

BELIZE:

**MONEY LAUNDERING AND TERRORISM (PREVENTION)
(AMENDMENT) ACT, 2014**

ARRANGEMENT OF SECTIONS

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No. 7 of 2014

I assent,

(SIR COLVILLE N. YOUNG)
Governor-General

7th February, 2014.

AN ACT to amend the Money Laundering and Terrorism (Prevention) Act, No 18 of 2008, to provide for measures to ensure compliance with international standards and obligations in relation to money laundering and terrorist financing; and to provide for matters connected therewith or incidental thereto.

(Gazetted 7th February, 2014).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the

Short title.

**MONEY LAUNDERING AND TERRORISM
(PREVENTION) (AMENDMENT) ACT, 2014,**

18 of 2008
4 of 2013

and shall be read and construed as one with the Money Laundering and Terrorism (Prevention) Act, which is hereinafter referred to as the principal Act.

Amendment of
section 2.

2. The principal Act is amended in section 2 as follows –

(a) by inserting the following definitions in alphabetical order –

““AML/CFT obligation”, in relation to a reporting entity, means an obligation of the reporting entity under the Act or any other law relating to money laundering or terrorist financing, the AML Regulations, and any applicable regulations or guidelines issued under this Act, and includes—

(a) an obligation to provide information imposed on the reporting entity in a request given to it by the Financial Intelligence Unit under section 11(1)(k) or 17(6) of this Act; and

(b) an obligation imposed by a directive given by a supervisory authority or competent authority under section 22 of this Act;

“AML Regulations” means the Money Laundering (Prevention) Regulations issued under section 86 of this Act;

“cash” includes—

(a) notes and coins in any currency;

(b) postal orders;

(c) cheques of any kind, including travellers’ cheques;

(d) bankers’ drafts;

- (e) bearer bonds and bearer shares; and
- (f) such other monetary instrument as the Minister may, by notice published in the *Gazette*, specify;

“FATF Recommendations” means the FATF Recommendations, Interpretive Notes and Glossary issued by the FATF in February 2012, incorporating such amendments as may from time-to-time be made to the FATF Recommendations, or such document or documents issued by the FATF as may supersede those Recommendations;

“Fund” means the Belize Confiscated and Forfeited Assets Fund established under section 78;

“funds” means financial assets and benefits of every kind, however acquired, including (but not limited to)—

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with relevant institutions or other entities, balances on accounts, debts and debt obligations;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
- (d) interest, dividends or other income on or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale;

- (g) documents, in any form including electronic or digital, providing evidence of an interest in funds or financial resources; or
- (h) any other instrument of export financing;

“licensed or regulated”, in relation to a reporting entity, means a business or profession for which a licence is required or which is otherwise regulated by operation of any law other than this Act;

“Non-Governmental Organization” has the meaning given in the Non-Governmental Organization Act, Cap. 351;

“Non-Profit Organization” means a legal entity or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, for promoting commerce, art or science, or for the carrying out of other types of “good works”;

“premises” includes—

- (a) any place;
- (b) any vehicle, vessel, aircraft or hovercraft;
- (c) any offshore installation; and
- (d) any tent or movable structure;

“relevant business” means a business which, if carried on by a person, would result in that person being a reporting entity;

“relevant regulatory authority”, in relation to a licensed or regulated reporting entity, means the authority with responsibility for licensing or otherwise regulating the business of that reporting entity;

“senior officer”, in relation to a reporting entity, means—

- (a) the reporting entity’s money laundering compliance officer;
- (b) the chief executive of the reporting entity, or an individual who occupies an equivalent position under a different name;
- (c) an individual employed by the reporting entity who has responsibilities that include direct involvement in the reporting entity’s management or decision-making process at a senior level;

“sole trader” means an individual carrying on a relevant business who does not, in the course of doing so—

- (a) employ any other person; or
- (b) act in association with any other person;”;
- (b) by deleting the definition of “politically exposed person” and replacing it with the following definition—

““politically exposed person” has the meaning specified in section 2A;”;

- (c) by deleting the definition of “Financial Action Task Force” and replacing it with the following definition—

““FATF” means the international body known as the Financial Action Task Force or such other international body as may succeed it;”;

- (d) by amending the definition of “property” by—

- (i) deleting the words “or “funds””; and

- (ii) inserting after the word “money,” the word “funds,”;
- (e) by amending the definition of “terrorist” by inserting after paragraph (d) the following paragraph –
 - “(e) is designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with Security Council Resolution 1267(1999) or its successor resolutions or designated by a country pursuant to Security Council Resolution 1373 (2001) or its successor resolutions;”; and
- (f) by amending the definition of “terrorist property” as follows –
 - (i) by deleting paragraph (d) and substituting the following –
 - “(d) property owned, jointly or individually, or controlled, directly or indirectly, by or on behalf of a terrorist group, terrorist or person who finances terrorism; or”; and
 - (ii) by inserting as a tail after paragraph (e), the words “and includes any property derived or generated from the money or property referred to in paragraphs (a) through (e).”.

Insertion of
section 2A.

3. The principal Act is amended by inserting the following section immediately after section 2—

“Meaning of
“politically
exposed
person”, etc.

2A. (1) “Politically exposed person” means—

- (a) a foreign politically exposed person;
- (b) a domestic politically exposed person; or
- (c) a person who is, or has been, entrusted with a prominent function by an international organisation.

(2) “Foreign politically exposed person” means a person who is, or has been, entrusted with a prominent public function by a country other than Belize.

(3) “Domestic politically exposed person” means a person who is, or has been, entrusted with a prominent public function by Belize.

(4) Without limiting subsections (2) or (3), the following have or exercise prominent public functions in relation to a country—

- (a) heads of state, heads of government and senior politicians;
- (b) senior government or judicial officials;
- (c) high-ranking officers in the armed forces;

- (d) members of courts of auditors or of the boards of central banks;
- (e) ambassadors and chargés d'affaires;
- (f) senior executives of state-owned corporations; and
- (g) important political party officials.

(5) "International organisation" means an entity—

- (a) established by formal political agreement between its member countries that has the status of an international treaty;
- (b) whose existence is recognised by law in its member countries; and
- (c) not treated as a resident institutional unit of the country in which it is located.

(6) For the purposes of paragraph (1)(c), the following have or exercise prominent functions in relation to an international organisation—

- (a) the directors and deputy directors of the international organisation;

- (b) the members of the board or governing body of the international organisation; and
- (c) other members of the senior management of the international organisation.

(7) The following are immediate family members of a politically exposed person—

- (a) a spouse;
- (b) a partner;
- (c) children and their spouses or partners;
- (d) parents;
- (e) grandparents and grandchildren; and
- (f) siblings.

(8) For the purposes of paragraphs (7)(b) and (c), “partner” means—

- (a) a person who lives in a domestic relationship which is similar to the relationship between husband and wife; or
- (b) a person in a relationship with another person who is

considered by the law of the jurisdiction which applies to the relationship as equivalent to a spouse.

(9) The following are close associates of a politically exposed person—

- (a) any person known to maintain a close business relationship with that person or to be in a position to conduct substantial financial transactions on behalf of the person;
- (b) any person who is known to have joint beneficial ownership of a legal entity or legal arrangement, or any other close business relations, with that person; and
- (c) any person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit of that person.

(10) For the purposes of deciding whether a person is a close associate of a politically exposed person, a service provider need only have regard to information which is in that person's possession or is publicly known.”.

4. The principal Act is amended by inserting the following subsections after subsection (1) –

Amendment of section 3.

“(1A) A person is not guilty of an offence under subsection (1) if—

- (a) he makes an authorised disclosure and, if the disclosure is made before he does the act specified in subsection (1), he has the appropriate consent;
- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so; or
- (c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other law relating to serious crime, the proceeds of crime or terrorist financing.

(1B) A disclosure by a person is an authorised disclosure if—

- (a) it is a disclosure made to the Financial Intelligence Unit that property is, or may be, the proceeds of crime; and
- (b) one of the following conditions is satisfied –
 - (i) the person makes the disclosure before he does the act specified in subsection (1);
 - (ii) the person makes the disclosure while he is doing the act

specified in subsection (1), he began to do the act at a time when, because he did not know or suspect that the property constituted or represented a person's benefit from criminal conduct, the act was not an act specified in subsection (1), and the disclosure is made on his own initiative and as soon as is practicable after he first knows or suspects that the property constitutes or represents the proceeds of crime;

(c) the person makes the disclosure after he does the act specified in subsection (1), there is good reason for his failure to make the disclosure before he did the act and the disclosure is made on his own initiative and as soon as it is practicable for him to make it.

(1C) The appropriate consent is, where a person makes a disclosure to the Financial Intelligence Unit, the consent of the Financial Intelligence Unit to do the act specified in subsection (1).

(1D) A person is deemed to have the appropriate consent if—

(a) he makes an authorised disclosure to the Financial Intelligence Unit; and

(b) either—

- (i) the Financial Intelligence Unit does not, on or before the expiry of 7 working days commencing with the first working day after the person makes the disclosure, notify the person that consent to do the act specified in subsection (1) is refused; or
- (ii) on or before the expiry of the period referred to in subparagraph (i), he receives notice from the Financial Intelligence Unit that consent to do the act specified in subsection (1) is refused and 30 days have expired since the day on which the person received notice that consent to do the act is refused.”.

5. The principal Act is amended in section 11(1)—

Amendment of
section 11.

- (a) in the chapeau, by inserting immediately after the words “Financial Intelligence Act”, the words “or any other provision of this Act”;
- (b) by inserting the following paragraph after paragraph (d)—

“(dd) shall, in consultation with the Anti-Money Laundering Committee and having regard to objective information available on countries that do not, or do not adequately, apply the FATF Recommendations, determine the countries in which an intermediary, introducer or third party that meets the conditions referred to in section 15(7) can be based;”;

- (c) in paragraph (h), by deleting the words “identification, record-keeping and reporting obligations provided for in sections 15, 16, 17, 18 and 19 of this Act” and replacing them with “AML/CFT obligations”;
- (d) in paragraph (i), by deleting the words “paragraph (d), (e), (f) or (g)” and replacing them with the words “paragraph (d), (dd), (e), (f), (g) or (h)”;
- (e) in paragraph (p) by replacing the full stop with a semi-colon;
- (f) by inserting the following paragraph after paragraph (p)—
 - “(q) in performing its functions as a supervisory authority, has the information gathering, enforcement and other powers provided for in the Fifth Schedule to this Act.”.

Amendment of section 12.

6. The principal Act is amended in section 12(1) by deleting paragraph (a) and replacing it with the following paragraph—

“(a) a terrorist or a person who facilitates or finances a terrorist act,”;

Amendment of section 15.

7. The principal Act is amended in section 15 as follows –

- (a) in subsection (2)(b)(i), by deleting the words “fifteen thousand dollars” and substituting the words “twenty thousand dollars”;
- (b) in subsection (3) –

- (i) by deleting paragraph (c) and replacing it with the following –

“(c) if the transaction is conducted by a legal person or legal arrangement, obtain information on that legal person or legal arrangement, adequately identify the company, the beneficial owner and ultimate natural persons providing the funds of such legal person or legal arrangement and take reasonable measures to identify and verify the legal status, ownership and control structure, including measures for –

- (i) verifying proof of incorporation or similar evidence of establishment or existence; and
- (ii) identifying and verifying the customer’s name, name of trustee and ultimate settler (for trusts) and identifying persons providing funds and council members (for foundations), legal form, head office address and identities of directors (for legal persons) and source of funds;
- (iii) verifying that any person purporting to act on behalf of the customer is authorised to do so, identifying that person and verifying the identity of that person; and

“(3B) In applying due diligence measures and conducting ongoing monitoring, a reporting entity shall—

- (a) assess the risk that any business relationship or occasional transaction involves, or will involve, money laundering or terrorist financing, depending upon the type of customer, business relationship, product or transaction;
- (b) be able to demonstrate to the supervisory authority—
 - (i) that the extent of the due diligence measures applied in any case is appropriate having regard to the circumstances of the case, including the risks of money laundering and terrorist financing; and
 - (ii) that it has obtained appropriate information to carry out the risk assessment required under paragraph; (a).

