REPUBLIC OF VANUATU

CONSOLIDATION OF THE FRENCH AND ENGLISH TEXTS OF THE LAWS OF VANUATU ACT [CAP 295]

Approval of the English Text of the Anti-Money Laundering and Counter-Terrorism Financing Consolidation Edition 2025 Order No. 134 of 2025

In exercise of the powers conferred on me by subsection 9(1) of the Consolidation of the French and English Texts of the Laws of Vanuatu Act [CAP 295], I, the Honourable JOB SAM ANDY, Minister of Youth, Justice and Community Services, make the following Order:

1 Approval of the English Text of the Anti-Money Laundering and Counter-Terrorism Financing Consolidation Edition 2025

The English Text of the Anti-Money Laundering and Counter-Terrorism Financing Consolidation Edition 2025 is approved.

2 Appointed day

The appointed day for the coming into operation of the Anti-Money Laundering and Counter-Terrorism Financing Consolidation Edition 2025 is the day on which this Order is made.

3 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 9 day of July, 2025.

REPUBLIC OF VANUATU Ministry of Justice & Community Service MINISTER

Honourable JOB SAM ANDY
Minister of Youth, Justice and Community Services

Commencement: 24 June 2014

ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING ACT NO. 13 OF 2014

Act 13 of 2014
Act 2 of 2015
Act 16 of 2017
Act 33 of 2021
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Act 24 of 2024

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ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING ACT NO. 13 OF 2014

An Act to provide for the establishment of the Financial Intelligence Unit and to regulate reporting entities to give effect to Anti-Money Laundering and Counter-Terrorism Financing measures, and for related purposes.

PART 1 – PRELIMINARY

1. Interpretation

(1) In this Act, unless the contrary intention appears:

"account" means any facility or arrangement in which a reporting entity does any of the following:

(a) accepts deposits of funds;

(b) allows withdrawals of funds;

(c) pays negotiable or transferable instruments or cheques or payment orders drawn on behalf of any person, or collects negotiable or transferable instruments or cheques or payment orders on behalf of a person,

and includes any facility or arrangement for a safety deposit box or for any other form of safe deposit or held in a cash management trust;

"activity" means a series of transactions or an act or omission of an act;

"AML" means Anti-Money Laundering;

"beneficial owner" means a natural person who is the ultimate owner or ultimate controller of a person or entity;

"business relationship" means a business, professional or commercial relationship which is:

(a) connected with the professional activities of a reporting entity; and

(b) expected at the time when the contact is established, to have an element of duration;

"cash" means any coin or paper money that is designated as legal tender in the country of issue;

"confidential information" has the meaning given by section 38;

"controller" of a person or entity means a person who exercises influence, authority or power over decisions about the person's or entity's financial or operating policies, including as a result of, or by means of, a trust, agreement, arrangement, understanding or practice, and "control" has a corresponding meaning;

"Court" means the Supreme Court of Vanuatu;

"CTF" means Counter-Terrorism Financing;

"currency" includes:

(a) the cash of Vanuatu or of a foreign country that is designated as legal tender and which is customarily used and accepted as a medium of exchange in the country of issue; or

(b) monetary instruments that may be exchanged for money, including cheques, travellers cheques, money orders and negotiable instruments in a form in which title passes on delivery; or

(c) a precious metal or precious stone; or

(d) such other monetary instruments specified by the Minister by Order; or

(e) currency in electronic form including debit cards, credit cards, pre-paid mobile phones and any other electronic device with a stored value;

"customer" in relation to a transaction, business relationship or an account includes:

(a) the person in whose name or for whom a transaction, relationship or account is arranged, opened or undertaken; or

(b) a signatory to the transaction, relationship or account; or

(c) any person to whom, a relationship or an account or rights or obligations under a transaction or relationship have been assigned or transferred; or

(d) any person who is authorised to conduct the transaction or control the relationship or account; or

(e) such other persons prescribed for the purposes of this definition;

"data" means representations, in any form, of information or concepts;

"Director" means the Director of the Financial Intelligence Unit appointed under section 7;

"director" of a person or entity means:

(a) any person occupying the position of a director of the person or entity, regardless of the name given to the position; or

(b) any person held out by the person or entity to be a director;

"domestic electronic currency transfer" means an electronic currency transfer, or a chain of electronic currency transfers, where all of the parties to the transaction are located in Vanuatu;

"domestic regulatory authority" means a body or agency established by or under a law of Vanuatu that:

(a) grants or issues under that law or any other law licences, permits, certificates, registrations or other equivalent permissions; and

(b) performs any other regulatory function related to a matter referred to in paragraph (a), including developing, monitoring or enforcing compliance with standards or obligations prescribed by or under that law or any other law;

"electronic currency transfer" means a transaction carried out on behalf of a person (the sender) through a reporting entity by electronic means with a view to making an amount of currency available to a person (the receiver who may also be the sender) at another reporting entity but excludes:

(a) transfers and settlements between reporting entities if both the sender and the receiver are reporting entities acting on their own behalf; and

(b) credit and debit card transactions if the credit or debit card number accompanies the transaction;

"financing of terrorism offence" means an offence against section 6 of the Counter Terrorism and Transnational Organised Crime Act [CAP 313];

"foreign government agency" means:

(a) a body or agency established by or under a law of a foreign country; or

(b) an arm, ministry, department, or instrumentality of the government of a foreign country; or

(c) a body or agency of a foreign country set up by administrative act for governmental purposes;

"foreign serious offence" means:

(a) an offence against a law of another country that, if the relevant act or omission had occurred in Vanuatu, would be an offence against the laws of Vanuatu, for which the maximum penalty is imprisonment for at least 12 months; or

(b) an offence prescribed by the Regulations;

"foreign tax evasion offence" means conduct that:

(a) amounts to an offence against a law of a foreign country; and

(b) relates to a breach of a duty relating to a tax imposed under the law of the foreign country (whether or not that tax is imposed under a law of Vanuatu); and

(c) would be regarded by the courts of Vanuatu as an offence of fraudulent evasion of tax for which the maximum penalty is imprisonment for at least 12 months, had the conduct occurred in Vanuatu;

"international electronic currency transfer" means an electronic currency transfer, or a chain of electronic currency transfers, where at least one party to the transaction is located outside Vanuatu;

"key person" of a reporting entity means a beneficial owner, owner, controller, director or manager of the reporting entity;

"law enforcement agency" means:

(a) the Vanuatu Police Force; or

(b) the Office of the Public Prosecutor; or

(c) the department responsible for customs and inland revenue; or

(d) the department responsible for immigration; or

(e) such other persons prescribed for the purposes of this definition;

"manager" of a person or entity means:

(a) an individual who occupies the position of the chief executive officer (however described) of the person or entity; or

(b) an individual who under the immediate authority of the chief executive officer or a director of the person or entity, exercises the management functions of the person or entity;

"Minister" means the Prime Minister;

"money laundering" means conduct which constitutes an offence of money laundering under section 11 of the Proceeds of Crime Act [CAP 284];

"money laundering entity" means a person or group prescribed under subsection 53(2);

"money laundering offence" means an offence against section 11 of the Proceeds of Crime Act [CAP 284];

"National Coordinating Committee" means the National Coordinating Committee established by section 50K;

"owner" of a person or entity means a person who has a legal entitlement of 25% or more of the person or entity by way of ownership of shares or otherwise, and "own" and "ownership" have a corresponding meaning;

"person" means any natural or legal person and includes any statutory body, company or association or body of persons corporate or unincorporated;

"politically exposed person" means an individual who is or has been entrusted with prominent public functions such as the Head of State, the Prime Minister, Ministers, senior politicians, senior Government officials, judicial or military officials, senior executive members of state owned corporations or international organisations and officials of a political party;

"proceeds of crime" has the same meaning as under section 5 of the Proceeds of Crime Act [CAP 284];

"property" means assets of every kind, whether tangible or intangible, corporeal or incorporeal, moveable or immovable, however acquired, including:

(a) currency and other financial assets; and

(b) legal documents or instruments in any form, including electronic or digital, evidencing title to, or an interest in, such assets, including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit,

"record" means any material on which information is recorded or marked and which is capable of being read or understood by a person, computer system or other device;
"register" means the register of reporting entities established under section 9;

"Regulations" means the regulations made under this Act;

"regulatory law" means a law that provides for:

(a) the grant or issue of licences, permits, certificates, registrations or other equivalent permissions; and

(b) other regulatory functions related to a matter referred to in paragraph (a), including monitoring or enforcing compliance with standards or obligations prescribed by that law;

"reporting entity" has the meaning given by section 2;

"serious offence" has the same meaning as in the Proceeds of Crime Act [CAP 284];
"supervisor" means the Unit or a domestic regulatory authority delegated supervisory functions under section 8B;

"suspicious activity report" means a report prepared under Part 6;

"suspicious transaction report" means a report prepared under Part 6;

"terrorist financing" means conduct which constitutes an offence of terrorism financing under section 6 of the Counter Terrorism and Transactional Organised Crime Act [CAP 313];

"transaction" has the meaning given by section 3;

"Unit means" the Financial Intelligence Unit established under section 4.

(2) For the purpose of the definition of a beneficial owner, ultimate owner and ultimate controller include circumstances where ownership or control is exercised:

(a) through a chain of ownership; or

(b) by a means of indirect control that may not have legal or equitable force, or be based on legal or equitable rights.

2. Meaning of reporting entity

Each of the following is a reporting entity:

(a) the Reserve Bank of Vanuatu;

(b) a licensee within the meaning of the Financial Institutions Act [CAP 254];

(c) a licensee within the meaning of the International Banking Act [CAP 280];

(d) a company licensed under the Vanuatu Interactive Gaming Act [CAP 261];

(e) a person licensed under the Casino (Control) Act [CAP 223];

(f) a person carrying on a business under the Gaming (Control) Act [CAP 172] or the Lotteries Act [CAP 205];

(g) a foundation within the meaning of the Foundation Act No. 38 of 2009;

(h) an association within the meaning of the Charitable Associations (Incorporation) Act [CAP 140];

(i) a person carrying on electronic business under the E-Business Act [CAP 264];

(j) a licensee within the meaning of the Company and Trust Services Provider Act No. 8 of 2010;

(k) a credit union registered under the Credit Unions Act [CAP 256] or a co-operative society registered under the Co-operative Societies Act [CAP 152];

(ka) a government agency and a private partner operating under the Public Private Partnerships Act No. 23 of 2024;

(l) a person carrying on a business:

(i) of administering or managing property on behalf of an international company within the meaning of the International Companies Act [CAP 222] or any other person; or

(ii) as a trustee in respect of property of other persons; or

(iii) as a trustee or manager of a unit trust;

(m) a person carrying on a business of an insurer, an insurance intermediary, a securities dealer or a futures broker;

(n) a person (other than a person mentioned under paragraph (a), (b) or (c)), carrying on a business of:

(i) exchanging currency or value; or

(ii) collecting, holding, exchanging or transferring currency or value, or otherwise negotiating transfers of currency or value, on behalf of other persons; or

(iii) preparing payrolls on behalf of other persons in whole or in part from currency collected; or

(iv) delivering currency including payroll;

(o) a lawyer, notary or accountant that provides services to a client relating to all or any of the following:

(i) buying or selling of real estates, business entities or properties;

(ii) managing of currencies, securities or other assets;

(iii) managing of banks, savings or securities accounts;

(iv) organising contributions for the creation, operation or management of legal persons or legal arrangements;

(v) creating, operating or managing legal persons or legal arrangements;

(p) a person (whether or not the person is a trust or company service provider) providing all or any of the following services:

(i) forming or managing legal persons or legal arrangements;

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

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

(iv) acting (or arranging for another person to act) as a trustee of a trust or a similar position in other form of legal arrangements;

(v) acting (or arranging for another person to act) as a nominee shareholder for another person;

(q) a person carrying on a business of:

(i) dealing in bullions, precious metals or precious stones; or

(ii) issuing, selling or redeeming traveller's cheques, money orders or similar instruments; or

(iii) collecting, holding and delivering currency as part of a business or providing payroll services;

(r) a person carrying on the business of:

(i) lending, including consumer credit or mortgage credit, and financing of commercial transactions; or

(ii) financial leasing; or

(iii) issuing and managing means of payment (such as credit and debit cards, cheques, bankers' drafts and electronic money); or

(iv) issuing financial guarantees and commitments; or

(v) trading for the person's own account or for the account of customers in money market instruments (such as cheques, bills, certificates of deposit), foreign exchange, financial futures and options, exchange and interest rate instruments, commodity futures trading or transferable securities; or

(vi) participating in securities issues and providing financial services relating to such issues; or

(vii) money brokering; or

(viii) mutual funds or, individual or collective portfolio management; or

(ix) safekeeping and administration of cash or liquid securities on behalf of other persons; or

(x) trustee administrator or investment manager of a superannuation scheme, other than a scheme under which contributions are made by salary deductions and withdrawals are for limited purposes such as retirement; or

(xi) dealing in real estate or sale or hire of motor vehicles; or

(xii) dealing in property (other than real estate) exceeding VT 1 million or such other amount as may be prescribed;

(s) any other person prescribed for the purpose of this provision.

