



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**FINANCIAL TRANSACTIONS REPORTING
ACT, No. 6 OF 2006**

[Certified on 06th March, 2006]

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*Financial Transactions Reporting
Act, No. 6 of 2006*

[Certified on 06th March, 2006]

L.D.—O. 16/2005.

AN ACT TO PROVIDE FOR THE COLLECTION OF DATA RELATING TO SUSPICIOUS FINANCIAL TRANSACTIONS TO FACILITATE THE PREVENTION, DETECTION, INVESTIGATION AND PROSECUTION OF THE OFFENCES OF MONEY LAUNDERING AND THE FINANCING OF TERRORISM RESPECTIVELY ; TO REQUIRE CERTAIN INSTITUTIONS TO UNDERTAKE DUE DILIGENCE MEASURES TO COMBAT MONEY LAUNDERING AND THE FINANCING OF TERRORISM ; TO IDENTIFY THE AUTHORITY WHICH WILL BE RESPONSIBLE FOR MONITORING THE ACTIVITIES OF ALL INSTITUTIONS TO WHOM THIS ACT APPLIES ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Financial Transactions Reporting Act, No. 6 of 2006. Short title.

PART I

DUTIES OF INSTITUTIONS

2. (1) No Institution shall open, operate or maintain an account, where the holder of such account cannot be identified, including any anonymous account or any account identified by number only, or any account which to the knowledge of the Institution is being operated in a fictitious or false name. Identification essential to conduct of business of Institution.

(2) An Institution shall, subject to any rules issued by the Financial Intelligence Unit under subsection (3), identify each customer and verify their customer identification data or information relating to a customer as is reasonably capable of identifying a customer on the basis of any official document or other reliable and independent source document verifying the identity of the customer, in cases where the Institution—

- (a) enters into a continuing business relationship, or in the absence of such a relationship, conducts any transaction, with any customer ;

- (b) detects the carrying out of an electronic funds transfer by a customer, other than any prescribed transactions ;
- (c) entertains a suspicion relating to the commission of an unlawful activity ; or
- (d) entertains doubts about the veracity or adequacy of the customer identification and verification documentation or information it had previously obtained.

(3) The Financial Intelligence Unit may issue rules prescribing—

- (a) the official or identifying document or documents, or the reliable and independent source documents, data or information or other evidence that is required for identification or verification of any particular customer or class of customers ;
- (b) the timing of the identification and verification requirements under this section ; and
- (c) the threshold for, or the circumstances in which, the provisions of this section shall apply to transactions carried on by the customers of an Institution.

(4) The terms and conditions imposed by rules issued under subsection (3) may vary in respect of different categories of Institutions, different categories of transactions or different categories of customers.

(5) The provisions of subsection (2) shall not apply—

- (a) if the transaction is part of an existing and regular business relationship with a person who has already produced satisfactory evidence of identify unless the Institution has reason to suspect that the transaction is suspicious or unusual ;

- (b) if the transaction is an occasional transaction not exceeding a prescribed sum unless the Institution has reason to suspect that the transaction is suspicious or unusual ;
- (c) if any person has been a customer of the Institution prior to the enactment of this Act, subject to a phase-in period which shall not exceed three years : Provided that by the end of such period each Institution shall apply the provisions of subsection (2) hereof to such persons subject to such regulations as may be prescribed in that behalf ; and
- (d) in such other circumstances as may be prescribed by regulations made in that behalf.

(6) For the purpose of subsection (5), “occasional transactions” means any transaction, in relation to cash and electronic fund transfer, that is conducted by any person other than through an account in respect of which the person is the customer.

3. If satisfactory evidence of identity is not submitted to an Institution as required in terms of the provisions of section 2, the Institution shall not proceed any further with the transaction unless directed to do so by the Financial Intelligence Unit established in terms of this Act, and shall report the attempted transaction to the Financial Intelligence Unit as a suspicious transaction under section 7.

Procedure if identity is not satisfactorily established.

4. (1) Every Institution shall be required to maintain —

Institutions to maintain and retain records.

- (a) records of transactions and of correspondence relating to transactions and records of all reports furnished to the Financial Intelligence Unit for a period of six years from the date of the transaction, correspondence or the furnishing of the report, as the case may be ; and

- (b) records of identity obtained in terms of section 2 for a period of six years from the date of closure of the account or cessation of the business relationship, as the case may be,

unless directions have been issued by the Financial Intelligence Unit that such records or correspondence should be retained for a longer period, in which case the records or correspondence should be retained for such longer period.

(2) Records required to be maintained under subsection (1) shall contain particulars sufficient to identify the—

- (a) name, address and occupation (or where appropriate business or principal activity) of each person —
 - (i) conducting the transaction ; and
 - (ii) where applicable, on whose behalf the transaction is being conducted ;
- (b) nature and date of the transaction ;
- (c) type and amount of currency involved ;
- (d) parties to the transaction ;
- (e) the name and address of the employee who prepares the record ; and
- (f) such other information as may be specified in rules issued by the Financial Intelligence Unit.

(3) Where any record is required to be maintained under this Act—

- (a) it shall be maintained in a manner and form that will enable an Institution to comply immediately with requests for information from the Financial Intelligence Unit or a law enforcement agency ; and

(b) a copy of it may be kept—

(i) in a machine-readable form if a paper copy can be readily produced from it ; or

(ii) in an electronic form, if a paper copy can be readily produced from it and an electronic signature of the person who keeps the records is retained for purposes of verification.

(4) The records maintained under subsection (1) shall be made available upon request to the Financial Intelligence Unit for purposes of ensuring compliance with this Act.

