

**THE ANTI-MONEY LAUNDERING AND COMBATTING THE FINANCING OF
TERRORISM AND PROLIFERATION (MISCELLANEOUS PROVISIONS) BILL**
(No. IX of 2024)

Explanatory Memorandum

The object of this Bill is to amend various enactments with a view to meeting international standards of the Financial Action Task Force on anti-money laundering and combatting the financing of terrorism and proliferation, and to provide for matters related thereto.

S. BHOLAH
*Minister of Financial Services
and Good Governance*

28 June 2024

**THE ANTI-MONEY LAUNDERING AND COMBATting THE FINANCING OF
TERRORISM AND PROLIFERATION (MISCELLANEOUS PROVISIONS) BILL**

(No. IX of 2024)

ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Bank of Mauritius Act amended
3. Banking Act amended
4. Companies Act amended
5. Courts Act amended
6. Financial Crimes Commission Act 2023 amended
7. Financial Intelligence and Anti-Money Laundering Act amended
8. Financial Services Act amended
9. Foundations Act amended
10. Gambling Regulatory Authority Act amended
11. Limited Liability Partnerships Act amended
12. Limited Partnerships Act amended
13. Mauritius Revenue Authority Act amended
14. Mutual Assistance in Criminal and Related Matters Act amended
15. National Payment Systems Act amended
16. Notaries Act amended
17. Virtual Asset and Initial Token Offering Services Act 2021 amended

A BILL

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

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Anti-Money Laundering and Combatting the Financing of Terrorism and Proliferation (Miscellaneous Provisions) Act 2024.

2. Bank of Mauritius Act amended

The Bank of Mauritius Act is amended –

- (a) in section 26, by inserting, after subsection (5), the following new subsection –

(5A) (a) Where an institution, authority or agency shares any information with the Bank pursuant to the banking laws, the Bank shall ensure that it has the prior authorisation of the institution, authority or agency for the dissemination of any information exchanged with it, or for the use of that information for supervisory and non-supervisory purposes.

(b) Paragraph (a) shall not apply where the Bank is under a legal obligation to disclose or report the information, in which case, at a minimum, the Bank shall promptly inform the institution, authority or agency of this obligation.

- (b) in section 50 –

(i) in subsection (6)(b), by deleting the words “of the breach committed by the financial institution and the length of time during which the breach has been committed” and replacing them by the words “, duration, extent and recurrence of the breach as well as the past compliance history and general conduct of the financial institution, and such other relevant factor as the Bank may deem appropriate”;

- (ii) by adding the following new subsections –

(8) Notwithstanding this Act, the Banking Act and the National Payment Systems Act, but subject to subsections (5) and (6), where a financial institution has failed to comply, or refrains from complying, with any instructions or guidelines issued by the Bank or requirement imposed under the banking laws, the Bank may, depending on the gravity, duration, extent and recurrence of the breach as well as the past compliance history and general conduct of the financial institution or such other relevant factor as it thinks fit, impose such other administrative sanctions as it deems appropriate on the financial institution, including on any of its directors, senior officers, employees, agents or shareholders holding a significant interest.

(9) An administrative sanction under subsection (8) may include any of the following –

- (a) a private warning;
- (b) a public censure;
- (c) disqualifying a financial institution from holding a licence or a licence of a specified kind for a specified period;
- (d) in the case of a director, a senior officer, an employee, an agent or a shareholder holding a significant interest –
 - (i) issuing a warning to the director, senior officer, employee, agent or shareholder;
 - (ii) disqualifying the director, senior officer, employee or agent from holding a specified office or position in a financial institution for a specified period; or
 - (iii) disqualifying the shareholder from holding, either directly or indirectly, a shareholding or beneficial ownership in a financial institution; or
- (e) taking such other action as may be appropriate in the circumstances.

(10) In this section –

“financial institution” includes a licensee under the National Payment Systems Act.

- (c) in section 52A, in subsection (1D)(a), by inserting, after the words “terrorism financing”, the words “, proliferation financing”.

3. Banking Act amended

The Banking Act is amended –

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

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

“examination”, for the purposes of sections 42, 43, 44 and 64C, includes –

- (a) an on-site or off-site regular examination;
- (b) a special examination; or
- (c) an off-site monitoring;

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

“terrorism” or “terrorist” includes proliferation;

- (b) in section 44, in subsection (1), by inserting, after paragraph (aa), the following new paragraph, the word “and” at the end of paragraph (aa) being deleted –

- (ab) request a financial institution to provide it with an off-site or remote access to such information and system as may be required for the conduct of the examination; and

- (c) in section 45 –

(i) in subsection (1)(e), in subparagraph (ii), by deleting the word “situation” and replacing it by the words “situation and submit such reports on remedial actions taken to the central bank at such frequency and in such manner as the central bank may specify”;

(ii) in subsection (2), by adding the following new paragraph, the full stop at the end of paragraph (b) being deleted and replaced with a semicolon –

- (c) take such action as may be warranted pursuant to section 50(6), (7), (8) and (9) of the Bank of Mauritius Act.
- (d) in section 53A, by adding the following new subsection, the existing provision being numbered as subsection (1) –

(2) Every financial institution or holder of a licence shall document the risk assessments conducted under subsection (1), in writing, keep it up to date and, on request, make it available to the central bank without delay and in such form or manner as may be specified by the central bank.