3. Meaning of transaction

(1) A transaction means any deposit, withdrawal, exchange or transfer of fund whether:

(a) in cash; or

(b) by cheque, payment order or other instrument; or

(c) by electronic or other non-physical means; or

(d) in satisfaction, whether in whole or part, of any contractual or other legal obligation.

(2) Without limiting subsection (1), a transaction includes the following:

(a) the establishment and maintenance of a business relationship; or

(b) the opening and maintenance of an account; or

(c) the engagement of a service; or

(d) any payment made in respect of a lottery, bet or other game of chance; or

(e) the establishment, creation or maintenance of a legal person or legal arrangement; or

(f) such other transactions as may be prescribed.

PART 2 – FINANCIAL INTELLIGENCE UNIT

4. Establishment of the Financial Intelligence Unit

The Financial Intelligence Unit is established within the Office of the Attorney General.

5. Functions and powers of the Unit

(1) The Unit has the following functions:

(a) to receive suspicious transaction reports and other reports, and information, in accordance with the provisions of this Act; and

(b) to analyse and assess any report or information refer to under this Act; and

(c) to gather information, whether or not it has been requested by the Director from a domestic regulatory authority, a law enforcement agency or a foreign government agency for the purposes of this Act; and

(d) to disclose information in accordance with this Act; and

(e) to collect information in accordance with this Act; and

(ea) to receive, analyse and disseminate reports made under section 16 of the United Nations Financial Sanctions Act No. 6 of 2017; and

(f) to enter into agreements or arrangements under section 6, and exchange information in accordance with those agreements or arrangements; and

(g) to request information from a domestic regulatory authority, a law enforcement agency or a foreign government agency to assist with any analysis or assessment mentioned in paragraph (b); and

(h) to direct in writing a reporting entity to take such steps as the Director considers appropriate in relation to any information or report received by the Director so as to facilitate any investigation that is anticipated or being undertaken by the Director or a law enforcement agency; and

(i) to undertake inquiries as may be requested in writing by a domestic regulatory authority, a law enforcement agency or a foreign government agency where appropriate; and

(j) to do checks on any person if requested by the Vanuatu Investment Promotion Authority or a Ministry, Department or agency of the Government; and

(k) to provide feedback to reporting entities and other relevant persons regarding outcomes relating to the reports or information given under this Act; and

(l) to conduct research into money laundering and terrorism financing trends and developments and recommend on detecting and deterring measures against money laundering and terrorism financing activities; and

(m) to supervise reporting entities for compliance with this Act in accordance with section 8A; and

(n) to establish, maintain and implement the National Risk Assessment Framework; and

(o) to educate the public and create awareness on matters relating to money laundering and the financing of terrorism; and

(p) to compile statistics and records, and to disseminate information within Vanuatu; and

(q) to register reporting entities and screen officers and beneficial owners of reporting entities.

(2) The Unit has the power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

6. Agreements and arrangements

(1) The Director may enter into a written agreement or arrangement with an assisting entity regarding the exchange of information under this section.

(2) The Director may only enter into a written agreement or arrangement if the Director and the assisting entity have reasonable grounds to suspect that an information may be relevant to detecting, investigating or prosecuting:

(a) a money laundering offence, a financing of terrorism offence or any other serious offence; or

(b) an offence that is substantially similar to such an offence.

(3) An agreement or arrangement entered into under subsection (1) must:

(a) restrict the use of the information to purposes relevant to investigating or prosecuting a money laundering offence, a financing of terrorism offence or any other serious offence, or an offence that is substantially similar to such an offence; and

(b) stipulate that the information is to be treated in a confidential manner and not to be disclosed without the express consent of the Director and the assisting entity.

(4) In the absence of an agreement or arrangement entered into under subsection (1), the Director may exchange information with an assisting entity having functions and duties similar to those of the Unit, provided that:

(a) the use of the information is restricted to purposes relevant to investigating or prosecuting a money laundering offence, a financing of terrorism offence or any other serious offence, or an offence that is substantially similar to such an offence; and

(b) the information is to be treated in a confidential manner and not to be disclosed without the express consent of the Director and the assisting entity.

7. Appointment of the Director

(1) The Attorney General is to appoint a Director of the Unit.

(2) The Director is to perform the functions and exercise the powers of the Unit specified under this Act.

(2A) The Director must:

(a) provide an annual written report to the Attorney General on matters relating to the administration of this Act; and

(b) if requested by the Attorney General, provide a report on a particular matter under this Act or any other Act.

(2B) The Director has the power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions under this Act.

(3) The Director may authorise in writing, a senior officer of the Unit, subject to any terms and conditions as may be specified by the Director, to carry out any functions or powers of the Director under this Act.

7A. Appointment of the Deputy Director

(1) The Attorney General is to appoint a Deputy Director of the Unit.

(2) The Attorney General is to determine the terms and conditions of employment of the Deputy Director.

8. Staff of the Unit

(1) The Attorney General may employ other staff of the Unit as he or she considers necessary for the proper and efficient performance of the functions of the Unit.

(2) The Attorney General is to determine the terms and conditions of employment of the persons referred to in subsection (1).

(2A) The appointment of other staff must follow a fair and transparent selection process and must be based on merit.

8A. Supervision of reporting entities

(1) The Unit must supervise reporting entities for compliance with this Act.

(2) The Unit has the following functions in relation to the supervision of reporting entities:

(a) to monitor and assess the level of AML and CTF risk across reporting entities;

(b) to monitor reporting entities for compliance with this Act and the Regulations, and for this purpose to develop and implement a risk-based supervisory programme;

(c) to provide guidance and feedback to reporting entities in order to assist those reporting entities to comply with this Act and the Regulations;

(d) to specify such forms and notices as are necessary in the implementation of this Act;

(e) to produce guidelines for compliance with this Act and Regulations;

(f) to monitor and enforce compliance with this Act and Regulations;

(g) to co-operate with the National Coordinating Committee, domestic regulatory authorities, law enforcement agencies and foreign government agencies to ensure the consistent, effective, and efficient implementation of this Act;

(h) to provide training programs for reporting entities in relation to customer due diligence obligations, record keeping obligations and reporting obligations.

8B. Delegation of supervision functions

(1) The Unit may by instrument in writing delegate all or any of its supervision functions of reporting entities to:

(a) the Reserve Bank of Vanuatu in relation to all or any of the following reporting entities:

(i) licensees within the meaning of the Financial Institutions Act [CAP 254];

(ii) licensees within the meaning of the International Banking Act [CAP 280];

(iii) credit unions registered under the Credit Unions Act [CAP 256],

(iv) insurances businesses as defined under the Insurance Act [CAP 82]; or

(b) any other domestic regulatory authority in relation to any other reporting entity or group of reporting entities.

(2) The Reserve Bank of Vanuatu or other domestic regulatory authority that has been delegated supervision functions under subsection (1) has the power to do all things necessary or convenient to be done for or in connection with the performance of the delegated supervision functions, including when monitoring and enforcing compliance with this Act:

(a) exercising any of the monitoring powers in Part 10; and

(b) imposing any enforcement measures in Part 10AA.

8C. Use of information by supervisors

(1) The Reserve Bank of Vanuatu or any other domestic regulatory authority that has been delegated supervision functions under subsection 8B(1) may use any information about a reporting entity obtained or held by it in the exercise of its powers or the performance of its functions or duties under this Act for the purpose of exercising its powers or performing its functions and duties under the regulatory law governing that reporting entity.

(2) The Reserve Bank of Vanuatu or any other domestic regulatory authority that has been delegated supervision functions under subsection 8B(1) may use any information about a reporting entity obtained or held by it in the exercise of its powers or the performance of its functions or duties under the regulatory law governing that reporting entity for the purpose of exercising its powers or performing its functions and duties under this Act.

8D. Unit may use AML/CTF information for certain purposes

(1) The Unit may use any information obtained or held by it in the exercise of its powers or the performance of its functions or duties under this Act for the purpose of exercising its powers or performing its functions and duties under the United Nations Financial Sanctions Act No. 6 of 2017.

(2) The Unit may use any information obtained or held by it in the exercise of its powers or the performance of its functions or duties under the United Nations Financial Sanctions Act No. 6 of 2017 for the purpose of exercising its powers or performing its functions and duties under this Act.

PART 3 – REGISTER OF REPORTING ENTITIES

9. Register of reporting entities

(1) The Director must establish and maintain a register of reporting entities.

(2) A reporting entity must not provide a service or establish a business relationship with a customer unless the reporting entity is registered on the register.

(3) An application for registration by a reporting entity must be made to the Director in the prescribed form, including its name and such other details as are prescribed by the Regulations.

(4) If a reporting entity is regulated by a domestic regulatory authority under a regulatory law, the Director must not enter the reporting entity on the register unless:

(a) the application complies with the requirements in subsection (3); and

(b) the reporting entity meets the requirements of the regulatory law; and

(c) the reporting entity meets the fit and proper criteria prescribed by the Regulations.

(5) If a reporting entity is not regulated by a domestic regulatory authority, the Director must not enter the reporting entity on the register unless:

(a) the application complies with the requirements in subsection (3); and

(b) the reporting entity meets the fit and proper criteria prescribed by the Regulations; and

(c) the Director is satisfied that the source of funds used to pay the capital of the applicant is acceptable.

(6) In deciding under paragraph (4)(c) or (5)(b) whether a reporting entity meets fit and proper criteria, the Director must have regard to whether any of the key persons of the reporting entity:

(a) have been convicted of an offence or are subject to any criminal proceedings; or

(b) are listed on a United Nations financial sanctions list, a financial sanctions list under the United Nations Financial Sanctions Act No. 6 of 2017 or a financial sanctions list under the law of any jurisdiction.

