

Law no. 10/2014

**PREVENTION OF MONEY LAUNDERING
AND FINANCING OF TERRORISM ACT**

(unofficial English translation)

PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM ACT

CONTENTS

PART ONE PRELIMINARY CHAPTER ONE

INTRODUCTION AND OBJECTIVES

Section 1.	Introduction and citation	5
Section 2.	Objectives	5

CHAPTER TWO DICTIONARY OF CONCEPTS

Section 3.	Dictionary	5
Section 4.	Basis of Concepts.....	6
Section 5.	Money Laundering.....	6
Section 6.	Financing of Terrorism	6
Section 7.	Predicate Offence.....	7
Section 8.	Proceeds of Crime.....	7
Section 9.	Instrumentalities.....	7
Section 10.	Controlled Delivery	8
Section 11.	Funds or Property.....	8
Section 12.	Organised Criminal Group.....	8
Section 13.	Terrorist Act.....	8
Section 14.	Terrorist.....	8
Section 15.	Terrorist Organisation.....	8

PART TWO PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM CHAPTER THREE

PREVENTIVE MEASURES

Section 16.	Identification of customers by Reporting Entities	9
Section 17.	Special identification requirements.....	12
Section 18.	Obligations of persons providing money or value transfer services.....	13
Section 19.	Special monitoring of certain transactions.....	14
Section 20.	Record keeping	15

Section 21.	Programs to combat money laundering and financing of terrorism in Reporting Entities	15
-------------	--	----

Section 22.	Compliance with obligations by foreign subsidiaries and branches	15
-------------	--	----

CHAPTER FOUR

NON-PROFIT ORGANIZATIONS, MONEY OR VALUE TRANSFER SERVICE PROVIDERS, AND DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSION

Section 23.	Non-profit organizations, money or value transfer service providers, and designated non-financial business and profession	16
-------------	---	----

CHAPTER FIVE

OTHER PREVENTIVE MEASURES

Section 24.	Obligation to report transportation of cash or bearer negotiable instruments in and out of the Maldives.....	16
-------------	--	----

CHAPTER SIX

DISCLOSURE OF INFORMATION OF FINANCIAL TRANSACTIONS

Section 25.	Prohibition on shell banks.....	17
-------------	---------------------------------	----

Section 26.	Disclosure of information of legal persons and arrangements.....	17
-------------	--	----

PART THREE

DETECTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

CHAPTER SEVEN

FINANCIAL INTELLIGENCE UNIT

Section 27.	Financial Intelligence Unit.....	18
-------------	----------------------------------	----

Section 28.	Access to information	20
-------------	-----------------------------	----

Section 29.	Action taken regarding suspicious transaction reports	20
-------------	---	----

Section 30.	Organization.....	21
-------------	-------------------	----

Section 31.	Staffing.....	21
-------------	---------------	----

Section 32.	No conflict of interest	21
-------------	-------------------------------	----

Section 33.	Reports submitted to the Financial Intelligence Unit	21
-------------	--	----

Section 34.	Database of the Financial Intelligence Unit.....	22
-------------	--	----

Section 35.	Annual Report.....	22
-------------	--------------------	----

Section 36.	Operating budget.....	22
-------------	-----------------------	----

Section 37.	Confidentiality	22
-------------	-----------------------	----

Section 38.	Relations with foreign agencies	22
-------------	---------------------------------------	----

CHAPTER EIGHT

REPORTING OF SUSPICIOUS TRANSACTIONS

Section 39.	Obligation to report suspicious transactions	23
-------------	--	----

Section 40.	Cash transaction Reporting	24
-------------	----------------------------------	----

Section 41.	International Fund Transfer reporting.....	24
Section 42.	Postponing of transactions	24
Section 43.	Prohibition against tipping off	24

CHAPTER NINE

EXEMPTION FROM LIABILITY

Section 44.	Exemption from liability for good faith reporting suspicious transactions	25
Section 45.	Exemption from liability for executing transactions	25

CHAPTER TEN

RESPONSIBILITIES OF SUPERVISORY AUTHORITIES

Section 46.	General provisions on supervisory authorities of reporting entities	25
Section 47.	Role of supervisory authorities	27

CHAPTER ELEVEN

EXEMPTION FROM BANKING SECRECY AND PROFESSIONAL PRIVILEGE

Section 48.	Prohibition against invoking bank secrecy and professional privilege.....	27
-------------	---	----

PART FOUR

PART ON INVESTIGATION

CHAPTER TWELVE

INVESTIGATION

Section 49.	Investigative techniques.....	28
Section 50.	Undercover operations and controlled delivery	28

PART FIVE

PENALTIES AND PROVISIONAL MEASURES

CHAPTER THIRTEEN

PROVISIONAL MEASURES AND FREEZING AND SEIZING OF FUNDS AND PROPERTIES

Section 51.	Provisional measures	29
Section 52.	Actions to be taken against funds associated with financing of terrorism.....	30

CHAPTER FOURTEEN

OFFENCES AND PENALTIES

Section 53.	Offence of money laundering	31
Section 54.	Offence of financing of terrorism	31
Section 55.	Association or conspiracy to commit money laundering and financing of terrorism.....	32
Section 56.	Offence committed outside Maldives	32
Section 57.	General offences	33
Section 58.	Penalties applicable to legal persons.....	33
Section 59.	Aggravating circumstances for money laundering	34

Section 60.	Aggravating circumstances for financing of terrorism	34
Section 61.	Mitigating circumstances	35

**CHAPTER FIFTEEN
CONFISCATION BY THE STATE**

Section 62.	Confiscation by the State	35
Section 63.	Invalidation of certain legal instruments.....	36
Section 64.	Disposal of confiscated property	36

**PART SIX
ESTABLISHING AND MAINTAINING INTERNATIONAL COOPERATION**

**CHAPTER SIXTEEN
GENERAL PROVISIONS**

Section 65.	General Provisions	36
-------------	--------------------------	----

**CHAPTER SEVENTEEN
SECURITY MEASURES CONCERNING FINANCING OF TERRORISM**

Section 66.	Investigation of facts.....	37
Section 67.	Security measures	37
Section 68.	Right of persons subject to security measures	37
Section 69.	Notice to interested foreign countries	37

**CHAPTER EIGHTEEN
EXTRADITION AND MUTUAL LEGAL ASSISTANCE**

Section 70.	Request for extradition.....	38
Section 71.	Dual criminality	38
Section 72.	Political nature of offences	38
Section 73.	Transmission and processing of requests.....	38

**PART SEVEN
MISCELLANEOUS
CHAPTER NINETEEN
GENERAL PROVISIONS**

Section 74.	Administrative sanctions for non-compliance	39
Section 75.	Regulations	39
Section 76.	Entry into force	39
Section 77.	Definitions.....	40

PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM ACT

PART ONE PRELIMINARY

CHAPTER ONE INTRODUCTION AND OBJECTIVES

Introduction and citation

1. (a) This Act provides for the prohibition and prevention of money laundering and financing of terrorism, and procedures related thereto.
- (b) This Act shall be cited as the “Prevention of Money Laundering and Financing of Terrorism Act.”

Objectives

2. The main objectives of the Act are as follows:
 - (a) Provide for the prohibition and prevention of money laundering and financing of terrorism;
 - (b) Provide for procedures and policies in respect of prevention of money laundering and financing of terrorism and offences related thereto;
 - (c) Provide and administer procedures in respect of detection of money laundering and financing of terrorism activities;
 - (d) Provide for detection persons engaged in money laundering and financing of terrorism activities, investigation of such matters, and actions against such persons; ;
 - (e) Determine the roles and responsibilities of financial institutions and reporting entities, and the regulatory and supervisory authorities of such institutions and entities, in respect of prevention of money laundering and financing of terrorism.

CHAPTER TWO DICTIONARY OF CONCEPTS

Dictionary

3. (a) The fundamental concepts, upon which the Act is based, are provided in this Chapter.
- (b) The definitions of key words and phrases used in the

Act are provided in section 77.

