REPUBLIC OF SEYCHELLES

CHAPTER 251

ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT

Revised Edition
showing the law as at 17 January 2025

This is a revised edition of the law, prepared by the Seychelles Law Commission under the authority of the Law Commission Act, 2022.

This edition contains a consolidation of the following laws—

Page

ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT 3

Act 5 of 2020 .. in force 28 August 2020 except section 34 and section 34 shall come into operation from 1 January 2021

Amended by S.I.: 145 of 2020 .. in force 28 August 2020

Amended by Acts: 7 of 2021 .. in force 5 March 2021
8 of 2021 ... in force 5 March 2021
62 of 2021 .. in force 17 December 2021
9 of 2022 .. in force 19 May 2022
12 of 2024 .. in force 1 September 2024

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CHAPTER 251

ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT

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CHAPTER 251

ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM ACT

(Acts 5 of 2020, 7 of 2021, 8 of 2021, 62 of 2021, 9 of 2022, 12 of 2024 and S.I. 145 of 2020)

AN ACT FOR THE PREVENTION, DETECTION AND COMBATING OF MONEY LAUNDERING AND TERRORIST FINANCING ACTIVITIES; FOR COLLECTION, ANALYSIS AND MANAGING INFORMATION ON SUSPICIOUS FINANCIAL TRANSACTIONS AND ACTIVITIES; TO CREATE AND EMPOWER INSTITUTIONS TO SUPPRESS MONEY LAUNDERING AND THE FINANCING OF TERRORISM AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[28 August 2020 except section 34 and section 34 shall come into operation from 1 January 2021]

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism Act.

Interpretation

2. In this Act, unless the context otherwise requires—

"account" means any facility or arrangement by which a financial institution or a designated non-financial business or profession does any of the following—

(a) accepts deposits or funds;

(b) allows withdrawal or transfer of funds;

(c) pays negotiable or transferable instruments or other instruments;

(d) orders or collects negotiable or transferable instruments or payment orders on behalf of any other person;

(e) makes any facility or arrangement for a safety deposit box or for any other form of safe deposit; or

(f) accepts and facilitates transfer of virtual assets, including where such activity is undertaken through an electronic wallet.

(Amended by Act 12 of 2024)

"affected gift" means a gift given at any time to a third party in the form of movable property or immovable property, immovable property acquired from the proceeds of movable or immovable property gifted to such third party or from the proceeds arising in connection with an offence committed by the person who gifted the movable or immovable property in the name of a third party or in the name of some other person;

"authorised officer" means—

(a) a law enforcement officer of the Seychelles Police Force;

(b) an officer of the Anti-Corruption Commission of Seychelles; and

(c) an officer of the Seychelles Revenue Commission;

"batch file transfer of virtual assets" means several individual transfers of virtual assets which are bundled together for transmission;

(Inserted by Act 12 of 2024)

"beneficiary" includes a natural person or a legal entity or arrangement, who receives money or benefits from a benefactor;

"beneficial owner" shall have the meaning assigned to it under the Beneficial Ownership Act, Cap. 251B, and the determination provided under regulation 3 of the Beneficial Ownership Regulations, Cap. 251B;

(Substituted by Act 62 of 2021)

"beneficiary virtual asset service provider" means a virtual asset service provider which receives a transfer of virtual assets on behalf of a beneficiary;

(Inserted by Act 12 of 2024)

"benefit from criminal conduct" means money or property derived, obtained or realised, directly or indirectly, by any person from criminal conduct;

"business relationship" means the arrangement between a person and a reporting entity whose primary purpose is to facilitate an occasional or regular course of business dealings between them;

"cash" includes notes and coins of Seychelles or of any other country which is a legal tender and accepted as a medium of exchange in the country of its issue, postal orders, bearer cheques which passes title thereto upon delivery including travelers' cheques, bank drafts and bearer bonds;

"Commissioner" means the Commissioner of Police;

"Commissioner General" means the Commissioner General appointed under section 4 of the Seychelles Revenue Commission Act (Cap. 322);

"Committee" means the National Anti-Money Laundering and Countering the Financing of Terrorism Committee established under section 6(1);

"consolidated supervision" means supervision of the financial group by a regulatory body on the basis of the totality of its business, wherever conducted; *(Inserted by Act 7 of 2021)*

"country" includes any state or territorial unit as the context may require;

"court" means the Supreme Court of Seychelles;

"Court of Appeal" means the Court of Appeal of Seychelles;

"cross border wire transfer" means any wire transfer where the ordering financial institution and beneficiary financial institution are located in different countries, and any chain of wire transfers in which at least one of the financial institutions involved is operating in a different country;
(Inserted by Act 7 of 2021)

"customer" in relation to a transaction or an account, includes—

(a) the person in whose name a transaction or account is arranged, opened or undertaken;

(b) a signatory to a transaction or account;

(c) any person to whom a transaction has been assigned or transferred;

(d) any person who is authorised to conduct a transaction; or

(e) such other person as may be prescribed by regulations;

"data" means the representation in any form of information or concepts;

"Deputy Director" means the deputy director appointed under section 15;

"designated non-financial businesses or professions" means the businesses and professions included in Part C of Schedule 1;

"digital currency or crypto currency" means currency that is exclusively stored and transferred electronically, and whose value is determined by the market in which it is traded;

"Director" means the director appointed under section 14;

"domestic wire transfer" means any wire transfer where the ordering financial institution and beneficiary financial institution are operating in the Republic; *(Inserted by Act 7 of 2021)*

"exported", in relation to cash, includes cash being brought to any place in the Republic for the purpose of being exported and the terms "export" and "exporting" shall be construed accordingly;

"false declaration" means the misrepresentation of the value of cash being transported, or misrepresentation of other relevant data which is required to be submitted in the declaration or otherwise requested by the authorities and includes the failure to make a declaration as required;

"financial institution" means any institution that conducts a business in one or more of the following activities or operations for or on behalf of a customer—

(a) acceptance of deposits and other repayable funds from the public, including private banking;

(b) lending, including but not limited to, consumer credit, mortgage credit, factoring, with or without recourse, and financing of commercial transactions, including forfeiting;

(c) financial leasing other than with respect to arrangements relating to consumer products;

(d) money or value transfer services;

(e) issuing and managing means of payment, including, but not limited to, credit and debit cards, cheques, travellers' cheques, money orders, banker's drafts and electronic money;

(f) issuing financial guarantees and commitments;

(g) trading in—

(i) money market instruments, including, but not limited to, cheques, bills, certificates of deposit and derivatives;

(ii) foreign exchange;

(iii) exchange, interest rate and index instruments;

(iv) transferable securities; and

(v) commodity futures trading;

(h) participating in securities issues and the provision of financial services related to such issues;

(i) individual and collective portfolio management;

(j) safekeeping and administration of cash or liquid securities on behalf of other persons;

(k) investing, administering or managing funds or money on behalf of other persons;

(l) underwriting and placement of life insurance and other investment-related insurance, including insurance intermediation by agents and brokers;

(m) money changing;

(m1) virtual asset service providers; and

(Inserted by Act 12 of 2024)

(n) carrying on such other activity, business or operation, as may be prescribed by regulations;

"FIU" means the Financial Intelligence Unit established under section 10;

"funds" means assets of any kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets;

"intermediary virtual asset service provider" means a virtual asset service provider which —

(i) participates in the execution of a transfer of virtual assets; and

(ii) is not the originating virtual asset service provider or beneficiary virtual asset service provider;

(Inserted by Act 12 of 2024)

"law enforcement agency" means the Financial Crime Investigation Unit or any other Unit as may be designated by the Commissioner of Police within the Seychelles Police Force; the Anti-Corruption Commission of Seychelles; the Department of Immigration; the Seychelles Revenue Commission or any other Agency as may be specified by the Minister by notice published in the *Gazette* to carry out criminal investigation in Seychelles, and the terms "law enforcement officer" or "law enforcement authority" refers to a duly authorised officer of the law enforcement agency;

"legal arrangement" means a partnership of persons, a trust or similar arrangement or any person holding assets in a fiduciary capacity and any other similar entity or arrangement;

"legal person" means any entity other than a natural person that can establish a customer relationship with a financial institution or otherwise own property and the term legal entity shall be construed accordingly;

"legal privilege" means the confidentiality accorded to any communication between an Attorney-at-Law and a client for the purposes of obtaining or providing legal advice or legal representation in respect of any criminal matter but does not extend to any conduct of the Attorney-at-Law or material in the possession or control of the Attorney-at-Law for the purposes of aiding and abetting, assisting, attempting, counselling, conspiring, concealing or procuring the commission of criminal conduct by the client or any other person;

"Minister" means the Minister responsible for Finance and the term "Ministry" shall be construed accordingly;

"monetary instruments" includes—

(a) notes and coins of Seychelles or of any other country which is a legal tender and accepted as a medium of exchange in the country of its issue;

(b) travellers' cheques, personal cheques, bank cheques, money orders or securities;

(c) any currency that is stored or transferred electronically, which is commonly referred to as digital currency or crypto currency;

(d) any other negotiable instrument through which title passes upon delivery;

"money or value transfer services provider or MVTS provider" means a body corporate licensed by the Central Bank of Seychelles to carry on the business of money or value transfer services; *(Inserted by Act 7 of 2021)*

"Non-Profit Organisation (NPO)" refers to a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for the purposes of charitable, religious, cultural, educational, social or fraternal purposes, or for carrying out any other good works;

"offence" means violation of any law in Seychelles, or violation of any law in a foreign State, which, if it occurred in Seychelles, would constitute an offence in Seychelles;

"originator" means the account holder who authorises the wire transfer from his account, or where there is no account, the person who places the order with the ordering financial institution to perform the wire transfer;

(Inserted by Act 7 of 2021)

"originating virtual asset service provider" means the virtual asset service provider which initiates the transfer of virtual assets on behalf of a beneficiary;

(Inserted by Act 12 of 2024)

"payable-through account" means a correspondent account that is used directly by third parties to transact business on their own behalf; *(Inserted by Act 7 of 2021)*

"pecuniary penalty order" means an order passed under Part X of this Act;

"person" means any natural or legal person, and includes a body of persons whether it has legal personality or not;

"proceedings" includes the hearing before any court, tribunal, commission or any committee appointed by the Government;

"proceeds of crime" means any property or economic advantage or income, capital or other economic gain or benefit or part thereof derived or realised directly or indirectly from, or as a result of—

(a) the commission of an offence in Seychelles;

(b) any act committed outside Seychelles, which, if it had been committed in Seychelles, would constitute an offence,

and includes property that has been converted or transformed, in full or in part, into other property;

"production order" means an order issued under section 66;

"property" includes money and all property, real or personal, heritable or moveable, including tangible or intangible or incorporeal property or a virtual asset and any reference to the property shall be construed as including reference to any interest in property, and includes property outside the Republic where by virtue of its domestic jurisdiction generally, *in rem or in personam* or by virtue of an arrangement with any other

country or territory, the Court might be in a position to enforce or secure compliance with any order it might make or where it might otherwise exercise jurisdiction in relation to that property to comply with an arrangement or a request from another country or territory;

"realizable property" means property liable to be taken into possession and disposed of under this Act and includes property in the custody or possession of a person other than the beneficial owner;

"regulated business" means a business for which a licence is required under the corresponding Act;

"regulations" means the regulations made under this Act;

"reporting entity" means an entity or person specified in Schedule 1;

"Republic" means the Republic of Seychelles;

"restraint order" means an order referred to in section 69;

"revenue" means taxes, duties, contributions, fees, levies, charges, penalties, fines and other moneys collected under the Acts specified in the Schedule to the Seychelles Revenue Commission Act (Cap. 322);

"revenue laws" means any law or regulation relating to any tax, including the revenue laws as specified in the Schedule to the Seychelles Revenue Commission Act (Cap. 322);

"Selection Committee" means the Selection Committee appointed by the President under section 14(5);

"Seychelles Revenue Commission" means the Seychelles Revenue Commission established under section 3 of the Seychelles Revenue Commission Act (Cap. 322);

"supervisory authority" means the supervisory authorities specified in the Second Schedule;

"Suspicious Transaction Report or Suspicious Activity Report" means a report that shall be submitted by a reporting entity to the FIU under section 48, if there are reasonable grounds to suspect that an activity or a transaction or series of transactions made or attempted in the course of their activities relating to the commission or the attempted commission of criminal conduct including money laundering and terrorist financing offences; *(Substituted by Act 62 of 2021)*

"tax" means any tax, duty, levy or charge under the care and management of the Seychelles Revenue Commission including but not limited to business tax, contributions to the Social Security Fund, stamp duty and any other levy by way of taxation;

"terrorist financing activities" means the provisioning of material support in the form of funds to terrorist acts, terrorists and terrorist organisations and covered under section 5 of the Prevention of Terrorism Act (Cap. 179), and

the expression "financing of terrorist activities" shall be construed accordingly;

"virtual asset" means a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes and does not include digital representation of fiat currencies, securities and other financial assets;

"virtual asset service provider" means a business that conducts one or more of the following actions on behalf of its customers —

(a) exchange between virtual assets and fiat currencies;

(b) exchange between one or more forms of virtual assets;

(c) transfer of virtual assets;

(d) safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and

(e) participating in and provision of financial services related to an issuer's offer and/or sale of virtual asset;";

"virtual asset transfer" means any transaction carried out with a view to making an amount of virtual assets available to a beneficiary person, irrespective of whether the originator and the beneficiary are the same person;

(Inserted by Act No 12 of 2024)

"wire transfer" means any transaction carried out on behalf of an originator through a financial institution by electronic means with a view to making an amount of funds available to a beneficiary person at a beneficiary financial institution, irrespective of whether the originator and the beneficiary are the same person. *(Inserted by Act 7 of 2021)*

PART II

OFFENCE OF MONEY LAUNDERING AND RELATED OFFENCES

Offence of money laundering

3. (1) A person is guilty of money laundering if—

(A) he or she directly or indirectly acquires property from the proceeds of criminal conduct;

(B) knowing or believing that property is or represents the benefit of criminal conduct or being reckless as to whether the property is or represents such benefit, the person, without lawful authority or excuse (the proof of which shall lie on the person)—

(a) converts, transfers or handles the property, or removes the property from the Republic;

(b) conceals or disguises the true nature, source, location, disposition, movement or ownership of the property or any rights associated with the property; or

(c) acquires, possesses or uses the property.

(Substituted by Act 7 of 2021)

(2) Removing property from the Republic shall include references to removing it from another country or territory and moving property within the Republic or a country or territory in preparation for or for the purpose of removing it from the Republic or the country or territory in question.

(3) Any person who participates in such conduct as described in subsection (1)*(a)*, (1)*(b)* or (1)*(c)* of this section including but not limited to, aiding, abetting, assisting, attempting, counselling, conspiring, concealing or procuring the commission of such conduct commits the offence of money laundering as a principal offender and shall be liable to be tried and punished accordingly.

(4) *(a)* A person guilty of money laundering is liable on conviction to a fine not exceeding SCR5,000,000 or to imprisonment for a term not exceeding 15 years or to both;

(b) a person other than a natural person guilty of money laundering is liable on conviction to a fine not exceeding SCR10,000,000.

(5) Where a person—

(a) converts, transfers, handles or removes from the Republic any property which is or represents the benefit from criminal conduct;

(b) conceals or disguises the true nature, source, location, disposition, movement or ownership of the property or any rights with respect to it; or

(c) acquires, possesses or uses the property,

in such circumstances that it is reasonable to conclude that the person—

(i) knew or believed that the property was or represented benefit of criminal conduct; or

(ii) was reckless as to whether it was or represented benefit from criminal conduct;

that person shall be taken to have so known or believed or to have been so reckless, unless the court is satisfied having regard to all the evidence that there is a reasonable doubt as to whether the person so knew or believed or was so reckless.

(6) For the purposes of this Act—

(a) a person is reckless if the person disregards a substantial risk that the property in question is or represents benefit of criminal conduct, and for those purposes "substantial risk" means a risk of such a nature and degree that having regard to the circumstances in which the person became involved with the property and the extent

of the information then available to the person, the disregard of that risk involves culpability of a high degree;

(b) references to converting, transferring, handling or removing property include references to the provision of any advice or assistance in relation to converting, transferring, handling or removing the property.

(7) This section does not apply to a person in respect of anything done by that person in connection with the enforcement of any law.

(8) This Act shall apply whether the criminal conduct in question occurred before or after the commencement of this Act and whether it was or is attributable to the person first mentioned in subsection (1) or another person.

(Amended by Act 9 of 2022)

(9) In this Act, "criminal conduct" means conduct which—

(a) constitutes any act or omission against any law of the Republic including the financing of terrorism as referred to in the Prevention of Terrorism Act, and for the avoidance of doubt includes the offence of money laundering established by section 3 of this Act and whether committed in the Republic or elsewhere;

(b) where the conduct occurs outside the Republic, would constitute such an offence if it occurred within the Republic and also constitutes an offence under the law of the country or territorial unit in which it occurs;

(c) includes any act or omission against any law of another country or territory whether committed in that other country or territory or elsewhere, unless the Attorney-General certifies in writing that it would not be in the public interest to take action in the Republic in relation to an act or omission as defined in this subsection; and

(d) includes participation in such conduct, including but not limited to, aiding, abetting, assisting, attempting, counselling, conspiring, concealing or procuring the commission of such conduct;

(10) For the purposes of this Act—

(a) references to believing that any property is or represents benefit of criminal conduct include references to having reasonable grounds to suspect that the property was probably, or probably represented, such benefit in whole or in part;

(b) references to any property representing benefit of criminal conduct include references to the property representing that benefit in whole or in part directly or indirectly, and cognate references shall be construed accordingly;

(c) the standard of proof to be applied in deciding whether property is the benefit of criminal conduct shall be the standard of proof applicable in civil proceedings;

(d) in determining whether property is or represents benefit of criminal conduct, a court shall have account of all the surrounding circumstances of the connection of the defendant and any other relevant person with the property including but not limited to the financial ability of the defendant or that other person to have or possess such property, the explanation, if any given by the defendant or that other person as to his or her connection with the property and the conduct of the defendant or that other person in relation to the property

(11) *(a)* As soon as the Court determines that the evidence adduced in the case gives rise to a reasonable inference that the property is or represents benefit of criminal conduct, the property shall be deemed to be benefit of criminal conduct unless the defendant by evidence establishes otherwise to the satisfaction of the Court. The burden of proof shall rest upon the defendant to prove that the property was not derived from criminal conduct.

(b) It shall not be necessary in any event for the prosecution to prove that the property in question is or represents the benefit of any particular criminal conduct or that any person was convicted of criminal conduct in relation to the property.

(c) Where it is necessary in the case of a money laundering offence alleged to have been committed by a body corporate, to establish the state of mind of the body corporate, it shall be sufficient to show that a director, officer, employee or agent of the body corporate, acting in the course of his directorship, office, employment or agency as the case may be, had the required state of mind to satisfy the element of *mens rea* required to ground a conviction.

(d) Where a body corporate commits an offence of money laundering, whether convicted of that offence or not, and where the offence is committed with the consent, connivance, or in any other way with the assistance or omission to act of any director, secretary, manager, auditor or accountant of the company or any person directing or person controlling such person, he or she shall be guilty of the offence and capable of being tried and punished as a principal offender.

