

**THE ANTI-MONEY LAUNDERING AND COMBATTING THE FINANCING OF TERRORISM
AND PROLIFERATION (MISCELLANEOUS PROVISIONS) ACT 2019**

Act No. 9 of 2019

Government Gazette of Mauritius No. 53 of 29 May 2019

I assent

PARAMASIVUM PILLAY VYAPOORY

Acting President of the Republic

29 May 2019

ARRANGEMENT OF SECTIONS

Section

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An Act

To amend various enactments with a view to meeting international standards on anti-money laundering and combatting the financing of terrorism and proliferation, and with a view to addressing threats to international peace and security

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 and Proliferation (Miscellaneous Provisions) Act 2019**.

2. Asset Recovery Act amended

The Asset Recovery Act is amended –

- (a) in section 2 –
 - (i) in the definition of “civil recovery investigation”, in paragraph (a), by inserting, after the words “proceeds,”, the words “a benefit,”;
 - (ii) in the definition of “instrumentality”, by inserting, after the words “with an”, the words “offence or”;
 - (iii) in the definition of “proceeds”, by inserting, after the words “with an”, the words “offence or”;
- (b) in section 3(2), by deleting the words “or instrumentality” and replacing them by the words “, benefit, instrumentality or terrorist property”;
- (c) in section 7(2), by repealing paragraph (g) and replacing by the following paragraph –
 - (g) fund such training or other capacity building activity, or pay such expenses, as may be required by the Enforcement Authority for the purposes of this Act and for the purposes of combatting money laundering and the financing of terrorism.
- (d) in section 9(a), by inserting, after the word “proceeds”, the words “, a benefit”;
- (e) in section 10(1)(b), by inserting, after the word “proceeds”, the words “, a benefit”;
- (f) in section 13 –
 - (i) in paragraph (a), by inserting, after the word “proceeds”, the words “, a benefit”;
 - (ii) in paragraph (d), by inserting, after the words “proceeds,”, the words “a benefit,”;
- (g) in section 16(3) by inserting after the word “specified”, the word “additional”;

- (h) in section 17(1), by repealing paragraph (a) and replacing it by the following paragraph –
 - (a) Where a person is convicted of an offence, the Enforcement Authority may apply to the Court for a Confiscation Order in respect of –
 - (i) any benefit or proceeds derived or likely to be derived by that person or any other person from that offence or from any other unlawful activity which the Court finds to be sufficiently related to that offence;
 - (ii) any instrumentalities used or intended to be used in any manner in connection with that offence or from any other unlawful activity which the Court finds to be sufficiently related to that offence.
- (i) in section 27, by inserting, after the word “proceeds” wherever it appears, the words “, a benefit”;
- (j) in section 29, by inserting, after the words “proceeds,” wherever they appear, the words “a benefit,”;
- (k) in section 33(2) by inserting, after the word “specific”, the word “additional”;
- (l) in section 34, by repealing subsection (1) and replacing it by the following subsection –
 - (1) Where any property has come to the notice of the Enforcement Authority, or property is found by a law enforcement agent to be in the possession of any person, and the property is reasonably believed by the Enforcement Authority to be proceeds or a benefit derived from an offence or any unlawful activity which the Court finds to be sufficiently related to that offence, an instrumentality or terrorist property, the Enforcement Authority may make an application to the Court for the grant of a Recovery Order in respect of the property.
- (m) in section 35(1), by inserting, after the words “proceeds,”, the words “a benefit,”;
- (n) in section 36(6)(b), by inserting, after the words “proceeds,”, the words “a benefit”;
- (o) in section 37(2)(b), by inserting, after the words “proceeds,”, the words “a benefit,”;
- (p) in section 40(1), by inserting, after the word “proceeds”, the words “, a benefit”;
- (q) in section 41(6), by inserting, after the word “proceeds” wherever they appear, the words “, a benefit”;
- (r) in section 46(2)(a)(iii), by inserting, after the words “proceeds,”, the words “a benefit,”;
- (s) in section 47 –
 - (i) in subsection (1), by deleting the word “written”;
 - (ii) by adding the following new subsections –
 - (5) Information provided by any electronic means to the Enforcement Authority under this section shall be admissible as evidence in any application made

under this Act.

(6) In this section –

“notice” –

(a) means a notice in such form as the Enforcement Authority may determine; and

(b) includes a notice sent by any electronic means.

(t) in section 48 –

(i) in subsection (1), by deleting the word “written”;

(ii) by adding the following new subsections –

(3) Information provided by any electronic means to the Enforcement Authority under this section shall be admissible as evidence in any application made under this Act.

(4) In this section –

“notice” –

(a) means a notice in such form as the Enforcement Authority may determine; and

(b) includes a notice sent by any electronic means.

(u) in section 49(8)(a), by inserting, after the words “crime,”, the words “a benefit,”;

(v) in section 54(1), by inserting, after the words “proceeds,”, the words “a benefit,”;

(w) in section 56 –

(i) in subsection (1), by inserting, after the word “proceeds”, the words “a benefit,”;

(ii) in subsection (4), by inserting, after the word “proceeds”, the words “, a benefit”;

(x) in section 57(1), by inserting, after the words “proceeds,”, the words “a benefit,”;

(y) in section 58(1), by inserting, after the words “proceeds,”, the words “benefit,”;

(z) in section 59(4), by inserting, after the words “Registrar of Companies”, the words “, the Registrar-General, the National Transport Authority, the Tourism Authority, the Civil Status Division, the Social Security Office, the Registrar of Co-operatives, any Ministry or Government department”.

3. Bank of Mauritius Act amended

The Bank of Mauritius Act is amended, in section 52A(7), in the definition of “KYC institution”, by inserting, after the words “is required to”, the words “identify and”.

