
P.L. 2011-57

AN ACT

to amend Sections 166 and 167 of the Banking Act 1987 in order to improve the Act and to ensure compliance with international anti-money laundering and combating the financing of terrorism standards.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:

Section 1. **Short Title**

This Act may be cited as the Banking (Amendment) Act, 2011.

Section 2. **Amendments**

(1) Section 166 is hereby amended to read as follows:

§166. Money laundering offenses and penalties.

(1) A person commits the offense of money laundering if the person:

(a) acquires, possesses or uses property, knowing or having reason to believe that the property is the proceeds of crime;

(b) knowing or having reason to believe that such property is the proceeds of crime, renders assistance to another person for:

(i) the conversion or transfer of property, with the aim of concealing or disguising the illicit origin of that property, to evade the legal consequences thereof; and

(ii) concealing or disguising the true nature, origin, location, disposition, movement or ownership of the property.

1 (c) nothing in this Act shall prevent a person that committed any other
2 offense that generated the proceeds of crime from being convicted of an offense
3 of money laundering in respect of those proceeds of crime.

4 (d) a person who attempts, facilitates, conspires, or aids and abets any
5 other person to commit an offense of money laundering commits an offense and is
6 liable on conviction to the penalties specified under this section.

7 (e) for the purposes of this section, when proving that property is the
8 proceeds of crime, it is not necessary that a person is convicted of the serious
9 offense that generated the proceeds of crime.

10 (f) for the purposes of this section, it is not necessary that the serious
11 offense that generated the proceeds of crime was committed within the Marshall
12 Islands.

13 (2) Where a person is convicted of any of the offenses specified under this
14 Section, in the case of a natural person, such person shall be liable to imprisonment
15 for a term not exceeding twenty (20) years or a fine not exceeding \$2,000,000, or
16 both, and in the case of a body corporate five (5) times such a fine or double the
17 amount of money involved in the offense scheme, whichever is greater.

18 (2) Section 167 is hereby amended to read as follows:

19 **§167. Commissioner's authority in prohibiting money laundering activity**

20 (1) The Commissioner, amongst other duties:

21 (a) shall receive reports of transactions issued by financial institutions or
22 cash dealers pursuant to Section 170 of this Act;

1 (b) shall send any such report to the appropriate law enforcement
2 authorities, if there are reasonable grounds to suspect that the transaction is
3 suspicious;

4 (c) may enter the premises of any financial institution or cash dealer
5 during ordinary business hours to inspect any record and ask any question relating
6 to such record, make notes and take copies of the whole or any part of the record;

7 (d) shall send to the appropriate law enforcement authorities, any
8 information derived from an inspection carried out pursuant to Subsection (1)(c)
9 of this Section, if it gives the Commissioner reasonable grounds to suspect that a
10 transaction involves money laundering, proceeds of crime, and or the financing of
11 terrorism;

12 (e) may instruct any financial institution or cash dealer to take such steps
13 as may be appropriate to facilitate any investigation anticipated by the
14 Commissioner;

15 (f) may compile statistics and records, disseminate information within the
16 Republic of the Marshall Islands or elsewhere, make recommendations arising out
17 of any information received, issue guidelines to financial institutions and cash
18 dealers, and advise the appropriate officials;

19 (g) shall create training requirements and provide such training for any
20 financial institution and cash dealer with respect to transaction record-keeping and
21 reporting obligations provided for in this Act;

1 (h) may consult with any relevant person, institution or organization for
2 the purpose of exercising its powers or duties under Subsections (1)(e), (f), (g) or
3 (1) of this Section;

4 (i) shall have the authority to request additional information from financial
5 institutions and cash dealers where the Commissioner has reasonable grounds to
6 believe that such information is essential in discovering money laundering
7 activity, proceeds of crime, and or the financing of terrorism;

8 (j) shall have the authority and ability to exchange information between
9 international administrative authorities;

10 (k) shall have the authority and ability to facilitate and assist international
11 administrative authorities in conducting proceeds of crime, money
12 laundering, and or the financing of terrorism investigations;

13 (l) shall have the authority and ability to apply for a warrant to enter any
14 premises belonging to, or in the possession or control of a financial institution,
15 cash dealer or any officer or employee thereof, and to search the premises and
16 remove any documents, materials, or other things therein for the purposes of
17 preventing money laundering activity, the financing of terrorism, or tracing the
18 proceeds of crime, as so ordered by the High Court and specified in the warrant
19 other than as authorized in subsections (c) and (i) above;

20 (m) shall have the authority and ability to obtain information under this
21 Section notwithstanding any secrecy or other restrictions on disclosure of
22 information imposed by this Act;

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(n) shall conduct, in association with law enforcement authorities, investigations into the proceeds of crime, money laundering, and or the financing of terrorism, only where the Commissioner has reasonable grounds to suspect the proceeds of crime, money laundering activity, and or the financing of terrorism is occurring; and

(o) shall prepare annually, a report of the activities of the Domestic Financial Intelligence Unit that shall include statistics, typologies and trends as well as information regarding the activities of the Domestic Financial Intelligence Unit, which shall be submitted to Cabinet before the end of each financial year.

Section 3. Effective Date

This Act shall take effect in accordance with the Constitution and the Rules of Procedures of the Nitijela.

CERTIFICATE

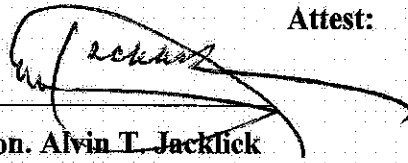
I hereby certify:

1. That Nitijela Bill No.77 was passed by the Nitijela of the Republic of the Marshall Islands on the 11th day of August, 2011; and
2. That I am satisfied that Nitijela Bill No.77 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

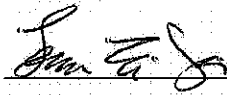
I hereby place my signature before the Clerk this 17th day of October 2011.

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Attest:



Hon. Alvin T. Jacklick
Speaker
Nitijela of the Marshall Islands



Lena E. Tiobech
Acting Clerk
Nitijela of the Marshall Islands