- Basis of Concepts**
4. The terms provided in this Chapter are to sustain the fundamentals of this Act and facilitate the widest achievement of the objectives of this Act. Every provision of this Act must be read in a manner that does not restrict the ambit of any of those fundamental concepts.
- Money Laundering**
5. “Money laundering” shall be defined as:
- (a) (1) The conversion or transfer of property, by any person who knows or has reasonable grounds to suspect that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of such property or of assisting any person who is involved in the commission of predicate offence to evade the legal consequences of his or her actions; or
 - (2) The concealment or disguise of the true nature, source, location, transferee, movement or ownership of or rights with respect to property, by any person who knows or has reasonable grounds to suspect that such property is the proceeds of crime; or
 - (3) The acquisition, possession or use of property by any person who knows or has reasonable grounds to suspect that such property is the proceeds of crime; or
 - (4) Participation in or conspiracy to commit, attempt to commit and aiding, abetting, facilitating and counselling the commission of any of the activities contained in (1), (2), and (3) of this paragraph.
- (b) The offence of money laundering shall also apply to persons who have committed the predicate offence.
- Financing of Terrorism**
6. “Financing of terrorism” shall mean an act by any person who by any means, directly or indirectly, wilfully, provides or collects funds, or attempts to do so, with the intention to use the fund or with the knowledge that the funds are to be used, in full or in part, to carry out a terrorist act, by an individual terrorist, or by a terrorist organization. The offence is committed irrespective of any link to a specific terrorist act, or whether the funds have actually been used to commit such act.

Predicate Offence

7. “Predicate offence” shall mean any of the following offences that enable its perpetrator to generate the proceeds of crime within the meaning of this Act. Such offence also includes offences committed outside the territory of the Maldives. However, offences committed outside the territory of the Maldives shall be deemed predicate offences for the purposes of this Act, only if they constituted offences in the foreign country where they were committed and would have constituted an offence if they had been committed within the territory of the Maldives.

- (a) Terrorism;
- (b) Terrorism financing;
- (c) Illicit trafficking in narcotic drugs and psychotropic substances;
- (d) Human trafficking;
- (e) Illicit arms trafficking;
- (f) Counterfeiting currency;
- (g) Insider trading;
- (h) Corruption;
- (i) Crimes committed through an organised criminal group;
- (j) Any offence, in addition to the offences listed above (a) to (i), that is prescribed as a serious offence under any other legislation; or
- (k) Aiding, abetting and participating in the commission of an offence listed from paragraphs (a) to (j).

Proceeds of Crime

8. “Proceeds of crime” shall mean any funds or property derived from or obtained, directly or indirectly, within or outside the Maldives, from any offence under the laws of the Maldives. Proceeds of crime shall include substitute assets and investment yields.

Instrumentalities

9. “Instrumentalities” shall mean any property used or intended to be used in any manner, wholly or in part, to commit one or more offences. Property or part thereof used or intended to be used for the commission of an offence, shall be deemed

within the meaning of instrumentalities.

- Controlled Delivery** **10.** “Controlled delivery” shall mean the technique of allowing illicit or suspect consignments and funds related to any offence under this Act, to pass out of, through or into the territory of the Maldives under the complete supervision of the competent authorities, for the purpose of investigation of money laundering or financing of terrorism and identification of persons involved in the commission of these offences.
- Funds or Property** **11.** “Funds” or “property” shall mean assets of every kind, including movable or immovable property. And includes ownership rights of such properties, and any other rights, interest, benefit over or arising from such properties, and legal document evidencing title to or interest in such properties including but not limited to bank credits, traveller’s cheques, bank cheques, money orders, shares, securities, bonds, bank drafts, letters of credit.
- Organised Criminal Group** **12.** “Organised criminal group” shall mean a structured group of three or more persons, who are acting or have acted in concert with the aim of committing one or more serious offences, in order to obtain, directly or indirectly, a financial or other material benefit.
- Terrorist Act** **13.** “Terrorist act” shall mean any act specified in the relevant law on prohibition and prevention of terrorism.
- Terrorist** **14.** “Terrorist” shall mean any of the following persons who:
- (a) commits or attempts to commit a terrorist act by any means, directly or indirectly, and wilfully;
 - (b) participates as an accomplice in terrorist acts;
 - (c) organizes or directs others to commit terrorist acts;
 - (d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose to commit terrorist acts; or provides assistance to such group with the intention to commit a terrorist act and with the knowledge of the intention of the group is to commit terrorist acts;
 - (e) any person designated as such pursuant to section 52.
- Terrorist Organisation** **15.** “Terrorist organization” shall mean any of the following organizations that:

- (a) commits or attempts to commit a terrorist act by any means, directly or indirectly, and wilfully;
- (b) participates as an accomplice in terrorist acts;
- (c) organizes or directs others to commit terrorist acts;
- (d) contributes to the commission of terrorist acts by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;
- (e) any organization or entity designated as such pursuant to section 52.

**PART TWO
PREVENTION OF MONEY LAUNDERING AND FINANCING OF
TERRORISM**

**CHAPTER THREE
PREVENTIVE MEASURES**

**Identification of
customers by
Reporting Entities**

- 16.** (a) Reporting Entities shall verify the identification of their customers and principals, by means of reliable identification data as specified by the Maldives Monetary Authority, when:
- (1) establishing business relations;
 - (2) in cases other than those referred to in (1) of this sub-section, when the customer wishes to carry out
 - (aa) a transaction in an amount equal to or above the amount prescribed in regulations issued by Maldives Monetary Authority pursuant to this Act. If the amount of the transaction is unknown at the time of the operation, the verification shall be done as soon as the amount becomes known or the threshold is reached, or
 - (bb) a domestic or international transfer of

funds;

- (3) doubts exist about the veracity or adequacy of previously obtained customer identification data;
 - (4) there is a suspicion of money laundering or financing of terrorism.
- (b) Reporting Entities shall collect information regarding the anticipated purpose and intended nature of the business relationship.
 - (c) Reporting Entities shall obtain the full name, address, date and place of birth, and the national identification number or work permit number or the passport number of natural persons, for the identification and verification of their identity.
 - (d) Reporting Entities shall obtain the corporate name, head office address, information of directors, proof of incorporation or similar evidence of their legal status, legal form, articles of association and memorandum of association and registration number of legal persons, for the identification and verification of their identity;
 - (e) Reporting Entities shall, for the purpose of identification of a legal arrangement and verification of the identity, the name of trustees, the settlor, and the beneficiary of express trusts or other similar arrangements.
 - (f) Reporting Entities shall take reasonable measures to identify and verify the identity of the beneficial owner, including the natural person with a controlling interest and the natural person who manages the legal person.
 - (g) If there is doubt as to whether a customer specified in paragraphs (a), (b), (c), (d) (e), and (f) acts for his/her own account, or if it is certain that he/she does not act for his/her own account, Reporting Entities shall take all reasonable measures to identify and verify the identity of the person or persons on whose behalf the customer is acting.
 - (h) Reporting Entities shall exercise on-going due diligence with respect to the business relationship and examine transactions that are carried out in order to ensure that they are consistent with their knowledge of their customer, his commercial activities, risk profile

and where required, the source of his funds.

- (i) Reporting Entities shall take adequate measures to reduce the risk of money laundering and financing of terrorism, in the event they conduct business relationships or execute transactions with a customer that is not physically present for purposes of identification.
- (j) Reporting Entities shall determine if a customer or a beneficial owner is a politically exposed person and if so:
 - (1) obtain approval from senior management before establishing a business relationship with the customer;
 - (2) take all reasonable measures to identify the source of wealth, affluence, prosperity and funds;
 - (3) strengthen and conduct on-going monitoring of the business relationship.
- (k) With respect to cross-border correspondent banking relationships, financial institutions operating in the Maldives, shall identify and verify the identification of the foreign financial institutions with which they conduct correspondent banking relationships and shall:
 - (1) collect information on the nature of the foreign financial institution's activities;
 - (2) based on publicly available information, evaluate the foreign financial institution's reputation and nature of supervision to which it is subject;
 - (3) obtain approval from senior management before establishing a correspondent banking relationship;
 - (4) document the respective responsibilities and obligations of the foreign and domestic financial institution in respect of anti-money laundering and financing of terrorism;
 - (5) evaluate the measures implemented by the foreign financial institution with respect to anti-money laundering and financing of terrorism; and
 - (6) in the case of a payable-through account, ensure that the foreign financial institution has verified

its customer's identity, has implemented mechanisms for on-going monitoring with respect to its customers, and is capable of providing relevant identifying information on request.

