

# The Anti-Money Laundering and Combatting the Financing of Terrorism (Miscellaneous Provisions) Act 2020

Key legislative amendments regarding the financial services sector

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## 1 Introduction

“ Following the decision of the Financial Action Task Force (FATF) at its Plenary Meeting of 19-21 February 2020 to include Mauritius on its list of jurisdictions under increased monitoring, and the listing of the country on the EU List of High Risk Third Countries issued by the European Commission on 7 May 2020, Parliament passed the *Anti-Money Laundering and Combatting the Financing of Terrorism (Miscellaneous Provisions) Act 2020* (Act No. 5 of 2020) on 7 July 2020, to ensure “*closer compliance with the recommended international best practices of the Financial Action Task Force.*”<sup>1</sup>

Act No.5 of 2020 was published in the Government Gazette on 09th July 2020. The legislative reforms are intended to strengthen the country’s legal and regulatory framework concerning the fight against money laundering and financing of terrorism. In this document, we address the main legislative amendments.

## 2 Banking Act 2004 (the “BA”)

### Customer due diligence information – Section 64B

The fine which may be imposed by the Bank of Mauritius for non-compliance by financial institutions or holders of licence with money laundering or terrorism financing guidelines, directives or instructions issued by the Bank of Mauritius has been increased from one million rupees to an amount not exceeding ten million rupees.

### Examination of financial institutions or holders of licence – Section 64C

The amendments to this section are two-fold. Firstly, the BA has been amended to address the frequency and intensity of the examinations of the operations and affairs of financial institutions or holders of licence carried out by the Bank of Mauritius which are now determined by several factors, namely (a) the money laundering or

terrorism financing risks and the policies, internal controls and procedures associated with the financial institution or holder of a licence or its group, as identified by the Bank of Mauritius’ assessment of the institution’s or group’s risk profiles (b) the money laundering or terrorism financing risks present in Mauritius; and (c) the characteristics of the financial institution or holder of a licence or its group, in particular the diversity and number of financial institutions or holder of a licence and the degree of discretion allowed to them under the risk-based approach implemented by the Bank of Mauritius.

Secondly, the Bank of Mauritius will now review periodically the assessment of money laundering or terrorism financing risk profile and risks of non-compliance of a financial institution, licence holder or group upon the occurrence of major events or developments in the management and operations of the financial institution or holder of licence.

<sup>1</sup> Explanatory Memorandum to the Anti-Money Laundering and Combatting the Financing of *Terrorism (Miscellaneous Provisions) Bill* (No. V of 2020)

### 3 Civil Status Act

#### Access to Central Population Database (the “CPD”) – Section 8C

Access to the CPD kept and maintained by the Registrar of Civil Status has now been granted to any ministry or governmental department in such matter as may be approved and to the Bank of Mauritius.

#### Sharing of information – Section 17B

Amendments have been brought to allow the disclosure of the photograph to the list of information which can be

shared by the Registrar of Civil Status with other public sector agencies. Further amendments have also been made to exclude any sharing of information on minors.

Institutions established under the Financial Intelligence and Anti-Money Laundering Act and the Bank of Mauritius are now allowed to disclose information shared with them by the Registrar of Civil Status.

### 4 Companies Act (the “CA”)

The amendments to the CA lay emphasis on beneficial ownership information. The relevant provisions have been broadened to require companies to obtain, record and disclose these information, as appropriate. The previous definition of ‘beneficial owner’ in section 91(8) has been repealed and a new definition has been added in the definition section and shall now read as follows:

“beneficial owner” or “ultimate beneficial owner” –

(a) means any natural person who ultimately owns or controls a company or the natural person on whose behalf a transaction or activity is being conducted in relation to a company; and

(b) includes –

(i) the natural person who ultimately owns or controls a company through –

(A) direct or indirect ownership of such shares in such percentage as may be prescribed;

(B) voting rights;

(C) ownership interest; or

(D) control by other means;

(ii) where no natural person under paragraph (i) is identified, or if there is any doubt that the person identified is the beneficial owner, the natural person who controls the company in the manner one company controls another company under section 5;

(iii) where no person under paragraphs (i) and (ii) is identified, the natural person who acts as executive director or has equivalent executive powers.

