

THE FINANCIAL INTELLIGENCE AND ANTI-MONEY LAUNDERING BILL

(No. of 2002)

Explanatory Memorandum

This Bill restates the provisions relating to money laundering and provides for the establishment of a Financial Intelligence Unit and Review Committee to review the activities of the Unit.

The Bill provides, in particular, for -

- (a) the reporting of suspicious transactions by, inter alia, banks, financial institutions, cash dealers and members of relevant professions or occupations to the FIU;
- (b) the exchange and provision of information in relation to money laundering;
- (c) mutual assistance with overseas bodies in relation to the investigation of and prosecution for money laundering; and
- (d) for matters connected therewith and incidental thereto.

..... 2002

K.C. Khushiram
*Minister of Economic Development,
Financial Services and Corporate Affairs*

THE FINANCIAL INTELLIGENCE AND ANTI-MONEY LAUNDERING BILL

(No. of 2002)

ARRANGEMENT OF CLAUSES

Clause

PART I - PRELIMINARY

1. Short title
2. Interpretation

PART II - MONEY LAUNDERING OFFENCES

3. Money Laundering
4. Conspiracy to commit the offence of money laundering
5. Limitation of payment in cash
6. Procedure
7. Jurisdiction
8. Penalty

PART III - THE FINANCIAL INTELLIGENCE UNIT

9. Establishment of the FIU
10. Functions of the FIU
11. Exercise of functions of the FIU
12. The Review Committee
13. Dissemination of information to investigatory or supervisory authorities

PART IV - REPORTING AND OTHER MEASURES TO COMBAT MONEY LAUNDERING

14. Reporting obligations of banks, financial institutions, cash dealers and members of relevant professions or occupations
15. Lodging of reports of suspicious transactions
16. Legal consequences of reporting
17. Other measures to combat money laundering
18. Regulatory action in the event of non-compliance
19. Offences relating to obligation to report and keep records and to disclosure of information prejudicial to a request

PART V - PROVISION AND EXCHANGE OF INFORMATION IN RELATION TO MONEY LAUNDERING AND FINANCIAL INTELLIGENCE INFORMATION

20. Membership of international financial intelligence groups and provision of information to overseas financial intelligence units
21. Provision of information to investigatory or supervisory authorities
22. Reference of information by the supervisory authorities

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

23. Providing assistance to overseas countries
24. Obtaining assistance from overseas countries
25. Requests
26. Request not to be invalidated
27. Evidence pursuant to a request
28. Relationship with Letters of Request Rules
29. Money laundering offence to be extraditable

PART VI - MISCELLANEOUS

30. Confidentiality
31. Declaration of assets
32. Immunity
33. Funding
34. Annual Report
35. Regulations
36. Consequential amendments
37. Commencement

A BILL

To provide for the establishment and management of a Financial Intelligence Unit and a Review Committee to supervise its activities; to provide for the offences of money laundering; to provide for the reporting of suspicious transactions; to provide for the exchange of information in relation to money laundering; to provide for mutual assistance with overseas bodies in relation to money laundering; and for matters connected therewith and incidental thereto.

ENACTED by the Parliament of Mauritius, as follows -

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Financial Intelligence and Anti-Money Laundering Act 2002.

2. Interpretation

In this Act -

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

-

- (a) any person engaged in a deposit-taking business and authorised to do so under that Act; and
- (b) any person carrying on any business or activity regulated by the Bank of Mauritius;

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

"cash" -

- (a) means money in notes or coins of Mauritius or in any other currency; and
- (b) includes any cheque which is neither crossed nor made payable to order whether in Mauritian currency or in any other currency;

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

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

"crime" -

- (a) has the same meaning as in the Criminal Code;
- (b) includes an activity carried on outside Mauritius and which, had it taken place in Mauritius, would have constituted a crime; and
- (c) includes an act or omission which occurred outside Mauritius but which, had it taken place in Mauritius, would have constituted a crime;

"exempt transaction" means a transaction -

- (a) between the Bank of Mauritius and any other person;
- (b) between a bank and another bank;
- (c) between a bank and a financial institution;
- (d) between a bank or a financial institution and a customer where -