5. An Institution shall—

(a) conduct ongoing due diligence on the business relationship with its customer ;

(b) conduct ongoing scrutiny of any transaction undertaken throughout the course of the business relationship with a customer to ensure that any transaction that is being conducted is consistent with the Institution's knowledge of the customer, the customer's business and risk profile, including, where necessary, the source of funds,

Institutions to conduct ongoing due diligence and scrutiny of customers.

in order to ensure that its obligations under section 2 are satisfied and that the transactions conducted are consistent with the information that the Institution has of its customer and the profile of the customer's business.

6. An Institution shall report to the Financial Intelligence Unit—

(a) any transaction of an amount in cash exceeding such sum as shall be prescribed by the Minister by Order published in the *Gazette*, or its equivalent in any foreign currency (unless the recipient and the sender is a bank licensed by the Central Bank) ; and

Institution to report financial transactions.

- (b) any electronic funds transfer at the request of a customer exceeding such sum as shall be prescribed by regulation,

in such form, manner, and within such period as may be prescribed by rules issued by the Financial Intelligence Unit.

Duty to disclose information relating to property of terrorist groups or property used for commission of offence under this Act.

7. (1) Where an Institution—

- (a) has reasonable grounds to suspect that any transaction or attempted transaction may be related to the commission of any unlawful activity or any other criminal offence ; or
- (b) has information that it suspects may be relevant—
 - (i) to an act preparatory to an offence under the provisions of the Convention on the Suppression of Financing of Terrorism Act, No. 25 of 2005 ;
 - (ii) to an investigation or prosecution of a person or persons for an act constituting an unlawful activity, or may otherwise be of assistance in the enforcement of the Money Laundering Act, No. 5 of 2006 and the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005,

the Institution shall, as soon as practicable, after forming that suspicion or receiving the information, but no later than two working days therefrom, report the transaction or attempted transaction or the information to the Financial Intelligence Unit.

(2) A report under subsection (1) shall—

- (a) be in writing and may be given by way of mail, telephone to be followed up in writing within twenty-four hours, fax or electronic mail or such other manner as may be determined by the Financial Intelligence Unit ;

- (b) be in such form and contain such details as may be prescribed by the Financial Intelligence Unit ;
- (c) contain a statement of the grounds on which the Institution holds the suspicion ;
- (d) be signed or otherwise authenticated by the Institution.

(3) A person who has made a report or has given any information to the Financial Intelligence Unit shall provide to the Financial Intelligence Unit any further information that it has about the transaction or attempted transaction or the parties to the transaction if requested to do so by the Financial Intelligence Unit.

8. Every Institution shall, in relation to any person conducting transactions with such institution, forthwith disclose to the Financial Intelligence Unit—

Disclosure to
Financial
Intelligence Unit.

- (a) the existence of any property in its possession or control, which to its knowledge is, or which it reasonably suspects is, property derived from the commission of any terrorist activity in terms of any law for the time being in force ;
- (b) the existence of any property in his or her possession or control, owned or controlled by or on behalf of a specified entity or for which there are reasonable grounds for suspicion that it is owned or controlled by or on behalf of a specified entity ;
- (c) any information regarding a transaction or proposed transaction in respect of property derived from the commission of any terrorist activity in terms of any law for the time being in force ; or
- (d) any information regarding a transaction or proposed transaction and there are reasonable grounds for suspicion that such transaction may involve property derived from the commission of any terrorist activity in terms of any law for the time being in force.

PART II**PROVISIONS APPLICABLE TO INSTITUTIONS AND OTHER PERSONS**

Duty not to
divulge
information.

9. (1) A person shall not disclose to any other person—

- (a) that a report has been made or information provided to the Financial Intelligence Unit in terms of any provisions of this Act ;
- (b) that any suspicion in relation to a transaction has been formed as referred to in section 7 ; or
- (c) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that a suspicion has been formed or that a report has been or may be made.

(2) The provisions of subsection (1) shall not apply to disclosures made to—

- (a) an officer or employee or agent of the person making the report under this Act for any purpose connected with the performance of that person's duties ;
- (b) a lawyer, attorney or legal advisor for the purpose of obtaining legal advice or representation in relation to any matter ; or
- (c) the supervisory authority of the relevant Institution, in so far as it is related to the discharge of the functions of the supervisory authority.

(3) No person referred to in paragraph (b) of subsection (2) to whom any disclosure of information has been made, shall disclose that information other than to a person referred to therein, in so far as it is necessary for—

- (a) the performance of the first-mentioned person's duties ; or

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

(4) No person referred to in paragraph (c) of subsection 2 to whom the disclosure of any information has been made shall disclose that information except for the purpose referred to in that subsection, or for the purpose of obtaining legal advice or making representation in relation to the matter to the Financial Intelligence Unit.

10. (1) A person shall not disclose any information that will identify or is likely to identify — When disclosure of information is permitted.

- (a) the person who has handled a transaction in respect of which a suspicious transaction report under this Act has been made ;
- (b) the person who has prepared such a suspicious transaction report ;
- (c) the person who has reported such a suspicious transaction ; or
- (d) the information contained in a suspicious transaction report or information provided pursuant to section 7,

other than for the purpose of—

- (i) the investigation or prosecution of a person or persons for an unlawful activity, or an offence under the Prevention of Money Laundering Act, No. 5 of 2006 or the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005, respectively ; or
- (ii) the enforcement or implementation of the provisions of the Prevention of Money Laundering Act, No. 5 of 2006 and the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.

(2) Nothing in this section shall be deemed to prohibit the disclosure of any information for the purposes of the prosecution of any person for the violation of the provisions of section 7.

