a credit union –

(a) becomes aware of a suspicious transaction; or

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

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

(d) by adding the following new subsection –

(6) In this section –

“suspicious transaction” has the same meaning as in the Financial Intelligence and Anti-Money Laundering Act.

6. Dangerous Drugs Act amended

The Dangerous Drugs Act is amended in section 47, in subsection (2), by inserting, after the words “sections 30”, the words “, 39 in so far as it relates to the financing of the offences specified in that section”.

7. Financial Intelligence and Anti-Money Laundering Act amended

The Financial Intelligence and Anti-Money Laundering Act is amended –

(a) in section 2 –

(i) by deleting the definition of “bank” and replacing it by the following definition –

“bank” –

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

(b) includes –

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

- (ii) such category of licensee, under the National Payment Systems Act 2018, as may be prescribed under this Act;

- (ii) by deleting the definition of “financial institution” and replacing it by the following definition –

“financial institution” means –
 - (a) an institution or a person, as the case may be, licensed, registered or authorised under –
 - (i) section 14, 77, 77A or 79A of the Financial Services Act;
 - (ii) the Insurance Act, other than an insurance salesperson;
 - (iii) the Securities Act;
 - (iv) the Captive Insurance Act; or
 - (v) the Trusts Act; or
 - (b) a credit union;

- (iii) in the definition of “investigatory authority”, by inserting, after the words “the ARID”, the words “, the Agency”;

- (iv) by deleting the definition of “legal person” and replacing it by the following definition –

“legal person” –
 - (a) means any entity, other than a natural person; and

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

- (v) in the definition of “supervisory authorities”, in paragraph (a), by adding the following new paragraph –
 - (iii) the Registrar of Co-operative Societies under the Co-operatives Act; and

(vi) in the definition of “suspicious transaction”, by repealing paragraph (a) and replacing it by the following paragraph –

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

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

(ii) funds linked or related to, or to be used for, the financing of terrorism or proliferation financing or, any other activities or transaction related to terrorism as specified in the Prevention of Terrorism Act or under any other enactment, whether or not the funds represent the proceeds of a crime;

(vii) by inserting, in the appropriate alphabetical order, the following new definitions –

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

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

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

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

“dealer in jewellery, precious stones or precious metals” –

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

(b) includes a person who –

- (i) manufactures, processes, buys, sells, imports or exports jewellery, or supplies jewellery for sale;
- (ii) processes, buys, sells or imports precious metals, or exports melted precious metals; or
- (iii) processes, buys, sells or imports precious stones;

“internal controller” has the same meaning as in the Cooperatives Act;

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

“precious metal” –

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

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

- (b) in section 3, by repealing subsection (2) and replacing it by the following subsection –

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

- (c) in section 10 –

- (i) in subsection (1), by inserting, after the words “supervisory authorities”, the words “, the Counterterrorism Unit”;

- (ii) in subsection (2) –

- (A) in paragraph (b), by inserting, after the words “supervisory authorities”, the words “, the Counterterrorism Unit”;

(B) by repealing paragraph (c) and replacing it by the following paragraph –

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

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

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

(d) in section 11, in subsection (2), by deleting the words “persons representing banks, financial institutions, cash dealers and members of the relevant professions or occupations” and replacing them by the words “reporting persons or auditors”;

(e) in section 13 –

(i) in subsection (1), by inserting, after the words “overseas financial intelligence unit,”, the words “the Counterterrorism Unit,”;

(ii) by repealing subsection (2) and replacing it by the following subsection–

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

- (a) the reporting person or auditor who made the report; and
 - (b) a reporting person or an auditor who is, or appears to be, involved in the transaction.
- (iii) by repealing subsection (2A);
- (iv) by repealing subsection (3) and replacing it by the following subsection—

(3) Where –

- (a) FIU becomes aware of any information which gives rise to a reasonable suspicion that a money laundering offence or a terrorism financing offence might have been committed or is about to be committed; or
- (b) a request for information is made by any investigatory or supervisory authority, Government agency, the Counterterrorism Unit, Registrars or overseas financial intelligence unit or comparable body,

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

- (v) by repealing subsection (4) and replacing it by the following subsection—

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

- (vi) by repealing subsection (5) and replacing it by the following subsection—

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

- (vii) in subsection (6) –

(A) by inserting, after the words “request a reporting person”, the words “or an auditor”;