(12) For the purposes of this Act—

(a) a person handles property if that person, without a claim of right made in good faith—

(i) receives such property;

(ii) undertakes or assists in its retention, removal, disposal or realisation by or for the benefit of another person; or

(iii) arranges to do any of the things specified in subparagraphs (i) or (ii).

(b) (i) a document purporting to be signed by an Attorney-at-Law practising in the country or territorial unit in which the criminal conduct concerned is alleged to have occurred and stating that such conduct is an offence under the law of that country or territorial unit; and

(ii) a document purporting to be a translation of a document mentioned in subparagraph (i) and certified as correct by a person appearing to be competent to so certify, shall be admissible in any proceedings, without further proof, as evidence of the matters mentioned in those documents, unless the contrary is shown.

(13) Where a person who has failed to comply with directions of the FIU in relation to property, is subsequently charged with a money laundering offence or another offence under this Act it shall be presumed—

(a) that the property is the benefit of criminal conduct;

(b) that the defendant knew or believed that the property was or represented benefit of criminal conduct or was reckless as to whether it was or represented such benefit,

until the defendant proves otherwise to the satisfaction of the Court on the civil standard of proof.

(14) The offence of money laundering shall be an extraditable offence for the purposes of the Extradition Act (Cap.78). *(Inserted by Act 7 of 2021)*

Acquisition, use or possession of proceeds of crime

4. (1) A person who—

(a) acquires;

(b) uses; or

(c) has possession of

property and who, at the time of acquisition, use or possession of such property, knows or has reasonable grounds to believe that the property forms part of the proceeds of a crime committed by him or by another person, commits an offence of money laundering and is liable on conviction—

(i) to a fine not exceeding SCR5,000,000 or to imprisonment for a term not exceeding 15 years or to both; and

(ii) to a fine not exceeding SCR10,000,000 in case of a person other than a natural person.

Cash transaction and wire transfer threshold reporting

5. (1) All reporting entities executing a cash transaction, wire transfer or virtual asset transfer in the amount specified in Schedule 3 shall retain the details

and report the particulars concerning such transactions to the FIU. *(Amended by Act 12 of 2024)*

(1A) A reporting entity must ensure that, when complying with subsection (1) in relation to a virtual asset transfer, the reporting entity reports transfers within the required threshold, including instances where there are multiple transfers and such transfers have been made within a consecutive 24 hour period to the total of the prescribed threshold, and the reporting entity has knowledge that those transfers were either conducted by the same person, conducted on behalf of the same person (third party), or are for the same beneficiary.

(Inserted by Act 12 of 2024)

(2)For the purposes of subsection (1), a reporting entity may apply for a reporting exemption on behalf of their customer in the manner as may be specified by the FIU.

(3) A reporting entity, which fails to report a cash transaction, wire transfer or virtual asset transfer under subsection (1) or materially misrepresents the amount of such transaction, commits an offence and is liable to a fine not exceeding SCR 200,000 for each such failure.

(Amended by Act 12 of 2024)

(4) The Minister may by notice in the Official Gazette amend Schedule 3 from time to time.

(Amended by Act 7 of 2021)

PART III

NATIONAL ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM COMMITTEE

National Anti-Money Laundering and Countering the Financing of Terrorism Committee

6. (1) A National Anti-Money Laundering and Countering the Financing of Terrorism Committee is hereby established.

(2) The Committee shall consist of the following—

(a) a senior official from the Ministry of Finance not below the rank of Principal Secretary nominated by the Minister, who chairs the Committee;

(aa) a senior official from the Office of the Designated Minister not below the rank of Principal Secretary; *(Inserted by S.I. 145 of 2020)*

(ab) the Director General of the Seychelles Intelligence Service; *(Inserted by S.I. 145 of 2020)*

(b) the Attorney-General;

(c) the Governor of the Central Bank of Seychelles;

(d) the Commissioner of the Seychelles Police Force;

(e) the Registrar General;

(f) the Commissioner General of the Seychelles Revenue Commission;

(g) the Chief Executive Officer of the Financial Services Authority;

(h) the Chief Executive Officer of the Anti-Corruption Commission of Seychelles; and

(i) the Director of the FIU.

(3) The Committee shall appoint a Deputy Chairperson from amongst its members.

(4) The FIU shall act as the Secretariat of the Committee.

(5) The Committee may co-opt such other persons in its deliberations, who have special knowledge or experience in combating money laundering and terrorist financing activities.

(6) A member of the Committee who has an interest in a matter for deliberation by the Committee shall disclose the nature of the interest in writing to the other members of the Committee.

(7) A member of the committee who has disclosed an interest under subsection (6) shall be discharged from participating in the deliberation of the matter in respect of which he or she has made the disclosure.

(8) The Minister may by notice in the Official Gazette amend, include or omit or vary the members in the composition of the Committee constituted under subsections (1) and (2), as may be necessary for the proper functioning of the Committee.

Functions of Committee

7. (1) The functions of the Committee shall be for—

(a) promoting collaboration amongst institutions, agencies and supervisory bodies tasked with developing and implementing policies and measures to combat money laundering and terrorist financing activities in Seychelles;

(b) ensuring that policies and measures to combat money laundering and terrorist financing activities are effectively implemented;

(c) developing and recommending legislative, regulatory and policy reforms to improve policies and measures to combat the money laundering and terrorist financing activities to the Minister;

(d) fostering and enhancing international cooperation and collaboration concerning matters relating to money laundering and terrorist financing activities;

(e) overseeing the implementation of recommended actions relating to money laundering and terrorist financing activities on the basis of national risk assessments and internationally accepted standards of best practices; *(Amended by Act 7 of 2021)*

(f) coordinating domestic coordination between stakeholders in combating money laundering and terrorist financing activities;

(g) having oversight of the communication strategy on all matters related to money laundering and terrorist financing activities;

(h) capacity building activities to strengthen the country's response in combating money laundering and terrorist financing activities;

(i) engaging with technological developments both on the domestic and international level and the risks they pose for money laundering and terrorist financing activities;

(j) conducting national risk assessments;

(j1) prior to the launch of a new product or business practice or the use of a new or developing technology, identifying and assessing the money laundering and terrorist financing risks that may arise in relation to the development and use of new products or business practices, or new or developing technologies for both new and pre-existing products, and take appropriate measures to manage and mitigate those risks;

(Inserted by Act 12 of 2024)

(k) developing effective and efficient strategies to ensure financial investigations are an operational part of law enforcement efforts through an effective policy that incorporates the skills of all relevant agencies in the generation of financial intelligence and pursuit of financial investigations;

(l) advising the Minister on any aspect of money laundering and terrorist financing activities the Minister is required to seek the advice of the Committee under this Act; *(Amended by Act 7 of 2021)*

(m) addressing the issues relating to the operational independence of the FIU; *(Amended by Act 7 of 2021)*

(n) fostering cooperation and coordination between relevant authorities to ensure the compatibility of anti-money laundering and countering the financing of terrorism requirements with data protection and privacy rules and any other similar provisions;

(Inserted by Act 7 of 2021)

(o) ensuring cooperation and coordination amongst relevant authorities in combating the financing of proliferation of weapons of mass destruction; *(Inserted by Act 7 of 2021)*

(p) coordinating with the relevant authorities to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of their anti-money laundering and countering the financing of terrorism systems; and *(Inserted by Act 7 of 2021)*

(q) fostering and enhancing partnership between stakeholders, through the provision of guidance and feedback, to support the application of national measures to combat money laundering and terrorism financing. *(Inserted by Act 7 of 2021)*

(2) The Committee may constitute *adhoc* sub-committees consisting of members other than members of the Committee, to assist it in the performance of its functions.

(3) No member of the Committee or the sub-committees shall, without the written consent of the Committee, publish or disclose to any person other than in the course of their duty, the content of any of the documents, communication or information which relates to, and which has come to their knowledge in the course of their duties as a member of the Committee or sub-committee.

(4) The Committee may convene its meetings or conduct its business virtually.

(5) Member of the Committee shall be paid an allowance for attending meetings, as may be prescribed by regulations.

(6) The Committee shall constitute a Technical Committee consisting of members other than the members of the Committee, to assist it in the performance of its functions and members of the Technical Committee shall be paid an allowance for attending the meetings, as may be prescribed by regulations.

Functions of Secretariat

8. The Secretariat of the Committee shall—

(a) provide the Committee with relevant information to enable the Committee to perform its functions under the Act;

(b) schedule and distribute notices of meetings, together with the agenda of meetings to members of the Committee;

(c) maintain a record of attendance, proceedings and decisions taken at meetings of the Committee;

(d) circulate the minutes of meetings to the members of the Committee; and

(e) maintain all official records of the Committee.

Meetings and procedures of Committee

9. (1) The Quorum for a meeting of the Committee shall be five members, but no decision of the Committee shall be binding unless it is ratified by no fewer than seven members.

(2) The decisions of the Committee shall be by consensus wherever possible, but, in the event of such consensus not being arrived at, the decision shall be by a simple majority of the members present and indicated by show of hands or through the circulation of a resolution by the Secretary to the Committee.

(3) In the event of a tie, the Chairperson of the Committee shall have a casting vote.

(4) The Committee shall meet at least once in every quarter.

(5) The business and affairs of the Committee shall be conducted in accordance with the provisions of Schedule 4 but subject thereto, the Committee may regulate its own procedure to conduct its business from time to time.

PART IV

FINANCIAL INTELLIGENCE UNIT

Establishment of Financial Intelligence Unit

10. (1) The Financial Intelligence Unit established as a body corporate under Part 3 of the Anti-Money Laundering Act (Cap. 251), shall continue as if it was established under this section.

(2) The FIU shall be a body corporate having perpetual succession, a common seal and power to sue or being sued in its corporate name, taking, purchasing or otherwise acquiring, holding or disposing of movable and immovable property, entering into contracts and doing or performing such other things or acts necessary for the performance of its functions under this Act.

(3) The FIU shall not, in the performance of its functions under section 13, be subject to the direction of, control or influence from any other person, authority or entity which may compromise its operational independence.

Governance of FIU

11. (1) The Minister may—

(a) approve the Strategic Plan of the FIU, within the framework of the National Strategic Plan to combat money laundering and terrorist financing activities in consultation with the Committee;

(b) provide guidance on general policies and principles by which the FIU is to perform its functions;

(c) consider and approve human resources and other resources required by the FIU to effectively carry out its functions under this Act;

(d) ensure the efficient and economical use of resources by the FIU;

(e) participate in the selection process of the Director and Deputy Director of the FIU;

(f) make recommendations to the President on the appointment or removal of the Director or Deputy Director of the FIU.

(2) The Minister shall not interfere with the integrity and functions of the FIU, while discharging his functions under subsection (1).

Objectives of FIU

12. (1) The objectives of the FIU are to serve as the national center for the receipt and analysis of information relevant to money laundering and terrorist financing in an effort to detect financial crime, promote compliance by reporting entities and deter the use of any persons, structures and institutions in Seychelles for financial crime, through the dissemination of financial intelligence reports and any other necessary information, on its own or on request from any other organisation, both domestically and internationally, in relation to money laundering and terrorist financing activities.

(2) The FIU shall monitor and enforce compliance of the reporting entities under its supervision and shall be responsible for promoting compliance with the provisions of this Act by all the reporting entities.

Powers and functions of FIU

13. The FIU shall have the powers necessary for effective performance of its functions under this Act, and in particular the FIU may—

(a) determine its own staff establishment and the terms and conditions of employment for its staff, and appoint seconded personnel on its staff establishment within the policy framework approved by the Minister;

(b) obtain the services of any person, including any public official, to perform any specific act or function by agreement;

(c) institute or defend any legal action in its own name;

(d) engage in any lawful activity, whether alone or together with any other organisation in Seychelles or elsewhere, to promote its objectives;

(e) direct any reporting entity to take such steps as may be appropriate in relation to any information or report received by the FIU in enforcing the provisions of this Act;

(ea) direct any reporting entity which is in the possession of any record, document or information that is necessary for the discharge of the functions of the FIU to produce such record, document or information to the FIU; *(Inserted by Act 62 of 2021)*

(f) provide information relating to the suspected commission of an offence to any foreign financial intelligence unit, law enforcement and other relevant authorities, subject to such conditions as may be considered appropriate by the Director of FIU;

(g) collaborate with foreign financial intelligence units, on the basis of mutual agreement and reciprocity, for the discharge of the functions of the FIU subject to the condition that the foreign financial intelligence unit has given appropriate undertakings to—

(i) protect the confidentiality of anything communicated to it; and

(ii) control the use of such information;

(h) disseminate programmes to raise the awareness of the general public and reporting entities about the risks and impact of money laundering and terrorist financing activities related to Seychelles; and

(i) enter into domestic memorandum of understanding or arrangements with other Agencies or stakeholders for the proper implementation of the provisions of this Act.

Appointment of Director

14. (1) There shall be a Chief Executive Officer of the FIU, who shall be known and referred to in this Act as the Director, and shall be appointed by the President on the recommendations of the Selection Committee, following the advertising of the post.

(2) A person shall not be qualified to be appointed as a Director, unless he or she—

(a) is a Seychellois;

(b) holds a degree in law, economics, finance or any discipline from an institution recognised by the Seychelles Qualifications Authority;

(c) has at least seven years of work experience in the relevant field of his or her educational qualifications; and

(d) has such other qualifications or requirements as may be prescribed by regulations.

(3) Notwithstanding the provisions of subsection (2), no person shall be appointed as Director, if such person—

(a) is a director, employee, shareholder or holds any interest, in a reporting entity;

(b) is mentally incapable of carrying out his or her functions under this Act;

(c) is an insolvent or has been declared bankrupt or enters into an arrangement with his or her creditors whether in Seychelles or elsewhere; or

(d) has been convicted of a felony involving dishonesty whether in Seychelles or elsewhere.

(4) The term of office, terms and conditions, salary and allowances of the Chief Executive Officer shall be such as may be prescribed.

(5) The President shall, by notice in the *Gazette*, appoint a Selection Committee consisting of a representative of the Ministry of Finance, a representative of a supervisory authority, other than the FIU, under this Act and a representative of a law enforcement agency of the Government to recommend the names of suitable persons for appointment as Director or Deputy Director under this Act.

Appointment of Deputy Director

15. (1) There shall be a Deputy Chief Executive Officer of the FIU, who shall be known and referred to in this Act as the Deputy Director and shall be appointed by the President on the recommendations of the Selection Committee and the Minister.

(2) A person shall not be qualified to be appointed as a Deputy Director, unless he or she—

(a) is a Seychellois;

(b) holds a degree in law, economics, finance or any discipline from an institution recognised by the Seychelles Qualifications Authority;

(c) has at least seven years of work experience in the relevant field of his or her educational qualifications; and

(d) has such other qualifications or requirements as may be prescribed by regulations.

(3) Notwithstanding the provisions of subsection (2), no person shall be appointed as Deputy Director, if such person—

(a) is a director, employee, shareholder or holds any interest, in a reporting entity;

(b) is mentally incapable of carrying out his or her functions under this Act;

(c) is an insolvent or has been declared bankrupt or enters into an arrangement with his or her creditors whether in Seychelles or elsewhere; or

(d) has been convicted of a felony involving dishonesty whether in Seychelles or elsewhere.

(4) The term of office, terms and conditions, salary and allowances of the Deputy Chief Executive Officer shall be such as may be prescribed.

Responsibilities of Director

16. (1) The Director shall be responsible for managing the affairs of the FIU and shall be responsible to administer the powers and functions of the FIU under section 13.

(2) The Director shall in the discharge of his or her duties, exercise the powers to develop and maintain a disciplined, efficient and performance driven administration in the FIU.

(3) The Director shall perform the functions of the office within the strategic framework determined by the Minister on the basis of the recommendations of the Committee.

(4) The Director may assign specific responsibilities to the Deputy Director.

(5) The Director shall periodically evaluate the performance of the officers of the FIU and document the outcome of such evaluation.

Delegation of powers by Director

17. (1) Subject to provisions of section 13, the Director may delegate any of his or her powers under this Act to such other officer or officers of the FIU as the Director may determine from time to time.

(2) Powers delegated to other officer or officers of the FIU under subsection (1) may, at any time, be varied or cancelled by the Director.

When Deputy Director may act

18. The Deputy Director may on behalf of the Director exercise all the powers vested under this Act and perform all the functions conferred on the Director under this Act, whenever the Director is temporarily absent from office.

Appointment of staff

19. The Director may appoint such officers and staff of the FIU, as may be necessary for the proper discharge of its functions under this Act, on such terms and conditions of service as may be prescribed.

Oath of confidentiality

20. The Director, the Deputy Director, officers and the staff of the FIU shall—

(a) before they begin to perform the duties under this Act, sign the declaration of confidentiality specified in Schedule 5; and

(b) maintain, during and after their employment, the confidentiality of any matter which they come across during their tenure of office.

Constitution of funds

21. The funds of the FIU shall consist of—

(a) monies appropriated by the National Assembly for the use of the FIU;

(b) any Government grants, including sums from the Asset Recovery Fund and the designated account, made to it; and

(Substituted by Act 62 of 2021)

(c) any donations received with the prior written approval of the Minister.

Annual estimates

22. (1) The FIU shall prepare an estimate of the revenue and expenditure for the year before the commencement of each financial year.

(2) The annual estimates prepared under subsection (1) shall be submitted to the Minister for approval before the commencement of the financial year to which they relate.

Financial year, accounts and audit

23. (1) The financial year of the FIU shall be the calendar year.

(2) The FIU shall keep proper accounts and other relevant record of accounts, and prepare in each financial year a statement in such form and manner approved by the Auditor General.

(3) The accounts of the FIU shall be audited in accordance with Article 158 of the Constitution.

Annual Report

24. The FIU shall, as soon as possible after the expiration of each financial year and in any event not later than the 31st day of March in any year, submit to the Minister for approval, an annual report, dealing generally with the administration and its activities during the preceding financial year and the Minister shall cause the report to be laid before the National Assembly.

Removal of Director or Deputy Director from office

25. (1) The President may, in consultation with the Minister and the Committee, remove the Director or Deputy Director from office—

(a) on the grounds of gross misconduct, mental incapacity or failure to fulfil the terms and conditions of service set forth in the terms of appointment;

(b) if he or she is declared bankrupt or enters into a scheme of arrangement with his or her creditors; or

(c) if he or she has been convicted of a felony whether in Seychelles or elsewhere.

(2) The President shall suspend the Director or Deputy Director from the office during the determination of any inquiry about the misconduct, incapacity, or incompetence before the removal of Director or Deputy Director under subsection (1)*(a)*.

(3) The President may appoint an interim Director during the interregnum period of suspension of both Director and Deputy Director until the appointment of regular Director or Deputy Director.

(4) The President, in consultation with the Minister and the Committee, shall within a period of one month from the date of suspension of the Director or Deputy Director, appoint a panel made up of at least three persons, one of whom shall be a judge or a retired judge or a person qualified to be appointed as a judge, to inquire into the misconduct, incapacity, or incompetence alleged against the Director or the Deputy Director, as the case may be.

(5) Where the President acts in terms of provisions contained in subsection (1)*(b)* or *(c)*, a certified copy of the declaration of bankruptcy or scheme of arrangement with creditors or conviction, shall be regarded as *prima facie* proof of the contravention of this section.