- (e) in section 64A –
 - (i) by repealing subsections (1) and (2) and replacing them by the following subsections –

(1) Financial institutions shall implement programmes against money laundering and terrorism financing, having regard to money laundering and terrorism financing risks and the size of the business, and which include the following internal policies, procedures and controls –

- (a) compliance management arrangements, including the appointment of a compliance officer at the management level;
- (b) screening procedures to ensure high standards when hiring employees;
- (c) an ongoing employee training programme; and
- (d) an independent audit function to test the system.

(2) (a) Financial groups shall implement group-wide programmes against money laundering and terrorism financing which shall be applicable and appropriate to all branches and majority-owned subsidiaries of the financial group.

(b) The group-wide programme referred to in paragraph (a) shall be the measures specified in subsection (1) and, in addition, shall include –

- (i) policies and procedures for sharing information required for the purposes of customer due diligence and money laundering and terrorism financing risk management;
- (ii) the provision, at group-level compliance, audit and AML/CFT functions of customer, account and transaction information from branches and subsidiaries when necessary for AML/CFT purposes, including –
 - (A) information and analysis of transactions or activities which appear unusual, where such analysis was done; and
 - (B) suspicious transaction reports filed with the Financial Intelligence Unit established under the Financial Intelligence and Anti-Money Laundering Act, their underlying information or the fact that a suspicious transaction report has been submitted to the Financial Intelligence Unit;
- (iii) the provision to branches and subsidiaries of the information referred to in subparagraph (ii) from these group-level functions when relevant and appropriate to risk management, the scope and extent of the provision of the information to be shared may be specified by the central bank, based on the sensitivity of the

information, and its relevance to AML/CFT risk management; and

- (iv) adequate safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off.

- (ii) by adding the following new subsections –

- (3) (a) Financial institutions shall ensure that their foreign branches and majority-owned subsidiaries apply AML/CFT measures which are consistent with the home country's requirements, where the minimum AML/CFT requirements of the host country are less strict than those of the home country, to the extent that host country's laws and regulations permit.

- (b) Where the host country does not permit the proper implementation of AML/CFT measures consistent with the home country's requirements, financial groups shall apply appropriate additional measures to manage the money laundering and terrorism financing risks, and inform their home supervisors.

- (4) In this Part –

- “financial group” means a group that consists of a parent company or of any other type of legal person exercising control and coordinating functions over the rest of the group, together with branches and subsidiaries that are subject to AML/CFT policies and procedures at the group level.

- (f) by inserting, after section 64D, the following new section –

64E. Cooperation and exchange of information with domestic and foreign counterparts

- (1) Notwithstanding this Act, the central bank may cooperate and exchange supervisory information, with domestic and foreign counterparts, related to, or relevant for, AML/CFT purposes.

(2) The central bank may exchange with foreign competent authorities, information domestically available to it, including information held by financial institutions, in a manner proportionate to their respective needs.

(3) The central bank may exchange the following types of information when relevant for AML/CFT purposes, in particular with other domestic or foreign supervisors that have a shared responsibility for financial institutions operating in the same group –

- (a) regulatory information, such as information on the domestic regulatory system, and general information on the financial sectors;
- (b) prudential information, such as information on the financial institution's business activities, beneficial ownership, management, and fit and properness; and
- (c) AML/CFT information, such as internal AML/CFT procedures and policies of financial institutions, customer due diligence information, customer files, samples of accounts and transaction information.

(4) The central bank may, upon request, conduct inquiries on behalf of foreign counterparts and, where appropriate, authorise or facilitate the ability of foreign counterparts to conduct inquiries in financial institution, for the purpose of facilitating effective group supervision.

(5) The central bank shall ensure that its prior written authorisation is sought by the foreign counterpart for any dissemination of the information exchanged, or use of that information for supervisory and non-supervisory purposes, unless the foreign counterpart is under a legal obligation to disclose or report the information exchanged, in which case, at a minimum, the foreign counterpart shall be required to promptly inform the central bank of this obligation.

(6) (a) The central bank may exchange information indirectly with non-counterparts, applying the relevant principles set

out in this section, provided that the competent authority that requests information indirectly shall, at all times, make it clear for which purpose and on whose behalf the request is made.