(B) by inserting, after the words “the reporting person” wherever they appear, the words “or auditor”;

- (viii) in subsection (7), by inserting, after the words “A reporting person”, the words “or an auditor”;

- (ix) by adding the following new subsection –

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

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

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the

falsification, concealment, destruction or disposal of, any information, document or material which is or is likely to be relevant to a request under section 13(2), (3) or (6),

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

- (f) in Part IV, by deleting the heading and replacing it by the following heading –

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

- (g) in section 14 –

- (i) by deleting the heading and replacing it by the following heading –

**14. Reporting of suspicious transaction by reporting person
or auditor**

- (ii) by repealing subsection (1) and replacing it by the following subsection–

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

- (iii) by inserting, after subsection (1B), the following new subsection –

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

- (iv) by repealing subsection (2);

(v) by adding the following new subsection –

(3) Where a reporting person or an auditor –

- (a) becomes aware of a suspicious transaction; or
- (b) ought reasonably to have become aware of a suspicious transaction,

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

(h) in section 14C, by inserting, after the words “reporting person”, the words “or auditor”;

(i) in section 15, in subsection (2) –

(i) in paragraph (c), by deleting the words “to the bank, financial institution, cash dealer or member of relevant profession or occupation, as the case may be” and replacing them by the words “with the reporting person or auditor”;

(ii) in paragraph (d), by deleting the words “bank, financial institution, cash dealer, or member of a relevant profession or occupation, as the case may be” and replacing them by the words “reporting person or auditor”;

(j) in section 16 –

(i) in subsection (1), by deleting the words “and its officers” and replacing them by the words “and auditor, and any of their officers”;

(ii) in subsection (2), by repealing paragraph (b) and replacing it by the following paragraph –

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

(k) in section 19, by repealing subsection (1) and replacing it by the following subsection –

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

- (a) fails to comply with section 17, 17A, 17B, 17C, 17D, 17E, 17F or 17G;
- (b) destroys or removes any record, register or document which is required under this Act or any regulations; or
- (c) facilitates or permits the performance under a false identity of any transaction falling within this Part,

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

(l) in section 19E, in the heading, by adding the words “**for purpose of conducting risk assessment**”;

(m) by inserting, after section 19F, the following new section –

19FA. Application

(1) Any regulatory body may require such information as it may determine from any member of a relevant profession or occupation and the member of the relevant profession or occupation shall, within such time as the regulatory body may determine, provide such information.

(2) Any person who fails to provide any information under subsection (1) shall commit an offence and shall, on conviction, be liable to a

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

(n) in section 21 –

(i) by deleting the heading and replacing it by the following heading –

21. Provision of information by FIU to investigatory authorities, supervisory authorities, Counterterrorism Unit or Registrars

(ii) in subsection (1) –

(A) by inserting, after the words “supervisory authorities” wherever they appear, the words “, the Counterterrorism Unit”;

(B) by inserting, after the words “supervisory authority”, the words “, the Counterterrorism Unit”;

(o) in section 22 –

(i) by deleting the heading and replacing it by the following heading –

22. Provision of information by supervisory authorities, Counterterrorism Unit or Registrars to FIU

(ii) in subsection (1) –

(A) by inserting, after the words “any supervisory authority”, the words “, the Counterterrorism Unit”;

(B) by inserting, after the words “the supervisory authority”, the words “, Counterterrorism Unit”;

(p) in the First Schedule –

(i) in Part I –

- (A) by deleting item 2 and its corresponding entry;
- (B) by deleting item 7 and replacing it by the following item and its corresponding entry –

7. Person licensed to operate a casino, a hotel casino, as a horse racing organiser, the Mauritius National Lottery, a limited payout machine, a sweepstake, as a local pool promoter, as the agent of a local pool promoter, a gaming house, a gaming machine, as a totalisator, as a bookmaker and interactive gambling under the Gambling Regulatory Authority Act	Gambling Regulatory Authority established under the Gambling Regulatory Authority Act
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- (C) in item 8, by deleting the words “Dealer under the Jewellery Act” and replacing them by the words “Dealer in jewellery, precious stones or precious metals”;
 - (D) by deleting item 11 and its corresponding entry;
- (ii) in Part II –
- (A) by numbering the existing provision as paragraph (1);
 - (B) in the newly numbered paragraph (1) –
 - (I) in subparagraph (a), by deleting the words “financial transactions equal to or above 100,000 rupees” and replacing them by the words “, on any given date, a total cumulative financial transaction equal to or above 20,000 rupees”;