(3C) For the purposes of this section, “ongoing monitoring” of a business relationship means—

- (a) scrutinising transactions undertaken throughout the course of the relationship, including where necessary the source of funds, to ensure that the transactions are consistent with the reporting entity’s knowledge of the customer and his business and risk profile; and

- (b) keeping the documents, data or information obtained for the purpose of applying due diligence measures up-to-date and relevant by undertaking reviews of existing records.”;
- (e) by inserting after subsection (4) the following subsections –

“(4A) A reporting entity shall, on a risk-sensitive basis, apply enhanced due diligence measures and undertake enhanced ongoing monitoring—

- (a) where the customer has not been physically present for identification purposes;
- (b) where the reporting entity has, or proposes to have, a business relationship with, or proposes to carry out an occasional transaction with, a person connected with a country that does not apply, or insufficiently applies, the FATF Recommendations;
- (c) where the reporting entity has or proposes to have a banking or similar relationship with an institution whose address for that purpose is outside Belize;
- (d) where the reporting entity has or proposes to have a business relationship with, or to carry out an occasional transaction with, a politically exposed person or a family

member or close associate of a politically exposed person;

(e) where any of the following is a politically exposed person or a family member or close associate of a politically exposed person—

(i) a beneficial owner of the customer;

(ii) a third party for whom a customer is acting;

(iii) a beneficial owner of a third party for whom a customer is acting; or

(iv) a person acting, or purporting to act, on behalf of the customer;

(f) in any other situation which by its nature can present a higher risk of money laundering or terrorist financing.

(4B) Where a reporting entity applies due diligence measures to, or carries out ongoing monitoring with respect to, an individual who is not physically present, the reporting entity, in addition to complying with this section and any regulations or guidelines with respect to due diligence measures, shall have policies and procedures to address specific risks associated with non-face to face business relationships or transactions and—

(a) perform at least one additional check designed to mitigate the risk of identity fraud; and

- (b) apply such additional enhanced due diligence measures or undertake enhanced ongoing monitoring, as the reporting entity considers appropriate (if any).

(4C) For the purposes of this section, “enhanced customer due diligence measures” and “enhanced ongoing monitoring” mean customer due diligence measures, or ongoing monitoring, that involves specific and adequate measures to compensate for the higher risk of money laundering or terrorist financing.”;

- (f) by inserting after subsection (5) the following subsection –

“(5A) Subsection (5) does not apply where—

- (a) the reporting entity suspects money laundering or terrorist financing;
- (b) the customer is located, or resides, in a country that does not apply, or insufficiently applies, the FATF Recommendations; or
- (c) a higher risk of money laundering or terrorist financing has been identified.”;

- (g) by deleting subsection (6) and replacing it with the following—

“(6) A bank or financial institution that is in, or that proposes to enter, a correspondent banking relationship, that undertakes securities transactions or funds transfers

on a cross-border basis, or provides finance to facilitate international trade shall—

- (a) apply due diligence measures on respondent banks using a risk-based approach that enables the bank or financial institution to fully understand the nature of the respondent bank's business and which takes into account, in particular—
 - (i) the respondent's domicile;
 - (ii) the respondent bank's ownership and management structure; and
 - (iii) the respondent bank's customer base, including its geographic location, its business, including the nature of services provided by the respondent bank to its customers, whether or not relationships are conducted by the respondent on a non-face to face basis and the extent to which the respondent bank relies on third parties to identify and hold evidence of identity on, or to conduct other due diligence on, its customers;
- (b) take appropriate measures to ensure that it does not enter into, or continue, a correspondent banking relationship with a bank that is known to permit its accounts to be used by a shell bank;

- (c) determine from publicly available sources the reputation of the respondent bank and the quality of its supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action;
- (d) assess the respondent bank's anti-money laundering and terrorist financing systems and controls to ensure that they are consistent with the requirements of the FATF Recommendations;
- (e) not enter into a new correspondent banking relationship unless it has the prior approval of senior management;
- (f) ensure that the respective anti-money laundering and counter terrorist financing responsibilities of each party to the correspondent relationship are understood and properly documented;
- (g) ensure that the correspondent relationship and its transactions are subject to annual review by senior management;
- (h) be able to demonstrate that the information obtained in compliance with the requirements set out in this subsection is held for all existing and new correspondent relationships;
- (i) not enter into or continue a correspondent banking relationship—

- (i) with a shell bank; or
 - (ii) where it has knowledge or suspicion that the respondent or any of its customers is engaged in money laundering or the financing of terrorism;
- (j) where it provides customers of a respondent bank with direct access to its services, whether by way of payable-through accounts or by other means, ensure that it is satisfied that the respondent bank—
 - (i) has undertaken appropriate due diligence and, where applicable, enhanced due diligence in respect of the customers that have direct access to the correspondent bank’s services; and
 - (ii) is able to provide relevant due diligence information and verification evidence to the bank or financial institution upon request.”;
- (h) in subsection (6A)—
 - (i) in the chapeau, by deleting the words “financial institution” and replacing them with the words “reporting entity”;
 - (ii) by inserting in paragraph (a) the words “not inconsistent with

this Act” immediately after “risk management procedures”;

(iii) in paragraph (c), by deleting the words “institution have doubts” and replacing them with the words “institution has doubts”;

(i) in subsection (7) –

(i) in paragraph (a) –

(A) by inserting immediately before the words “third party” the words “intermediary or”; and

(B) by inserting after the words “without delay,” the following –

“including, without limitation, identification data and other documents relating to,

(i) b e n e f i c i a l ownership;

(ii) ownership and control structure; and

(iii) purpose and intended nature of the business relationship;”;

- (ii) in paragraph (b), by deleting the words “Financial Action Task Force recommendations” and replacing them with the words “FATF Recommendations”;
- (iii) in paragraph (c), by inserting immediately before the words “third party” the words “intermediary or”;
- (iv) by deleting paragraph (d) and replacing it with the following—
 - “(d) the reporting entity shall carry out a risk assessment to determine whether it is appropriate for it to rely on the intermediary or third party and, if so, whether it should put in place any measures to mitigate the additional risk;
 - (dd) in carrying out a risk assessment referred to in paragraph (d), the reporting entity shall consider such criteria as are appropriate, including the following —
 - (i) the stature and regulatory track record of the intermediary or third party;

- (ii)** the adequacy of the framework to combat money laundering and financing of terrorism in place in the country in which the intermediary or third party is based and the period of time that the framework has been in place;
- (iii)** the adequacy of the supervisory regime to combat money laundering and financing of terrorism to which the intermediary or third party is subject;
- (iv)** the adequacy of the measures to combat money laundering and financing of terrorism in place at the intermediary or third party;
- (v)** previous experience gained from existing relationships

connected with the intermediary or third party;

(vi) the nature of the business conducted by the intermediary or third party;

(vii) whether relationships are conducted by the intermediary or third party on a face to face basis;

(viii) whether specific relationships are fully managed by an introducer;

(ix) the extent to which the intermediary or third party itself relies on third parties to identify its customers and to hold evidence of identity or to conduct other due diligence procedures, and if so who those third parties are; and

(x) whether or not specific intermediary or

introduced relationships involve politically exposed persons, family members or close associates of politically exposed persons or other higher risk relationships;”;

(v) in paragraph (e), by inserting the word “identity” after the word “customer” where it last appears;

(j) by inserting after subsection (7), the following subsection—

“(7A) For the purposes of this section—

(a) “correspondent banking relationship” means a relationship that involves the provision of banking services by one bank, (the “correspondent bank”) to another bank (the “respondent bank”) and, without limitation, includes—

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

(ii) international wire transfers of funds;

- (iii) cheque clearing;
 - (iv) payable-through accounts; and
 - (v) foreign exchange services;
- (b) “shell bank” means a bank that—
- (i) is incorporated and licensed in a country in which it has no physical presence involving meaningful decision-making and management; and
 - (ii) is not an affiliate of a corporate body that—
 - (A) has a physical presence in a country that involves meaningful decision-making and management;
 - (B) is authorised to carry on banking business in that country; and
 - (C) is subject to effective consolidated

supervision in relation to its banking business, which extends to its affiliates.”.

Amendment of section 16.

8. The principal Act is amended in section 16 as follows—

(a) by deleting subsection (4) and replacing it with the following –

“(4) Records required under subsection (1) of this section shall be kept by the reporting entity—

(a) for a period of at least 5 years from the date the relevant business or transaction was completed, or termination of business relationship, whichever is the later; or

(b) any longer period if requested by the competent authority in specific cases and upon proper authority and the requirement to keep the record shall apply whether the account or business relationship is ongoing or has been terminated.”;

(b) in subsection (4C), by deleting the words “financial institution” and replacing them with the words “reporting entity”;

(c) in subsection (5), by deleting paragraph (c) and replacing it with the following—

“(c) comply with—

- (i) any guidelines issued by the Financial Intelligence Unit or a supervisory authority in accordance with section 11(1)(e) or 21(2)(b) of this Act; and
 - (ii) any training requirements provided by the Financial Intelligence Unit in accordance with section 11(1)(h) of this Act.”;
 - (d) in subsection (6)—
 - (i) by deleting the words “subsections (1), (3) and (4)” and substituting the words “subsections (1), (3), (4), (4A) and (4B)”;
 - (ii) by deleting the words “ten thousand dollars” and substituting the words “six thousand dollars”;
 - (e) by deleting subsection (8).
9. The principal Act is amended in section 17—
- (a) by deleting subsection (3);
 - (b) by inserting the following subsection after subsection (4)—

“(4A) For the avoidance of doubt, the obligation to report any knowledge, suspicion, or reasonable grounds for knowledge or suspicion of money laundering referred to in subsection (4), applies even though the offence that results in proceeds of crime may be a tax offence or may involve or relate to tax, and a reporting entity’s procedures relating to reporting should reflect this.”;

Amendment of section 17.

- (c) in subsection (8), by deleting “subsections (4), (5), (6)” and replacing it with “subsections (4), (4A), (5), (6)”;
- (d) by deleting subsection (14).

Amendment of
section 18.

10. The principal Act is amended in section 18 as follows—

- (a) in paragraph (1)(a), by deleting the words “who shall be responsible for ensuring the reporting entity’s compliance with the requirements of this Act” and replacing them with the words “in accordance with section 18A”;
- (b) in paragraph (1)(b) –
 - (i) by inserting immediately after the words “controls and systems” the words “, and take such other measures as it considers appropriate,”;
 - (ii) in subparagraph (viii), by inserting immediately after the words “information received from”, the words “a supervisory authority or”;
 - (iii) in subparagraph (ix), by deleting the words “Financial Action Task Force recommendations where that foreign country does not apply or insufficiently apply the Financial Action Task Force recommendations” and replacing them with the words “FATF Recommendations, including application of counter-measures, where that foreign country does not apply or insufficiently apply the FATF Recommendations”;

(iv) by inserting immediately after subparagraph (ix) the following subparagraph –

“(x) guard against the use of technological developments in money laundering or terrorist financing;”;

(c) in paragraph (1)(c), by inserting immediately before the words “independent audit”, the words “adequately resourced and”;

(d) in subsection (3)—

(i) in paragraph (a), by deleting the words “be of an officer of a rank at management level or above” and replacing them with the words “be a senior officer”; and

(ii) in paragraph (b), by deleting the words “Financial Intelligence Unit” and replacing them with the words “a supervisory authority or the competent authority”; and

(e) by deleting subsection (4) and replacing it with the following—

“(4) A sole trader is not required to maintain policies and procedures relating to internal reporting, screening of employees and the internal communication of such policies and procedures.”.

11. The principal Act is amended by inserting the following section immediately after section 18—

Insertion of section 18A.

“Appointment of money laundering compliance officer.

18A. (1) Subject to subsection (8), a reporting entity, other than a sole trader, shall appoint an individual approved as being fit and proper by the supervisory authority as its money laundering compliance officer.