4. Banking Act amended

The Banking Act is amended –

(a) in section 2, by deleting the definition of “banking laws” and replacing it by the following

definition –

“banking laws” –

- (a) means this Act, the Bank of Mauritius Act, the Convention for the Suppression of Financing of Terrorism Act, the Financial Intelligence and Anti-Money Laundering Act, the Prevention of Terrorism Act, the Prevention of Terrorism (International Obligations) Act and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019; and
 - (b) includes such other enactment as may be prescribed;
- (b) in section 64A(2)(b), by repealing subparagraphs (iii) and (iv) and replacing them by the following subparagraphs –
- (iii) procedures to ensure that group level compliance, audit and anti- money laundering and combating the financing of terrorism functions shall have the power to request customer, account and transaction information from branches and subsidiaries, as necessary to perform their functions in order to combat money laundering and terrorism financing;
 - (iv) the provision by group level functions to branches and subsidiaries, of information and analysis of transactions or activities which appear unusual when relevant and appropriate to risk management; and

5. Civil Status Act amended

The Civil Status Act is amended, in section 17B –

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

(1) For facilitation purposes, the Registrar of Civil Status shall, through his electronic system, share with –

- (a) another public sector agency, information relating to the name, address, date of birth, gender, NIC number and date of death, if any, of a person, other than a minor;
 - (b) the Financial Intelligence Unit established under the Financial Intelligence and Anti-Money Laundering Act, any other additional information to those specified in subsection (1) and which are required for the furtherance of the Financial Intelligence Unit’s functions, through mutual agreement with the Financial Intelligence Unit.
- (b) in subsection (2), by deleting the words “established under the Financial Intelligence and Anti-Money Laundering Act”.

6. Companies Act amended

The Companies Act is amended, in Part XI, by adding the following new Sub-part –

Sub-Part H – Company Service Providers

167A. Registration as company service provider

(1) No person shall provide any of the following services, as a business, unless he is registered as a company service provider with the Registrar –

- (a) acting as a formation agent of a legal person with a view to assisting another person to incorporate, register or set up, as the case may be, a company, a foundation, a limited liability partnership or such other entity as may be prescribed;
- (b) acting, or causing for another person to act, as a director, as a secretary, as a partner or in any other similar position, as the case may be, of a legal person such as a company, a foundation, a limited liability partnership or such other entity as may be prescribed;
- (c) providing a registered office, a business address or an accommodation, a correspondence or an administrative address for a legal person such as a company, a foundation, a limited liability partnership or such other entity as may be prescribed; or
- (d) acting, or causing for another person to act, as a nominee shareholder for another person.

(2) The Registrar may register a person as a company service provider, provided that –

- (a) the person is ordinarily resident or has a place of business in Mauritius; and
- (b) the Registrar is satisfied that the person is a fit and proper person to be a company service provider.

(3) The Registrar shall not deregister a person as a company service provider unless the Registrar has given the person an opportunity to make representations on the matter.

(4) Any company service provider shall keep the Registrar promptly informed of any change in its status.

(5) A Secretary referred to in section 164 and the holder of a management licence under section 77 of the Financial Services Act that provides, as a business, any of the services specified in subsection (1) shall not be required to be registered under this section.

7. Convention for the Suppression of the Financing of Terrorism Act amended

The Convention for the Suppression of the Financing of Terrorism Act is amended –

(a) in section 2 –

- (i) in the definition of “Convention”, by deleting the words “, as set out in the First Schedule”;

- (ii) in the definition of “funds”, by adding the following new paragraph –
 - (c) includes financial services or such other related financial services as may be prescribed;
 - (iii) in the definition of “Minister”, by deleting the words “financial services” and replacing them by the words “national security”;
- (b) in section 4 –
- (i) by inserting, after subsection (1), the following new subsection –
 - (1A) (a) Any person who, by any means whatsoever, wilfully and unlawfully, directly or indirectly, provides funds to any individual to travel to a State, other than that individual’s State of residence, for the purpose of perpetration, planning, or preparation of, or participation in, terrorist acts or the provision or the receiving of terrorist training, shall commit an offence.
 - (b) For an act to constitute an offence under paragraph (a), it shall not be necessary that the terrorist act or attempted terrorist act has been carried out or that the individual has perpetrated, planned, prepared, or participated in terrorist acts, or has participated in terrorist activities.
 - (ii) in subsection (3), by inserting, after the words “subsection (1)”, the words “or (1A)”;
- (c) by repealing the First Schedule.

8. Criminal Code amended

The Criminal Code is amended by inserting, after section 40, the following new section –

40A. Illegal trafficking in stolen goods and any other goods

- (1) No person shall sell, offer for sale, distribute, import, export, use, lease, hire, supply, trade, or otherwise deal with, stolen goods or such other goods.
- (2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.
- (3) In this section –
 - “stolen goods” means goods carried off, abstracted or obtained by means of a crime or misdemeanour.

9. Customs Act amended

The Customs Act is amended in section 131A –

- (a) in subsection (1), by inserting, after the words “currency or bearer negotiable instruments” wherever they appear, the words “or precious stones and metals including gold, diamond and jewellery or any goods of high value including work of arts”;
- (b) in subsection (1A)(b), by inserting, after the words “currency or bearer negotiable instruments”

wherever they appear, the words “or precious stones and metals including gold, diamond and jewellery or any goods of high value including work of arts”;

(c) be repealing subsection (4) and replacing it with the following subsection –

(4) Where a proper officer reasonably suspects that the amount of currency or bearer negotiable instruments or precious stones and metals including gold, diamond and jewellery or any goods of high value including work of arts declared under subsection (1) or (1A) and detected, if any, pursuant to subsection (3), may involve money laundering, financing of terrorism or any other criminal offence, he shall –

(a) forthwith pass on the information to FIU, the Police, the Independent Commission against Corruption established under the Prevention of Corruption Act or the Counterterrorism Unit, as the case may be;

(b) detain, in an escrow account or in such other manner as the Director-General may determine, the amount of the currency or bearer negotiable instruments or precious stones and metals including gold, diamond and jewellery or any goods of high value including work of arts found in the possession of the person, so as to allow for an investigation to be carried out by the Director-General;

(c) at the end of the investigation, remit any -

(i) evidence gathered as a result of the investigation; and

(ii) subject matter of the offence detained by the Director-General under subparagraph (b), in case of –

(A) money-laundering, to the Independent Commission against Corruption;

(B) financing of terrorism or any other criminal offence, to the Police, the Counterterrorism Unit or such other relevant investigatory body, as the case may be,

for such further investigation or action as may be required.

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

(4A) In any action or proceeding arising out of the detention of the amount of the currency or bearer negotiable instruments or precious stones and metals including gold, diamond and jewellery or any goods of high value including work of arts under subsection (4), the burden of proving the source of the amount of the currency or bearer negotiable instruments or precious stones and metals including gold, diamond and jewellery or any goods of high value including work of arts detained shall lie with the alleged offender.