Henceforth, a declaration regarding beneficial ownership information shall be made upfront at the time of making an application for incorporation in order to identify any nominee arrangement. Likewise, following an entry or alteration in the share register, these information will have to be filed with the Registrar of Companies within 14 days. The definition of ‘nominee’ has been revised and now reads as follows:

“nominee” means a person who, in exercising a right in relation to a share, debenture or other property, is entitled to exercise that right only in accordance with instructions

#### 4 Companies Act (the “CA”) (Continued)

given by some other person either directly or indirectly through the agency of one or more persons, and a person is the nominee of another legal or natural person where he is entitled to exercise such a right only in accordance with instructions given by that other person.

Notwithstanding any other enactment, a company shall authorise at least one officer, who shall be ordinarily resident in Mauritius, to provide, upon request by any competent authority, basic information about the

company, including beneficial ownership information.

The Registrar has been empowered to remove a company from the register of companies where that company fails to comply with filing of the beneficial ownership information as has been prescribed.

The requirements apply equally to foreign companies registered under the CA and companies registered by way of continuation in Mauritius.





## 5 Financial Intelligence and Anti Money Laundering Act (the “FIAMLA”)

The definition of “bank” has been amended to include such category of licensee under the National Payment Systems Act 2018.

The definition of “financial institution” has been extended to include an institution or a person, as the case may be, licensed, registered or authorised under the (i) Trusts Act and (ii) a credit union.

The definition of “investigatory authority” has been extended to include the Agency and Agency means the Integrity Reporting Services Agency established under section 4(1) of the Good Governance and Integrity Reporting Act.

The definition of “legal person” has also been amended and means any entity, other than a natural person and includes a company, a foundation, an association, a limited liability partnership or such other entity as may be prescribed.

The definition of “auditor” has been added and it means a person licensed to practise as an auditor under the Financial Reporting Act.

The definition of “Counterterrorism Unit” has been added and it means the Counterterrorism Unit referred to in section 18 of the Prevention of Terrorism Act.

The definition of “credit union” has been added and it means a society registered as such under the Co-operatives Act, the objects of which are to promote thrift among, and provide credit to, its members.

The definition of “dealer in jewellery, precious stones or precious metals” has been added and it –

- (a) means a person who deals in jewellery, precious stones or precious metals; and
- (b) includes a person who –

- (i) manufactures, processes, buys, sells, imports or exports jewellery, or supplies jewellery for sale;
- (ii) processes, buys, sells or imports precious metals, or exports melted precious metals; or
- (iii) processes, buys, sells or imports precious stones.

The definition of “internal controller” has been added and it has the same meaning as in the Co-operatives Act.

The definition of “jewellery” has been added and it means any article made of a precious metal or its alloy, and which exceeds one gramme.

The definition of “precious metal” has been added and –

- (a) means gold, silver, platinum or palladium; and
- (b) includes any object which is composed of gold, silver, platinum or palladium.

The definition of “precious stone” has been added and it means diamond, sapphire, ruby, emerald, alexandrite or tanzanite.

The Registrar of Co-operative Societies under the Co-operatives Act has now been added under the definition of supervisory authorities.

Paragraph (a) of the definition of suspicious transaction has been amended and now means a transaction which gives rise to a reasonable suspicion that it may involve the laundering of money or the proceeds of any crime; or funds linked or related to, or to be used for, the financing of terrorism or proliferation financing or, any other activities or transaction related to terrorism as specified in the Prevention of Terrorism Act or under any other enactment, whether or not the funds represent the proceeds of a crime.



## 5 Financial Intelligence and Anti Money Laundering Act (the “FIAMLA”) (Continued)

A reporting person may now be found guilty of the offence of failing to take such measures as are reasonably necessary to ensure that neither he, nor any service offered by him, is capable of being used by a person to commit or to facilitate the commission of a money laundering offence or the financing of terrorism.

The Financial Intelligence Unit (the “FIU”) shall now disseminate disclosures of information also to the Counterterrorism Unit and also inform, advise and cooperate with the latter.

