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WEDNESDAY 16TH AUGUST, 2023

THE OFFICIAL GAZETTE 16TH AUGUST, 2023
LEGAL SUPPLEMENT — A

GUYANA

ACT NO. 15 OF 2023

ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM (AMENDMENT) ACT 2023

I assent.

Mohamed Irfaan Ali,
President.
16th August, 2023

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AN ACT to amend the Anti-Money Laundering and Countering the Financing of Terrorism Act.

A.D. 2023 Enacted by the Parliament of Guyana: -

Short title. Cap.10:11

1. This Act, which amends the Anti-Money Laundering and Countering the Financing of Terrorism Act, may be cited as the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act 2023.

Amendment of section 2 of the Principal Act.

2. Section 2 of the Principal Act is amended as follows –

(a) subsection (1) is amended by –

(i) inserting, in the appropriate alphabetical order, the following –

"auto dealers" means any person involved in the sale of motor vehicles or, both new and used, and shall include dealers in trucks, farm implements and all other types of motorized equipment that is moved by motor power on wheels or tracks;

"body corporate" means a legal or juridical person or arrangement, including all legal persons and arrangements, under this Act or any other Act;

"currency" by inserting immediately after the words 'electronic form', the words 'virtual assets, digital assets and crypto-assets';

"crypto-assets" means virtual assets;

"Designation Impact Assessment' means an impact assessment with regard to a person or entity proposed to be designated as a listed or specified person or entity;

"digital assets" means digital representations of fiat currencies, securities and other financial assets as

determined by the Financial Action Task Force but does not include virtual assets or crypto-assets;

"Expert Report" means a report of an expert under the Evidence Act, or an expert report under the Civil Procedure Rules;

Cap. 503
No. 2 of 2016

"Financial Inclusion" means providing access to affordable financial products or services to meet the needs of individuals and businesses who, in the general course of business, are otherwise disadvantaged or excluded from access to such financial products or services through the regular financial system, including where such products or services are provided by a payment service provider or operator licensed under the National Payments System Act;

No.13 of 2018

"Judge" means a Judge of the High Court;

"Money Lender" means a person or business who or that was granted a Magistrate's Certificate by the Court or issued with a money lenders licence under the Money Lender's Act;

Cap. 95:01

"payment service" means a service enabling cash deposits and withdrawals, execution of payment transactions, issuing or acquisition of payment transactions, issuing or, acquisition of payment instruments, the provision of money transfer services or any other service functional to the transfer of money and includes the issuance of electronic money and electronic funds transfers but does not include the provision of solely online or telecommunication services or network access;

"payment service provider" means any entity that is licenced to provide a payment service;

"precious metals" "includes raw, unrefined and unmanufactured forms of gold, silver, or platinum;

"precious stones" includes rough and uncut diamonds, emeralds, sapphires and rubies;

"prompt" means as soon as reasonably practicable under the facts and circumstances at the time but no later than twenty-four hours;

"nonprofit organisation" means a legal person or legal arrangement or body corporate that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works", and where the context so applies, includes, societies registered under the Friendly Societies Act, companies with no share capital and not-for profit companies registered under the Companies Act, and arrangements expressed under a trust deed registered under the Deeds Registry Act;

Cap. 36:04

Cap. 89:01

Cap. 5:01

"tainted property" includes property used in connection with the commission of an offence under this Act or property constituting the proceeds of an offence;

"unlawful conduct" means-

(a) conduct occurring in any part of Guyana if it is unlawful under any law in Guyana; or

(b) conduct which—

(i) occurs in a country outside of Guyana and is unlawful under the criminal law of that country, and

(ii) if it occurred in Guyana, it would be unlawful under any law in Guyana;

"virtual asset" means any digital representation of value that can be digitally traded, transferred, or used for payment or investment purposes, including but not limited cryptocurrencies, stable-coins, non-fungible tokens (NFTs), and in-game currencies that can be cashed out or used outside of their source game, but does not include the digital representation of fiat currencies;

"without delay" means within a matter of hours;

(ii) in paragraph (c) of the definition of "serious offence", by inserting immediately after the word "Schedule;" the word "or" and inserting immediately after paragraph (c) as so amended, the following new paragraph–

"(d) unlawful conduct".

(iii) in the definition of "politically exposed persons" by inserting immediately after the words "political party officials", the words "and a person who is or has been entrusted with a prominent function by an international organisation, at the level of senior management, including directors, deputy directors and members of the board or equivalent functions".

(b) in subsection (2)(1) -

(i) in paragraph (c)-

(A) by deleting the following words-

"the Director shall recommend to the Minister responsible for Finance that an order be made under paragraph (2) in respect of that person or entity";

(B) by substituting for the "." a ";";

(ii) by inserting immediately after paragraph (c) the following paragraphs –

"(d) the person is included in a list of individuals and entities designated by, or under the authority of, the United Nations Security Council as terrorists or terrorist organisations;

(e) the person has committed or participated in the commission of an offence referred to in the Anti-Terrorism and Terrorist Related Activities Act or sections 75A or 75B of this Act; or

(f) a request to designate a person as a terrorist or terrorist entity is transmitted to Guyana from another country, is supported by reasonable grounds for the designation and is accepted by Guyana,

the Director shall, supported by a Designation Impact Assessment, recommend to the Minister responsible for Finance, without delay and without notice, that an order be made under paragraph (2) in respect of that person or entity.".

(c) in subsection (2)(1) A by-

(i) by inserting immediately after the words "Minister responsible for Finance" the words ", without delay and without notice,";

No. 15 of 2015

(ii) by inserting immediately after subsection (1) the following section –

"(2)A Where the Minister responsible for Finance makes an order under this section, the Director of Public Prosecutions shall, at the same time, apply to a Judge for an order to-

(a) freeze any-

(i) property of the person against whom the order is made;

(ii) property that is wholly or jointly owned or controlled, directly or indirectly, by the person against whom the order is made;

(iii)property that is derived or generated from other property owned or controlled, directly or

indirectly, by the person against whom the order is made;

(iv) property of a person acting on behalf of, or at the direction of, the person against whom the order is made, where such property is situated in Guyana; .

(b) prohibit the person against whom the terrorist designation order is made, directly or indirectly, from possessing, controlling or having access to any property."

