

CAYMAN ISLANDS



Supplement No. 9 published with Extraordinary
Gazette No. 71 dated 9th September, 2016.

**A BILL FOR A LAW TO AMEND THE PROCEEDS OF CRIME LAW
(2016 REVISION); TO MAKE FURTHER CHANGES NECESSARY FOR
COMPLIANCE WITH INTERNATIONAL STANDARDS RELATING TO
THE PREVENTION OF MONEY LAUNDERING, TERRORIST
FINANCING AND PROLIFERATION FINANCING; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

THE PROCEEDS OF CRIME (AMENDMENT)(NO. 2) BILL, 2016

MEMORANDUM OF OBJECTS AND REASONS

This Bill amends the Proceeds of Crime Law (2016 Revision) referred to as the principal Law to make changes necessary for compliance with international standards relating to the prevention of money laundering, terrorist financing and proliferation financing and provides for incidental and connected purposes.

Clause 1 of the Bill sets out the short title.

Clause 2 of the Bill amends section 2 of the principal Law by inserting a definition of the words “designated non-financial business or profession” and by inserting a new provision which would be included in the section as subsection (12) which would enable the Cabinet, by Order, to amend Schedule 6.

Clause 3 of the Bill amends section 4 of the principal Law by deleting a reference to a definition that previously had been contained in the Money Laundering Regulations (2015 Revision) but which has been integrated into the principal Law.

Clause 4 of the Bill amends section 15 of the principal Law so as to correct an incorrect cross reference.

Clause 5 of the Bill amends section 115(1) of the principal Law so that the initial 48 hours for which cash seized under section 114 may be detained does not include any Saturday or any excluded day.

Clause 6 of the Bill amends section 145(1) of the principal Law so that -

- (a) the entities with which Cabinet may consult prior to the approval of Regulations to be made under the principal Law include the Anti-Money Laundering Steering Group;
- (b) Regulations made under the principal Law are not limited in application to the financial system only; and
- (c) the areas for which measures to combat money laundering are to be prescribed in Regulations are clear.

Clause 7 of the Bill amends Schedule 6 of the principal Law so as to increase the activities considered to be relevant financial business in accordance with international standards.

THE PROCEEDS OF CRIME (AMENDMENT)(NO.2) BILL, 2016

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Proceeds of Crime Law (2016 Revision) - interpretation
3. Amendment of section 4 - powers, functions and duties of Financial Reporting Authority
4. Amendment of section 15 - conditions for making of order
5. Amendment of section 115 - detention of seized cash
6. Amendment of section 145 - regulations
7. Amendment of Schedule 6 - List of activities falling within the definition of “relevant financial business”

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Proceeds of Crime (Amendment)(No. 2) Law, 2016. Short title

2. The Proceeds of Crime Law (2016 Revision), in this Law referred to as the principal Law, is amended in section 2 as follows - Amendment of section 2
of the Proceeds of Crime
Law (2014 Revision) -
interpretation
 - (a) by inserting after the definition of the words “criminal property”, the following definition -

“designated non-financial business or profession” means a person involved in a business relationship related to an activity falling within the definition of relevant financial business set out at paragraphs 14 or 17 of Schedule 6;”;
 - (b) by inserting after subsection (11) the following subsection -

“(12) Schedule 6 may be amended by Order made by the Cabinet and the Order is subject to affirmative resolution of the Legislative Assembly.”.

- Amendment of section 4 - powers, functions and duties of Financial Reporting Authority
- Amendment of section 15 - conditions for making of order
- Amendment of section 115 - detention of seized cash
- Amendment of section 145 - regulations
- Amendment of Schedule 6 - List of activities falling within the definition of "relevant financial business"
3. The principal Law is amended in section 4(9) by deleting the words "as defined in those regulations".
4. The principal Law is amended in section 15(6) by deleting the words "subsection (4) or (5)" and substituting the words "subsection (3) or (4)".
5. The principal Law is amended in section 115(1) by inserting after the words "of 48 hours" the words "which shall not include any Saturday or any excluded day".
6. The principal Law is amended in section 145(1) as follows -
- (a) inserting after the words "upon the recommendation of" the words "the Anti-Money Laundering Steering Group,";
 - (b) by inserting after the words "the financial system" the words "and any other facilities provided in or from within the Islands"; and
 - (c) by inserting after the words "purposes of criminal conduct" the following -
"including measures -"
 - (a) to utilise systems and train employees to prevent money laundering;
 - (b) to manage and mitigate any risks that may be involved in the course of business;
 - (c) to conduct the appropriate and adequate due diligence of a customer or a person with whom business is conducted;
 - (d) to ensure that proper and adequate records are kept;
 - (e) or procedures that may be required to be utilized in matters involving specific types of customers or activities which may include a politically exposed person or the transfer or currency;
 - (f) to maintain the prescribed obligations of a financial institution or a designated non-financial business or profession in the prevention of money laundering; and
 - (g) to ensure that proper and adequate reports are made to the relevant Authority in the Islands regarding any suspicious activity related to money laundering".
7. The principal Law is amended in Schedule 6 as follows -
- (a) in the heading by deleting the words "list of";
 - (b) by inserting beneath the heading the words "Any activity related but not limited to -";

- (c) by deleting paragraphs 4, 5, 6 and 7 and substituting the following paragraphs -
- “4. Money or value transfer services.
 - 5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money).
 - 6. Financial guarantees and commitments.
 - 7. Trading in -
 - (a) money market instruments (cheques, bills, certificates of deposit, derivatives etc.);
 - (b) foreign exchange;
 - (c) exchange, interest rate and index instruments;
 - (d) transferable securities; or
 - (e) commodity futures trading.”;
 - (d) in paragraph 8 by inserting after the words “provision of” the word “financial”;
 - (e) by deleting paragraph 9 and substituting the following paragraph -
“9. Individual and collective portfolio management advice.”;
 - (f) by deleting paragraph 12 and substituting the following paragraph -
“Safekeeping and administration of cash or liquid securities on behalf of other persons.”; and
 - (g) by inserting after paragraph 17 the following paragraphs -
“18. Otherwise investing, administering or managing funds or money on behalf of other persons.

19. Underwriting and placement of life insurance and other investment related insurance.”.

Passed by the Legislative Assembly the day of , 2016.

Speaker.

Clerk of the Legislative Assembly.