One of the functions of the FIU has also been amended to include issue guidelines to auditors, reporting persons and internal controllers of credit unions as to the manner in which a report under section 14 shall be made; and additional information may be supplied to FIU, on a suspicious transaction, pursuant to a request made under section 13(2), (3) or (6);

In furtherance of the functions of the FIU, the Director may now consult and seek such assistance from also reporting persons or auditors.

Where there are grounds to suspect money laundering, predicate offences or terrorism financing, the Director of the FIU shall disseminate information and the results of the analysis of the FIU to the Counterterrorism Unit as well.

Where a report of a suspicious transaction is made under section 14, the Director may, for the purpose of assessing whether any information should be disseminated to investigatory or supervisory authorities, the Counterterrorism Unit or Registrars, request further information in relation to the suspicious transaction from the reporting person or auditor who made the report and a reporting person or an auditor who is, or appears to be, involved in the transaction.

Section 13 (4) has been amended to reflect that where a reporting person or an auditor receives a request for information under section 13 subsection (2) or (3), the reporting person or auditor shall, notwithstanding section

300 of the Criminal Code and any other enactment, furnish, as soon as practicable, but not later than 15 working days after the request, provide the FIU with the requested information.

Where a report of a suspicious transaction is made under section 14, the Director of the FIU shall, by written notice, require a reporting person or auditor to keep the records in respect of that suspicious transaction for such period as may be specified in the notice.

The Director may, in addition to a reporting person, request information from an auditor such that he is provided with information on whether:

- (i) a person is or has been a client of the reporting person or auditor;
- (ii) whether a person is acting or has acted on behalf of any client of the reporting person or auditor; or
- (iii) whether a client of the reporting person or auditor is acting or has acted for a person.

A reporting person or auditor shall comply with a request made by the Director of the FIU within such time as may be specified in the request.

Any reporting person or auditor, or any director, employee, agent or legal representative of a reporting person or auditor who –

- (a) fails to supply any information as may be requested by the FIU under section 13(2), (3) or (6) by the date specified in the request, or
  - (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, any information, document or material which is or is likely to be relevant to a request under section 13(2), (3) or (6),
- shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

## 5 Financial Intelligence and Anti Money Laundering Act (the “FIAMLA”) (Continued)

The heading “PART IV - REPORTING AND OTHER MEASURES TO COMBAT MONEY LAUNDERING” has been repealed and replaced by “PART IV – MEASURES TO COMBAT MONEY LAUNDERING AND THE FINANCING OF TERRORISM”

**The heading of Section 14 “Reporting obligations of banks, financial institutions, cash dealers, controller or auditor of a credit union under the Co-operatives Act and members of relevant professions or occupations” has been repealed and replaced by “Reporting of suspicious transaction by reporting person or auditor”**

Notwithstanding section 300 of the Criminal Code and any other enactment, every reporting person or auditor shall, as soon as he becomes aware of a suspicious transaction, make a report to FIU of such transaction not later than 5 working days after the suspicion arose.

For the purpose of section 14 (1), the burden of reporting a suspicious transaction to FIU shall, in the case of a credit union, be on the internal controller of the credit union.

Where a reporting person or an auditor becomes aware of a suspicious transaction or ought reasonably to have become aware of a suspicious transaction, and he fails to make a report to FIU of such transaction not later than 5 working days after the suspicion arose, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

The requirement to register with the FIU within such time and in such form and manner as may be prescribed has been extended to an auditor.

A reporting person or auditor shall include in a report made to the FIU under section 14, the business relationship of the suspect to the reporting person or auditor. Where the suspect is an insider, the reporting person or auditor shall include in his report to the FIU any information as to whether the suspect is still affiliated with the reporting person or auditor.

Any reporting person and auditor and any of their officers shall not disclose to any person that a suspicious

transaction report is being or has been filed, or that related information is being or has been requested by, furnished or submitted to FIU.

No proceedings shall lie against any person for having supplied in good faith any information to FIU pursuant to a request made under section 13(2), (3) or (6).