(2) A sole trader is the money laundering compliance officer in respect of his relevant business.

(3) A reporting entity shall ensure that—

(a) the individual appointed as money laundering compliance officer under this section is of an appropriate level of seniority; and

(b) the money laundering compliance officer has timely access to all records that are necessary or expedient for the purpose of performing his functions as money laundering compliance officer.

(4) The principal functions of the money laundering compliance officer are—

(a) to oversee and monitor the reporting entity’s compliance with the Act, any applicable regulations, codes or guidelines made under this Act and all laws for the time being in force concerning terrorist financing;

(b) in the case of a reporting entity other than a sole trader, receive

and consider internal reports on unusual transactions and suspicious activities;

(c) consider whether a suspicious transaction report should be made to the Financial Intelligence Unit; and

(d) where he considers a suspicious transaction report should be made, submit the report.

(5) When an individual has ceased to be the money laundering compliance officer of a reporting entity, the reporting entity shall as soon as reasonably practicable appoint another individual approved by the supervisory authority as its money laundering compliance officer.

(6) A reporting entity shall give the supervisory authority written notice within 7 days after the date—

(a) of the appointment of a money laundering compliance officer; or

(b) that an individual ceases, for whatever reason, to be its money laundering compliance officer.

(7) The money laundering compliance officer of a reporting entity may also be appointed to be its money laundering reporting officer.

(8) The Minister may prescribe modification of the requirements of this

section in relation to particular types or category of reporting entity.

(9) A reporting entity who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of \$50,000.”.

Amendment of
section 19.

12. The principal Act is amended in section 19—

(a) in subsection (1), by inserting after the words “originator information”—

(i) where they first appear, the words “and maintain and include beneficiary information”; and

(ii) where they next appear, the words “and beneficiary information”;

(b) by deleting subsection (2) and replacing it with the following subsections—

“(2) Originator information shall be verified, set forth in the message or payment form accompanying the transfer, and shall include—

(a) the name of the originator;

(b) the originator account number, where such an account is used to process the transaction, otherwise a unique transaction reference number which permits traceability of the transaction; and

(c) either the originator’s—

(i) address;

(ii) national identity number;

(iii) customer identification number; or

(iv) date and place of birth.

(2A) Beneficiary information shall be set forth in the message or payment form accompanying the transfer, and shall include—

- (a) the name of the beneficiary;
- (b) the beneficiary account number, where such an account is used to process the transaction, otherwise a unique transaction reference number which permits traceability of the transaction.

(2B) For the purposes of subsection (2), the “customer identification number” refers to—

- (a) a number which uniquely identifies the originator to the originating financial institution and is a different number from the unique transaction reference number; and
- (b) a record held by the originating financial institution which contains at least one of the following—
 - (i) the customer address;
 - (ii) a national identity number; or
 - (iii) a date and place of birth.”;
- (c) in subsection (5) –
 - (i) by deleting the words “senior manager “ and replacing them with the words “senior officer”;

(ii) by deleting the words “a fine” and replacing them with the words “pay, on being called upon in writing to do so by the supervisory authority or competent authority, a penalty”; and

(iii) by deleting all the words that appear immediately after the word “dollars”; and

(d) by deleting subsection (6).

Amendment of section 20.

13. The principal Act is amended in section 20 by deleting the section and its marginal note and replacing them with the following –

“Power to obtain search warrants.

20. (1) Without prejudice to its powers under any other Act, a supervisory authority, the competent authority or a law enforcement agency, upon application to a Judge of the Supreme Court in Chambers *ex parte* and satisfying him that there are reasonable grounds to believe that one or more of the following conditions has been satisfied –

(a) that a person has failed to fully comply with a request for information by the supervisory authority within the time period specified in the request and that on the premises specified in the warrant—

(i) there are documents that have been required to be produced; or

(ii) there is information that has been required to be provided;

(b) that—

(i) a request for information could be lawfully issued by the supervisory authority against a person;

(ii) there are documents, or there is information, on the premises specified in the warrant in respect of which a request for information could be lawfully issued; and

(iii) if a request for information was to be issued, it would not be fully complied with or the documents or information to which the notice related would be removed, tampered with or destroyed;

(c) that—

(i) an offence under this Act or any Regulations or guidelines, or any other law relating to money laundering or terrorist financing, has been, is being, or may be, committed by a person;

(ii) there are documents, or there is information, on the premises specified in the warrant that

evidence the commission of the offence; and

- (iii) if a request for information was to be issued, it would not be complied with or the documents or information to which the request related would be removed, tampered with or destroyed.

(2) A warrant issued under this section shall authorise a named representative of the supervisory authority, together with a police officer and any other person named in the warrant—

- (a) to enter the premises specified in the warrant at any time within 1 week from the date of the warrant;
- (b) to search the premises and take possession of any documents or information appearing to be documents or information of a type in respect of which the warrant was issued or to take, in relation to such documents or information, any other steps which appear to be necessary for preserving or preventing interference with them;
- (c) to take copies of, or extracts from, any documents or information appearing to be documents or information of a

type in respect of which the warrant was issued;

- (d) to require any person on the premises to provide an explanation of any document or information appearing to be documents or information of a type in respect of which the warrant was issued or to state where such documents or information may be found; and
- (e) to use such force as may be reasonably necessary to execute the warrant.

(3) Unless the Judge, on the application of the supervisory authority, otherwise orders, any document of which possession is taken under this paragraph may be retained—

- (a) for a period of 3 months; or
- (b) if, within a period of 3 months, proceedings for a criminal offence to which the document is relevant are commenced against any person, until the conclusion of those proceedings.”.

14. The principal Act is amended in section 21 as follows –

Amendment of section 21.

- (a) in subsection (1), by deleting the words “the requirements of sections 15, 16, 17, 18 and 19

of this Act” and replacing them with the words “the entity’s AML/CFT obligations”;

- (b)** in paragraph (2)(a), by deleting the words “the obligations set out in sections 15, 16, 17, 18 and 19 of this Act and any other preventative measures in relation to combating money laundering and terrorist financing,” and replacing them with the words “the entity’s AML/CFT obligations”;
- (c)** in paragraph (2)(b), by inserting immediately after the words “this Act” the words “and warnings, notices or other information on concerns about weaknesses in the anti-money laundering and combating of financing of terrorism systems of other countries”;
- (d)** in subparagraph (2)(d)(i), by deleting the words “the designated supervisory or regulatory authority or the competent [disciplinary] authority” and replacing them with the words “the supervisory authority or the competent authority”;
- (e)** in subparagraph (2)(d)(ii)—

 - (i)** by deleting the words “financial institutions” and replacing them with the words “reporting entities”; and
 - (ii)** by deleting the words “Financial Action Task Force recommendations” wherever they appear and replacing them with the words “FATF Recommendations”;
- (f)** in paragraph (2)(f), by inserting after the words “exchange of information” the words “in accordance with Part IVA”; and

- (g) by inserting the following subsection after subsection (2)—

“(2A) A warning or notice issued under paragraph (2)(b) may direct a reporting entity—

- (a) not to enter into a business relationship;
- (b) not to carry out an occasional transaction;
- (c) not to proceed any further with a business relationship or occasional transaction;
- (d) to impose any prohibition, restriction or limitation relating to a business relationship or occasional transaction; or
- (e) to apply enhanced customer due diligence measures or enhanced ongoing monitoring to any business relationship or occasional transaction,

with any person carrying on business, resident, incorporated, constituted or formed in a country to which the FATF has recommended that counter-measures be applied or a country which continues not to apply or insufficiently applies the FATF Recommendations.”;

- (h) in subsection (4)—

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

“Where the supervisory authority is also the relevant regulatory authority for a reporting entity and the supervisory authority finds that the reporting entity has committed a breach of any AML/CFT obligation, the supervisory authority may impose any one or more of the following sanctions –”; and

- (ii) by deleting paragraph (c) and the tail that follows it and replacing them with the following paragraph and tail–

“(c) any other sanction that may be prescribed,

and a sanction imposed under this section shall be without prejudice to any penalty that may be imposed under any other provision of this Act or the regulations or by any other law.”.

Amendment of section 22.

15. The principal Act is amended in section 22 as follows –

- (a) in subsection (1) –

- (i) by replacing the chapeau with the following—

“Where a supervisory authority or the competent authority discovers a breach of any AML/CFT obligation by a reporting entity, the supervisory authority or the competent authority may impose one or more of the following measures after giving the reporting entity a reasonable

opportunity to make representations or another person to make representations on behalf of the reporting entity,”;

(ii) in paragraph (b), by deleting the word “order” and replacing it with the words “issue a directive”;

(iii) by deleting paragraph (d) and replacing it with the following –

“(d) impose, in such manner as may be prescribed, an administrative penalty in an amount not exceeding \$500,000;”;

(iv) in paragraph (f), by deleting the word “or” where it appears after the semi-colon;

(v) in paragraph (g), by deleting the full stop and replacing it with a semi-colon; and

(vi) by adding after paragraph (g), the following –

“(h) such other measure as may be prescribed.”;

(b) in subsection (2), by deleting the words “the sanctions” and replacing them with the words “any measure”; and

(c) in subsection (3)—

(i) by deleting the words “supervisory or regulatory authority or the competent disciplinary authority” and replacing them

with the words “supervisory authority or, in the case of a licensed or regulated reporting entity, the relevant regulatory authority”; and

- (ii) by inserting after the words “Financial Intelligence Unit”, the words “without delay”.

Amendment of
section 22A.

16. The principal Act is amended in section 22A—

- (a) by deleting the marginal note and replacing it with “Failure to take required action.”; and
- (b) in subsection (1)—
 - (i) by deleting the word “FIU” wherever it appears and replacing it with the words “supervisory authority or competent authority”;
 - (ii) by deleting the words “or financial institution” wherever they appear; and
 - (iii) by inserting immediately after the words “five thousand dollars”, the words “and, in the case of a continuing failure, to an additional penalty not exceeding five hundred dollars for every day during which the failure continues”.

Insertion of
section 22B.

17. The principal Act is amended by inserting the following section immediately after section 22A –

“Appeals. **22B.** (1) Subject to subsection (2), a person who is aggrieved by a decision of a supervisory authority, the competent authority or the Financial Intelligence Unit made under this

Act or under any regulations made or guidelines issued under this Act may, within 30 days of the date of the decision, appeal to the Supreme Court under the provisions of Part IX of the Supreme Court of Judicature Act, Cap. 91, and for this purpose, the supervisory authority or competent authority shall be deemed to be an inferior court and the rules governing the inferior court appeals shall *mutatis mutandis* apply to every such appeal.

(2) Notwithstanding section 112 of the Supreme Court of Judicature Act, Cap. 91, an application for leave to appeal, an appeal and an application for judicial review shall not itself result in the suspension of the decision of the supervisory authority, the competent authority or the Financial Intelligence Unit in relation to which the application or appeal is made, but the appellant may, within the time prescribed for filing such appeal, apply to the Supreme Court for stay of execution of the order appeal from, pending the determination of such appeal.

(3) Upon hearing an appeal, the Supreme Court may—

- (a) dismiss the appeal; or
- (b) remit the matter back to the supervisory authority or the competent authority for further consideration with such directions as it considers fit.”.

18. The principal Act is amended in section 30 as follows –

Amendment of section 30.

- (a)** in subsection (1) –

 - (i)** in paragraph **(a)**, by inserting after the word “person”, the words “, including in the clothing worn by the person”; and
 - (ii)** by deleting paragraph **(b)**;
- (b)** in subsection (2) –

 - (i)** in paragraph **(a)**, by deleting the words “for property of that kind” and replacing them with the words “specified in the application for the warrant”;
 - (ii)** in paragraph **(b)**, by deleting the words “for property of that kind” and replacing them with the words “specified in the application for the warrant”;
 - (iii)** in paragraph **(c)**—

 - (A)** by inserting after the word “seize”, the words “and retain”;
 - (B)** by inserting after the words “that kind”, the words “specified in the application for the warrant”;
- (c)** by replacing subsection (3) with the following –

“(3) A magistrate shall not issue a warrant under subsection (2) of this section unless the magistrate is satisfied that there are reasonable grounds to believe that tainted property or terrorist property are on or within the control of the person, on the land or in the premises specified in the application for the warrant.”.