Resignation of Director or Deputy Director

26. (1) The Director or the Deputy Director may resign from the office, by at least three months prior notice addressed to the President through the Minister and the President may dispense the period of prior notice at his discretion.

(2) The resignation of the Director or Deputy Director shall be effective only after the acceptance of the resignation by the President from the date given in the notice or such earlier date as the President may specify in the letter of acceptance.

(3) In the event of acceptance of the resignation of Director or Deputy Director under subsection (1), the President may in consultation with the Minister, designate an officer of the FIU or any other person to act as interim Director or Deputy Director, as the case may be, until a new Director or Deputy Director is appointed under the provisions of this Act.

(4) Where any vacancy arises due to death or for any reason whatsoever, in the office of the Director or Deputy Director, the President may appoint a person to fill such vacancy by following the procedure provided under section 14(1) or section 15(1), as the case may be.

PART V

FUNCTIONS OF FIU

Functions and duties of FIU

27. (1) The functions of the FIU are—

(a) to receive reports and requests, analyse and interpret reports of unusual or suspicious financial activities, made by reporting entities under section 48;

(b) to analyse other information disclosed to it or obtained by it under the provisions of this Act;

(c) to inform appropriate law enforcement agencies, intelligence agencies or the appropriate supervisory authorities by disseminating a financial intelligence report and other necessary information, for further investigation, if the FIU finds that there are reasonable grounds to believe that a transaction or activity involves a criminal conduct, money laundering or terrorist financing activity;

(d) to direct any reporting entity or person to refrain from completing any transaction or transfer, if the FIU finds that there are reasonable grounds to believe that a transaction or activity reported to it involves a criminal conduct, money laundering or terrorist financing activity; *(Amended by Act 62 of 2021 & Act 12 of 2024)*

(e) in addition to directing a reporting entity or person under paragraph *(d)*, instruct the reporting entity to freeze the banking or similar account or electronic wallet of the entity or person in respect of whom any report has been submitted:

Provided that the period for refraining the reporting entity from completing the transaction or transfer under paragraph *(d)* and freezing of banking or similar account or electronic wallet of the entity or person under paragraph *(e)*, shall not exceed ten working days;

(Amended by Act 62 of 2021 & Act 12 of 2024)

(f) to seek additional information or documents from the reporting entities, within the period during which the transaction, the transfer or banking or other accounts are restricted under paragraphs *(c)* and *(d)* and take such steps as may be appropriate to facilitate any investigation undertaken or to be undertaken, to enable it to properly perform its functions under this Act;

(Amended by Act 12 of 2024)

(g) to apply to the court for extension of the period referred to in paragraph *(e)* for a further period of ten days, on good cause shown;

(Amended by Act 7 of 2021)

(h) to respond to the requests from law enforcement authorities, intelligence agencies, or supervisory bodies for information relevant to the performance of their obligations under this Act or any other related legislation with the decision of dissemination of the information to the requesting authority available with the FIU;

(i) to supervise the entities (except the entities at serial numbers 7 and 8) specified in Part C of Schedule 1;

(j) to issue guidelines to the reporting entities including but not limited to exercising due diligence, record-keeping, reporting suspicious activities and time lines for responding to the request made by the FIU;

(k) to create and maintain a database of all reports of suspicious financial activities, currency transaction reports, cross border reports, wire transfer reports and such other materials as may be necessary for the proper functioning of the FIU;

(l) to compile and maintain statistics and records, disseminate information within Seychelles or elsewhere, and conduct research into the trends and developments in money laundering and the terrorist financing activities;

(m) to consult with any relevant person, institution or organisation for the purpose of discharging the functions under the Act;

(n) to supervise Non-Profit Organisations based on risk in relation to terrorist financing activities;

(o) to undertake due diligence checks and other inquiries as may be requested in writing by a government department or authority;

(p) to periodically inform reporting entities and other relevant agencies on the outcome of reports or information given to it under this Act; and

(q) to perform any other function or duty as may be considered necessary for the prevention of money laundering and terrorist financing activities.

Access to information and analysis function

28. (1) In relation to any information it has received in accordance with its functions, the FIU is authorised to obtain from any reporting entity any additional information that it deems necessary to properly carry out its analysis and the information requested shall be provided within such reasonable period and in such form as shall be specified by the FIU.

(2) The FIU may access during working hours and review information that belongs to or is in the custody of a reporting entity as the FIU deems it appropriate for the fulfilment of its functions under the provisions of this Act.

(3) Nothing in this section shall infringe legal professional privileges between an Attorney-at-Law and his or her client in respect of information communicated to the Attorney-at-Law by his or her client notwithstanding anything covered under Paragraph 2 of Part C of Schedule 1.

(4) The FIU may, in order to conduct proper analysis, obtain, where not otherwise prohibited by law, any financial, administrative or law enforcement information and any relevant information collected or maintained by or on behalf of other authorities and, where appropriate, commercially held data, including—

(a) a law enforcement authority;

(b) any authority responsible for the supervision of the entities and persons subject to this law;

(c) tax authorities;

(d) customs; and

(e) any other public agency.

(5) The FIU's analysis function shall consist of—

(a) the operational analysis, which focuses on individual cases and specific targets, activities, transfers or transactions or on applicable selected information to determine links between targets and possible proceeds of crime, money laundering and terrorist financing activities and other criminal activities; and

(b) the strategic analysis, identify money laundering and terrorist financing related trends and patterns.

(Amended by Act 12 of 2024)

(6) The procedures regarding security and confidentiality of the information obtained by the FIU, procedures for handling, storage, dissemination, protection and access to such information shall be such as may be specified by FIU.

(7) The FIU may impose administrative sanctions referred to in section 60(3) on a reporting entity to whom this Act applies if satisfied that the reporting entity has failed to fully comply with a lawful request for information made under subsection (1) or to a directive issued under section 27(1)*(d)* or *(e)*. *(Inserted by Act 7 of 2021)*

(8) A reporting entity shall take all necessary measures to ensure the accuracy of the information submitted to the FIU under subsection (1) or to comply with a directive issued under section 27(1)*(d)* or *(e)*. *(Inserted by Act 7 of 2021)*

(9) A reporting entity which intentionally fails to provide the FIU with accurate information under subsection (1) or to comply with a directive issued under section 27(1)*(d)* or *(e)*, commits an offence and is liable on conviction to a fine of level 3 on the standard scale. *(Inserted by Act 7 of 2021)*

Cooperation with foreign counterpart agencies

29. (1) The FIU may, acting on its own initiative or upon request, seek from or share any information relevant to its function with a foreign counterpart agency that performs similar functions and is subject to similar obligations of confidentiality, secrecy and disclosure with respect to the performance of its functions.

(2) Whenever the FIU provides information pursuant to subsection (1) to a foreign counterpart agency, it shall obtain from that agency a suitable declaration or undertaking that the information will be used only for the purpose for which it was sought.

(3) The FIU may enter into an agreement or arrangement to facilitate the exchange of information with a foreign counterpart agency that performs similar functions and is subject to similar secrecy obligations.

(4) The FIU may make enquiries on behalf of a foreign counterpart agency where the enquiry may be relevant to the foreign counterpart agency's functions.

(5) For the purposes of subsection (4), the FIU may—

(a) utilise its own databases, including information related to reports of suspicious activity, and other databases to which the FIU has direct or indirect access, including law enforcement databases, public databases, administrative databases and commercially available databases;

(b) obtain information from a reporting entity;

(c) obtain information that is relevant from the competent authorities to the extent that the FIU may obtain such information in a domestic matter; and

(d) take any other action in support of the request of the foreign counterpart that is consistent with the authority of the FIU in a domestic matter.

(6) FIU may refuse co-operation with the requesting foreign counterpart agencies for justified reasons on the grounds of lack of reciprocity or recurring inadequate co-operation or failure to protect the information effectively by the requesting FIU. *(Amended by Act 62 of 2021)*

PART VI

PREVENTIVE MEASURES

Result of the national risk assessment

30. The national risk assessment of the country under section 7(1)*(j)* shall be carried out in such time and interval as may be prescribed and shall disseminate the results of risk assessment to all the stakeholders.

(2) On the basis of the results of the national risk assessment under subsection (1), the Committee may consider allocation of resources through the Minister for prevention and mitigation of the money laundering and terrorist financing risks.

Designation of Non-Profit Organisations

30A. (1) The FIU shall, following the conduct of a risk assessment of the NPO sector, in consultation with the Registrar and the Committee, determine the appropriate risk levels for the purpose of designating any NPO as a high-risk NPO, through a directive.

(2) Upon review of the risk assessment referred to in subsection (1) and on deriving the updated risk levels, if a designated NPO is no longer considered as a high-risk NPO, the FIU shall notify the said NPO accordingly.

(3) The list of designated NPOs shall be confidential and shall not be accessible to the general public.

(4) The FIU may impose administrative sanctions referred to in section 60(3) on the NPOs to whom this section applies.

(5) Any NPO aggrieved by the decision of the FIU under subsection (4) may appeal to the Appeals Board under section 62, as if it is a reporting entity.

(Inserted by Act 7 of 2021)

(6) The designated high-risk NPO's under subsection (1) shall be regulated in accordance with the regulations, as may be prescribed by the Minister in consultation with the Committee. *(Inserted by Act 62 of 2021)*

Obligation to register with FIU

31. (1) Every reporting entity to which this Act applies shall register with the FIU within such period and in such manner as may be prescribed by regulations.

(2) The registration of a reporting entity under subsection (1) shall be accompanied by such particulars as may be prescribed by regulations.

(3) The FIU shall establish and maintain a register of every reporting entity registered under subsection (1).

(4) Every registered reporting entity under subsection (1) shall notify the FIU of any changes in the particulars provided, in writing, within a period of 30 days from the date of such change.

(5) Every reporting entity which intentionally fails to register with the FIU as required under subsection (1), or fails to report the changes in the particulars as required under subsection (4), commits an offence, and is liable on conviction to a fine not exceeding SCR100,000.

Obligation to identify and assess money laundering and terrorist financing risks

32. (1) Every reporting entity shall take measures to identify, assess, understand and monitor its risks of money laundering and terrorist financing activities and take appropriate measures to mitigate the risks identified.

(2) The reporting entity shall, in identifying and assessing such risks, take into account—

(a) the profile of its customers;

(b) the geographic area in which it conducts business;

(c) the product or products that it deals in;

(d) the service or services that it provides or receives;

(e) the means by which such products or services are delivered;

(f) the transactions that it conducts;

(g) customer due diligence carried out by third parties; and

(h) the technological developments in identifying such risks.

(3) In assessing the risks referred to in subsection (1), the reporting entity shall also take into account the outcome of any risk assessment carried out at national level and any regulatory guidance issued by the FIU or a supervisory authority.

(4) Prior to the launch of a new product or business practice or the use of a new or developing technology, the reporting entity shall identify and assess the money laundering and terrorist financing risks that may arise in relation to the development and use of new products or business practices, or new or developing technologies for both new and pre-existing products, and take appropriate measures to manage and mitigate those risks.

(5) Every reporting entity shall document the outcome of the risk assessment, regularly update it, and shall submit the same to the appropriate supervisory authority and law enforcement agency upon request.

(6) A reporting entity which fails or neglects to take reasonable measures to identify, assess and monitor the risks of money laundering and terrorist financing activities, commits an offence, and is liable on conviction, to a fine not exceeding SCR400,000. *(Amended by Act 62 of 2021)*

Obligations to establish and maintain internal control systems and procedures

33. (1) A reporting entity shall establish and maintain procedures and systems to—

(a) implement internal policies, procedures and controls to fulfil the obligations under this Act;

(b) implement adequate screening procedures to screen persons before recruitment;

(c) train its officers, employees and agents to recognise suspicious transactions, trends in money laundering, and terrorist financing activities and risks within the reporting entity's products, services and operations;

(d) implement independent audit arrangements to test its procedures and systems relating to anti-money laundering, and terrorist financing activities; and

(e) implement regular testing to verify that the originator and beneficiary information has been collected for virtual asset transfers received or sent.

(Amended by Act 12 of 2024)

(2) The procedures and systems shall be appropriate to the risks identified under section 32 and any risk assessment carried out at national level and be proportionate to the nature and size of the reporting entity's business.

(3) The procedures and systems shall be approved by senior management and be monitored and enhanced, if necessary.

Obligation to appoint compliance officer

34. (1) Every reporting entity shall appoint a compliance officer within 30 days from the date of coming into force of this Act or commencement of its operations, who shall be responsible, for ensuring the compliance with the provisions of this Act, with the approval of the respective supervisory authority.

(2) The compliance officer appointed under subsection (1) shall—

(a) be a senior official at management level or employee with such qualifications and experience as may be prescribed and shall be able to respond adequately to the enquiries relating to the reporting entity and conduct of its business;

(b) be a resident in Seychelles;

(c) be responsible for the implementation and on-going compliance of the reporting entity's internal programmes, controls and procedures in relation to its business with the requirements of this Act;

(d) be responsible for ensuring that the staff of the reporting entity comply with the provisions of this Act and any other law relating to money laundering and terrorist financing activities;

(e) be familiar with the provisions of the guidelines that may be issued by the FIU and the relevant supervisory authority;

(f) have unrestricted access on demand to all books, records and employees of the reporting entity as may be necessary to fulfil his or her responsibilities;

(g) receive and review reports of suspicious transactions, or suspicious activities made by the staff of the reporting entity and, if sufficient basis exists, report the same to the FIU in accordance with the Act; and

(h) act as liaison officer between the reporting entity, the supervisory authority, and the FIU in the matters relating to money laundering, and terrorist financing activities and for compliance with the provisions of this Act.

(3) The reporting entity shall appoint a senior official at management level or employee with the same qualifications prescribed for the compliance officer, as an alternate compliance officer, with the approval of the supervisory authority to act in the absence of a compliance officer. *(Amended by Act 62 of 2021)*

(4) A reporting entity which fails or neglects to appoint a compliance officer under subsection (1) or an alternate compliance officer under subsection (3) within a period of 30 days from the date of coming into force of this Act, or

commencement of its operations, commits an offence, and is liable on conviction to a fine not exceeding SCR200,000. *(Amended by Act 62 of 2021)*

Obligation to apply customer due diligence measures

35. (1) A reporting entity shall apply customer due diligence measures in respect of customers, business relationships and transactions, and conduct ongoing monitoring of business relationships.

(2) Customer due diligence measures includes—

(a) identifying the customers identity on the basis of documents, data or information obtained from a reliable and independent source or from any other source that the reporting entity has reasonable grounds to believe and can be relied upon to identify and verify the identity of the customer;

(b) obtaining the identity of the beneficiary of the life insurance policy and other investment related insurance policies, benefactors under the policy and the verification of person or a legal person or a legal arrangement shall be carried out at the time of payout and if the reporting entity is unable to obtain such information, it shall prepare and submit a suspicious transaction report to the FIU;

(c) where the customer is not the beneficial owner, identify the beneficial owner in accordance with the determination provided under regulation 3 of the Beneficial Ownership Regulations, and take reasonable measures, on a risk-sensitive basis, to verify the identity of the beneficial owner, including, in the case of a legal person, partnership or trust through the following information—

(i) the identity of the natural person who ultimately has a controlling ownership interest;

(ii) the identity of the natural person exercising control through other means;

(iii) the identity of the relevant natural person who holds a senior management position;

(Amended by Act 62 of 2021)

(d) obtaining information on the purpose and intended nature of the business relationship and to establish details of the business of the customer or a beneficial owner to enable the reporting entity to identify—

(i) complex or unusual large transactions;

(ii) unusual patterns of transactions which have no apparent economic or visible lawful purpose; or

(iii) any other activity which may be, by its nature, likely to be related to money laundering, financing of terrorism or other criminal conduct; and

(e) take reasonable measures to ascertain the purpose of a one-off transaction and the origin and ultimate destination of funds involved in a one-off transaction or transfer as part of a business relationship.

(3) A reporting entity that is requested to provide a life insurance policy, or similar investment insurance policy, shall take measures to establish and verify the identity of the person in respect of whom such policy is being taken, using its independent reliable source and documents.

(4) Where the customer is not an individual, the reporting entity shall take reasonable measures to—

(a) identify the customer and verify its identity through the following information—

(i) name, legal form and proof of existence;

(ii) the powers that regulates and binds the customer, including the name of the relevant persons with a senior management position;

(iii) the address of the registered office, and if different, a principal place of business;

(b) verify that any person purporting to act on behalf of the customer is authorised to do so; and

(c) identify and verify the identity of that person.

(5) The customer due diligence measures for identifying and verifying the identity of the beneficial owners shall not be required in respect of an individual who holds shares or other equity interests in a legal person, partnership or trust, the securities of which are listed on a recognised exchange.

(6) Where the reporting entity reasonably believes that performing the customer due diligence process will tip-off the customer, the customer due diligence process shall not be pursued and the reporting entity shall file a suspicious transaction report under section 48 of this Act.

Politically exposed persons

36. (1) Where a reporting entity knows or has reasonable grounds to believe that a customer, or a beneficial owner of a customer, residing in or outside Seychelles is or becomes a politically exposed person, the reporting entity shall apply, enhanced customer due diligence measures and enhanced ongoing monitoring.

(2) A "politically exposed person" means—

(a) an individual who is or has been, during the preceding three years, entrusted with a prominent public function in—

(i) Seychelles; or

(ii) any other country; or

(iii) an international body or organisation;

(b) an immediate family member of a person referred to in paragraph *(a)*; or

(c) a close associate of a person referred to in paragraph *(a)*.

(3) For the purposes of subsection (2)*(a)*, prominent public function includes—

(a) heads of State, heads of government, ministers and other senior politicians;

(b) senior government or judicial officials;

(c) ambassadors and *chargés d'affaires*;

(d) persons appointed as honorary consuls;

(e) high-ranking officers in the armed forces;

(f) members of the Boards of Central Banks;

(g) members of the Boards of state-owned corporations; and

(h) influential political party officials.

(4) For the purposes of subsection (2)*(b)*, immediate family member of a person specified in paragraph *(a)* includes—

(a) a spouse;

(b) a partner, that is an individual considered by his or her national law as equivalent to a spouse;

(c) children and their spouses or partners, as defined in paragraph *(b)*;

(d) parents; and

(e) siblings.

(5) For the purposes of subsection (2)*(c)*, close associates of a person includes—

(a) any person who is known to have joint beneficial ownership of a legal person, partnership, trust or any other close business relations with that legal person, partnership or trust; and

(b) any person who has sole beneficial ownership of a legal person, partnership or trust which is known to have been set up for the benefit of that legal person, partnership or trust.

(6) In determining whether a person is a close associate of a person specified in subsection (2)*(a)*, a reporting entity shall have regard to public information or such information that the reporting entity has in its possession.

(7) For the purpose of subsection (1), the reporting entity shall, in addition to the measures provided in section 35 (1)—

(a) obtain the approval of the senior management before a business relationship is established with the customer;

(b) take adequate measures to establish the source of wealth and source of funds which are involved in the proposed business relationship or one-off transaction;

(c) where the business relationship is entered into, conduct enhanced ongoing monitoring of the relationship; or

(d) apply such other measures provided for in the guidelines issued by the FIU or respective supervisory authority to compensate for the higher risk of money laundering, terrorist financing activities or other criminal conduct.