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

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

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

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

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

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

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

"member of the relevant profession or occupation" -

- (a) means an accountant, an attorney-at-law, a barrister, a chartered secretary, a notary; and
- (b) includes any person carrying on the business of a casino, a bookmaker or totalisator under the Gaming Act;

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

"money laundering" means an offence under Part II of this Act;

"overseas country" means a country or territory outside Mauritius;

"overseas financial intelligence units" means the financial intelligence units constituted in the overseas countries specified in the First Schedule and whose functions correspond to some or all of those of the FIU;

"property" means property of any kind, nature or description, whether moveable or immovable, tangible or intangible and includes -

- (a) any currency, whether or not the currency is legal tender in Mauritius, and any bill, security, bond, negotiable instrument or any instrument capable of being negotiated which is payable to bearer or endorsed payable to bearer, whether expressed in Mauritius currency or otherwise;
- (b) any balance held in Mauritius currency or in any other currency in accounts with any bank which carries on business in Mauritius or elsewhere;
- (c) any balance held in any currency with any bank outside Mauritius;
- (d) motor vehicles, ships, aircraft, boats, works of art, jewellery, precious metals or any other item of value; and
- (e) any right or interest in property;

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

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

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

"suspicious transaction" means a transaction which -

- (a) gives rise to a reasonable suspicion that it may involve —
 - (i) the laundering of money or the proceeds of any crime ; or
 - (i) including any offence concerning the financing of any activities or transactions related to terrorism, as specified in Part III of the Prevention of Terrorism Act 2002; funds linked or related to, or to be used for, terrorism or acts of terrorism or by proscribed organizations, whether or not the funds represent the proceeds of a crime;
- ~~(b)~~(b) is made in circumstances of unusual or unjustified complexity;
- ~~(c)~~© appears to have no economic justification or lawful objective;
- ~~(d)~~(d) is made by or on behalf of a person whose identity has not been established to the satisfaction of the person with whom the transaction is made; or

~~(e)~~(e) gives rise to suspicion for any other reason.

"transaction" includes -

- (a) opening an account, issuing a passbook, renting a safe deposit box, entering into a fiduciary relationship or establishing any other business relationship, whether electronically or otherwise; and
- (b) a proposed transaction.

PART II - MONEY LAUNDERING OFFENCES

3. Money Laundering

- (1) Any person who -
 - (a) engages in a transaction that involves property which is, or in whole or in part directly or indirectly represents, the proceeds of any crime; or
 - (b) receives, is in possession of, conceals, disguises, transfers, converts, disposes of, removes from or brings into Mauritius any property which is, or in whole or in part directly or indirectly represents, the proceeds of any crime,

where he suspects or has reasonable grounds for suspecting that the property is derived or realized, in whole or in part, directly or indirectly from any crime, shall commit an offence.

(2) A bank, financial institution, cash dealer or member of a relevant profession or occupation that fails to take such measures as are reasonably necessary to ensure that neither it nor any service offered by it, is capable of being used by a person to commit or to facilitate the commission of a money laundering offence shall commit an offence.

4. Conspiracy to commit the offence of money laundering

Without prejudice to section 109 of the Criminal Code (Supplementary) Act, any person who agrees with one or more other persons to commit an offence specified in section 3(1) and (2) shall commit an offence.

5. Limitation of payment in cash

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

(2) Subsection (1) shall not apply to an exempt transaction.

6. Procedure

(1) A person may be convicted of a money laundering offence notwithstanding the absence of a conviction in respect of a crime which generated the proceeds alleged to have been laundered.

(2) Any person may, upon single information or upon a separate information, be charged with and convicted of both the money laundering offence and of the offence which generated the proceeds alleged to have been laundered.

(3) In any proceedings against a person for an offence under this Part, it shall be sufficient to aver in the information that the property is, in whole or in part, directly or indirectly the proceeds of a crime, without specifying any particular crime, and the Court, having regard to all the evidence, may reasonably infer that the proceeds were, in whole or in part, directly or indirectly, the proceeds of a crime.

7. Jurisdiction

Notwithstanding any other enactment, the Intermediate Court shall have jurisdiction to try any offence under this Act or any regulations made thereunder and may, on conviction, impose any penalty including forfeiture.