(7) If a reporting entity contravenes subsection (2), the reporting entity commits an offence punishable upon conviction by:

(a) if the reporting entity is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or

(b) if the reporting entity is a body corporate - a fine not exceeding VT 125 million.

9A. Reporting entity to notify Director of certain changes

(1) If a reporting entity registered on the register changes its name or any of its other details required for the purposes of registration, the reporting entity must give the Director written notice of the change within 14 days after the change occurs.

(2) The Director upon receiving the notice:

(a) must consider whether the reporting entity continues to meet the requirements for registration in subsection 9(4) or (5); and

(b) may, by notice in writing to the reporting entity, remove the reporting entity from the register if the Director is not satisfied that the reporting entity continues to meet the registration requirements.

(3) If a reporting entity fails to comply with subsection (1), the reporting entity commits an offence punishable upon conviction by:

(a) if the reporting entity is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or

(b) if the reporting entity is a body corporate - a fine not exceeding VT 125 million.

9B. Changes relating to key persons and source of capital of unregulated reporting entities

(1) This section applies if:

(a) a reporting entity is not regulated by a domestic regulatory authority; and

(b) there is a change:

(i) of a key person of the reporting entity, or in the circumstances of a key person that may affect whether he or she meets the fit and proper criteria; or

(ii) to the source of funds used to pay the reporting entity's capital.

(2) The reporting entity must give the Director written notice of the change within 14 days after the change occurs.

(3) The Director may, by notice in writing to the reporting entity, remove the reporting entity from the register if the Director is not satisfied that:

(a) the key person concerned meets the fit and proper criteria prescribed by the Regulations; or

(b) the source of funds used to pay the reporting entity's capital is acceptable.

(4) If a reporting entity fails to comply with subsection (2), the reporting entity commits an offence punishable upon conviction by:

(a) if the reporting entity is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or

(b) if the reporting entity is a body corporate - a fine not exceeding VT 125 million.

(5) To avoid doubt, this section does not limit section 9A.

10. Removal of entries from the register of reporting entities

(1) The Director may, upon the request of a reporting entity, remove the reporting entity from the register.

(2) The Director may, by notice in writing to a reporting entity, suspend or remove the reporting entity from the register if the Director is satisfied on reasonable grounds that the reporting entity has failed to comply with a provision of this Act.

(3) The period of any suspension must be specified in the notice referred to in subsection (2).

(4) *(Repealed)*

(5) *(Repealed)*

11. Access to the register of reporting entities

(1) A reporting entity may request the Director, in writing, to inform the reporting entity whether the name of a specified person is entered on the register of the reporting entities.

(2) The Director must comply with the reporting entity's request as may be prescribed.

PART 4 – CUSTOMER DUE DILIGENCE REQUIREMENT

12. Obligation to identify customer

(1) A reporting entity must carry out the prescribed identification process if a person:

(a) opens an account with a reporting entity; or

(b) engages the services of a reporting entity; or

(c) enters into a business relationship with a reporting entity; or

(d) conducts an occasional transaction that exceeds the prescribed threshold under section 27 or 28, whether conducted as a single transaction or by way of two or more transactions that appear to be linked.

(2) A reporting entity must carry out a prescribed identification process on:

(a) a person conducting a transaction; and

(b) a person on whose behalf a transaction is being conducted; and

(c) a beneficial owner,

if the reporting entity has reasonable grounds to believe that the person is undertaking a transaction on behalf of another person.

(2A) In addition to subsection (2), a reporting entity must also verify that a person is authorised to undertake the transaction concerned on behalf of the other person.

(3) A reporting entity must carry out a prescribed identification process on the customer if the reporting entity:

(a) carries out an electronic currency transfer for the customer, other than an electronic currency transfer referred to under subsection 37(2) or (4); or

(b) suspects that the customer is involved in proceeds of crime, a financing of terrorism or a serious offence; or

(c) suspects that the transaction involves proceeds of crime, or may be used for financing terrorism or for committing a serious offence; or

(d) has doubts on the veracity or adequacy of the customer identification or information it had previously obtained.

(4) If a reporting entity contravenes subsection (1), (2) or (3), the reporting entity commits an offence punishable upon conviction by:

(a) if the reporting entity is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or

(b) if the reporting entity is a body corporate - a fine not exceeding VT 125 million.

(5) If a reporting entity is unable to carry out the prescribed identification process on a person, the reporting entity:

(a) must not open an account for the person; and

(b) must not enter into a business relationship with the person; and

(c) if a business relationship already exists with the person, must terminate the existing business relationship.

13. Necessity of due diligence to conduct transaction

(1) If satisfactory evidence of the identity or verification of a person is not produced to or obtained by a reporting entity under this Part within a prescribed timeframe and under

a prescribed situation, a reporting entity must prepare a suspicious transaction report for the Director as if the transaction were a transaction made under section 20.

(2) The reporting entity must not proceed any further with the transaction unless directed to do so by the Director.

(3) If a reporting entity contravenes subsection (1) or (2), the reporting entity commits an offence punishable upon conviction by:

(a) if the reporting entity is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or

(b) if the reporting entity is a body corporate - a fine not exceeding VT 125 million.

14. Reporting entity to maintain business relationship under true name

(1) A reporting entity must maintain an account or establish a business relationship with the true name of the customer.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT2,500,000, or imprisonment for a term not exceeding 2 years or both; or

(b) in the case of a corporate body - to a fine not exceeding VT10,000,000.

15. Establishing a business relationship under false or misleading names

(1) A reporting entity must not:

(a) establish a business relationship with a person using a false, fictitious or misleading name; and

(b) establish a business relationship with a person using one of the person's name, if the person has 2 or more different names, unless the person has disclosed the other name or names to the reporting entity.

(2) If a person is using a particular name in the person's dealings with a reporting entity and discloses to it a different name or names under which the person is commonly known, the reporting entity must:

(a) make a record of the disclosure of the persons name; and

(b) give the Director a copy of that record if requested to do so in writing by the Director.

(3) For the purposes of this section, a person establishes a business relationship in a false name if the person:

(a) in establishing the business relationship uses a name other than a name in which the person is commonly known; or

(b) does any act or thing in relation to the business relationship (whether by way of making a deposit or withdrawal or by way of communication with the reporting entity concerned or otherwise) and, in doing so, uses a name other than a name by which the person is commonly known.

(4) If a reporting entity contravenes subsection (1) or (2), the reporting entity commits an offence punishable upon conviction by:

(a) if the reporting entity is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or

(b) if the reporting entity is a body corporate - a fine not exceeding VT 125 million.

16. Obligation to verify the identification of customer

(1) A reporting entity must undertake a prescribed verification process within a prescribed timeframe if after carrying out or purporting to carry out the prescribed customer identification process:

(a) a prescribed event happens; or

(b) a prescribed circumstance comes into existence; or

(c) a prescribed period ends.

(2) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction:

(a) in the case of an individual – to a fine not exceeding VT 1 million or imprisonment for a term not exceeding 1 year, or both; or

(b) in the case of a body corporate – to a fine not exceeding VT 5 million.

17. Obligation to conduct regular customer and transaction due diligence

(1) A reporting entity must undertake a prescribed on-going due diligence process to monitor its account, service or relationship with each of its customers to identify, mitigate and manage the risk it may reasonably face with its customer that might involve money laundering, financing of terrorism or other serious offences.

(2) In addition to subsection (1), a reporting entity must:

(a) record its findings in writing; and

(b) upon a written request by the Director, make available such findings to the Director.

(3) If a reporting entity fails to comply with subsection (1) or (2), the reporting entity commits an offence punishable upon conviction by:

(a) if the reporting entity is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or

(b) if the reporting entity is a body corporate - a fine not exceeding VT 125 million.

18. Obligation for intermediaries or third parties introducers

(1) If a reporting entity relies on intermediary or a third party to undertake its obligations under this Part or to introduce customers to it, the reporting entity must:

(a) satisfy itself that the intermediary or third party is regulated and supervised, and has measures in place to comply with the requirements under this Part and Part 5; and

(b) ensure that copies of identification data and other relevant documentation relating to the requirements under this Part are made available to the reporting entity by the intermediary or third party on request without delay; and

(c) immediately obtain the information required under this Part; and

(d) assess whether the location of the intermediary or third party is a high risk location, and whether the countries or geographical areas that the intermediary or third party operates in are high risk countries or geographical areas.

(2) In addition to subsection (1), a reporting entity must:

(a) record its finding in writing; and

(b) upon a written request by the Director, make available such findings to the Director.

(2A) Despite the use of an intermediary or third party, a reporting entity remains liable for any failure to undertake the reporting entity's obligations under this Part.

(3) A reporting entity who fails to comply with subsections (1) and (2), commits an offence and is liable on conviction:

(a) in the case of an individual – to a fine not exceeding VT 1 million or imprisonment for a term not exceeding 1 year, or both; or

(b) in the case of a body corporate – to a fine not exceeding VT 5 million.

PART 5 – RECORD KEEPING REQUIREMENT

19. Obligation to keep records

(1) A reporting entity must keep records of all transactions in such a manner as to enable the transactions to be readily reconstructed at any time by the Director.

(2) Without limiting subsection (1), the records must contain the prescribed information.

(3) A reporting entity must keep the records for a period of 6 years after the completion of the transaction.

(4) A reporting entity must keep:

(a) a record of any suspicious transaction, suspicious activity or other report made under Part 6; and

(b) a record of any enquiry relating to money laundering or the financing of terrorism made to the Director; and

(c) a record of a finding referred to under subsections 18(2), 36(2) and (3) and 37(1).

(5) A reporting entity must keep records provided under subsection (4) for a period of 6 years after the date on which the report, the enquiry or the finding was made.

(6) A reporting entity must keep:

(a) if evidence of a person's identity and verification is obtained under Part 4:

(i) a record that indicates the kind of evidence that was obtained; and

(ii) either a copy of the evidence or information that enables a copy of it to be obtained; and

(b) a record referred to under subsections 15(2) and 17(2).

(7) A reporting entity must keep records provided under subsection (6) for a period of 6 years after the closure or termination of the account, service or business relationship.

(7A) A reporting entity to which Part 8A applies must keep and maintain records required to be obtained and maintained under that Part for a period of 6 years after the completion of the transfer.

(8) A reporting entity must make:

(a) a record of the adoption of an AML and CTF Procedure Manual and AML and CTF group-wide procedure manual; and

(b) retain the AML and CTF Procedure Manual and AML and CTF group-wide procedure manual for a period of 12 months.

(9) If a reporting entity contravenes subsection (1), (2), (3), (4), (5), (6), (7), (7A) or (8), the reporting entity commits an offence punishable upon conviction by:

(a) if the reporting entity is a natural person - a fine not exceeding VT 25million or imprisonment not exceeding 15 years, or both; or

(b) if the reporting entity is a body corporate - a fine not exceeding VT 125 million.

PART 6 – TRANSACTION AND ACTIVITY REPORTING REQUIREMENT

20. Obligation to report suspicious transaction

(1) A reporting entity must make a report of the transaction or attempted transaction to the Director not later than 2 working days if the reporting entity suspects or has reasonable grounds to suspect that a transaction or attempted transaction involves proceeds of crime or is related to terrorist financing.

(2) The reporting entity must not proceed any further with the transaction unless directed to do so by the Director.

(3) A reporting entity who fails without reasonable excuse to comply with subsection (1) or (2), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT25,000,000, or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT100,000,000.

21. Obligation to report suspicious activity

(1) A reporting entity must make a report of the activity or attempted activity to the Director not later than 2 working days if a reporting entity suspects or has reasonable grounds to suspect that an activity or attempted activity involves proceeds of crime or is related to terrorist financing.