(8) Notwithstanding subsection (7), a reporting entity shall take reasonable measures to determine, prior to the time of payout, whether the beneficiary of a life insurance policy or other investment related insurance policy or the beneficial owner of the beneficiary of such a policy is a politically exposed person and, in case of a higher risk, shall—

(a) inform the senior management before the payout of the policy proceeds; and

(b) conduct enhanced scrutiny on the whole business relationship with the policy holder and consider filing a suspicious activity report under section 48 of this Act.

Correspondent banking relationship

37. A licensed bank shall not enter into a correspondent banking relationship with a bank or other credit institution situated outside Seychelles unless the licensed bank—

(a) gathers sufficient information about the bank or credit institution so as to understand fully the nature of the business of that bank or credit institution;

(b) is satisfied on reasonable grounds, based on publicly available information, that the reputation of the bank or credit institution and the quality of supervision or monitoring of the operation of that bank or credit institution in the other country are sound, adequate and effective;

(c) is satisfied on reasonable grounds, having assessed the anti-money laundering and anti-terrorist financing controls applied by the bank or credit institution, that those controls are sound, adequate and effective including whether it has been subjected to any investigation regarding money laundering or terrorist financing activities or undergone any regulatory action;

(d) obtains the approval of the senior management; and

(e) documents the responsibilities of the bank or credit institution in applying anti-money laundering and anti-terrorist financing controls to customers in the conduct of the correspondent banking relationship; and

(f) in the case of customers of the bank or credit institution who have direct access to a payable-through account held with the licensed bank in the name of the bank or credit institution, is satisfied on reasonable grounds that the bank or credit institution—

(i) has identified and verified the identity of those customers, and is able to provide to the licensed bank, upon request, the documents, whether or not in electronic form, or information used by the credit institution to identify and verify the identity, of those customers;

(ii) has applied measures equivalent to the measures referred to in section 41 in relation to those customers; and

(iii) is applying measures equivalent to the measures referred to in section 49 in relation to those customers.

Shell Banks

38. (1) A licensed bank shall—

(a) not enter into, or continue a correspondent banking relationship with a shell bank; and

(b) take appropriate measures to ensure that it does not enter into, or continue, a banking relationship with a bank that is known to permit its accounts to be used by a shell bank.

(2) For the purposes of this section—

(a) a "shell bank" is a bank, or an institution engaged in equivalent activities that—

(i) is incorporated in a country in which it has no physical presence involving meaningful decision making and management; and

(ii) is not subject to supervision by the Central Bank of Seychelles or a foreign regulatory authority, by reason that it is not affiliated to any financial services group that is subject to effective consolidated supervision;

(b) "correspondent banking" means the provision of banking services by one bank to another bank; and

(c) "banking services" includes—

(i) cash management, including establishing interest-bearing accounts in different currencies;

(ii) international wire transfers of funds;

(iii) cheque clearing;

(iv) payable-through accounts; and

(v) foreign exchange services.

Timing of customer due diligence

39. (1) A reporting entity shall carry out customer due diligence measures before or during the course of establishing a business relationship or carrying out a one-off transaction.

(2) The reporting entity may after carrying out risk management procedures, to include but not limited to, limitation to the number, types or amount of transactions that can be performed and the monitoring of large or complex transactions being carried out outside the expected norms for the type of relationship, complete the verification of the customer due diligence measures after the establishment of a business relationship if—

(a) this is necessary so as not to interrupt the normal conduct of business, such as—

(i) non-face-to-face business;

(ii) securities transactions;

(b) there is no reasonably determined and justified suspicion of money laundering or terrorist financing activities:

Provided that the customer due diligence measures are completed as soon as practicable.

(3) Where a reporting entity suspects that money laundering or terrorist financing activities may have occurred in respect of one of its customers and the reporting entity reasonably believes that if the customer due diligence process is carried out, the customer in respect of whom the reporting entity is suspicious, will be tipped-off, the reporting entity shall file a suspicious activity report under section 48 of this Act instead of performing the customer due diligence requirements.

Simplified customer due diligence

40. (1) Subject to the provisions of section 39, a reporting entity may apply simplified customer due diligence measures in relation to a particular business relationship or transaction if it determines that the business relationship or the transaction presents a low degree of risk of money laundering and terrorist financing activities.

(2) Where there is a suspicion of money laundering and terrorist financing activities, reporting entities shall not apply simplified customer due diligence measures under subsection (1).

(2A) Virtual asset service providers shall not apply simplified due diligence measures with respect to their customers. *(Inserted by Act 12 of 2024)*

(3)The simplified due diligence measures shall be such as may be prescribed by regulations.

Enhanced due diligence

41. (1) Notwithstanding section 35, a reporting entity shall apply on a risk sensitive basis enhanced customer due diligence measures and enhanced ongoing monitoring in any other situation which by its nature presents a higher risk of money laundering, terrorist financing activities or other criminal conduct on the basis of national risk assessment carried out under section 30.

(2) Financial Institutions providing life insurance policies and other investment related insurance policies shall include the beneficiary of such policies as a relevant risk factor in determining whether enhanced due diligence measures are applicable in those cases and if such determination is made, enhanced measures shall be applied to identify such beneficiary, at the time of pay-out.

(3) Without limiting the generality of subsection (1), a reporting entity shall, proportionate to risk, apply enhanced customer due diligence measures and enhanced ongoing monitoring in respect of business relationships and transactions with legal and natural persons from countries which do not apply or fully apply the Financial Action Task Force Recommendations. *(Substituted by Act 7 of 2021)*

Reliance on regulated persons

42. (1) Reporting entities may rely on a regulated person including a foreign regulated person to apply customer due diligence measures in respect of a customer.

(2) Reporting entities may rely on the regulated person including a foreign regulated person, if—

(a) there is no reasonably determined and justified suspicion of money laundering or terrorist financing activities;

(b) information on the identity of each customer and beneficial owner and the purpose and intended nature of the business as per section 35 is provided immediately on opening of the account or commencement of the business relationship; and

(c) the reporting entity is satisfied that the regulated person shall—

(i) immediately provide it with the necessary information regarding the identification and independent verification of customer's identity, beneficial owners and the purpose and intended nature of business relationship;

(ii) provide within 3 working days of the request, the copies of identification evidence and other documents relating to the obligation of due diligence;

(iii) be subject to requirements equivalent to those specified under this Act and in line with international standards and is

supervised for compliance with those requirements in a manner equivalent to those applicable in the Republic; and

(iv) not be prevented by professional privileges or any other restrictions to promptly share information on the customer identification and beneficial ownership information and documentation required.

(3) For the purposes of this section—

(a) "regulated person" means a third party having incorporated, registered or otherwise established in the Republic for providing the services to the regulated reporting entity for the verification, procurement of identity documents for compliance with the customer due diligence under this Act; and

(b) "foreign regulated person" means a third party—

(i) incorporated, registered or otherwise established, or having its principal place of business in a country outside the Republic;

(ii) carries on a business outside the Republic, which if carried on in Seychelles constitutes—

(A) a regulated business;

(B) the business of an independent legal professional; and

(C) the business of an external accountancy service or audit service;

(iii) in respect of the business referred to in subparagraph (ii), if it—

(A) is subject to legal requirements in the country of its incorporation, for the prevention of money laundering and terrorist financing activities that are consistent with the requirements of laws of that country and reliance shall be based with regard to the information available on the level of the country risk; and

(B) is subject to effective supervision for compliance with the legal requirements by the respective foreign regulatory authority.

(4) Where a reporting entity relies on a regulated person to apply customer due diligence measures in respect of a customer, the responsibility to apply the customer due diligence measures remains with the reporting entity.

(5) The provisions of this section shall not apply to—

(a) Banks; and

(b) Bureau de Changes.

Obligation to cease transaction

43. (1) Where in relation to any customer, a reporting entity is unable to apply customer due diligence measures in accordance with this Act, the reporting entity shall—

(a) not carry out a transaction with or for the customer through a bank account;

(b) not establish a business relationship or carry out a one-off transaction with the customer;

(c) terminate any existing business relationship with the customer.

(2) Where a reporting entity is unable to undertake ongoing monitoring with respect to a business relationship, it shall terminate the business relationship.

(3) Where subsections (1) or (2) applies in relation to any customer, the reporting entity shall also consider filing a suspicious activity report under section 48 of this Act or a disclosure under sections 34 or 35 of the Prevention of Terrorism Act (Cap. 179), as applicable.

(4) Subsections (1) and (2) shall not apply to—

(a) an Attorney-at-Law in the course of ascertaining the legal position of his client or in defending or representing the client in, or concerning, legal proceedings, including advice on the institution or avoidance of proceedings;

(b) a reporting entity who has made a suspicious transaction report under section 48 of this Act or a disclosure under section 34 or 35 of the Prevention of Terrorism Act, (Cap. 179) to the extent that the reporting entity is acting—

(i) in the case of a suspicious transaction report, with the consent of the FIU; or

(ii) in the case of a disclosure under section 34 or 35 of the Prevention of Terrorism Act, (Cap. 179) with the consent of the Commissioner of Police.

Obligation to maintain accounts in true name

44. (1) A reporting entity that maintains accounts shall maintain them in the legal names of the account holders.

(2) A reporting entity shall not open, operate or maintain any anonymous account or any account which is in a fictitious, false or incorrect name.

(3) For the purposes of this section, the term "legal name" means the original name of the account holder.

Obligation to record and retain identification details in wire transfers

45. (1) Every reporting entity while making a wire transfer shall record the particulars of the originator and the beneficiary of the transaction including the—

(a) full name of the originator;

(b) account number of the originator or, in the absence of an account number, the unique reference number allocated for such transfer;

(c) address or national identify number or customer identification number or date and place of birth of the originator;

(d) name of the beneficiary; and

(e) beneficiary account number or in the absence of an account number, the unique reference number allocated for such transfer.

(2) The following particulars shall be made available by the ordering financial institution—

(a) in the case of domestic wire transfers, full details of the originator information within three business days from the date of request from the beneficiary financial institution or from the appropriate competent authority; and

(b) in the case of cross-border transfers, where individual transfers from a single originator are bundled in a batch file, the originator's account number, full beneficiary information and the unique reference number allocated for such transfer including the full details of the originator information traceable in the recipient jurisdiction.

(Substituted by Act 62 of 2021)

(3) The provisions of subsections (1) and (2) shall not apply to any transfer that flows from a transaction carried out using a credit, debit or prepaid card for the purchase of goods or services as long as the credit, debit or prepaid card number accompanies all transfers flowing from the transaction. *(Substituted by Act 7 of 2021)*

(4) The provisions of subsections (1) and (2) shall not apply to transfers and settlements between financial institutions, where both the originator person and the beneficiary person are financial institutions acting on their own behalf.

(Substituted by Act 7 of 2021)

(5) Every reporting entity generating a wire transfer shall ensure that—

(a) the originator and beneficiary information is accurate as required under subsections (1) and (2);

(b) all the originators and beneficiaries information is kept in accordance with section 47; *(Amended by Act 62 of 2021)*

(c) no wire transfer shall be effected unless all the requirements under subsections (1) and (2) are met. *(Amended by Acts 7 of 2021 and 62 of 2021)*

(5A) Every reporting entity receiving a wire transfer shall ensure that the identity of the beneficiary is verified, where the identity has not been previously verified and maintain the information in accordance with the provisions of section 47. *(Inserted by Act 62 of 2021)*

(6) Every reporting entity processing an intermediary element of a wire transfer shall—

(a) ensure that the required originator and beneficiary information relating to a domestic wire transfer is retained with the transfer;

(b) ensure that the required originator and beneficiary information relating to a cross-border wire transfer is retained with the transfer.

(Amended by Act 7 of 2021)

(6A) The obligations in subsection 45B (3) shall also apply to financial institutions when sending or receiving virtual assets transfers on behalf of customers. *(Inserted by Act 12 of 2024)*

(7)Every reporting entity shall take reasonable measures, which may include post-event monitoring or real-time monitoring where feasible, to identify any wire transfer which may lack the information required under subsections (1) and (2). *(Substituted by Act 7 of 2021)*

(8) In respect of any transfer, which lacks information required under subsections (1) and (2), reporting entities processing an intermediary element of wire transfer or receiving a wire transfer, shall apply risk-based policies and procedures to determine whether to reject, suspend or execute the cross-border or domestic wire transfer and take appropriate follow-up actions. *(Substituted by Act 7 of 2021)*

(9) MVTS providers shall comply with all of the relevant requirements of this section in the countries in which they operate directly or through their agents. *(Inserted by Act 7 of 2021)*

(10) An MVTS provider that controls both the ordering and the beneficiary side of a wire transfer shall—

(a) take into account all the information from both the ordering and beneficiary sides in order to determine whether a suspicious transaction report under section 48 is to be filed; and

(b) file a suspicious transaction report in any country affected by the suspicious wire transfer and make relevant transaction information available to the FIU in a timely manner.

(Inserted by Act 7 of 2021)

Retention of records

45A. Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary financial institution shall be required to keep a record of all the information received from the ordering

financial institution or another intermediary financial institution for at least 7 years, as required under section 47. *(Inserted by Act 7 of 2021)*

Obligations of an originating virtual asset service provider

45B.(1) An originating virtual asset service provider shall, when sending a virtual asset transfer to a beneficiary, collect and include within its records —

(a) the name of the originator and the beneficiary;

(b) where a wallet is used to process a virtual asset transfer —

(i) the wallet address of the originator;

(ii) the wallet address of the beneficiary;

(c) the address of the originator including the name of the country, government issued identification information inclusive of the national identification number (if applicable) or the originator's customer identification number or date and place of birth; and

(d) where a wallet is not used to process virtual asset transfers, the unique transaction reference number (commonly known as a transaction hash) utilised for the tracing of the transfer.

(2) An originating virtual asset service provider shall, before conducting a virtual asset transfer, verify the originator information under subsection (1) on the basis of documents, data or information that meets the requirements of Part VI of this Act.

(3) An originating virtual asset provider shall provide the information under subsection (1), without delay to the beneficiary virtual asset service provider, together with transmission of the set of payment instructions to the beneficiary virtual asset service provider or to the beneficiary's financial institution.

(4) An originating virtual asset service provider may provide the information under subsection (1) to the beneficiary virtual asset service provider or reporting entity directly by attaching the information to the virtual asset transfer or providing the information directly.

(5) An originating virtual asset service provider shall ensure that virtual asset transfers are conducted using a system which prevents the unauthorised disclosure of the information under subsection (1) to a person other than the originating virtual asset provider, the beneficiary virtual asset service provider or the reporting entity.

(6) An originating virtual asset service provider shall keep records of complete information on the originator and beneficiary under subsection (1) which accompanies each virtual asset transfer, in accordance with section 47(3) of this Act.

(7) An originating virtual asset service provider may hold any transfers in order to obtain accurate originator and beneficiary information under subsection (1).

(8) Where section 43(1) or (2) applies in relation to the required information under subsection (1), the virtual asset service provider shall file a suspicious activity report under section 48 or make a disclosure under section 34 or 35 of the Prevention of Terrorism Act, (Cap.179), as applicable.

(9) An originating virtual asset service provider shall prohibit any virtual asset transfer being made and ensure that any virtual assets or proceeds received for the purchase of virtual assets are frozen in compliance with the requirements of the Prevention of Terrorism Act.

(Inserted by Act 12 of 2024)

Obligations of a beneficiary virtual assets service provider

45C. (1) A beneficiary virtual asset service provider shall, on receipt of a virtual asset transfer, collect and record the following information —

(a) the name of the originator and the beneficiary;

(b) where a wallet is used to process a virtual asset transfer by —

(i) the wallet address of the originator;

(ii) the wallet address of the beneficiary;

(c) location data concerning the originator —

(i) the address, including the name of the country;

(ii) national identity number;

(iii) customer identification number; or

(iv) date and place of birth.

(d) where a wallet is not used to process virtual asset transfers, the unique transaction reference number (commonly known as a transaction hash) utilised for the tracing of the transfer.

(2) A beneficiary virtual asset service provider shall verify the accuracy of information about the beneficiary obtained in compliance with subsection (1) on the basis of documents, data or information that meets the requirements of Part VI of this Act.

(3) A beneficiary virtual asset service provider shall keep records of complete information on the originator and beneficiary information under subsection (1) which accompanies each virtual asset transfer, in accordance with section 47(3) of this Act.

(Inserted by Act 12 of 2024)

Batch file virtual asset transfers

45D. (1) For batch file virtual asset transfers from a single originator, section 45B(1) shall not apply to the individual transfers where —

(a) the transfers are bundled together as a batch file and the batch file includes —

(i) the name of the originator; and

(ii) location data concerning the originator as specified under section 45B(1)(c);

(b) where a wallet is used, the wallet address(es);

(c) where a wallet is not used to process virtual asset transfers, the unique transaction reference number (commonly known as a transaction hash) utilised for the tracing of the transfer.

(2) All information under subsection (1) should be transferred without delay to the beneficiary virtual asset service provider, together with transmission of the set of payment instructions to the beneficiary virtual asset service provider or to the beneficiary's financial institution.

(Inserted by Act 12 of 2024)

Straight-through processing of transfers of virtual assets

45E. (1) An intermediary virtual asset service provider shall —

(a) take reasonable measures, which are consistent with straight-through processing, to identify virtual asset transfers that lack required originator or beneficiary information; and

(b) adopt risk-based policies and procedures for determining —

(i) when to execute, reject or suspend a virtual asset transfer; and

(ii) the resulting procedures to be applied;

where the required originator or beneficiary information is incomplete.

(Inserted by Act 12 of 2024)

Monitoring transfers which may lack information

45F. (1) Every virtual asset service provider shall monitor transfers involving virtual assets for the purpose of detecting the lack of information required under sections 45B, 45C and 45D.

(2) In respect of any transfer, which lacks information required under sections 45B, 45C and 45D, virtual asset service providers processing an intermediary element of virtual asset transfer or receiving a virtual asset transfer, shall apply risk-based policies and procedures to determine whether to reject, suspend or execute the cross-border or domestic virtual asset transfer and take appropriate follow-up actions.

(Inserted by Act 12 of 2024)

Technical limitations related to transfers of virtual assets

45G. Where technical limitations prevent an intermediary virtual asset service provider from sending the required originator or beneficiary information with the virtual asset transfers, the intermediary virtual asset service provider shall keep a record of all the information received from the originating virtual asset service provider, reporting entity or other intermediary, in accordance with section 47(3) of this Act.

(Inserted by Act 12 of 2024)

Obligation to monitor customer activities and transactions

46. (1) A reporting entity shall conduct ongoing monitoring of a business relationship.

(2) "Ongoing monitoring" of a business relationship means—

(a) scrutinising transactions undertaken throughout the relationship to ensure that the transactions are consistent with the reporting entity's knowledge of the customer, the business and risk profile and the source of funds of the customer; and

(b) keeping the documents, data or information obtained for the purpose of applying customer due diligence measures up to date.

(3) A reporting entity shall pay special attention to—

(a) any complex, unusual or large transaction;

(b) any unusual pattern of transactions,

with no apparent economic or lawful purpose.

(4) A reporting entity shall pay special attention to—

(a) business relations and transactions with persons in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or financing of terrorism;

(b) electronic funds transfers that do not contain complete originator information.