(b) For the purpose of paragraph (a) –

“exchange of information indirectly” means the requested information passing from the requested authority through one or more domestic or foreign authorities before being received by the requested authority and where such an exchange of information and its use may be subject to the authorisation of one or more competent authorities of the requested country.

4. Companies Act amended

The Companies Act is amended –

(a) in section 2, in subsection (1), by inserting, in the appropriate alphabetical order, the following new definitions –

“Beneficial Ownership Register” means the Beneficial Ownership Register kept by the Registrar under section 11(3);

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

(b) in section 11, by adding the following new subsection –

(3) The Registrar shall keep a Beneficial Ownership Register which shall –

(a) contain the information required under section 91(3A)(a)(iii) and such other information as the Registrar may determine; and

(b) be accessible to all competent authorities and any other public sector authority as may be prescribed.

(c) in section 23, in subsection (2), by repealing paragraph (da) and replacing by the following paragraph –

(da) the information required under section 91(3A)(a)(iii);

(d) in section 91 –

- (i) in subsection (3)(a)(ii), by inserting, after the words “ultimate beneficial owners”, the words “and the information required under subsection (3A)(a)(iii),”;
- (ii) by inserting, after subsection (3), the following new subsection, the existing subsections (3A), (3B) and (3C) being renumbered as subsections (3B), (3C) and (3D) –

(3A) (a) (i) A company shall, at all times, identify its beneficial owner or ultimate beneficial owner and, where applicable, any nominee.

(ii) A Company shall record the information under subparagraph (i) in a separate register.

(iii) The register under subparagraph (ii) shall include the following information –

- (A) the full name and usual residential address of the beneficial owner or, in case no natural person is identified or where there is a nominee, the full name and the usual residential address of the nominee, if applicable, and the ultimate beneficial owner;
- (B) the National Identification Number or passport number, as applicable;
- (C) the citizenship or nationality, as applicable;
- (D) an ownership structure identifying the ultimate beneficial owner; and

(E) such other information as may be prescribed.

(b) Every company shall keep record of the action taken for the purpose of identifying a beneficial owner or an ultimate beneficial owner in such manner as the Registrar may determine.

(c) Every company shall ensure that any record, register or any other information required to be kept under this section shall, at all times, be accurate and up to date and, on request, be made available forthwith to competent authorities.

(iii) in the newly renumbered subsection (3B) –

(A) in paragraph (a) –

(I) by inserting, after the word “updated”, the words “and accurate”;

(II) in subparagraph (i), by deleting the words “subsection (3)(a)(ii)” and replacing them by the words “subsections (3)(a)(ii) and (3A)(a)”;

(B) in paragraph (c), by deleting the words “subsection (3)(a)(ii)” and replacing them by the words “subsections (3)(a)(ii) and (3A)(a)”;

(iv) in the newly renumbered subsection (3D), in paragraph (a), by deleting the words “(3)(a)(ii), (3A)(a) and (c) or (3B)” and replacing them by the words “(3)(a)(ii), (3A)(a), (3B)(a) and (c) or (3C)”;

(e) in section 190, in subsection (6) –

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

(a) Notwithstanding any other enactment, a company shall appoint an authorised person and his alternate, who shall be ordinarily resident in Mauritius, for providing all

basic information and available beneficial ownership information to competent authorities upon request.

(ii) by inserting, after paragraph (b), the following new paragraphs –

(ba) The basic information referred to in paragraph (a) shall be kept at the registered office or at such other place as the Registrar may determine.

(bb) A company shall ensure that the basic information referred to in paragraph (a) is kept accurately and updated in a timely manner.

(iii) in paragraph (c), by deleting the definition of “competent authority”;

(f) by inserting, after section 269, the following new section –

269A. Risk-based approach and powers of Registrar

(1) Every company limited by guarantee shall implement programmes against terrorism financing, which are commensurate with the terrorism financing risks to which it is exposed and the size and nature of its business.

(2) For the purpose of ensuring that a company limited by guarantee complies with the relevant enactments relating to the prevention of terrorism financing and this Act, the Registrar may –

(a) conduct, at any time and in such manner as it may determine, a risk-based inspection of that company limited by guarantee; and

(b) take such measures as may be necessary to identify, assess and understand the terrorism financing risks and periodically review such risk assessment.

(3) For the purpose of subsection (2), the Registrar shall collect and maintain such statistics and information as may be required in such form and manner, and for such period, as he may determine.