(II) in subparagraph (b), by deleting the words “financial transactions equal to or above 100,000 rupees” and replacing them by the words “, on any given date, a total cumulative financial transaction equal to or above 20,000 rupees”;

(III) in paragraph (c), by deleting the words “, with respect to both the purchaser and the vendor, concerning the buying and selling of real estate” and replacing them by the words “concerning the buying, selling or rental of real estate”;

(IV) in paragraph (d), by deleting the words “a dealer, under the Jewellery Act, who engages in any cash transaction” and replacing them by the words “a dealer in jewellery, precious stones or precious metals who engages in any transaction”;

(V) in subparagraph (e) –

(AA) by deleting the words “and licensed auditor” and replacing them by the word “licensed”;

(AB) in sub subparagraph (i), by deleting the words “and selling” and replacing them by the words “, selling or rental”;

(C) by adding the following new paragraph –

(2) In this Part –

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

8. Financial Reporting Act amended

The Financial Reporting Act is amended –

- (a) in section 46, in subsection (1)(h), by inserting, after the words “the rules”, the words “and guidelines”;
- (b) by repealing section 55A and replacing it by the following section –

55A. Obligations to comply with guidelines issued by Mauritius Institute of Professional Accountants and FIU

For the purposes of combatting money laundering and the financing of terrorism, every professional accountant, public accountant and relevant member firm referred to in Part II of the First Schedule to the Financial Intelligence and Anti-Money Laundering Act shall comply with the guidelines issued by the Mauritius Institute of Professional Accountants and FIU.

- (c) in section 79 –
 - (i) by repealing subsection (1) and replacing it by the following subsection–
 - (1) Where a public interest entity has failed to comply with any financial reporting and accounting standard, code, Code of Corporate Governance or guideline issued under this Act, and with such other financial reporting and accounting standards as may be specified under the relevant enactments, the Council may issue a warning to the public interest entity or serve a notice on the public interest entity for an immediate restatement of its financial statement, or take any remedial action as it may determine.
 - (ii) in subsection (3) –
 - (A) by inserting, after the words “with the notice referred to in”, the words “, or take any remedial action under,”;

- (B) by deleting the words “one million rupees” and replacing them by the words “5 million rupees”.

9. Financial Services Act amended

The Financial Services Act is amended –

- (a) in section 7, by inserting, after subsection (1), the following new subsection –

- (1A) Any decision of the Commission pursuant to section 7(1)(c) may be published in such form and manner as the Commission may determine.

- (b) in section 23, by repealing subsection (4) and replacing it by the following subsection –

- (4) (a) The requirement under subsection (1) shall not apply to such class of licensees in respect of the issue or transfer of the type of shares that do not carry voting rights.

- (b) In this subsection –

- “class of licensees” includes –

- (a) CIS or CEF, as authorised under the Securities Act; and
 - (b) reporting issuers, registered under the Securities Act, that do not hold an activity licence for a licensable activity but whose securities are listed on a Securities Exchange in Mauritius.

- (c) in section 43, in subsection (1) –

- (i) by inserting, after the words “business premises of a licensee”, the words “, or at such other place and at such time as the Commission may determine,”;

- (ii) by inserting, after the words “with the requirements of”, the words “the Financial Intelligence and Anti-Money Laundering Act, the Prevention of Terrorism Act and”.
- (d) by inserting, after section 43, the following new section –

43A. Frequency of on site inspections

(1) The frequency of an on site inspection carried out under section 43 shall be determined on the basis of, but not limited to –

- (a) the money laundering or terrorism financing risks and policies, internal controls and procedures associated with a licensee, as assessed by the Commission;
- (b) the money laundering or terrorism financing risks present in Mauritius; and
- (c) the characteristics of the licensee and the degree of discretion allowed to the licensee under the risk-based approach implemented by the Commission.

(2) The Commission shall review the assessment of the money laundering or terrorism financing profile of a licensee as and when there are major developments in the management and operations of the licensee.