- (l) If Reporting Entities cannot fulfil their obligation of due diligence described in paragraphs (a) through (g) of this section 16, they shall not establish or maintain the business relationship and, where appropriate, they shall make a report to the Financial Intelligence Unit in accordance with this law.
- (m) Financial institutions shall not keep anonymous accounts, or accounts in obviously fictitious names.

Special identification requirements

- 17.**
- (a) Identification shall not be required of insurance companies and insurance brokers in the case of pension insurance contracts entered into in connection with an employment contract or professional activity of the insured, provided that such contracts do not contain a surrender clause and cannot be used as collateral for a loan.
 - (b) Dealers in real estate shall identify the parties involved in transactions of buying or selling of real estate, in accordance with section 16.
 - (c) Dealers in precious metals and stones, and dealers in other high value goods, shall identify their customers in accordance with section 16 whenever receiving a cash payment in an amount equal to or above the amount prescribed in a regulation issued by Maldives Monetary Authority.
 - (d) Lawyers, notaries, accountants and other independent legal professionals shall identify the parties, in accordance with section 16 when they prepare for or carry out transactions for or on behalf of the parties, concerning the following activities:
 - (1) buying and selling of real estate;
 - (2) managing of client money, securities or other assets;
 - (3) management of bank account, savings account or securities account;
 - (4) funds for the creation, operation or management of companies and organization of other matters;

or

- (5) creation, operation or management of legal entity or arrangements, and buying and selling of business entities.
- (e) Independent accountants, auditors and tax advisers shall identify the parties, in accordance with section 16 when they prepare for or carry out transactions for or on behalf of the parties.
- (f) Trust and company service provider other than financial institutions providing the following services to third parties on a commercial basis shall identify the parties, in accordance with section 16:
 - (1) acting as a formation, registration or management agent of legal persons; or acting as director or secretary of a company or acting as a partner of a partnership; or acting as or arranging for another person to act as a similar position in relation to other legal persons;
 - (2) providing a registered office or business address, or office accommodation, correspondence or administrative address, for a company, a partnership or any other legal person or arrangement;
 - (3) acting as or arranging for another person to act as, a trustee of an express trust;
 - (4) acting as or arranging for another person to act as, a nominee shareholder of a company.

Obligations of persons providing money or value transfer services

- 18.** (a) Reporting Entities whose activities include money or value transfer services shall obtain and verify the following information of their customers. The information shall be included in the message or form accompanying the transfer. If there is no account number, a unique reference number shall be given for the transfer.
- (1) Full name;
 - (2) Address;
 - (3) National Identity number or passport number or the work permit number;
 - (4) Account number; and

- (5) When necessary the name of the financial institution of the originator of such transfers.
- (b) The institutions referred to in paragraph (a) of this section shall maintain all information stated in paragraph (a), when they act as intermediaries in a money or value transfer that involves three or more financial institutions.
- (c) The Maldives Monetary Authority may issue regulations regarding cross-border money or value transfers executed as batch transfers and domestic money or value transfers.
- (d) Paragraphs (a) and (b) of this section shall not apply to transfers executed as a result of credit card or debit card transactions, provided that the credit card or debit card number accompanies the transfer resulting from the transaction, nor shall they apply to transfers between financial institutions where both the originator and the beneficiary are financial institutions acting on their own behalf.
- (e) If the institutions referred to in paragraph (a) of this section receive money or value transfers that do not contain the complete originator information they shall take measures to obtain the missing information from the ordering institution or the beneficiary. Should they not obtain the missing information they shall refuse acceptance of the transfer and report it to the Financial Intelligence Unit.

Special monitoring of certain transactions

- 19. (a) Reporting Entities shall examine with particular care all usual, complex, unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose.
- (b) Reporting Entities shall maintain, in writing, information of the transactions specified in paragraph (a) of this section and the identity of all parties involved in such transactions. The information shall be maintained as specified in section 20 and shall be made available if requested by the Financial Intelligence Unit or a supervisory authority or investigative or law enforcement agencies.
- (c) Reporting Entities shall pay special attention to business relations and transactions with persons, including legal persons, residing in countries that do not apply the relevant international standards to combat money laundering and financing of terrorism.

The Financial Intelligence Unit shall provide information of such countries to the Reporting Entities.

Record keeping

- 20.** Reporting Entities shall maintain records on the following information and ensure that the records are maintained in such form that is readily available to the Financial Intelligence Unit, supervisory authorities, investigative and law enforcement agencies:
- (a) copies of documents evidencing the identities of customers, beneficial owners or agents, obtained in accordance with the provisions in this Chapter, document regarding business transactions, account files and other business correspondence, for at least 5 (five) years after the business relationship has ended, and
 - (b) information obtained in accordance with the provisions in this Chapter, to enable the reconstruction of transactions executed by customers, for at least 5 (five) years from the date of the transaction.

Programs to combat money laundering and financing of terrorism in Reporting Entities

- 21.** (a) Reporting Entities shall develop and implement internal programs for the prevention of money laundering and financing of terrorism. Such programs shall include the following:
- (1) internal policies, procedures and controls to ensure high standards when hiring employees, and appropriate compliance management arrangements and adequate screening procedures;
 - (2) on-going training for officials and employees to assist them in recognizing transactions and actions that may be linked to money laundering or financing of terrorism and instruct them in the procedures to be followed in such cases;
 - (3) internal audit arrangements to check conformity, compliance with and effectiveness of the measures taken to implement this law.
- (b) Reporting Entities shall designate a compliance officer at management level for implementation of this law within the institution.

Compliance with obligations by foreign subsidiaries and branches

- 22.** Financial institutions shall require their foreign subsidiaries and branches to implement the requirements of sections 16 through 21. If the laws of the country where the subsidiary or branch is situated hinder compliance with these obligations,

the financial institution shall so advise its supervisory authority.

CHAPTER FOUR

NON-PROFIT ORGANIZATIONS, MONEY OR VALUE TRANSFER SERVICE PROVIDERS, AND DESIGNATED NON-FINANCIAL BUSINESS AND PROFESSION

Non-profit organizations, money or value transfer service providers, and designated non-financial business and profession

23. (a) The Ministry of Home Affairs shall adequately monitor all non-profit organization that engages in receiving or transferring of money. The Minister of Home Affairs shall prescribe regulations to ensure that non-profit organizations are not misused for the purpose of the financing of terrorism.
- (b) The Maldives Monetary Authority shall monitor persons engaged in money or value transfer services.
- (c) Prior to operating as a money or value transfer service the Maldives Monetary Authority shall require the licensing of the money or value transfer service providers in accordance with the requirements and terms as prescribed by relevant regulations.
- (d) The Maldives Monetary Authority shall stipulate the main conditions of operation, and shall regularly supervise and carry out on-site examination, of the money or value transfer service providers.
- (e) No one may operate as a designated non-financial business and profession without prior registration by the respective competent authority in accordance with the specific requirements and terms prescribed by respective laws and regulations.

CHAPTER FIVE

OTHER PREVENTIVE MEASURES

Obligation to report transportation of cash or bearer negotiable instruments in and out of the Maldives

24. (a) Any natural person who enters or leaves the territory of the Maldives transporting cash or bearer negotiable instruments in an amount prescribed by the Maldives Monetary Authority, whether equal to or above such amount, shall report the said amount to the Maldives Customs Service.
- (b) Upon receipt of the information prescribed in paragraph (a) of this section it shall be immediately transmitted to the Financial Intelligence Unit by the

Maldives Customs Service.

- (c) The Maldives Customs Service shall have the power to seize the whole amount of the non-reported cash or bearer negotiable instruments if they are suspected to be related to an activity of money laundering or financing of terrorism, or if a false declaration is made under paragraph (a) of this section. The Maldives Customs Service shall also have the power to search the persons, and items under his care, of whose cash or negotiable instruments are subject to seizure under this provision.
- (d) The Maldives Customs Service shall adhere to the procedures prescribed in the Maldives Customs Act when conducting search under this section.
- (e) It is an obligation on the persons, to provide information of the cash and bearer negotiable instruments that are subject to seizure under paragraph (c) of this section, when inquired about the source of such cash and bearer negotiable instruments.
- (f) The Maldives Customs Service shall prescribe by a regulation issued pursuant to this Act, the procedures to impose administrative penalties for non-compliance with the reporting requirement under paragraph (a) of this section and the procedure to deal with the cash and negotiable instruments seized under paragraph (c) of this section.