(iii) by inserting immediately after subsection (9) the following subsections-

"(10) The review procedure referred to in subsection (9) with respect to revoking, unfreezing and delisting specified persons under UNSCR 1373 shall include, but are not limited to-

(a) ensuring compliance with the applicable legal principles relating to the delisting and unfreezing under this Act, its Regulations and the FATF international standards;

(b) conducting research on, and seeking to gather information about the whereabouts, status

and activities of the specified person or entity to determine whether the specified person or entity no longer meets the criteria for the designation as required by the UNSCR 1373;

(c) where-

(i) it is found that there are substantial changes in the facts and circumstances, such as, the death of a specified person or entity;

(ii) where the declaration against the person or entity has been made more than five years, consideration should be given for a recommendation to revoke the specified order made against such person or entity;

(iii) the Director shall provide a statement to the Minister responsible for Finance, with reasonable grounds for believing the criteria listing no longer exist, inclusive of the supporting evidence of findings; and

(iv) ensure that all measures are taken to protect the human rights of the specified persons as required by relevant FATF Recommendations.

(11) Without prejudice to subsection (6), the Director or a specified or listed person or entity that-

(a) considers that there have been substantial changes to the facts and circumstances surrounding its designation under UNSCR 1373; and

(b) there are no longer reasonable grounds to maintain targeted financial sanction against it,

may apply to the Court for a revocation of the specific order made against it.

(12) The provisions of subsections (6), (7) and (8) shall apply mutatis mutandis.

(13) Nothing in this section shall preclude the Attorney General at any time from—

(a) conducting a review of the circumstances relative to an order made under section 2 (2) to determine whether the circumstances referred to in subsections (2) (1) and (2) (1)A continue to exist in respect of the designated or listed entity;

(b) applying to a Judge for the variation or revocation of the order in respect of the listed entity if they determine that such circumstances no longer exist;

(c) submitting de-listing requests to the relevant United Nations Sanctions Committee in the case of persons and entities designated pursuant to the United Nations Sanctions Regimes who may no longer

meet the criteria for designation;

or

(d) based on-

(i) an order of the Court

(ii) a recommendation by the Director; or

(iii) a recommendation by the relevant United Nations Security Council Committee unfreeze the funds or other assets of a listed person or entity which does not, or no longer, meets the criteria for a declaration as a specified or listed person or entity under section 2(2) of this Act or any United Nations Security Council Resolution.

(14) Where –

(a) the Court revokes an order under section 2 (2); or

(b) where a listed person or entity has been de-listed by any of the United Nations Security Council Committees the Director shall inform the Attorney General.

(15) Where the Attorney General is informed pursuant to subsection (14), they

shall publish the decision of the Court or the delisting-

(a) electronically immediately; and

(b) in the *Official Gazette* and at least two daily newspapers in circulation in Guyana, as soon as possible direct any person or entity who had reported that they are holding funds or other assets of a listed or specified person or entity and were not dealing with the funds and other assets as required in section 68A and section 68E to recommence dealing with the funds and other assets.

(16) Where a person or entity affected by a freezing order based on section 2 (2), section 68A or section 68E applies to the Court for a revocation of the order in relation to the person's or entity's property, the Court shall revoke the freezing order in relation to the applicant if satisfied on evidence that the account or other property or the person's or entity's interest in it is not owned or held by or on behalf of a terrorist, terrorist organisation or someone involved in proliferation financing.

(17) Where a person or entity with the same or similar name as the listed person or

entity, is inadvertently affected by the freezing action pursuant to section 68A or 68E, the person or entity may apply to the Court for a revocation order to unfreeze the funds or other assets of the person or entity and upon verification that the person or entity.

(18) The Director of Public Prosecutions shall, where a judge makes, confirms, varies or sets aside an order under this section, or a related restraining order, cause notice of the decision to be published-

(a) electronically immediately; and

(b) in the *Official Gazette* and at least two daily newspapers in circulation in Guyana, as soon as possible.

(19) The Director shall publish without delay on the website of the Financial Intelligence Unit-

(a) any order, variation or revocation of order under section 2 (2), section 68A and section 68E;

(b) any listing or delisting of a specified or listed person or entity

(c) any notice published by the Attorney General or the Director of Public Prosecutions under subsections (15) or (18); or

(d) any other relevant information in relation to this section.

(20) A notice referred to in subsections (15), (18) and (19) shall contain sufficient particulars to enable any person, including any reporting entity, financial institution or non-financial business entity or professional, who may be affected by the decision, to be reliably and adequately informed of the decision."

(iv) by inserting immediately after subsection (2) (1) A the following-

"(2)(1)B The Minister responsible for Finance shall make a prompt determination of whether they are satisfied, based on the Director's recommendation, that the proposed designee meets the criteria for designation in UNSCR 1373.";

(v) in subsection (2)-

(A) by substituting "may, by order," with the words "shall by order, without delay and without notice,";

(B) inserting after the words "paragraph (1), the words "or paragraph (1)A,".

Amendment of section 7A of the Principal Act.

3. Section 7A of the Principal Act is amended in subsection (6) as follows –

(a) in paragraph (a) by inserting immediately after the word "develop", the words "and regularly review";

(b) in paragraph (b) by inserting immediately before the words "co-ordinate a national action plan", the words "co-ordinate actions to assess risks and".

Amendment of section 9 of the Principal Act.

4. Section 9(1) of the Principal Act is amended as follows-

(a) by deleting the ".";

(b) by inserting immediately after the words "proceeds of crime" the words "and associated serious offences.".

Amendment of section 15 of the Principal Act.

5. Section 15 of the Principal Act is amended as follows-

(a) in subsection (4)(a) by inserting immediately after the words "business relationship" the words "and understand the purpose and nature of the business relationship,";

(b) in subsection (4) (c) –

(i) by substituting for the words "legal entity" the words "body corporate, legal person or legal arrangement";

(ii) by substituting for the word "entity" the words "body corporate, legal person or legal arrangement";

(iii) by inserting immediately after (iii) the following subparagraph-

"(iv) understand the nature of the customer's business and its ownership and control structure, particularly if the customer is a body corporate, legal person or legal arrangement."