10. Foundations Act amended

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“beneficial owner” or “ultimate beneficial owner” has the same meaning as in the Companies Act, with such modifications and adaptations as may be necessary;

“nominee” has the same meaning as in the Companies Act, with such modifications and adaptations as may be necessary;

(b) in section 23, in subsection (1)(b) , by inserting, after subparagraph (ix), the following new subparagraph –

(ixa) where the beneficiary is a nominee, the full name and address of the beneficial owner or ultimate beneficial owner;

(c) in section 36 –

(i) by repealing subsection (6) and replacing it by the following subsection–

(6) Any information regarding the beneficial owner or ultimate beneficial owner of a Foundation shall be lodged with the Registrar –

(a) at the time of registration of the Foundation or foreign Foundation, as the case may be;

(b) at the time of registration by way of continuation of the Foundation.

(ii) by adding the following new subsections –

(7) (a) A Foundation that fails to comply with subsection (1)(d) or (e) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300,000 rupees.

(b) A Council member or former Council member who fails to comply with subsection (1)(d) or (e) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300,000 rupees.

(8) Any secretary or former secretary which fails to comply with subsection (5) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300,000 rupees.

(9) The Court shall, in addition to any fine imposed under subsection (7) or (8), order the Foundation, Council member, former Council member, secretary or former secretary, as the case may be, to comply with subsection (1)(d) or (e) or (5).

(d) in section 39, by inserting, after subsection (4), the following new subsection –

(4A) Where Foundation, Council member, former Council member, secretary or former secretary, as the case may be, has failed to comply with section 36(1) (d) or (e) or (5), the Registrar shall remove the name of the Foundation from the register.

(e) in section 50A –

(i) in subsection (1)(a), by inserting, after the words “Director of Public Prosecutions”, the words “and subject to subsection (2A)”;

(ii) by inserting, after subsection (2), the following new subsection –

(2A) An offence referred to in section 36(1)(d) or (e) or (5) shall not be compounded unless the Foundation or Council member or former Council member, as the case may be, agrees in writing to –

(a) pay an amount, acceptable to the Registrar, not exceeding the maximum penalty imposable under this Act for that offence; and

(b) comply with section 36(1)(d) or (e) or (5).

11. Gambling Regulatory Authority Act amended

The Gambling Regulatory Authority Act is amended –

(a) in section 2 –

- (i) in the definition of “horse racing organiser”, by deleting the words “body of persons registered in Mauritius” and replacing them by the words “public limited company”;
- (ii) by inserting, in the appropriate alphabetical order, the following new definitions –

“beneficial owner” –

- (a) means the natural person who ultimately owns or controls the person on whose behalf an application for the issue or renewal of a licence is made; and
- (b) includes the natural person who exercises ultimate effective control over the person on whose behalf an application for the issue or renewal of a licence is made;

“bill validator” means a device designed to interface with a gaming machine for the purpose of validating currency;

“company” has the same meaning as in the Companies Act;

- (b) in section 7, in subsection (1), in paragraph (ma), by inserting, after the words “issued by the”, the words “Authority and by”;
- (c) by inserting, after section 20, the following new section –

20A. Authorised transactions at casino

(1) Subject to subsection (2), transactions in currency, player card or debit card shall be carried out at a main cash desk set up by the casino.

(2) Notwithstanding subsection (1), transactions by chips may be carried out at a live game table.

(3) No transaction shall be carried out by credit card at a casino.

- (d) by inserting, after section 22G, the following new section –

22GA. Authorised transactions at hotel casino

(1) Subject to subsection (2), transactions in currency, player card or debit card shall be carried out at a main cash desk set up by the hotel casino.

(2) Notwithstanding subsection (1), transactions by chips may be carried out at a live game table.

(3) No transaction shall be carried out by credit card at a hotel casino.

- (e) by inserting, after section 26A, the following new section –

26B. Authorised transactions at gaming house

(1) Subject to subsection (2), transactions in currency, player card or debit card shall be carried out at a main cash desk set up by the hotel gaming house.

(2) Notwithstanding subsection (1), transactions by chips may be carried out at a live game table.

(3) No transaction shall be carried out by credit card at a gaming house.

- (f) by inserting, after section 28B the following new section –

28C. Prohibition on use of bill validator

No gaming machine shall be fitted with a bill validator.