CHAPTER SIX

DISCLOSURE OF INFORMATION OF FINANCIAL TRANSACTIONS

- | | | |
|--|------------|--|
| Prohibition on shell banks | 25. | <ul style="list-style-type: none">(a) No bank shall establish in the Maldives, unless it has a physical presence in the Maldives and has a licence issued by the Maldives Monetary Authority.(b) A Financial institution operating in the Maldives shall not enter into business relations with banks registered in jurisdictions where they are not physically present or are not being regulated by the competent regulatory authority. Banks shall terminate any such relationships that have established when this Act comes into effect. |
| Disclosure of information of legal persons and arrangements | 26. | <ul style="list-style-type: none">(a) Legal persons established in the Maldives shall maintain adequate, accurate and current information on their beneficial ownership and control structure.(b) Trust and company service providers shall obtain, |

verify and retain current information on the beneficial ownership and control structure of legal persons established in the Maldives.

- (c) Trust and company service providers shall obtain, verify and retain current information on the beneficial ownership and control of legal arrangements established in the Maldives, in particular the settlor, the trustee and the beneficiary of express trusts established in the Maldives.
- (d) The information required to maintain under paragraph (c) of this section shall also apply to the legal arrangements established in jurisdictions other than the Maldives which are administered by trust and company service providers established in Maldives.
- (e) The information referred in paragraphs (a) through (d) of this section shall be provided, by the institutions mentioned in these paragraphs, at the request of a Maldivian court of law, or supervisory authority or investigative authority or law enforcement authority or the Financial Intelligence Unit.

PART THREE

DETECTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM

CHAPTER SEVEN

FINANCIAL INTELLIGENCE UNIT

- Financial Intelligence Unit**
- 27.** (a) Upon the entry into force of this Act, a “Financial Intelligence Unit” shall be established, within the Maldives Monetary Authority. The unit shall be the central national agency for receiving, analysing and disseminating information concerning money laundering activities, terrorism financing activities and proceeds of crime.
- (b) The officer in charge of the Financial Intelligence Unit shall be appointed by the Governor.
- (c) The Financial Intelligence Unit shall:
- (1) receive reports made pursuant to this law, any information provided to the Financial Intelligence Unit by any agency of another country, and any information provided to the Financial Intelligence Unit by a law enforcement

authority or a government institution or any other person about suspicions of money laundering, financing of terrorism or proceeds of crime;

- (2) analyse and assess all reports and information stated in subparagraph (1) of this paragraph;
 - (3) carry out examinations of Reporting Entities;
 - (4) compile statistics, records and other information,
 - (5) issue guidelines to Reporting Entities in relation to customer identification, record keeping, the reporting obligations and the detection of suspicious transactions; and
 - (6) periodically provide feedback to Reporting Entities and other relevant agencies regarding outcomes of analysis relating to the reports or information provided pursuant to this Act;
- (d) The Financial Intelligence Unit has power to:
- (1) instruct Reporting Entities to take such steps as may be appropriate in relation to any information or report received by the Financial intelligence Unit to enforce compliance with this law, or to facilitate any investigation anticipated by the Financial Intelligence Unit, a law enforcement or an investigative agency;
 - (2) disseminate the information collected under paragraph (c) to the relevant authorities within the Maldives or elsewhere, and make recommendations pursuant to any information received;
 - (3) provide training programs for Reporting Entities in relation to customer identification, record keeping, reporting obligations and the detection of suspicious transactions;
 - (4) conduct research into trends and developments in the area of money laundering and the financing of terrorism and improved ways of detecting, preventing and deterring money laundering and the financing of terrorist activities; and
 - (5) educate the public on matters relating to money laundering and the financing of terrorism and conduct awareness programs.

- Access to information** **28.** (a) The Financial Intelligence Unit has the authority to collect from any legal entity or person any additional information it deems necessary pursuant to section 16, to carry out its functions in relation to any report it has received.
- (b) The Financial Intelligence Unit has the authority to access, review and analysis information onsite that belongs to or is in the custody of Reporting Entities, which is necessary to the fulfilment of its functions.
- (c) The Financial Intelligence Unit has the authority to collect any information that it considers relevant to money laundering, financing of terrorism, the proceeds of crime, whether or not publicly available, including information that is collected or maintained in databases and information that is stored in commercially available databases.
- (d) For purposes of this Act, the Financial Intelligence Unit has the authority to obtain information from any government agency, investigative agency, law enforcement agency and supervisory agency, including information that is collected, maintained or stored in databases maintained by the government.
- (e) If the Financial Intelligence Unit requests to provide information under paragraphs (a), (c) and (d) of this section, it shall be provided within the time limits and in the form specified by the Financial Intelligence Unit.
- (f) Notwithstanding any provision of another law, the Financial Intelligence Unit, supervisory authorities and law enforcement authorities may cooperate with and exchange information relating to money laundering, terrorist financing or proceeds of crime pursuant to an agreement or other arrangement between and among them.
- (g) Where a request received from a foreign financial intelligence unit for any information referred to in paragraphs (a), (b), (c) and (d), the necessary actions to collect or obtain such information shall be carried by the Financial Intelligence Unit.
- Action taken regarding suspicious transaction reports** **29.** (a) Whenever the Financial Intelligence Unit suspects that any information it has received is related to money laundering, financing of terrorism or proceeds of crime, it shall forward the relevant information to the relevant law enforcement or investigative authority,

which shall decide upon further action. The identity of the Reporting Entity shall not appear in the report.

- (b) Whenever the Financial Intelligence Unit determines that a Reporting Entity is not complying or has not complied with the obligations set out in this Act, it shall inform the relevant supervisory authority accordingly.

Organization

- 30. The Financial Intelligence Unit established under section 27 shall have independent decision making authority over matters within its responsibility and autonomy over the use of its budget.

Staffing

- 31. The employees of the Financial Intelligence Unit shall be appointed by the Governor. The employees shall be competent to carry out the duties and responsibilities of their office.

No conflict of interest

- 32. (a) The officer in charge and other staff of the Financial Intelligence Unit may not concurrently hold a position in any of the Reporting Entities referred to in this Act.
- (b) The officer in charge and other staff of the Financial Intelligence Unit may not hold any kind of office, or undertake an assignment or perform an activity that might affect the independence of their position.

Reports submitted to the Financial Intelligence Unit

- 33. (a) The reports required of Reporting Entities under this Act shall be in writing and shall be sent to the Financial Intelligence Unit by a secure and rapid means of communication and in the manner prescribed by the Financial Intelligence Unit.
- (b) The reports submitted to the Financial Intelligence Unit pursuant to this Act or any regulation issued pursuant to it shall, at a minimum, contain:
 - (1) full particulars of the Reporting Entity with the name and contact details of the reporting officer;
 - (2) full particulars of the customer and, where applicable, of the beneficiary involved in the transaction;
 - (3) the type, amount, currency and date of the transaction, and account numbers of parties involved in the transaction; and
 - (4) a description of the circumstances and reasons that justify the suspicion.

- (c) The Financial Intelligence Unit shall prescribe the manner and forms for reporting for the purposes of this Act and shall inform Reporting Entities of its requirements.
- Database of the Financial Intelligence Unit** **34.** (a) The Financial Intelligence Unit shall, in conformity with the laws and regulations on the protection of privacy, confidentiality and computerized databases, establish and maintain a database.
- (b) The database established under paragraph (a) of this section shall contain all relevant information concerning suspicion transaction reports and other information as provided under this Act and in compliance with the laws mentioned in paragraph (a). In addition, the information of suspicious transactions carried out and the persons undertaking the operations, whether directly or through intermediaries shall also be maintained on this database.
- Annual Report** **35.** The Financial Intelligence Unit shall prepare and publish an annual report for its activities during the past year. This report shall include information on overall professional analysis and evaluation of the reports received and on trends of money laundering and financing of terrorism. This report shall be submitted to the supervisory authorities, law enforcement authorities, investigating authorities and other relevant authorities.
- Operating budget** **36.** Each year, the Financial Intelligence Unit shall, in accordance with standards set by the Governor, prepare its annual budget for the following year and shall submit it to the Maldives Monetary Authority.
- Confidentiality** **37.** The senior officers, staff, experts, consultants of Financial Intelligence Unit and any other person having access to the Financial Intelligence Unit's information shall be required to keep confidential any information obtained within the scope of their duties, during and even after the cessation of those duties. Any information they receive while exercising their duties may only be used as provided for by this Act.
- Relations with foreign agencies** **38.** (a) The Financial Intelligence Unit may, on its own initiative or upon request, share information with any foreign counterpart agency that performs similar functions and is subject to similar secrecy obligations provided in section 37, as agreed by both parties, regardless of the nature of the agency.
- (b) Pursuant to paragraph (a) of this section, the information shall be shared under an agreement or

arrangement entered with such foreign counterpart agency.