8. Penalty

(1) Any person who -

- (a) commits an offence under this Part; or
- (b) disposes or otherwise deals with property subject to a forfeiture order under subsection (2),

shall, on conviction, be liable to a fine not exceeding 2 million rupees and to penal servitude for a term not exceeding 10 years.

(2) Any property belonging to or in the possession or under the control of any person who is convicted of an offence under this Part shall be deemed, unless the contrary is proved, to be derived from a crime and the Court may, in addition to any penalty imposed, order that the property be forfeited.

(3) Sections 150, 151 and Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a conviction under this Part.

PART III - THE FINANCIAL INTELLIGENCE UNIT

9. Establishment of the FIU

(1) There is established for the purposes of this Act a Financial Intelligence Unit which shall have all the powers necessary to administer, and exercise its functions under, this Act.

(2) The head of the FIU shall be the Director who shall be appointed by the President on the recommendation of the Prime Minister made in consultation with the Leader of the Opposition.

(3) The Director shall be assisted by such persons as may be appointed by the Director to assist him.

10. Functions of the FIU

(1) The FIU shall be the central agency in Mauritius responsible for receiving, requesting, analysing and disseminating to the investigatory and supervisory authorities disclosures of financial information -

- (a) concerning suspected proceeds of crime and alleged money laundering offences;
- (b) required by or under any enactment in order to counter money laundering; or
- (c) concerning the financing of any activities or transactions related to terrorism, as specified in Part III of the Prevention of Terrorism Act 2002.

(2) For the purposes of subsection (1), the FIU shall -

- (a) collect, process, analyse and interpret all information disclosed to it and obtained by it under the relevant enactments;
- (b) inform, advise and co-operate with the investigatory and supervisory authorities;
- (c) supervise and enforce compliance by banks, financial institutions, cash dealers and members of the relevant professions or occupations, with the provisions of the relevant enactments;
- (d) issue, to banks, financial institutions, cash dealers and members of the relevant professions or occupations, such guidelines as it considers appropriate to combat money laundering activities;

- (e) promote the appointment by banks, financial institutions, cash dealers and members of the relevant professions or occupations to specialise in measures to detect and counter money laundering activities; and
- (f) provide assistance in the investigation or prosecution of money laundering offences to overseas countries.

11. Exercise of functions of the FIU

(1) The functions of the FIU shall be exercised by the Director or such of the persons appointed under section 9(3) as the Director may determine.

(2) In furtherance of the functions of the FIU, the Director shall consult with and seek such assistance from such persons in Mauritius concerned with combating money laundering, including law officers, the Police and other Government agencies and persons representing banks, financial institutions, cash dealers and members of the relevant professions or occupations, as the FIU considers desirable.

12. The Review Committee

(1) There is established for the purposes of this Act a Review Committee which shall consist of -

- (a) a Chairperson, who shall be a person who has -
 - (i) served as a Judge of the Supreme Court; or
 - (ii) served as a Magistrate, or been a law officer or practised as a barrister, in Mauritius for at least 10 years;
- (b) 2 other members of high repute, of whom one shall be a person with substantial experience in the legal profession and the other shall be a person with substantial experience in the financial services industry.

(2) The Chairperson and members of the Review Committee shall be appointed by the President on the recommendation of the Prime Minister made in consultation with the Leader of the Opposition.

(3) The appointment of the Chairperson and each member of the Review Committee shall be on such terms as may be specified in the instrument of appointment of the Chairperson and each such member.

(4) The Review Committee may act notwithstanding the absence of one of its members.

(5) Subject to subsection (4), the Review Committee shall determine its own procedure.

13. Dissemination of information to investigatory or supervisory authorities

Where the FIU considers that information on any matter should be disseminated to the investigatory or supervisory authorities, it shall refer the information to the Review Committee which shall consider the information and either -

- (a) consent to the FIU referring the information to such of the investigatory or supervisory authorities as may be specified by the Review Committee with a view to the determination of any criminal liability and the prosecution of or the action against, the persons accordingly; or
- (b) refer the information back to the FIU with a view to determining whether further supporting information can be found which would justify a subsequent reference to one of the investigatory or supervisory authorities.