- (g) in section 31 –

- (i) in subsection (1), by adding the following new paragraph, the full stop at the end of paragraph (d) being deleted and replaced by the words “; and” and the word “and” at the end of paragraph (c) being deleted –
 - (e) ensuring that all payments to jockeys by stables, stable managers and owners to be paid through a specific bank account to be managed by the horse racing organiser.
- (ii) in subsection (2), by repealing paragraph (c) and replacing it by the following paragraph –
 - (c) the registration of owners of race horses and ensure that –
 - (i) all registered owners pay their respective share of keep money and such payment be effected solely by cheque or electronic transfer through a specific bank account managed by the horse racing organiser; and
 - (ii) all acquisitions of horses are closely monitored and payment for such acquisitions are made through a specific bank account managed by the horse racing organiser;
- (h) in section 94, in subsection (2)(b), by repealing subparagraph (i) and replacing it by the following subparagraph –
 - (i) a certified list of the name and addresses of all beneficial owners, directors, managers and other senior officers of the applicant and a list of its shareholders owning 10 per cent or more of its shares;
- (i) by inserting, after section 94B, the following new section –

94C. Acquisition of interest in licence

(1) No person holding an interest in a licensee shall dispose of that interest without –

- (a) notifying the licensee; and
- (b) obtaining the approval of the Authority where the disposal of the interest will result in a person acquiring a significant interest in the licensee.

(2) Where the disposal of an interest in a licensee results in a person acquiring a significant interest in that licensee, the licensee shall immediately notify the Authority.

(3) The Authority shall, in giving its approval under subsection (1)(b), consider –

- (a) the business background and experience of the person acquiring the interest; and
- (b) whether the person acquiring the interest is a fit and proper person.

(4) In determining whether a person is a fit and proper person under subsection (3)(b), the Authority shall consider whether that person –

- (a) has been convicted of a serious offence;
- (b) is subject to an investigation or court proceedings in respect of a serious offence;
- (c) has been adjudged bankrupt or is subject to bankruptcy proceedings;
- (d) is insolvent or is subject to insolvency proceedings;

(e) is subject to any process, investigation or proceedings under customs or revenue law.

(5) For the purpose of giving its approval under subsection (1)(b), the Authority may require such information as it thinks fit from a person intending to acquire a significant interest in a licensee.

(6) The Authority shall not grant an approval under subsection (1)(b) where it is of the opinion that the person intending to acquire a significant interest in a licensee –

(a) does not possess the requisite business background or experience to conduct the affairs of the licensee; or

(b) is not a fit and proper person.

(7) In this section –

“dispose” means alienate, donate, mortgage, sell, pledge, transfer or otherwise grant a right to a third party;

“serious offence” means murder, manslaughter, an offence involving fraud or dishonesty, a drug-related offence or a sexual offence;

“significant interest” means –

(a) owning, directly or indirectly, or otherwise having a beneficial interest of, 10 percent or more of the capital or of the voting rights of a licensee; or

(b) exercising, directly or indirectly, a significant influence over the management of the licensee.

(j) in section 97A –

(i) in the heading, by inserting, after the words “**guidelines issued by**”, the words “**the Authority and**”;

(ii) by inserting, after the words “guidelines issued by”, the words “Authority and”;

(k) in section 105 –

(i) in subsection (1), in paragraph (aa), by deleting the words “receiving a winning exceeding 50,000 rupees” and replacing them by the words “who, on any given date, enters into a cumulative financial transaction equal to or above 20,000 rupees”;

(ii) by adding the following new subsection –

(4) In this section –

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

(l) by repealing section 108B and replacing it by the following section –

108B. Player card account

(1) No person shall operate a player card account or issue a player card without the authorisation of such body as may be prescribed.

(2) The Minister may make such regulations as he thinks fit for the setting up and operation of player card accounts.

(m) by repealing section 108C;

(n) by inserting, after section 113B, the following new section –

113C. Registration of Money Laundering Reporting Officer, Deputy Money Laundering Reporting Officer and Compliance Officer

Every licensee falling under item 7 of Part I of the First Schedule to the Financial Intelligence and Anti-Money Laundering Act shall register their

Money Laundering Reporting Officer, Deputy Money Laundering Reporting Officer and Compliance Officer, as the case may be, with the Authority on such terms and conditions as the Board may determine.

- (o) by inserting, after section 134A, the following new section –

134B. Non-compliance by horse racing organiser

A horse racing organiser that contravenes this Act or any condition, rules, directions or any guidelines imposed or issued by the Authority shall commit an offence and shall, on conviction, be liable to a fine of not less than 200,000 rupees and not exceeding one million rupees.