Disclosure not to
be prevented.

11. Subject to the provisions of this Act and any other written law for the time being in force prohibiting such disclosure, nothing contained in section 9 or 10 shall prevent the disclosure of any information in connection with, or in the course of, proceedings before a Court and no person shall be required to disclose any information to which this section applies in any judicial proceeding unless the judge or other presiding officer is satisfied that the disclosure of the information is necessary in the interests of justice.

Protection of
persons reporting
suspicious
transactions.

12. (1) No civil, criminal or disciplinary proceedings shall lie against —

- (a) a such Institution, an auditor or supervisory authority of an Institution ; or
- (b) a director, partner, an officer, employee or agent acting in the course of that person's employment or agency of an Institution, firm of Auditors or of a supervisory authority,

in relation to any action by the Institution, the firm of auditors or the supervisory authority or a director, partner, officer, employee or agent of such Institution, firm or authority, carried out in terms of this Act in good faith or in compliance with regulations made under this Act or rules or directions given by the Financial Intelligence Unit in terms of this Act.

(2) The provisions of subsection (1) shall not apply in respect of any proceedings for an offence described in section 8 of this Act.

(3) If an Institution, firm of auditors or supervisory authority or any director, partner, officer, employee or agent, of any Institution, firm or authority or makes a report under

the provisions of this Act, such person shall for the purposes of a prosecution for the offence of money laundering, be deemed not to have been in possession of that information at any time.

13. (1) Nothing contained in sections 4, 5, 6, 7 or 8 of this Act shall be construed as requiring a lawyer to disclose any privileged communication only if —

(2) (a) it is a confidential communication, whether oral or in writing, passing between —

(i) a lawyer or legal advisor in his or her professional capacity and another barrister, solicitor, lawyer, attorney or legal advisor in such capacity ; or

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

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

(c) it is not made or brought into existence for the purpose of committing or furthering the commission of some illegal or unlawful act.

(3) Where the information consists wholly or partly of, or relates wholly or partly to receipts, payments, income, expenditure, or financial transactions of a person (whether a lawyer his or her client, or any other person), it shall not be a privileged communication if it is contained in, or comprises the whole or part of any book, account, statement or other record prepared or kept by the lawyer in connection with a trust account of the lawyer.

Appointment of
Compliance
Officer.

- 14.** (1) Every Institution shall be required to—
- (a) appoint a Compliance Officer who shall be responsible for ensuring the Institution's compliance with the requirements of this Act ;
 - (b) establish and maintain procedures and systems to—
 - (i) implement the customer identification requirements under section 2 ;
 - (ii) implement procedures for the record keeping and retention requirements under section 4 ;
 - (iii) implement the process of monitoring required under section 5 ;
 - (iv) implement the reporting requirements under sections 6, 7, 8 and section 22 in relation to auditors ;
 - (v) make its officers and employees aware of the laws relating to money laundering and financing of terrorism ; and
 - (vi) screen all persons before hiring them as employees ;
 - (c) establish an audit function to test its procedures and systems for the compliance with the provisions of this Act ;
 - (d) train its officers, employees and agents to recognize suspicious transaction.

(2) The provisions of subsection (1) shall not apply to an individual who, in the course of carrying on his her business, does not employ or act in association with any other person.

(3) An Institution shall ensure that its foreign branches and subsidiaries adopt and observe measures consistent with Parts I, II and III of this Act to the extent that local laws and regulations permit and where the foreign branch or subsidiary is unable to adopt and observe such measures, to report the matter to the relevant supervisory authority or in the absence of a supervisory authority to the Financial Intelligence Unit.

PART III

POWERS AND FUNCTIONS OF THE FINANCIAL INTELLIGENCE UNIT

15. (1) The Financial Intelligence Unit—

Functions of the
Financial
Intelligence Unit.

- (a) shall receive reports made in terms of the provisions of this Act and information provided to the Financial Intelligence Unit by any agency of another country, information provided to the Financial Intelligence Unit by a law enforcement agency or a government institution or agency, and other information voluntarily provided to the Financial Intelligence Unit about suspicions of an act constituting an unlawful activity ;
- (b) shall collect or require the supervisory authority of a financial institution to collect any information that the Financial Intelligence Unit considers relevant to an act constituting an unlawful activity, or an offence of money laundering or financing of terrorism, or a terrorist activity whether or not publicly available, including commercially available databases, or information that is collected or maintained, including information that is stored, in databases maintained by the Government ;
- (c) may request information from any Government agency, law enforcement agency and supervisory agency for the purposes of this Act ;

- (d) may analyze and assess all reports and information ;
- (e) shall carry out examinations of all Institutions as set out in section 18 ;
- (f) shall refer any matter or any information derived from any report or information it receives to the appropriate law enforcement agency if, on the basis of its analysis and assessment, the Financial Intelligence Unit has reasonable grounds to suspect that the transaction would be relevant to the investigation or prosecution under this Act or of an act constituting an unlawful activity, and in connection therewith, the Financial Intelligence Unit may send a copy of such referral or information to the relevant supervisory authority ;
- (g) shall destroy a suspicious transaction report on the expiry of six years from the date of receipt or collection of the report, if there has been no further activity or information relating to the report, or the person named in the report, or six years from the date of the last activity relating to the person or report ;
- (h) shall instruct or require the supervisory authority of an Institution to take such steps as may be appropriate in relation to any information or report received by the Financial Intelligence Unit, to enforce compliance with this Act or to facilitate any investigation anticipated by the Financial Intelligence Unit or a law enforcement agency ;
- (i) shall compile statistics and records, and may disseminate information within Sri Lanka or elsewhere, and make recommendations arising out of any information received ;