(e) in subsection (5), by deleting the words “not exceeding 1,000,000 rupees” and replacing them by the words “of not less than 20 per cent of the whole amount which is the subject matter of the offence but not exceeding 2 million rupees”;

(f) in subsection (5A), by deleting the words “retain such amount not exceeding the maximum pecuniary penalty imposable under the customs laws for such offence” and replacing them by the words “detain the amount of the currency or bearer negotiable instruments or precious stones and metals including gold, diamond and jewellery or any goods of high value including work of arts found in the possession of the person”;

(g) by inserting, after subsection (5A), the following new subsection –

(5B) Where the Court has convicted a person under subsection (5), the subject matter of the offence may be confiscated and –

(a) the currency or bearer negotiable instruments; or

(b) in case of precious stones and metals including gold, diamond and jewellery or any goods of high value including work of arts, shall be disposed of by public tender or public auction in accordance with section 61(1) and the proceeds of sale,

shall be paid into the Consolidated Fund.

(h) in subsection (6), by inserting, in the appropriate alphabetical order, the following new definition –

“Counterterrorism Unit” has the same meaning as in the Prevention of Terrorism Act;

10. Financial Intelligence and Anti-Money Laundering Act amended

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

(a) in section 2 –

(i) in the definition of “member of a relevant profession or occupation”, by deleting the words “First Schedule” and replacing them by the words “First Schedule and performing any transaction in the manner specified in Part II of that Schedule”;

(ii) in the definition of “overseas financial intelligence units”, by deleting the words “the overseas countries specified in Part II of the First Schedule” and replacing them by the words “overseas countries”;

(iii) by deleting the definition of “proliferation offence”;

(iv) in the definition of “relevant enactments”, by deleting the words “and the Prevention of Corruption Act” and replacing them by the words “, the Prevention of Corruption Act and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019”;

(v) in the definition of “suspicious transaction”, in paragraph (a)(ii), by inserting, after the words “terrorist financing”, the words “, proliferation financing”;

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

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

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

“company service provider” –

- (a) means a person, registered under section 164 or 167A of the Companies Act, that provides any of the services specified in section 167A of that Act; but
- (b) does not include –
 - (i) a barrister, an attorney or a notary, or a law firm, foreign law firm, joint venture or foreign lawyer under the Law Practitioners Act;
 - (ii) a professional accountant, public accountant and member firm under the Financial Reporting Act; and
 - (iii) the holder of a management licence under section 77 of the Financial Services Act;

“express trust” –

- (a) means a trust clearly created by the settlor, usually in the form of a document; and
- (b) includes a written deed of trust;

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

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

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

“legal arrangement” means an express trust or any other similar arrangement;

“legal person” –

- (a) means any entity, other than a natural person, that can establish a permanent business relationship with a reporting person or otherwise own property; and
- (b) includes a company, a foundation, an association, a limited liability partnership or such other entity as may be prescribed;

“Ministry” means the Ministry responsible for the subject of money laundering;

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

“proliferation” means –

- (a) the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer, import, export, transshipment or use of –
 - (i) nuclear weapons;
 - (ii) chemical weapons;
 - (iii) biological weapons;
 - (iv) such other materials, as may be prescribed, which are related to nuclear weapons, chemical weapons or biological weapons; or
- (b) the provision of technical training, advice, service, brokering or assistance related to any of the activities specified in paragraph (a);

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

- (a) makes available an asset;
- (b) provides a financial service; or
- (c) conducts a financial transaction; and

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

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

“Review Panel” means the Review Panel referred to in section 19Q;

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

- (b) in section 8(1), by deleting the words “2 million rupees” and “10 years” and replacing them by the words “10 million rupees” and “20 years”, respectively;
- (c) in section 10 –
 - (i) in subsection (1), by inserting, after the words “supervisory authorities”, the words “and Registrars”;
 - (ii) in subsection (2) –
 - (A) by deleting the words “For the purpose of subsection (1)” and replacing them by the words “For the purposes of this Act”;
 - (B) in paragraph (b), by inserting, after the words “supervisory authorities”, the words “and Registrars”;
 - (C) by repealing paragraph (ba) and replacing it by the following paragraph –
 - (ba) issue guidelines to members of a relevant profession or occupation falling under its purview on measures to combat money laundering,

financing of terrorism and proliferation;

(D) in paragraph (c), by inserting, after the words “auditors of credit unions” the words “, other than the Principal Co-operative Auditor,”;

(iii) by repealing sections 3 to 7;

(d) in section 13 –

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

(ii) in subsection (2), by inserting, after the words “supervisory authorities”, the words “or Registrars”;

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

(2A) Nothing in subsection (2) shall be construed as requiring a law practitioner to provide any information 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. (iv) in subsection (3), by inserting, after the words “Government agency” wherever they appear, the words “, Registrars”;

(v) by adding the following new subsections –

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

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

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

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

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

(e) in section 14 –

(i) in subsection (1), by inserting, after the word “auditor”, the words “, other than the Principal Co-operative Auditor,”;

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

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

(f) by inserting, after section 14B, the following new section –

14C. Registration by reporting person

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

(g) in section 16 –

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

(1) Any reporting person and its officers shall not disclose to any person that a suspicious transaction report is being or has been filed, or that related information is being or has been requested by, furnished or submitted to FIU.

(ii) by repealing subsection (3) and replacing it by the following subsection –

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

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

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

(iii) by inserting, after subsection (3), the following new subsection –

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

(iv) in subsection (4), by deleting the definition of “unauthorised third party” and the semicolon at the end of the definition of “officer” being deleted and replaced by a full stop;

(h) in section 17 –

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

(1) Every reporting person shall –

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

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

(ii) in subsection (2), by deleting the words “The risk assessment” and replacing them by the words “The nature and extent of any assessment of money laundering and terrorism financing risks under subsection (1) shall be appropriate having regard to

the nature and size of the business of the reporting person and”;

- (iii) in subsection (3), by inserting, after the words “a reporting person”, the words “or a supervisory authority”;
- (i) in section 17A (1), by repealing paragraph (b) and replacing it by the following paragraph –
 - (b) monitor the implementation of, regularly review, update and, where necessary, enhance the, policies, controls and procedures established under paragraph (a);
- (j) in section 17C –
 - (i) in subsection (1) –
 - (A) by deleting the words “by means of such reliable and independent source documents or information”;
 - (B) in paragraph (b), by repealing subparagraph (ii) and replacing it by the following subparagraph –
 - (ii) a domestic or cross-border wire transfer;
 - (ii) by inserting, after subsection (5), the following new subsection –
 - (5A) The trustee of an express trust shall disclose his status as a trustee to a reporting person when forming a business relationship or carrying out an occasional transaction in an amount equal to or above 500,000 rupees or an equivalent amount in foreign currency.
- (k) by inserting, after section 17G, the following new section –

17H. High risk country

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

- (a) on the recommendation of the National Committee; and
- (b) after giving due consideration to such factors as may be prescribed,

identify that jurisdiction as a high risk country.

