

REPUBLIC OF VANUATU

BILL FOR THE FOUNDATION (AMENDMENT) ACT NO. OF 2026

Explanatory Note

This Bill amends the Foundation Act No. 38 of 2009 (the “Act”).

Vanuatu’s laws generally reflect FATF standards by criminalising money laundering and terrorist financing and providing for financial reporting, beneficial ownership, asset confiscation and international cooperation. However, gaps remain and full compliance has not yet been achieved. This Bill is required to address those gaps and ensure Vanuatu fully complies with the FATF standards.

The key features of this Bill include:

- (a) the expansion of the definition of ‘beneficial owner’ to include foundation beneficiaries and classes of beneficiaries, and any natural person exercising ultimate effective control over the foundation; and
- (b) the requirement for foundations to identify and record beneficiaries, including classes of beneficiaries; and
- (c) the introduction of disclosure obligations for persons acting as nominees or proxies, requiring them to disclose their status and the identity of the person on whose behalf they are acting, with penalties for non-compliance; and
- (d) the strengthening of record-keeping requirements, requiring foundations to retain specified records for a period of 6 years after they have been dissolved; and
- (e) the introduction of governance and transparency reporting, requiring foundations to submit an annual governance report and other specified information within 6 months after the end of each financial year; and
- (f) the addition of conviction of an offence under the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014 as a ground for dissolution of a foundation; and
- (g) the introduction of risk assessments of foundations, requiring the Commission to identify a category of foundations that pose a higher risk of money laundering or terrorist financing.

Minister of Finance and Economic Management



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An Act to amend the Foundation Act No. 38 of 2009.

Be it enacted by the President and Parliament as follows-

1 Amendment

The Foundation Act No. 38 of 2009 is amended as set out in the Schedule.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF FOUNDATION ACT NO. 38 OF 2009

1 After subsection 4A(1)

Insert

“(1A) Without limiting subsection (1), a beneficial owner includes:

- (a) any beneficiary of the foundation; and
- (b) if the beneficiaries are a class of persons, any natural person falling within that class; and
- (c) any natural person who exercises ultimate effective control over the foundation.”

2 At the end of section 4A

Add

“(4) A person who is acting as a nominee or proxy for a key person or beneficiary must disclose in writing to the foundation:

- (a) that the person is acting as a nominee or proxy; and
- (b) the name, address, and identification details of the person on whose behalf they are acting.

(5) A person who fails to comply with subsection (4) commits an offence and is liable on conviction to a fine not exceeding VT 25 million or imprisonment for a term not exceeding 5 years, or both.”

3 After section 4A

Insert

“4B Identification of higher-risk foundations

(1) The Commissioner must carry out a risk assessment of foundations registered under this Act for the purpose of identifying higher-risk foundations.

(2) In identifying higher-risk foundations, the Commissioner must consider:

- (a) the nature and scale of the foundation’s activities; and
- (b) the countries in which the foundation operates or from which it receives funding; and

- (c) the foundation's sources of funding and assets; and
 - (d) the foundation's beneficiaries or class of beneficiaries; and
 - (e) whether the foundation has any links to any person or entity designated under the United Nations Financial Sanctions Act No. 6 of 2017; and
 - (f) any other criteria prescribed by the Regulations.
- (3) The risk assessment must be carried out:
- (a) on registration of a foundation; and
 - (b) at least once every 12 months; and
 - (c) at any other time when the Commissioner considers it necessary.
- (4) If a foundation is identified as a higher-risk foundation, the Commissioner must:
- (a) notify the foundation in writing of its status as a higher-risk foundation; and
 - (b) require the foundation to implement additional measures to mitigate the risks identified; and
 - (c) place the foundation under enhanced supervision and monitoring.
- (5) The Commissioner may, by notice in writing, require a foundation to provide information or documents for carrying out a risk assessment under this section.”

4 After subparagraph 6(2)(d)(ib)

Insert

- “(ic) the details of each beneficiary of the foundation; and
- (id) if the beneficiaries are a class of persons, a description of that class and the criteria for membership; and”

5 At the end of section 43

Add

- “(4) A foundation must keep the following records for a period of 6 years after it has been dissolved:

- (a) the charter and by-laws of the foundation; and
 - (b) the register of councillors required under section 19; and
 - (c) a register of beneficiaries; and
 - (d) financial statements for each financial year, including statements of income and expenditure and statements of assets and liabilities; and
 - (e) minutes of all meetings of councillors; and
 - (f) all reports and documents filed with the Commissioner; and
 - (g) records of all transactions entered into by the foundation; and
 - (h) records of all transfers of assets to or from the foundation exceeding VT 1 million or its equivalent in foreign currency; and
 - (i) records of all beneficial owners and key persons of the foundation.
- (5) The foundation must:
- (a) keep records at the registered office; and
 - (b) make the records available for inspection by the Commissioner at the registered office if the Commissioner requests.
- (6) A foundation that fails to comply with this section 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.”

6 After paragraph 43(1)(aa)

Insert

“(ab) the foundation is convicted of an offence under the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014; or”

7 After section 52

Insert

“52A Governance and transparency reporting

- (1) A foundation must, within 6 months after the end of each financial year, lodge with the Commissioner:
 - (a) an annual governance report in the prescribed form; and
 - (b) a statement of the foundation’s beneficial owners, including the name, address, and identification details of each beneficial owner; and
 - (c) a statement of the foundation’s key persons, including the name, address, and identification details of each key person; and
 - (d) a declaration of the source of all funds received by the foundation during the financial year; and
 - (e) a statement of the foundation's assets and liabilities as at the end of the financial year.
- (2) The Commissioner must:
 - (a) keep and maintain a register of the information lodged under subsection (1); and
 - (b) make the register available for public inspection under such conditions as the Commissioner may determine.
- (3) A foundation that fails 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 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.”