(5) In relation to subsections (1), (2) and (3), a reporting entity shall—

(a) examine as far as possible the background and purpose of the transactions or business relations and record its findings in writing; and

(b) upon request, make available such findings to the FIU or to the Attorney-General to assist them in assessing an offence of money laundering or terrorist financing activities.

Obligation to maintain records

47. (1) A reporting entity shall maintain records of—

(a) customer due diligence measures, including account files, business correspondence and copies of all documents evidencing the identities of customers and beneficial owners, and records and the results of any analysis undertaken in accordance with the provisions of this Act;

(b) all transactions carried out both domestically and internationally by it and correspondence relating to the transactions as is necessary to enable any transaction to be readily reconstructed at any time by the FIU or the Attorney-General, and the records shall contain particulars sufficient to identify—

(i) the nature and date of the transaction;

(ii) the type and amount of currency involved;

(iii) the type and identifying number of any account with the reporting entity involved in the transaction;

(iv) if the transaction involves a negotiable instrument other than currency, the name of the drawer of the instrument, the name of the institution on which it was drawn, the name of the payee (if any), the amount and date of the instrument, the number (if any) of the instrument and details of any endorsements appearing on the instrument;

(v) the name and address of the reporting entity, and of the officer, employee or agent of the reporting entity who prepared the record;

(c) all reports made to the FIU under section 48; and

(d) enquiries relating to money laundering and terrorist financing activities, made to it by the FIU.

(2) The records mentioned in subsection (1) shall be kept for a minimum period of 7 years from the date—

(a) on which evidence of a person's identity is obtained;

(b) of any transaction or correspondence relating to a customer; or

(c) on which the business relationship ceases.

(3) Notwithstanding any other law, the records mentioned in subsection (1) shall be kept for a period of 30 years in digital form, from the date on which the business relationship ceases, by the following entities—

(a) banks;

(b) bureau de change;

(c) insurance companies;

(d) securities exchange infrastructures;

(e) virtual asset service providers. *(Inserted by Act 12 of 2024)*

(4) The records established and maintained for purposes of subsection (1) *(b)* shall be—

(a) sufficient to enable the transaction to be readily reconstructed at any time by the FIU or the Attorney-General to provide, if necessary, evidence for the prosecution of any offence;

(b) maintained in a manner and form that will enable the reporting entity to comply immediately with requests for information from the law enforcement agencies or the FIU.

(5) Where any record is required to be kept under this Act, a copy of it with the appropriate back-up and recovery procedures shall be kept—

(a) in a machine-readable form, if a paper copy can be readily produced from it; or

(b) in an electronic form, if a paper copy can be readily produced from it and in a manner that enables appropriate authentication.

(6) The records maintained under subsection (1) shall be made available upon request to the FIU or the Attorney-General for purposes of ensuring compliance with this Act.

(7) A reporting entity which ceases to operate in the Republic shall handover all the required records under this section to its supervisory authority for safe custody in such form and manner and in such time as may be prescribed by regulations.

Obligation to report suspicious activities

48. (1) *(a)* Where a reporting entity has—

(i) reasonable grounds to suspect that any activity, or transaction may be related to the commission of criminal conduct including an offence of money laundering or of terrorist financing activities or to money or property that is or represents the benefit of criminal conduct; *(Amended by Act 7 of 2021)*

(ii) information that may be—

(A) relevant to an act preparatory to an offence or to money or property referred to in paragraph *(a)*(i);

(B) relevant to an investigation or prosecution of a person for an offence referred to in paragraph *(a)*(i); or

(C) of assistance in the enforcement of this Act or the Proceeds of Crime (Civil Confiscation) Act,

the reporting entity shall submit a suspicious transaction report to the FIU within two business days of ascertaining the reasonable grounds, forming the suspicion or receiving the information.

(b) The FIU shall acknowledge receipt of the suspicious transaction report within 24 hours of its receipt.

(2) *(a)* A report under this section shall—

(i) be in writing and may be given by way of telephone to be followed up in writing, mail, fax or electronic mail or such other manner as may be prescribed;

(ii) be in such form and contain such details as may be prescribed;

(iii) contain a statement of the grounds on which the reporting entity has reasonable grounds, holds the suspicion or receives the information; and

(iv) be signed or otherwise authenticated by the reporting entity.

(b) A person shall not commit an offence under this section or under section 3 of this Act if the person complies with the directions of the FIU or order of the Court where—

(i) a suspicious transaction report is made in relation to property; or

(ii) the person is informed by the FIU in writing or verbally and confirmed in writing within 24 hours, that property in his or her possession or control is suspected to be the benefit from criminal conduct.

(3) A reporting entity that has made a suspicious transaction report shall give the FIU or the law enforcement agency that is carrying out an investigation arising from, or relating to, the information contained in the report, any further information that it has about the transaction or about the parties to the transaction, if requested to do so by the FIU or the law enforcement agency.

(4) For the purposes of this section "transaction" includes an attempted transaction, regardless of the amount of the transaction.

(5) If any compliance officer fails to submit a report under subsection (1), commits an offence, and is liable on conviction to imprisonment for a term not exceeding 3 years or a fine not exceeding SCR 400,000, or to both.

(6) If any person obstructs or prevents a compliance officer from executing his responsibility under subsection (1), commits an offence, and is liable on conviction to imprisonment for a term not exceeding 3 years or a fine not exceeding SCR 400,000, or to both.

Application of customer due diligence measures

49. (1) A reporting entity shall apply customer due diligence measures when—

(a) establishing a business relationship;

(b) carrying out every one-off transaction;

(c) the reporting entity has doubts on the veracity or adequacy of documents, data or information obtained for the purpose of identification or verification of a customer; or

(d) there is reasonable suspicion of money laundering, terrorist financing activities or other criminal conduct.

(2) For the purposes of subsection (1)*(b)*, "one-off transaction" means a transaction carried out other than as part of a business relationship that exceeds SCR50,000 in cash or through wire transfers or a virtual asset transfer that exceeds SCR 15,000 or equivalent in any currency, whether the transaction or transfer is carried out in a single operation or several operations which appear to be linked. *(Amended by Act 12 of 2024)*

(3) Notwithstanding subsection (1), a reporting entity shall apply customer due diligence measures to existing customers at appropriate times on risk-sensitive basis.

(4) A reporting entity shall—

(a) determine the extent of customer due diligence measures on risk-sensitive basis or on the basis of national risk assessment carried out under section 30 depending on—

(i) the type of customer, business relationship, product or transaction; and

(ii) the guidelines issued by the FIU or Supervisory Authority; and

(b) be able to demonstrate to its supervisory authority that the extent of the measures is appropriate in view of the risks of money laundering, terrorist financing activities or other criminal conduct.

(5) The reporting entity shall keep records relating to customer due diligence, ongoing monitoring, the safeguards exercised before relying on regulated persons and the business or services carried out by or with a customer or on his behalf, for the period referred to in section 47 of this Act.

(6) The records kept under subsection (5) shall be made available on request to the respective supervisory authority and the FIU or the Attorney-General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles in the performance of their functions.

(7) Notwithstanding subsection (1), customer due diligence measures shall be undertaken against every customer of the gambling sector, if the money involved in the gambling exceeds the threshold specified in Schedule 6.

Tipping off

50. (1) A person (and without prejudice to the generality of the foregoing a reporting entity, its officers, employees or agents) who, knowing or suspecting that—

(a) a suspicious transaction report or a direction of the FIU under section 48 has been or may be made or that further information has been given under section 48;

(b) a reporting entity has formed a suspicion in relation to a transaction for the purpose of section 48;

(c) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that a suspicion has been formed or that a suspicious transaction report has been or may be made;

(d) a search warrant is to be issued or has been issued;

(e) an application is to be made, or has been made, under this Act for a production order; or *(Amended by Act 7 of 2021)*

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

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

(Substituted by Act 62 of 2021)

(2) In proceedings against a person for an offence under this section it shall be a defence to prove that the person had lawful authority or reasonable excuse for making the disclosure.

(3) Subsection (1) shall not apply to disclosures made to—

(a) an officer or employee or agent of the reporting entity for any purpose connected with the performance of that person's duties;

(b) a legal practitioner, Attorney-at-Law or legal adviser for the purpose of obtaining legal advice or representation in relation to the matter;

(c) the supervisory authority of the reporting entity for the purpose of carrying out the supervisory authority's functions.

(4) No person referred to in subsection (3)*(b)* to whom disclosure of any information to which that subsection applies has been made shall disclose that information except to another person of the kind referred to in that subsection, for the purpose of—

(a) the performance of his duties; or

(b) obtaining legal advice or representation in relation to the matter.

(5) No person referred to in subsection (3)*(c)* to whom disclosure of any information to which that subsection applies has been made shall disclose that information except to a person referred to in that subsection for the purpose of giving advice or making representations in relation to the matter.

Misrepresentation

51. A person who knowingly makes a false, fictitious or fraudulent statement or representation, or makes, or provides, any false document, knowing the same to contain any false, fictitious or fraudulent statement or entry, to a reporting entity, or to a supervisory authority or to the FIU, commits an offence and is liable on conviction to a fine up to SCR200,000 or to imprisonment up to six months or to both.

Malicious reporting

52. Any person who willfully gives any information to the FIU or to an authorised officer, knowing such information to be false, commits an offence and is liable on conviction to a fine up to SCR200,000 or to imprisonment up to six months or to both.

Secrecy obligations over ridden

53. (1) Subject to the provisions of this Act, preserving the legal professional privilege, this Act overrides any obligation as to secrecy or other restriction on disclosure of information imposed by any other law or otherwise.

(2) No liability based on the breach of an obligation as to secrecy or any restriction on the disclosure of information, whether imposed by any law, the common law or any agreement, arises from a disclosure of any information in compliance with an obligation imposed under this Act.

Overriding of confidentiality

53A. A reporting entity shall comply with the requirements of this Act notwithstanding any obligation as to the confidentiality or other restrictions on the disclosure of information imposed by any written law or otherwise.

(Inserted by Act 7 of 2021)

Protection of information and informants

54. (1) Where any information relating to an offence under this Act is received by the FIU or by an authorised officer, the information and the identity of the person giving such information shall be kept confidential.

(2) Subsection (1) shall not apply to the disclosure of information and the identity of a person giving the information—

(a) where it is for the purposes of assisting the FIU or the authorised officer to carry out their functions under this Act; or

(b) with regard to a witness in any civil or criminal proceedings—

(i) for the purposes of this Act; or

(ii) where the court is of the opinion that justice cannot fully be done between the parties without revealing the identity of the person who made such disclosure.

(3) Any person, who discloses the information or the identity of the source of such information in contravention of subsections (1) and (2), commits an offence, and is liable on conviction to a fine not exceeding SCR200,000 or to imprisonment up to two years or to both.

(4) No criminal or disciplinary proceedings shall be taken against—

(a) a reporting entity or supervisory authority of a reporting entity;

(b) an employee or agent of a reporting entity or an officer of a supervisory authority of a reporting entity acting in the course of that person's employment or agency,

in relation to any action by the reporting entity or the supervisory authority or their officer, employee or agent, taken in good faith under the provisions of this Act, or in compliance with the directions given by the FIU under the provisions of this Act.

PART VII

SUPERVISION AND ENFORCEMENT OF COMPLIANCE

Responsibility for supervision

55. (1) The Central Bank of Seychelles shall supervise and enforce the compliance with the provisions of this Act by all the reporting entities under its regulatory ambit and licensed under the Acts specified in Part A of Schedule 1.

(2) The Financial Services Authority shall supervise and enforce compliance with the provisions of this Act by all the reporting entities under its regulatory ambit and licenced under the Acts specified in Part B of Schedule 1 and entities at serial numbers 7 and 8 of Part C of Schedule 1.

(3) The FIU shall supervise and enforce compliance with the provisions of this Act by the entities (except entities at serial numbers 7 and 8) specified in Part C of Schedule 1.

(4) Notwithstanding anything in subsections (1) to (3), the supervisory authorities shall be the monitoring authorities for the purposes of the Prevention of Terrorism Act (Cap.179) and all the reporting entities, and entities covered under this Act, shall comply with all the requirements under the Prevention of Terrorism Act (Cap.179). *(Inserted by Act 8 of 2021)*

Written memorandum of understanding amongst supervisory authorities

56. (1) For the purposes of the effective supervision of reporting entities, all the supervisory authorities shall enter into a written memorandum of understanding amongst themselves.

(2) The memorandum of understanding shall provide for—

(a) the sharing of information, including the types of information to be provided by each supervisory authority to the other and measures to protect the confidentiality of the information, including the access to the specified persons or incumbents of specified positions;

(b) co-operation between the supervisory authorities and assistance to each other in the exercise of their respective powers and performance of their respective duties under this Act;

(c) dispute resolution mechanism;

(d) elements to be considered for the purpose of supervision under this Act; and

(e) any other matters as may be prescribed.

Powers of supervisory authorities

57. (1) Every supervisory authority may exercise the following powers when monitoring compliance by the reporting entities under this Act—

(a) to request any documentation or information from a reporting entity;

(b) to have access to any premises, reasonably believed to be a premise at which the reporting entity is carrying on its business, and to conduct an examination during business hours;

(c) to require any person who has control of or access to the records or other documents that relate to the business of a reporting entity—

(i) to produce the documents for its examination; and

(ii) if any of those documents are in an electronic, mechanical or in any other form, to reproduce those documents in written form;

(d) to inspect the documents produced or reproduced in accordance with a request or found in the course of inspection of the premises;

(e) to take copies of those documents or of any part of those documents;

(f) to require any person, having information relating to the documents, or to the business of the reporting entity, to answer questions with respect to the documents of the reporting entity;

(g) to direct a reporting entity to provide an explanation about any documentation relating to the reporting entity; and

(ga) to caution a reporting entity not to repeat a noncompliant conduct;

(Inserted by Act 62 of 2021)

(gb) to direct a reporting entity to take remedial action;

(Inserted by Act 62 of 2021)

(h) to impose dissuasive administrative sanctions on the reporting entity and on the directors and senior management of the reporting entity for non-compliance with the provisions of this Act.

(2) Every supervisory authority may issue direction, directives or guidelines in relation to the requirements set out in this Act or the regulations made thereunder.

(3) Every reporting entity, including a director, manager or other officer involved in the control or management of the entity, that—

(a) obstructs or interferes with the exercise of the powers of a supervisory authority; or

(b) fails to comply with a direction or request made by the supervisory authority within such timeframe as may be specified by the supervisory authority,

commits an offence and is liable on conviction to a fine not exceeding SCR200,000.

(Substituted by Act 62 of 2021)

Monitoring of reporting entities

58. (1) Every supervisory authority shall monitor reporting entities under its control on risk-sensitive basis and take necessary measures for the purpose of ensuring compliance by those reporting entities with the provisions of this Act.

(2) Every supervisory authority shall develop and implement a risk-based approach to supervision, taking into consideration—

(a) the money laundering and terrorist financing risk profiles and risk assessments prepared by reporting institutions and take the result of the review into consideration;

(b) the adequacy and implementation of reporting institutions policies, internal controls and procedures, taking into account the money laundering and terrorist financing risk profile and size of the institution; and

(c) the application of consolidated supervision to financial institutions for the purposes of anti-money laundering and countering the financing of terrorism.

(Amended by Act 7 of 2021)

(3) Where the supervisory authority has to examine a reporting entity, the supervisory authority may appoint an examiner to examine the reporting entity under the provisions of this Act in such manner as may be prescribed.

(4) An officer who has been authorised under subsection (3), to examine a reporting entity, may, in undertaking such examination, perform the functions assigned to him or her under this Act.

(5) Every supervisory authority and any person authorised under subsection (3) or (4), to examine a reporting entity shall be subject to the confidentiality restrictions contained in this Act.

(6) Every reporting entity or any other person to whom this Act applies, shall without delay, provide assistance to an examiner in the examination of the reporting entity under subsection (3) or (4), as the case may be.

(7) Subject to subsection (8), an officer appointed as examiner under subsection (3) or (4) shall not disclose to any person, who is not in the service of the FIU or supervisory authority, any information obtained in the performance of his or her functions under subsection (3) or (4).

(8) An officer appointed as examiner under subsection (3) or (4) may disclose information—

(a) for the purpose of enforcing compliance with the provisions of this Act or any order, determination or directive made under the provisions of this Act;

(b) for the purpose of legal proceedings;

(c) when required to do so by a court; or

(d) if the supervisory authority is satisfied that it is in the public interest.

(9) Every supervisory authority and every other relevant authority shall when called upon to do so by the Financial Action Task Force or on the Committee's independent determination specify the countermeasures that shall apply to a high-risk country as may be necessary and proportionate to the risk, business relationship and transaction. *(Substituted by Act 62 of 2021)*

(10) The countermeasures referred to in subsection (9) may be prescribed by regulations or by other enforceable means as may be deemed necessary by a supervisory authority or other relevant authority. *(Inserted by Act 62 of 2021)*

(11) Every supervisory authority shall take measures to ensure that reporting entities are advised of concerns about weaknesses in the AMLCFT systems of other countries. *(Inserted by Act 62 of 2021)*

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

(Inserted by Act 62 of 2021)

Reporting obligations of a supervisory authority and its staff

59. (1) Every supervisory authority and its officers shall report to the FIU about any suspicious activity or transaction that the supervisory authority or its officers may encounter during the normal course of their duties.

(2) A person who, as an employee of a supervisory authority, with intention to deceive, does not make a report under subsection (1) commits an offence, and is liable on conviction to imprisonment for a term not exceeding 3 years or a fine not exceeding SCR 200,000, or to both.

Administrative sanctions

60. (1) A supervisory authority may impose an administrative sanction referred to in subsection (3) on a reporting entity to whom this Act applies if

satisfied that the reporting entity has failed to comply with a provision of this Act or any regulation, order, determination or directive issued under this Act, within the time frame specified by the supervisory authority. *(Amended by Act 62 of 2021)*

(2) In determining an appropriate administrative sanction, the supervisory authority shall consider the following factors—

(a) the nature, duration, seriousness and extent of the non-compliance;

(b) whether the reporting entity has previously failed to comply with the provisions of any other law;

(c) any remedial steps taken by the reporting entity to prevent the recurrence of the non-compliance;

(d) any other relevant factor, including mitigating factors.

(3) The supervisory authority may impose any one or more of the following administrative sanctions—

(a) the restriction or suspension of certain identified business activities;

(b) recommend that the relevant licencing authority or registration authority withdraw, restrict or suspend the licence or registration to carry on business activities; or *(Amended by Act 7 of 2021)*

(c) a financial penalty, not exceeding SCR1,000,000, as determined by the supervisory authority.

(Amended by Act 62 of 2021)

(3A) (i) Any financial penalty imposed by the supervisory authorities under this section or under any other provision of the Act shall be credited to a separate designated account maintained by the Ministry of Finance for this purpose and the funds so accrued in the account shall be utilised only for the purpose of anti-money laundering and countering the financing of terrorism compliance awareness, education and capacity building for implementing the provisions of the Act.

