



THE ANTI-MONEY LAUNDERING AND COMBATting THE FINANCING OF TERRORISM AND PROLIFERATION (MISCELLANEOUS PROVISIONS) ACT 2024

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01 | INTRODUCTION



The Anti-Money Laundering and Combatting the Financing of Terrorism and Proliferation (Miscellaneous Provisions) AML/CFT Act 2024 introduces critical reforms to Mauritius' legislative framework, enhancing regulatory oversight and enforcement mechanisms in the fight against financial crime.

The Act brings consequential amendments to various financial and regulatory statutes, including the Financial Crime Commission Act, the Financial Intelligence and Anti Money Laundering Act (FIAMLA), the Financial Services Act, the Foundations Act, the Limited Liability Partnership Act, and the Virtual Asset and Initial Token Offering Services Act.

These amendments strengthen the country's compliance with international standards set by the Financial Action Task Force (FATF) by refining definitions, tightening reporting requirements, and expanding the scope of inspections and supervision across the financial and legal sectors. With a more robust approach to tackling money laundering, terrorism financing, and proliferation financing, the AML/CFT Act 2024 ensures that Mauritius remains a secure and transparent financial jurisdiction. Additionally, the introduction of a risk-based approach for supervisory authorities and the inclusion of beneficial ownership transparency across legal entities mark significant strides towards promoting corporate accountability and safeguarding the integrity of the financial system. In this document, we address the main legislative amendments.



02 | FINANCIAL CRIME COMMISSION ACT 2023

Section 166 of the Financial Crime Commission Act which provides on the Consequential amendments has been revised to remove subsection (9)(g)(i). This would imply that all law firms, foreign law firms, joint law ventures, foreign lawyers under the Law Practitioners Act as well as attorneys, barristers and notaries will henceforth be regulated by the Attorney-General's Office.

03 | FINANCIAL INTELLIGENCE AND ANTI MONEY LAUNDERING ACT

The term "money laundering" has been removed in the definition of "Minister" and "Ministry" in Section 2 of the FIAMLA and been replaced by "anti-money laundering and combatting the financing of terrorism and proliferation". In addition, a new definition has been included for "guidelines" which encompasses codes, guidance notes, practice notes and other similar instruments issued by the supervisory body.

Section 13 (4) has been amended such that where a reporting person or an auditor receives a request for information from the Director of FIU, the information should now be provided promptly to the FIU but not later than 15 working days after the request has been made.

Previously, the information had to be provided as soon as practicable but not later than 15 days after a request is made.

Section 14 has also been amended to reflect that a suspicious transaction report should now be filed promptly with the FIU but not later than 5 working days after the suspicion arose. Another change has been brought to section 14(1B) of the FIAMLA making now reference to feedback provided under subsection (1A) instead of a report filed under subsection (1).

Section 16(1) of FIAMLA regarding disclosing of suspicious transactions has been amended to include a condition set further under subsection (3) of the same section.

Section 17H (1) has also been amended such that where a jurisdiction is identified by the FATF as having significant or strategic deficiencies in its AML/CFT measures, the Minister may now, on the recommendation of the National Committee, identify that jurisdiction as a high risk country without having to give consideration to any prescribed factors as was the case before.

The term “codes” has been removed in section 18(1) (a) such that supervisory authorities will now issue only guidelines as they consider appropriate in their fight against money laundering and terrorism financing. Furthermore, the Bank of Mauritius shall now, in addition to issuing guidelines for banks and cash dealers, have access to all books, records and other information in either physical or electronic form, maintained by these financial institutions. The Financial Services Commission may now take regulatory action in the event of non-compliance by any of its licensees if it fails to comply with the FIAMLA, Financial Intelligence and Anti Money Laundering Regulations, any guideline issued under the FIAMLA or Financial Services Act or where such failure has arisen from negligence, omission or a serious defect in the implementation of any requirement.

The scope of the Core Group set under the FIAMLA has widened to now include combatting of foreign bribery.