(4) The Registrar shall have such powers as may be necessary to enable him to effectively discharge his functions under the relevant enactments relating to the prevention of terrorism financing and this Act and may, in particular –

- (a) issue guidelines;
- (b) give directives to any company limited by guarantee to ensure compliance with the relevant enactments relating to the prevention of terrorism financing, this Act and any guidelines issued under this Act;
- (c) require any company limited by guarantee to furnish, in such form and manner as he may determine, such information or statistical data relating to its business at such intervals and within such time as the Registrar may determine;
- (d) require a company limited by guarantee to submit a report on corrective measures it is taking to ensure compliance with the relevant enactments relating to the prevention of terrorism financing, this Act and any guidelines or directives issued under this Act, at such intervals as the Registrar may determine;
- (e) where the Registrar has reasonable cause to believe that a company limited by guarantee no longer satisfies the requirements of the relevant enactments relating to the prevention of terrorism financing and this Act, or any of its present or past officer or member has or is about to engage in unsafe and unsound practices and knowingly or negligently permit the violation of the relevant enactments relating to the prevention of terrorism financing and this Act, apply any or all of the following administrative sanctions against the company limited by guarantee, its present or past officer, or its member, as the case may be –
 - (i) issue a private warning;

- (ii) impose such administrative penalty as may be prescribed;
- (iii) issue a cease and desist order that requires the company limited by guarantee, its officer or its member to cease and desist from the actions and violations specified in the order and may require affirmative action to correct the conditions resulting from any such actions or violations;
- (iv) ban a person from being a member of the board of a company limited by guarantee for a period not exceeding 5 years; and
- (iv) remove the company limited by guarantee from the register of companies as provided under section 308.

(5) Any person who fails to comply with a guideline, a directive or an order issued under subsection (4)(a), (b), (c) or (e)(iii) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(6) In this section –

“inspection” includes –

- (a) an on-site or off-site regular examination;
 - (b) a special examination;
 - (c) an off-site monitoring; and
 - (d) an audit of the books and records of a company limited by guarantee.
- (g) in section 329, in subsection (1), by inserting, after the words “91(1), (2), (3)”, the words “, (3A)”.

5. Courts Act amended

The Courts Act is amended –

- (a) in section 161B, by repealing subsection (1) and replacing it by the following subsection –

(1) Notwithstanding any other enactment, the Court may, in its discretion and on motion made by the prosecution, allow a witness in any criminal proceedings to appear before it, and depose, through such live video or live television link system as may be approved in writing by the Chief Justice.

- (b) by repealing section 161BA and replacing it by the following section –

161BA. Agreement on facts between prosecution and defence in criminal proceedings

The prosecution and the defence may, in relation to any criminal proceedings, agree that an alleged fact contained in the information, any document or any other evidence, is not contested and a Judge or Magistrate may consider the alleged fact as proved.

- (c) in section 188C –

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

188C. Admissibility of out of Court statement in criminal proceedings where maker is unavailable

- (ii) in subsection (1), by deleting the words “under the Dangerous Drugs Act, the Piracy and Maritime Violence Act or for a financial crime offence as defined in sections 41A(5) and 80D(5)”.

6. Financial Crimes Commission Act 2023 amended

The Financial Crimes Commission Act 2023 is amended, in section 166, in subsection (9)(g), by repealing subparagraph (i).

7. Financial Intelligence and Anti-Money Laundering Act amended

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

- (a) in section 2 –
- (i) in the definition of “Minister”, by deleting the words “money laundering” and replacing them by the words “anti-money laundering and combatting the financing of terrorism and proliferation”;
 - (ii) in the definition of “Ministry”, by deleting the words “money laundering” and replacing them by the words “anti-money laundering and combatting the financing of terrorism and proliferation”;
 - (iii) by inserting, in the appropriate alphabetical order, the following new definition –

“guidelines” includes codes, guidance notes, practice notes and other similar instruments issued by a supervisory body;
- (b) in section 13, in subsection (4), by deleting the words “, as soon as practicable but not later than 15 working days after the request, FIU with the requested information” and replacing them by the words “FIU with the requested information promptly but not later than 15 working days after the request”;
- (c) in section 14 –
- (i) in subsection (1), by inserting, after the words “of such transaction”, the words “promptly but”;
 - (ii) in subsection (1B), by deleting the words “A report under subsection (1)” and replacing them by the words “A feedback under subsection (1A)”;
- (d) in section 16, in subsection (1), by deleting the word “Any” and replacing it by the words “Subject to subsection (3), any”;
- (e) in section 17H, by repealing subsection (1) and replacing it by the following subsection –
- (1) Where a jurisdiction is identified by the Financial Action Task Force as having significant or strategic deficiencies in its AML/CFT

measures, the Minister may, on the recommendation of the National Committee, identify that jurisdiction as a high risk country.