(1A) A person other than a reporting entity may make a report of the activity or attempted activity to the Director within 1 month if the person suspects or has reasonable grounds to suspect that an activity or attempted activity involves proceeds of crime or is related to terrorist financing.

(2) The reporting entity must not proceed any further with the activity unless directed to do so by the Director.

(3) A reporting entity who fails without reasonable excuse to comply with subsection (1) or (2), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT 25 million or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT100 million.

22. Obligation to report transaction conducted by money laundering entities

(1) If a money laundering entity conducts or seeks to conduct a transaction through or by using a reporting entity and such transaction or attempted transaction is deemed to be a suspicious transaction, the reporting entity must make a report of the transaction or attempted transaction to the Director not later than 2 working days.

(2) The reporting entity must not proceed any further with the transaction unless directed to do so by the Director.

(3) A reporting entity who fails without reasonable excuse to comply with subsection (1) or (2), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT 25 million or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT 100 million.

23. Obligation to report transaction involving terrorist property

(1) A reporting entity must make a report of the transaction or attempted transaction and provide the report to the Director not later than 2 working days if a reporting entity has information in its possession concerning any transaction or attempted transaction which it suspects involves terrorist property, property linked to terrorists or terrorist organisations.

(2) The reporting entity must not proceed any further with the transaction unless directed to do so by the Director.

(2A) *(Repealed)*

(3) A reporting entity who fails without reasonable ground to comply with subsection (1) or (2), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT 25 million or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT 125 million.

24. Obligation to report certain transaction with no legitimate purpose

(1) This section applies if a reporting entity suspects that a transaction or attempted transaction:

(a) is complex, unusual or large and does not have any apparent or visible economic or lawful purpose; or

(b) is part of an unusual pattern of transactions that does not have any apparent or visible economic or lawful purpose.

(2) The reporting entity must make a report of the transaction or attempted transaction and provide the report to the Director not later than 2 working days after forming the suspicion.

(3) The reporting entity must not proceed any further with the transaction unless directed to do so by the Director.

(4) A reporting entity who fails without reasonable grounds to comply with subsection (2) or (3), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT 25 million or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT 100 million.

25. Supervisory body or auditor to report suspicious transaction

(1) This section applies if a supervisory body or an auditor of a reporting entity has reasonable grounds to suspect that a transaction or an attempted transaction or information that it has in its possession involves proceeds of crime or is related to financing of terrorism.

(2) The supervisory body or the auditor of the reporting entity must make a report of the transaction or attempted transaction, or the information to the Director not later than 2 working days after forming the suspicion.

(3) A supervisory body or an auditor of a reporting entity who fails without reasonable grounds to comply with subsection (2), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT 25 million or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT 100 million.

26. Form of reports

(1) A report under section 20, 21, 22, 23, 24 or 25 must be made in the prescribed form and may be sent to the Director by way of fax or electronic mail or hand delivery.

(2) A report may be given orally including by telephone.

(3) If an oral report is given under subsection (2), a written report must be prepared in accordance with subsection (1) within 24 hours after the oral report is given.

(4) A reporting entity who fails without reasonable grounds to comply with subsection (1) or (3), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT2,500,000, or imprisonment for a term not exceeding 2 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT10,000,000.

27. Obligation to report large cash transaction

(1) A reporting entity must make a report to the Director on a transaction of an amount of cash that exceeds the prescribed threshold or its equivalent in foreign currency, whether the transaction is conducted as a single transaction or two or more transactions that appear to be linked.

(2) Subsection (1) does not apply if the originator and beneficiary of the transaction are reporting entities under section 2 of this Act and acting on their own behalf.

(3) A report made under this section must be in the prescribed form and be provided to the Director within the prescribed time frame.

(4) A reporting entity may apply in writing to the Director to be exempted from reporting under subsection (1), if the transactions are deposits or withdrawals by an established customer of that reporting entity.

(5) A reporting entity who contravenes subsection (1), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT2,500,000, or imprisonment for a term not exceeding 2 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT10,000,000.

28. Obligation to report international currency transfers

(1) A reporting entity must make a report to the Director:

(a) on any electronic transmission of currency or other currency transfer out of Vanuatu that exceeds the prescribed threshold or its equivalent to foreign currency in the course of a transaction, whether conducted as a single transaction or by way of two or more transactions that appear to be linked; or

(b) on any electronic receipt of currency or other currency receipts from outside Vanuatu that exceeds the prescribed threshold or its equivalent to foreign currency in the course of a transaction, whether conducted as a single transaction or by way of two or more transactions that appear to be linked; or

(c) if the reporting entity uses a service of a third party to receive or transmit electronic transaction or other currency transfer that exceeds the prescribed threshold or its equivalent to foreign currency in the course of a transaction,

whether conducted as a single transaction or by way of two or more transactions that appear to be linked.

(2) A report made under subsection (1) must be:

(a) made in the prescribed form; and

(b) sent to the Director within the prescribed time frame.

(3) A reporting entity who contravenes subsection (1) or (2), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT2,500,000, or imprisonment for a term not exceeding 2 years or both; or

(b) in the case of a body corporate - to a fine not exceeding VT10,000,000.

29. Avoidance of section 27 or 28

(1) This section applies to a person if the person conducts 2 or more transactions that are of an amount below the prescribed threshold under section 27 or 28.

(2) If the person conducts the transactions for the sole or dominant purpose of ensuring, or attempting to ensure, that a report in relation to the transactions is not made under section 27 or 28, the person commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 25 million, or imprisonment for a term not exceeding 15 years or both; or

(b) in the case of a body corporate - a fine not exceeding VT 125 million.

(3) Without limiting subsection (2), all or any of the following may be taken into account by a court in deciding whether a person has committed an offence against that subsection:

(a) the manner and form in which the transactions were conducted;

(b) the amount of the currency involved in each transaction;

(c) the aggregate amount of the currency involved in the transactions;

(d) the period of time over which the transactions occurred;

(e) the interval of time between the transactions;

(f) the locations at which the transactions were initiated or conducted;

(g) any explanation made by the person concerned as to the manner or form in which the transactions were conducted.

30. Obligation to report cross-border movement of currency

(1) The authorized officers prescribed under the Currency Declaration Act No. 7 of 2009 must send a report to the Director of all:

(a) physical currency; and

(b) bearer negotiable instruments,

entering or departing Vanuatu.

(2) The report must be:

(a) made in the prescribed form; and

(b) sent to the Director within the prescribed time frame.

31. Obligation to submit AML and CTF Compliance Report

(1) A reporting entity must lodge an AML and CTF Compliance report with the Director if requested in writing by the Director.

(2) The AML and CTF compliance report must be:

(a) made in the prescribed form; and

(b) sent to the Director within a prescribed time frame.

(3) If a reporting entity contravenes subsection (1), the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years or both; or

(b) in the case of a body corporate – a fine not exceeding VT 125 million.

32. Obligation to submit additional Information

(1) The Director may request any further information from a reporting entity if the reporting entity has made a report on a transaction, attempted transaction, activity or attempted activity or has provided information under this Part to the Director.

(2) A reporting entity who fails without reasonable grounds to comply with subsection (1), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT2,500,000, or imprisonment for a term not exceeding 2 years or both; or

(b) in the case of a body corporate - to a fine not exceeding VT10,000,000.

32A. Disclosure of information

(1) A person must not disclose any information to any other person that:

(a) a reporting entity, or the supervisor or auditor of a reporting entity, has formed a suspicion in relation to a transaction or an attempted transaction, or an activity or attempted activity; or

(b) a report under this Act is made to the Director; or

(c) information under this Act is given to the Director.

(2) A person must not disclose any information to any other person if the person to whom the information is disclosed may reasonably be expected to infer any of the circumstances in paragraph (1)(a), (b) or (c).

(3) Subsections (1) and (2) do not apply to a disclosure made to:

(a) an officer, employee or agent of a reporting entity who has made or is required to make a report or provide information under this Act for any purpose connected with the performance of that reporting entity's duties; or

(b) a lawyer for the purpose of obtaining legal advice or representation in relation to the disclosure; or

(c) the supervisor of the relevant reporting entity; or

(d) a law enforcement agency or any other person assisting the Unit under this Act.

(4) Any information disclosed to a lawyer under paragraph (3)(b) must not be disclosed to any other person except for the purpose of:

(a) the performance of the lawyer's duties; or

(b) obtaining legal advice or representation in relation to the disclosure.

(5) Nothing in this section prevents the disclosure of any information in connection with, or in the course of, proceedings before a court if the court is satisfied that the disclosure of the information is necessary in the interests of justice.

(6) If a person contravenes subsection (1) or (2), the person commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT15 million, or imprisonment for a term not exceeding 5 years, or both;

(b) in the case of a body corporate - a fine not exceeding VT 75 million.

(7) If a person contravenes subsection (1):

(a) with intent to prejudice an investigation of a money laundering offence, a financing of terrorism offence or another serious offence; or

(b) for the purpose of obtaining directly or indirectly an advantage or a pecuniary gain for himself or herself or any other person,

the person commits an offence punishable upon conviction by the penalty referred to in subsection (8).

(8) The penalty is:

(a) in the case of an individual - a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years, or both; or

(b) in the case of a body corporate - a fine not exceeding VT 125 million.

32B. False or misleading information

(1) If a person making a report or providing information required under Part 3, 4, 5, 6, 7 or 8:

(a) makes any statement that the person knows is false or misleading in a material particular; or

(b) omits from any statement any matter without which the person knows that the statement is false or misleading in a material particular,

the person commits an offence punishable upon conviction by the penalty referred to in subsection (2).

(2) The penalty is:

(a) in the case of an individual - a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT 75 million.

32C. Legal Professional Privilege

(1) Nothing in this Act requires a lawyer or notary to disclose information which is subject to legal professional privilege.

(2) For the purposes of this Act, information is privileged information if:

(a) it is confidential information, whether orally or in writing between:

(i) a lawyer or notary in his or her professional capacity and another lawyer or notary in such capacity; or

(ii) a lawyer or notary in his or her professional capacity and his or her client, whether made directly or indirectly through an agent; and

(b) it is made for the purpose of obtaining or giving legal advice or assistance; and

(c) it is not made for the purpose of committing or furthering the commission of an illegal or wrongful act.

PART 7 — ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING PROGRAM

33. AML and CTF Procedure Manual

(1) A reporting entity must not open accounts, provide services or establish a business relationship with a customer unless the reporting entity has established and maintained an adequate AML and CTF procedure manual.

(1A) A reporting entity must implement its AML and CTF Procedure Manual and update it as required to take into account new and emerging risks.

(1B) The AML and CTF Procedure Manual of a reporting entity must have regard to:

(a) the nature and level of money laundering and terrorist financing risk that the reporting entity may reasonably expect to face in the course of its business; and

(b) the nature, size and complexity of the reporting entity's business.