PART IV - REPORTING AND OTHER MEASURES TO COMBAT MONEY LAUNDERING

14. Reporting obligations of banks, financial institutions, cash dealers and members of relevant professions or occupations

(1) Every bank, financial institution, cash dealer or member of a relevant profession or occupation shall forthwith make a report to the FIU of any transaction which the bank, financial institution, cash dealer or member of the relevant profession or occupation has reason to believe may be a suspicious transaction.

(2) Nothing in subsection (1) shall be construed as requiring a law practitioner to report any transaction of which he has acquired knowledge in privileged circumstances unless it has been communicated to him with a view to the furtherance of a criminal or fraudulent purpose.

15. Lodging of reports of suspicious transactions

(1) Every report under section 14 shall be lodged with the FIU.

(2) For the purposes of this Part, every report shall be in such form as the FIU may approve and shall include -

- (a) the identification of the party or parties to the transaction;

- (b) the amount of the transaction, the description of the nature of the transaction and all the circumstances giving rise to the suspicion;
- (c) the business relationship of the suspect to the bank, financial institution, cash dealer or member of relevant profession or occupation, as the case may be;
- (d) where the suspect is an insider, any information as to whether the suspect is still affiliated with the bank, financial institution, cash dealer, or member of the relevant profession or occupation, as the case may be;
- (e) any voluntary statement as to the origin, source or destination of the proceeds;
- (f) the impact of the suspicious activity on the financial soundness of the reporting institution or person; and
- (g) the names of all the officers, employees or agents dealing with the transaction.

16. Legal consequences of reporting

(1) No person directly or indirectly involved in the reporting of a suspicious transaction under this Part shall communicate to any person involved in the transaction or to an unauthorised third party that the transaction has been reported.

(2) No proceedings shall lie against any person for having reported in good faith under this Part any suspicion he may have had whether or not the suspicion proves to be well founded following investigation or any prosecution or other judicial action.

(3) No officer who receives a report made under this Part shall incur liability for any breach of confidentiality for any disclosure made in compliance with the Act.

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

17. Other measures to combat money laundering

Without prejudice to section 3(2), every bank, financial institution, cash dealer or member of the relevant profession or occupation shall -

- (a) verify, in such manner as may be prescribed, the true identity of all customers and other persons with whom they conduct transactions;

- (b) keep such records, registers and documents as may be required under this Act or by regulations; and
- (c) upon a Court order, make available such records, registers and documents as may be required by the order.

18. Regulatory action in the event of non-compliance

(1) Where it appears to the Bank of Mauritius that any bank or cash dealer subject to its supervision has failed to comply with any requirement imposed by this Act or any regulations applicable to that bank or cash dealer and that the failure is caused by a negligent act or omission or by a serious defect in the implementation of any such requirement, the Bank of Mauritius, in the absence of any reasonable excuse, may -

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

(2) Where it appears or where it is represented to the Financial Services Commission that any financial institution has refrained from complying or negligently failed to comply with any requirement of this Act or regulations, the Financial Services Commission may proceed against the financial institution under section 7 of the Financial Services Development Act 2001 on the ground that it is carrying on its business in a manner which is contrary or detrimental to the interest of the public.

(3) Where it appears or is represented to any disciplinary body that any member of a relevant profession or occupation over which it exercises control has refrained from complying or negligently failed to comply with any requirement of this Act or regulations, the disciplinary body may take, against the member concerned, any action which it is empowered to take in the case of professional misconduct by that member.

19. Offences relating to obligation to report and keep records and to disclosure of information prejudicial to a request

(1) Any bank, financial institution, cash dealer or any director or employee thereof or member of a relevant profession or occupation who, knowingly or without reasonable excuse -

- (a) fails to make a report, verify, identify or keep records, registers or documents, as required under section 17;
- (b) destroys or removes any record, register or document which is required under this Act or any regulations;
- (c) warns the owner of any funds of any report required to be made in respect of any transaction, or of any action taken or required to be taken in respect of any transaction, related to such funds; or
- (d) facilitates or permits the performance under a false identity of any transaction falling within this Part,

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

(2) Any person who -

- (a) falsifies, conceals, destroys or otherwise disposes of or causes or permits the falsification, concealment, destruction or disposal of any information, document or material which is or is likely to be relevant to a request to which section 23 applies; or
- (b) knowing or suspecting that an investigation into a money laundering offence has been or is about to be conducted, divulges that fact or other information to another person whereby the making or execution of a request to which section 23 applies is likely to be prejudiced,

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

PART V - PROVISION AND EXCHANGE OF INFORMATION IN RELATION TO MONEY LAUNDERING AND FINANCIAL INTELLIGENCE INFORMATION

20. Membership of international financial intelligence groups and provision of information to overseas financial intelligence units

(1) The FIU shall be the only body in Mauritius which may seek recognition by any international group of overseas financial intelligence units which exchange financial intelligence information on the basis of reciprocity and mutual agreement.