(c) by inserting immediately after subsection (11), the following subsections –

"(12) Where a reporting entity suspects that a transaction relates to money laundering, terrorist financing, or proliferation financing and that reporting entity believes that performing customer due diligence measures may tip-off the customer or potential customer to that suspicion, that reporting entity shall not perform the customer due diligence measures.

(13) Where a reporting entity is unable to perform customer due diligence in accordance with paragraph (12) that reporting entity shall, in lieu, file the necessary disclosure with the Financial Intelligence Unit.".

Amendment of section 16 of the Principal Act.

6. Section 16 of the Principal Act is amended as follows-

(a) in subsection (1)-

(i) in paragraph (b) by deleting immediately after the words "to be obtained;" the word "and";

(ii) by inserting immediately after paragraph (b), the following paragraph-

"(bb)" the supporting evidence and records of transactions (consisting of the original documents or copies admissible in court proceedings), provided that such records shall be sufficient to permit the

reconstruction of individual transactions; and";

(b) by inserting immediately after subsection (6), the following subsections as (6)A and (6)B–

"(6)A Reporting entities shall establish and maintain appropriate and risk-sensitive policies and procedures, approved by its supervisory body-

(a) the performance and documentation of any products or services (prior to launch) and the continual documentation of risk assessment and management of such products and services, are provided in a form which is available to share with competent authorities and supervisory authorities and

(b) risk mitigation mechanisms which include—

(i) consideration of the national risk assessment or of the reporting entity's risk assessment results or conclusions;

(ii) the ability to effectively supply information to the supervisory authority; and

(iii) the application of enhanced measures where the reporting entity's risk assessments identify a higher risk;

(c) the monitoring and management of compliance with and the internal communication of such policies and procedures in order to prevent activities

related to money laundering and terrorist financing.

(6)B Reporting entities shall take appropriate steps (including the use of risk mitigation mechanisms referred to in subsection (6)A(b) to-

(a) identify, assess and understand its money laundering and terrorist financing risks depending on the type of customers, business relationships, countries or geographic areas, services, delivery channels, products or transactions;

(b) shall document the risk assessments and keep them updated."

(c) by inserting immediately after subsection (7), the following subsection–

"(8) A reporting entity shall have systems in place enabling it to respond promptly to enquiries from a supervisory authority (in respect of a reporting entity under the supervisory authority's supervision), the Financial Intelligence Unit, the relevant competent authority or a police officer—

(a) whether it maintains, or has maintained during the previous seven years, a business relationship with any person; and

(b) the nature of that relationship.".

Amendment of section 17 of the Principal Act.

7. Section 17 of the Principal Act is amended in subsection (1) by substituting for the word "authorities" the words "activities or a national risk assessment".

Amendment of section 18 of the Principal Act.

8. Section 18 of the Principal Act is amended by inserting immediately after subsection (14), the following subsection (14)A –

"(14)A Notwithstanding subsection (14), this section is not intended to nor shall it inhibit group wide information sharing of the reporting entity's internal controls and procedures established under section 19 of this Act or its related Regulations, including with the reporting entity's foreign branches and subsidiaries.".

Insertion of new sections 20A, 20B and 20C.

9. The Principal Act is amended by inserting immediately after section 20, the following sections 20A, 20B and 20C –

"Batch files.

20A(1)Where several individual cross-border electronic funds transfer from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file shall contain -

(a) required and accurate originator information; and

(b) full beneficiary information,

that is fully traceable within the beneficiary country.

(2) In relation to subsection (1), financial institutions shall include the originator's account number or any unique transaction reference number.

Originator and beneficiary information required.

20B (1) Financial institutions shall not execute an electronic funds transfer, if that financial institution is not in receipt of the required originator

and beneficiary information under section 20 of this Act.

(2) Financial institutions shall only complete the electronic funds transfer when the required originator and beneficiary information referred to in subsection (1) is received.

Verification of beneficiary previously not identified.

20C (1) Where-

(a) an electronic funds transfer which is the subject of the equivalent of at least two hundred thousand dollars or more; and

(b) the identity of the beneficiary had not been previously verified,

the beneficiary financial institution shall verify the identity of the beneficiary and shall, for a period of at least seven years, keep records of the originator and beneficiary information obtained.".

Amendment of section 22 of the Principal Act.

10. Section 22 of the Principal Act is amended in subsection (1) as follows –

(a) by deleting the word "and";

(b) by inserting immediately after the words "20" the words –

"68A, 68B, 68C, 68D, 68F, 68G, 68H, 68I, 75A and 75B, and all other reporting entity obligations under this law".

Insertion of new sections 22A and 22B

11. The Principal Act is amended by inserting immediately after section 22, the following sections as 22A and 22B-

"Power to require information.

22A (1) Where in accordance with section 76, a supervisory authority of a financial institution is satisfied that assistance should be provided pursuant to a request by a supervisory authority of a financial

institution of another state, and that the request is in relation to information which is in the possession or under the control of a financial institution in Guyana, the supervisory authority, may by notice in writing served on such reporting entity—

(a) require the financial institution to furnish the supervisory authority with such information as the supervisory authority may require with respect to any matter relevant to the inquiries to which the request relates;

(b) require the financial institution to produce to it such document or documents of such description as it may specify;

(c) require the financial institution or any of its officers, servants or agents-

(i) to attend before the supervisory authority at a specified time and place; and

(ii) answer any questions on oath or otherwise furnish any information with respect to any matter relevant to the inquiries;

(d) require the financial institution to otherwise give the supervisory authority such assistance in connection with those inquiries as the financial institution may reasonably be able to give.

(2) Where documents are produced pursuant to this section, the supervisory authority may take copies from them.

(3) Nothing in this section shall require the disclosure or production by a person of information or documents which they would be entitled to refuse to disclose or produce on the grounds of legal professional privilege in proceedings in Guyana.

(4) Where any person claims a lien on a document, its production under this section is without prejudice to that lien.

Authority to conduct any exercise under section 22A.

22B (1) A supervisory authority of a financial institution may authorise any of its officers or any other competent person to exercise on its behalf, any of the powers conferred by section 22A.

(2) No such authority shall be granted except for the purpose of investigating—

(a) the affairs, or any aspect of the affairs, of a financial institution specified by the supervisory authority; or

(b) a subject matter specified by the supervisory authority,

being a financial institution who, or a subject matter which, is the subject of the inquiries being carried out by or on behalf of the foreign supervisory authority.".