- (f) in section 18 –
 - (i) in subsection (1) –
 - (A) in paragraph (a), by deleting the words “codes and”;
 - (B) in paragraph (b), by deleting the words “paragraph (a)” and replacing them by the words “paragraph (a), and notwithstanding this Act, it shall, for that purpose, have access to all books, records and other information, in either physical or electronic form, maintained by banks and cash dealers”;
 - (C) in paragraph (c) –
 - (I) by deleting the words “financial institutions” and replacing them by the words “the financial institutions falling under its purview”;
 - (II) by deleting the words “paragraph (a)” and replacing them by the words “paragraph (a), and notwithstanding this Act, it shall, for that purpose, have access to all books, records and other information, in either physical or electronic form, maintained by the financial institutions”;
 - (ii) by repealing subsection (3) and replacing it by the following subsection –
 - (3) Where it appears or where it is represented to the Financial Services Commission that any financial institution falling under its purview has refrained from complying, or has failed to comply, with any requirement imposed under this Act, any regulations made under this Act or any guidelines issued by it under subsection (1)(a) or under the Financial Services Act, and that the failure has been caused by a negligent act, an omission or by a serious defect in the implementation of any such requirement, the Financial Services Commission may proceed against the financial institution under section 7 of the Financial Services Act.

- (g) in section 19AA –
- (i) in subsection (1), by deleting the words “and Proliferation” and replacing them by the words “and Proliferation, and combatting foreign bribery”;
 - (ii) in subsection (3) –
 - (A) in paragraph (b), by deleting the words “to AML/CFT” and replacing them by the words “to AML/CFT and combatting foreign bribery”;
 - (B) by inserting, after paragraph (b), the following new paragraph –
 - (ba) oversee and coordinate all matters in relation to, including accession to and implementation of, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and its 2021 Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions;
 - (C) in paragraph (c), by deleting the words “AML/CFT standards” and replacing them by the words “AML/CFT standards and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions”;
 - (D) in paragraph (d), by inserting, after the words “competent authorities”, the words “on matters pertaining to AML/CFT and the OECD Working Group on Combating Bribery of Foreign Public Officials in International Business Transactions”;
 - (E) by inserting, after paragraph (d), the following new paragraph –
 - (da) formulate policies and make recommendations on skills development and capacity building initiatives, to enhance the

capabilities of the competent authorities in the fight against financial crimes; and

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

(3A) (a) The Core Group may set up any subcommittee to initiate and coordinate all preparations for the business of the Core Group and perform such other functions as may be necessary to assist the Core Group in the discharge of its functions under this Act.

(b) Any subcommittee set up under paragraph (a) shall –

- (i) regulate its own meetings and procedures, and
- (ii) report to the Core Group on any matter relating to its functions.

- (h) by inserting, after section 19C, the following new section –

19CA. Committees

The Minister may, by regulations, set up such committees as may be necessary for the effective administration and implementation of the provisions of this Act.

- (i) in section 19H, in subsection (1), by inserting, after the words “such powers”, the words “and mechanisms”;
- (j) in section 19K –
 - (i) by deleting the heading and replacing it by the following heading –

19K. Inspections

- (ii) in subsection (1), by repealing paragraph (a) and replacing it by the following paragraph –

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

(k) in section 19Z, in subsection (1), by inserting, after the words “to effectively”, the words “supervise and”.

8. The Financial Services Act amended

The Financial Services Act is amended –

(a) in section 43 –

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

43. Inspections

(ii) in subsection (1) –

(A) by deleting the words “at any time cause to be carried on the business premises of a licensee, or at such other place and at such time as the Commission may determine, an inspection” and replacing them by the words “at such time, at such place and in such other manner as it may determine, cause to be carried out an inspection into the business activities of a licensee”;

(B) in paragraph (a), by deleting the words “requirements of the Financial Intelligence and Anti-Money Laundering Act” and replacing them by the words “AML/CFT legislation”;

(iii) in subsection (2), by adding the following new paragraph, the full stop at the end of paragraph (d) being deleted and replaced by the words “; and” and the word “and” at the end of paragraph (c) being deleted –

- (e) request the licensee to provide it with an off site access to such information and system as may be required for the conduct of the inspection.
- (b) in section 43A –
 - (i) by deleting the heading and replacing it by the following heading –

43A. Frequency of inspections
 - (ii) in subsection (1), by deleting the words “of an on site” and replacing them by the words “and intensity of an”;
 - (iii) by adding the following new subsection –

(3) For the purpose of subsection (1)(a), a licensee shall furnish the Commission any information relating to its business or to the business administered or managed by it for its clients to assess the risks of money laundering, terrorist financing and proliferation financing, at such intervals and within such time as may be required by the Commission.
- (c) in section 44, in subsection (8), by adding the following new paragraph –

(c) Any person who fails, without reasonable excuse, to attend before an investigator when summoned in accordance with subsection (3)(e), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.
- (d) in section 50, in subsection (1), by inserting, after the words “in a financial crime”, the words “in Mauritius or another jurisdiction”;
- (e) in section 53, in subsection (1)(a)(ii), by deleting the words “is carrying” and replacing them by the words “has carried or is carrying”;

9. Foundations Act amended

The Foundations Act is amended –

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

“Beneficial Ownership Register” means the Register kept by the Registrar under section 11(3) of the Companies Act;

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

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

(ixb) information required under section 36(1A)(iii);

- (c) in section 28, by inserting, after subsection (1), the following new subsection –

(1A) (a) The Registrar shall maintain a Beneficial Ownership Register which shall contain the information required under section 36(1A)(iii).