- (c) The information exchanged under paragraph (a) of this section by either agency shall be used only for the purposes of combating money laundering, predicate offences and financing of terrorism and only with the consent of the agency which provided the information.

CHAPTER EIGHT

REPORTING OF SUSPICIOUS TRANSACTIONS

**Obligation to report
suspicious
transactions**

- 39.** (a) Reporting Entities that suspect or have grounds to suspect that funds or property are the proceeds of crime, or are related to money laundering or the financing of terrorism, are required to submit a report setting forth their suspicions to the Financial Intelligence Unit, as soon as practicable and not later than 3 (three) working days after forming such suspicion or grounds for suspicion.
- (b) Notwithstanding paragraph (a) of this section, lawyers, notaries, other independent legal professionals, and accountants, auditors and tax advisers have no obligation to report information they receive from or obtain on a client, in the course of a judicial proceeding or representing that client in judicial proceedings, including legal advice on instituting proceedings, whether such information is received or obtained before, during or after such proceedings.
- (c) Dealers in high value goods such as dealers in precious metals and dealers in precious stones shall report suspicious transactions to the Financial Intelligence Unit when they engage in any cash transaction in an amount equal to or above the amount prescribed by the Maldives Monetary Authority, whether in foreign currency.
- (d) Dealers in real estate shall report as a suspicious transaction to the Financial Intelligence Unit when involved in transactions for their client concerning the buying or selling of real estate.

- (e) The Financial Intelligence Unit shall issue and publish, regulations on the procedures and form in which the reports shall be submitted pursuant to this section.
- Cash transaction Reporting** **40.** (a) Reporting Entities shall report to the Financial Intelligence Unit cash or currency transactions, domestic and international, in an amount equal to or above or its equivalent in foreign currency as prescribed in regulations made pursuant to this Act by the Maldives Monetary Authority, whether conducted as a single transaction or several transactions that appear to be linked.
- (b) The Financial Intelligence Unit shall issue and publish regulations on the procedures and form in which the reports stated in paragraph (a) of this section shall be submitted.
- International Fund Transfer reporting** **41.** (a) Reporting Entities shall report to the Financial Intelligence Unit any international funds transfer whether conducted as a single transaction or several transactions that appear to be linked.
- (b) The Financial Intelligence Unit shall issue and publish regulations on the procedures and form in which the reports pursuant to this section shall be submitted.
- Postponing of transactions** **42.** (a) Reporting Entities shall inform the Financial Intelligence Unit, any transaction which they suspect to be related to money laundering or financing of terrorism or the proceeds of crime, and such transaction shall be carried out on the instructions provided by the Financial Intelligence Unit under paragraph (b) of this section.
- (b) If, by reason of the seriousness or urgency of the case, the Financial Intelligence Unit considers necessary, it may order the suspension of a transaction reported under paragraph (a) this section for a period not to exceed 72 (seventy two) hours.
- (c) Where refraining from carrying out the transactions set out in paragraph (a) of this section is impossible or is likely to frustrate the efforts to identify the beneficiary of a suspected transaction, the Reporting Entities can execute the transaction and shall inform the Financial Intelligence Unit immediately afterwards.
- Prohibition against tipping off** **43.** A Reporting Entity, its director, officer and employee, shall not disclose to its customers or a third party that information of a customer is being, was or will be provided to the

Financial Intelligence Unit, or that a report concerning money laundering or financing of terrorism is being, was or will be submitted to the Financial Intelligence Unit, or that a money laundering or financing of terrorism investigation is being carried on or will be carried out.

CHAPTER NINE EXEMPTION FROM LIABILITY

Exemption from liability for good faith reporting suspicious transactions

44. No criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract may be instituted against Reporting Entities or their directors, officers or employees who in good faith submit reports or provide information in accordance with the provisions of this Act.

Exemption from liability for executing transactions

45. (a) No criminal action for money laundering and financing of terrorism shall be brought against Reporting Entities, or their directors, officers or employees in connection with the execution of a suspicious transaction where a suspicious transaction report was made in good faith in accordance with sections 39, 40, 41 and 42.
- (b) The exemption from liability provided in this section shall apply if a person carries out a transaction at the request of the law enforcement authorities, acting in the manner specified in sections 27(d)(1) and 44.

CHAPTER TEN RESPONSIBILITIES OF SUPERVISORY AUTHORITIES

General provisions on supervisory authorities of reporting entities

46. (a) The competent authorities responsible for supervising or regulating the Reporting Entities shall supervise compliance by Reporting Entities with the requirements set forth in Part Two of this Act.
- (b) In accordance with the provisions of this Act, the supervisory or regulatory authority of the Reporting Entities or the competent authority shall:
- (1) adopt necessary legal or regulatory measures to prevent any person who is unsuitable based on the use of relevant criteria as part of a fit and proper test relating to, among other things, integrity of the individual, professional qualifications, experience and skills, and , mental

condition, adherence to licensing and professional standards, and criminal record, from controlling, or participating, directly or indirectly, in the directorship, management or operation of Reporting Entities;

- (2) examine and supervise the Reporting Entities, and regulate and oversee effective compliance with the record-keeping and reporting obligations specified in this Act;
- (3) monitor whether the Reporting Entities have developed and implemented the internal programs provided in section 21 of this Act;
- (4) issue instructions, policies and procedures to assist the Reporting Entities in detecting suspicious patterns of behaviour among their customers;
- (5) share information promptly with other competent authorities, domestic and foreign, and provide assistance in investigations or judicial proceedings relating to money laundering and financing of terrorism;
- (6) impose requirements that the Reporting Entities should ensure that their foreign branches and subsidiaries adopt and enforce measures consistent with this Act to the extent that local laws and regulations so permit, and where the foreign branch or subsidiary is unable to adopt and observe these measures, to report the matter to their designated supervisory or regulatory authority or any other competent authorities;
- (7) report to the Financial Intelligence Unit, as soon as practicable but not later than 3 (three) working days after receiving any information concerning transactions or activities (including suspicious transactions or activities) relating to money laundering, financing of terrorism or proceeds of crimes;
- (8) cooperate with agencies performing similar functions in other countries in investigations or judicial proceedings relating to money laundering, financing of terrorism and violations of the laws and regulations dealing with Reporting Entities; and

- (9) maintain statistics concerning measures adopted and sanctions imposed in the context of enforcing this Chapter.

Role of supervisory authorities

- 47.** (a) Any supervisory or regulatory authority or other competent authority may take any one or more of the following measures or penalties, in case where it determines that a Reporting Entity has violated any provision of Part Two and Part Three:
- (1) written warnings;
 - (2) order to comply with specific instructions;
 - (3) ordering regular reports from the Reporting Entity on the measures it is taking to comply with its obligations;
 - (4) fine in an amount between 10,000 (ten thousand) Maldivian Rufiyaa and 500,000 (five hundred thousand) Maldivian Rufiyaa;
 - (5) barring employment within the sector;
 - (6) restricting the powers of or replacing managers, directors or controlling shareholders, including the appointing of an ad hoc administrator; or
 - (7) suspending or revoking the license issued to the Reporting Entity.
- (b) The supervisory or regulatory authority or competent authority shall inform the Financial Intelligence Unit as to the measures or penalties taken against a Reporting Entity pursuant to this section and shall publish such measures and penalties.
- (c) Any supervisory or regulatory authority or competent authority that determines money laundering or financing of terrorism from the information received, shall so inform the Financial Intelligence Unit.