Any reporting person, or any director, employee, agent or other legal representative of a reporting person who, knowingly or without reasonable excuse –

- a. fails to comply with section 17, 17A, 17B, 17C, 17D, 17E, 17F or 17G;
  - b. destroys or removes any record, register or document which is required under the Act or any regulations; or
  - c. facilitates or permits the performance under a false identity of any transaction,
- shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10 million rupees and to imprisonment for a term not exceeding 5 years.

**Under PART IV A – NATIONAL COMMITTEE FOR ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM, the heading in section 19E has been amended and now reads as Duty to provide information for purpose of conducting risk assessment.**

## 5 Financial Intelligence and Anti Money Laundering Act (the “FIAMLA”) (Continued)

Section 19 FA has been added to reflect that any regulatory body may require such information as it may determine from any member of a relevant profession or occupation and the member of the relevant profession or occupation shall, within such time as the regulatory body may determine, provide such information. Any person who fails to provide any information under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

**The heading of section 21 has been amended and now reads as follows: “Provision of information by FIU to investigatory authorities, supervisory authorities, Counterterrorism Unit or Registrars”**

### Section 21 (1)

Where it becomes aware of any information, which (a) may be relevant to the functions of any of the supervisory authorities, the Counterterrorism Unit, or Registrars; and (b) does not of itself justify a dissemination to any of the investigatory authorities under section 13, the FIU may, by itself or at the request of the supervisory authorities, the Counterterrorism Unit or Registrars, subject to subsection (4), pass on the information to the relevant supervisory authority, the Counterterrorism Unit or Registrar.

The heading of section 22 has been replaced by the following heading: **“22. Provision of information by supervisory authorities, Counterterrorism Unit or Registrars to FIU”**.

Notwithstanding any other enactment, where, at any time in the course of the exercise of its functions, any supervisory authority, the Counterterrorism Unit or Registrar receives, or otherwise becomes aware of, any information suggesting the possibility of a money laundering offence

or suspicious transaction, the supervisory authority, Counterterrorism Unit or Registrar, shall, forthwith pass on that information to the FIU.

The following amendments have been adopted in the First Schedule:

- 1** Licensed auditor under the Financial Reporting Act have been removed from First Schedule of the Act.
- 2** The category “person licensed to operate a casino, gaming house, gaming machine, totalisator, bookmaker and interactive gambling under the Gambling Regulatory Authority Act” has been repealed and replaced by the following category:  
Person licensed to operate a casino, a hotel casino, as a horse racing organiser, the Mauritius National Lottery, a limited payout machine, a sweepstake, as a local pool promoter, as the agent of a local pool promoter, a gaming house, a gaming machine, as a totalisator, as a bookmaker and interactive gambling under the Gambling Regulatory Authority Act
- 3** Dealer under the Jewellery Act has been deleted and replaced by Dealer in jewellery, precious stones or precious metals
- 4** A credit union under the Co-operatives Act has been deleted.

The following amendments were made in relation to members of a relevant profession or occupation where they shall comply with the FIAMLA or any regulations made or any guidelines issued under the FIAMLA in the following situations:

(a) a person licensed, under the Gambling Regulatory Authority Act, to operate a casino, hotel casino, limited payout machine, sweepstake, gaming house, gaming machine where any of his customers engages on any given date, a total cumulative financial transaction equal to or above 20,000 rupees;



## 5 Financial Intelligence and Anti Money Laundering Act (the “FIAMLA”) (Continued)

(b) a totalisator, a bookmaker, a local pool promoter, the agent of a foreign pool promoter and pool collector, under the Gambling Regulatory Authority Act, where any of his customers engages on any given date, a total cumulative financial transaction equal to or above 20,000 rupees;

(c) An agent in land and building or an estate agency, a land promoter and property developer under the Local Government Act, where he is involved in transactions for a client, concerning the buying, selling or rental of real estates;

(d) A dealer in jewellery, precious stones or precious metals who engages in any cash transaction of at least 500,000 rupees in total, whether the transaction is executed in a single operation or in several operations which appear to be linked;

(e) The activities carried out by a barrister, an attorney, a notary, a law firm, a foreign law firm, a joint law venture, a foreign lawyer under the Law Practitioners Act, and a professional accountant, a public accountant and a member firm and auditor under the Financial Reporting Act, who prepares for, or carries out, transactions for his client in relation to buying and selling of real estate also now includes the rental of property.