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

(Inserted by Act 62 of 2021)

(4) The supervisory authority may—

(a) in addition to the imposition of an administrative sanction, make recommendations to the reporting entity in respect of compliance with this Act or any regulation, order, determination or directive issued under this Act;

(b) direct that a penalty shall be paid by a natural person for whose actions the relevant institution is accountable in law, if that person is personally responsible for the non-compliance;

(c) suspend any part of an administrative sanction on such conditions as may be specified in writing;

(d) in addition to the imposition of an administrative sanction, impose suspension or withdrawal of the capacity to be fit and proper compliance officer; and

(e) publish findings of the non-compliance.

(5) Prior to imposing an administrative sanction, the supervisory authority shall give the reporting entity a notice in writing—

(a) of the nature of the alleged non-compliance;

(b) of the intention to impose an administrative sanction;

(c) of the amount or particulars of the intended administrative sanction; and

(d) advising that the institution or person may, in writing, within a period of 14 days, make representation as to why the administrative sanction should not be imposed.

(6) After considering any representation and the factors referred to in subsection (2), the supervisory authority may impose an administrative sanction, as it may consider appropriate.

(7) Upon imposing the administrative sanction the supervisory authority shall, in writing, notify the institution or person of—

(a) the decision and the reasons therefor; and

(b) the right to appeal against the decision in accordance with section 62.

(8) Any monetary penalty imposed on the reporting entity shall be paid within the period and in the manner as may be specified in the notice.

(9) If the reporting entity fails to pay the monetary penalty within the specified period and an appeal has not been filed within the required period, the supervisory authority may without delay initiate steps for recovery of such monetary penalty amount.

(10) An administrative sanction contemplated under this section may not be imposed if the respondent has been charged with a criminal offence in respect of the same set of facts.

(11) If a court assesses the penalty to be imposed on a person convicted of an offence in terms of this Act, the court may take into account any administrative sanction imposed under this section in respect of the same set of facts.

Appeals Board

61. (1) The Minister shall appoint an Appeals Board to hear and decide the appeals under section 62.

(2) The Appeals Board shall consist of the following members—

(a) two persons who have qualifications in law and with at least 3 years' experience, one of whom shall be appointed as Chairperson by the Minister; and

(b) three other persons who have experience and extensive knowledge of financial institutions or financial services provision or financial services regulation.

(Amended by Act 62 of 2021)

(3) The Minister may prescribe additional qualifications, terms and conditions and other requirements for appointment as members of the Appeals Board.

(4) If before or during the consideration of any appeal, it transpires that any member of the Appeals Board has any direct or indirect personal interest in the outcome of that appeal, the member shall declare his or her interest and recuse himself or herself and shall be replaced by another member.

(5) A member of the Appeals Board shall be paid such remuneration and allowances as the Minister may prescribe by regulations.

(6) The supervisory authority shall be responsible for the expenditure of and administrative support for the Appeals Board.

Appeals

62. (1) Any reporting entity aggrieved by the decision of the supervisory authority may appeal to the Appeals Board against the decision made under section 60 of this Act.

(2) An appeal shall be filed within 30 days of the delivery of the decision by the supervisory authority, in the form and manner and before such officer of the Ministry; and on payment of such fees as may be prescribed by the Minister.

(3) An appeal shall be decided on the affidavits and supporting documents presented to the Appeals Board by the parties to the appeal within 30 days from the date of submission of the documents.

(4) Notwithstanding anything contained in subsection (4), the Appeals Board may—

(a) summon any person who, in its opinion, may be able to give information for the purposes of deciding the appeal or who it believes has in his, her or its possession, custody or control of any document which has any bearing upon the decision under appeal, to appear before it on a date, time and place specified in the

summons, to be questioned or to produce any relevant document and retain for examination any document so produced;

(b) administer an oath to or accept an affirmation from any person called as a witness at an appeal; and

(c) call any person present at the appeal proceedings as a witness and require such person to produce any document in his or her possession, custody or control.

(5) The Chairperson of the Appeals Board may determine any other procedural matters relating to an appeal.

(6) An applicant or respondent to an appeal is entitled to be represented by a legal practitioner or any person of his or her choice.

(7) The Appeals Board may—

(a) confirm, set aside or vary a decision of the supervisory authority; or

(b) refer a matter back for reconsideration by the supervisory authority concerned in accordance with the directions of the Appeals Board.

(8) The decision of a majority of the members of the Appeals Board constitutes the decision of the Board.

(9) The decision of the Appeals Board shall be in writing, and a copy thereof shall be made available to the appellant and the supervisory authority.

(10) If the Appeals Board sets aside the decision of the supervisory authority, the fees paid by the appellant under subsection (2) in respect of the appeal shall be refunded to the appellant.

(11) If the Appeals Board varies any such decision, it may direct that the whole or any part of such fees be refunded to the appellant.

(12) The decision of the Appeals Board may be taken on appeal to the Supreme Court as if it were a decision of a Magistrate in a civil matter.

PART VIII

INVESTIGATION

Investigation powers

63. (1) A law enforcement agency to which a report is disseminated by the FIU in terms of this Act shall determine whether further investigation is required in the matter, as soon as possible and not later than 60 days from the date of receipt of the communication from the FIU and provide such determination to the FIU in the manner as may be specified by the FIU.

(2) Upon taking a decision under subsection (1), the law enforcement agency may refer the matter to Financial Crime Investigation Unit (hereinafter referred to as the FCIU) or any other Unit as may be designated by the

Commissioner of Police and functioning under the Seychelles Police Force or to the Anti-Corruption Commission of Seychelles, if the matter arises from a corruption offence, to investigate the alleged violation of the provisions of this Act and the FCIU or to the Anti-Corruption Commission of Seychelles, as the case may be, may—

(a) identify and gather information on assets used in or acquired in consequence of the commission of the offences under this Act;

(b) submit the applications necessary to retrieve the assets used in or acquired in consequence of the commission of an offence under this Act;

(c) submit the applications before the courts under the provisions of this Act; and

(d) manage the storage and maintenance of assets seized, but not yet forfeited under the provisions of this Act.

(3) The Seychelles Police Force and the Anti-Corruption Commission of Seychelles shall ensure that the officers nominated for investigation of the offences under this Act are trained in wide range of investigative techniques suitable for the investigation of money laundering and terrorist financing activities and the techniques for investigation may also include undercover operations, intercepting communication, accessing computer systems and controlled delivery.

Written memorandum of understanding between FIU and law enforcement agencies

63A. For the purposes of promoting and supporting intelligence sharing between the FIU and law enforcement agencies, the FIU and law enforcement agencies shall enter into written memoranda of understanding which shall provide for sharing of information and cooperation between them or any other information or support as may be prescribed by regulations. *(Inserted by Act 7 of 2021)*

Obtaining information etc.

64. (1) In investigating an offence under this Act, the law enforcement agency may request for all relevant information held by the FIU and other agencies and supervisory authorities as may be necessary to gather evidence, track, identify, recover, seize or confiscate the proceeds of the crime and also provide timely feedback to the FIU.

(2) The law enforcement agency may, collaborate with foreign counterpart agencies, foreign supervisory authorities, and regional and international organisations involved in combating the money laundering terrorist financing activities, to facilitate the gathering of evidence, tracing, identification, recovery, seizure or confiscation of proceeds of crime committed in Seychelles or elsewhere.

(3) The law enforcement agency, while investigating any offence under the provisions of this Act shall have the power to obtain all the necessary documents from the respective authorities, summon the person in custody of the documents

to produce them for the purpose of investigation, to record the statement of witnesses and for search and seizure and for obtaining the evidence in connection with the offences relating to money laundering and terrorist financing activities.

(4) Any person who failed to comply with the request of the law enforcement agency under subsection (3), commits an offence, and is liable on conviction to imprisonment up to six months or to a fine not exceeding SCR100,000 or to both.

Search warrant

65. (1) Notwithstanding anything contained in section 95 to section 99 of the Criminal Procedure Code, a Judge of the Court may, on an application submitted by or on behalf of the law enforcement agency, if he or she is satisfied that there are reasonable grounds for believing that the evidence or the identity or location of proceeds of crime, is to be found in any place, issue a warrant for the search of that place and seizure of any property and arrest any person found in that place.

(2) A Judge of the Court, may hear an application under subsection (1) at any place and time (including a non-working day) and pass appropriate orders for search, seizure and arrest on the same day.

(3) A warrant of search, seizure and arrest issued under subsections (1) and (2) shall specify an officer of the law enforcement agency, if necessary accompanied by one or more law enforcement officers, to enter, within one week of the date of issuing of the warrant (if necessary by the use of reasonable force), the place named in the warrant for search, seize and arrest any person found at that place and also retain any material found at that place, or any material found in the possession of the person found at that place at the time of the search, which the law enforcement officer or the person accompanying him believes to be evidence of or relating to proceeds of crime, or to their identity of the property or whereabouts of the persons involved in the offence.

(4) The authority conferred by subsection (3) to seize and retain any material includes, in the case of a document or record—

(a) to make and retain a copy of the document or record; and

(b) where necessary, to seize and retain any computer or other storage medium in which any record is kept.

(5) The law enforcement officer or any other official acting under the authority of a warrant issued under subsection (1) or subsection (2) may—

(a) operate any computer at the place of search or direct that it be operated by the person using such computer; and

(b) require any person at that place of search who appears to have lawful access to the information in the computer—

(i) to give to the law enforcement officer necessary access to operate the computer;

(ii) to provide any necessary information to enable the law enforcement officer or the persons accompanying him to examine the information accessible from the computer in a form in which the information is visible and legible; or

(iii) to produce the information to the law enforcement officer or the persons accompanying him in a form in which it can be removed and in which the information is, or can be made, visible and legible.

(6) For the purposes of this section—

(a) "computer at the place of search" includes any other computer, whether at that place or at any other place, which is lawfully accessible by means of the first-mentioned computer; and

(b) "material" includes a copy of the material and a document or record.

(7) The law enforcement officer or any other official acting under the authority of a warrant issued under subsection (1) or subsection (2), may—

(a) require any person present at the place where the search is carried out to disclose that person's name and address; and

(b) arrest without warrant any person who—

(i) obstructs or attempts to obstruct the law enforcement officer or any person accompanying that law enforcement officer in the carrying out of his duties;

(ii) fails to comply with a requirement under subsection (5)*(b)* or subsection (7)*(a)*;or

(iii) gives false name and address, which the law enforcement officer believes to be false or misleading.

(8) A person who obstructs or attempts to obstruct the law enforcement officer or any other official acting under the authority of a warrant issued under subsection (1) or subsection (2) or who fails to comply with a requirement under subsection (5)*(b)* or (7)*(a)* or who gives a false or misleading name or address to the official, commits an offence and is liable on conviction to a fine not exceeding SCR100,000.

(9) The power to issue a warrant under this section is in addition to and not in substitution for any other power to search without warrant or to issue a warrant for the search of any place or person under this Act or under any other law in force.

(10) For the purposes of this section, "place" includes a dwelling, any vehicle or boat near the place named in the warrant, where the law enforcement officer suspects that the evidence of or relating to proceeds of crime, or to their identity or whereabouts may be found therein.

Production order

66. (1) For the purposes of an investigation into whether a person has benefitted from proceeds of crime or is in receipt of or controls the proceeds of crime, a law enforcement officer may file an application before the Court to order that any particular material or material of a particular description be produced by the person in custody of such material.

(2) On an application filed under subsection (1), if the Judge is satisfied—

(a) that there are reasonable grounds for suspecting that a person has benefitted from proceeds of crime or is in receipt or control of such proceeds or benefits;

(b) that the material concerned is required for the purposes of such an investigation,

the Judge may order that any person who is in possession of the material shall—

(i) produce the material to the law enforcement officer or to any other person named in the order; or

(ii) give to the law enforcement officer or to any other person named in the order access to the material within a period specified in the order.

(3) The period to be specified under subsection (2)(ii) shall ordinarily be 7 days and if it appears to the Judge that a longer period would be appropriate in the circumstances of the case, Judge may so order.

(4) An order under subsection (2) in relation to a material in any place—

(a) requires grant of permission for entry to that place, the Judge may upon his satisfaction by order direct the person in custody of such material to allow the law enforcement officer to enter the place and obtain access of the material; and

(b) where a person who is in custody of material does not allow the law enforcement officer in spite of the order under paragraph *(a)*, the provisions of section 65 shall have effect, as if a warrant had issued under that section authorising the law enforcement officer, accompanied by such other persons to take necessary action.

(5) Where such material consists of information in a computer or in an electronic device, the order shall have effect as if an order has been issued to produce the material, or to give access to it, in a form which is visible and legible and can be seized by the law enforcement officer.

(6) An order—

(a) empowering a person to seize a document or to give access to the said document, shall authorise the person to make a copy of the said document;

(b) shall not confer any right to production of, or access to, any material subject to legal privilege; and

(c) shall have effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of such information imposed by any other law in force.

(7) Any material collected by a person under this section shall be retained and used as evidence in any proceedings before the court.

(8) A person who fails or refuses to comply with requirement of an order under this section commits an offence and shall be liable on conviction for a fine not less than SCR100,000.

(9) For the purposes of confirmation into whether a person has benefitted from proceeds of crime or is in receipt of or controls such proceeds, the FCIU may apply to a Judge of the Court for an order to obtain information regarding any trust in which the person may have an interest or with which he may be otherwise connected.

(10) On an application of FCIU under subsection (9), if the Judge is satisfied—

(a) that there are reasonable grounds for suspecting that a person—

(i) has benefitted from proceeds of crime or is in receipt or control of proceeds of crime; and

(ii) has some interest in or other connection with the trust;

(b) that the information concerned is required for the purposes of a confirmation into whether a person has benefitted from proceeds of crime or is in receipt of or control of such proceeds; and

(c) that there are reasonable grounds for believing that it is in the public interest that the information should be disclosed for the purposes of the confirmation, having regard to the benefit likely to accrue to the investigation and any other relevant circumstances,

may order that the trustees of the trust and any other person (including the suspected person) to disclose to the FCIU such information as it may require in relation to the trust, including the identity of the settlor and any or all of the trustees and beneficiaries.

(11) An order under subsection (10)—

(a) shall not confer any right to production of, or access to, any information subject to legal privilege; and

(b) shall be effective notwithstanding any other obligation as to secrecy or other restriction on disclosure of such information imposed by any other law in force.

(12) A Judge of the Court may vary or discharge an order under this section on the application of any person to whom it relates or the FCIU.

(13) A trustee or other person who without reasonable excuse fails or refuses to comply with an order under this section or gives information which is false or

misleading commits an offence and shall be liable on conviction to a fine not less than SCR100,000.

(14) Any information given by a person in compliance with an order under subsection (2) shall not be admissible in evidence in any criminal proceedings against that person, except in any proceedings for an offence under subsection (5).

(15) In this section "information" includes—

(a) a document or record; and

(b) information in non-legible form.

Power to arrest

67. (1) Where the law enforcement officer has reasonable grounds to suspect that a person is committing or is about to commit or has committed criminal conduct, the law enforcement officer may—

(a) arrest that person according to law without warrant; or

(b) require the person to provide his name and address, and if the person fails or refuses to do so or provides a name or address which the law enforcement officer suspects to be false or misleading, he may arrest the person for providing such false information, without a warrant of arrest. *(Amended by Acts 7 of 2021 and 62 of 2021)*

(2) A person who fails or refuses to give his name or address when required under this section or gives a name or address which is false or misleading, commits an offence and is liable on conviction to a fine not less than SCR100,000.

PART IX

RESTRAINT, SEIZURE AND FORFEITURE

Circumstances in which court may make restraint order

68. (1) The Court may make a restraint order where—

(a) proceedings have been initiated in Seychelles against a person for criminal conduct or an application has been filed under Part VIII or under this Part and the proceedings are pending consideration by the court; or

(b) either a pecuniary penalty order has been made or it appears to the Court that there are reasonable grounds for a pecuniary penalty order is being made in the proceedings or an application being filed by the Attorney-General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles under Part X; or

(c) the Court is satisfied that proceedings are being instituted against a person for criminal conduct in respect of which a pecuniary penalty order may be made under Part X.

(2) Where the Court has made an order under Part X, the Court shall vacate the restraint order issued under subsection (1), if the proceedings in respect of the criminal conduct are not instituted or the relevant application is not submitted within such time as the court may fix the same in the restraint order passed under subsection (1).

Restraint order

69. (1) The Court may by an order (hereinafter referred to as "restraint order") prohibit any person from dealing with any realisable property, subject to such conditions and exceptions as may be specified in the order.

(2) Without prejudice to the generality of subsection (1), the Court may, if it thinks fit make a restraint order and may also make provision for living expenses and legal expenses of the person against whom the restraint order is made, where the Court considers it essential to do so.

(3) A restraint order shall apply to—

(a) all realisable property held by a specified person or persons, whether the property is described in the order or not; and

(b) realisable property held by a specified person or persons, who holds the property after issuing the restraint order under subsection (1).

(4) A restraint order shall be made on an application by the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles, and after giving notice of the application to the persons being affected by the order and an opportunity to being heard on such application is given to such persons, before passing any restraint order. *(Amended by Act 62 of 2021)*

(5) A restraint order—

(a) may be vacated or varied in relation to any property; and

(b) shall be vacated at the conclusion of the proceedings or on an application by the affected party under subsection (6).

(6) An application for the discharge or variation of a restraint order may be made by any person affected by it and in such case, the notice of any such application and an opportunity to being heard, shall be given to the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles, before passing any order to vacate the restraint order issued under subsection (1). *(Amended by Act 62 of 2021)*

(7) The Court may appoint a receiver—

(a) to take possession of any realisable property;

(b) to manage or otherwise deal with the property in respect of which he has been appointed as receiver, and may require any person having possession or control of property to give him the possession of such property;

(c) to dispose of the property with the approval of the court before adjudication in case of damage being caused to the property for its non-usage,

subject to such exceptions and conditions including the deposit of sale proceeds in a separate interest-bearing account, as may be specified by the Court.

(8) Upon sale of any property by a receiver appointed under subsection (7), the purchaser shall have a good and valid title to the property and as regards landed property, the Land Registrar shall register the purchaser as full owner in the land register without further requisition or enquiry.

(9) Upon the sale of any property by a receiver appointed under subsection (7), any right, title or interest of any person which existed on the date of sale, shall stand extinguished and such right, title or interest shall be limited to the net proceeds of such sale.

(10) For the purposes of this Act, dealing with property held by any person includes (without prejudice to the generality of the expression)—

(a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and

(b) removing the property from Seychelles.

(11) Where the Court has made a restraint order under subsection (1), an officer of the law enforcement agency, for the purpose of preventing any realisable property being removed from Seychelles, may seize the property and the property so seized under this subsection shall be dealt with in accordance with the directions of the Court.

Ex-Parte Restraint Order

69A. (1) Notwithstanding anything in sections 68 and 69, the Attorney General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles may apply for a restraint order *ex parte* where proceedings have not been initiated in Seychelles against a person for criminal conduct. *(Amended by Act 62 of 2021)*

(2) Where a restraint order is made on the *ex parte* application, the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles shall inform any person identifiable as affected by the order of both the existence of the order and the person's right to apply to seek discharge or variation of the order pursuant to section 69(6).

(Inserted by Act 7 of 2021 and amended by Act 62 of 2021)

Notice of restraint order to be given to Registrar General

70. (1) Where a restraint order is made under section 69(1), the Registrar of the Supreme Court shall, unless the court orders otherwise, serve a copy of the order on the Registrar General or to any other public officer who is maintaining the public records relating to properties in Seychelles.