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

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

- (a) the application of additional elements of enhanced due diligence;
- (b) the introduction of enhanced relevant reporting mechanisms or systematic reporting of financial transactions;
- (c) the limitation of business relationships or transactions with natural

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

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

- (a) refusing the establishment of subsidiaries or branches or representative offices of reporting persons from the country concerned, or otherwise taking into account the fact that the relevant reporting person is from a country that does not have adequate AML/CFT systems;
- (b) prohibiting reporting persons from establishing branches or representative offices in the high risk country, or otherwise taking into account the fact that the relevant branch or representative office would be in a country that does not have adequate AML/CFT systems;
- (c) limiting business relationships or financial transactions with the identified country or persons in that country;
- (d) prohibiting reporting persons from relying on parties located in the country concerned to conduct elements of the CDD process;
- (e) requiring reporting persons to review and amend, or if necessary terminate, correspondent banking and other similar relationships with institutions in the country concerned;
- (f) requiring increased supervisory examination and external audit requirements for branches and subsidiaries of reporting persons based in the country concerned;
- (g) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned.

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

- (a) any high risk country identified by the Minister under subsection (1);
- (b) any countermeasures which are applicable on the country;
- (c) the concerns regarding the weaknesses in the AML/CFT systems of that country; and
- (d) any publicly available information published by the Financial Action Task Force on any jurisdiction which has been identified by it as having significant or strategic deficiencies in its AML/CFT measures.

- (l) in section 18 –
 - (i) in subsection (3), by deleting the words “on the ground that it is carrying on its business in a manner which is contrary or detrimental to the interest of the public”;
 - (ii) by repealing subsections (3A) and (4);
- (m) in section 19(1), by repealing paragraph (c), the word “or” being added at the end of paragraph (b);
- (n) in section 19A, by inserting, after paragraph (b), the following new paragraph –
 - (ba) a representative of the Ministry;
- (o) in section 19B, by deleting the words “proliferation offences” wherever they appear and replacing them by the word “proliferation”;
- (p) in section 19D, by repealing subsection (3) and replacing it by the following subsection –
 - (3) The Ministry shall, to the extent possible, make available the findings of the national risk assessment to –
 - (a) every supervisory and investigatory authority and the Registrars for the purpose of subsection (4); and
 - (b) reporting persons, in order to assist them to identify, understand, manage and mitigate the risk of money laundering and terrorism financing and proliferation.
- (q) by inserting, after Part IVA, the following new Part –

PART IVB – SUPERVISION BY REGULATORY BODIES

Sub-Part A – Application of Part IVB

19F. Application

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

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

Sub-Part B – Functions and Powers of Regulatory Body

19G. Functions of regulatory body

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

- (a) supervise, monitor and give guidance to a member falling under its purview;
- (b) cooperate with, and assist, investigatory authorities;
- (c) exchange information with investigatory authorities and supervisory authorities;
- (d) assist and exchange information with overseas comparable regulatory bodies; and
- (e) undertake and assist in research projects in order to identify the methods and trends of money laundering activities and the financing of terrorism and proliferation activities in Mauritius and in the region.

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

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

19H. Powers of regulatory body

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

- (a) issue guidelines for the purposes of combating money laundering activities and the financing of terrorism and proliferation activities;
- (b) give directions to a member falling under its purview to ensure compliance with this Act and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, and any regulations made and guidelines issued under those Acts;
- (c) require a member falling under its purview to submit a report on corrective measures it is taking to ensure compliance with this Act and the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, and any regulations made and guidelines issued under those Acts, at such intervals as may be required by the regulatory body;
- (d) with respect to a member falling under its purview, apply, subject to subsection (2), any or all of the following administrative sanctions –
 - (i) issue a private warning;
 - (ii) issue a public censure;
 - (iii) impose such administrative penalty as may be prescribed by the

regulatory body;

- (iv) ban, where the regulatory body has licensed or authorised the member to conduct his business or profession, from conducting his profession or business for a period not exceeding 5 years;
- (v) revoke or cancel a licence, an approval or an authorisation, as the case may be.

(2) (a) Subsection (1)(d) shall not apply to a barrister, an attorney or a notary.

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

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

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

(4) A regulatory body may publish any of its decision or determination, or the decision of the Review Panel, or any other information the regulatory body may deem appropriate.

Sub-Part C – Supervisory Powers of Regulatory Body 19J.

Request for information

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

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

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

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

19K. On-site inspections

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

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

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

(a) direct, orally or in writing –

(i) the member; or

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

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

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

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

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

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

(4) Any person who –

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

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

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

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

(6) In this section –

“regulatory body” includes any person designated in writing by the regulatory body.

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

19L. Directions by regulatory body

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

- (a) has failed or is failing to take such measures as are required under this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts; or
- (b) is involved in money laundering activities and the financing of terrorism and proliferation activities,

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

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

- (a) where he has failed or is failing to take such measures as are required under this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, to do a specified act, or refrain from doing a specified act;
- (b) to comply with this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, which may be relevant to the circumstances;
- (c) to remove or take steps to remove any specified employee from office, or ensure that a specified employee does not take part in his management or conduct of his business, except as permitted by the regulatory body;
- (d) to appoint a specified person to a specified office for a period specified in the direction;
- (e) to implement corrective measures and provide, at such intervals as may be specified in the direction, reports on the implementation of the corrective measures.

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

(5) A member referred to in subsection (1) who has been given a direction shall

comply with the direction notwithstanding anything in its constitution or any contract or arrangement to which it is a party.