In Part II of the FIAMLA the term “given date” has been defined as a period of 24 hours starting at 10 o’clock in the morning on a day and ending at 10 o’clock in the morning on the following day.

## 6 Financial Reporting Act

Section 55A has been repealed to include the obligations to comply with guidelines issued by the Mauritius Institute of Professional Accountants (“MIPA”) and FIU by stating that for the purposes of combatting money laundering and the financing of terrorism, every professional accountant, public accountant and relevant member firm referred to in Part II of the First Schedule to the FIAMLA shall comply with the guidelines issued by the MIPA and FIU.

## 7 Financial Services Act (The “FSA”)

The amendments to the FSA are as follows:

### i. Approval of Controllers and Beneficial Owners.

Section 23(1) of the FSA provides that no shares, or any legal or beneficial interest in a licensee shall be issued or transferred except with the approval of the Financial Services Commission (“FSC”). The amendment to section 23 has now repealed the sub-section which used to provide that the above shall not apply to classes of licensees which may be specified in the FSC Rules. The newly introduced subsections specify that Section 23(1) of the FSA shall

not apply to collective investment schemes and closed-end funds as authorised under the Securities Act (SA) and **reporting issuers**, registered under the SA, that do not hold an activity license for a licensable activity but whose securities are listed on a Securities Exchange in Mauritius, in respect of the issue or transfer of the type of shares that **do not carry voting rights**.

## 7 Financial Services Act (The “FSA”) (Continued)

ii. **Scope of On-site inspections.** Previously, on-site inspections of a licensee or an audit of the books and records to verify the compliance with applicable laws and whether the licensee still satisfies the relevant criteria were limited to the business premises of licensees. Following, the amendments made to Section 43(1), the on-site inspections can in addition to the business premises, now be done at **such other place and at such time as the FSC may determine**. The ‘applicable laws’ have also been specified as including the **Financial Intelligence and Anti-Money Laundering Act**, the Prevention of Terrorism Act, alongside any applicable enactment, or guidelines or the conditions of its license, authorization or registration.

iii. **Frequency of On-site inspections.** A further amendment to Section 43 of the FSA now provides for the determination of the frequency of on-site inspections, under a newly introduced Section 43A. The factors to be taken into account when determining the frequency of inspections include:

- a) the money laundering or terrorism financing risks and policies, internal controls and procedures associated with a licensee, as assessed by the FSC;
- b) the money laundering or terrorism financing risks present in Mauritius; and
- c) the characteristics of the licensee and the degree of discretion allowed to the licensee under the risk-based approach implemented by the FSC. The assessment above will be renewed when there are major changes in the management and operation of the licensee.

It is noteworthy that the FSC shall now review the assessment of the money laundering or terrorism financing profile of a licensee as and when there are major developments in the management and operations of the licensee.

## 8 Foundations Act (the “FA”)

The amendments brought to the FA pertain to disclosure requirements regarding beneficial ownership of a foundation and sanctions that shall apply in case of breach by a foundation. Firstly, the terms “Beneficial Owner” (BO), “Ultimate Beneficial Owner” (UBO) and “Nominees” have been included under section 2 of the FA and have been aligned with the amended interpretations provided in the Companies Act 2001 subject to any modifications and adaptations as may be necessary. An application for registration of a foundation should henceforth disclose the full name and address of the BO or UBO if a beneficiary is a nominee.

Amendments have further been brought to Section 36 of the FA to include provisions that require BO and UBO information to be disclosed when registering a new foundation or a foreign foundation or an existing foundation

by way of continuation. A foundation, council member or secretary, whether formerly or currently in office, shall be liable to a fine not exceeding 300,000 rupees in case of failure to comply with the new provisions and may be ordered by the competent court to comply. Besides, the Registrar shall remove a foundation from the register if it fails to comply with the disclosure requirements and for keeping such records at its registered office. Moreover, an offence under the new BO provision shall not be compounded unless agreed in writing by a foundation or its council, the penalty applicable is paid and compliance with such provision is restored.