Amendment of section 23 of the Principal Act.

12. Section 23 of the Principal Act is amended as follows–

(a) in subsection (1)-

(i) by deleting the word "and"

(ii) by immediately inserting after the word 20, the words –

"68A, 68B, 68C, 68D, 68F, 68G, 68H , 68I, 75A and 75B, and all other reporting entity obligations under this law";

(b) by inserting immediately after subsection (1), the following subsections as (1A), (1B), (1C), (1D) and (1E) -

"(1A) In addition to subsection 1 (e), a supervisory authority may suspend, cancel or revoke any permit, registration, licensing or any other authorisation it has issued, or take any other administrative penalty;

(1B) Where the supervisory authority has grounds for suspending, cancelling or revoking a permit or other authorisation issued under its respective powers, the supervisory authority shall issue a written notice to the reporting entity, providing the reasons for the decision, and may include in the notice, an obligation to pay-

(a) a fine not exceeding three million dollars for natural persons; or

(b) a fine not exceeding seven million dollars for body corporates;

(1C) Fines paid under section 1B shall be deposited into the Consolidated Fund;

(1D) If a person commits repeated violations of this Act, or the terms of any licence, registration, permit or other authorisation issued by the supervisory authority, the supervisory authority may recommend, to the Commercial Registry in writing with reasons, that the incorporation or business name of the reporting entity be revoked;

(1E) Upon receipt of such recommendation to revoke the incorporation or business name of the reporting entity, the Registrar of the Commercial Registry may suspend or revoke the incorporation or business name of the reporting entity within seven days.".

Amendment of section 24 of the Principal Act.

13. Section 24 of the Principal Act is amended as follows–

(a) in subsection (2) –

(i) by substituting the ":" for a ".";

(ii) by deleting the phrase "Provided that an order under this subsection may not require the production of banker's books.";

(b) by inserting after subsection (5), the following subsections as (6) and (7) –

"(6) For the purposes of this Part, "privileged material" means—

(a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;

(b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and

(c) material enclosed with or referred to in such communications and made—

(i) in connection with the giving of legal advice, or

(ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(7) Material or communication with the intention of furthering a criminal purpose, or to knowingly conceal a criminal enterprise, shall not be considered privileged material.".

Amendment of section 29 of the Principal Act.

14. Section 29 of the Principal Act is amended by inserting immediately after the word "magistrate" the words "justice of the peace".

Amendment of section 33of the Principal Act.

15. Section 33 of the Principal Act is amended in subsection (1) by inserting immediately after the words "the commission of" the words "a serious offence as listed in the Second Schedule,".

Amendment of section 37 of the Principal Act.

16. Section 37 of the Principal Act is amended as follows–

(a) in subsections (2), (3), (4), (5) and (7) by inserting immediately after the words "Judge in Chambers" the words "or magistrate";

(b) in subsection (8) by inserting immediately after the word "Judge'', the words "or magistrate".

Insertion of sections 37B and 37C into the Principal Act.

17. The Principal Act is amended by inserting immediately after section 37A, the following sections as 37B and 37C-

"Currency forfeiture application and order by the Magistrate's Court.

"37B (1) Subject to sections 37 or 37A, an application for the forfeiture of the whole or any part of it may be made to the Magistrate's Court by a person authorised by the Director of Public Prosecutions or the relevant Competent Authority.

(2) The Magistrate's Court may order the forfeiture of the currency, or any part of it, if satisfied that the currency or part—

(a) is obtained or derived from unlawful conduct; or

(b) is intended by any person for use in unlawful conduct.

(3) In the case of recoverable currency which belongs to joint proprietors, one of whom is an excepted joint owner, the order may not apply to so much of it as the Magistrate's Court thinks is attributable to the excepted joint owner's share.

(4) Where an application for the forfeiture of any currency is made under this section, the currency is to be detained (and may not be released under any power conferred by this Part) until any proceedings pursuant to the application (including any proceedings on appeal) are concluded.

(5) Where an officer of a relevant Competent Authority seizes unattended currency under section 37 or 37A, that officer may apply for immediate forfeiture of that currency.

Appeal against forfeiture.

37C (1) Any party to proceedings for an order for the forfeiture of currency under section 37A or section 37B, who is aggrieved by an order under that section or by the decision of the court not to make such an order, may appeal to the Court.

(2) An appeal under subsection (1) shall be made within the period of thirty days commencing on the date on which the order is made.

(3)An appeal under subsection (1) shall be by way of a rehearing by the Court which may make any order that it considers appropriate.

(4) If the Court upholds the appeal, it may order the release of the currency (and any interest accrued in the case of Cash) where the appeal is against an order for forfeiture.".

Amendment to section 38 of the Principal Act.

18. Section 38 of the Principal Act is amended as follows–

(a) in subsection (1) by inserting immediately after the words "Director of Public Prosecutions", the words "or relevant Competent authority";

(b) by inserting immediately after subsection (1), the following subsection (1A) –

"(1A) For the purposes of this section and sections 39 to 66, a reference to the Court means the Magistrate's Court or the High Court.".

Amendment to section 39 of the Principal Act.

19. Section 39 of the Principal Act is amended as follows–

(a) in subsections (1) and (1) (f) by inserting immediately after the words "Director of Public Prosecutions'", the words "or relevant Competent Authority";

(b) by inserting immediately after subsection (5), the following subsections as (6) (7) and (8) –

"(6) On the application of the Director of Public Prosecutions or the relevant Competent Authority, whether made as part of the application for the restraint order or subsequent thereto, the Court may make such order as it considers appropriate for ensuring the restraint order is effective.

(7) Where the Court has made a restraint order, a police officer, including an officer of the relevant Competent

Authority may seize and/or detain the property, for the purpose of preventing any property to which the order applies -

(a) from being removed from Guyana;

(b) from being concealed from the relevant Competent Authority;

(c) from being sold, gifted or otherwise dissipated; or

(d) from being destroyed.

(8) Property seized and/or detained under subsection (7) shall be dealt with in accordance with the Court's directions.".

Amendment to section 44 of the Principal Act.