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

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

19M. Non-compliance with directions

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

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

Sub-Part E – Administrative Sanction and Compounding of Offences

19N. Administrative sanction

(1) Subject to subsection (2), where a regulatory body has reasonable cause to believe that a member falling under its purview –

- (a) has contravened this Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts;
- (b) is involved in money laundering activities and the financing of terrorism and proliferation activities;

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

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

- (a) its intention to impose the administrative sanction;
- (b) the type and terms of the administrative sanction; and
- (c) the right of the member to make written representations to the regulatory body within 21 days of the notice.

(3) Where, after considering the written representations under subsection (2)(c) and the regulatory body is satisfied that the member has contravened subsection (1), or

where no written representations are received, it shall impose the administrative sanction on the member.

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

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

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

19P. Compounding of offences

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

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

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

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

Sub-Part F – Review Panel

19Q. Review Panel

- (1) There shall be, for the purposes of this Part, a Review Panel which shall –
 - (a) be responsible to review a decision of a regulatory body to impose an administrative sanction under section 19N;
 - (b) be responsible to review a decision of the Financial Reporting Council under section 23A of the Financial Reporting Council;
 - (c) be responsible to review a decision of the Registrar of Associations under section 14K of the Registration of Associations Act; and
 - (d) have such other functions and powers as may be prescribed.

- (2) (a) The Review Panel shall consist of –
- (i) a Chairperson, who shall be a retired Judge or a barrister of not less than 15 years' standing; and
 - (ii) 2 other members who shall have sufficient knowledge and experience in the field of AML/CFT, law or accountancy,

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

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

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

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

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

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

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

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

–

- (a) disclose the nature of the interest in writing to the Chairperson and where the member is the Chairperson, to the other members of the Review Panel, before the meeting is convened to discuss that matter; and
- (b) not take part in any deliberations of the Review Panel.

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

19R. Staff of Review Panel

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

19S. Application for review

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

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

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

(2) Where a member is unable to make an application within the period of 21 days referred to in subsection (4)(a), the Review Panel may, on good cause shown, accept to hear the application.

(3) Notwithstanding an application under subsection (4)(a) but subject to subsection (7), the decision of the regulatory body under section 19N shall be given effect immediately after the period of 21 days from the date of the decision.

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

19T. Proceedings of Review Panel

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

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

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

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

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

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

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

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

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

19U. Powers of Review Panel

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

- (a) summon and hear witnesses;
- (b) call for the communication or production of any relevant record, document or article; and
- (c) proceed in the absence of a party who, by notice, has been given reasonable opportunity to attend the proceedings.

19V. Determination of Review Panel

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

- (a) confirm, amend or cancel a decision made by the regulatory body;
- (b) remit the matter to the regulatory body for reconsideration.

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

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

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

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

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

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

19W. Offences relating to proceeding of Review Panel

Any person who, without reasonable cause –

- (a) fails to attend the Review Panel after having been summoned to do so under section 19U;
- (b) knowingly gives false evidence, or evidence which he knows to be misleading, before the Review Panel; or
- (c) at any hearing of the Review Panel –
 - (i) wilfully insults a member;

(ii) wilfully interrupts or disturbs the proceedings,
shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 3 years.

19X. Judicial review

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

19Y. Application of Sub-part

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

- (a) the Financial Reporting Council under section 23A of the Financial Reporting Council; and
 - (b) the Registrar under section 14K of the Registration of Associations Act.
- (r) in section 21 –
- (i) in the heading, by adding the words “**or Registrars**”;
 - (ii) in subsection (1) –
 - (A) in paragraph (a), by inserting, after the words “any of the supervisory authorities”, the words “or Registrars”;
 - (B) by inserting, after the words “of the supervisory authorities”, the words “or Registrars”;
 - (C) by adding the words “or Registrar”;
 - (iii) by inserting, after subsection (1), the following new subsection –
 - (1A) FIU may, at the request of any supervisory authority and for the sole purpose of assisting the supervisory authority to discharge its compliance functions, provide it with a copy of the suspicious transaction report made under section 14(1).
- (s) in section 22 –
- (i) in the heading, by adding the words “**or Registrars**”;
 - (ii) in subsection (1), by inserting, after the words “supervisory authority” wherever they appear, the words “or Registrar”;
- (t) in section 31, by adding the following new subsection –
- (4) Any person referred to in subsection (1) who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 2 years.
- (u) in section 32, by adding the following new subsection, the existing provision being

numbered as subsection (1) –

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

(v) in section 35(2), by deleting the words “proliferation offences” and replacing them by the words “proliferation financing”;

(w) in the First Schedule –

(i) in Part I –

(A) by deleting items 4, 5 and 6 and their corresponding entries and replacing them by the following items and their corresponding entries –

| | | |
|----|-----------|-----|
| 4. | Attorney | FIU |
| 5. | Barrister | FIU |
| 6. | Notary | FIU |

(B) by adding the following new item and its corresponding entry –

| | | |
|-----|--------------------------|------------------------|
| 12. | Company Service Provider | Registrar of Companies |
|-----|--------------------------|------------------------|

(ii) by repealing Part II and replacing it by the following Part –

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

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

(a) a person licensed, under the Gambling Regulatory Authority Act, to operate a casino, hotel casino, limited payout machine, sweepstake, gaming house, gaming machine, where any of his customers engages in financial transactions equal to or above 100,000 rupees or an equivalent amount in foreign currency;

(b) a totalisator, a bookmaker, a local pool promoter, the agent of a foreign pool promoter and pool collector, under the Gambling Regulatory Authority Act, where any of his customers engages in financial transactions equal to or above 100,000 rupees or an equivalent amount in foreign currency;

(c) an agent in land and building or an estate agency, a land promoter and property developer under the Local Government Act, where he is involved in transactions for a client, with respect to both the purchaser and the vendor, concerning the buying and selling of real estate;

(d) a dealer, under the Jewellery Act, who engages in any cash transaction of at least

500,000 rupees in total, whether the transaction is executed in a single operation or in several operations which appear to be linked;