(2) The AML and CTF Procedure Manual must contain internal policies, processes and procedures:

(a) to implement the reporting requirements under Part 6; and

(b) to implement the customer due diligence requirements under Part 4; and

(c) to implement the record keeping requirements under Part 5; and

(d) to inform the entity's officers and employees of the laws of Vanuatu about money laundering and financing of terrorism, of the policies, processes and procedures and systems adopted by the entity to deal with money laundering and financing of terrorism; and

(e) to train the entity's officers and employees to recognise and deal with money laundering and terrorism financing; and

(ea) to vet the officers and employees of the reporting entity to ensure that they are fit and proper persons to engage in anti-money laundering and counter terrorist financing related duties; and

(eb) in the case of a person referred to in paragraph 2(q) (definition of reporting entity) on the role and responsibility of any agent of the person, including the person monitoring the agent's compliance with the person's AML and CTF Procedure Manual; and

(f) on the role and responsibility of the AML and CTF Compliance officer; and

(g) on the establishment of an independent audit function which is able to test its AML and CTF processes, procedures and systems; and

(h) on the adoption of systems by the entity to deal with money laundering and terrorism financing; and

(i) on the staff screening, recruitment and retention program.

(2A) A reporting entity must periodically engage an external auditor to provide an independent review of its AML and CTF processes, procedures and systems, and to make recommendations for improvements.

(3) A reporting entity must give a copy of its AML and CTF Procedure Manual to the Director upon request made to it in writing by the Director.

(4) If a reporting entity contravenes subsection (1), (1A), (2) or (3), the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years or both; or

(b) in the case of a body corporate - a fine not exceeding VT 125 million.

33A. Group-wide AML and CTF Program

(1) This section applies to a reporting entity that has branches or majority-owned subsidiaries or agents anywhere in Vanuatu or outside Vanuatu.

(2) A reporting entity and any of its branch, subsidiary or agent must not open accounts, provide services or establish business relationships with a customer unless the reporting entity has established and maintained an adequate AML and CTF group-wide procedure manual.

(2A) A reporting entity must implement its AML and CTF group-wide procedure manual and update it as required to take into account new and emerging risks.

(2B) The AML and CTF group-wide procedure manual of a reporting entity must have regard to:

(a) the nature and level of money laundering and terrorist financing risk that all branches, majority-owned subsidiaries and agents of the reporting entity may reasonably expect to face in the course of their businesses; and

(b) the nature, size and complexity of such businesses."

(3) The AML and CTF group-wide procedure manual of a reporting entity must contain group-wide policies, processes and procedures:

(a) that are applicable and appropriate to all branches, majority-owned subsidiaries and agents of the reporting entity; and

(b) that cover the requirements of subsection 33(2); and

(c) on the sharing of information amongst all branches, majority-owned subsidiaries and agents of the reporting entity for the purposes of customer due diligence, and anti-money laundering and counter terrorist financing risk management; and

(d) for all branches, majority-owned subsidiaries and agents of the reporting entity to provide customer account and transaction information to each other; and

(e) that contain adequate safeguards on the confidentiality and use of information shared."

(4) If a branch, subsidiary or agent operates in a foreign country, the branch, subsidiary or agent must apply AML and CTF group-wide procedure manual.

(5) A reporting entity must give a copy of its AML and CTF group-wide procedure manual to the Director upon request made to it in writing by the Director.

(6) A reporting entity who fails without reasonable excuse to comply with subsection (2), (2A) or (4) commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT2.5 million or imprisonment for a term not exceeding 2 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT10 million.

34. Appointment of AML and CTF Compliance Officer

(1) A reporting entity must appoint a person as AML and CTF compliance officer to be responsible for ensuring the reporting entity's compliance with the requirements of this Act and the Regulations.

(1A) A person must not be appointed as an AML and CTF compliance officer unless the person has suitable qualifications and experience.

(1B) An AML and CTF compliance officer must be a member of the senior management team of the reporting entity.

(2) An AML and CTF compliance officer appointed under subsection (1) may be employed on a full time or part time basis and must be a senior officer of the reporting entity.

(3) A reporting entity must inform the Director in writing of its Compliance officer's appointment, or any change of appointment or termination of appointment.

(4) A reporting entity who contravenes subsection (1) or (3), commits an offence and is liable on conviction:

(a) in the case of an individual - to a fine not exceeding VT10,000,000 or imprisonment for a term not exceeding 4 years or both; or

(b) in the case of a body corporate - to a fine not exceeding VT50,000,000.

35. Money laundering and terrorism financing risk assessments

(1) The Director may by notice in writing, require a reporting entity to:

(a) carry out a money laundering and terrorism financing risk assessment; and

(b) prepare a written report setting out the results of the assessment; and

(c) provide a copy of the report within the period specified in the notice to the Director.

(2) A report made under subsection (1) must be in the prescribed form.

(3) If a reporting entity fails to comply with any notice under subsection (1), the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years or both; or

(b) in the case of a body corporate - a fine not exceeding VT 75 million.

PART 8 – DUE DILIGENCE FOR CORRESPONDENT BANKING

36. Cross Border Correspondent Banking

(1) This section applies if a reporting entity carries out cross border correspondent banking or has other similar relationships.

(2) A reporting entity must, in addition to its other obligations under this Act, do all of the following:

(a) adequately identify and verify the person with whom it conducts such a business relationship; and

(b) gather sufficient information about the nature of the business of the person; and

(c) determine from publicly available information the reputation of the person, including whether the person has been subject to a money laundering or terrorist financing investigation or regulatory action, and the quality of supervision the person is subject to; and

(d) assess and clearly understand the person's anti-money laundering and counter-terrorism financing controls and responsibilities; and

(e) obtain approval from senior management before establishing a new correspondent relationship; and

(f) record the responsibilities of the reporting entity and the person; and

(g) ensure that the person does not permit its account to be used by shell banks.

(3) If a reporting entity allows a person with whom it carries out a cross border correspondent banking relationship to establish accounts in the reporting entity for use by that person's customers, the reporting entity must, in addition to its other obligations under this Act, be satisfied that that person:

(a) has verified the identity of and is performing on-going due diligence on that person's customers that have direct access to accounts of the reporting entity; and

(b) is able to provide to the reporting entity customer identification data of the customers referred to in this section upon request.

(3A) A reporting entity must not enter into or continue cross border correspondent banking relationship with a shell bank.

(4) If a reporting entity contravenes subsection (2), the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years, or both; or

(b) in the case of a body corporate - a fine not exceeding VT 125 million.

PART 8A – DUE DILIGENCE FOR ELECTRONIC CURRENCY TRANSFER

37. Application of Part

(1) This Part applies to reporting entities that conduct any of the following activities:

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

(b) lending, including, but not limited to, consumer credit, mortgage credit, factoring (with or without recourse), and financing of commercial transactions, including forfeiting;

(c) financial leasing other than with respect to arrangements relating to consumer products;

(d) transfer of money or value;

(e) issuing and managing the means of payment, including, but not limited to, credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts and electronic money;

(f) issuing financial guarantees and commitments;

(g) trading in:

(i) bearer negotiable instruments; or

(ii) foreign exchange; or

(iii) exchange, interest rate and index instruments; or

(iv) transferable securities; or

(v) commodity futures trading;

(h) participation in securities issues and the provision of financial services related to such issues;

(i) individual and collective portfolio management;

(j) safekeeping and administration of currency, bearer negotiable instruments or liquid securities on behalf of other persons;

(k) investing, administering or managing funds or money on behalf of other persons;

(l) underwriting and placement of insurance, including insurance intermediation by agents and brokers;

(m) money and currency changing.

(2) To avoid doubt, this Part also applies to the agents of reporting entities that transfer money or value.

37A. Overview of customer due diligence for electronic currency transfers

(1) A reporting entity that is required to conduct customer due diligence in the circumstances described in section 37B, 37C, 37D or 37E is not required to verify any documents, data or information that it has previously verified for the purposes of carrying out customer due diligence under Part 4 and any other provision of this Act.

(2) Subsection (1) does not apply if there are reasonable grounds for the reporting entity to doubt the adequacy or veracity of the documents, data or information previously obtained.

37B. Requirements for originating entity-electronic currency transfer

(1) This section applies to a reporting entity if the entity receives a request from a person (the sender) to execute an electronic currency transfer of an amount in currency equal to or greater than VT 100,000 (the originating entity).

(2) Subject to subsection (3), if a request is made to execute an electronic currency transfer, the originating entity must, in the case of a domestic electronic currency transfer or an international electronic currency transfer, identify the sender of the transfer by obtaining the following identity information:

(a) the sender's full name;

(b) the sender's account number or such other identifying information that allows the transaction to be traced back to the sender;

(c) any one of the following:

(i) the sender's address;

(ii) the sender's customer identification number;

(iii) the sender's place and date of birth;

(iv) the sender's passport number;

(v) the sender's national identity card number.

(3) In relation to a domestic electronic currency transfer, an originating entity may identify the sender by obtaining:

(a) the sender's account number; or

(b) other information prescribed in Regulations;

if the sender's account number or the other identifying information allows the transaction to be traced back to the sender, and the originating entity is able to provide the information specified in paragraphs (2)(a) and (c) within 3 working days of a request being made by the beneficiary entity or the Unit.

(4) If a request is made to execute an electronic currency transfer, the originating entity must, in the case of an international currency transfer, identify the receiver of the electronic currency transfer by obtaining the following identity information:

(a) the receiver's full name;

(b) the receiver's account number or other identifying information that allows the transaction to be traced back to the receiver.

(5) An originating entity must verify the sender's identity so that it is satisfied that the information obtained under subsection (2) is correct.

(6) An originating entity must verify the sender's identity before ordering the electronic currency transfer.

(7) If several individual currency transfers from a single sender are put in one file for transmission to multiple receivers, the originating entity must ensure that the file contains:

(a) required and verified sender information, and required receiver information that is traceable within the receiver country; and

(b) either:

(i) the sender's account number; or

(ii) other information prescribed in Regulations;

which allows the transaction to be traced back to the sender.

(8) An originating entity must transmit with the electronic currency transfer:

(a) the identity information about the sender that it has obtained under subsection (2) and verified under subsection (5); and

(b) in the case of an international currency transfer - the identity information about the receiver that it has obtained under subsection (4).

(9) An originating entity must not execute a currency transfer if the information requirements under subsection (8) are not met.

(10) An originating entity must retain records of all sender and receiver information that accompanies an electronic currency transfer and must comply with the record keeping requirements in Part 5.

(11) If a reporting entity contravenes subsection (2), (4), (5), (6), (7), (8), (9) or (10), the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years, or both; or

(b) in the case of a body corporate - a fine not exceeding VT 125 million.

37C. Requirements for originating entity-electronic currency transfer of less than VT 100,000

(1) This section applies to a reporting entity if the reporting entity receives a request from a person (the sender) to execute an international electronic currency transfer of an amount in currency less than VT 100,000 (the originating entity).

(2) In identifying the sender of the transfer, an originator entity must obtain the following identity information:

(a) the name of the sender;

(b) either:

(i) the sender's account number; or

(ii) other information prescribed in Regulations;

which allows the transaction to be traced back to the sender.

(3) If an originating entity has a suspicion of money laundering or terrorist financing, the originating entity must:

(a) verify the information obtained in relation to the sender; and

(b) file a suspicious transaction report or suspicious activity report.

(4) In identifying the receiver of the transaction, an originating entity must obtain the following identity information:

(a) the name of the receiver;

(b) either:

(i) the receiver's account number; or

(ii) other identifying information prescribed by the Regulations;

which allows the transaction to be traced back to the receiver.

(5) The originating entity must transmit with the electronic currency transfer the information the originating entity has obtained under subsections (2) and (4).

(6) The originating entity must not execute the currency transfer if the originating entity cannot meet the information requirements under subsections (2), (3) and (4).

(7) An originating entity must retain records of all sender and receiver information required to be obtained under subsections (2), (3) and (4) and must comply with the record keeping requirements in Part 5.