- (j) shall issue or have the supervisory authority of an Institution issue, rules and guidelines to Institutions in relation to customer identification, record keeping, reporting obligations, the identification of suspicious transactions and such other matters in respect of which the Financial Intelligence Unit has been vested with the power to issue rules or guidelines by this Act ;
- (k) shall periodically report to all Institutions and other relevant agencies regarding the outcome from reports or information given under the Act ;
- (l) may obtain further information on parties or transactions referred to in a report made to it under this Act ;
- (m) may conduct training programs for Institutions in relation to customer identification, record keeping and reporting obligations and the identification of suspicious transactions ;
- (n) may undertake due diligence checks and other inquiries as may be necessary for performance of its duties and functions under this Act ;
- (o) may conduct research into trends and developments in the area of money laundering and the financing of terrorism and improved ways of detecting, preventing and deterring money laundering and the financing of terrorism ;
- (p) may educate the public and create awareness on matters relating to money laundering and the financing of terrorism ;
- (q) may disclose as set out in section 16 and 17, any report, any information derived from such report or any other information it receives, to an institution

or agency of a foreign state or of an international organization established by the governments of foreign states that has powers and duties similar to those of the Financial Intelligence Unit, if on the basis of its analysis or assessment the Financial Intelligence Unit has reasonable grounds to suspect that the information would be relevant to the investigation or prosecution of any act constituting an unlawful activity, a money laundering offence or a offence of financing of terrorism ; and

- (r) may enter into any agreement or arrangement with any domestic government institution or agency regarding the exchange of information.

(2) Where the Financial Intelligence Unit has reasonable grounds to suspect that a transaction or attempted transaction may —

- (a) involve the proceeds which are attributable to any unlawful activity ; or
- (b) be connected to the commission of the money laundering offence under the Money Laundering Act, No. 5 of 2006 ; or
- (c) be preparatory to the commission of an offence under the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005,

it may direct the Institution in writing or by telephone to be confirmed in writing within twenty-four hours, not to proceed with the carrying out of that transaction or attempted transaction or any other transaction in respect of the funds affected by that transaction or attempted transaction for a period to be determined by the Financial Intelligence Unit, which may not be more than seven days, in order to allow the Financial Intelligence Unit —

- (i) to make any necessary inquiries concerning the transaction or attempted transaction ; and

- (ii) if the Financial Intelligence Unit deems it appropriate, to consult or advise the relevant law enforcement agency in the inquiries.

(3) The Financial Intelligence Unit may make an *ex -parte* application to the High Court of the Western Province, holden in Colombo, for an extension of the period of time stipulated in subsection (2) setting out the grounds for such application.

16. The Financial Intelligence Unit may disclose any report or information to an institution or agency of a foreign state or of an international organization or body or other institution or agency established by the Government of a foreign State that has powers and duties similar to those of the Financial Intelligence Unit on such terms and conditions as are set out in the agreement or arrangement between Financial Intelligence Unit and an institution, agency or organization or authority regarding the exchange of such information under section 17.

Disclosure to foreign institutions and agencies.

17. (1) The Financial Intelligence Unit may, with the approval of the Minister, enter into an agreement or arrangement, in writing, with—

Agreements and arrangements by the Financial Intelligence Unit.

- (a) an institution or agency of a foreign State or foreign States or an international organization established by the Governments of a foreign State that has powers and duties similar to those of the Financial Intelligence Unit ; and
- (b) a foreign law enforcement agency or a foreign supervisory authority,

regarding the exchange of information between the Financial Intelligence Unit and the institution, authority or agency.

(2) The information exchanged under subsection (1) shall be information that the Financial Intelligence Unit, the Institution or agency has reasonable grounds to suspect would

be relevant to the investigation or prosecution of an offence constituting an unlawful activity or an offence that is substantially similar to such an offence.

(3) Agreements or arrangements entered into under subsection (1) shall include the following :—

- (a) restrictions on the use of information to purposes relevant to investigating or prosecuting any act constituting an unlawful activity or an offence that is substantially similar to such offence ;and
- (b) the stipulation that the information be treated in a confidential manner and not be further disclosed without the express consent of the Financial Intelligence Unit.

Power of Unit to
examine books,
records &c.,

18. (1) Subject to the requirements of paragraph (e) of subsection (1) of section 15, the Financial Intelligence Unit or any person authorised by it in that behalf may examine the records and inquire into the business and affairs of an Institution for the purpose of ensuring compliance with the Act or any directions, orders, rules or regulations issued under the Act, and for that purpose may—

- (a) at any reasonable time, enter any premises, in which the Financial Intelligence Unit or authorised person believes, on reasonable grounds, that there are records relevant to ensuring compliance with the provisions of Parts I, II and III of this Act ;
- (b) use or cause to be used any computer system or data processing system found 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 the output for examination or copying ; and

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

(2) The owner or person responsible for the premises referred to in subsection (1) and every person found thereon shall give the Financial Intelligence Unit or any authorized person all reasonable assistance to enable them to carry out their responsibilities and shall furnish them with any information that they may reasonably require with respect to the administration of Parts, I, II and III of this Act or the regulations made under the Act.

(3) The Financial Intelligence Unit may transmit any information from, or derived from, such examination to the appropriate domestic or foreign law enforcement authorities or supervisory authorities, if the Financial Intelligence Unit has reasonable grounds to suspect that the information is suspicious or is relevant to an investigation for non-compliance with this Act, or amounts to an offence constituting an unlawful activity.