The heading of Section 19K has been renamed from “On-site inspections” to “Inspections”. Consequently, subsection (1) has been repealed and replaced by the provision that a regulatory body may, at any time and in such manner as it may determine, cause to be carried out on the business premises of a member falling under its purview or at such other place as it may determine, an inspection and an audit of its books and records to verify whether the member is complying with the FIAMLA of the United Nations (Financial Prohibitions, Arms Embargo and Travel Ban) Sanctions Act or any regulations made or guidelines issued under those Acts.

The last amendment brought to FIAMLA was section 19Z whereby a supervisory authority shall, in fulfilling its obligation to effectively supervise and monitor reporting persons, use a risk-based approach. Previously, the focus was on monitoring of reporting persons and now the supervisory aspect has been included.





Financial Services

03 | FINANCIAL SERVICES ACT

The heading of Section 43 of the Financial Services Act (“FSA”) has been changed from “On-site Inspections” to “Inspections”. The same section has been further amended to cause an inspection to be conducted at such time, at such place and in such other manner as the FSC may determine. An inspection can also be carried out into the business activities of a licensee. The scope of an inspection will be to verify whether a licensee is now complying with AML/CFT legislation amongst others as opposed to the requirements of the FIAMLA.

For conducting an inspection, the FSC may now request a licensee to provide it with an off-site access to such information and system as may be required. Section 43A has been further amended to include the intensity of an inspection, which would also be determined on the same basis as for the frequency of an inspection. A new subsection has been added for allowing the FSC to have access to information of a licensee relating to its business or business administration of its clients to assess the risks of money laundering, terrorist financing and proliferation financing at such intervals and within such time as it may require.

It is now an offence if a person, who has been summoned to attend before an investigator, fails to do so without having any reasonable excuse and can on conviction, be liable to a fine not exceeding Rs 500,000 and to imprisonment for a term not exceeding 5 years.

Section 50 of the FSA has been amended to allow the Judge in Chambers to impose measures with respect to freezing of assets for financial crime committed in Mauritius and other jurisdiction.

The Chief Executive of the FSC can now refer a matter to the Enforcement Committee if a licensee has carried or is carrying out business in a manner which threatens the integrity of the financial system of Mauritius or is contrary or detrimental to the interest of the public. A retrospective aspect has been added as to the conduct of such business by licensees for the purpose of imposing disciplinary proceedings.



04 | FOUNDATIONS ACT

The definition of ‘Beneficial Ownership Register’ which is the register maintained by the Registrar has been added into the Foundations Act together with that of ‘competent authorities’ which shall have the same meaning as in the FIAMLA. As part of the registration of a Foundation, information required in its register of beneficial owners should be available in its Charter and be extracted and provided to the Registrar.

The Registrar shall now maintain a Beneficial Ownership Register which will contain information as required in the register of beneficial owners of Foundations and the Beneficial Owner Register will be accessible to all competent authorities and any other public sector authority as may be prescribed.

All charitable foundations will now have to implement programmes against terrorism financing which commensurate with the terrorism financing risks it is exposed to and the size and nature of its business.

For the purposes of assessing whether a charitable foundation complies with the Foundations Act and the relevant enactments relating to the prevention of terrorism financing, the Registrar may also conduct a risk-based inspection of such charitable foundation and take necessary measures to identify, assess and understand the terrorism financing risks and periodically review such risk assessment. The Registrar will collect and maintain such statistics and information as may be required for the purpose of conducting the inspection and risk assessment.

In addition, the Registrar has been empowered to effectively discharge its functions under the Foundations Act by issuing guidelines, providing directives to charitable foundations to ensure compliance with the Act, guidelines and other relevant enactments, require that such information or statistical data relating to its business be provided to the Registrar at such intervals and within such time and require that a report on corrective measures be furnished to show how it is complying with the Act, guidelines and directives.

If the Registrar reasonably believes that a charitable foundation no longer satisfies the requirements of the Act and relevant enactments and any of its previous or current officer or member has or is about to engage in unsafe and unsound practices and knowingly or negligently permits the violation of the Act, it can apply different administrative sanctions against the charitable foundation, its present or past officer or its member such as issue of a private warning, imposing an administrative penalty, issue of a cease and desist order, ban a person from being a member of the charitable foundation for a period not exceeding 5 years and remove the foundation from the register it maintains.