19. The principal Act is amended in section 37 as follows –

Amendment of section 37.

- (a) by renumbering section 37 as section 37(1);
- (b) in subsection 37(1) as renumbered—
 - (i) by deleting the words “A person who enters or leaves or on whose behalf or benefit another person enters or leaves,” and replacing them with the words “A person entering or leaving, or on whose behalf or benefit another person is entering or leaving,”;
 - (ii) by deleting the words “or negotiable instruments” where they first occur;
 - (iii) by deleting the words “or, as the case may be, negotiable instruments”; and
 - (iv) by deleting all the words immediately after the word “purpose”; and
- (c) by inserting after section 37(1) as renumbered the following subsections –
 - “(2) A person who fails to make a declaration under subsection (1), or who knowingly or recklessly makes a declaration under subsection (1) that is false or misleading in a material particular, commits an offence under this Act and shall be liable on summary conviction –
 - (a) in the case of a natural person, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment; and

(b) in the case of a legal person or other entity, to a fine which shall be not less than fifty thousand dollars but which may not exceed one hundred thousand dollars.

(3) Where an offence under subsection (2) has been committed by a legal person or other entity, every person who, at the time of the commission of the offence, was a director, manager, partner, secretary or other officer of the legal person or other entity, as well as that legal person or other entity, commits the offence and each is liable to be proceeded against and punished accordingly.

(4) No natural person referred to in subsection (3) shall be found guilty of an offence under that subsection where the person proves that—

(a) the act constituting the offence took place without his knowledge or consent; or

(b) he exercised all due diligence to prevent the commission of the offence.”.

Insertion of section 37B.

20. The principal Act is amended by inserting immediately after section 37A the following section –

“Search for suspicious cash.

37B. – (1) A police officer or a customs officer who is lawfully on any premises and who has reasonable grounds for suspecting that there is any cash referred to in section 38(1) on the premises, may search for the cash there.

(2) If a police officer or a customs officer has reasonable grounds for suspecting that a person (the suspect) is carrying any cash

referred to in subsection 38(1), he may, so far as he thinks it necessary or expedient, require the suspect—

- (a) to provide further information;
- (b) to permit a search of any article he has with him; and
- (c) to permit a search of his person.

(3) The powers conferred by this section are exercisable only so far as reasonably required for the purpose of finding cash referred to in section 38(1).

21. The principal Act is amended in section 38—

Amendment of section 38.

- (a) in the marginal note by deleting the words “imports or exports of”;
- (b) by deleting the word “currency” wherever it appears and replacing it with the word “cash”;
- (c) in subsection (1) –
 - (i) in the chapeau by deleting the words “or negotiable instrument which is being imported into, or exported from Belize” and replacing them with the words “found anywhere in Belize, including at any border”; and
 - (ii) in paragraph (d), by inserting immediately after the word “being”, the words “, or has been,”;
- (d) by deleting subsection (2);

(e) in paragraph (3)(a), by deleting “subsection (1)(b)” and replacing it with “subsection (1)”;

(f) by inserting the following new subsection after subsection (4)—

“(4A) Where cash is detained under this section for more than 72 hours, it shall, at the first opportunity, be paid into an interest-bearing account and held there, and the interest accruing on it is to be added to it on its forfeiture or release.”;

(g) in the chapeau of subsection (5), by deleting the words “on whose behalf it was imported or exported” and replacing them with the words “from whom it was seized”; and

(h) by inserting the following subsections after subsection (7)—

“(8) An order may be made under subsection (7) whether or not proceedings are brought against any person for an offence with which the cash in question is connected.

(9) Any question of fact to be decided by a magistrate in proceedings under this section shall be decided on the balance of probabilities.”.

Insertion of sections 38A, 38B and 38C.

22. The principal Act is amended by inserting the following sections after section 38—

“Appeal against forfeiture.

38A. (1) Any party to proceedings in which an order is made under section 38(7) for the forfeiture of the property who is aggrieved by the order may appeal to the Supreme Court

(2) An appeal under subsection (1) shall be made within the period of 30 days commencing on the date on which the order is made.

(3) An appeal under subsection (1) is to be by way of a rehearing and the Supreme Court may make any order that it considers appropriate.

Application of forfeited cash. **38B.** After the period within which an appeal under section 38A may be made or, if a person appeals under that section, after the appeal has been determined or disposed of, cash forfeited under section 38(7), and any accrued interest on it, shall be paid into the Fund.

Victims and other owners. **38C.** (1) A person who claims that any cash, or any part of it, that is detained under section 38 belongs to him, may apply to a magistrate for the cash, or part of the cash, to be released to him.

(2) An application under subsection (1) may be made in the course of detention or forfeiture proceedings or at any other time.

(3) If, on an application under subsection (1), it appears to the magistrate that—

- (a) the applicant was deprived of the cash to which the application relates, or of property which it represents, by unlawful conduct;
- (b) the property he was deprived of was not, immediately before he was deprived of it, tainted property or terrorist property; and

(c) the cash belongs to him,

the magistrate may order the cash to which the application relates to be released to the applicant.

(4) The magistrate may order the cash to which the application relates to be released to the applicant where—

(a) an applicant under subsection (1) is not the person from whom the cash to which the application relates was seized;

(b) it appears to the magistrate that that cash belongs to the applicant; and

(c) no objection to the making of an order under this subsection has been made by the person from whom that cash was seized.”.

Amendment of
section 67.

23. The principal Act is amended in section 67—

(a) in subsection (8) –

(i) in the chapeau, by deleting the words “by order of the Judge in Chambers” and replacing them with the words “in whole or in part to the person from whom it was seized”; and

(ii) by replacing paragraphs (a) and (b) with the following paragraphs –

“(a) by order of a Judge in Chambers that its continued detention is no longer

justified, upon application by or on behalf of that person and after considering any views of the Director of the Financial Intelligence Unit to the contrary; or

(b) by the Director of the Financial Intelligence Unit, if satisfied that its continued detention is no longer justified.”;

(b) by inserting the following subsection after subsection (8) –

“(8A) No cash detained under this section shall be released where –

(a) an application is made under this Act for the purpose of—

(i) the forfeiture of the whole or any part of the cash; or

(ii) its restraint pending determination of its liability to forfeiture; or

(b) proceedings are instituted in Belize or elsewhere against any person for an offence with which the cash is connected,

unless and until the proceedings relating to the relevant application or the proceedings for the offence as the case may have been concluded.”; and

(c) by deleting subsection (9).

Amendment of
section 68.

24. The principal Act is amended in section 68 by inserting immediately after subsection (4), the following –

“(5) Where the Minister has reasonable grounds for suspecting that a person is a terrorist, the Minister may give direction that such person is a listed person for the purposes of an Order made under subsection (4).

(6) The Minister may vary or revoke a direction made under subsection (5) at any time.

(7) A direction under subsection (5) has effect—

- (a) for such a period as the Minister may specify in the direction; or
- (b) until the direction is revoked or set aside under subsection (9).

(8) Where the Minister gives a direction, he shall—

- (a) take such steps as he considers appropriate to publicise the direction;
- (b) give written notice to the person identified in the direction; and
- (c) if the direction is varied or revoked—
 - (i) give written notice of the variation or revocation to the person identified in the direction; and

- (ii) take such further steps as he considers appropriate to publicise the variation or revocation.

(9) The Supreme Court may set aside a direction on the application of —

- (a) the person identified in the direction; or
- (b) any other person affected by the direction.

(10) A person who makes an application under subsection (9) shall give a copy of the application and any witness statement or affidavit in support to the Minister not later than fourteen days before the date fixed for the hearing of the application.

(11) Where the Supreme Court sets aside a direction, the Minister shall take such steps as he considers appropriate to publicise the Court's decision.

(12) For the purposes of this section, "Minister" means the Minister with responsibility for foreign affairs."

25. The principal Act is amended by inserting immediately after section 75 and before the heading for Part V, the following Part—

Insertion of
Part IVA.

“PART IVA

*Enforcement of Foreign Orders and
Co-operation with Foreign Regulatory Authorities*

Interpretation. 75A. – For the purposes of this Part and the Sixth Schedule—

“criminal conduct” means conduct which constitutes a serious crime or would constitute a serious crime if it had occurred in Belize;

“external order” means an order which—

- (a) is made by an overseas court where property is found or believed to have been obtained as a result of or in connection with serious crime; and
- (b) is for the recovery of specified property or a specified sum of money;

“external request” means a request by an overseas authority to prohibit dealing with relevant property which is identified in the request;

“foreign regulatory authority”, in relation to a supervisory authority, means an authority in a jurisdiction outside Belize which exercises a regulatory function similar to the regulatory or supervisory function of the supervisory authority;

“overseas court” means a court of a country outside Belize;

“overseas authority” is an authority which has responsibility in a country outside Belize for making a request to an authority in another country (including Belize) to prohibit dealing with relevant property;

“relevant property” means property for which there are reasonable grounds to believe that it may be needed to satisfy an external order which has been, or which may be, made.

External requests and orders.

75B. – The Sixth Schedule applies to external requests and the enforcement of external orders.

Duty to Co-operate.

75C. – (1) A supervisory authority shall expeditiously take such steps as it considers appropriate to co-operate with—

- (a) foreign regulatory authorities; and
- (b) law enforcement agencies in Belize.

(2) Co-operation may include the sharing of documents and information which a supervisory authority is not prevented by this or any other law from disclosing.

(3) Subject to section 75G, co-operation with a foreign regulatory authority or a law enforcement agency in Belize may not be refused on the grounds of secrecy or confidentiality.

Assistance to foreign regulatory authorities.

75D. – (1) Subject to subsection (2), a supervisory authority may, on the written request of a foreign regulatory authority, do any of the following—

- (a) exercise any powers conferred on the supervisory authority, by this or any other Act, to require a person to provide information or produce documents;
- (b) make any application the supervisory authority is authorised to make under Part III;
- (c) disclose information or provide documentation to a foreign regulatory authority whether the information or documentation—
 - (i) was obtained by the exercise of a power specified in paragraph (a); or
 - (ii) is otherwise in the possession of the supervisory authority.

(2) A supervisory authority shall not exercise the power conferred on it by subsection (1) unless it is of the opinion that the information or documentation to which the request relates, or the investigation is sought, is reasonably required by the foreign regulatory authority for the purposes of its regulatory or supervisory functions.

(3) In deciding whether or not to exercise the power conferred on it by subsection (1), a supervisory authority may take into account, in particular—

- (a) whether corresponding assistance would be given to the supervisory authority in the country or territory of the foreign regulatory authority making the request;
- (b) whether the request relates to the breach of a law, or other requirement, which has no close parallel in Belize or involves the assertion of a jurisdiction not recognised by Belize;
- (c) the nature and seriousness of the matter to which the request for assistance relates, the importance of the matter to persons in Belize and whether the assistance can be obtained by other means;
- (d) the relevance of the information or documentation to the enquiries to which the request relates; and
- (e) whether it is otherwise appropriate in the public interest to provide the assistance sought.

(4) For the purposes of paragraph (3)(a), a supervisory authority may require the foreign regulatory authority making the request to give a written undertaking, in such form as the supervisory authority may require, to provide corresponding assistance to the supervisory authority.

(5) If a foreign regulatory authority fails to comply with a requirement of the supervisory authority made under subsection (4), the supervisory authority may refuse to provide the assistance sought by the foreign regulatory authority.