12. Good Governance and Integrity Reporting Act amended

The Good Governance and Integrity Reporting Act is amended –

- (a) in section 2, in the definition of “enforcement authority”, by deleting the words “the Enforcement Authority under”;
- (b) in section 3, in subsection (6), by deleting the words “10 million rupees” and replacing them by the words “10 million rupees, other than to unexplained wealth of at least 2.5 million rupees in cash which has been seized by an enforcement authority during a criminal investigation”;
- (c) in section 16, in subsection (1) –
- (i) in paragraph (a), by deleting the words “; or” and replacing them by a comma;
 - (ii) by repealing paragraph (b).

13. Immigration Act amended

The Immigration Act is amended, in section 9F –

- (a) by repealing subsection (1) and replacing it by the following subsection –

(1) For facilitation purposes, the immigration officer shall, through an electronic system or by such other appropriate means, share with –

(a) another public sector agency such information as may be mutually agreed upon, in relation to –

(i) a non-citizen, his name and address and date of arrival in, and date of departure from, Mauritius; and

(ii) a citizen of Mauritius, his name and address and date of departure from, and date of arrival in, Mauritius;

(b) the Financial Intelligence Unit any other additional information to those specified in paragraph (a) and which are required for the furtherance of the Financial Intelligence Unit's functions.

(b) in subsection (2), by inserting, after the words "public sector agency", the words ", other than the Financial Intelligence Unit,";

(c) by adding the following new subsection –

(3) In this section –

"Financial Intelligence Unit" means the Financial Intelligence Unit established under section 9(1) of the Financial Intelligence and Anti-Money Laundering Act.

14. Jewellery Act amended

The Jewellery Act is amended -

(a) in section 2 –

(i) by deleting the definition of "dealer" and replacing it by the following definition –

“dealer” –

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

(b) includes a person who –

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

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

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

(ii) by deleting the definition of “jewellery” and replacing it by the following definition –

“jewellery” means any article –

(a) made of a precious metal, other than silver, or of its alloy; or

(b) for personal adornment made of silver or of its alloy,

and which exceeds one gramme;

(iii) in the definition of “precious metal”, by inserting, after the word “silver”, the words “, palladium”;

(iv) in the definition of “precious stone”, by inserting, after the word “diamond”, the words “, sapphire, ruby, emerald, alexandrite or tanzanite”.

(b) in section 3, by adding the following new subsection –

(3) Part III shall apply to jewellery which relates to an article for personal adornment made of a precious metal or of its alloy, and which exceeds one gramme.

(c) in section 15 –

(i) by repealing subsection (1) and replacing it by the following subsection –

(1) No person shall deal in jewellery, precious stones or precious metals unless he is registered with the Controller.

(ii) by adding the following new subsection –

(6) This section shall not apply to the Bank of Mauritius and to any bank which has been granted a banking licence to carry on exclusively private banking business by the Bank of Mauritius to hold, store or sell gold, silver, platinum, and other precious metals, as part of the management of its client's investment portfolio.

15. Limited Liability Partnerships Act amended

The Limited Liability Partnerships Act is amended –

(a) in section 2, by inserting, in the appropriate alphabetical order, the following new definition –

“beneficial owner” or “ultimate beneficial owner” has the same meaning as in the Companies Act, with such modifications and adaptations as may be necessary;

(b) in section 23, in subsection (2)(d), by inserting, after subparagraph (vii), the following new subparagraph –

(viiia) where a limited partner is a nominee, the full name, usual residential address and service address of his beneficial owner or ultimate beneficial owner;

(c) in section 41A –

(i) by repealing subsection (4) and replacing it by the following subsection –

(4) Any information regarding the beneficial owner or ultimate beneficial owner of a limited liability partnership shall be lodged with the Registrar –

- (a) at the time of registration of the limited liability partnership or foreign limited liability partnership, as the case may be;
- (b) at the time of registration by way of continuation of the limited liability partnership;
- (c) on filing the annual return of the limited liability partnership;
- (d) in the case of a foreign limited liability partnership, on filing the financial statements of the limited liability partnership;
- (e) upon any change, including transfer, in the partners of the limited liability partnership;
- (f) at the time of any change in the amount contributed.

(ii) by adding the following new subsections –

(5) The information referred to in subsection (4)(e) and (f) shall be filed with the Registrar within 14 days from the date on which any entry or alteration is made in the register of partners.