19. (1) A person required to conform to the requirements prescribed by or under Parts I and II of this Act, who fails to so conform, shall be liable to a penalty as may be prescribed taking into consideration the nature and gravity of relevant non-compliance : Provided however such penalty shall not exceed a sum of rupees one million in any given case. Where a person who has been subjected to a penalty on a previous occasion, subsequently fails to conform to a requirement on any further occasion such person shall be liable to the payment of an additional penalty in a sum consisting of double the amount imposed as a penalty on the first occasion and for each non-compliance after such first occasion.

Imposition of
penalty to enforce
compliance.

(2) The Financial Intelligence Unit shall be responsible for the collection of a penalty imposed by this section and the money so collected shall be credited to the Consolidated Fund.

(3) If a person who becomes liable to a penalty in terms of subsection (1) fails to pay such penalty, the Unit may make an *ex- parte* application to the High Court of the Western Province holden in Colombo for an Order requiring the payment of the penalty and upon such order being made such amount shall be recoverable in the same manner as a fine imposed by Court.

(4) The imposition of a penalty under this section shall not preclude a supervisory authority or a regulatory or self regulatory authority of an Institution from taking any regulatory or disciplinary measures including, but not limited to, the suspension of such Institution from the carrying on of a business or profession or the cancellation of a licence or authority granted for the carrying on of a business or profession, as may be permitted in terms of any applicable written law or rules for the regulation or supervision of such Institution.

(5) Where a penalty is imposed under this section on a body of persons, then-

- (a) if that body of person is a body corporate, every person who at the time of the imposition of the requirements under subsection (1) was a Director, General Manager, Secretary or other similar officer of that body ; or
- (b) if that body is not a body corporate, every person who at the time of the imposition of such requirements was the President, Manager, Secretary, partner or other similar officer of that body,

shall be liable to pay such penalty, unless he proves that he had no knowledge of the failure to comply with the requirement or that he exercised all due diligence to ensure compliance therewith.

(6) Without prejudice to the provisions of subsection (1), the Financial Intelligence Unit may issue a directive to any

Financial Institution that has without reasonable cause failed to comply in whole or in part with any obligations in Parts I, II or III of this Act requiring such Institution to implement a action plan specified in such directive to ensure compliance with its obligations under the said Parts.

(7) Where an Institution fails to comply with a directive issued under subsection (6), the Financial Intelligence Unit may, upon application to the High Court of the Western Province, holden in Colombo and upon satisfying the Court that an Institution has failed without reasonable excuse to comply in whole or in part with the directive issued by it under subsection (6), obtain an order against the Institution and any or all of the officers or employees of that Institution in such terms as the Court deems necessary to enforce compliance with such obligation.

20. (1) The provisions of this section shall be applicable in relation to any person who is, or who has been, a Director, officer, employee or agent of the Financial Intelligence Unit.

Non-disclosure of
information in
certain case.

(2) Except for the purpose of the performance of his or her duties or the exercise of his or her functions under this Act, or when lawfully required to do so by any court, the person referred to in subsection (1) shall not disclose any information or matter which has been obtained by him or her in the performance of his or her duties or the exercise of his or her functions under this Act or which he or she has knowledge except for one or more of the following purposes :—

- (a) for securing compliance with, or detecting evasion of, any requirement contained in any provision of this Act or any other written law relating thereto ;
- (b) the implementation of the Prevention of Money Laundering Act, No. 5 of 2006 and the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005 ; or
- (c) the purposes of section 50A of the Exchange Control Act (Chapter 423).

Protection from
liability.

21. Any employee of the Financial Intelligence Unit or any authorised officer, agent or person appointed by the Financial Intelligence Unit for the performance of its statutory functions shall not be liable for damages for any lawful act or omission which has occurred in the discharge or purported discharge of any of its statutory functions under this Act unless it is shown that the act or omission was done in bad faith.

PART IV

FUNCTIONS OF SUPERVISORY AUTHORITY OF AN INSTITUTION AND AUDITORS

Functions of
supervisory
authority or
auditor under this
Act.

22. (1) Where a supervisory authority or an auditor of an Institution has reasonable grounds to suspect that information that it has concerning any transaction or attempted transaction may, be —

- (a) relevant to an investigation or prosecution of a person or persons for any unlawful activity ;
- (b) of assistance in the enforcement of the provisions of the Prevention of Money Laundering Act, No. 5 of 2006 and the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005 ;
- (c) related to the commission of any offence constituting an unlawful act ; or
- (d) preparatory to the offence of the financing of terrorism,

the supervisory authority or the auditor of the Institution shall report the transaction or attempted transaction to the Financial Intelligence Unit.

(2) The supervisory authority shall at the request of the Financial Intelligence Unit carry out any examination into any transaction or other matter relating to the Institution and report on such examination to the Financial Intelligence Unit.

(3) The Financial Intelligence Unit shall consult the supervisory authority in respect of the issue of guidelines, directions or regulations to an Institution which is regulated by such supervisory authority and shall furnish to the supervisory authority copies of all guidelines, regulation or directions issued to such Institution.

23. The relevant supervisory authority of an Institution shall—

Supervisory authority to ensure compliance by all Institutions.

- (a) verify through regular examinations whether that an Institution is complying with provisions of the Act and shall report any non-compliance to the Financial Intelligence Unit ;
- (b) co-operate with law enforcement agencies and the Financial Intelligence Unit in any investigation, prosecution or proceedings relating to any offence constituting an unlawful activity.

PART V

CURRENCY REPORTING AT THE BORDER

24. (1) Where a person —

Currency reporting at border.