CHAPTER ELEVEN

EXEMPTION FROM BANKING SECRECY AND PROFESSIONAL PRIVILEGE

Prohibition against invoking bank secrecy and professional privilege

- 48.** Bank secrecy or professional privilege shall not be invoked as a ground not to comply with the obligations under this Act when the information is requested, or the production of a related document is ordered, by the Financial Intelligence

Unit, Court of Law, supervisory authorities, law enforcement or investigative agencies in accordance with this Act.

PART FOUR PART ON INVESTIGATION

CHAPTER TWELVE INVESTIGATION

Investigative techniques

- 49.** (a) For the purpose of obtaining evidence of money laundering and terrorist financing and tracing proceeds of crime, a competent court of law may order, for a specific period of time:
- (1) the monitoring of bank accounts and other similar accounts;
 - (2) access to computer systems, networks and servers;
 - (3) the placing under surveillance or tapping of telephone lines, facsimile machines or electronic transmission or communication facilities;
 - (4) the audio or video recording of acts and behaviour or conversations;
 - (5) the interception or seizure of correspondence.
- (b) The techniques stipulated in paragraph (a) of this section shall be subject to their respective laws, and shall only be used when there are serious indications that such accounts, telephone lines, computer systems and networks or documents are or may be used by persons suspected of participating in an activity of money laundering and financing of terrorism

Undercover operations and controlled delivery

- 50.** (a) No punishment may be imposed on officials competent to investigate money laundering and financing of terrorism who, for the purpose of obtaining evidence relating to these offences or the tracing of proceeds of crime, perform acts which might be construed as of money laundering and financing of terrorism in connection with carrying out an undercover operation or a controlled delivery.
- (b) The designated investigative officials shall not induce the suspect to commit any offences.

- (c) The authorization of the Commissioner of Police shall be obtained prior to initiating any operation as described in paragraph (a) of this section.

PART FIVE PENALTIES AND PROVISIONAL MEASURES

CHAPTER THIRTEEN PROVISIONAL MEASURES AND FREEZING AND SEIZING OF FUNDS AND PROPERTIES

- Provisional measures** **51.** (a) Law enforcement agencies have authority to impose provisional measures on funds and property that may be subject to confiscation by the State pursuant to section 62.
- (b) The provisional measures stated in paragraph (a) of this section include seizing funds or property for a specified period or freezing funds or property, by an order of a court of law.
 - (c) Any provisional measure imposed pursuant to paragraph (a) of this section including the seizure or freezing of funds or property shall be applied without prejudice to the rights of third parties acting in good faith.
 - (d) The funds or property frozen under this section shall be managed by the financial institution with which the fund or property is held or by any other party designated caretaker at the time of ordering to freeze the fund or property.
 - (e) The funds or property seized pursuant to this section shall be managed by the competent authority designated in the order of the court of law.
 - (f) The provisional measures may be lifted at any time by the agency that obtained a court order pursuant to paragraph (a) of this section.
 - (g) A suspect or a person claiming rights to the fund or property may apply to the court to lift such measures taken pursuant to paragraph (a) of this section.
 - (h) It is the duty of the agency that obtained a court order pursuant to paragraph (a) of this section to retain funds, property and instrumentalities seized pursuant to this

section safely until such funds, property or instrumentalities are confiscated to the State or until the provisional measures are lifted.

**Actions to be taken
against funds
associated with
financing of terrorism**

- 52.** (a) The Ministry of Foreign Affairs shall send the list of persons designated by the United Nations Security Council acting pursuant to Chapter VII of the United Nations Charter to the Financial Intelligence Unit.
- (b) Where the Ministry of Foreign Affairs receives information from a foreign jurisdiction, pursuant to the United Nations Security Council Resolution 1373, that certain individuals or entities are designated as terrorists or terrorist organizations, or designated by the foreign jurisdiction as providing assistance, directly or indirectly to such terrorist or terrorist organization, the Ministry shall provide the list including such information to the Financial Intelligence Unit as soon as possible.
- (c) The Financial Intelligence Unit shall instruct Reporting Entities to freeze the funds or property of persons on the list submitted to it by the Ministry of Foreign Affairs under paragraph (a) of this section. Reporting Entities holding funds of such persons shall immediately freeze the funds on the receipt of such instruction.
- (d) The Financial Intelligence Unit may instruct Reporting Entities to freeze the funds or property of persons on the list submitted to it by the Ministry of Foreign Affairs under paragraph (b) of this section. Reporting Entities holding funds or property of such persons shall immediately freeze the funds on the receipt of such instruction.
- (e) The Reporting Entities shall report without delay to the Financial Intelligence Unit the existence of funds or property in their care, linked to terrorists, terrorist organizations or individuals or entities associated with such individuals or organizations in accordance with the lists provided to the Financial Intelligence Unit by the Ministry of Foreign Affairs pursuant to paragraphs (a) or (b) of this section.
- (f) Failure to comply with the provisions of paragraph (d) and (e) of this section by a Reporting Entity, shall be punishable by a fine between 10,000.00 (ten thousand) Maldivian Rufiyaa and 150,000.00 (one hundred thousand) Maldivian Rufiyaa.

- (g) Any person whose funds have been frozen pursuant to paragraph (d) of this section and who considers its inclusion on the list designated by the United Nations Security Council to be the results of error may request the release of the funds or property and to remove its name from the list, to the Financial Intelligence Unit, within 29 days following the freeze instruction.

CHAPTER FOURTEEN OFFENCES AND PENALTIES

Offence of money laundering

- 53.** (a) Commission of any activity or an act within the meaning of money laundering under section 5 of this Act is an offence.
- (b) A person who commits the offence specified in paragraph (a) of this section is liable to pay a fine between 100,000 (one hundred thousand) Maldivian Rufiyaa and 1,000,000 (one million) Maldivian Rufiyaa with imprisonment between 5 (five) years and 15 (fifteen) years, or to pay a fine not exceeding 5 (five) times the amount of the laundered funds with imprisonment between 5 (five) years and 15 (fifteen) years.
- (c) An attempt to commit the offence specified in paragraph (a) of this section or aiding, abetting, facilitating or counselling the commission of such offence shall be an offence.
- (d) A person who commits the offence specified in paragraph (c) of this section is liable to pay a fine between 50,000 (fifty thousand) Maldivian Rufiyaa and 500,000 (five hundred thousand) Maldivian Rufiyaa with imprisonment between 2 (two) years and 10 (ten) years or to pay a fine not exceeding 5 (five) times the amount of the laundered funds with imprisonment between 2 (two) years and 10 (ten) years.

Offence of financing of terrorism

- 54.** (a) Financing of terrorism defined in section 6 shall be an offence.
- (b) It shall also be an offence to:
- (1) participate in financing of terrorism.
 - (2) organise or direct others to commit an offence within the meaning of terrorism financing.

- (3) provide financial assistance to any person who acts with the intention of financing of terrorism. The following shall be considered as providing financial assistance:-
 - (aa) where the assistance is made with the intention to further the activity of financing of terrorism; or
 - (bb) where the assistance is made knowing the intention of the person is to commit the offence of financing of terrorism.
- (c) A person who commits the offence specified in paragraph (a) of this section is liable to pay a fine between 100,000 (one hundred thousand) Maldivian Rufiyaa and 1,000,000 (one million) Maldivian Rufiyaa or imprisonment between 5 (five) years and 15 (fifteen) years or both these penalties of fine and imprisonment.
- (d) An attempt to commit the offence of financing of terrorism or aiding, abetting, facilitating or counselling the commission of any such offence shall be an offence and shall be treated as if the offence had been completed.
- (e) A person who commits an offence specified in paragraphs (b) and (d) of this section is liable to pay a fine between 50,000 (fifty thousand) Maldivian Rufiyaa and 500,000 (five hundred thousand) Maldivian Rufiyaa or imprisonment between 2 (two) years and 10 (ten) years.

Association or conspiracy to commit money laundering and financing of terrorism

- 55.** Participation in, association with or conspiracy to commit an offence referred to in sections 53 and 54 shall be an offence and shall be punishable by a fine between 50,000 (fifty thousand) Maldivian Rufiyaa and 500,000 (five hundred thousand) Maldivian Rufiyaa or imprisonment between 2 (two) years and 10 (ten) years or both these penalties of fine and imprisonment.