(b) The Beneficial Ownership Register shall be accessible to all competent authorities and such other public sector authority as may be prescribed.

- (d) in section 30, by adding the following new subsections –

(3) Every charitable foundation shall implement programmes against terrorism financing, which are commensurate with the terrorism financing risks to which it is exposed and the size and nature of its business.

(4) For the purpose of ensuring that a charitable foundation complies with this Act and the relevant enactments relating to the prevention of terrorism financing, the Registrar may –

(a) conduct, at any time and in such manner as it may determine, a risk-based inspection of that charitable foundation; and

(b) take such measures as may be necessary to identify, assess and understand the terrorism

financing risks and periodically review such risk assessment.

(5) For the purpose of subsection (4), the Registrar shall collect and maintain such statistics and information as may be required in such form and manner, and for such period, as he may determine.

(6) The Registrar shall have such powers as may be necessary to enable him to effectively discharge his functions under this Act and the relevant enactments relating to the prevention of terrorism financing and may, in particular –

- (a) issue guidelines;
- (b) give directives to any charitable foundation to ensure compliance with this Act and the relevant enactments relating to the prevention of terrorism financing and any guidelines issued under this Act;
- (c) require any charitable foundation to furnish, in such form and manner as he may determine, such information or statistical data relating to its business at such intervals and within such time as the Registrar may determine;
- (d) require a charitable foundation to submit a report on corrective measures it is taking to ensure compliance with this Act and the relevant enactments relating to the prevention of terrorism financing, and any guidelines and directives issued under this Act, at such intervals as the Registrar may determine;
- (e) where the Registrar has reasonable cause to believe that a charitable foundation no longer satisfies the requirements of this Act and the relevant enactments relating to the prevention of terrorism financing, or any of his present or past officer or member has or is about to engage in unsafe and unsound practices and knowingly or negligently permit the violation of relevant enactments relating to this Act and the prevention

of terrorism financing, apply any or all of the following administrative sanctions against the charitable foundation, its present or past officer or its member, as the case may be –

- (i) issue a private warning;
- (ii) impose such administrative penalty as may be prescribed;
- (iii) issue a cease and desist order that requires the charitable foundation, its officer or its member to cease and desist from the actions and violations specified in the order and may require affirmative action to correct the conditions resulting from any such actions or violations;
- (iv) ban a person from being a member of the council of a charitable foundation for a period not exceeding 5 years;
- (v) removal from the register of Foundations kept under section 39.

(7) Any person who fails to comply with a guideline, a directive or an order issued under subsection (6)(a), (b), (c) or (e)(iii) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(8) In this section –

“inspection” includes –

- (a) an on-site or off-site regular examination;
- (b) a special examination;
- (c) an off-site monitoring; or
- (d) an audit of the books and records of a charitable foundation.

(e) in section 36 –

- (i) in subsection (1), by repealing paragraphs (d) and (e), the semicolon at the end of paragraph (c) being deleted and replaced by a full stop and the word “and” being added at the end of paragraph (b);
- (ii) by inserting, after subsection (1), the following new subsection –

(1A) (a) Every foundation shall, at all times, identify its beneficial owner or ultimate beneficial owner and any nominee, as applicable.

(b) The Foundation shall record the information under paragraph (a) in a separate register.

(c) The register under paragraph (a) shall include the following information –

- (i) the full name and usual residential address of the beneficial owner and, in case there no natural person is identified or where there is a nominee, the full name and the usual residential address of the ultimate beneficial owner;
- (ii) the National Identification Number or passport number, as applicable;
- (iii) the citizenship or nationality, as applicable;
- (iv) an ownership structure, as applicable, identifying the ultimate beneficial owner; and
- (v) such other information as may be prescribed.

(iii) in subsection (10) –

(A) in paragraph (a), by deleting the words “at least one officer or any other person” and replacing them by the words “one natural person and his alternate who shall be”;

(B) by inserting, after paragraph (b), the following new paragraphs –

(ba) The basic information shall be kept at the registered office or at such other place as the Registrar may determine.

(bb) The foundation shall ensure that the information kept is accurate and updated in a timely manner.

(C) in paragraph (c), by deleting the definition of “competent authority”.