- (e) a barrister, an attorney, a notary, a law firm, a foreign law firm, a joint law venture, a foreign lawyer under the Law Practitioners Act, and a professional accountant, a public accountant and a member firm and licensed auditor under the Financial Reporting Act, who prepares for, or carries out, transactions for his client concerning the following activities –
 - (i) buying and selling of real estate;
 - (ii) managing of client money, securities or other assets;
 - (iii) management of bank, savings or securities accounts;
 - (iv) organisation of contributions for the creation, operation or management of legal persons such as a company, a foundation, a limited liability partnership or such other entity as may be prescribed;
 - (v) creating, operating or management of legal persons such as a company, a foundation, an association, a limited liability partnership or such other entity as may be prescribed, or legal arrangements, and buying and selling of business entities; or
 - (vi) any activity specified in item (f);
- (f) a company service provider who prepares, or carries out, transactions for a client concerning the following activities –
 - (i) acting as a formation agent of a legal person with a view to assisting another person to incorporate, register or set up, as the case may be, a company, a foundation, a limited liability partnership or such other entity as may be prescribed;
 - (ii) acting, or causing another person to act, as a director, as a secretary, as a partner or in any other similar position, as the case may be, of a legal person such as a company, foundation, a limited liability partnership or such other entity as may be prescribed;
 - (iii) providing a registered office, a business address or an accommodation, a correspondence or an administrative address for a legal person such as a company, a foundation, a limited liability partnership or such other entity as may be prescribed; or
 - (iv) acting, or causing for another person to act, as a nominee shareholder for another person.

11. Financial Reporting Act amended

The Financial Reporting Act is amended –

- (a) in section 17(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) an AML/CFT Monitoring Panel.

- (b) by inserting, after section 23, the following new sections –

23A. AML/CFT Monitoring Panel

(1) The AML/CFT Monitoring Panel shall be responsible for reviewing, analysing and identifying any failure on the part of any licensed auditor to comply with the Financial Intelligence and Anti-Money Laundering Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts.

(2) Subject to this Act and rules made by the Council, the AML/CFT Monitoring Panel shall conduct its monitoring exercise in such manner as it may determine.

(3) The AML/CFT Monitoring Panel shall, where it identifies a failure on the part of a licensed auditor, determine the appropriate action to be taken and inform the Council thereof.

(4) The Council shall, within 30 days of receipt of the determination under subsection (3), ratify, vary or make such other decision as it considers appropriate and it shall give written notice to the licensed auditor of its final decision.

(5) In addition to any administrative sanction imposed by the Council, the Review Panel may direct the licensed auditor to take such remedial action as it may determine.

(6) Any administrative penalty under this section shall be a debt due to the Council and may be recovered by the Council as a civil debt in a court of competent jurisdiction.

(7) Any administrative penalty paid to the Council shall be credited to the Consolidated Fund.

23B. Application for review before Review Panel

(1) A licensed auditor who is aggrieved by the decision of the Council under section 23A –

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

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

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

(3) Notwithstanding an application under subsection (1)(a) but subject to subsection (4), the decision of the Council under section 23A shall be given effect immediately after the period of 21 days from the date of the decision.

(4) The Review Panel may, after hearing the aggrieved party, suspend the implementation of the decision of the Council under subsection (3) on such terms and conditions as it may determine.

(5) Where an application to review the decision of the Council is made to the Review Panel under this section, the review proceedings shall be dealt with in accordance with Sub-part F of Part IVB of the Financial Intelligence and Anti-Money Laundering Act, with such modifications and adaptations as may be necessary.

(6) In this section –

“Review Panel” means the Review Panel referred to in section 19Q of the Financial Intelligence and Anti-Money Laundering Act.

12. Financial Services Act amended

The Financial Services Act is amended –

(a) in section 2, in the definition of “financial crime”, by inserting, after the words “Financial Intelligence and Anti-Money Laundering Act”, the words “, the Convention for the Suppression of the Financing of Terrorism Act, the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, the Prevention of Terrorism (International Obligations) Act”;

(b) in section 16(1)(b), by deleting the word “verification”;

(c) in section 83 –

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

(6) Notwithstanding any other enactment, the Supreme Court shall, in relation to a corporation holding a Global Business Licence, not make an order for disclosure or production of any confidential information except on an application made by an investigatory authority and on being satisfied that the confidential information is bona fide required for the purpose of any enquiry relating to, or trial into, a financial crime.

(ii) by adding the following new subsection –

(10) In this section –

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

13. Immigration Act amended

The Immigration Act is amended, in section 8(1), by adding the following new paragraph, the full stop at the end of paragraph (n) being deleted and replaced by a semicolon –

(o) persons listed by or under the authority of the United Nations Security Council

pursuant to any of the United Nations Security Council Resolution specified in the Second Schedule to the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019.

14. Law Practitioners Act amended

The Law Practitioners Act is amended –

(a) in subsection 13(2), by adding the following new paragraph, the existing provision being lettered as paragraph (a) –

(b) Where a barrister, an attorney or a notary has failed or is failing to comply with, or has failed or is failing to take such measures as are required under the Financial Intelligence and Anti-Money Laundering Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, the Financial Intelligence Unit established under the Financial Intelligence and Anti-Money Laundering Act shall report the matter to the Attorney-General.

(b) in section 14, by adding the following new subsection –

(4) Where a barrister, an attorney or a notary has failed or is failing to comply with, or has failed or is failing to take such measures as are required under the Financial Intelligence and Anti-Money Laundering Act or the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019, or any regulations made or guidelines issued under those Acts, the Court may, in addition to its powers under subsection (3) –

(a) issue a warning;

(b) impose such penalty as it may determine.

15. Prevention of Terrorism Act amended

The Prevention of Terrorism Act is amended –

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

(b) means a designated party or listed party under the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019;

(b) by repealing section 10.