Non-compliance with the administrative sanction imposed by the Registrar as stated above shall constitute an offence and shall, on conviction, cause a person to be liable to a fine not exceeding Rs 1 million and a term of imprisonment not exceeding 5 years.

An inspection under section 30 would include an on-site or off-site regular examination, a special examination, an off-site monitoring or an audit of the books and records of a charitable foundation.

Further to amendments made to section 36 of the Act, a Foundation now have to keep records of a beneficial owner or ultimate beneficial owner and any nominee where applicable in a separate register. The register shall contain specific information such as the full name and usual residential address of the beneficial owner. In case there is no natural person identified or there is a nominee, the full name and the usual residential address of the ultimate beneficial owner must be kept. Moreover, the register shall also record the National Identification Number or passport number, citizenship or nationality as may be applicable, an ownership structure so as to be able to identify the ultimate beneficial owner and such other information as may be applicable.

An authorised officer of a Foundation shall now be a natural person or his alternate as opposed to at least one officer or any other person who shall be ordinarily resident in Mauritius to provide such requested information to any competent authority upon request made. A Foundation must now keep all basic information regarding its authorised officer at the registered office or such place as may be determined by the Registrar.

Lastly, when making a request for the removal of a foundation from the register, the founder or beneficiary must place such request together with a written statement from the Director-General as may be applicable as opposed to mandatorily provide such written statement.

05 | HIGHLIGHTS ON AMENDMENTS BROUGHT TO THE LIMITED LIABILITY PARTNERSHIP ACT 2016 IN 2024

The AML/CFT Act 2024 has brought about the following amendments to the Limited Liability Partnership (“LLP”) Act 2016 on :

a) Section 2 of the LLP Act 2016

This Section has been amended to insert, in the appropriate alphabetical order, the following new definitions:

01

Beneficial Ownership Register: As per the amendment to the Act, a Beneficial Ownership Register will be kept by the Registrar under section 11(3) of the Companies Act;

02

Competent authorities: competent authorities have the same meaning as in the Financial Intelligence and Anti-Money Laundering Act;

b) Section 23 of LLP Act 2016

The following words has been deleted and replaced in Section 23, in subsection (2)(d):

01

In subparagraph (viiia), the words “where a limited partner” have been deleted and replaced by the words “where a partner contributes in his own name or where a limited partner”;

02

After subparagraph (viiia), the following new subparagraph (viiib) information required under section 41A(1)(b) has been inserted;

c) Section 25 of the LLP Act 2016

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After subsection (3), a new subsection has been inserted:

“(3A) The Registrar shall keep a Beneficial Ownership Register containing the information required under section 41A(1)(b).”

02

In Section 25, the subsection (12) has been repealed.



d) Section 41A of the LLP Act 2016

1) The heading of the above section has been deleted and replaced by the heading “41A. Registers”;

2) In subsection (1), the following amendments have been brought to:

(A) Paragraph (b) has been repealed and replaced and shall henceforth be read as follows:

“(b) A limited liability partnership shall, where the partner is a natural person, a body corporate or an unincorporated body, comprise the following information in a separate register –

- (i) the full name and the usual residential address of the beneficial owner or ultimate beneficial owner;
- (ii) the National Identification Number or passport number, as applicable;
- (iii) the citizenship or nationality, as applicable;
- (iv) an ownership structure, where applicable, identifying the ultimate beneficial owner; and
- (v) such other information as may be prescribed.”

(B) A new paragraph (c) has been added that stipulates that where a partner is a nominee, the information required under section 41(1)(b) shall be included in the register of partners.

3) After subsection (3), a new subsection (3A) has been included to mention that every LLP shall ensure that any record, register or other document required to be kept under this section shall, at all times, be accurate and up to date and, on request, be made available forthwith to competent authorities.

e) Section 42 of the LLP Act 2016

New subsections have been added to Section 42 as follows:

“(4) (a) Notwithstanding any other enactment, a limited liability partnership shall authorise a natural person and his alternate, who shall be ordinarily resident in Mauritius, to provide, upon request by competent authorities, all basic information on the limited liability partnership, including information on its beneficial ownership.