- (a) is about to leave Sri Lanka or has arrived in Sri Lanka ; or
- (b) is about to board or leave, or has boarded or left, any ship or aircraft ,

an authorised officer may, with such assistance as is reasonable and necessary, and with use of force as is necessary,

- (i) examine any article which a person has with him or her or in his or her luggage ; and
- (ii) if the officer has reasonable grounds to suspect that an offence under section 27 of this Act may have been or is being committed, search the person ;

for the purpose of determining whether the person has in his or her possession, any cash or negotiable bearer instruments in respect of which a report under subsection 5 is required.

(2) A person shall not be searched except by a person of the same sex.

(3) An authorised officer, and any person assisting such officer may stop, board and search any ship, aircraft or conveyance for the purposes of exercising the powers conferred by subsections (1) or (2) of this section.

(4) Where an authorised officer has reasonable grounds to believe that cash or negotiable bearer instruments found in the course of an examination or search, conducted under subsections (1) or (2) above, may afford evidence as to the commission of an unlawful activity, the officer may seize the cash or negotiable bearer instruments, within twenty-four hours of such seizure.

(5) An authorised officer who has seized cash and negotiable bearer instrument under subsection (4) shall report such seizure to the Unit.

Seizure or
detention of cash
&c.,

25. An authorised officer may seize and, in accordance with the provisions of this part detain, any cash or negotiable bearer instruments which is being imported into, or exported from Sri Lanka in any form or manner if he or she has reasonable grounds for suspecting that it is —

- (a) derived from the commission of any unlawful activity ; or
- (b) intended by any person for use in the commission of an unlawful activity ;
- (c) intended to be used for or in connection with an offence connected with the financing of terrorism in term of the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.

26. (1) Cash and negotiable bearer instruments seized under subsection (4) of section 24 or section 25 shall not be detained for more than five working days after seizure, unless the High Court for the Western Province holden in Colombo, on application made to it, grants an Order of continued detention for a period not exceeding three months from the date of seizure, upon being satisfied that —

Procedure on
seizure of cash
&c..

- (a) there are reasonable grounds to suspect that it was derived from the commission of any unlawful activity or is intended by any person for use in the commission of an offence or in connection with an offence connected with the financing of terrorism under the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005 ; and
- (b) its continued detention is justified while its origin or derivation is further investigated.

(2) The Court may subsequently Order, after hearing, with notice to parties it determines are relevant, the continued detention of the cash and negotiable bearer instruments if satisfied of the matters mentioned in subsection (1) but the total period of detention shall not exceed two years from the date of the Order.

(3) Subject to subsection (4), cash and negotiable bearer instruments detained under this section shall be released in whole or in part to the person from whom it was seized or to any person establishing a claim thereto-

- (a) by Order of a Court that its continued detention is no longer justified and upon application by or on behalf of that person ;
- (b) by an authorized officer, if satisfied that its continued detention is no longer justified.

(4) No cash or negotiable bearer instruments detained under this section shall be released where it is relevant to an investigation, prosecution or proceeding under Prevention of Money Laundering Act, No. 5 of 2006 or the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.

(5) Where the cash or negotiable bearer instruments have not been claimed by any person within one year of it being seized or detained, an authorised officer may make an application to the Court that such cash or negotiable instrument or its equivalent in Sri Lanka rupees upon sale to the Central Bank, as the case may be, be forfeited to the Consolidated Fund.

PART VI

OFFENCES AND LIABILITIES

Offences.

27. Any person who leaves or arrives in Sri Lanka with more than the prescribed sum in cash or negotiable bearer instruments on his or her person or in his or her luggage without first having reported the fact to the relevant authority is guilty of an offence and shall be punishable on conviction with a fine not exceeding one hundred thousand rupees or imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

Giving false
information an
offence.

28. (1) A person who in making a report under sections 6, 7, 8 or subsection (1) of section 22 makes any statement that the person knows is false or misleading in a material particular or omits from any statement any matter or thing without which the person knows that the statement is false or misleading in a material particular is guilty of an offence punishable on conviction to a fine not exceeding one hundred thousand rupees or imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(2) If a person contravenes subsection (1) of section 9 or subsection (1) of section 10 with intent to prejudice an investigation of an offence constituting an unlawful activity or an offence of money laundering or financing of terrorism or for the purpose of obtaining directly or indirectly an advantage or a pecuniary gain for himself or herself or any other person, or for the purpose of causing any loss or

disadvantage to any other person, the person is guilty of an offence punishable on conviction to a fine not exceeding five hundred thousand rupees or imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

(3) If a person wilfully obstructs or hinders or fails to co-operate with the Financial Intelligence Unit or any authorized person in the lawful exercise of the powers under subsection (1) of section 18 or any person who does not comply with subsection (2) of section 18 is guilty of an offence and shall be punishable on conviction to a fine not exceeding five hundred thousand rupees or imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

(4) If a person forges, conceals or does any other act to affect the authenticity or integrity of any document or material knowing or having reason to believe that such document or material is relevant to an investigation into an offence under the Prevention of Money Laundering Act, No. 5 of 2006 or the Convention for the Suppression of Financing of Terrorism Act, No. 25 of 2005 is guilty of an offence punishable on conviction to a fine not exceeding one hundred thousand rupees or imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(5) If any person destroys or otherwise disposes of any document or material which such person knows or has reason to believe is relevant to an investigation under the Prevention of Money Laundering Act, No. 5 of 2006 or the Convention for the Suppression of Financing of Terrorism Act, No. 25 of 2005, is guilty of an offence punishable on conviction to a fine not exceeding one hundred thousand rupees or imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

(6) A person who opens, operates or authorizes the opening or the operation of an account with an Institution in a fictitious or false name is guilty of an offence and shall be punishable on conviction to a fine not exceeding one hundred thousand rupees or imprisonment of either description for a term not exceeding one year, or to both such fine and imprisonment.