(6) A limited liability partnership that fails to comply with the subsection (4) or (5) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300,000 rupees.

(7) A partner or former partner of a limited liability partnership who fails to comply with subsection (6) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300,000 rupees.

(8) The Court shall, in addition to any fine imposed under subsection (6) or (7), order the limited liability partnership or the partner or former partner of a limited liability partnership, as the case may be, to comply with subsection (5).

- (d) in section 45, in subsection (1), by adding the following new paragraph, the comma at the end of paragraph (b) being deleted and replaced by the words “; and” and the word “and” at the end of paragraph (a) being deleted –
 - (c) a limited liability partnership has failed to comply with section 41A(4),

- (e) in section 66 –
 - (i) in subsection (1)(a), by inserting, after the words “Director of Public Prosecutions”, the words “and subject to subsection (2 A)”;
 - (ii) by inserting, after subsection (2), the following new subsection –
 - (2A) An offence referred to in section 41A(4) shall not be compounded unless the limited liability partnership or the partner or former partner of a limited liability partnership, as the case may be, agrees in writing to –
 - (a) pay an amount, acceptable to the Registrar, not exceeding the maximum penalty imposable under this Act for that offence; and
 - (b) comply with section 41A(4).

16. Limited Partnerships Act amended

- (a) in section 2, in the definition of “beneficial owner” or “ultimate beneficial owner”, by deleting the words “section 91(8) of”;
- (b) in section 19, in subsection (2)(d), by inserting, after subparagraph (v), the following new subparagraph –
 - (va) where a limited partner is a nominee, the full name, usual residential address and service address of his beneficial owner or ultimate beneficial owner;
- (c) in section 39, by adding the following new subsections –
 - (6) Any information regarding the beneficial owner or ultimate beneficial owner of a limited partnership shall be lodged with the Registrar –
 - (a) at the time of registration of the limited partnership or foreign limited partnership, as the case may be;
 - (b) at the time of registration by way of continuation of the limited partnership;
 - (c) on filing of the annual return of the limited partnership;

- (d) in the case of a foreign limited partnership, on filing the financial statements of the limited partnership;
- (e) upon any change, including transfer, in the partners of the limited partnership;
- (f) at the time of any change in the amount contributed.

(7) The information referred to in subsection (6)(e) and (f) shall be filed with the Registrar within 14 days from the date on which any entry or alteration is made in the register of all partners.

(8) A limited partnership that fails to comply with the subsection (6) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300,000 rupees.

(9) A partner or former partner of a limited partnership who fails to comply with subsection (6) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 300,000 rupees.

(10) The Court shall, in addition to any fine imposed under subsection (8) or (9), order the limited partnership or the partner or former partner of a limited partnership, as the case may be, to comply with subsection (7).

(d) in section 54A, in subsection (1), by adding the following new paragraph, the comma at the end of paragraph (b) being deleted and replaced by the words “; and” and the word “and” at the end of paragraph (a) being deleted –

- (c) a limited partnership has failed to comply with section 39(6) ,

(e) in section 75A –

- (i) in subsection (1)(a), by inserting, after the words “Director of Public Prosecutions”, the words “and subject to subsection (2 A)”;
- (ii) by inserting, after subsection (2), the following new subsection –

(2A) An offence referred to in section 39(6) shall not be compounded unless the limited partnership or the partner or former partner of a limited partnership, as the case may be, agrees in writing to –

- (a) pay an amount, acceptable to the Registrar, not exceeding the maximum penalty imposable under this Act for that offence; and
- (b) comply with section 39(6).

17. Mauritius Revenue Authority Act amended

The Mauritius Revenue Authority Act is amended by inserting, after section 15, the following new section –

15A. Stay of assessment or claim

(1) Where –

- (a) proceedings have been initiated by the Legal Services Department under section 16 in respect of an offence which may have been committed under section 147 of the Income Tax Act, section 58 of the Value Added Tax Act, section 148 (4) or (5) of the Gambling Regulatory Authority Act or section 131A or 158(1)(b) or (3)(a), (b) or (c) of the Customs Act; or
- (b) a money laundering offence may have been committed in respect of an offence referred to in paragraph (a) and the matter has been referred to the Commission for investigation,

the Director-General may stay any related assessment or claim intended to be raised.