16. Registration of Associations Act amended

The Registration of Associations Act is amended –

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

“administrative sanction” means a sanction referred to in section 14A(1)(d);

“associates” include foreign branches of international registered associations and

associations with which partnerships have been arranged;

“guidelines” means any guidelines, guidance, code or best practices issued by the Registrar under this Part;

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

“Review Panel” means the Review Panel referred to in section 19Q of the Financial Intelligence and Anti-Money Laundering Act;

- (b) in section 6(1), by inserting, after the words “shall be”, the words “made in such form and manner as the Registrar may determine and”;
- (c) by inserting, after Part III, the following new Part –

Part IIIA – Measures Related to Good Governance and Financial Integrity

Sub-Part A – Powers of Registrar

14A. Powers of Registrar

(1) The Registrar shall have such powers as are necessary to enable him to effectively discharge his functions under this Act and may, in particular –

- (a) issue guidelines;
- (b) give directions to any registered association to ensure compliance with this Act or any guidelines issued under this Act;
- (c) require a registered association to submit a report on corrective measures it is taking to ensure compliance with this Act or any guidelines issued under this Act, at such intervals as may be required by the Registrar;
- (d) with respect to a registered association or any person who is a present or past officer or member of a registered association, and subject this Part, apply any or all of the following administrative sanctions –
 - (i) issue a private warning;
 - (ii) impose an administrative penalty;
 - (iii) ban a person from being a member of the managing committee of a registered association for a period not exceeding 5 years;
 - (iv) cancel the registration of a registered association as provided under section 15.

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

(3) The Registrar may publish any of its decision or determination, or the decision of the Review Panel, or any other information the Registrar may deem appropriate.

Sub-Part B – Obligations of Registered Associations

14B. Record keeping

(1) Every registered association shall, for a period of at least 5 years, keep a record containing full details of –

- (a) the source and destination of funds received, and disposed of, by the association;
- (b) transactions, both domestic and international, that shall be sufficient to verify whether those funds have been received and spent in a manner consistent with the objects of the association;
- (c) the identity of the person who controls or directs the activities of the association, including the members of its managing committee;
- (d) its beneficiaries and associates.

(2) The Registrar may request a registered association to submit financial statements, for such period as he may determine, with detailed breakdowns of receipts and payments and assets and liabilities, and the registered association shall comply with such a request.

(3) A registered association shall, upon request, make the records under subsection (1) available to the Registrar, or an investigatory body.

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

14C. Appropriate controls by registered associations

A registered association shall –

- (a) have appropriate controls in place to ensure that all funds shall be fully accounted for and shall be spent in a manner that is consistent with the objects of the association; and
- (b) take reasonable measures to –
 - (i) confirm the identity, credentials and good standing of its beneficiaries and associates;
 - (ii) confirm that its beneficiaries and associates are not involved with or using the funds of the association to support terrorists or terrorist organisations; and
 - (iii) document the identity of its significant donors and respect donor confidentiality.

14D. Duty to provide information

(1) Where a report has been made under section 21A, the Director of FIU may, notwithstanding any other enactment, request further information in relation to the suspicious transaction from –

- (a) the auditor; or
- (b) the relevant registered association or any other registered association that is, or appears to the FIU, to be involved in the transaction.

(2) Any person who fails to comply with 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 2 years.

Sub-Part C – Investigatory Powers of Registrar

14E. Request for information

(1) The Registrar may, in the discharge of its functions under this Act, require a registered association to furnish it with any information and produce any record or document within such time and at such place as it may determine.

(2) A registered association referred to in subsection (1) shall, as soon as possible, comply with any request under subsection (1).

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

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

14F. On-site inspections

(1) (a) The Registrar may, at any time, cause to be carried on the business premises of a registered association an inspection and an audit of its books and records to verify whether the association is complying with this Act.

(b) The Registrar may, when exercising a power under this section, request such assistance as may be necessary from FIU or any supervisory authorities.

(2) For the purposes of subsection (1), the Registrar may-

- (a) direct, orally or in writing –
 - (i) the registered association; or
 - (ii) any other person whom the Registrar reasonably believes has in its possession or control a document or thing that may be relevant to the inspection,

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

- (b) examine, and make copies of or take extracts from, any document or

thing that it deems necessary to be relevant to the inspection;

- (c) retain any document or thing it deems necessary; and
- (d) direct a person who is or apparently is an employee of the registered association to give information about any document or thing that it deems necessary to be relevant to the inspection.

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

(4) Any person who –

- (a) intentionally obstructs the Registrar in the performance of any of his duties under this section; or
- (b) fails, without reasonable excuse, to comply with any direction of the Registrar in the performance of his duties under this section,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 2 years.

(5) Any person who destroys, falsifies, conceals or disposes of, or causes or permits the destruction, falsification, concealment or disposal of, any document, information stored on a computer or other device or other thing that the person knows or ought reasonably to have known is relevant to an on-site inspection or investigation, shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 2 years.

(6) In this section –

“Registrar” includes any person designated in writing by him.

Sub-Part D – Powers of Registrar to Give Directions and Issue Guidelines

14G. Directions by Registrar

(1) Where the Registrar has reasonable cause to believe that a registered association has failed or is failing to take such measures as are required under this Act or any guidelines issued under this Act, the Registrar may give the registered association a written direction as he may, in the circumstances, determine.

(2) Without prejudice to the generality of subsection (1), the Registrar may direct a registered association –

- (a) where the association has failed or is failing to take such measures as are required under this Act, to do a specified act, or refrain from doing a specified act;
- (b) to comply with this Act which may be relevant to the circumstances;

- (c) to comply with any relevant guidelines issued by the Registrar;
- (d) to remove or to take steps to remove any specified employee from office, or ensure that a specified employee does not take part in the management or conduct of the activities of the association, except as permitted by the Registrar;
- (e) to establish compliance programmes, internal controls and other corrective measures; and
- (f) to provide, as such intervals as may be specified in the direction, reports on the compliance programmes, internal controls and other corrective measures that the association is taking;
- (g) to issue financial statements that provide detailed breakdowns of receipts and payments and assets and liabilities.

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

(4) A registered association referred to in subsection (1) that has been given a direction shall comply with the direction notwithstanding anything in its rules or any contract or arrangement to which it is a party.

(5) The Registrar may revoke a direction under this section at any time, by notice to the registered association.

14H. Non-compliance with directions

(1) Any person to whom a direction is given under this Act shall comply with the direction and where he fails to comply with the direction and a time period is specified for compliance, the person shall commit 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) A person who knowingly hinders or prevents compliance with a direction given under this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

14J. Power to issue guidelines

(1) The Registrar may issue such guideline as he considers appropriate for the purposes of this Act.

(2) Any guidelines issued by the Registrar under subsection (1) shall apply to every registered association or to such category of registered association as may be specified in the guidelines and that association or category of associations shall comply with those guidelines.