(2) Where it becomes a member of any such international group as is referred to in subsection (1), the FIU may exchange information with other members of the group in accordance with the conditions for such exchanges established by the group.

(3) Without prejudice to subsections (1) and (2), where the FIU becomes aware of any information which may be relevant to the functions of any overseas financial intelligence unit, it may, with the consent of the Review Committee, offer to pass on that information to the overseas financial intelligence unit on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

21. Provision of information to investigatory or supervisory authorities

(1) Where it becomes aware of any information, which -

(a) may be relevant to the functions of any of the supervisory authorities; and

(b) does not of itself justify a dissemination to any of the investigatory authorities under section 13,

the FIU may, subject to subsection (4) and with the consent of the Review Committee, pass on the information to the relevant supervisory authority.

(2) Where it becomes aware of any information which may be relevant to an investigation or prosecution being conducted by one of the investigatory authorities, the FIU shall, subject to subsection (4) and with the consent of the Review Committee, pass on the information to that investigatory authority.

(3) Where it becomes aware of any information which may be relevant to a possible corruption offence, within the meaning of the Prevention of Corruption Act 2002, the FIU shall, subject to subsection (4), and with the consent of the Review Committee, pass on the information to the Commission.

(4) If any information falling within subsections (1), (2) or (3) was provided to the FIU by a body outside Mauritius on terms of confidentiality, the information shall not be passed on as specified in those subsections without the consent of the body by which it was provided.

22. Reference of information by the supervisory authorities

(1) If, at any time in the course of the exercise of its functions, any supervisory authority receives, or otherwise becomes aware of, any information suggesting the possibility of a money laundering offence or suspicious transaction, the supervisory authority, shall subject to subsection (2), forthwith pass on that information to the FIU.

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

(3) No liability shall be incurred under any enactment, whether for breach of confidentiality or otherwise, in respect of the disclosure of any information to the FIU pursuant to this section by the supervisory authority or any of its officers or members of its Board.

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

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

23. Providing assistance to overseas countries

(1) Where a request is received from an appropriate body in an overseas country seeking assistance in the investigation or prosecution of a money laundering offence the FIU, with the consent of the Review Committee, shall either -

- (a) execute the request by referring it together with any accompanying documents to the Commission or any other investigatory authority;
- (b) inform the body making a request -
 - (i) of any reason for not so referring the request forthwith;
 - (ii) of any reason for delaying the reference of the request; or

- (iii) that it is refusing the request for one of the reasons specified in subsection (2).

(2) Subject to subsection (3), the FIU, with the concurrence of the Review Committee, may refuse any request received under subsection (1) where -

- (a) the action sought by the request contravenes or is likely to contravene any provision of the Constitution;
- (b) the execution of the request is likely to prejudice the national interest; or
- (c) the FIU, with the concurrence of the Review Committee, is not satisfied that a similar request made by Mauritius to an appropriate body in the overseas country concerned would be complied with.

(2) Subsection (2)(c) shall not apply in any case where -

- (a) there is a treaty between Mauritius and the overseas country concerned relating to the provision of assistance in relation to money laundering; or
- (b) the law applicable in that overseas country permits the granting of assistance to Mauritius in similar circumstances.

(4) In this section, "appropriate body", in relation to an overseas country, means an overseas financial intelligence unit or other body having legal competence and authority to make, in respect of that country, requests of the kind referred to in subsection (1).

24. Obtaining assistance from overseas countries

(1) With the concurrence of the Review Committee, the FIU may seek assistance from an overseas financial intelligence unit or other body in an overseas country where the FIU considers that the unit or body may be able to provide evidence or information relevant to a possible money laundering offence or a suspicious transaction.