Offence committed outside Maldives

- 56.** (a) A Maldivian national, who commits any of the offences listed in this Act, outside the territory of Maldives, shall be guilty of an offence. The penalty for such offence shall be the penalty provided under this Act as if it had been committed within the territory of Maldives.
- (b) Notwithstanding paragraph (a) of this section, a Maldivian national, who commits any of the offences

listed in this Act, outside the territory of Maldives, shall be prosecuted in Maldives, only if he has not been prosecuted and convicted under the laws of the country where he committed the offence.

General offences

- 57.** (a) Unless otherwise provided for under this Act, any person who fails to comply with the provisions of this Act shall be liable to pay a fine between 10,000 (ten thousand) Maldivian Rufiyaa and 500,000 (five hundred thousand) Maldivian Rufiyaa or imprisonment between 1 (one) year and 10 (ten) years or both these penalties of fine and imprisonment.
- (b) Any person who knowingly or intentionally and repeatedly conducts transactions or transfers that are of an amount below the reporting thresholds set out in this Act, with the purpose of ensuring, that no report in relation to the transactions or transfers would be made under this Act commits an offence.
- (c) A person who commits the offence referred to in paragraph (b) of this section shall be liable to pay a fine between 10,000 (ten thousand) Maldivian Rufiyaa and 1,000,000 (one million) Maldivian Rufiyaa.

Penalties applicable to legal persons

- 58.** (a) Any legal person who commits an offence under this Act, shall be punished by a fine of an amount equal to 2 (two) times the fines specified in this Act for natural persons.
- (b) A legal person shall be held liable where the lack of supervision over a natural person, who has a power of representation of the legal person or who has a leading position within it, has made possible the commission of money laundering or financing of terrorism for the benefit of that legal person by a natural person acting under its authority, and such legal person shall be liable to pay a fine of an amount equal to 2 (two) times the fines specified in this Act for natural persons.
- (c) In addition to the penalties provided in paragraphs (a) and (b) of this section, the following penalties may also be imposed on such legal persons:
- (1) barred permanently or for a specific period from directly or indirectly carrying on certain business activities;
 - (2) placed under court supervision;

- (3) barred permanently or for a specific period from using the place used in the commission of the offence;
- (4) wound up if they had been established for the purpose of committing the offence in question;
- (5) publication of the judgement against the legal person.

(d) For the purposes of subparagraph (c) (3) of this section, “place” shall include land and other places, vehicles, vessels, and aircrafts.

Aggravating circumstances for money laundering

59. Under any of the following circumstance, the court may increase the penalties imposed under sections 53 and 55 of this Act, by adding 2 (two) more years of imprisonment. In addition, the court may increase the fine by an amount not exceeding 2 (two) times the amount of the laundered funds. The court may also increase the fine provided for in section 58 by an amount not exceeding 2 (two) times the amount of the laundered funds:

- (a) if the predicate offence carries a penalty of imprisonment for a term exceeding that specified in the foregoing provisions relating to money laundering;
- (b) if the offence is perpetrated in the pursuit of a trade or occupation that provides a benefit;
- (c) if the offence is perpetrated as part of the activities of an organized criminal group;
- (d) if the amount of property laundered is more than 500,000 (five hundred thousand) Maldivian Rufiyaa;
- (e) if the purpose is to make profit;
- (f) if the purpose is to promote the carrying on of further criminal activity.

Aggravating circumstances for financing of terrorism

60. Under any of the following circumstance, the court may increase the penalties imposed under sections 54 and 55, by adding 2 (two) more years of imprisonment or increasing the fine by an additional 150,000 (one hundred and fifty thousand) Maldivian Rufiyaa; or increasing both penalties of imprisonment and the fine by the aforementioned amounts. The court may also increase the fine provided for in section 58 by 150,000 (one hundred and fifty thousand) Maldivian Rufiyaa;

- (a) if the offence is perpetrated in the pursuit of a trade or occupation that provides a benefit;
 - (b) if the offence is perpetrated as part of the activities of an organized criminal group.
- Mitigating circumstances**
- 61.** (a) The provisions of national law relating to mitigating circumstances in general shall apply to the offences established under this Act.
- (b) The penalties provided in sections 54 and 55, may be reduced by the court if the perpetrator of the offence provides the competent law enforcement authority, with information it would not have otherwise obtained and the information would assist in:
- (1) preventing or limiting the effects of the offence;
 - (2) identifying other perpetrators of the offence;
 - (3) obtaining evidence;
 - (4) providing information for preventing other money laundering or terrorist financing offences;
 - (5) depriving organized criminal groups of their resources or their proceeds of crime.

CHAPTER FIFTEEN

CONFISCATION BY THE STATE

- Confiscation by the State**
- 62.** (a) With respect to money laundering or predicate offence and financing of terrorism or an attempt to commit such offences, a court shall issue an order for confiscation of:
- (1) laundered funds or property;
 - (2) the instrumentalities used in the commission of a predicate offence;
 - (3) the proceeds of crime, or funds and property derived from proceeds of crime;
 - (4) the intended proceeds of crime or proceeds of crime;
 - (5) the instrumentalities;

- (6) funds or property with which proceeds of crime have been intermingled;
 - (7) property derived directly or indirectly from proceeds of crime, including income, profits or other benefits from the proceeds of crime.
- (b) A confiscation order pursuant to paragraph (a) of this section shall be made against the person to whom the funds or property may belong, unless their owner can establish that he acquired them by actually paying a fair price or in return for the provision of services corresponding to their value or on any other legitimate grounds and that he was unaware of their illicit origin.
 - (c) The confiscation order shall specify full information of the funds and property concerned, with sufficient details to identify and locate them.
- Invalidation of certain legal instruments** **63.** (a) The court may invalidate any legal instrument the purpose of which is to avoid the confiscation by the State of property pursuant to section 62.
- (b) If the invalidated instrument under paragraph (a) of this section was entered into for value the acquiring party acting in good faith shall be reimbursed only for the amount actually paid.
- Disposal of confiscated property** **64.** (a) Unless otherwise provided for in this Act, confiscated funds or property shall be held in the full custody of the person applying for the confiscation order.
- (b) The funds and property specified in paragraph (a) of this section shall remain encumbered, up to their value, by any rights lawfully established in favour of third parties acting in good faith.
 - (c) The manner in which how the confiscated funds and property are dealt with shall be specified in a regulation issued under this Act.

PART SIX
ESTABLISHING AND MAINTAINING INTERNATIONAL COOPERATION

CHAPTER SIXTEEN
GENERAL PROVISIONS

- General Provisions** **65.** (a) The competent authorities shall provide the widest possible range of cooperation to the competent

authorities of other countries for purposes of extradition and mutual legal assistance in connection with criminal investigations and judicial proceedings related to money laundering and financing of terrorism.

- (b) Provisions of this Part shall not affect the obligations under any laws of the Maldives, treaties, multilateral or bilateral, that govern or will govern, in whole or in part, mutual legal assistance and extradition matters.

CHAPTER SEVENTEEN

SECURITY MEASURES CONCERNING FINANCING OF TERRORISM

- Investigation of facts** **66.** Where competent authorities are informed that the perpetrator or alleged perpetrator of a financing of terrorism offence may be present within the jurisdiction of Maldives, the competent authorities shall take the necessary steps to investigate the case.
- Security measures** **67.** The competent authorities shall take appropriate measures to ensure the presence of persons mentioned in section 66 for the purpose of prosecution or extradition.
- Right of persons
subject to security
measures** **68.** Any person subject to the measures provided for by section 67 shall be entitled to:
- (a) communicate as soon as practicable with the nearest appropriate representative of the country of which he is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the country of which that person habitually resides;
 - (b) be visited by a representative of the country mentioned in subsection (a) of this section;
 - (c) be informed of his rights under paragraphs (a) and (b) of this section;
 - (d) be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with applicable provisions of national law and international treaties.
- Notice to interested
foreign countries** **69.** In the event a person subject to investigation under this Act is placed under detention, the competent authorities shall, as soon as possible, give notice of such detention and the circumstances serving to justify it to the countries asserting jurisdiction over the offence and, if it deems it appropriate, to all other interested States, either directly or through the Secretary-General of the United Nations.