(f) in section 39A, in subsection (2), by inserting, after the words “Director-General”, the words “, where applicable,”.

10. Gambling Regulatory Authority Act amended

The Gambling Regulatory Authority Act is amended –

(a) in section 105, in subsection (3)(a), by deleting the words “5 years” and replacing them by the words “7 years”;

(b) by repealing section 113C and replacing it by the following section –

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

(1) (a) Every licensee referred to in item 7 of Part I of the First Schedule to the Financial Intelligence and Anti-Money Laundering Act shall, with the approval of the Authority and on such terms and conditions as it may determine, appoint a Money Laundering Reporting Officer, Deputy Money Laundering Reporting Officer or compliance officer.

(b) Where the Authority objects to a proposed appointment under paragraph (a), it shall give the licensee an opportunity to make representations within such reasonable time as the Authority may determine.

(c) The Authority may, after having considered the representations under paragraph (b), withdraw its objection to the proposed appointment.

(2) Every licensee falling under item 7 of Part I of the First Schedule to the Financial Intelligence and Anti-Money Laundering Act shall notify the Authority within 7 days of any removal or resignation of its Money Laundering Reporting Officer, Deputy Money Laundering Reporting Officer or Compliance Officer and shall provide particulars of such removal or resignation as the Authority may require.

(3) Any person acting as Money Laundering Reporting Officer, Deputy Money Laundering Reporting Officer and Compliance Officer shall be a natural person.

11. Limited Liability Partnerships Act amended

The Limited Liability Partnerships Act is amended –

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

“Beneficial Ownership Register” means the Register kept by the Registrar under section 11(3) of the Companies Act;

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

(b) in section 23, in subsection (2)(d) –

(i) in subparagraph (viiia), by deleting the words “where a limited partner” and replacing them by the words “where a partner contributes in his own name or where a limited partner”;

(ii) by inserting, after subparagraph (viiia), the following new subparagraph –

(viib) information required under section 41A(1)(b);

(c) in section 25 –

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

(3A) The Registrar shall keep a Beneficial Ownership Register containing the information required under section 41A(1)(b).

(ii) by repealing subsection (12);

(d) in section 41A –

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

41A. Registers

(ii) in subsection (1) –

(A) by repealing paragraph (b) and replacing it by the following paragraph –

(b) A limited liability partnership shall, where the partner is a natural person, a body corporate or an unincorporated body, comprise the following information in a separate register –

(i) the full name and the usual residential address of the beneficial owner or ultimate beneficial owner;

(ii) the National Identification Number or passport number, as applicable;

(iii) the citizenship or nationality, as applicable;

- (iv) an ownership structure, where applicable, identifying the ultimate beneficial owner; and
- (v) such other information as may be prescribed.

(B) by adding the following new paragraph –

(c) Where the partner is a nominee, the information required under section 41(1)(b) shall be included in the register of partners.

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

(3A) Every limited liability partnership shall ensure that any record, register or other document required to be kept under this section shall, at all times, be accurate and up to date and, on request, be made available forthwith to competent authorities.

(e) in section 42, by adding the following new subsection –

(4) (a) Notwithstanding any other enactment, a limited liability partnership shall authorise a natural person and his alternate, who shall be ordinarily resident in Mauritius, to provide, upon request by competent authorities, all basic information on the limited liability partnership, including information on its beneficial ownership.

(b) A limited liability partnership shall, within 14 days of an authorisation or a change of the authorised person or his alternate under paragraph (a), notify the Registrar, in such form and manner as the Registrar may determine, of the name and particulars of the authorised person or his alternate.

(c) The basic information referred to in paragraph (a) shall be kept at the registered office of the limited liability partnership or at any other place as the Registrar may determine.

(d) In this subsection –

“basic information”, in relation to a limited liability partnership, means –

- (a) the name of the limited liability partnership, proof of registration, legal form and status, address of its registered office, basic regulating powers, including the partnership agreement, and a list of its managers; and
 - (b) a register of its partners containing the names of the partners and their contribution to the limited liability partnership;
- (f) in section 45A –
- (i) in subsection (1)(b), by inserting, after the words “Director-General and”, the words “, where applicable, from”;
 - (ii) in subsection (2), by deleting the words “and the written statement from the Director-General and the Chief Executive”;

12. Limited Partnerships Act amended

The Limited Partnerships Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –
 - “Beneficial Ownership Register” means the Register kept by the Registrar under section 11(3) of the Companies Act;
 - “competent authorities” has the same meaning as in the Financial Intelligence and Anti-Money Laundering Act;
- (b) in section 19, in subsection (2)(d), by inserting, after subparagraph (va) the following new subparagraph –
 - (vb) particulars of the beneficial owner or ultimate beneficial owner which shall contain the information required under section 39(6A);

- (c) in section 21, by inserting, after subsection (1), the following new subsection –

(1A) (a) The Registrar shall maintain a Beneficial Ownership Register which shall contain the information required under section 39(6A).