(2) With the concurrence of the Review Committee, the FIU may direct a request to the authorities in an overseas country for the restraint and forfeiture of property which is located in that country and liable to be forfeited by reason of being the proceeds of a money laundering offence.

(3) A request under subsection (1) or subsection (2) may be made on the initiative of the FIU or at the request of one of the investigatory authorities.

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

25. Requests

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

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

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

- (a) confirm either that an investigation or prosecution is being conducted in respect of a suspected money laundering offence or that a person has been convicted of a money laundering offence.
- (b) state the grounds on which any person is being investigated or prosecuted for money laundering or details of the conviction of the person;
- (c) give sufficient particulars of the identity of the person;
- (d) give particulars sufficient to identify any bank, financial institution, cash dealer or other person believed to have information, documents or material which may be of assistance to the investigation or prosecution;
- (e) request assistance to obtain from a bank, financial institution, cash dealer or other person all and any information, document or material which may be of assistance to the investigation or prosecution;
- (f) specify the manner in which and to whom any information, document or material obtained pursuant to the request is to be produced;
- (g) state whether a freezing order or forfeiture order is required and identify the property to be the subject of such an order; and
- (h) contain such other information as may assist the execution of the request.

26. Request not to be invalidated

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

27. Evidence pursuant to a request

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

28. Relationship with Letters of Request Rules

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

29. Money laundering offence to be extraditable

Any money laundering offence shall be deemed to be an extradition crime for which extradition may be granted or obtained under the Extradition Act.

PART VI - MISCELLANEOUS

30. Confidentiality

- (1) The Director and every officer of the FIU shall -
 - (a) before they begin to perform any duties under this Act, take an oath of confidentiality in the form set out in the Second Schedule; and
 - (b) maintain during and after their relationship with the FIU the confidentiality of any matter relating to the relevant enactments.

(2) No information from which an individual or body can be identified and which is acquired by the FIU in the course of carrying out its functions shall be disclosed except with the prior approval of the Review Committee and where the disclosure appears to the FIU to be necessary -

- (a) to enable the FIU to carry out its functions;
- (b) in the interests of the prevention or detection of crime;

- (c) in connection with the discharge of any international obligation to which Mauritius is subject; or
- (d) pursuant to an order of a Judge.

(3) Any person who contravenes this section shall commit an offence and, on conviction, shall be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 3 years.

31. Declaration of assets

(1) Subject to subsection (2), the Director and every officer of the FIU shall file with the Commission a declaration of his assets and liabilities in the form specified in the Third Schedule -

- (a) not later than 30 days after his appointment; and
- (b) on the termination of his appointment.

(2) Where, subsequent to a declaration made under subsection (1), the state of assets and liabilities is so altered as to be reduced or increased in value by a minimum of 200,000 rupees, the Director or officer shall make a fresh declaration.

(3) No declaration of assets filed under subsection (1) or subsection (2) shall be disclosed to any person except with the consent of the Director or officer concerned or, on reasonable grounds being shown, by order of a Judge.

32. Immunity

No action shall lie against the FIU, the Director or any officer of the FIU in respect of any act done or omission made by the FIU, the Director or any officer of the FIU, in good faith, in the exercise of the functions conferred on the FIU under this Act or any other enactment.

33. Funding

- (1) The expenses of the FIU shall be met out of -
 - (a) money appropriated annually by Parliament for the purposes of the FIU; and
 - (b) any government grants made to it.
- (2) (a) With the consent of the Minister, the FIU may accept donations.

- (b) Article 910 of the Code Civil Mauricien shall not apply to a donation to the FIU.

34. Annual Report

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

35. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may make provisions, not inconsistent with this Act or any other Act of Parliament in order to enable Mauritius to comply with any international obligation relating to the prevention or detection of money laundering.

(3) Regulations, other than those referred to in subsection (2), may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding 2 years.

36. Consequential amendments

(1) The Banking Act is amended -

(a) in section 39A(3) -

(i) by inserting immediately after the words "arms trafficking", the words ",offences related to terrorism under the Prevention of Terrorism Act 2002";

(ii) by adding after the words "money laundering", the words "under the Financial Intelligence and Anti-Money Laundering Act 2002";

(b) in section 40(1), by deleting the words "Economic Crime and Anti-Money Laundering Act 2000" and replacing them by the words "Financial Intelligence and Anti-Money Laundering Act 2002".