PART VII

MISCELLANEOUS

Regulations.

29. (1) The Minister may make regulations under this Act for any matter authorized or required to be made under this Act, or for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) Without prejudice to the generality of the provisions of subsection (1) regulations may be made in respect of all or any of the following matters :—

- (a) the identification of appropriate risk management systems in keeping with the recommendations of the Financial Action Task Force ;
- (b) the manner in which ongoing monitoring of business relationships is to be carried out by Institutions ; and
- (c) specifying for the purpose of the application of the Financial Action Task Force recommendations relating to risk management-
 - (i) the procedure to be followed and the guidelines that will be applicable in the categorization of customers for the purposes of risk management ;
 - (ii) the manner in which senior management approval is to be obtained prior to establishing business relationships with customers categorized as high risk customers ;

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall as soon as convenient after its publication in the *Gazette* be brought before Parliament for its approval. Any regulation, which is not so approved, shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder.

(5) Notification of the date on which a regulation is deemed to be rescinded shall be published in the *Gazette*.

30. (1) This Act shall apply only in relation to the transactions of all Institutions to which the provisions of this Act applies, which have taken place after the coming into operation of this Act. Application of Act.

(2) All persons to whom this Act applies shall be required to comply with the provisions of this Act, notwithstanding anything to the contrary contained in any other written law for the time being in force.

(3) The provisions of this Act shall prevail over any other law for the time being in force in relation to the matters set out herein.

31. An Institution shall comply with the requirements of this Act notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by any written law or otherwise. Institutions have duty to comply with the provisions of this Act.

32. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail. Sinhala text to prevail in case of inconsistency.

33. In this Act, unless the context otherwise requires — Interpretation.

“account” means any facility or arrangement by which an Institution does any of the following :—

(a) accepts deposits of currency ;

- (b) allows withdrawals of currency ; or
- (c) pays cheques or payment orders drawn on the Institution, or collects cheques or payment orders on behalf of a person other than the Financial Institution,

and includes any facility or arrangement for a safety deposit box or for any other form of safe deposit;

“authorised officer” means —

- (a) a Police Officer above the rank of an Assistant Superintendent of Police or ;
- (b) a Customs Officer above the rank of Superintendent of Customs ;

“cash” means any coin or paper money that is designated as legal tender in the country of issue and includes bearer bonds, travellers’ cheques, postal notes and money orders ;

“currency” means the currency of Sri Lanka or that 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 ;

“customer” in relation to a transaction or an account includes —

- (a) the person in whose name a transaction or account is arranged, opened or undertaken ;
- (b) a signatory to a transaction or account ;
- (c) any person to whom a transaction has been assigned or transferred ;
- (d) any person who is authorised to conduct a transaction ; or
- (e) such other person as may be prescribed.

“designated non-finance business” includes—

- (a) individual and collective portfolio management ;
- (b) investing, administering or managing funds or money on behalf of other persons ;
- (c) safekeeping and administration of cash or liquid securities of behalf of other persons ;
- (d) safe custody services ;
- (e) underwriting and placement of insurance, as well as insurance intermediation by agents and brokers ;
- (f) trustee administration or investment management or a superannuation scheme ;
- (g) casinos, gambling houses or conducting of a lottery, including a person who carries on such a business through the internet when their customers engage in financial transactions equal to or above the prescribed threshold ;
- (h) real estate agents, when they are involved in transactions for their clients in relation to the buying and selling of real estate ;
- (i) dealers in precious metals and dealers in precious and semi-precious stones, including but not limited to, metals and stones covered by the Gem and Jewellery Act, No. 50 of 1993 when they engage in cash transactions with a customer, equal to or above the prescribed threshold ;

- (j) lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their clients in relation to any of the following activities :—
 - (i) buying and selling of real estate ;
 - (ii) managing of client money, securities or other assets ;
 - (iii) management of bank, savings or securities accounts ;
 - (iv) organization of contributions for the creation, operation or management of companies ; and
 - (v) creation, operation or management of legal person or arrangements and the buying and selling of business entities ;
- (k) a trust or company service provider not otherwise covered by this definition, which as a business provides and one or more of the following services to third parties :—
 - (i) formation or management of legal persons ;
 - (ii) acting as or arranging for another person to act as, a director or secretary of a company, a partner or a partnership or a similar position in relation to other legal persons ;
 - (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or for any other legal person or arrangement ;

- (iv) acting as or arranging for another person to act as, a trustee of an express trust ;
- (v) acting as or arranging for another person to act as, a nominee shareholder for another person ;
- (l) offshore units in accordance with the definitions provided for the same in other written laws ; and
- (m) such other business as may be prescribed from time to time by the Minister taking into consideration the interests of the national economy.

“document” means any record of information, and includes —

- (a) anything on which there is writing ;
- (b) anything on which there are marks, figures, symbols, or perforations having meaning for persons qualified to interpret them ;
- (c) anything from which sounds, images or writings can be produced, with or without the aid of anything else;
- (d) a map, plan, drawing, photograph or similar thing ; and
- (e) any of the above kept or maintained in electronic form.