(b) The Beneficial Ownership Register shall be accessible to all competent authorities and such other public sector authorities as may be prescribed.

- (d) in section 39 –

(i) in subsection (1)(b)(iii), by inserting, after the words “limited partner”, the words “contributes in his own name or”;

(ii) in subsection (1A), by deleting the words “such entry or alteration” and replacing them by the words “such entry or alteration and any other information required under section 39(6A)”;

(iii) by inserting, after subsection (6), the following new subsections –

(6A) (a) The limited partnership shall, where the partner is a natural person or a body corporate, an unincorporated body, include the following information in a separate register –

(i) the full name and usual residential address of the beneficial owner or ultimate beneficial owner;

(ii) the National Identification Number or passport number, as applicable;

(iii) the citizenship or nationality, as applicable;

(iv) an ownership structure, where applicable, identifying the ultimate beneficial owner; and

(v) such other information as may be prescribed.

(b) Where the partner is a nominee, the information required under paragraph (a) shall be included in the register of partners.

(6B) Every limited partnership shall, in such form and manner as the Registrar may determine, keep record of the action taken to identify a beneficial owner or an ultimate beneficial owner.

(6C) Every limited partnership shall ensure that any record, register or any other information required to be kept under this section shall, at all times, be accurate and up to date and, on request, be made available forthwith to competent authorities.

(e) in section 41A –

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

(1) Notwithstanding any other enactment, a limited partnership shall authorise a natural person and his alternate, who shall be ordinarily resident in Mauritius, to provide, upon request by any competent authority, all basic information on the limited partnership, including information on its beneficial ownership.

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

(2A) The basic information referred to in subsection (1) shall be made readily available and kept in such form and manner at –

(a) the registered office of the limited partnership; or

(b) such other place as the Registrar may determine.

(2B) Every limited partnership shall ensure that any basic information required to be kept under this section shall, at all times, be accurate and up to date and, on request, be made available forthwith to competent authorities.

- (iii) in subsection (3), by deleting the definition of “competent authority”;
- (f) in section 54B –
 - (i) in subsection (1)(b), by inserting, after the words “Director-General and”, the words “, where applicable, from”;
 - (ii) in subsection (2), by deleting the words “and the written statement from the Director-General and the Chief Executive”.

13. Mauritius Revenue Authority Act amended

The Mauritius Revenue Authority Act is amended, in section 13, in subsection (2)(ac), by adding the following new subparagraph –

- (v) by the Financial Intelligence Unit for the discharge of its functions under section 10(1) of the Financial Intelligence and Anti-Money Laundering Act;

14. Mutual Assistance in Criminal and Related Matters Act amended

The Mutual Assistance in Criminal and Related Matters Act is amended, in section 5 –

- (a) in subsection (2)(b), by repealing subparagraph (iv) and replacing it by the following subparagraph –
 - (iv) of absence of dual criminality, where granting the request would require a Court in Mauritius to make a freezing order, confiscation order or restraining order in respect of any person or property in respect of conduct which does not constitute an offence in Mauritius;
- (b) by inserting, after subsection (2), the following new subsection –

(2A) Notwithstanding subsection (2)(b)(iv), the Central Authority may grant a request where, in the absence of dual criminality, granting the request would require a Court in Mauritius to make any other order, other than a freezing order, confiscation order or restraining order, in respect of any person or property in respect of conduct which does not constitute an offence in Mauritius.

15. National Payment Systems Act amended

The National Payment Systems Act is amended, in section 28, by adding the following new paragraph, the full stop at the end of paragraph (f) being deleted and replaced by the words “; or” and the word “or” at the end of paragraph (e) being deleted –

- (g) take such other action as may be warranted pursuant to section 50(6), (7), (8) and (9) of the Bank of Mauritius Act.

16. Notaries Act amended

The Notaries Act is amended, in section 34, by repealing subsection (1) and replacing it by the following subsection –

- (1) Every notary shall hold at least 2 professional accounts, one of which shall mandatorily be the notarial office account for his receipts and expenditure, and the other one shall mandatorily be his clients’ accounts, fully segregated from the notary’s personal and professional monies and on which all client transactions shall be conducted.

17. Virtual Asset and Initial Token Offering Services Act 2021 amended

The Virtual Asset and Initial Token Offering Services Act 2021 is amended, in section 38, by adding the following new subsection –

- (3) For the purpose of subsection (1)(a), a virtual asset service provider and an issuer of initial token offerings shall furnish to the Commission such information relating to its business or to the business administered or managed by it for its clients to assess the risks of money laundering, terrorist financing and proliferation financing, at such intervals and within such time as the Commission may require.