(2) The Financial Services Development Act 2001 is amended in section 33(6), by deleting the words "the Economic Crime and Anti-Money Laundering Act 2000" and replacing them by the words "the Financial Intelligence and Anti-Money Laundering Act 2002".

(3) The Foreign Exchange Dealers Act is amended in section 6(2)(a)(i)(E), by deleting the words "or the Economic Crime and Anti-

Money Laundering Act 2000" and replacing them by the words "or the Financial Intelligence and Anti-Money Laundering Act 2002".

37. Commencement

(1) Subject to subsection (2), this Act shall come into force on a day to be fixed by proclamation.

(2) Different days may be fixed for the coming into force of different sections of this Act.

FIRST SCHEDULE

(section 2)

OVERSEAS FINANCIAL INTELLIGENCE UNITS

- | | | | |
|-----|------------------------|-----|----------------------|
| 1. | Aruba | 30. | Isle of Man |
| 2. | Australia | 31. | Italy |
| 3. | Austria | 32. | Japan |
| 4. | Bahamas | 33. | Jersey |
| 5. | Belgium | 34. | Latvia |
| 6. | Bermuda | 35. | Liechtenstein |
| 7. | Bolivia | 36. | Lithuania |
| 8. | Brazil | 37. | Luxembourg |
| 9. | British Virgin Islands | 38. | Mexico |
| 10. | Bulgaria | 39. | Monaco |
| 11. | Cayman Islands | 40. | Netherlands |
| 12. | Chile | 41. | Netherlands Antilles |
| 13. | Colombia | 42. | New Zealand |
| 14. | Costa Rica | 43. | Norway |
| 15. | Croatia | 44. | Panama |
| 16. | Cyprus | 45. | Paraguay |
| 17. | Czech Republic | 46. | Portugal |
| 18. | Denmark | 47. | Romania |
| 19. | Dominican Republic | 48. | Slovakia |
| 20. | El Salvador | 49. | Slovenia |
| 21. | Estonia | 50. | Spain |
| 22. | Finland | 51. | Sweden |
| 23. | France | 52. | Switzerland |
| 24. | Greece | 53. | Taiwan |
| 25. | Guernsey | 54. | Thailand |
| 26. | Hong Kong, China | 55. | Turkey |
| 27. | Hungary | 56. | United Kingdom |
| 28. | Iceland | 57. | United States |
| 29. | Ireland | 58. | Venezuela |

SECOND SCHEDULE
(section 30)

Oath of confidentiality

IN THE SUPREME COURT OF MAURITIUS

I, being appointed do hereby swear/solemnly affirm that I will, to the best of my judgment, act in furtherance of the objects of the Financial Intelligence Unit and shall not, on any account and at any time, disclose, otherwise than with the authorisation of the Financial Intelligence Unit or where it is strictly necessary for the performance of my duties, any confidential information obtained by me during or after my relationship with the Financial Intelligence Unit.

Taken before me,
The Master and Registrar of the Supreme Court on (date)

THIRD SCHEDULE
(section 31)

DECLARATION OF ASSETS AND LIABILITIES

I,of the Financial Intelligence Unit

Make oath/solemn affirmation as a and declare that -

1. I am unmarried/married under the system of (*matrimonial regime*)
2. My assets and those of my spouse and minor children (*extent and nature of interests therein*) in Mauritius and outside Mauritius are as follows -
 - (a) immoveable property -
 - (i) freehold
 - (ii) leasehold
 - (b) motor vehicles
 - (c) interest in any partnership, société, joint venture or succession
 - (d) securities including treasury bills, units, etc.
 - (e) cash in bank.....

- (f) cash in hand exceeding 50,000 rupees
- (g) jewellery and precious metals.....
- (h) other assets exceeding 50,000 rupees in the aggregate (*specify*)
.....

2. My liabilities and those of my spouse and minor children are as follows
-
.....

.....
Signature

Sworn/solemnly affirmed by the abovenamed before me at
this day of

**Master and Registrar
Supreme Court**