“finance business” includes any one of the following businesses or activities :—

- (a) banking business as defined in the Banking Act, No. 30 of 1988 ;

- (b) finance business as defined in the Finance Companies Act, No. 78 of 1988 (irrespective of whether the person is licensed or registered under the Act) ;
- (c) lending, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions ;
- (d) financial leasing other than transactions relating to consumer products ;
- (e) the transfer of money or value ;
- (f) money and currency changing services ;
- (g) issuing and managing means of payment (i.e. credit cards, travellers' cheques, money orders and bankers' drafts and electronic money) ;
- (h) issuing financial guarantees and commitments, including but not limited to consumer credit, factoring with or without recourse and financing of commercial transactions including forfeiting ;
- (i) trading for its own account or for the account of customers in money market instruments (i.e. cheques, bills, certificates of deposit and derivatives), foreign exchange, exchange, interest rate and index instruments, commodity futures trading and transferable securities ;
- (j) participating in securities issues and the provision of financial services related to such issues ; and
- (k) such other business as may be prescribed from time to time by the Minister taking into consideration the interests of the national economy.

“Financial Intelligence Unit” means the government department, public corporation, statutory body, institution, or authority, or any department or unit of such department, corporation, body, institution or authority designated by the Minister by Order published in the *Gazette*, which shall be charged with the administration of the provisions of this Act ; the Minister shall in making the Order take into consideration the capacity of the Government department, public corporation, statutory body, or authority to be designated in relation to its functions and manpower and its overall ability to act efficiently in the discharge of the functions under this Act ;

“Institution” means any person or body of persons engaged in or carrying out any finance business or designated non-finance business within the meaning of this Act ;

“money transmission services” means a person (other than a bank licensed by the Central Bank) carrying on the business of—

- (a) exchanging cash or the value of money ;
- (b) collecting, holding, exchanging or remitting funds or the value of money, or otherwise negotiating transfers of funds or the value of money, on behalf of other persons ;
- (c) delivering funds ; or
- (d) issuing, selling or redeeming traveller’s cheques, money orders of similar instruments;

“negotiable bearer instrument” means a document representing ownership of debts or obligations, including bills of exchange, promissory notes or certificates of deposit, whether made payable to the bearer or not ;

“Offshore Unit” means a unit or department of a licensed commercial bank or a licensed specialized bank carrying on banking business, subject to the provisions of Part IV of the Banking Act, No. 30 of 1988, dealing with Offshore Banking ;

“person” means any natural or legal person including a body of persons, whether it has legal personality or not and includes a branch of such person or body of persons incorporated or established outside Sri Lanka ;

“prescribed” means prescribed by regulations made under this Act ;

“money laundering offence” means an offence as defined in section 4 of the Prevention of Money Laundering Act, No. 5 of 2006 ;

“offence of financing of terrorism” means an act constituting an offence in terms of the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005 ;

“property” means any currency, and includes any asset of any kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible whether situated in Sri Lanka or elsewhere, and legal documents or, instruments in any form whatsoever including electronic or digital form, evidencing title to, or interest in, such assets, including but not limited to bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit and includes any legal or equitable interest in any such property ;

“record” means any material on which data is recorded or marked and which is capable of being read or understood by a person, computer system or other device ;

“suspicious transaction report” means a report required to be made under section 6 ;

“specified entity” means —

(a) an entity that has knowingly —

(i) committed ;

(ii) attempted to commit ;

(iii) participated in committing ; or

(iv) facilitated the commission of,

any act connected with an act constituting an offence in terms of any written law for the time being in force in Sri Lanka relating to terrorism ;
or

(b) an entity prescribed by the Minister of Foreign Affairs in terms of regulations made under the United Nations Act, No. 45 of 1968 ;

“terrorist act” means an act constituting an offence in terms of any written law for the time being in force in Sri Lanka relating to terrorism ;

“terrorist property” means :

(a) proceeds from the commission of a terrorist act ;

(b) property which has been, is being, or is likely to be used to commit a terrorist act ;

(c) property which has been, is being, or is likely to be used by a terrorist group ;

(d) property owned or controlled by or on behalf of a terrorist group ; or

- (e) property which has been collected for the purpose of providing support to a terrorist group for funding a terrorist act ;

“transaction” means any activity connected with finance business or designated non-finance business ;

“transaction” in relation to property includes—

- (a) a purchase, sale, loan, charge, mortgage, lien, pledge, transfer, delivery, assignment, subrogation, transmission, gift, donation, creation of a trust, settlement, deposit including the deposit of any article, withdrawal, transfer between assets, extension of credit ;
- (b) any agency or grant of power of attorney ;
- (c) any other disposition or dealing of property in whatever form, or whatsoever description or nature, howsoever described, which results in any right, title, interest or privilege, whether present or future, or whether vested or contingent, in the whole or any part of such property being conferred on any person ; and

“unlawful activity” means any act which constitutes an offence under :—

- (a) the Poisons, Opium and Dangerous Drugs Ordinance (Chapter 218) ;
- (b) any law or regulation for the time being in force relating to the prevention and suppression of terrorism ;
- (c) the Bribery Act (Chapter 26) ;
- (d) the Firearms Ordinance (Chapter 182), the Explosives Ordinance (Chapter 183) or the Offensive Weapons Act, No. 18 of 1966.

- (e) The Exchange Control Act (Chapter 423) ;
- (f) an offence under section 83 c of the Banking Act, No. 30 of 1988 ;
- (g) any law for the time being in force relating to transnational organised crime ;
- (h) any law for the time being in force relating to cyber crime ;
- (i) any law for the time being in force relating to offences against children ;
- (j) any law for the time being in force relating to offences connected with the trafficking of persons ; and
- (k) an offence under any other law for the time being in force which is punishable by death or with imprisonment for a term of seven years or more.

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