## 9 Good Governance and Integrity Reporting Act (the “GGIRA”)

The scope of the GGIRA, which tackles unexplained wealth, has been broadened to apply to unexplained wealth of at least 2.5 million rupees seized in cash by an enforcement authority during a criminal investigation. This is a carve-out from the non-application of the GGIRA to unexplained wealth of less than 10 million rupees.

## 10 Immigration Act (the “IA”)

The section on ‘Sharing of information’ in the IA has been amended to include that the immigration officer shall share with the FIU any additional information other than those shared with any public sector agency as set out in the IA and which are required for the furtherance of the FIU’s functions.

## 11 The Jewellery Act (the “JA”)

The definition of dealer now means a person who deals in jewellery, precious stones or precious metals and includes a person who –

- (i) manufactures, processes, buys, sells, imports or exports jewellery, or supplies jewellery for sale;
- (ii) processes, buys, sells or imports precious metals, or exports melted precious metals; or
- (iii) processes, buys, sells or imports precious stones or semi-precious stones.

The definition of “jewellery” has been deleted and replaced by the following definition: any article that is made of a precious metal, other than silver, or of its alloy; or for personal adornment made of silver or of its alloy, and which exceeds one gramme.

The definition of precious metal has been extended and now includes Palladium.

The definition of precious stone has been extended and now includes sapphire, ruby, emerald, alexandrite or tanzanite.

Part III regarding marking of jewellery shall apply to jewellery which relates to an article for personal adornment made of a precious metal or of its alloy, and which exceeds one gramme.

No person shall deal in jewellery, precious stones or precious metals unless he is registered with the Controller. The latter is defined as the Controller of Assay referred to in Section 4 of the JA.

The obligation to be registered with the Controller shall not apply to the Bank of Mauritius and to any bank which has been granted a banking licence to carry on exclusively private banking business by the Bank of Mauritius to hold, store or sell gold, silver, platinum, and other precious metals, as part of the management of its client’s investment portfolio.

## 12 Limited Liability Partnerships Act (the “LLPA”) and Limited Partnerships Act (the “LPA”)

The LLPA and the LPA have been amended as follows:

i. The definition section under Section 2 of the LLPA has been updated to include the terms beneficial owner or ultimate beneficial owner which are defined as having the same meaning as in the Companies Act, with such modifications and adaptations as may be necessary.

ii. The application for registration of a limited liability partnership, other than a foreign limited liability partnership, must now also include, for a nominee, the full name, usual residential address and service address of his beneficial owner or ultimate beneficial owner, under the new Section 23(2)(d)(viia) of the LLPA. Similar changes have been made under Section 19(2)(d)(va) of the LPA.

iii. The amendment to section 41A(4) of the LLPA concerns the information about the beneficial owner or ultimate beneficial owner of a limited liability partnership which now needs to be filed with the Registrar of Limited Liability Partnerships:

- (a) at the time of registration of the limited liability partnership or of a foreign limited liability partnership as the case may be;
- (b) at the time of registration by way of continuation;
- (c) on filing the annual return of the limited liability partnership;
- (d) in the case of a foreign limited liability partnership, on filing the financial statements of the limited liability partnership;
- (e) upon any change in the partners of the limited liability partnership;
- (f) at the time of any change in the amount contributed..

Moreover, new subsections have been added to Section 41A of the LLPA. The salient features of these amendments are as follows:

(a) changes in the partners and amount contributed to a limited liability partnership have to be notified to the Registrar **within 14 days** of its entry or the alteration to the register of partners under Section 41A(5).

(b) a limited liability partnership who fails to comply with the aforementioned provisions (Sections 41A(4) and (5)) shall, on conviction, be liable to a fine not exceeding 300,000 rupees.

(c) former or current partners can also be liable, on conviction, to a fine not exceeding 300,000 rupees if the limited liability partnership fails to comply with the fine imposed upon it as explained at (b) above.