20. Section 44 of the Principal Act is amended by substituting for subsection (6) the following –

"(6) An application to discharge or vary a restraint order, or an order made under section 39, may be made to the Court by the Director of Public Prosecutions, a relevant Competent Authority or by any person affected by the order, including innocent third parties.".

Amendment to section 45 of the Principal Act.

21. Section 45 of the Principal Act is amended in subsections (1) and (2) by inserting immediately after the words "Director of Public Prosecutions", the words "or relevant Competent Authority".

Insertion of a new section 45 A into the Principal Act.

22. The Principal Act is amended by inserting immediately after section 45, the following section as 45A –

"Hearsay evidence.

45A (1) Evidence shall not be excluded on the ground that it is hearsay, of whatever degree, in proceedings—

(a) for a restraint order;

(b) for a production order;

(c) for an application to discharge or vary a restraint order or production order;

(d) on an appeal against a restraint order or production order; or

(e) an order discharging or varying a restraint order or production order.

(2) For the purposes of this section, "hearsay" is a statement which is made otherwise than by a person while giving oral evidence in the proceedings and which is tendered as evidence of the matters stated.

(3) This section does not affect the admissibility of evidence which is admissible apart from this section.

(4) Notwithstanding subsection (1), where such hearsay evidence becomes admissible pursuant to this section, the Court shall determine its relevance, weight or truthfulness when making a determination in the proceeding.".

Amendment of section 46 of the Principal Act.

23. Section 46 of the Principal Act is amended in subsection (1) by inserting immediately after the words "Director of Public Prosecutions", the words "or relevant Competent Authority".

Amendment of section 54 of the Principal Act.

24. Section 54 of the Principal Act is amended in subsection (1) by inserting immediately after the words "Director of Public Prosecutions", the words "or relevant Competent Authority".

Amendment of section 56 of the Principal Act

25. Section 56 of the Principal Act is amended in subsections (1) (a) and (4) (b) by inserting immediately after the words "Director of Public Prosecutions", the words "or relevant Competent Authority".

Insertion of sections 57A and 57B into the Principal Act

26. The Principal Act is amended by inserting immediately after section 57, the following sections 57A and 57B-

"Balance of probabilities threshold.

57 A The Court shall determine any question arising under sections 54 -57 on a balance of probabilities.

Provision of information by defendant.

57B (1) For the purpose of obtaining information to help it in carrying out its functions under sections 54-57, the Court may at any time, order the defendant to submit the information specified in the order.

(2) An order under this section may require all or a specified part of the information to be given in a specified manner and before a specified date.

(3) If the defendant fails without reasonable excuse to comply with an order under this section the Court may draw such inference as it believes is appropriate.

(4) Subsection (3) does not affect any power of the Court to deal with the defendant in respect of a failure to comply with an order under this section.

(5) If the Director of Public Prosecutions or relevant Competent Authority accepts to any extent an allegation made by the defendant—

(a) in giving information required by an order under this section, or

(b) in any other statement given to the Court in relation to any matter relevant to determining the amount available to him or her the Court may treat the acceptance as conclusive of the matters to which it relates.

(6) For the purposes of this section, an allegation may be accepted in a manner ordered by the Court.

(7) The Court may, at any time, vary an order made under this section.

(8) No information given under this section which amounts to an admission by the defendant that they have benefited from criminal conduct is admissible in evidence in proceedings for an offence."

Amendment of section 59 of the Principal Act

27. Section 59 of the Principal Act is amended in subsections (3), (5) and (5) (a) by inserting immediately after the words "Director of Public Prosecutions", the words "or relevant Competent Authority".

Insertion of sections 60A, 60B, 60C and 60D into the Principal Act.

28. The Principal Act is amended by inserting immediately after section 60 the following sections as 60A, 60B, 60C and 60D –

"Time for payment.

60A (1) Unless subsection (2) applies, the full amount ordered to be paid under a confiscation order shall be paid on the day on which the order is made.

(2) If the court making the confiscation order is satisfied that the defendant is unable to pay the full amount on that day, it may make an order

requiring the outstanding or unpaid amount to be paid –

(a) in a specified period; or

(b) in specified periods each of which relates to a specified amount.

(3) A specified period –

(a) shall start with the day on which the confiscation is made; and

(b) shall not exceed three months.

(4) If –

(a) within any specified period the defendant applies to the Court for that period to be extended; and

(b) the Court is satisfied that, despite having made all reasonable efforts, the defendant is unable to pay the amount to which the specified period relates within that period,

the Court may make an order extending the period (for all or any part or parts of the amount in question).

(5) An extended period –

(a) shall start with day on which the confiscation order is made, and

(b) shall not exceed six months.

(6) An order under subsection (4) –

(a) shall be made after the end of the specified period to which it relates, but

(b) shall not be made after the end of the period of six months starting with the day on which the confiscation order is made

(7) Periods specified or extended under this section shall be such that, where the Court believes that a defendant will by a particular day be able –

(a) to pay the amount remaining to be paid; or

(b) to pay an amount towards what remains to be paid,

that amount is required to be paid no later than that day.

(8) The Court shall not make an order under subsection (2) or (4) unless it gives the Director of Public Prosecutions or the relevant Competent Authority an opportunity to make representations.

Interest on sums unpaid under pecuniary penalty order.

60B (1) If the amount required to be paid by a person under a pecuniary penalty order under section 54 is not paid when it is required to be paid, they shall pay interest on the amount unpaid for the period for which it remains unpaid at the rate for the time being applying to a civil judgment debt.

(2) The amount of interest payable under this section shall be treated as part of the amount to be paid under the confiscation order.

Application of procedure for enforcing payment under sections 54 -60.

60C (1) Where the Court or the Magistrate's Court orders the defendant to pay any amount under sections 54-60 of this Act, the order shall have effect as if that amount was a fine imposed on the defendant by the Court.

(2) Where the whole or any part of the sum ordered to be paid is not paid when required by the Court or the Magistrate's Court as the case may be, the Court or the Magistrate's Court may in respect of default, impose a term of imprisonment of no less than one year or no more than ten years.

(3) Where—

(a) a warrant of commitment is issued for a default in payment of an amount ordered to be paid under this Act in respect of any offence or offences; and

(b) at the time the warrant is issued, the defendant is

liable to serve a term of custody in respect of the offence or offences,

the term of imprisonment to be served in default of payment of the amount shall not begin to run until after the term mentioned in paragraph (b) has been served.