(8) If a reporting entity contravenes subsection (2), (3), (4), (5), (6) or (7), the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years, or both; or

(b) in the case of a body corporate - a fine not exceeding VT 125 million.

37D. Requirements for intermediary entity-electronic currency transfer

(1) This section applies to a reporting entity that receives a request to act as an intermediary in an electronic currency transfer of an amount in currency equal to or greater than VT 100,000 (an intermediary entity).

(2) Subject to subsection (6), an intermediary entity must transmit all of the identity information that it receives under subsection 37B(4) from the originating entity with the electronic currency transfer.

(3) An intermediary entity must take reasonable measures to identify international electronic currency transfers that lack any of the information required under section 37B.

(4) An intermediary entity must have risk based policies and procedures for determining:

(a) when to execute, reject or suspend an electronic currency transfer which lacks any of the information required under section 37B to accompany the transfer; and

(b) follow up actions to be taken.

(5) An intermediary entity must retain records of all sender and receiver information that accompanies an electronic currency transfer and must comply with the record keeping requirements in Part 5.

(6) If a reporting entity contravenes subsection (2), (3), (4) or (5), the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years, or both; or

(b) in the case of a body corporate - a fine not exceeding VT 125 million.

37E. Requirements for beneficiary entity-electronic currency transfer

(1) This section applies to a reporting entity that receives a request to receive an electronic currency transfer of an amount in currency equal to or greater than VT 100,000 on behalf of a receiver (beneficiary entity).

(2) A beneficiary entity must verify the receiver's identity so that it is satisfied that the information obtained by an originating entity under subsection 37B(4) is correct.

(3) A beneficiary entity must take reasonable measures to identify international electronic currency transfers that lack any of the information required under sections 37B and 37C to accompany an international currency transfer.

(4) A beneficiary entity must have risk based policies and procedures for determining:

(a) when to execute, reject or suspend an electronic currency transfer which lacks any of the information required under sections 37B, 37C and 37D to accompany the transfer; and

(b) follow up actions to be taken.

(5) A beneficiary entity must retain records of all sender and receiver information that accompanies an electronic currency transfer and must comply with the record keeping requirements in Part 5.

(6) If a reporting entity contravenes subsection (2), (3), (4) or (5), the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years, or both; or

(b) in the case of a body corporate - a fine not exceeding VT 125 million.

37F. Addition information and exemption

The Regulations may:

(a) prescribe additional information required to be provided by reporting entities to which this Part applies; or

(b) exempt reporting entities to which this Part applies from obligations to obtain some or all information required by this Part in relation to specified transfers.

37G. Other requirements for reporting entities

(1) This provision applies to a reporting entity that provides a money or value transfer service.

(2) If a reporting entity controls both the sending and the receiving side of an electronic currency transfer, the reporting entity must:

(a) take into account all information required to be obtained under sections 37B, 37C and 37D relating to the sender and the receiver in order to determine whether a suspicious transaction or suspicious activity report should be filed; and

(b) file a suspicious transaction report in any country affected by the electronic currency transfer.

(3) A reporting entity must have policies and procedures in place to ensure that they do not contravene prohibitions under Part 3 of the United Nations Financial Sanctions Act No. 6 of 2017."

PART 9 – DISCLOSURE OF INFORMATION

38. Meaning of confidential information

Information is confidential information if it is supplied to or obtained by the Unit or a supervisor under this Act, but does not include information that:

(a) can be disclosed under any provision of this Act; or

(b) is already in the public domain; or

(c) consists of aggregate data from which no information about a specific person or business can be identified.

39. Disclosure of confidential information generally

(1) The Unit or a supervisor may disclose confidential information if the disclosure:

(a) is required or authorised by a court; or

(b) is made for the purpose of discharging a duty, performing a function or exercising a power under this Act; or

(c) is made to a law enforcement agency for the purpose of investigating or prosecuting an offence against a law of Vanuatu for which the maximum penalty is a fine of at least VT 1 million or imprisonment for at least 12 months; or

(d) is made to a law enforcement agency for the purpose of investigating or taking action under the Proceeds of Crime Act [CAP 284]; or

(e) is made to a domestic regulatory authority for the purpose of carrying out its regulatory functions; or

(f) is made to the Sanctions Secretariat for the purpose of carrying out its functions under the United Nations Financial Sanctions Act No. 6 of 2017; or

(g) is made to a foreign government agency in accordance with section 40.

(2) If a person contravenes subsection (1), the person commits an offence punishable upon conviction by:

(a) for an individual - a fine not exceeding VT 15 million or imprisonment for a term of 5 years, or both; and

(b) for a body corporate - a fine not exceeding VT 75 million.

40. Disclosure of confidential information to foreign government agency

The Unit or a supervisor may disclose confidential information to a foreign government agency if:

(a) the Unit or a supervisor is satisfied that the disclosure is for the purpose of:

(i) discharging a duty, performing a function or exercising a power under the foreign government agency's own regulatory legislation (if any), including investigating a breach of that legislation; or

(ii) discharging a duty, performing a function or exercising a power under the foreign jurisdiction's anti-money laundering and counter-terrorism financing regulation and supervision laws; or

(iii) discharging a duty, performing a function or exercising a power under the foreign jurisdiction's financial sanctions laws; or

(iv) investigating or prosecuting a foreign serious offence or a foreign tax evasion offence; or

(v) investigating or taking action under the foreign jurisdiction's proceeds of crime laws; and

(b) the Unit or a supervisor is satisfied that:

(i) the information will be used for a proper regulatory, supervisory or law enforcement purpose; and

(ii) the agency is subject to adequate restrictions on further disclosure.

40AA. Disclosure of information relating to suspicious transaction reports and suspicious activity reports

(1) This section applies in respect of all or any of the following information:

(a) any suspicious transaction report or suspicious activity report;

(b) any information the disclosure of which will identify, or is reasonably likely to identify, any person:

(i) as a person who, in his or her capacity as an officer or employee of a reporting entity, has handled a transaction in respect of which a suspicious transaction report or suspicious activity report was made; or

(ii) as a person who has prepared a suspicious transaction report or suspicious activity report; or

(iii) as a person who has made a suspicious transaction report or suspicious activity report;

(c) any information that discloses, or is reasonably likely to disclose, the existence of a suspicious transaction report or suspicious activity report.

(2) The Unit or a supervisor may disclose information to which this section applies only for law enforcement purposes.

(3) No person may disclose, in any civil or criminal proceeding, any information to which this section applies unless the court concerned is satisfied that the disclosure of the information is necessary in the interests of justice.

40A. Protection of person and information in suspicious transaction and other reports

(1) Subject to subsection (2), a person must not disclose any information that identifies or is likely to identify any person who has:

(a) handled a transaction in respect of which a suspicious transaction report or suspicious activity report or other report or information made under this Act; or

(b) prepared a suspicious report or suspicious activity report or other report or information under this Act; or

(c) given a suspicious transaction report or a suspicious activity report or other report under this Act or information to the Director.

(2) A person may disclose any information that identifies or is likely to identify any person referred to in subsection (1) for the purposes of:

(a) the detection, investigation or prosecution of a person for money laundering offence, a terrorist financing offence or any other serious offence; or

(b) the enforcement of this Act, the Proceeds of Crime Act [CAP 284], the Counter Terrorism and Transnational Organised Crime Act [CAP 313] or any other prescribed Act.

(3) Nothing in this section prevents the disclosure of any information in connection with, or in the course of, a proceeding before a Court if the Court is satisfied that the disclosure of the information is necessary in the interest of justice.

(4) A person who fails without reasonable excuse to comply with subsection (1), commits an offence and is punishable on conviction:

(a) in the case of an individual - to a fine not exceeding VT 25 million or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate - to a fine not exceeding VT 100 million.

40B. Protection from liability

A person is not liable to any civil or criminal action or other proceeding or damages for or in respect of an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance of a power, function or duty conferred on him or her by this Act.

41. Secrecy provision

(1) This section applies if a person ceases to be an officer, employee or agent of the Unit, a law enforcement agency or supervisor.

(2) The person must not, directly or indirectly, divulge or communicate to any other person, or make a record of:

(a) any information contained in a suspicious transaction report or other report provided under this Act; or

(b) any information provided under this Act,
except for one or more of the purposes required under subsection (3).

(3) The purposes are all or any of the following:

(a) the detection, investigation or prosecution of a money laundering offence, a financing of terrorism offence or any other serious offence;

(b) the enforcement of this Act, the Proceeds of Crime Act [CAP 284] or any other Act prescribed by the Regulations;

(c) when lawfully required to do so by any court;

(d) such other purposes connected with the performance of the person's functions or duties under this Act.

(4) A person who contravenes subsection (2), commits an offence punishable upon conviction by a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years, or both.

42. *(Repealed)*

43. Overriding of secrecy

(1) A reporting entity and an officer, employee or agent of the reporting entity must comply with the requirements of this Act despite any obligation as to secrecy or other restriction on the disclosure of information imposed by any written law or otherwise.

(2) A civil or criminal proceedings must not be taken against a reporting entity or an officer, employee or agent of the reporting entity for complying with its or his or her obligations under this Act despite any written law to the contrary.

(3) *(Repealed)*

44. Liability of directors or officers of bodies corporate

Any director or officer of a body corporate is liable if it is proved that an act or omission that constituted the offence under this Act took place with his or her knowledge, authority, permission or consent.

44A. Agreements and arrangements

(1) The Unit may enter into an agreement or arrangement for the purpose of sharing information or cooperating on matters in relation to which information can be shared with all or any of the following:

(a) domestic regulatory authorities;

(b) law enforcement agencies;

(c) foreign government agencies.

(2) To avoid doubt, the disclosure of information by the Unit is not dependent on an agreement or arrangement being in force.

44B. Request from foreign government agency

On the request of a foreign government agency, the Director may do all or any of the following:

(a) search the Unit's own records;

(b) search other records to which the Director has direct or indirect access, including law enforcement records, public records, administrative records and commercially available records;

(c) provide information obtained from the search to the foreign government agency, subject to the restrictions on sharing information under section 40.

PART 10 – POWERS OF THE DIRECTOR

45. Power to collect information

(1) This section applies to a person if the Director believes on reasonable grounds that:

(a) being a reporting entity; or

(b) being an officer, employee or agent of a reporting entity; or

(c) *(Repealed)*

(d) *(Repealed)*

(e) any other person,

has information or records relevant to the operation of this Act or Regulations.

(2) The Director may by notice in writing, require a person to give or produce any information or records within a period as specified in the notice.

(3) A notice made under this section must be in the prescribed form.

(4) If a person fails to comply with subsection (2), the person commits an offence punishable upon conviction by:

(a) in the case of an individual - a fine not exceeding VT 15 million, or imprisonment for a term not exceeding 5 years or both; or

(b) in the case of a body corporate - a fine not exceeding VT 75 million.

45A. Director may request information and documents

For the purpose of discharging a duty, performing a function or exercising a power under this Act, the Director may request information or documents, or both, from any or all of the following:

(a) a supervisor;

(b) the Sanctions Secretariat;

(c) a law enforcement agency;

(d) a domestic regulatory authority;

(e) any other government agency or authority;

(f) a foreign government agency that carries out functions corresponding or similar to the functions carried out by a body or agency referred to in paragraph (a), (b), (c) or (d).

45B. Director may require reporting entities to provide information about the beneficial owners of customers

(1) The Director may, by notice in writing, to a reporting entity require the reporting entity to provide the Director with information specified in the notice, being information about the beneficial owner of a customer of the reporting entity that the reporting entity is required to collect under Part 4 of this Act and the Regulations.