(b) A limited liability partnership shall, within 14 days of an authorisation or a change of the authorised person or his alternate under paragraph (a), notify the Registrar, in such form and manner as the Registrar may determine, of the name and particulars of the authorised person or his alternate.

(c) The basic information referred to in paragraph (a) shall be kept at the registered office of the limited liability partnership or at any other place as the Registrar may determine.

(d) In this subsection –

“basic information”, in relation to a limited liability partnership, means –

(a) the name of the limited liability partnership, proof of registration, legal form and status, address of its registered office, basic regulating powers, including the partnership agreement, and a list of its managers; and

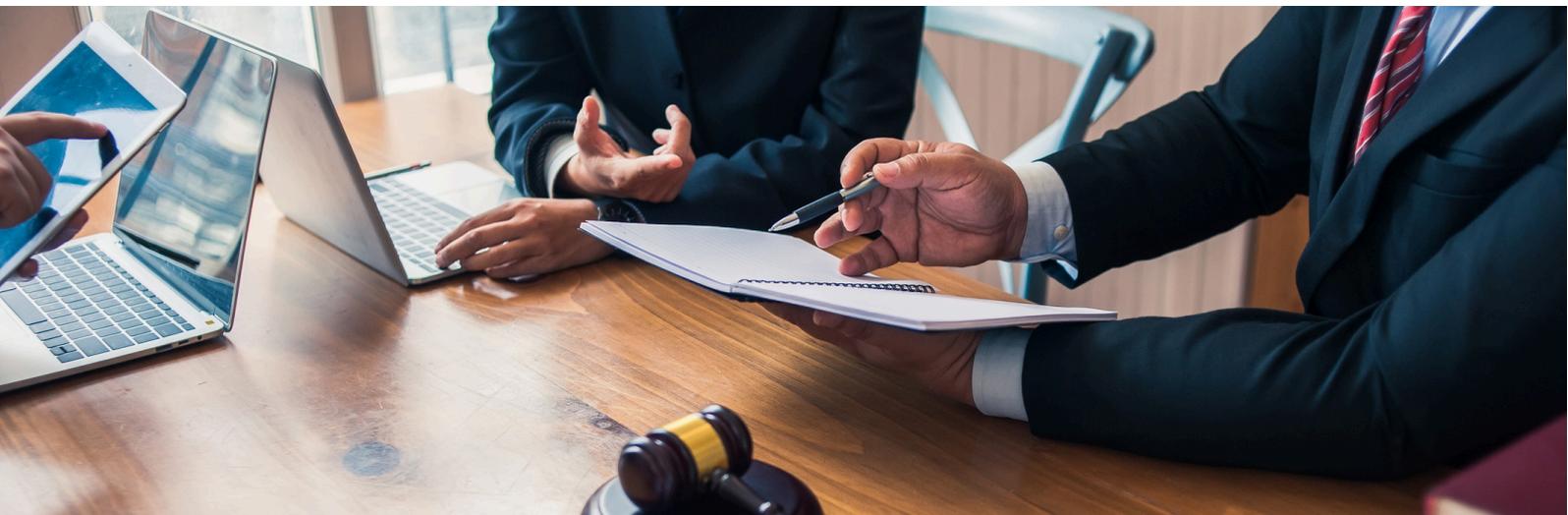
(b) a register of its partners containing the names of the partners and their contribution to the limited liability partnership;”

f) Section 45A of the LLP Act 2019

Section 45A has been amended as follows:

1) In subsection (1)(b), the words “, where applicable, from” has been inserted after the words “Director-General and”;

2) In subsection (2), the words “and the written statement from the Director-General and the Chief Executive” has been deleted.