(3) Where it appears or is represented to the Registrar that any registered

association has refrained from complying or negligently failed to comply with any requirement of any guidelines as he considers appropriate, the Registrar may take, against the registered association, any action which it is empowered to take under section 14A.

Sub-Part E – Administrative Sanction and Application for Review

14K. Administrative sanction by Registrar

(1) Subject to subsection (2), where the Registrar has reasonable cause to believe that a registered association has contravened this Act or any regulations made or guidelines issued under this Act or any direction issued under this Act, he may, in accordance with this Act, take such action as he may determine.

(2) Where the Registrar intends to impose an administrative sanction against a registered association, he shall issue a notice to the registered association stating –

- (a) his intention to impose an administrative sanction;
- (b) the type and terms of the administrative sanction; and
- (c) the right of the registered association to make written representations to the Registrar within 21 days of the notice.

(3) Where, after considering the written representations under subsection (2)(c) and the Registrar is satisfied that the registered association is in contravention of subsection (1), or where no written representations are received, it shall impose the administrative sanction on the association.

(4) Any administrative penalty under this Part shall be a debt due to the Registrar and may be recovered by the Registrar as a civil debt in a court of competent jurisdiction.

(5) Any administrative penalty paid to the Registrar shall be credited to the Consolidated Fund.

14L. Application for review before Review Panel

(1) A registered association which is aggrieved by the decision of the Registrar under section 14K –

- (a) may, within 21 days of the decision of the Registrar, make an application to the Review Panel for a review of that decision, specifying the reasons thereof; and
- (b) shall, at the same time, forward a copy of his application by registered post to the Registrar.

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

(3) Notwithstanding an application under subsection (1)(a) but subject to subsection (4), the decision of the Registrar under section 14K shall be given effect

immediately after the period of 21 days from the date of the decision.

(4) The Review Panel may, after hearing the aggrieved registered association, suspend the implementation of the decision of the Registrar under subsection (3) on such terms and conditions as it may determine.

(5) In addition to any administrative sanction imposed by the Registrar under section 14K, the Review Panel may direct the registered association to take such remedial action as it may determine.

(6) Where an application to review the decision of the Registrar is made to the Review Panel under this section, the review proceedings shall be dealt with in accordance with Sub-part F of Part IVB of the Financial Intelligence and Anti-Money Laundering Act, with such modifications and adaptations as may be necessary.

Sub-Part F – Exemptions

14M. Registered associations to be exempted

The Minister may, by regulations, exempt any registered association or a category of registered associations from the provisions of sections 14B and 14C.

(d) in section 20, by repealing subsection (5);

(e) in section 23 –

(i) in subsection (1), by inserting, after the words “a return”, the words “, in such form and manner as the Registrar may determine, and such return being duly filled in,”;

(ii) by inserting, after subsection (1), the following new subsections –

(1A) For the purpose of subsection (1), the Registrar may direct the secretary of a registered association to furnish such information as he may determine and the secretary shall furnish such information.

(1B) Where the secretary of a registered association omits to state any matter to the Registrar pursuant to subsection (1) where he knows or ought reasonably to know that, because of the omission, the return is misleading in a material respect, or where he fails to furnish any information pursuant to subsection (1A), he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and imprisonment for a term not exceeding 6 months.

(f) in section 38, by adding the following new subsection –

(3) Regulations made under this section may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 3 months.

17. Trusts Act amended

The Trusts Act is amended –

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

–

“financial crime” means –

- (a) an offence that involves fraud or dishonesty under this Act; or
- (b) an offence under the Financial Intelligence and Anti-Money Laundering Act, the Prevention of Terrorism Act, the Convention for the Suppression of the Financing of Terrorism Act, the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019 and the Prevention of Terrorism (International Obligations) Act;

(b) in section 33 –

(i) in subsection (2), by inserting, after the words “subsection (3)”, the words “and subject to section 36(1)”;

(ii) by repealing subsection (3) and replacing it by the following subsection–

(3) Notwithstanding any other enactment, the Court or the Judge in Chambers shall not make an order for disclosure or production of any confidential information referred to in subsection (2), except on an application made by an investigatory authority and on being satisfied that the confidential information is bona fide required for the purpose of an enquiry relating to, or a trial regarding, a financial crime.

(iii) by adding the following new subsection –

(6) In this section –

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

18. Registration of Associations Regulations 1979 amended

The Registration of Associations Regulations 1979 are amended by revoking regulation 10.

19. Financial Intelligence and Anti-Money Laundering Regulations 2018 amended

The Financial Intelligence and Anti-Money Laundering Regulations 2018 are amended –

(a) in regulation 2 –

(i) by deleting the definition of “business relationship”, “casino”, “express trust”, “legal arrangements”, “legal persons”, “real estate agent” and “settlers”;

(ii) in the definition of “politically exposed person” or “PEP”, in paragraph (b), in the definition of “international organisation PEP”, by inserting, after the words “senior management”, the words “such as directors, deputy directors and members of the board or equivalent functions,”;

- (b) in regulation 5 –
 - (i) by numbering the existing provision as paragraph (1);
 - (ii) by adding the following new paragraph –
 - (2) In this regulation –
“senior management” means senior managing official.
- (c) in regulation 6(1)(c), by deleting the words “(a) and (b)” and replacing them by the words “(a) or (b)”;
- (d) in regulation 20(1)(a), by revoking sub subparagraph (iii) and replacing it by the following sub subparagraph –
 - (iii) the originator’s address, or national identity number, or customer identification number, or date and place of birth;
- (e) in regulation 21, by deleting the words “regulation 3(a)” wherever they appear and replacing them by the words “regulation 3(1)(a)”;
- (f) in regulation 24 –
 - (i) in paragraph (1) –
 - (A) by deleting the words “section 17C(3)” and replacing them by the words “sections 17C(3) and 17H”;
 - (B) by deleting the word “third” wherever it appears;
 - (ii) by revoking paragraph (4);
- (g) in regulation 29, by adding the following new paragraph –
 - (3) Where FIU receives a report made by a Money Laundering Reporting Officer pursuant to paragraph (2), it shall acknowledge receipt of the report forthwith.
- (h) by revoking regulation 32.

Passed by the National Assembly on the twenty first day of May two thousand and nineteen.

Bibi Safeena Lotun (Mrs)
Clerk of the National Assembly