(6) A supervisory authority may decide that it will not, on the request of a foreign regulatory authority, exercise its powers under this section unless—

- (a) it has received satisfactory assurances from the foreign regulatory authority that any information provided to it will not be used in any criminal proceedings against the person furnishing it, other than proceedings for an offence that relates to—
 - (i) a failure or refusal by that person to produce documents or give assistance in accordance with this Act;
 - (ii) an omission by that person to disclose material which should have been disclosed or the provision by that person of false or misleading information; or
 - (iii) an untruthful statement by that person;

- (b) the foreign regulatory authority undertakes to make such contribution towards the cost of exercising its powers as the supervisory authority considers appropriate; and
- (c) it is satisfied that the foreign regulatory authority is subject to adequate legal restrictions on further disclosure of the information and documents and that it will not, without the written permission of the supervisory authority—
 - (i) disclose information or documents provided to it to any person other than an officer or employee of the authority engaged in the exercise of any of its regulatory or supervisory functions; or
 - (ii) take any action on information or documents provided to it.

(7) Where, in accordance with this section, the supervisory authority would, on the written request of a foreign regulatory authority, be entitled to disclose information or provide documentation in its possession to that foreign regulatory authority, the supervisory authority may disclose such information or documentation to the foreign regulatory

authority without having received a written request from the authority.

Restrictions on disclosure of information.

75E. – (1) Subject to subsection (3), for the purposes of this section, “protected information” means information which—

- (a) relates to the business or other affairs of any person;
- (b) is acquired by a person referred to in subsection (2), for the purposes of, or in the discharge of, his or its functions under this Act, and includes any information that is obtained from a foreign regulatory authority or a law enforcement agency.

(2) Paragraph (1)(b) applies to the following persons—

- (a) a supervisory authority;
- (b) a board member of any supervisory authority;
- (c) an employee of a supervisory authority;
- (d) any other person acting under the authority of a supervisory authority; and
- (e) an employee of a person specified in paragraph (d).

(3) Information is not protected information—

- (a) if the information is or has been available to the public from any other source; or
- (b) where the information is disclosed in a summary or in statistics expressed in a manner that does not enable the identity of particular persons to whom the information relates to be determined.

(4) Subject to section 75F, protected information shall not be disclosed by a recipient of that information, whether the recipient of the information is a person specified in subsection (2) or a person who has directly or indirectly received the protected information from a person specified in subsection (2), without the consent of—

- (a) the person from whom he obtained the information; and
- (b) if different, the person to whom it relates.

(5) For the avoidance of doubt, any obligation as to confidentiality or other restriction upon the disclosure of information imposed by any law, rule of law or agreement does not apply to the disclosure of protected information to a supervisory authority.

(6) Any person who contravenes this section commits an offence and, on summary conviction, is liable to a fine of \$25,000 or imprisonment for a term of six months, or to both.

Exceptions to
restrictions on
disclosure.

75F. – Section 75E does not apply to a disclosure by—

- (a) any person where the disclosure is—
 - (i) required or permitted by, and made in accordance with, an order of a court in Belize;
 - (ii) required or permitted by this or any other Act;
 - (iii) made to a law enforcement agency in Belize; or
 - (iv) made to the Financial Intelligence Unit;
- (b) a person specified in section 75E(2), where the disclosure is made to any person for the purpose of discharging any function or exercising any power under this Act, whether the function or power is of the person disclosing the information or of a supervisory authority;
- (c) a supervisory authority—
 - (i) to a foreign regulatory authority in accordance with section 75C or 75D;
 - (ii) to help protect the public, whether within or

outside Belize, or any section of it, against financial loss arising from any serious crime; or

- (d) a person, other than a supervisory authority, where the disclosure—
 - (i) is made with the written consent of the supervisory authority; and
 - (ii) could lawfully have been made by the supervisory authority.

Privileged documents and information.

75G. – (1) A person shall not be required to disclose information or produce, or permit the inspection of, a document under this Act if he would be entitled to refuse to disclose the information or to produce, or permit the inspection of, the document on the grounds of legal professional privilege in legal proceedings.

(2) For the purposes of this section, information or a document comes to an attorney in privileged circumstances if it is communicated or given to him—

- (a) by, or by a representative of, a client of his in connection with the giving by the attorney of legal advice to the client;
- (b) by, or by the representative of, a person seeking legal advice from the attorney; or

(c) by any person—

- (i) in contemplation of, or in connection with, legal proceedings; and
- (ii) for the purposes of those proceedings.

(3) Information or a document shall not be treated as coming to an attorney in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.

(4) Notwithstanding subsection (1), an attorney may be required, pursuant to a power under this Part, to provide the name and address of his client.”.

Deletion of section 76.

26. The principal Act is amended by deleting section 76.

Insertion of section 76A.

27. The principal Act is amended by inserting immediately after section 76, the following section –

“Implementation of UN Sanctions.

76A. – (1) Where the Security Council of the United Nations adopts a resolution under Chapter VII of the United Nations Charter, the Financial Intelligence Unit shall, without delay, issue a notice requiring reporting entities, and any other authority or entity relevant to the resolution, to take such action as may be required to give effect to a resolution, including, without limitation, directing the freezing of funds and other financial assets or economic resources of any person or seizing goods of any description.

(2) Any notice issued under subsection (1) shall include such information as the Financial Intelligence Unit considers necessary, including the following—

- (a) whether there is a direction to freeze funds or other assets or resources, or to seize goods of a particular description, and the obligations imposed by the direction;
- (b) the importance of complying with the obligations imposed by the direction;
- (c) information identifying all persons, entities and goods subject to the direction;
- (d) information identifying a contact within Government to which the reporting entities and any other authority or entity to whom the notice is directed—
 - (i) shall report any action it takes in response to the notice; and
 - (ii) can direct any enquiries.

(3) Where the Security Council takes any subsequent decision which has the effect of postponing, suspending or cancelling the operation of a resolution referred to in subsection (1), in whole or in part—

- (a) the Financial Intelligence Unit shall, without delay, issue a notice of the decision; and
- (b) any notice issued under subsection (1) shall cease to have effect or its operation shall be postponed or suspended, in whole or in part, as the case may be, in accordance with that decision.”.

Insertion of sections 77A and 77B.

28. The principal Act is amended by inserting immediately after section 77, the following sections –

“Credit to frozen account.

77A. – (1) Nothing in section 12 or 70, a restraining order issued under section 40 or a notice issued under section 76A shall prevent a person from crediting a frozen account with—

- (a) interest or other earnings due on the account; or
- (b) payments due under contracts, agreements or obligations that were concluded or arose before the account became a frozen account.

(2) Nothing in section 12 or 70, a restraining order under section 40 or a notice under section 76A shall prevent a reporting entity from crediting a frozen account where it receives funds transferred to the account.

(3) For the purposes of this section, “frozen account” means an account held with

any person, including a reporting entity, that has been frozen or restrained in accordance with this Act.

National
Anti-Money
Laundering
Committee.

77B. – (1) There shall be established a committee, to be known as the National Anti-Money Laundering Committee, for the purpose of—

- (a) advising the Minister in relation to the detection and prevention of money laundering, terrorist financing and the financing of proliferation, and on the development of a national plan of action to include recommendations on effective mechanisms to enable supervisory and law enforcement authorities in Belize to coordinate with each other concerning the development and implementation of policies and activities to combat money laundering, terrorist financing and the financing of proliferation;
- (b) advising the Minister as to the participation of Belize in the international effort against money laundering, terrorist financing and the financing of proliferation; and
- (c) advising the Minister in the development of policies to

combat money laundering, terrorist financing and the financing of proliferation;

and the Committee shall meet as often as may be necessary to carry out its duties.

(2) The members of the National Anti-Money Laundering Committee shall be—

- (a) the Director of the Financial Intelligence Unit, who shall be the Chairman;
- (b) the Solicitor General;
- (c) the Financial Secretary;
- (d) the Chief Executive Officer of the Ministry responsible for the Police;
- (e) the Commissioner of Police;
- (f) the Governor of the Central Bank of Belize;
- (g) the Director of Public Prosecutions;
- (h) the Comptroller of Customs;
- (i) the Director of Immigration;
- (j) the Supervisor of Insurance;
- (k) such other persons as the Minister may from time to time appoint.

(3) The Minister shall prescribe the procedures of the National Anti-Money Laundering Committee, including appointment of members under paragraph (1)(k).”.

29. The principal Act is amended in section 78, by deleting the words “(hereinafter referred to as “the Fund”)”.

Amendment of section 78.

30. The principal Act is amended in section 85B—

Amendment of section 85B.

(a) in subsection (1)—

(i) by inserting after the words “intends to”, the words “carry on”; and

(ii) by deleting the words “the business of dealing in real estate, precious metal, precious stones, or vehicles” and replacing them with the words “a business or profession for which the Financial Intelligence Unit is specified as the supervisory authority under the Third Schedule to this Act”;

(b) in subsection (2), by deleting the words “an application fee of one hundred dollars” and replacing them with the words “the prescribed application fee”; and

(c) by adding the following subsection immediately after subsection (2)—

“(2A) When an application is granted, the person referred to in subsection (1) shall pay—

(a) on registration, a registration fee in the prescribed amount; and

- (b) on each anniversary of its registration, an annual fee in the prescribed amount.”.

Amendment of section 86.

31. The principal Act is amended by deleting section 86 and its marginal note and replacing it with the following—

“Regulations. **86.**— (1) The Minister shall, in consultation with the Anti-Money Laundering Committee, make regulations in relation to the prevention of the use of the financial system for money laundering and terrorist financing.

(2) The Minister may, in consultation with the Anti-Money Laundering Committee, make such other regulations as the Minister considers appropriate generally for giving effect to this Act and specifically in respect of anything required or permitted to be prescribed by this Act.

(3) The regulations made under this section may—

- (a) make different provision in relation to different persons, circumstances or cases; and
- (b) prescribe offences against the regulations and prescribe a term of imprisonment not exceeding 2 years, a fine not exceeding \$500,000 or both in respect of any one offence.

(4) Regulations made under this section shall be subject to negative resolution.”.

32. The First Schedule of the principal Act is amended –

Amendment of
First
Schedule.

(a) in item 27, by deleting the words “Dealing in real estate when the persons dealing are involved in transactions concerning the buying and selling of real estate” and substituting the words “Real estate agents when they are involved in transactions for their client concerning the buying and selling of real estate”; and

(b) by inserting immediately after item 32 the following item –

“33. Non-Profit Organizations.”.

33. The Second Schedule of the principal Act is amended by deleting item 23.

Amendment of
Second
Schedule.

34. The Third Schedule of the principal Act is amended in item 28, by deleting the words “Dealing in real estate when the persons dealing are involved in transactions concerning the buying and selling of real estate” and substituting the words “Real estate agents when they are involved in transactions for their client concerning the buying and selling of real estate”.

Amendment of
Third
Schedule.

35. The principal Act is amended by inserting the following Schedules immediately after the Fourth Schedule —

Insertion of
Fifth and
Sixth
Schedules.

“FIFTH SCHEDULE

**MONEY LAUNDERING AND
TERRORISM (PREVENTION) ACT**

*Powers and Duties of Supervisory Authority in Relation to
Designated Non-Financial Businesses and Professions*

[Section 11(1)(g)]

1. This Schedule—

Scope of this
Schedule.

- (a) sets out the powers and duties of the Financial Intelligence Unit as the supervisory authority for designated non-financial businesses and professions;
- (b) has no application to the Financial Intelligence Unit in any other capacity; and
- (c) is without prejudice to the powers given to, and duties imposed on, a supervisory authority under the Act or the Financial Intelligence Unit under the Financial Intelligence Unit Act, Cap.138.02.