(2) Upon receipt of a restraint order, the Registrar General shall—

(a) where the property consists of land registered under the Land Registration Act (Cap. 107), enter a restriction in the register in respect of such land in terms of the restraint order issued under section 69(1); or

(b) where the property consists of land falling under the Mortgage and Registration Act (Cap. 134), enter a conspicuous note in the Repertoire to the effect that the land is subject to a restraint order issued under section 69(1) including the date of order and the terms of any restriction or conditions of the restraint order issued by the Court; or

(c) where the property belongs to a body corporate incorporated under any law in force administered by the Registrar General, enter a conspicuous note in the register or record of the body corporate recording the existence of the restraint order, including the date of order and the terms of any restriction or conditions of the restraint order issued by the Court.

(3) A restriction or a note entered in the registers or records under subsection (2)*(a)* to *(c)* shall be deemed to be sufficient notice to all persons regarding the restraint order and any dealing, transaction, encumbering, seizure or sequestration of the property whatsoever and for whatsoever purpose shall be contrary to the restraint order and any such transaction or action shall be null and void and of no effect.

(4) Where an order issued under subsection (1) has been vacated or varied, the Registrar of the Supreme Court shall provide a copy of the order vacating or varying the restraint order issued under subsection (1), to the Registrar General and the Registrar General shall thereupon cause an entry to that effect under subsection (2).

Immunity of Receiver

71. Where a receiver appointed under section 69(7) takes any action—

(a) in relation to any property which is not a realisable property, being action which he or she would be entitled to take if it is a realisable property;

(b) believing, and having reasonable grounds that he or she is entitled to take that action in relation to that property,

no action shall lie against the receiver for anything done in good faith in the discharge of his duties or functions vested on him under this Act.

Restraint order when company is in liquidation

72. (1) Where the realisable property is held by a company and an order for winding up of the company has been made or a resolution has been passed by the company for a voluntary winding up, the functions of the liquidator shall not be exercisable in relation to—

(a) property for the time being subject to a restraint order made before the relevant time; and

(b) any proceeds of property in the hands of the receiver, realised from the sale of the property under section 69.

(2) Where, in the case of a company, an order or a resolution referred to in subsection(1) has been made or passed, the powers conferred under section 69 of this Act on the Court or on a receiver shall not be exercised in relation to any realisable property held by the company in relation to which the liquidator shall exercise the liquidator's duties—

(a) for the purpose of distributing any property held by the liquidator to the company's creditors, but so that the liquidator can give 30 days' notice to the Attorney-General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles and the FCIU of his intention to make a distribution and shall not make any distribution until the 30-day period has expired, and to enable the Court or a receiver to exercise the powers mentioned in section 69 in respect of the proposed distribution or any portion thereof; or

(b) for the payment of any expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up of the property.

(3) For the purposes of this section—

"company" means any company formed and registered in the Republic;

"relevant time" means—

(a) where no order for the winding up of the company has been made, the time at which the resolution for voluntary winding up is passed;

(b) where an order for the winding up of the company has been made and, before the presentation of the petition for the winding up of the company, such a resolution had been passed by the company, the time of the passing of the resolution; and

(c) in any other case where an order for the winding up of the company has been made, the time when the order is made.

Effect of restraint order

73. (1) Where any property of whatever kind and wherever situated, or any interest in such property, subjected to pecuniary penalty order or any measure of restraint or control by virtue of any of the provisions of this Act (including any provision for giving effect to orders made under the law of any country or territory outside Seychelles) or of any action taken under any such provision, no purported disposition of the property or interest and no other action shall be taken in respect of it, by or on behalf of any owner or other person having or claiming to have any interest in it (whether as a beneficial owner or trustee or in any other capacity).

(2) A person who knowingly contravenes or attempts to contravene a restraint order by disposing of or otherwise dealing with property commits an offence, and is liable upon conviction—

(a) in the case of an individual, to a fine of level 6 on the standard scale or imprisonment for a period not exceeding 5 years, or both;

(b) in any other case, to a fine of level 7 on the standard scale.

(3) Where a restraint order has been made against the property and the property is disposed of or otherwise dealt with in contravention of the restraint order, for insufficient consideration or not in favour of a person who acted in good faith and without notice, the Attorney General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles may apply to the Court for an order to declare such transaction as null and void and of no effect.

(4) Upon an application under subsection (3), the Court may—

(a) set aside or declare such transaction as null and void or of no effect from the day on which the disposition or dealing took place;

(b) set aside or declare null and void and of no effect the disposition or dealing as from the day of the order,

and specify the rights of the person who have acquired interests in the property on or after the day on which the disposal or dealing took place, but before the day of the order.

Search and seizure of cash

74. (1) An officer of the Seychelles Police Force or an officer of the Anti-Corruption Commission of Seychelles or an Officer of Customs or an Immigration Officer or an officer of any other authority as may be specified by notice, may search without warrant, a person at or in the vicinity of any port or airport or within the limit of the territorial sea as defined in the Maritime Zones Act, his or her luggage or other property in his or her possession or in the immediate vicinity and any vehicle or vessel belonging to him or her, or in which, or in the vicinity of which, he or she was found, which is suspected of being connected to him or her, if—

(a) the person is importing or exporting, or intends or is about to import or export, or has possession or control of an amount of cash which is not less than the prescribed sum; or

(b) the cash found on the person represents the proceeds of crime or is intended by any person for use in connection with any criminal conduct; or

(c) the cash is in excess of the prescribed sum and was not declared by the person when entering or leaving the Seychelles.

(Amended by Act 7 of 2021)

(2) The officers referred to in subsection (1) may seize, any cash found during a search under subsection (1) if they have reasonable grounds for

suspecting that it represents proceeds of crime, or is intended by any person to be used in connection with any criminal conduct and shall have the authority to seek further information from the carrier regarding the origin of the cash and its intended use and notify the FIU regarding such cash seizure in such form and manner as may be prescribed. *(Substituted by Act 62 of 2021)*

(3) Cash seized under subsection (2) shall not be detained for more than 14 days unless the detention beyond 14 days is authorised by an order made by a Judge and such order shall be made where the Judge is satisfied—

(a) that there are reasonable grounds for the suspicion under subsection (1);

(b) that the detention of cash beyond 14 days is justified while its origin or derivation is further investigated or consideration is given to the institution (whether in Seychelles or elsewhere) of criminal proceedings against any person for an offence in which cash is involved.

(4) An order under subsection (3) shall authorise the continued detention of the cash for such period not exceeding 60 days beginning with the date of the order, as may be specified in the order, and the Judge, may thereafter from time to time, by order, authorise the further detention of the cash but the aggregate period of detention shall not exceed 12 months from the date of the initial order.

(5) Where an application has been submitted under section 76 for an order for the forfeiture of cash detained under this section, the cash shall, notwithstanding the foregoing, continue to be so detained until the application is finally determined by the Court.

(6) An application for an order under subsection (3) or (4) shall be submitted by or on behalf of the Attorney-General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles.

(7) The Court may, on an application submitted by the person from whom the cash was seized under subsection (2), direct the release of all or part of the cash, if it is satisfied that there are no reasonable grounds for the detention of all or part of the cash under subsection (1).

(8) The cash seized under subsection (2) shall not be released if—

(a) an application for its forfeiture is made under section 76;

(b) proceedings have been instituted (whether in Seychelles or elsewhere) against the person for an offence with which the cash is connected,

until the proceedings pursuant to the application or, as the case may be, the proceedings for that offence have been concluded.

(9) Cash seized under subsection (2) and detained for more than 48 hours shall, unless required as evidence of an offence, be held in an interest-bearing account and the interest accruing on any such cash shall be added to that cash on its forfeiture or release.

(10) For the purposes of this section "prescribed sum" means, such sum as may be prescribed by the Minister from time to time and until such time, it shall be SCR50,000 or its equivalent in any currency.

Declaration of cash

75. (1) Any person who physically transports, mails or ships or causes to be physically transported, mailed or shipped, to or from Seychelles, cash in an aggregate sum of SCR50,000, shall declare the particulars of the currency to the Customs Department in the manner and in such form as may be prescribed by regulations and the declaration form so submitted shall be provided to the FIU by the Customs Department.

(2) Any person who—

(a) fails to make a declaration under subsection (1); or

(b) knowingly makes a declaration under subsection (1), which is false or misleading,

commits an offence and is liable on conviction to a fine not exceeding double the amount of cash found in his or her possession in excess of the prescribed sum and the cash in his or her possession shall be liable to forfeiture.

Court proceedings for forfeiture of cash seized

76. (1) A judge may order the forfeiture of any cash which has been seized under section 74(2) if satisfied, on an application submitted by the Attorney General a prosecutor on behalf of Anti-Corruption Commission of Seychelles, that the cash seized is not less than the prescribed sum or the judge has reasonable grounds for suspecting that it directly or indirectly represents any person's benefit from, or is intended by any person for use in connection with, any offence.

(2) An order may be made under this section whether or not proceedings are brought against any person for an offence with which the cash in question is connected.

(3) Where it appears to the court on evidence produced by or on behalf of the Attorney-General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles consisting of, or including evidence adduced under subsection (4) that the cash constitutes directly or indirectly the proceeds of crime or was intended by any person to be used in connection with criminal conduct, the Court shall make an order of forfeiture in respect of the whole or, a specified part of the cash:

Provided that the court shall not make an order if it is proved by the respondent or any other person that the cash does not constitute directly or indirectly the benefit from criminal conduct or was not intended by any person to be used in connection with criminal conduct.

(4) Where an authorised officer on an affidavit or, if the Court so permits or directs, in oral evidence affirms that the cash—

(a) constitutes in part or wholly, directly or indirectly, proceeds of crime;

(b) is intended for use by any person in connection with criminal conduct,

then, if the Court is satisfied that there are reasonable grounds for believing so, the Court shall make an order detaining the cash.

(5) On an application submitted by the person from whom the cash was seized, the Judge of the Court may order the release in whole or in part of the cash which was seized under section 74(2) as may be considered appropriate by the Court.

Deposit of cash seized

77. Cash seized under section 74(2) and detained for more than 14 days shall, unless required as evidence of an offence, be held in an interest-bearing account and the interest accruing on any such deposit shall be added to the cash so deposited until the cash is forfeited or released.

PART X

PECUNIARY PENALTY ORDER

Pecuniary penalty order

78. (1) Where a person has been convicted and sentenced or otherwise dealt with by a Court, the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles shall apply to the Court to determine whether the person convicted has benefited from criminal conduct.

(2) An application under subsection (1) shall be submitted without any delay, after the accused is convicted or otherwise dealt with, unless the Court decides that the application may be made at a later stage.

(3) If the Court determines that the person convicted of an offence under this Act has benefited from criminal conduct to the extent that it determines, the Court shall make a pecuniary penalty order requiring the person convicted of such offence to pay the pecuniary penalty amount.

Calculation of benefit from criminal conduct

79. (1) For the purposes of this Part, the benefit from criminal conduct includes any payments or other rewards received by the accused, including the pecuniary advantage which the accused has obtained, in connection with criminal conduct carried on by him or her.

(2) In determining, whether the accused has benefited from criminal conduct and assessing the value of such benefit from the criminal conduct, the Court shall also consider the assumptions set out in subsection (4).

(3) Where the Court does not consider the assumptions set out in subsection (4), it shall state its reasons in the order for not considering the assumptions.

(4) The assumptions for calculating the benefit from criminal conduct shall be—

(a) any property appearing to the Court—

(i) to have been held by the accused;

(ii) to have been transferred to him or her,

at any time since the beginning of the period of six years ending on the date of the commencement of the proceedings in which the order is being sought in the case, was received by him or her, at the earliest time at which he or she appears to the Court to have held it, or it was transferred to him or her, as a payment or reward in connection with criminal conduct;

(b) that any expenditure incurred by him or her during that period was met out of the payments received by him or her in connection with criminal conduct carried on by him; or

(c) that, for the purpose of valuing any property received or assumed to have been received by him or her at any time as a reward, he or she received the property free of cost or any other interest in it.

(5) The court may not consider any of the assumptions under subsection (4) if—

(a) the assumption is shown to be incorrect in the case of the accused; or

(b) it is satisfied that the assumption may result in an injustice to the accused.

Pecuniary penalty order to be confined to realisable amount

80. (1) Where a pecuniary penalty order is being made under section 78, the amount to be recovered under the order shall be equal to the amount assessed by the Court to be the value of the accused's benefit from criminal conduct.

(2) If the Court is satisfied that the amount of the pecuniary penalty to be ordered is less than the value of the benefit from criminal conduct, the Court may make a pecuniary penalty that is equivalent to the realisable amount.

Revision of pecuniary penalty order

81. (1) This section applies to a case where an application has previously been submitted to the court under section 78, and the Court has determined that the accused has not benefited from criminal conduct.

(2) If the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles produces any additional evidence—

(a) which was not produced and considered by the Court at the time of consideration of an application under section 78; and

(b) if the Attorney-General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles believes that the additional evidence may lead the Court to determine that the accused had benefited from the criminal conduct, any such additional evidence may be taken on record on an application filed by the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles to consider that evidence for the proper appreciation of the case.

(3) On an application submitted by the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles under subsection (2) and on consideration of the evidence submitted along with the application, if the Court is satisfied that the accused had benefited from the criminal conduct, the Court shall—

(a) (i) make a fresh determination; and

(ii) determine the amount to be recovered under section 78; and

(b) make a pecuniary penalty order under this section requiring the person concerned to pay the amount so determined.

(4) While considering an application under this section, the Court may take into account any payment or other reward received by the accused on or after the determination referred to in subsection (1).

(5) While considering any additional evidence under this section, relating to any payments or reward referred to in subsection (4), the Court shall consider the assumptions specified under section 79(4).

(6) No application under subsection (2) shall be entertained by the Court if it is submitted after two years from the date on which the accused was convicted.

Further determination leading to increased pecuniary penalty order

82. (1) This section applies to a case where the Court has made a pecuniary penalty order (hereinafter referred to as current determination in this section) under section 78.

(2) Where the Attorney-General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles is of the opinion that the real value of the accused's benefit from criminal conduct was more than its assessed value, the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles may make, or cause to be made, an application to the Court for reconsideration of the assessed value and for issuing a revised pecuniary penalty order.

(3) For the purposes of subsection (2)—

"assessed value" means the value of the accused's benefit from the criminal conduct as assessed by the Court under section 78; and

"real value" means the value of the accused's benefit from the criminal conduct—

(a) in the period by reference to which the current determination was made; or

(b) in any earlier period.

(4) Upon consideration of the application filed under subsection (2) and considering the evidence placed before it, if the Court is satisfied that the real value of the accused's benefit from criminal conduct is more than its assessed value the Court shall make a fresh pecuniary penalty order under section 78.

(5) The Court may take into account any payment or reward received by the accused on or after the date of the current determination, if the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles proves that the same was received by the accused in connection with criminal conduct carried on by the accused on or before that date.

(6) While considering any evidence under this section relating to any payment or reward referred to in subsection (5), the Court shall consider the assumptions specified under section 79(4).

(7) After considering the application filed under subsection (2) and the evidence placed before it, if the court is satisfied that the amount to be recovered exceeds the amount specified in the current determination, the Court may revise the pecuniary penalty order to such amount as it may think just and proper in the circumstances of the case.

(8) No application under subsection (2) shall be entertained by the Court if it is submitted after two years from the date on which the accused was convicted.

Procedure for filing statements to assist court in calculating the benefit from criminal conduct

83. (1) Where an application has been submitted to the Court under section 79 or section 81 or section 82—

(a) the Attorney-General or a prosecutor on behalf of Anti-Corruption Commission of Seychelles may also file a statement relating to the assessment of benefit accrued by the accused relevant to the determination of whether the accused has benefited from criminal conduct; or

(b) if the accused accepts any averments in the statement, the Court may, for the purposes of the determination or assessment, consider the accused's acceptance as conclusive evidence of the matters to which it relates.

(2) Nothing in this section shall prevent the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles from making more than one statement.

(3) Nothing herein shall oblige the accused to make any response to a statement tendered to the Court by or on behalf the Attorney-General or a

prosecutor on behalf of the Anti-Corruption Commission of Seychelles or to tender a statement to the Court under this section and no adverse inference shall be drawn against the accused in either event.

Matters to be taken into account in determining the level of a pecuniary penalty order

84. (1) Where the Court makes a pecuniary penalty order under section 78, it may direct the payment of the amount immediately or in a specified time in the order.

(2) Where the Court makes a pecuniary penalty order under section 78 against the accused in any proceedings, it shall take into account—

(a) any fine imposed on the accused;

(b) any order involving any payment by the accused; or

(c) any forfeiture order made under this Act.

Making pecuniary penalty order where the accused has died or absconded

85. (1) The court may proceed with the proceedings filed against the accused, if the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles files an application to that effect and make a pecuniary penalty order—

(a) against the accused's estate if satisfied that the accused has died during the pendency of the proceedings under this Act; or

(b) against the accused, if satisfied that the accused has absconded.

(2) The power conferred under subsection (1)*(b)* shall not be exercised before the end of six months beginning on the date on which, in the opinion of the Court, the accused has absconded.

(3) In the proceedings under this section—

(a) the Court shall not make a pecuniary penalty order against a person who has absconded, unless it is satisfied that the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles has taken reasonable steps to trace the person; and

(b) any person likely to be affected by the pecuniary penalty order shall appear before the Court and make representations and the Court shall make appropriate orders on such representations while ordering the pecuniary penalty order under section 74.

Appeals and compensation

86. (1) An appeal against a pecuniary penalty order made by the Court shall lie to the Court of Appeal.

(2) If the Court of Appeal allows the appeal in whole or in part, the Court of Appeal may, on an application by a person who held the realisable property, order compensation to be paid to the applicant if it is satisfied that the applicant has suffered loss as a result of the pecuniary penalty order; and having regard to case, the Court of Appeal may award compensation which it considers to be appropriate in the circumstances of the case.

(3) The amount of compensation to be paid under this section shall be such as the Court of Appeal may consider just in all the circumstances of the case but no compensation shall be paid to a member of a terrorist organisation, or where it would be manifestly unjust to do so.

Reduction in amount of pecuniary penalty order when realisable property is inadequate

87. (1) On an application filed by the person against whom proceedings for issuing pecuniary penalty order have been initiated or on an application by the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles in respect of a pecuniary penalty order, where the Court is satisfied that the value of the realisable property is inadequate to meet a payment, the Court may order such lesser amount as it may think just and proper in the circumstances of the case.

(2) For the purposes of subsection (1), the Court may disregard any inadequacy in the value of the realisable property which appears to the Court to be attributable wholly or partly to anything done by the accused for the purpose of preventing any property, including any property held by a person to whom the accused had directly or indirectly made an affected gift, from any risk of realisation under this Act.

Increase in amount of pecuniary penalty order when the value of realisable property increases

88. (1) This section shall apply where the amount ordered to be paid under a pecuniary penalty order is less than the amount assessed to be the value of the benefit that has been derived from the criminal conduct.

(2) On an application submitted by the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles, if the Court is satisfied that the amount that may be realised is more than the amount that was taken into account in making the pecuniary penalty order, the Court may increase the amount to be paid under the pecuniary penalty order, as it may consider appropriate in the circumstances of the case.