06 | VIRTUAL ASSET AND INITIAL TOKEN OFFERING SERVICES ACT 2021 AMENDED

Overview

“ The Virtual Asset and Initial Token Offering Services Act 2021 (the "Act") governs the regulation of virtual asset service providers (VASPs) and issuers of initial token offerings in Mauritius. One of the critical aspects of this Act is its emphasis on preventing money laundering, terrorism financing, and proliferation financing through virtual assets. The recent amendments to Section 38 of the Act introduce additional requirements to enhance the regulatory oversight and risk assessment processes.

Initial Provisions of Section 38

Section 38 of the Act originally set out the frequency of inspections for VASPs and issuers of initial token offerings. These inspections, carried out by the Commission, were to be determined based on a risk assessment that considered several factors, including:

1. Risk Factors: The potential risks related to money laundering, terrorism financing, and the policies, internal controls, and procedures implemented by VASPs and issuers.
2. Local Risks: The prevailing risks of money laundering and terrorism financing within Mauritius.
3. Operational Characteristics: The specific characteristics of a VASP or issuer and the level of discretion afforded to them under the risk-based approach mandated by the Commission.

Additionally, the Commission was required to review the risk profile of a VASP or issuer whenever there were significant changes in their management or operations.



Amendment to Section 38

The amendment introduces a new subsection (3) to Section 38, which adds further obligations on VASPs and issuers of initial token offerings. The key addition is:

- **Information Furnishing Requirement:** VASPs and issuers are now required to furnish information to the Commission regarding their business activities or those managed on behalf of clients. This information is critical for the Commission to assess the risks of money laundering, terrorism financing, and proliferation financing.
- **Compliance with Commission's Requirements:** The information must be provided at specific intervals and within the timeframes specified by the Commission.

Impact of the Amendment

The amendment strengthens the regulatory framework by requiring ongoing disclosure of information from VASPs and issuers, enabling the Commission to maintain a dynamic and up-to-date risk assessment. This change aligns with global efforts to enhance transparency and oversight in the rapidly evolving virtual asset space, ensuring that Mauritius remains compliant with international standards in combating financial crimes.

Conclusion

The amendment to Section 38 of the Virtual Asset and Initial Token Offering Services Act 2021 reflects the increasing scrutiny on virtual assets and their potential misuse in illicit activities. By mandating regular information disclosure to the Commission, the Act ensures a more proactive approach to risk management, enhancing the overall security and integrity of the financial system in Mauritius.



07 | THE LIMITED PARTNERSHIPS ACT 2011

The definition of 'Beneficial Ownership Register', which is the register maintained by the Registrar has been added into the Limited Partnerships Act together with that of 'competent authorities' which shall have the same meaning as ascribed to it in the FIAMLA.

The Registrar shall now maintain a Beneficial Ownership Register which will contain information as required in the register of beneficial owners of Limited Partnerships and the Beneficial Owner Register will be accessible to all competent authorities and any other public sector authority as may be prescribed.

In addition to all existing information required to be kept in a register of partners, such register should reflect the name of the beneficial owner or the ultimate beneficial owner in the event the limited partner is acting as nominee.

The limited partnership shall, where the partner is a natural person or a body corporate, an unincorporated body, include the following information in a separate register:

- the full name and usual residential address of the beneficial owner or ultimate beneficial owner;
- the National Identification Number or passport number, as applicable;
- the citizenship or nationality, as applicable;
- an ownership structure, where applicable, identifying the ultimate beneficial owner; and

-such other information as may be prescribed.

Moreover, in a situation where the partner is a nominee, the above information shall be included in the register of partners.

Every limited partnership shall keep record of the action taken to identify a beneficial owner or an ultimate beneficial owner. Every limited partnership shall ensure that any record, register or any other information required to be kept, should be accurate and up to date and, upon request, be made available forthwith to competent authorities.

An officer of a Limited Partnership shall now be a natural person or his alternate as opposed to at least one officer or any other person who shall be ordinarily resident in Mauritius to provide such requested information to any competent authority upon request made. Such basic information shall be made readily available and kept in such form and manner at the registered office of the limited partnership or such other place as the Registrar may determine. Any basic information required shall, at all times, be accurate and up to date. Such information should be made available immediately to competent authorities on request.

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