(2) The notice must specify the period within which the reporting entity is to provide the information to the Director.

(3) If the reporting entity:

(a) refuses or fails to give the Director the information required by the Director; or

(b) knowingly or recklessly gives the Director information that is false or misleading;

the reporting entity commits an offence punishable upon conviction by:

(ai) if the reporting entity is a natural person - a fine not exceeding VT 15 million or imprisonment not exceeding 5 years, or both; or

(bi) if the reporting entity is a body corporate - a fine not exceeding VT 75 million.

46. Power to examine

(1) The Director may examine the records and inquire into the business and affairs of any reporting entity for the purpose of ensuring compliance by the reporting entity with Parts 3, 4, 5, 6, 7, 8, 8A, 9A and this Part.

(2) Without limiting subsection (1), the Director may do all or any of the following:

(a) at any reasonable time, enter any premises, in which the Director believes, on reasonable grounds, that there are records relevant to ensuring compliance by a reporting entity with Part 4, 6 or 7;

(b) use or cause to be used any computer system or data processing system in the premises to examine any data contained in or available to the system;

(c) reproduce any record, or cause it to be reproduced from the data, in the form of a printout or other intelligible output and remove the printout or other output for examination or copying;

(d) use or cause to be used any copying equipment in the premises to make copies of any record.

(3) The owner or occupier of premises under subsection (1) and any person found there must:

(a) give the Director all reasonable assistance to enable him or her to carry out his or her duties; and

(b) provide the Director with any information that he or she may reasonably require for that purpose.

(4) *(Repealed)*

(5) A person who:

(a) obstructs or hinders or fails to cooperate with the Director in the lawful exercise of the powers under subsection (1) or (2); or

(b) does not comply with subsection (3),

commits an offence and is liable on conviction:

(i) in the case of an individual - to a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years, or both; or

(ii) in the case of a body corporate - to a fine not exceeding VT 75 million.

47. *(Repealed)*

48. *(Repealed)*

49. *(Repealed)*

50. Search warrants

(1) The Director may apply to the Supreme Court for a warrant:

(a) to enter premises belonging to, or in the possession or control of, a reporting entity or any officer or employee of the reporting entity; and

(b) to search the premises and remove any document, material or thing on the premises.

(2) The Court must grant the application if he or she is satisfied that there are reasonable grounds for believing that:

(a) the reporting entity has failed without reasonable excuse to comply in whole or in part with Part 3, 4, 5, 6, 7, 8, 8A, 9A or this Part; or

(b) an officer or employee of the reporting entity has committed or is about to commit a financing of terrorism or a money laundering offence.

PART 10AA – ENFORCEMENT

50A. Enforcement measures

If the Director has reasonable grounds to believe that a reporting entity has failed to comply with an obligation under this Act, the Director may do all or any of the following acts:

(a) issue a formal warning under section 50B;

(b) issue a penalty notice under section 50C;

(c) accept an enforceable undertaking under section 50D and seek an order from the Court for breach of that undertaking under section 50E;

(d) seek a performance injunction from the Court under section 50F;

(e) seek a restraining injunction from the Court under section 50G;

(f) publish a notice of non-compliance under section 50H;

(g) direct a reporting entity to remove a director, manager, secretary or other officer under section 50I.

50B. Formal warning

(1) The Director may issue a formal warning to a reporting entity if the Director has reasonable grounds to believe that the reporting entity has engaged in conduct that has contravened a requirement of this Act.

(2) A formal warning may specify any remedial action that the Director believes the reporting entity should take.

(3) The Director may publish in the Gazette a formal warning issued to the reporting entity.

50C. Penalty Notice

(1) The Director may serve a penalty notice on a reporting entity if the Director believes on reasonable grounds that the reporting entity has engaged in conduct which constitutes an offence under this Act.

(2) If the Director intends to issue a penalty notice, it must do so as soon as possible after it has become aware that the reporting entity has engaged in, or may engage in, conduct which constitutes an offence under this Act.

(3) The penalty notice must require the person to pay a penalty not exceeding:

(a) VT 200,000 for an individual; or

(b) VT 1 million for a body corporate;

as stated in the notice within 30 days after the date the notice was served.

(4) If the amount of penalty referred to in subsection (3) for an alleged offence is paid, that person is not liable to any further proceedings for the alleged offence.

(5) Payment made under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any proceeding arising out of the same occurrence.

(6) The Director may publish a penalty notice issued to a person in such manner as the Director determines.

(7) If a penalty notice has been served on a person, a prosecution in respect of the alleged offence may only be commenced if the penalty remains unpaid 30 days after the penalty was due, and the Court may take account of any unpaid penalty when imposing a penalty in respect of the alleged offence.

(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

50D. Enforceable undertaking

(1) The Director may request a written undertaking from a reporting entity in connection with compliance with this Act.

(2) Without limiting subsection (1), a written undertaking may relate to an activity of a reporting entity or to an officer, employee, agent or a group of officers, employees or agents of the reporting entity.

(3) A reporting entity may give the Director a written undertaking in connection with compliance with this Act.

(4) The terms of an undertaking under this section must be lawful and in compliance with this Act.

50E. Enforcement of undertaking

(1) If the Director considers that a reporting entity has breached one or more of the terms of an undertaking it provided under section 50D, the Director may apply to the Court for an order under subsection (2).

(2) If the Court is satisfied that:

(a) the reporting entity has breached one or more of the terms of its undertaking; and

(b) the undertaking was relevant to the reporting entity's obligation under this Act;

the Court may make an order directing the reporting entity to comply with any of the terms of the undertaking.

50F. Performance injunctions

(1) The Director may apply to the Court for an injunction requiring a person to do an act or thing in order to comply with this Act.

(2) In addition to an application under subsection (1), the Court may grant an injunction requiring a person to do an act or thing under this Act if it is satisfied that:

(a) the person has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do an act or thing; and

(b) the refusal or failure was, is or would be a contravention of this Act.

(3) An injunction granted by the Court under subsection (2) may relate to an officer, employee or agent, or a group of officers, employees or agents of the reporting entity.

(4) An application made under subsection (1) may be made ex parte, and the Court may grant an interim injunction under subsection (2) without the defendant being heard when the Court considers it appropriate to do so.

50G. Restraining injunctions

(1) The Director may apply to the Court for an injunction restraining a person from engaging in conduct in contravention of this Act.

(2) In addition to an application under subsection (1), the Court may grant an injunction restraining a person from engaging in conduct in contravention of this Act if it is satisfied that:

(a) a person has engaged, is engaging or is proposing to engage, in any conduct; and

(b) the conduct was, is or would be a contravention of this Act.

(3) An injunction under subsection (2) may relate to an officer, employee or agent, or a group of officers, employees or agents of the reporting entity.

(4) An application made under subsection (1) may be made ex parte, and the Court may grant an interim injunction under subsection (2) without the defendant being heard if the Court considers it appropriate to do so.

50H. Notice of non-compliance

(1) If the Court has granted an injunction under section 50F or 50G, the Director may publish a notice in the Gazette which sets out the details of the reporting entity's non-compliance and any remedial action ordered by the Court.

(2) If the reporting entity has failed to comply with an injunction granted by the Court under section 50F or 50G, the Director may publish a notice of that non-compliance and any other remedial action as ordered by the Court.

50I. Power to remove a director, manager, secretary or other officer of a reporting entity

(1) The Director may in writing direct a reporting entity to remove a person who is a director, manager, secretary or other officer of the reporting entity if the Director is satisfied that the person is a disqualified person within the meaning of section 50J.

(2) Before issuing a direction, the Director must give to the reporting entity a written notice requiring the reporting entity and the person proposed to be removed to make submissions to the Director on the matter within a reasonable period specified in the notice.

(3) The Director must review any submission received and decide whether or not to issue the direction.

(4) A direction takes effect on the day specified in the direction, which must be at least 7 days after it is made.

(5) If the Director directs a reporting entity to remove a person, the Director must give a copy of the direction to the person removed.

(6) If a reporting entity fails to comply with a direction, the reporting entity commits an offence punishable upon conviction by:

(a) in the case of an individual – a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years, or both; or

(b) in the case of a body corporate – a fine not exceeding VT 125 million.

50J. Disqualified person

(1) A person is a disqualified person if, at any time, the person:

(a) has been convicted of an offence under this Act; or

(b) has been a director or directly concerned in the management of a reporting entity in Vanuatu or any other country which has had its licence revoked or has been wound up by the Court; or

(c) has been convicted by a court for an offence involving dishonesty; or

(d) is or becomes bankrupt; or

(e) has applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or

(f) has compounded with his or her creditors; or

(g) is listed on a United Nations financial sanctions list, a financial sanctions list under the United Nations Financial Sanctions Act No. 6 of 2017 or a financial sanctions list under the law of any jurisdiction; or

(h) does not meet any other fit and proper criteria prescribed by the Regulations.

(2) A disqualified person must not act or continue to act as a director, manager, secretary or other officer of any reporting entity unless the Director gives his or her written approval for the person to do so.

(3) If a person contravenes subsection (2), the person commits an offence punishable upon conviction by:

(a) in the case of an individual – a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years, or both; or

(b) in the case of a body corporate – a fine not exceeding VT 75 million.

PART 10A – NATIONAL COORDINATING COMMITTEE

50K. National Coordinating Committee of AML and CTF

(1) The National Coordinating Committee of the AML and CTF is established.

(2) The National Coordinating Committee of the AML and CTF consists of the:

(a) Director General of the Prime Minister's Office, as Chairperson; and

(b) Governor of the Reserve Bank of Vanuatu; and

(c) Director General of the Ministry of Finance and Economic Management; and

(d) Commissioner of Police; and

(e) Public Prosecutor; and

(f) Director General of the Ministry of Justice and Community Services; and

(g) Attorney General; and

(ga) Commissioner of the Vanuatu Financial Services Commission; and

(gb) Director responsible for customs and inland revenue; and

(gc) Head of the Office of the Registrar of Cooperatives and Business Development Services; and"

(h) Director of Financial Intelligence Unit.

(3) The National Coordinating Committee may request a person to attend any of its meetings to provide advice or any information to the National Coordinating Committee.

(4) The functions of the National Coordinating Committee are:

(a) to advise the Director and the Minister on any matters relating to the detection and prevention of money laundering or the financing of terrorism; and

(b) to make recommendations to the Director and the Minister on any matters relating to the detection and prevention of money laundering and the financing of terrorism; and

(c) to assist the Director and the Minister in the formulation of policies or strategies relating to the detection and prevention of money laundering and the financing of terrorism; and

(ca) facilitate the necessary flow of information on AML and CTF between relevant agencies; and

(cb) facilitate the production and dissemination of information on the risks of AML and CTF in order to give advice and make decisions on AML and CTF requirements and the risk-based implementation of those requirements; and

(cc) facilitate co-operation amongst supervisors and consultation with other agencies in the development of AML and CTF policies and legislation; and

(cd) facilitate consistent and co-ordinated approaches to the development and dissemination of AML and CTF guidance materials and training initiatives; and

(ce) facilitate good practice and consistent approaches to supervision of this Act; and

(cf) provide a forum for examining any operational or policy issues that have implications for the effectiveness or efficiency of the AML and CTF system; and

(d) to assist the Director in coordination between various Government departments, agencies and statutory bodies.

(5) The National Coordinating Committee may disclose information obtained under this section if the disclosure is necessary for the Committee to carry out its functions under this Act.