Enforcement of pecuniary penalty order

89. (1) Where a Court makes a pecuniary penalty order under section 78, the order may be enforced by the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles at any time after it is made (or, if the order provides for payment at a later time, then at any time after the later time) as if it were a judgment of the Court for the payment to the Government of Seychelles

of the sum specified in the order (or of any lesser sum remaining due under the order).

(2) Subject to the provisions of subsection (3), if the sum due under a pecuniary penalty order has become enforceable under subsection (1), and if it is reported to the Court by the Attorney-General, that any such sum or any part thereof remains unpaid, the Court shall, without prejudice to the validity of anything previously done under the order, order that the accused be imprisoned for the period set out in the second column of the Table below subsection (6), to the amount of the pecuniary penalty order remaining unpaid.

(3) An order under subsection (2) shall not be made unless the accused has been given a reasonable opportunity to make a representation to the Court that the order should not be made and the Court has taken into account any representations so made and any representations made by the Attorney-General or a prosecutor on behalf of the Anti-Corruption Commission of Seychelles in reply to such representation by the accused.

(4) The term of imprisonment imposed under subsection (2) shall commence on the expiration of any term of imprisonment for which the accused is liable under the sentence for the offence in question or otherwise, but shall be reduced in proportion to any sum or sums paid or recovered from time to time under the pecuniary penalty order.

(5) The service of any term of imprisonment by the accused under this section shall not expunge any liability the accused may have under a pecuniary penalty order.

(6) The term of imprisonment being served or to be served by the accused shall not be delayed or in any way affected by an order made under subsection (1) or by the appointment of a receiver and the term of imprisonment not served shall be appropriately reduced in accordance with the Table on receipt by the Government of Seychelles of any moneys realised by either or both of those methods of enforcement.

TABLE	
Amount outstanding under pecuniary penalty order	Period of imprisonment
Not exceeding SCR5,000	45 days
Exceeding SCR5,000 but not exceeding SCR10,000	3 months
Exceeding SCR10,000 but not exceeding SCR25,000	4 months
Exceeding SCR25,000 but not exceeding SCR50,000	6 months
Exceeding SCR50,000 but not exceeding SCR100,000	9 months
Exceeding SCR100,000 but not exceeding SCR200,000	12 months

Exceeding SCR200,000 but not exceeding SCR500,000	18 months
Exceeding SCR500,000 but not exceeding SCR1,000,000	2 years
Exceeding SCR1,000,000 but not exceeding SCR2,000,000	3 years
Exceeding SCR2,000,000 but not exceeding R3,000,000	4 years
Exceeding SCR3,000,000 but not exceeding SCR4,000,000	6 years
Exceeding SCR4,000,000 but not exceeding SCR5,000,000	8 years
Exceeding SCR5,000,000	10 years

Appointment of receiver for enforcement of pecuniary penalty order

90. (1) Where—

(a) a pecuniary penalty order has been made under this Act;

(b) the pecuniary penalty order is not subject to any appeal;

(c) the pecuniary penalty order has not been satisfied,

the Court may direct that the pecuniary penalty shall be assigned to the Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act. *(Amended by Act 62 of 2021)*

(2) The Court may appoint a person to be a receiver on an application filed on behalf of a law enforcement agency, in respect of realisable property on such terms and conditions and the remuneration to the receiver shall be such as may be specified in the order of the Court.

(3) The receiver appointed under subsection (2) shall take possession of any realisable property subject to such conditions or exceptions as may be specified by the Court.

(4) The Court may order any person having possession or control of realisable property to handover possession of such realisable property to the receiver.

(5) The Court may empower the receiver to realise any realisable property by sale in such manner as the Court may direct.

(6) The Court may order any person holding an interest in realisable property to make such payment to the receiver in respect of any beneficial interest held by the accused or, as the case may be, by the recipient of any affected gift.

(7) The Court shall not, in respect of any property, exercise the powers conferred under subsections (3), (4), (5) or (6) unless a reasonable opportunity has been given for persons holding any interest in the property to make representations to the Court and the Court has delivered its findings on such representations.

(8) On the sale of any property by a receiver appointed under subsection (2), the purchaser shall be vested with a good and valid title and, as regards land

the Land Registrar shall register the purchaser as proprietor in the Land Register without further requisition or enquiry.

(9) On the sale of any property by a receiver appointed under subsection (2), any rights, title or interest of any person therein shall stand extinguished and any such rights, title or interest in the property shall stand transferred and be limited to the net proceeds of such sale.

Interest on unpaid sums

91. (1) Subject to subsection (2), if any sum required to be paid by a person under a pecuniary penalty order is not paid within the stipulated time, the person liable to make the payment shall also be liable to pay interest on that sum for the period for which it remains unpaid and the amount of the interest shall for the purposes of enforcement be treated as part of the amount to be received from him or her under the pecuniary penalty order;

(2) The amount of interest payable under subsection (1) shall be disregarded for the purposes of calculating the term of imprisonment to be imposed under section 89.

(3) The rate of interest payable under subsection (1) shall be the legal rate.

Disposal of proceeds of pecuniary penalty order

92. (1) Money paid or recovered in respect of a pecuniary penalty order (including any variation of such an order) may, to the extent necessary, be applied to meet expenses incurred in exercising any powers under this Act.

(2) Money paid or recovered in respect of a pecuniary penalty order shall, following the payment of any expenses in accordance with subsection (1), be paid into the Asset Recovery Fund established under section 11 of the Custody, Management and Disposal of Seized, Forfeited or Confiscated Properties Act.

(Amended by Act 62 of 2021)

PART XI

(Repealed by Act 62 of 2021)

PART XII

MISCELLANEOUS PROVISIONS

Amendments to Schedule 1

95. (1) The Minister may, by notice in the *Gazette*, amend Schedule 1 in consultation with the Committee.

(2) Any amendment to Schedule 1 by a notice in the *Gazette* shall be effected only after approval of the notice by the National Assembly or in any

modified form as may be recommended by the National Assembly, before its publication in the *Gazette*.

Amendments to Schedule 2

96. (1) The Minister may in consultation with the Committee and the FIU, by notice in the *Gazette*, amend the list of supervisory authorities in Schedule 2 to—

(a) add to the list any entity or functionary which performs supervisory or regulatory functions in relation to any category of reporting entities;

(b) delete any supervisory authority from the list if that supervisory authority no longer performs supervisory or regulatory functions in relation to any category of reporting entities; or

(c) make changes in the list of supervisory authorities.

(2) Before making any amendments to Schedule 2 under subsection (1), the Ministry responsible for Finance shall give the supervisory authority to be included in the list, at least 60 days' written notice to submit written representations to the Minister.

(3) Any amendment to Schedule 2 by notice in the *Gazette* shall be affected, only after approval of the notice by the National Assembly or in any modified form as may be recommended by the National Assembly, before its publication in the *Gazette*.

Regulations

97. (1) The Minister may, after consulting the Committee, make, repeal and amend regulations concerning—

(a) the nature of the information contemplated and the manner in which it is to be reported;

(b) the designation of persons for the purposes of section 34;

(c) the designation of countries according to the extent to which they present risks of money laundering or the financing of terrorist activities;

(d) the manner in which reporting entities shall deal with transactions involving high risk customers or clients;

(e) the manner in which a report of suspicious financial activity may be submitted by a member or members of the public;

(f) any other matter that may be necessary to be prescribed under this Act.

(Amended by Act 62 of 2021)

(2) Subject to the provisions of subsection (1), the Minister may make regulations generally for carrying out the purposes and provisions of this Act, including the following to—

(a) require a reporting entity to exercise due diligence and take reasonable measures to satisfy itself as to the true identity of any person seeking to enter into a business relationship with it, or seeking to carry out a transaction or series of transactions with it, by requiring the person to produce an official record reasonably capable of establishing the true identity of the person;

(b) require a reporting entity to establish and maintain records of transactions;

(c) require a reporting entity to report transactions or activities that it has reasonable grounds to believe are suspicious or unusual; and

(d) amend Schedules 3, 4, 5 and 6.

Protection of action taken in good faith

98. (1) A reporting entity, its directors and employees shall not be liable for prosecution for any acts done in good faith in the discharge of their functions and the obligations imposed on them under this Act.

(2) A supervisory authority, its management and staff shall not be liable for prosecution for any acts done in good faith in the discharge of their functions and the obligations imposed on them under this Act.

(3) The FIU, the Committee and the Minister shall not be liable for prosecution for any acts done in good faith in the discharge of their functions and the obligations imposed on them under this Act.

Sharing of information with Seychelles Revenue Commission

99. Notwithstanding the provisions of the revenue laws or any other law in force in Seychelles, whenever any investigation is instituted under the provisions of this Act, including an investigation into any other offence and an investigation into the property, financial activities, affairs or business of any person, the Commissioner General of the Seychelles Revenue Commission, or any official designated by that person for this purpose, shall be notified of such investigation for sharing of information required for the purpose of investigation by the law enforcing agencies.

Repeal and savings

100. (1) The Anti-Money Laundering Act is repealed.

(2) Notwithstanding the repeal of the Anti-Money Laundering Act, any appointments of personnel, regulations, determinations, authorisations and guidelines made under that Act shall continue to operate until they are amended, repealed or re-issued under the provisions of this Act.

(3) Any actions taken under the provisions of the Anti-Money Laundering Act or the regulations made thereunder, or determinations and authorisations made thereunder and the guidelines issued in connection with money laundering and terrorist financing activities shall be continued under the provisions of the repealed

Act or the regulations, determinations or authorisations made thereunder and shall be dealt with in accordance with the provisions made under them.

(4) Notwithstanding any other provision of this Act, every reporting entity shall comply with the following provisions of Part VI of this Act by 31st January 2021—

(a) section 31 *(Obligation to register with FIU);*

(b) section 32 *(Obligation to identify and assess money laundering and terrorist financing risks);*

(c) section 33 *(Obligations to establish and maintain internal control systems and procedures);*

(d) section 34 *(Obligation to appoint compliance officer)*, save for subsection (1), which shall be effective from the coming into force of this Act.

SCHEDULE 1

(Sections 2,27,28,55 and 95)

PART A
A licensee under the Financial Institutions Act.
Any entity to which the Financial Institutions (Application of Act) Regulations, 2010 apply.
A licensee under the Credit Union Act.
A licensee under the Financial Leasing Act.
A payment services provider and operator of a payment, clearing or settlement system under the National Payment System Act excluding the Central Bank of Seychelles.
PART B
A Fund Administrator licensed under the Mutual Fund and Hedge Fund Act.
A licensee under the Securities Act, except an investment advisor's representative or a securities dealer's representative.
A licensee under the Insurance Act.
A licensee under the Seychelles Gambling Act, 2014.
A licensee under the International Corporate Service Providers Act.
A virtual asset service provider under the Virtual Asset Service Providers Act, 2024

(Amended by Act 7 of 2021 & Act 12 of 2024)

PART C

1. Accountants—

1.1 A person who, by way of business, provides any of the following services—

(a) External accountancy services;

(b) Tax advice;

(c) Audit services; or

(d) Insolvency services.

1.2 In this paragraph—

(a) "External accountancy services" means accountancy services provided to customers for remuneration and excludes services provided by accountants employed by public authorities or by

undertakings which do not by way of business provide accountancy services to third parties;

(b) "Audit services" are audit services provided by way of business pursuant to any function under any enactment; and

(c) "Insolvency services" are services provided by a person if, by way of business, that person accepts appointment as a liquidator under the Companies Act, Insolvency Act, International Business Companies Act or the Foundations Act.

2. Lawyers and notaries—

2.1 An independent legal professional or a notary.

2.2 In this paragraph "independent legal professional" means a person or firm who or which by way of business provides legal or notarial services to third parties when preparing for or in carrying out transactions concerning any of the following—

2.2.1 Buying and selling of movable or immovable property or business entities;

2.2.2 Managing client's money, securities or other assets;

2.2.3 Opening or managing bank, savings or securities accounts;

2.2.4 The organisation of contributions necessary for the creation, operation or management of companies; or

2.2.5 The creation, operation or management of trusts, companies or similar structures, excluding any activity that requires a licence under the International Corporate Services Act.

2.3 Sub-paragraph 2.2 does not include legal professionals employed by public authorities or undertakings which do not, by way of business, provide legal services to third parties.

3. Real Estate Agents—

3.1 A person who provides real estate agency services for or on behalf of third parties concerning the buying or selling of immovable property.

4. High-value dealers—

4.1 A high value dealer.

4.2 In this paragraph, "high value dealer" means a person who or which, by way of business, trades in goods when the person receives, in respect of any transaction, a payment or payments of at least SCR.200,000, or the equivalent in any other currency, whether the transaction is executed in a single operation or in several linked operations.

5. Dealers in precious metals.

6. Dealers in precious stones.

7. Casinos.

8. Trust and Company Service Providers which provide any of the following services to third parties—

(i) acting as a formation agent of legal persons;

(ii) acting as a director or secretary of a company; a partner of a partnership or a similar position in relation to other legal persons;

(iii) providing a registered office, business address or accommodation or correspondence or administrative address for a company, a partnership or any other legal person or legal arrangement;

(iv) acting as a trustee of an express trust or performing the equivalent function for another form of legal arrangement; and

(v) acting as a nominee share holder for another person.

A reference in this paragraph to providing services to third parties does not include a company providing a service to an associated company.

9. A person who, by way of business invests, administers or manages funds or money on behalf of third parties. *(Substituted by Act 7 of 2021)*

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SCHEDULE 2

(Sections 2, 55 and 96)

LIST OF SUPERVISORY AUTHORITIES

The supervisory authorities listed hereunder shall be responsible for supervising and ensuring compliance with the provisions of this Act by the reporting entities—

1. The Central Bank of Seychelles in respect of the institutions under its regulatory control.

2. The Financial Services Authority in respect of the institutions under its regulatory control.

3. The Financial Intelligence Unit in respect of the entities specified in Part C of the First Schedule (except entities at serial numbers 7 and 8).

SCHEDULE 3

(Section 5)

1. REPORTING THRESHOLD FOR CASH TRANSACTIONS

Every reporting entity shall report each transaction that is carried out by or through it involving cash transactions of SCR50,000 or more or the equivalent money in the currency of other countries.

2. REPORTING THRESHOLD APPLICABLE TO WIRE TRANSFERS

Every financial institution that sends domestically or cross-border or receives cross-border wire transfers, including electronic fund transfers, shall report all wire transfers of SCR50,000 or more of the equivalent money in the currency of other countries. *(Substituted by Act 7 of 2021)*

3. REPORTING THRESHOLD APPLICABLE TO GAMBLING SECTOR

All licensees within the gambling sector shall report all transactions of its customers involving SCR20,000 or more.

4. REPORTING THRESHOLD APPLICABLE TO BUREAU DE CHANGE

Every Bureau de Change including banks acting as *Bureau de Change* for forex trading in respect of persons who are not their customers shall report all transactions of its customers involving SCR5,000 or more or the equivalent money in the currency of other countries. *(Amended by Act 7 of 2021)*

5. REPORTING THRESHOLD APPLICABLE TO VIRTUAL ASSET SERVICE PROVIDERS

All Virtual Asset Service Providers shall report all transfers in virtual assets in the equivalent amount of SCR 50,000 or more. *(Inserted by Act 12 of 2024)*

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SCHEDULE 4

(Section 9)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

1. The Committee to meet at least four times in a year:

The Committee shall meet as often as necessary for the transaction of business but it shall meet not less than four times in every financial year and the gap between one meeting and other shall not exceed four months.

2. The Chairperson shall preside over all meetings of the Committee:

(1) The Chairperson shall preside every meeting of the Committee at which the Chairperson is present but, in the absence of the Chairperson, the members present shall appoint one among them to preside at that meeting as an acting Chairperson.

(2) The Chairperson or, in the absence of the Chairperson, a member appointed by the Committee to act in place of the Chairperson as acting Chairperson, may at any time call a special meeting upon a written request by a majority of the members.

3. Notice of the meeting:

Unless the majority of the members otherwise agree, at least seven days clear written notice of every meeting of the Committee shall be given to every member of the Committee.

4. Decision of the Committee to be by majority:

Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of votes of the members present and, in the case of an equality of votes, the Chairperson or the member presiding shall have a casting vote.

5. Member entitled to have opinion recorded:

Any member present at a meeting of the Committee or a sub-committee thereof, shall have the right to record the member's opinion in the minutes of the Committee or the sub-committee, as the case may be.

6. Committee member to disclose interest:

A member of the Committee who has a direct or indirect interest in a matter being considered or to be considered by the Committee shall, as soon as possible after the relevant facts concerning the matter have come to the member's knowledge, disclose the nature of the member's interest to the Committee and shall not be present during any deliberations on the matter.

7. The Committee to cause minutes to be recorded and kept:

The Committee shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the

Committee at the next meeting of the Committee and signed by the Chairperson or acting Chairperson presiding at the meeting.

8. Quorum:

(1) Subject to sub-paragraph (2) of this paragraph, five members shall constitute a quorum for the conduct of business at any meeting of the Committee but no decision of the Committee shall be binding unless it is ratified by no fewer than seven members.

(2) When there is no quorum at or for the continuation of a meeting of the Committee for exclusion of a member under paragraph 6, the other members present may, if they deem it expedient so to do—

(a) postpone the consideration of that matter until there is a quorum; or

(b) proceed to consider and decide the matter as if there was quorum.

SCHEDULE 5

(Section 20)

CONFIDENTIALITY UNDERTAKING

For purposes of this Undertaking, "confidential information" means any data or information, which is in the custody of the FIU, or which forms part of any of its databases, archives and knowledge sets. It relates to, and is intended to protect information that is not generally known to the public, whether in tangible or intangible form, in whatever medium provided, whether unmodified or modified by the FIU or its staff, whenever and however disclosed.

Each officer employed at the FIU shall sign and be bound by the following undertaking:

I, …… agree to retain information received from reporting entities, supervisory authorities and other parties pertaining to suspicious activity reports, and the conduct of any persons bearing responsibilities in terms of this Act, in confidence and not to use the information and other material for any purpose other than in accordance with the terms of the Anti-Money Laundering and Countering the Financing of Terrorism Act, regulations made thereunder, and related laws. In particular, I undertake (in addition and without prejudice to any other commitments made in terms of my contract of employment), that:

1. I shall not disclose the information and other material to any third party except with the prior written consent of the Director or, in his or her absence the Deputy Director or other duly appointed representative acting in his or her place;

2. I shall not copy or otherwise reproduce or duplicate the information and other material in whole or in part where such copying, reproduction or duplication have not been specifically authorised by the Director or, in his or her absence the Deputy Director or other duly appointed representative acting in his or her place.

I acknowledge that this undertaking of non-disclosure and non-use is effective in every country in the world.

I pledge to take all reasonable measures to protect the secrecy of and avoid disclosure or improper use of the information or other material, to prevent it from falling into the public domain, and to protect it from falling into the possession of third parties. Such measures include the highest degree of care that I use in respect of my own confidential information.

(Signature)

Name of Designation of the person signing the undertaking

(Amended by Act 7 of 2021)

SCHEDULE 6

[Section 49]

The threshold limit for conducting customer due diligence measures under section 49(7) against a person involved in gambling shall be SCR20,000.

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