(2) Subject to subsection (3), where –

- (a) the Commission discontinues an investigation or the Legal Services Department discontinues an enquiry;
- (b) the Director of Public Prosecutions discontinues criminal proceedings; or
- (c) a Court decision is obtained following criminal proceedings instituted,

with respect to the offences specified in subsection (1), the Director General may, notwithstanding sections 123A and 130 of the Income Tax Act, sections 28A and 37(3) of the Value Added Tax Act, sections 119 and 119A of the Gambling Regulatory Authority Act and sections 7A, 15 and 24A of the Customs Act, issue an assessment or claim in respect of any related tax, duty or levy which was the subject of the enquiry, investigation or criminal proceedings not later than one year after the date the enquiry is discontinued, the investigation is discontinued, the criminal proceedings are discontinued or a Court decision is obtained.

(3) Where the Director-General has, pursuant to subsection (1) , stayed any related assessment or claim intended to be raised, he shall not issue an assessment or claim beyond a period of 2 years from the time limit the Director-General is authorised to raise an assessment or claim under sections 123A and 130 of the Income Tax Act, sections

28A and 37(3) of the Value Added Tax Act, sections 119 and 119A of the Gambling Regulatory Authority Act, and sections 7A, 15 and 24A of the Customs Act.

- (4) In this section –
“Commission” means the Independent Commission Against Corruption established under section 19 of the Prevention of Corruption Act.

18. Notaries Act amended

The Notaries Act is amended, in section 20, in subsection (1) –

- (a) by repealing paragraph (a) and replacing it by the following paragraph –

(a) Where a notary draws up a notarial deed containing provision for the transfer of immovable property, the notary shall –

- (i) make known to the parties to the deed the consequences to which they expose themselves if the full purchase price or consideration or conditions giving rise to duty, are not truly expressed and specified in the deed; and
- (ii) inform the parties that the purchase price or consideration has to be paid by bank cheque in the name of the notary, or by bank transfer in the bank account of the notary, and that any sum paid other than by bank cheque in the name of the notary or bank transfer in the bank account of the notary shall not be considered as part of the purchase price,

and a clause shall be inserted in the deed stating that the notary has made this requirement of the law known to the parties.

- (b) by adding the following new paragraph –

(c) Where any payment of the purchase price or consideration is made by bank cheque in the name of a notary or bank transfer in the bank account of a notary, the notary shall, as soon as possible but not later than 5 working days after the payment is made to him, pay the purchase price or consideration to the transferor of the immovable property.

19. Prevention of Corruption Act amended

The Prevention of Corruption Act is amended –

(a) in section 2, in the definition of “suspicious transaction”, by repealing paragraph (a) and replacing it by the following paragraph –

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

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

(ii) funds linked or related to, or to be used for, the financing of terrorism or proliferation financing or, any other activities or transaction related to terrorism as specified in the Prevention of Terrorism Act or under any other enactment, whether or not the funds represent the proceeds of a crime;

(b) by inserting, after section 17, the following new section –

17A. Offence committed by legal person

(1) Any legal person who commits an offence under this Part shall, on conviction, be liable to a fine not exceeding 10 million rupees.

(2) In this section –
“legal person” –

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

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

(c) in section 45, in subsection (1), by inserting, after paragraph (d), the following new paragraph, the word “or” at the end of paragraph (d) being deleted –

(da) the Director-General of the Mauritius Revenue Authority; or

(d) in section 46, by inserting after subsection (3), the following new subsection –

(3A) Where the Director-General of the Mauritius Revenue Authority has referred a matter to the Commission under section 45 and –

(a) the Commission discontinues an investigation; or

(b) the Director of Public Prosecutions discontinues criminal proceedings; or

(c) a Court decision is obtained following criminal proceedings instituted,

the Commission shall notify the Director-General of the Mauritius Revenue Authority, within a period of 10 days from the date that such decision is taken or judgment is delivered.

20. United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019 amended

The United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019 is amended, in section 18, in subsection (1)(b), by inserting, after the words “immediately disseminate”, the words “the public notice issued by the National Sanctions Secretariat,”.

21. Commencement

Section 11(c), (d) and (e) shall come into operation on a date to be fixed by Proclamation.

Passed by the National Assembly on the seventh day of July two thousand and twenty.

Bibi Safeena Lotun (Mrs)
Clerk of the National Assembly