CHAPTER EIGHTEEN
EXTRADITION AND MUTUAL LEGAL ASSISTANCE

- | | |
|--|--|
| Request for extradition | <p>70. (a) Money laundering and financing of terrorism shall be extraditable offences.</p> <p>(b) Execution of extradition requests related to money laundering and financing of terrorism offences shall be subject to applicable extradition laws of Maldives and the procedures and principles set forth in international treaties to which Maldives is a party to.</p> |
| Dual criminality | <p>71. Extradition requests based on a money laundering or terrorist financing offence shall be carried out only if the offence is provided for under the legislation of the requesting country and of the Maldives.</p> |
| Political nature of offences | <p>72. For the purposes of this law, money laundering and financing of terrorism shall not be regarded as political offences, or offences connected with a political offence, or offences inspired by political motives.</p> |
| Transmission and processing of requests | <p>73. (a) Mutual legal assistance requests by competent foreign authorities with respect to money laundering and financing of terrorism offences shall be made and executed in accordance with the applicable laws on exchanging mutual legal assistance in criminal matters.</p> <p>(b) Notwithstanding paragraph (a) of this section, unless provided otherwise in the laws referred to in paragraph (a) of this section or in any other applicable law, this provision does not impede exchanging mutual legal assistance on money laundering and financing of terrorism matters by relevant authorities, in accordance to an agreement or treaty entered with a foreign country or a foreign organisation.</p> |

PART SEVEN
MISCELLANEOUS

CHAPTER NINETEEN
GENERAL PROVISIONS

Administrative sanctions for non-compliance

- 74.** The Financial Intelligence Unit may impose any of the following administrative penalties, against any person who fails to comply with the provisions of this Act or of any regulations issued under this Act;
- (a) issue a warning in writing to comply within a specified period;
 - (b) impose a fine between 10,000 (ten thousand) Maldivian Rufiyaa and 500,000 (five hundred thousand) Maldivian Rufiyaa;
 - (c) if fails to comply within the specified period, impose a fine of amount between 10,000 (ten thousand) Maldivian Rufiyaa and 100,000 (one hundred thousand) Maldivian Rufiyaa on daily basis until compliance is obtained.

Regulations

- 75.** (a) For the proper execution of the provisions of this Act, the following authorities have the power to issue the following regulations.
- (1) The regulations assigned to be issued by the Ministry of Home Affairs, shall be issued by it.
 - (2) The regulations assigned to be issued by the Maldives Customs Service shall be issued by the Maldives Customs Service.
 - (3) The regulations on any other matter, other than those related to the authorities referred to in paragraph (1) and (2) shall be made and administered by the Maldives Monetary Authority.
- (b) The regulations to be made pursuant to this Act shall be made and published by the relevant authorities within 3 (three) months from the date of this Act coming into effect.
- (c) Notwithstanding paragraph (b) of this section, in addition to the regulations that are required to be issued at the time of this Act being effective, the Maldives Monetary Authority has the power to issue and administer regulations within the ambit of this Act for its administration. The Maldives Monetary Authority may issue directives and orders in individual cases.

Entry into force

- 76.** This Act shall come into effect from the date of 6 (six) month after the ratification and publication of the Act in the

Government Gazette.

Definitions

77. Unless the context otherwise requires, the following words and terms shall have the following meanings.

- (a) “Beneficial owner” means the natural person who ultimately controls a customer, or the person on whose behalf a transaction is being conducted, or the person who exercises ultimate effective control over a legal person or arrangement.
- (b) “Confiscation by the State” shall mean the permanent deprivation of property by order of a court.
- (c) “Designated non-financial businesses or professions” shall mean:
 - (1) Dealers in real estate;
 - (2) Dealers in high value goods, such as dealers in precious metals and dealers in precious stones;
 - (3) Lawyers, notaries and other independent legal professionals who prepare for or carry out transactions for their client concerning the following activities:
 - (aa) buying and selling of real estate;
 - (bb) managing of money, securities or other assets;
 - (cc) management of bank, savings or securities accounts;
 - (dd) organization of contributions for the creation, operation or management of companies; or
 - (ee) creation, operation or management of legal persons or arrangements, and buying and selling of business entities.;
 - (4) Independent accountants, auditors and tax advisers;
 - (5) Trust and company service providers other than financial institutions providing the following services to third parties on a commercial basis:
 - (aa) acting as a formation, registration or management agent of legal persons,

acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;

(bb) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;

(cc) acting as, or arranging for another person to act as, a trustee of an express trust;

(dd) acting as, or arranging for another person to act as, a nominee shareholder for another person.

(6) Such other businesses and professions as may be designated by the Governor.

(d) “Financial institution” shall have the same definition as defined in the Maldives Monetary Authority Act 1981.

(e) “Reporting Entities” shall mean:

(1) financial institutions;

(2) designated non-financial businesses or professions;

(3) any person or legal entity who conducts as a business one or more of the activities or transactions listed below for or on behalf of a customer:

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

(bb) lending, including consumer credit, mortgage credit, factoring with or without recourse and finance of commercial transactions;

(cc) financial leasing;

(dd) transfer of money or value;

(ee) issuance and management of means of

- payment;
 - (ff) financial guarantees and commitments
 - (gg) trading in:
 - (i) money market instruments (such as cheques, bills, certificates of deposit and derivative products);
 - (ii) foreign currency;
 - (iii) exchange, interest rate and index instruments;
 - (iv) transferable securities;
 - (v) commodity futures trading;
 - (hh) participation in securities issues and the provision of financial services related to such issues;
 - (ii) individual and collective portfolio management;
 - (jj) safekeeping and administration of cash or liquid securities on behalf of other persons;
 - (kk) otherwise investing, administering or managing funds or money on behalf of other persons;
 - (mm) underwriting and placement of life insurance and other investment related insurance by insurance firms or brokers; and
 - (nn) money or currency changing.
- (f) “Freezing” shall mean prohibiting the transfer, conversion, disposition or movement of funds or other property on the basis of, and for the duration of the validity of, an order issued by a court of law or other competent authority.
- (g) “Governor” shall mean the Governor of the Maldives Monetary Authority.
- (h) “Bearer negotiable instruments” shall mean negotiable instruments such as bank cheques, travellers cheques,

promissory notes and money orders in any of the following forms:

- (1) negotiable instruments that are endorsed without restriction, or made out to a fictitious payee, or negotiable instruments in such form that title thereto passes upon delivery;
 - (2) signed incomplete bearer negotiable instruments ;
 - (3) negotiable instruments that can be endorsed by the bearer and without the payee's name.
- (i) "Negotiable instrument" shall mean any instrument that can be exchanged as money, and for which the attached rights can be easily transferred, and can be traded. For the purposes of this Act, it shall include cheques, promissory notes, money orders, travellers' cheques and other similar instruments.
 - (j) "Endorsing" shall have the same definition provided in Law No. 16/95 (Negotiable Instruments Act).
 - (k) "Batch transfer" shall mean a transfer comprised of a number of individual wire transfers that are being sent to the same financial institution, but may/may not be ultimately intended for different persons.
 - (l) "Information" includes any kind of data and documents.
 - (m) "Payable-through account" shall mean correspondent accounts used directly by a third party to transact business on their own behalf.
 - (n) "Politically exposed person" shall mean any person who is or has been entrusted with prominent public functions in the Maldives or any foreign country as well as members of such person's family or those closely associated with him/her.
 - (o) "Money or value transfer service" shall mean to accept cash, cheques or any other monetary instrument or other stores of value, and to pay a corresponding sum in cash or in other form to a beneficiary, by means of communication, message, transfer or through a clearing system to which the money or value transfer service belongs.
 - (p) "Seizing" shall mean prohibiting the transfer, conversion, disposition or movement of funds or other

property, by an order of a court of law or other competent authority.

- (q) “Undercover operations” shall mean actions by a law enforcement officer in engaging in ongoing relationships, under fictitious identity, with one or more persons as to whom there are serious indications that they are committing or will commit offences.
- (r) “Extradition” shall have the same definition as provided in the relevant Maldivian laws on extradition.
- (s) “Notary” shall mean any person legally authorized to witness and sign that contracts, deeds, form or affidavit statements are certified as valid or true.
- (t) “Insider trading” shall mean the offence stipulated in section 54 of the Law No. 2/2006 (Maldives Securities Act) and any offence that is designated as the offence of insider trading under any other law.