(d) the limited liability partnership, former or current partners shall also be ordered by the Court to comply with Section 41A(5), detailed in part (a) above, in addition to the fines mentioned.

Similar changes have been made to the LPA in Sections 39(6)-(10) of the LPA.

i. The changes to Section 41A of the LLPA are also reflected in the amendment to Section 45, where the Registrar can propose to remove a limited liability partnership who has failed to comply with Section 41A(4) from the register, through a notice in writing. In the LPA, this amendment is provided for under Section 54A.

ii. Finally, under Section 66(2A) of the LLPA, an offence as mentioned under Section 41A(4) and in (iii). above, can be compounded if the limited liability partnership, current or former partner agrees, in writing, to pay an amount not exceeding the maximum fine which is agreeable to the Registrar, and agrees to comply with Section 41A(4). The analogous provisions regarding the LPA are housed under Section 75A(2A).

### 13 Mauritius Revenue Authority Act (the “MRAA”)

The MRAA has been amended to provide that the Director-General may stay any related assessment or claim when there are any proceedings initiated by the legal services department in respect of certain offences prescribed or in relation to a money laundering offence in respect of the prescribed offences and the matter has been referred to the Independent Commission against Corruption.

The Director General may however issue an assessment or a claim in respect of any related tax, duty or levy which was subject of an enquiry or any criminal proceedings not later than one year after the date the enquiry is discontinued by the legal services department, the criminal proceedings are discontinued by Director of Public Prosecutions or a Court decision is obtained. In the event an assessment or a claim is issued, it shall not be beyond a period of 2 years from the time limit the Director General is authorised to raise an assessment or a claim.

### 14 The Prevention of Corruption Act (the “POCA”)

The definition of suspicious transaction has been amended and now means a transaction which gives rise to a reasonable suspicion that it may involve the laundering of money or the proceeds of any crime or funds linked or related to, or to be used for, the financing of terrorism or proliferation financing or, any other activities or transaction related to terrorism as specified in the Prevention of Terrorism Act or under any other enactment, whether or not the funds represent the proceeds of a crime.

The following new section has been adopted - **17A Offence committed by legal person:**

(1) Any legal person who commits an offence under this Part shall, on conviction, be liable to a fine not exceeding 10 million rupees.

(2) In this section – “legal person” –

- a. means any entity, other than a natural person; and
- b. includes a company, a foundation, an association, a limited liability partnership or such other entity as may be prescribed.

The Director-General of the Mauritius Revenue Authority, where in the exercise of his functions is of the opinion that an act of corruption or a money laundering offence may have occurred, is henceforth empowered to refer the matter to the Commission for investigation.

Where the Director-General of the Mauritius Revenue Authority has referred a matter to the Commission under section 45 and the Commission discontinues an investigation or the Director of Public Prosecutions discontinues criminal proceedings or a Court decision is obtained following criminal proceedings instituted, the Commission shall notify the Director-General of the Mauritius Revenue Authority, within a period of 10 days from the date that such decision is taken or judgment is delivered.



## 15 United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act 2019 (“UNSA”)

The UNSA now provides that the National Sanctions Secretariat shall direct the FIU to immediately disseminate any changes to the United Sanctions Lists to the supervisory authorities, the investigatory authorities, the reporting persons and any other relevant public or private agency.



## 16 Conclusion

The amendments to the Mauritius AMLCFT legislative framework aims at consolidating and strengthening the country’s defence against financial crime, money laundering and the financing of terrorism. Responsibilities and powers are dispensed across a wider range of public authorities and supervisory bodies with clearly targeted financial institutions, businesses and professionals shown from the latest National Risk Assessment Report to have a substantial exposure to AMLCFT risks. With the focus on risk-based supervision, it would be expected that guidance from supervisors will not attract a literal prescriptive application and will give effect to the risk management methodology adopted. The challenge of Mauritius in re-establishing its standing as a financial centre of repute rests on a demonstration of the capacity and competence of the public supervisors to lead the fight against financial crimes not in superficial appearance but in result-oriented action of substance.