Interpretation.**2. In this Schedule—**

“affiliate”, in relation to an undertaking, means another undertaking that is in the same group as that undertaking;

“DNFBP” means designated non-financial businesses and professions;

“DNFBP Regulations” means the Designated Non-Financial Businesses and Professions Regulations made under the Money Laundering and Terrorism (Prevention) Act, 2008;

“designated non-financial businesses and professions” means those businesses and professions for which the Financial Intelligence Unit is specified as the supervisory authority under the Third Schedule of the Act;

“director”, in relation to an undertaking, means a person appointed to direct the affairs of the undertaking and includes—

- (a) a person who is a member of the governing body of the undertaking; and
- (b) a person who, in relation to the undertaking, occupies the position of director, by whatever name called;

“former DNFBP” means a person who at any time has been a DNFBP, but who has ceased to be a DNFBP;

“parent”, in relation to an undertaking (the first undertaking), means another undertaking that—

- (a) is a member of the first undertaking and whether alone, or under an agreement with other members, is entitled to exercise a majority of the voting rights in the first undertaking;
- (b) is a member of the first undertaking and has the right to appoint or remove the majority of the directors of the first undertaking;
- (c) has the right to exercise a dominant influence over the management and control of the first undertaking pursuant to a provision in the constitutional documents of the first undertaking; or
- (d) is a parent of a parent of the first undertaking;

“subsidiary”, in relation to an undertaking (the first undertaking), means another undertaking of which the first undertaking is a parent;

“undertaking” means—

- (a) a company;
- (b) a partnership; or
- (c) an unincorporated association.

3. (1) Where reasonably required for the discharge of its functions under the Act, the AML Regulations, or guidelines issued under the Act, the supervisory authority may, by written notice given to a person specified in subsection (2), require the person—

Power to require information and production of documents.

(3) The supervisory authority may—

(a) require—

- (i) any information provided or documents produced under this section to be provided or produced in such form as it may specify;
- (ii) any information provided or document produced under this section to be verified or authenticated in such manner as it may reasonably specify; and
- (iii) that the information is to be provided to, or the documents are to be produced to, a person specified in the notice; and

(b) take copies or extracts of any document produced under this section.

(4) Where a person claims a lien on a document, its production under this section is without prejudice to his lien.

4. (1) The supervisory authority may, for the purposes of monitoring, assessing and enforcing compliance by a DNFBP with its AML/CFT obligations—

Compliance visits.

- (a) enter and inspect any premises, whether in or outside Belize, owned, occupied or used by the DNFBP or any subsidiary or parent of the DNFBP;
- (b) review and inspect the business and activities of the DNFBP, including its policies, procedures, systems and controls;
- (c) examine and make copies of documents belonging to or in the possession or control of the DNFBP, or any subsidiary or parent of the DNFBP, that, in the opinion of the supervisory

authority, are relevant to the DNFBP's business or to its AML/CFT obligations; and

- (d) seek information and explanations from the officers, employees, agents and representatives of the DNFBP, whether orally or in writing, and whether in preparation for, during or after a compliance visit.

(2) Subject to subsection (3), the supervisory authority shall give reasonable notice to a DNFBP of its intention to exercise its powers under subsection (1).

(3) Where it appears to the supervisory authority that the circumstances so justify, the supervisory authority may exercise its powers under subsection (1) without giving notice of its intention to do so.

(4) A DNFBP and its subsidiaries and parents shall permit any employee of the supervisory authority, or person appointed by the supervisory authority for the purpose, to have access during reasonable business hours to any premises specified in paragraph (1)(a) to enable that person to undertake a compliance visit.

(5) A person who contravenes subsection (4) is guilty of an offence and is liable—

- (a) on summary conviction, to imprisonment for a term of 12 months or to a fine of \$25,000 or to both; or
- (b) on conviction on indictment, to imprisonment for a term of 3 years or to a fine of \$50,000 or to both.

5. (1) A person shall not be required to disclose information or produce, or permit the inspection of, a

document under this Schedule if the information or document is privileged material within the meaning of section 17(10) of the Act.

(2) Notwithstanding subsection (1), a lawyer, notary, or other independent legal professional may be required, pursuant to a power under this Schedule, to provide the name and address of his client.

6. (1) Subject to subsection (2), a statement made by a person in compliance with a request made by the supervisory authority under section 3 is admissible in evidence in any proceedings, provided that it also complies with any requirements governing the admissibility of evidence in the circumstances in question.

**Admissibility
of statements.**

(2) A statement made by a person in compliance with a requirement imposed under this Schedule may only be used in evidence against him in criminal proceedings if—

- (a) that person has himself introduced the statement in evidence; or
- (b) the prosecution of that person relates to—
 - (i) a failure or refusal by that person to produce documents or give assistance in accordance with the Act;
 - (ii) an omission by that person to disclose material which should have been disclosed or the provision by that person of false or misleading information; or
 - (iii) an untruthful statement by that person.

Protection for disclosure.

7. A person, including a director, officer or employee of a DNFBP, who discloses information or produces documents to the supervisory authority, as permitted or required by this Schedule, is deemed not to be in contravention of any law, rule of law, agreement or professional code of conduct to which that person is subject and no civil, criminal or disciplinary proceedings shall lie against him, or against the DNFBP, in respect thereof.

Offences.

8. (1) A person is guilty of an offence if, without reasonable excuse, he fails to comply with a notice issued under section 3(1).

(2) A person who, in purported compliance with a notice issued by the supervisory authority under section 3(1)—

- (a) provides information which he knows to be false or misleading in a material respect; or
- (b) recklessly provides information which is false or misleading in a material respect;

is guilty of an offence.

(3) A person who, for the purpose of obstructing or frustrating compliance with a notice issued by the supervisory authority under section 3(1), destroys, mutilates, defaces, hides or removes a document is guilty of an offence.

(4) A person who is guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term of 2 years or to a fine of \$30,000 or to both; or

- (b)** on conviction on indictment, to imprisonment for a term of 5 years or to a fine of \$100,000 or to both.

9. The supervisory authority is entitled to take enforcement action under this Schedule against a registered DNFBP if, in the opinion of the supervisory authority, the DNFBP—

Enforcement action.

- (a)** has contravened or is in contravention of any of its AML/CFT obligations;
- (b)** has failed to comply with a directive given to it by the supervisory authority under section 10;
- (c)** has provided the supervisory authority with any false, inaccurate or misleading information, whether on making application for registration or subsequent to its registration;
- (d)** has refused or failed to co-operate with the supervisory authority on a compliance visit under section 4;
- (e)** has refused or failed to co-operate with an investigator appointed under section 13; or
- (f)** is carrying on any type of relevant business without being registered for that type of relevant business under the DNFBP Regulations.

10. (1) Where the supervisory authority is entitled to take enforcement action against a DNFBP, it may, in accordance with section 22(1)(b) of the Act, by written notice issue such directives to the DNFBP as it considers appropriate.

Directives.

(2) Without limiting subsection (1), a directive may—

- (a) require the DNFBP to take, or not to take, such action or measures as the supervisory authority considers appropriate;
- (b) impose a prohibition, restriction or limitation on the business or activities of the DNFBP;
- (c) require that any director, key employee or person having functions in relation to the DNFBP be removed and replaced by another person acceptable to the supervisory authority; or
- (d) require that any individual—
 - (i) not perform a specified function or functions for;
 - (ii) not engage in specified employment by,
 - (iii) not hold a specified position in the business of,the DNFBP.

(3) A directive issued under this section may be of unlimited duration or of a duration specified in the notice of the directive.

(4) The power to issue a directive under this section includes the power, whether on the application of the DNFBP or on the volition of the supervisory authority, to vary or withdraw any directive.

(5) A notice of a directive must—

- (a)** specify the reasons for giving the directive; and
- (b)** specify when the directive is to take effect.

(6) In the case of a DNFBP that is licensed or regulated, the supervisory authority shall consult with the relevant regulatory authority before issuing a directive to a licensed or regulated DNFBP unless the supervisory authority considers that the circumstances otherwise justify.

(7) A DNFBP who fails to comply with a directive issued under this section is guilty of an offence and is liable —

- (a)** on summary conviction, to imprisonment for a term of 2 years or to a fine of \$30,000 or to both; or
- (b)** on conviction on indictment, to imprisonment for a term of 5 years or to a fine of \$100,000 or to both.

11. (1) The supervisory authority may appoint one or more competent persons as investigators to conduct an investigation on its behalf—

**Appointment
of investigator.**

- (a)** with respect to a DNFBP—
 - (i)** if it appears to the supervisory authority on reasonable grounds that there are, or may be, grounds for taking enforcement action; or
 - (ii)** the supervisory authority is of the opinion that it is desirable to appoint an investigator to undertake a money laundering and terrorism financing risk assessment in relation to the DNFBP; and

- (b) with respect to a former DNFBP, if the supervisory authority would have been entitled to appoint an investigator under paragraph (a), but for the person ceasing to be a DNFBP.

(2) An investigator appointed under subsection (1) shall be appointed to investigate one or more of the following in respect of the person being investigated—

- (a) the current or past compliance of the DNFBP with its AML/CFT obligations;
- (b) the money laundering and terrorism financing risks to which the DNFBP is exposed;
- (c) the capacity and willingness of the DNFBP to identify, mitigate and manage the money laundering and terrorism financing risks to which the DNFBP is exposed; and
- (d) whether there are grounds for the taking of enforcement action against the DNFBP.

(3) Subject to subsection (4) and as far as reasonably required to conduct his investigation, an investigator appointed under this section has the following powers of the supervisory authority—

- (a) to require the provision of information or documents under section 3; and
- (b) to apply to a Judge of the Supreme Court in Chambers *ex parte* under section 20 of the Act for a search warrant;
- (c) under paragraphs (a) to (d) of section 4(1).

(4) The supervisory authority may give directions to the investigator—

- (a) limiting the powers of the investigator; and
- (b) concerning any one or more of the following—
 - (i) the scope of the investigation;
 - (ii) the period for the conduct of the investigation; and
 - (iii) the manner in which the investigator shall report to the supervisory authority.

(5) An investigator appointed under subsection (1) may, if he considers it necessary for the purposes of his investigation, on giving written notice to the person concerned, also investigate the business of any person who is, or at any relevant time has been—

- (a) an affiliate of the person under investigation; or
- (b) a partnership of which the person under investigation is a member.

(6) An investigator shall submit a report of his investigation to the supervisory authority.

(7) The supervisory authority may direct that the DNFBP pay the costs, or such part of the costs as it may specify, of an investigation conducted under this section.

(8) The DNFBP Regulations may provide for—

- (a) the notice to be given to a person to be investigated under this section;
- (b) the conduct of an investigation; and

(c) the payment of remuneration to the investigator.

(9) A person who fails to provide all assistance reasonably required by an investigator appointed under this section is guilty of an offence and is liable—

(a) on summary conviction, to imprisonment for a term of 2 years or to a fine of \$30,000 or to both; or

(b) on conviction on indictment, to imprisonment for a term of 5 years or to a fine of \$100,000 or to both.

**Public
statements.**

12. (1) Subject to subsection (5), the supervisory authority may issue a public statement in such manner as it considers fit setting out enforcement action that the supervisory authority intends to take, or has taken, against a DNFBP or a former DNFBP.

(2) A public statement issued under subsection (1) may include such information as the supervisory authority considers appropriate, including—

(a) the reasons for the enforcement action taken or to be taken; and

(b) the nature of the enforcement action taken or to be taken.

(3) Where it considers it in the public interest to do so, the supervisory authority may issue a public statement in such manner as it considers fit with respect to—

(a) any person who the supervisory authority has reasonable grounds to believe is carrying on, has carried on, intends to carry on or is likely to carry on any type of relevant business

without being registered under the DNFBP Regulations in respect of that type of relevant business; and

- (b) any matter relating to the risks of money laundering or terrorist financing.

(4) Subject to subsection (5), where a public statement is to be issued under this section in relation to a DNFBP or a former DNFBP, the supervisory authority shall give the DNFBP 7 days written notice of its intention to issue the public statement and the reasons for the issue of the statement.

(5) If the supervisory authority is of the opinion that it is in the public interest that subsection (4) should not have effect or that the period referred to in that subsection should be reduced, the supervisory authority may issue the public statement without notice to the DNFBP or a former DNFBP or with such shorter period as it considers appropriate.

13. (1) Subject to section 14, for the purposes of this section, “protected information” means information which—

Restrictions on disclosure of information.

- (a) relates to the business or other affairs of any person; and
- (b) is acquired by one of the following people, for the purposes of, or in the discharge of, his or its functions under the Act or under any regulations made or guidelines issued under the Act —
 - (i) the supervisory authority;
 - (ii) an officer or employee of the supervisory authority;

(iii) any person acting under the authority of the DNFBP; and

(iv) an officer or employee of a person specified in subparagraph **(iii)**.