(4) If, under a power granted by this Act, the Court or the Magistrate's Court varies a pecuniary penalty order and the effect is to reduce the maximum period of imprisonment specified in this section—

(a) if, as a result, the maximum period of imprisonment is less than the term of imprisonment imposed by the Court or the Magistrate's Court as the case may be, the Court or Magistrate's Court shall impose a reduced term of imprisonment; or

(b) if paragraph (a) does not apply, the Court or Magistrate's Court may amend the term

of imprisonment imposed.

(5) If, under a power granted by this Act, the Court or Magistrate's Court varies a pecuniary penalty order and the effect is to increase the maximum period of imprisonment specified in this section, the Court or magistrate's Court may on the application of the Director of Public Prosecutions or the relevant Competent Authority, amend the term of imprisonment imposed.

(6) Where the defendant serves a term of imprisonment in default of paying any amount due under a pecuniary penalty order, his serving that term does not prevent the pecuniary penalty order from continuing to have effect, so far as any other method of enforcement is concerned.

(7) This section applies in relation to pecuniary penalty order orders made by the Court of Appeal, in its appellate jurisdiction, as it applies in relation to confiscation orders made by the Court or the Magistrate's Court.

Court may order payment by a financial institution.

60D (1) This section applies to money which –

(a) is held by a person; and

(b) is held in an account maintained by a person with a financial institution.

(2) This section applies if the following conditions are satisfied –

(a) a pecuniary penalty order is made against the person by whom the money is held; and

(b) a receiver has not been appointed under section 62;

(3) In such a case, the Court may order the financial institution to pay the money to the Court on account of the amount payable under the pecuniary penalty order.

(4) If a financial institution fails to comply with an order under subsection (3) it commits an offence against this section.

(5) A person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding five million dollars.

(6) Where by this section, a financial institution is required, by a specified time-

(a) to take a certain measure or action; or

(b) to cease a particular activity, behaviour or practice,

and the Court is satisfied that the financial institution has failed to do so, the Court may impose on the institution, in addition to the fine specified in subsection (5), an additional penalty of $500 000 for every day or part of a day that

the institution failed to take the measure or action or cease the particular activity, behaviour or practice.

(7) The penalty referred to in subsection (6)-

(a) may be imposed from the day following the day by which the financial institution was supposed to have taken the measure or action or ceased the particular activity, behaviour or practice; and

(b) shall not be imposed in respect of a period of more than 30 days."

Amendment of section 66 of the Principal Act.

29. Section 66 of the Principal Act is amended by substituting for section 66 the following -

"66. The provisions of sections 38 to 64 (inclusive) apply to any property determined by the Court to be tainted property or the proceeds of crime.".

Insertion of new sections 66A, 66B, 66C, 66D and 66E into the Principal Act.

30. The Principal Act is amended by inserting immediately after section 66, the following sections as 66A, 66B 66C, 66D and 66E-

"Time frame that may be considered for recoverable property.

66A (1)- For the purposes of determining whether property was recoverable at any time, including times before the commencement date of this Act, this Part is deemed to have been in force at that time and at any other relevant time.

(2) "Court" under this Part refers to a High Court or Magistrate Court of competent jurisdiction applying *mutatis mutandis*.

National Forfeiture Fund.

66B (1) The Minister responsible for Finance shall, by order, establish a fund to be known as the National Forfeiture Fund.

(2) There shall be paid into the Forfeiture Fund—

(a) all money recovered under a criminal forfeiture order or confiscation order or under a forfeiture order made under this Act or any other law in Guyana;

(b) all money recovered under a recovery order;

(c) all cash forfeited under section 37 or under section 6 of the Foreign Exchange (Miscellaneous Provisions) Act;

(d) all money paid to the Government by a foreign jurisdiction in respect of confiscated or forfeited assets;

(e) money forfeited or delivered as result of a confiscation or forfeiture order under any other law of Guyana; and

(f) such other monies as may be specified in the Anti-Money

Laundering/Countering the Financing of Terrorism Regulations.

(3) The Minister responsible for Finance shall, on the recommendation of the Committee, authorise payments to be made out of the Fund—

(a) to meet the costs and expenses of the Committee;

(b) to satisfy any obligation of the Government to a foreign Government or with respect to confiscated asset;

(c) to meet the costs and expenses of a receiver appointed under this Act;

(d) to meet the costs of special investigations into the misuse of the financial system for money laundering, terrorist financing, proliferation financing or other financial crime; and

(e) to pay costs or compensation awarded under this Act.

(4) From the amount remaining in the Forfeiture Fund after the satisfaction of the payments prescribed by subsection (3), the Minister responsible for Finance shall order such amount to be allocated to the Consolidated Fund, by such intervals to be determined by the Minister responsible for Finance.

Administration of Forfeiture Fund.

66C (1) The Forfeiture Fund shall be held and administered by the Committee.

(2) The Committee shall open and maintain an account with a bank authorised by the Minister responsible for Finance, into which all monies payable to the Forfeiture Fund shall be paid.

Financial year of Forfeiture Fund.

66D (1) The financial year of the Forfeiture Fund ends on December 31st in each year.

(2) The Committee shall-

(a) keep proper records of the money paid into and out of the Fund and of investments made pursuant to section 66B (3); and

(b) ensure that—

(i) all money received is properly brought to account;

(ii) all payments are correctly made and properly authorised; and

(iii) adequate control is maintained over the assets of the Forfeiture Fund.

(3) The financial records kept under subsection (2) shall—

(a) be sufficient to show and explain all transactions relating to the Forfeiture Fund;

(b) enable the financial position of the Forfeiture Fund to be determined with reasonable accuracy at any time; and

(c) be sufficient to enable financial statements to be prepared and audited in accordance with this section.

(4) Within two months after the end of each financial year, the Committee shall prepare—

(a) financial statements containing—

(i) a statement of the assets of the Forfeiture Fund at the end of the

financial year; and

(ii) a statement of the money received into the Forfeiture Fund and the payments made out of the Forfeiture Fund during the financial year;

(b) such other financial statements for the financial year as may be specified by the Minister responsible for Finance; and

(c) proper and adequate explanatory notes to the financial statements prepared under paragraphs (a) and (b).