(6) The National Coordinating Committee may establish working groups for specific AML and CTF purposes.

PART 11 – ANNUAL REPORT, TRANSITIONAL AND MISCELLANEOUS PROVISIONS

51. Destruction of reports

The Director is to destroy a report under this Act received or collected by him or her on the expiry of 6 years:

(a) after the date of receipt of the report if there has been no further activity or information relating to the report or a person named in the report; or

(b) after the date of the last activity relating to the person or report.

52. Annual Reports

(1) The Director must, on or before the end of March of each year, submit an annual report to the Minister on the operations of the Unit for the preceding year.

(2) The Minister must as soon as practicable table a copy of the annual report in Parliament.

(3) The Director must not disclose any information in the report that may directly or indirectly identify:

(a) an individual who provided a annual report or information under this Act to the Director; or

(b) a person about whom a report or information was provided under this Act.

52A. Protection from liability

A person is not liable to any civil or criminal action or other proceeding or damages for or in respect of an act done or omitted to be done in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, duty or obligation conferred on him or her by this Act.

53. Regulations

(1) The Minister may make Regulations not inconsistent with this Act:

(a) for or with respect to any matter that by this Act is required or permitted to be prescribed; or

(b) that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Minister may make Regulations prescribing as a money laundering entity a person or group if the person or group has been convicted of money laundering offence or an offence that is substantially similar to such an offence.

54. Transitional arrangements

(1) This section applies to any person who was employed at the Unit immediately before the commencement of this Act.

(2) On and after that commencement, the person is to continue to be employed at the Unit as an employee of the Unit:

(a) on the same terms and conditions; and

(b) in the same position and/or with the same classification,

until such time the person's employment lawfully ceases or the person's employment terms and conditions, position or classification lawfully changes.

54A. Existing reporting entity

(1) This section applies to a reporting entity that was engaged, educated, guided, examined and directed by the Unit immediately before the commencement of this Act.

(2) The reporting entity must, within 12 months on the commencement of this Act:

(a) apply to the Director in accordance with subsection 9(3) for a registration under this Act; or

(b) cease to carry on the business under subsection 9(2).

(3) The Director must make a decision on the application for registration, within 1 month after receiving the application from the reporting entity.

54B. Existing Customer

(1) This section applies to customers that have established business relationship, engaged the service or opened an account with a reporting entity immediately before the commencement of this Act.

(2) The reporting entity must, within 12 months on the commencement of this Act:

(a) conduct the necessary identification, verification and on-going due diligence process and update its record on the customer as required under this Act; or

(b) terminate the relationship, cease its service or close the account of the customer.

54C. AML AND CTF powers

(1) Any reference in any Act or any document made before the commencement of this Act is taken to be a reference to this Act, on and after the commencement of this Act.

(2) Any action taken before the commencement of this Act is to continue and have effect under this Act, on and after the commencement of this Act, until such time it is altered, amended or cancelled by this Act.

55. Repeal

The Financial Transactions Reporting Act [CAP 268] is repealed.

Table of Amendments

1	*Amended by Act 2 of 2015;*
	Amended by Act 16 of 2017
1(2)	*Inserted by Act 16 of 2017*
2(ka)	*Inserted by Act 24 of 2024*
2(l)(i) and (ii)	*Amended by Act 16 of 2017*
2(p)(ii)	*Amended by Act 16 of 2017*
3(2)(a)	*Amended by Act 2 of 2015*
3(2)(b)	*Amended by Act 2 of 2015*
3(2)(e)	*Amended by Act 2 of 2015*
4	*Amended by Acts 33 of 2021; 16 of 2024*
5(1)(c), (d) and (e)	*Substituted by Act 16 of 2017*
5(1)(ea)	*Inserted by Act 16 of 2017*
5(1)(g), (h) and (i)	*Amended by Act 16 of 2017*
5(1)(m), (n) and (o)	*Substituted by Act 16 of 2017*
5(1)(q)	*Amended by Act 2 of 2015*
5(1)(r)	*Repealed by Act 16 of 2017*
5(1)(s)	*Amended by Act 2 of 2015;*
	Repealed by Act 16 of 2017
5(1)(t)	*Inserted by Act 2 of 2015*
	Repealed by Act 16 of 2017
6(1)	*Amended by Act 2 of 2015*
6(2)	*Amended by Act 2 of 2015*
7(2A), (2B)	*Inserted by Act 16 of 2024*
7A	*Inserted by Act 16 of 2024*
8(1), (2)	*Amended by Acts 33 of 2021; 16 of 2024*
8(2A)	*Amended by Act 33 of 2021*
8A, 8B, 8C and 8D	*Inserted by Act 16 of 2017*
9(2), (3), (4) and (5)	*Substituted by Act 16 of 2017*
9(6) and (7)	*Inserted by Act 16 of 2017*
9A and 9B	*Inserted by Act 16 of 2017*
10	*Substituted by Act 2 of 2015*
10(1)	*Amended by Act 16 of 2017*
10(2) and (3)	*Substituted by Act 16 of 2017*
10(4) and (5)	*Repealed by Act 16 of 2017*
12(1)(d)	*Amended by Act 2 of 2015*
	Substituted by Act 16 of 2017
12(2A)	*Inserted by Act 16 of 2017*
12(4)	*Substituted by Act 16 of 2017*
12(5)	*Inserted by Act 16 of 2017*
13(1)	*Amended by Act 2 of 2015*
13(3)	*Substituted by Act 16 of 2017*
15(1)(b)	*Amended by Act 2 of 2015*
15(4)	*Substituted by Act 16 of 2017*
17(3)	*Substituted by Act 16 of 2017*
18(1)(b)	*Amended by Act 2 of 2015;*
	Substituted by Act 16 of 2017
18(1)(c)	*Substituted by Act 16 of 2017*
18(1)(d)	*Inserted by Act 16 of 2017*
18(2A)	*Inserted by Act 16 of 2017*
19(4)(c)	*Amended by Act 2 of 2015*
19(5)	*Amended by Act 2 of 2015*
19(7A)	*Inserted by Act 16 of 2017*
19(8)(a) and (b)	*Amended by Act 2 of 2015*
19(9)	*Substituted by Act 16 of 2017*
21(1A)	*Inserted by Act 2 of 2015*
Section 22(heading)	*Amended by Act 16 of 2017*
22(1)	*Amended by Act 2 of 2015*
	Amended by Act 16 of 2017
23	*Amended by Act 2 of 2015*
Section 23(heading)	*Amended by Act 2 of 2015*
	Amended by Act 16 of 2017
23(1)	*Amended by Act 2 of 2015*
	Amended by Act 16 of 2017
23(2A)	*Inserted by Act 2 of 2015*
	Repealed by Act 16 of 2017
23(3)(b)	*Amended by Act 16 of 2017*
27(1)	*Substituted by Act 16 of 2017*
28(1)(a), (b) and (c)	*Amended by Act 16 of 2017*
29(1) and (2)	*Substituted by Act 16 of 2017*
31(1)	*Amended by Act 2 of 2015*
31(3)	*Amended by Act 2 of 2015*
	Substituted by Act 16 of 2017
32A, 32B and 32C	*Inserted by Act 16 of 2017*
33	*Amended by Act 2 of 2015*
33(1A) and (1B)	*Inserted by Act 16 of 2017*
33(2)(ea) and (eb)	*Inserted by Act 16 of 2017*
33(2)(g)	*Amended by Act 2 of 2015*
33(2)(h)	*Amended by Act 2 of 2015*
33(2)(i)	*Inserted by Act 2 of 2015*
33(2A)	*Inserted by Act 16 of 2017*
33(4)	*Substituted by Act 16 of 2017*
33A	*Inserted by Act 2 of 2015*
33A(2A) and (2B)	*Inserted by Act 16 of 2017*
33A(3)	*Substituted by Act 16 of 2017*
33A(6)	*Amended by Act 16 of 2017*
34(1A) and (1B)	*Inserted by Act 16 of 2017*
34(2)	*Amended by Act 2 of 2015*
	Amended by Act 16 of 2017
35(3)	*Substituted by Act 16 of 2017*
Part 8 (Heading)	*Substituted by Act 16 of 2017*
36	*Amended by Act 2 of 2015*
36(2)(c)	*Amended by Act 16 of 2017*
36(2)(d)	*Amended by Act 2 of 2015*
36(2)(f)	*Amended by Act 2 of 2015*
36(2)(g)	*Inserted by Act 2 of 2015*
36(3A)	*Inserted by Act 2 of 2015*
36(4)	*Amended by Act 2 of 2015;*
	Substituted by Act 16 of 2017
37(heading)	*Substituted by Act 2 of 2015*
37(1)	*Amended by Act 2 of 2015*
37(4A)	*Inserted by Act 2 of 2015*
37	*Repealed by Act 16 of 2017*
Part 8A	*Inserted by Act 16 of 2017*
Part 9 (Heading)	*Substituted by Act 16 of 2017*
38(1)(a)	*Amended by Act 2 of 2015*
38	*Substituted by Act 16 of 2017*
39	*Substituted by Act 16 of 2017*
40	*Substituted by Act 16 of 2017*
40AA	*Inserted by Act 16 of 2017*
40A	*Inserted by Act 2 of 2015*
40B	*Inserted by Act 2 of 2015*
41(1)	*Amended by Act 16 of 2017*
41(4)	*Substituted by Act 16 of 2017*
42	*Repealed by Act 16 of 2017*
43(3)	*Repealed by Act 16 of 2017*
44A and 44B	*Inserted by Act 16 of 2017*
45(1)(c) and (d)	*Repealed by Act 16 of 2017*
45(4)	*Substituted by Act 16 of 2017*
45A and 45B	*Inserted by Act 16 of 2017*
46(1)	*Amended by Act 16 of 2017*
46(4)	*Repealed by Act 16 of 2017*
46(5)(i) and (ii)	*Substituted by Act 16 of 2017*
47	*Repealed by Act 16 of 2017*
48(heading)	*Amended by Act 2 of 2015*
48(1)	*Amended by Act 2 of 2015*
48	*Repealed by Act 16 of 2017*

49	*Repealed by Act 16 of 2017*
50(2)(a)	*Amended by Act 16 of 2017*
50A	*Inserted by Act 2 of 2015;*
	Repealed by Act 16 of 2017
Part 10AA	*Inserted by Act 16 of 2017*
Part 10A	*Inserted by Act 2 of 2015*
Heading to Part 10A	*Substituted by Act 16 of 2017*
50K(heading)	*Inserted by Act 16 of 2017*
Section 50K	*Inserted by Act 2 of 2015*
	Amended by Act 16 of 2017
50K(2)(ga) - (gc)	*Inserted by Act 16 of 2017*
50K(2)(ca)- (cf)	*Inserted by Act 16 of 2017*
50K(2)(5) - (6)	*Substituted by Act 16 of 2017*
52A	*Inserted by Act 16 of 2017*
54A	*Inserted by Act 2 of 2015*
54B	*Inserted by Act 2 of 2015*
54C	*Inserted by Act 2 of 2015*

Transitional

Act 33 of 2021	*The staff of the Unit who were employed immediately before the commencement of this Act are to continue in office as if he or she was employed by the Director on the same terms and conditions of service with accrued and accruing entitlements.*
Act 16 of 2024	*A staff of the Unit who was employed before the commencement of this Act is to continue to be employed in the office as if he or she was employed by the Attorney General on the same terms and conditions of employment with accrued and accruing entitlements.*