(2) Information is not protected information—

(a) if the information is or has been available to the public from any other source; or

(b) where the information is disclosed in a summary or in statistics expressed in a manner that does not enable the identity of particular persons to whom the information relates to be determined.

(3) Subject to section 6, protected information shall not be disclosed by a recipient of that information, whether the recipient of the information is a person specified in subsection (1) or a person who has directly or indirectly received the protected information from a person specified in subsection (1), without the consent of—

(a) the person from whom he obtained the information; and

(b) if different, the person to whom it relates.

(4) A person who contravenes subsection (3) is guilty of an offence and is liable—

(a) on summary conviction, to a fine of \$10,000; or

(b) on conviction on indictment, to a fine of \$50,000 or to imprisonment for a term of 3 years or to both.

14. Section 13 does not apply to a disclosure—

Exceptions to restriction on disclosure.

- (a) by any person where the disclosure is—
 - (i) required or permitted by, and made in accordance with, an order of any Court of competent jurisdiction in Belize;
 - (ii) required or permitted by the Act or any other law;
 - (iii) made to the Director of Public Prosecutions;
 - (iv) made to a law enforcement agency in Belize;
 - (v) made to another supervisory authority;
 - (vi) in the case of a disclosure that relates to a DNFBP that is licensed or regulated, made to the relevant regulatory authority; or
 - (vii) in the case of a disclosure that relates to a DNFBP, made to—
 - (A) a professional body or association, whether in or outside Belize, of which the DNFBP is a member; or
 - (B) the relevant regulatory authority or self-regulatory organization, whether in or outside Belize, that has responsibility for the regulation or supervision of the DNFBP;
- (b) by a person specified in section 13(1), where the disclosure is made to any person for the

purpose of discharging any function or exercising any power under the Act, whether the function or power is of the person disclosing the information or of the supervisory authority; or

- (c) by a person, other than the supervisory authority, where the disclosure—
- (i) is made with the written consent of the supervisory authority; and
 - (ii) could lawfully have been made by the supervisory authority.

SIXTH SCHEDULE

MONEY LAUNDERING AND TERRORISM (PREVENTION) ACT

External Requests and Orders

[Section 75B]

Restraint Orders

External
request to be
made to
Attorney
General.

1. An external request shall be made to the Attorney General.

Application
for restraint
order.

2. (1) The Court may, on the application the Attorney General on behalf of an overseas authority, make a restraint order under section 3 where it is satisfied that—

- (a) relevant property in Belize is identified in the external request;
- (b) proceedings for a serious crime have been commenced, or an investigation into a

serious crime has been undertaken, and not concluded in the country from which the external request was made; and

- (c) there is reasonable cause to believe that the defendant named in the request has benefited from criminal conduct.

(2) An application for a restraint order may be made as an *ex parte* application to a Judge of the Supreme Court in Chambers.

3. (1) Where the Court is satisfied as to the matters set out in section 2, it may make a restraint order prohibiting any specified person from dealing with relevant property which is identified in the external request and specified in the order.

Restraint order.

(2) A restraint order—

(a) may make provision—

- (i) for reasonable living expenses and reasonable legal expenses in connection with the proceedings seeking a restraint order or the registration of an external order; and
- (ii) for the purpose of enabling any person to carry on any trade, business, profession or occupation; and

(b) may be made subject to such conditions as the Court considers fit.

(3) Where the Court makes a restraint order it may, on the application of the Attorney General, (whether as part of the application for the restraint order or at any

time afterwards) make such order as it believes is appropriate for the purpose of ensuring that the restraint order is effective.

(4) For the purposes of this section, dealing with property includes removing it from Belize.

Discharge and variation of restraint order.

4. (1) An application to discharge or vary a restraint order or an order under section 3(3) may be made to the Court by—

(a) the Attorney General; or

(b) any person affected by the order.

(2) On an application made under subsection (1), the Court may—

(a) discharge the order; or

(b) vary the order.

(3) The Court shall discharge the restraint order if—

(a) at the conclusion of the proceedings for a serious crime with respect to which the order was made, no external order has been made; or

(b) within a reasonable time an external order has not been registered under section 12.

Appeal.

5. (1) If on an application for a restraint order the Court decides not to make one, the Attorney General may appeal to the Court of Appeal against the decision.

(2) If an application is made under section 4(1), in relation to a restraint order or an order under section

3(3), the Attorney General or any person affected by the order may appeal to the Court of Appeal in respect of the Court's decision on the application.

(3) On an appeal under sub-section (1) or (2), the Court of Appeal may—

- (a) confirm the decision; or
- (b) make such order as it considers appropriate.

6. (1) If a restraint order is in force, a police officer or a customs officer may seize any property which is specified in the order to prevent its removal from Belize.

Seizure of property subject to restraint order.

(2) Property seized under subsection (1) shall be dealt with in accordance with the directions of the Court which made the order.

7. (1) Evidence shall not be excluded in restraint proceedings on the ground that it is hearsay (of whatever degree).

Hearsay evidence in restraint proceedings.

(2) For the purposes of subsection (1), restraint proceedings are proceedings—

- (a) for a restraint order;
- (b) for the discharge or variation of a restraint order; or
- (c) on an appeal under section 5.

(3) Nothing in this section affects the admissibility of evidence which is admissible apart from this section.

8. (1) If the Court makes a restraint order, on the application of the Attorney General (whether made as part

Appointment of receiver.

of the application for the restraint order or at any time afterwards), the Court may by order appoint a receiver in respect of any property which is specified in the restraint order.

(2) On the application of the Attorney General, the Court may, by order confer on a receiver appointed under subsection (1), any of the following powers in relation to any property which is specified in the restraint order—

- (a) power to take possession of the property;
- (b) power to manage or otherwise deal with the property;
- (c) power to start, carry on or defend any legal proceedings in respect of the property;
- (d) power to realise so much of the property as is necessary to pay the receiver's remuneration and expenses.

(3) The Court may by order confer on the receiver power to enter any premises in Belize and to do any of the following—

- (a) search for or inspect anything authorised by the Court;
- (b) make or obtain a copy, photograph or other record of anything so authorised;
- (c) remove anything which the receiver is required or authorised to take possession of pursuant to an order of the Court.

(4) The Court may by order authorise the receiver to do any one or more of the following in the exercise of his functions—

- (a) hold property;
- (b) enter into contracts;
- (c) sue and be sued;
- (d) employ agents;
- (e) execute powers of attorney, deeds or other instruments;
- (f) take such other steps the Court thinks appropriate.

(5) The Court may order any person who has possession of property which is specified in the restraint order to give possession of it to the receiver.

(6) The Court—

- (a) may order a person holding an interest in property which is specified in the restraint order to make to the receiver such payment as the Court specifies in respect of a beneficial interest held by the defendant or the recipient of a tainted gift; and
- (b) may (on the payment being made) by order transfer, grant or extinguish any interest in the property.

(7) The Court shall not—

- (a) confer the power mentioned in section (2)(b) or (d) in respect of property; or
- (b) exercise the power conferred on it by section (6) in respect of property;

unless it gives persons holding interests in the property a reasonable opportunity to make representations to it.

(8) The Court may order that a power conferred by an order under this section is subject to such conditions and exceptions as it specifies.

Restrictions
relating to
restraint
orders.

9. (1) Where the Court makes a restraint order—

- (a) no distress may be levied against any property which is specified in the order except with the leave of the Court and subject to any terms the Court may impose; and
- (b) if the order applies to a tenancy of any premises, no landlord or other person to whom rent is payable may exercise a right of forfeiture by peaceable re-entry in relation to the premises in respect of any failure by the tenant to comply with any term or condition of the tenancy, except with the leave of the Court and subject to any terms the Court may impose.

(2) If proceedings are pending before the Court in respect of any property and the Court is satisfied that a restraint order has been applied for or made in respect of the property, the Court may either stay the proceedings or allow them to continue on any terms it thinks fit.

(3) Before exercising any power conferred by subsection (2), the Court shall give an opportunity to be heard to—

- (a) the Attorney General; and
- (b) any receiver appointed in respect of the property under this Schedule.

External Orders

10. (1) The Attorney General may apply to the Court, on behalf of an overseas authority, to give effect to an external order in Belize.

Applications to give effect to external orders.

(2) No application to give effect to such an order may be made otherwise than under subsection (1).

(3) An application under subsection (1) may be made as an *ex parte* application to a Judge of the Supreme Court in Chambers.

11. (1) The Court shall give effect to an external order by registering it where it is satisfied—

Conditions for Court to give effect to external orders.

- (a) the external order was made consequent on the conviction of the person named in the order and no appeal is outstanding in respect of that conviction;
- (b) the external order is in force and no appeal is outstanding in respect of it; and
- (c) in the case of an external order which authorises the confiscation of property other than money that is specified in the order, the specified property shall not be subject to a charge under any of the following—
 - (i) the Crime Control and Criminal Justice Act, Cap. 102; or
 - (ii) the Misuse of Drugs Act, Cap. 103.

(2) In subsection (1), “appeal” includes—

- (a) any proceedings by way of discharging or setting aside the order; and

- (b) an application for a new trial or stay of execution.

Registration of external orders.

12. (1) Where the Court decides to give effect to an external order, it shall—

- (a) register the order in the Court;
- (b) provide for notice of the registration to be given to any person affected by it; and
- (c) appoint the Attorney General as the enforcement authority for the order.

(2) Only an external order registered by the Court may be implemented under this Schedule.

(3) The Court may cancel the registration of the external order, or vary the property to which it applies, on an application by the Attorney General or any person affected by it if, or to the extent that, the Court is of the opinion that any of the conditions in section 11 is not satisfied.

(4) The Court shall cancel the registration of the external order, on an application by the Attorney General or any person affected by it, if it appears to the Court that the order has been satisfied—

- (a) in the case of an order for the recovery of a sum of money specified in it, by payment of the amount due under it;
- (b) in the case of an order for the recovery of specified property, by the surrender of the property; or
- (c) by any other means.

(5) Where the registration of an external order is cancelled or varied under subsection (3) or (4), the Court shall provide for notice of this to be given to the Attorney General and any person affected by it.

13. (1) If, on an application for the Court to give effect to an external order by registering it, the Court decides not to do so, the Attorney General may appeal to the Court of Appeal against the decision.

Appeal to Court of Appeal concerning external orders.

(2) If an application is made under section 12(3) or (4) in relation to the registration of an external order, the Attorney General or any person affected by the registration may appeal to the Court of Appeal in respect of the Court’s decision on the application.

(3) On an appeal under subsection (1) or (2), the Court of Appeal may—

- (a) confirm or set aside the decision to register; or
- (b) direct the Court to register the external order, or so much of it as relates to property other than to which section 11(1)(c) applies.

14. (1) This section applies where the external order which is registered under section 12 specifies a sum of money.

Sums in currency other than dollars.

(2) If the sum of money which is specified is expressed in a currency other than dollars, the sum of money to be recovered is to be taken to be the dollar equivalent calculated in accordance with the rate of exchange prevailing at the end of the working day immediately preceding the day when the Court registered the external order under section 12.

(3) The dollar equivalent shall be calculated by the Attorney General.

(4) The notice referred to in sections 12(1)(b) and 12(5) shall set out the amount in dollars which is to be paid.

**Time for
payment.**

15. (1) This section applies where the external order is for the recovery of a specified sum of money.

(2) Subject to subsections (3) to (6), the amount ordered to be paid under—

(a) an external order that has been registered under paragraph 12; or

(b) where section 14(2) applies, the notice under section 12(1)(b),

shall be paid on the date on which the notice under section 12(1)(b) is delivered to the person affected by it.

(3) Where there is an appeal under section 13 and a sum falls to be paid when the appeal has been determined or withdrawn, the duty to pay is delayed until the day on which the appeal is determined or withdrawn.