Audit of financial statements and annual report.

66E (1) The Committee shall cause the financial statements prepared under section 66D to be audited and certified by an auditor, to be appointed annually by the Minister responsible for Finance, after consultation with the Committee within three months after the end of the financial year.

(2) The auditor appointed under subsection (1) may be the Auditor General or such other suitably qualified person.

(3) The auditor shall prepare a report of his or her audit of the financial statements of the Forfeiture Fund which shall include statements as to whether, in his or her opinion—

(a) they have obtained all the information and explanations necessary for the purposes of the audit; and

(b) to the best of his or her information and according to the explanations given to him, the financial statements give a true and fair view of—

(i) the assets of the Forfeiture Fund as at the end of the financial year; and

(ii) the money received into the

Forfeiture Fund and the payments made out of the Forfeiture Fund during the financial year.

(4) Within six months after the end of each financial year, the Committee shall prepare and submit to the Minister responsible for Finance, a copy of the audited financial statements, which shall include the report of the auditor on the financial statements.

(5) The Minister responsible for Finance shall, as soon as reasonably practicable after their receipt, lay a copy of the audited financial statements, together with the auditor's report, before the Parliament.".

Amendment to section 67 of the Principal Act.

31. Section 67 of the Principal Act is amended in subsection (4) by inserting immediately after the words "Judge in Chambers", the words "or magistrate".

Amendment to section 68 of the Principal Act.

32. Section 68(2) of the Principal Act is amended by substituting for subsection (2) the following subsection-

"(2) An offence under this section is committed whether or not the funds or other assets or property were actually used to carry out or attempt a terrorist act or linked to a specific terrorist act and regardless of whether

the person alleged to have committed the offence is in the same country, or a different country from the one in which the terrorist or terrorist organisation is located or the terrorist act occurred or may occur.".

Amendment to section 68A of the Principal Act.

33. Section 68A of the Principal Act is amended as follows –

(a) in subsection (1), by inserting immediately after the words "United Nations Security Council Resolution 1267 and its successor resolutions", the words "and a person or entity designated by the 1988(2011) Committee and its successor resolutions";

(b) in subsection (2) (d), by inserting immediately after the word "entity;", the word "or";

(c) by inserting immediately after subsection (2) (d), the following subsection –

"(e) make any property, funds and other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities, available for the benefit of a designated, specified or listed person or entity."

(d) by inserting immediately after subsection (3), the following subsections (3)A and (3)B-

"(3)A Property referred to in subsection (3) shall also include-

(a) all property, funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat;

(b) those funds, property or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and

(c) the funds, property or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as property, funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

(3)B (1) Where a person or entity has determined that they are in possession or control of property, funds or other assets referred to in subsections (3) and (3)A, that person or entity shall, without prior notice and without delay, freeze all the property held by it in relation to the listed person or entity.

(2) For the purpose of this section, and section 68E, the term "freeze" means to prohibit the transfer, conversion, disposition or movement of any funds or other assets that are owned or controlled by a listed person or entity on the basis of, and for the duration of the validity of, an action initiated by United Nation Security Council or in accordance with UNSCRs 1373, 1267, 1988 and 1718 and their successor resolutions.

(3) For the purpose of this section, and section 68E, the term 'deal' means to engage in a business transaction with a listed person or entity thereby allowing for the exchange or transfer of funds or other assets."

(e)in subsection (5) (a), by inserting immediately after the words "by telephone", the words "or by any means necessary,".

Amendment to section 68C of the Principal Act.

34. Section 68C of the Principal Act is amended by inserting immediately after the word "determined" the words "by order of the Court".

Amendment to section 68D of the Principal Act.

35. Section 68D of the Principal Act is amended as follows-

(a) in subsections (1), (2), (3) and (4) by substituting for the words "Minister responsible for Legal Affairs" the word "Court";

(b) in subsection (3), by substituting for the words "the Minister shall" the words "the Court shall".

Amendment to section 68E of the Principal Act.

36. Section 68E of the Principal Act is amended as follows –

(a) in subsection (2) (d)–

(i) by substituting for the "." a ";";

(ii) by inserting immediately after the word "entity;", the word "or";

(iii) by inserting immediately after subsection (2) (d), the following paragraph –

"(e) make any property, funds and other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities, available for the benefit of a designated, specified or listed person or entity."

(b) by inserting immediately after subsection (3), the following subsections (3) A and (3) B-

"(3)A Property referred to in subsection (3) shall also include-

(a) all property, funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat;

(b) those funds, property or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities;

(c) the funds, property or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by

designated persons or entities, as well as;

(d) property, funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

(3) B Where a person or entity has determined that they are in possession or control of property, funds or other assets referred to in subsections (3) and (3) A, that person or entity shall, without prior notice and without delay, freeze all the property held by it in relation to the listed person or entity."

(c) in subsection (5) (a) by inserting immediately after the words "by telephone", the words "by any means necessary,".

Amendment to section 68F of the Principal Act.

37. Section 68F of the Principal Act is amended in subsections (2) (a), (2) (b) and (2) (c) by substituting for the words "person or entity" the word "Court".

Amendment to section 68H of the Principal Act

38. Section 68H of the Principal Act is amended as follows–

(a) in subsections (1), (2), (2)(a), (2) (c) and (3) by substituting for the word "Minister" the word "Court";

(b) in subsection (2) (b) by substituting for the word "Minister's" the word "Court's".

Insertion of new sections 75A, 75B, 75C and 75D into the Principal Act.

39. The Principal Act is amended by inserting immediately after section 75 the following sections as sections 75A, 75B, 75C and 75D –

"Proliferation Financing.

75A(1) Proliferation financing takes place when a person –

(a) makes available an asset;

(b) provides a financial service; or

(c) conducts a financial transaction,

and the person knows that, or is reckless as to whether, the asset, financial service or financial transaction is intended, in whole or in part, to facilitate any of the activities specified in subsection (2), regardless of whether the specified activity occurs or is attempted.