(4) If the person affected by an external order which has been registered shows that he needs time to pay the amount ordered to be paid, the Court may make an order allowing payment to be made in a specified period, which—

(a) shall start with the day on which the notice under section 12(1)(b) was delivered to the person affected by the order or the day referred to in subsection (3), as the case may be; and

(b) shall not exceed 6 months.

(5) If within the specified period the person affected by an external order applies to the Court for the period

to be extended and the Court believes that there are exceptional circumstances, it may make an order extending the period.

(6) The extended period—

(a) shall start with the day on which the notice under section 22(1)(b) was delivered to the person affected by it or the day referred to in subsection (3), as the case may be; and

(b) shall not exceed 12 months.

(7) An order under subsection (5)—

(a) may be made after the end of the specified period; but

(b) shall not be made after the end of the extended period.

(8) The Court shall not make an order under subsection (5) or (7) unless it gives the Attorney General an opportunity to make representations.

16. If an external order is registered, is not satisfied, and, in the case of an external order for the recovery of a specified sum of money, any period specified by order under section 15 has expired, the Court, on the application of the Attorney General may appoint a receiver in respect of—

Appointment
of receivers.

(a) where the external order is for the recovery of a specified sum of money, realizable property; or

(b) where the external order is for the recovery of specified property, that property.

Powers of receivers in respect of monetary external orders.

17.(1) If the Court appoints a receiver under section 16, it may, on the application of the Attorney General where the external order is for the recovery of a specified sum of money, by order confer on the receiver the following powers in relation to any realizable property—

- (a) power to take possession of the property;
- (b) power to manage or otherwise deal with the property;
- (c) power to realise the property, in such manner as the Court may specify; and
- (d) power to start, carry on or defend any legal proceedings in respect of the property.

(2) The Court may by order confer on the receiver power to enter any premises in Belize and to do any of the following—

- (a) search for or inspect anything authorised by the Court;
- (b) make or obtain a copy, photograph or other record, of anything so authorised; and
- (c) remove anything which the receiver is required or authorised to take possession of pursuant to an order of the Court.

(3) The Court may by order authorise the receiver to do any of the following in the exercise of his functions—

- (a) hold property;
- (b) enter into contracts;
- (c) sue and be sued;

- (d)* employ agents;
- (e)* execute powers of attorney, deeds or other instruments; and
- (f)* take any other steps the Court thinks appropriate.

(4) The Court may order any person who has possession of realizable property to give possession of it to the receiver.

(5) The Court—

- (a)* may order a person holding an interest in realizable property to make to the receiver such payment as the Court specifies in respect of a beneficial interest held by the defendant or the recipient of a tainted gift; and
- (b)* may (on payment being made) by order transfer, grant or extinguish any interest in the property.

(6) Subsections (2), (4) and (5) do not apply to property for the time being subject to a charge under any of the following—

- (a)* the Crime Control and Criminal Justice Act, Cap. 102; or
- (b)* the Misuse of Drugs Act, Cap. 103.

(7) The Court shall not—

- (a)* confer the power mentioned in subsection (2)*(b)* or *(c)* in respect of property; or

(b) exercise the power conferred on it by subsection

(6) in respect of property, unless it gives persons holding interests in the property a reasonable opportunity to make representations to it.

(8) The Court may order that a power conferred by an order under this section is subject to such conditions and exceptions as it specifies.

Powers of receivers in respect of external orders for the recovery of specified property.

18. (1) If the Court appoints a receiver under section 16, it may, on the application of the Attorney General where the external order is for the recovery of property specified in the order (“the specified property”), by order confer on the receiver the following powers in relation to the specified property—

(a) power to take possession of the property;

(b) power to manage or otherwise deal with the property;

(c) power to realise the property, in such manner as the Court may specify;

(d) power to start, carry on or defend any legal proceedings in respect of the property.

(2) The Court may by order confer on the receiver power to enter any premises in Belize and to do any of the following—

(a) search for or inspect anything authorised by the Court;

(b) make or obtain a copy, photograph or other record of anything so authorised; and

(c) remove anything which the receiver is required or authorised to take possession of pursuant to an order of the Court.

(3) The Court may by order authorise the receiver to do any of the following for the purposes of the exercise of his functions—

- (a) hold property;
- (b) enter into contracts;
- (c) sue and be sued;
- (d) employ agents;
- (e) execute powers of attorney, deeds or other instruments; and
- (f) take any other steps the Court thinks appropriate.

(4) The Court may order any person who has possession of the specified property to give possession of it to the receiver.

(5) The Court—

- (a) may order a person holding an interest in the specified property to make to the receiver such payment as the Court specifies in respect of a beneficial interest held by the defendant or the recipient of a gift defined in this Act; and
- (b) may (on the payment being made) by order transfer, grant or extinguish any interest in the property.

(6) The Court shall not—

- (a) confer the power mentioned in subsection (1)(b) or (c) in respect of property; or

- (b) exercise the power conferred on it by subsection (5) in respect of property;

unless it gives persons holding interests in the property a reasonable opportunity to make representations to it.

(7) The Court may order that a power conferred by an order under this section is subject to such conditions and exceptions as it specifies.

Meaning of “managing or otherwise dealing with property”.

19. For the purposes of sections 8, 17 and 18, managing or otherwise dealing with property includes—

- (a) selling the property or any part of it or interest in it;
- (b) carrying on or arranging for another person to carry on any trade or business the assets of which are or are part of the property; or
- (c) incurring capital expenditure in respect of the property.

Application of sums by receiver.

20. (1) This section applies to sums which are in the hands of a receiver appointed under section 16 if they are—

- (a) the proceeds of the realisation of property under section 17 or 18;
- (b) where section 17 applies, sums (other than those mentioned in paragraph (a)) in which the defendant holds an interest.

(2) The sums shall be applied as follows—

- (a) first, they shall be applied in making any payments directed by the Court; and

(b) second, they shall be applied on the defendant's behalf towards satisfaction of the external order.

(3) If the amount payable under the external order has been fully paid and any sums remain in the receiver's hands he shall distribute them—

(a) among such persons who held (or hold) interests in the property concerned as the Court directs; and

(b) in such proportions as it directs.

(4) Before making a direction under subsection (3) the Court shall give persons who held (or hold) interests in the property concerned a reasonable opportunity to make representations to it.

(5) For the purposes of subsections (3) and (4) the property concerned is—

(a) the property represented by the proceeds mentioned in subsection (1)**(a)**; and

(b) the sums mentioned in subsection (1)**(b)**.

(6) The receiver applies sums as mentioned in subsection (2)**(b)** by paying them to the Attorney General on account of the amount payable under the order.

21. (1) Where the Attorney General receives sums on account of the amount payable under a registered external order or the value of the property specified in the order, his receipt of the sums reduces the amount payable under the order, but he shall apply the sums received as follows—

(a) first, he shall apply them in payment of the remuneration and expenses of a receiver

Sums received
by Attorney
General.

appointed under section 8 to the extent that they have not been met by virtue of the exercise by that receiver of a power conferred under section 8(2)(d); and

- (b) second, in payment of the remuneration and expenses of the receiver appointed under section 16.

(2) Any sums which remain after the Attorney General has made any payments required by the preceding provisions of this section shall be paid into the Belize Confiscated and Forfeited Assets Fund.

Satisfaction of external order.

22. (1) A registered external order is satisfied when no amount is due under it.

(2) Where such an order authorises the recovery of property specified in it, no further amount is due under the order when all of the specified property has been sold.

Restrictions relating to receivers.

23. (1) Where the Court makes an order under section 16 appointing a receiver in respect of any realizable property or specified property—

- (a) no distress may be levied against the property except with the leave of the Court and subject to any terms the Court may impose; and
- (b) if the receiver is appointed order in respect of a tenancy of any premises, no landlord or other person to whom rent is payable may exercise a right of forfeiture by peaceable re-entry in relation to the premises in respect of any failure by the tenant to comply with any term or condition of the tenancy, except with the leave of the Court and subject to any terms the Court may impose.

(2) If proceedings are pending before the Court in respect of any property and the Court is satisfied that a restraint order has been applied for or made in respect of the property, the Court may either stay the proceedings or allow them to continue on any terms it thinks fit.

(3) If the Court is satisfied that an order under section 16 appointing a receiver in respect of the property has been applied for or made, the Court may either stay the proceedings or allow them to continue on any terms it thinks fit.

(4) Before exercising any power conferred by subsection (2) or (3), the Court shall give an opportunity to be heard to—

- (a) the Attorney General; and
- (b) the receiver, if the order under section 16 has been made.

24. If a receiver appointed under sections 8 or 16—

- (a) takes action in relation to property which is not realizable property or, as the case may be, the specified property;
- (b) would be entitled to take the action if it were realizable property or, as the case may be, the specified property; and
- (c) believes on reasonable grounds that he is entitled to take the action;

Protection of receiver appointed under sections 8 or 16.

he is not liable to any person in respect of any loss or damage resulting from the action, except so far as the loss or damage is caused by his negligence.

Further applications by receivers.

25. (1) A receiver appointed under section 8 or 16 may apply to the Court for an order giving directions as to the exercise of his powers.

(2) The following persons may apply to the Court—

(a) any person affected by action taken by a receiver appointed under section 8 or 16;
or

(b) any person who may be affected by action such a receiver proposes to take.

(3) On an application under this section the Court may make such order as it believes is appropriate.

Discharge and variation of receiver orders.

26. (1) The following persons may apply to the Court to vary or discharge an order made under section 8 or paragraphs 16 to 18—

(a) the receiver;

(b) the Attorney General; or

(c) any person affected by the order.

(2) On an application under this section, the Court—

(a) may discharge the order; or

(b) may vary the order.

Discharge of receivers appointed under section 8.

27. (1) If a receiver is appointed under section 8 in respect of property which is identified in the restraint order (the first receiver), and the Court appoints a receiver under section 16 (the second receiver), the Court shall order the first receiver to transfer to the second receiver all property held by him by virtue of the powers conferred on him by section 8.

(2) Sub-paragraph (1) does not apply to property which the first receiver holds by virtue of the exercise by him of his power under section 8(2)(d).

(3) If the first receiver complies with an order under subsection (1) he is discharged—

- (a) from his appointment under section 8; and
- (b) from any obligation under this Schedule arising from his appointment.

(4) If this section applies the Court may make such a consequential or incidental order as it believes is appropriate.

28. (1) If, on an application for an order under any of sections 8 or 16 to 18 the Court decides not to make an order, the person who applied for the order may appeal to the Court of Appeal against the decision.

Appeal to
Court of
Appeal about
receivers.

(2) If the Court makes an order under any of sections 8 or 16 to 18, the following persons may appeal to the Court of Appeal in respect of the Court's decision—

- (a) the person who applied for the order;
- (b) any person affected by the order.

(3) If on an application for an order under section 25 the Court decides not to make an order, the person who applied for the order may appeal to the Court of Appeal against the decision.

(4) If the Court makes an order under section 25, the following persons may appeal to the Court of Appeal in respect of the Court's decision—

- (a) the person who applied for the order;
- (b) any person affected by the order;
- (c) the receiver.

(5) The following persons may appeal to the Court of Appeal against a decision of the Court on an application under section 26—

- (a) the person who applied for the order in respect of which the application was made;
- (b) any person affected by the Court's decision;
- (c) the receiver.

(6) On an appeal under this section the Court of Appeal may—

- (a) confirm the decision; or
- (b) make such order as it believes is appropriate.

Interpretation for this Schedule

Tainted gifts.

29. (1) For the purposes of this Schedule, a gift is tainted if it was made by the accused at any time after—

- (a) the date on which the serious crime to which the external order or external request relates was committed; or
- (b) if the accused's criminal conduct consists of two or more serious crimes and they were committed on different dates, the date on which the earliest was committed.

(2) For the purposes of subsection (1), a serious crime which is a continuing offence is committed on the first occasion when it is committed.

(3) A gift may be a tainted gift even if it was made before the date on which this Act came into force.

30. In this Schedule, “specified property” means property specified in an external order, other than an order that specifies a sum of money.

Specified property.