(2) The activities referred to in subsection (1) are –

(a) the manufacture, production, possession, acquisition, stockpiling, storage, development, transportation, sale, supply, transfer, export, transshipment or use of –

(i) nuclear weapons;

(ii) chemical weapons;

(iii) biological weapons; or

(iv) materials related to nuclear weapons, chemical weapons, biological weapons or radiological weapons that are prescribed by regulations or restricted or prohibited under any enactment relating to export or

import controlled measures;

(b) the provision of technical training, advice, service, brokering or assistance related to any of the activities mentioned in paragraph (a).

"Offence of proliferation financing.

75(B) (1) Any person who commits proliferation financing commits an offence.

(2) Any person who-

(a) facilitates ;

(b) conspires to commit; or

(c) aids and abets proliferation financing,

commits an offence.

(3) A person who contravenes subsection (1) is liable to a fine of no less than one hundred million dollars or no more than five hundred million dollars or to imprisonment for life or to both.

(4) A person who contravenes subsection (2) is liable for a fine of no less than fifty million dollars or no more than five hundred million dollars or to imprisonment for life or to both.

Interpretation.

75C (1) In this section –

"listed person or entity" means-

(a) a person or entity specified in section 2(2) by the Minister

responsible for Finance pursuant to United Nations Security Council Resolution 1373 and its successor resolutions and a person or entity designated by the United Nations Security Council pursuant to United Nations Security Council Resolution 1267 and its successor resolutions and a person or entity designated by the 1988(2011) Committee and its successor resolutions or

(b) an individual, entity or vessel included in a list established by, or under the authority of, the United Nations Security Council as a list of individuals, entities or vessels against which measures for the prevention, suppression and disruption of the proliferation of weapons of mass destruction and its financing are required to be taken;

"related State actor" means an individual, entity or government which has been identified by or under the authority of the United Nations Security Council as an individual, entity or government against which measures for

the prevention, suppression and disruption of the proliferation of weapons of mass destruction and its financing are required to be taken.

(2) Where –

(a) the Minister responsible for Finance makes an order under section 2 in relation to a listed person or entity;

(b) the person or entity is included in a list of individuals and entities designated by, or under the authority of, the United Nations Security Council as terrorists or terrorist organisations or persons or entities involved or suspected to be involved in proliferation financing; or

(c) any person or entity involved or suspected to be involved in proliferation financing as recommended by the Director on reasonable grounds,

the Director of Public Prosecutions shall, at the same time, apply to a Judge for an order to-

(i) freeze any-

(A) property of the person or entity

against whom the order is made;

(B) property that is wholly or jointly owned or controlled, directly or indirectly, by the person or entity against whom the order is made;

(C) property that is derived or generated from other property owned or controlled, directly or indirectly, by the person or entity against whom the order is made;

(D) property of a person or entity acting on behalf of, or at the direction of, the person or entity against whom the order is made,

where such property is situated in Guyana; and

(ii) prohibit the person or entity against whom the order is made, directly or indirectly, from possessing,

controlling or having access to any property.

(3) The Director of Public Prosecutions shall, without delay, apply to a judge in Chambers for a restraining order or a freezing order, to freeze all property-

(a) of a related State actor;

(b) a person controlled by a related State actor; or

(c) a person acting on behalf of, or at the direction of, a related State actor,

which is associated with any act, plot, threat or programme connected with the proliferation of weapons of mass destruction and is situated in Guyana.

Issuance and publication of orders in relation to proliferation financing.

75D. (1) The Judge shall, without delay, issue a restraining order or a freezing order where the requirements for the making of the restraining order or a freezing order under this Act are satisfied.

(2) The Director of Public Prosecutions shall, where a judge makes, confirms, varies or sets aside an order under this section, or a related restraining order, cause notice of the decision to be published-

(a) electronically immediately; and

(b) in the *Official Gazette* and at least two daily newspapers in circulation in

Guyana, as soon as possible.

(3) A notice referred to in subsection (2) shall contain sufficient particulars to enable any person, including any reporting entity, financial institution or non-financial business entity or professional, who may be affected by the decision, to be reliably and adequately informed of the decision.

"Call by the FATF.

75E. (1) The Minister responsible for Finance shall, by order, issue a directive to any person, including a reporting entity, body corporate, legal person or legal arrangement carrying on business in or from Guyana if—

(a) the Financial Action Task Force or the Caribbean Financial Action Task Force, has advised that measures should be taken in relation to a country, because of the risk of money laundering, terrorist financing or proliferation financing activities being carried on—

(i) in the country;

(ii) by the government of the country, or

(iii) by persons resident or incorporated in the country; or

(b) the Minister responsible for Finance reasonably believes that there is a risk

that money laundering, terrorist financing or proliferation financing activities are being carried on—

(i) in any country,

(ii) by the government of any country, or

(iii) by persons resident or incorporated in any country,

and that this poses a significant risk to the national interests of Guyana.

(2) A directive under this section may be given to—

(b) a particular person, reporting entity, body corporate, legal person or legal arrangement;

(c) any description of persons, reporting entities, body corporates, legal persons or legal arrangements; or

(d) all persons, reporting entities, body corporates, legal persons or legal arrangements.

(3) The requirements imposed by a directive shall be proportionate to the seriousness of the risk, having regard to the advice mentioned in subsection (1)(a) or to the risks mentioned in subsection (1)(b), as the case may be.

(4) A directive may include, but not be limited to, instructions to –

(a) customer due diligence or enhanced due diligence;

(b) ongoing monitoring;

(c) systematic reporting; or

(d) limiting or ceasing business.

Amendment of section 76 of the Principal Act.

40. Section 76 of the Principal Act is amended as follows–

(a) in subsection (1) by inserting immediately after the word "provide", the word "timely";

(b) in subsections (1), (2) and (3) by inserting immediately after the words "money laundering offences'', the words ",proliferation financing offences";

(c) by inserting immediately after subsection (6), new subsections (7), (8), (9), (10), (11), (12), (13), (14), (15) and (16) -

"(7) Any competent authority with the responsibility for the management and execution of requests, whether incoming or outgoing, for any type of mutual legal assistance-

(a) shall have a clear case management system and

(b) that case management system shall efficiently track and monitor the progress of mutual legal assistance requests from receipt to execution of response.

(8) Competent authorities shall have clear and secure mechanism, gateways and channels for the transmission of information, which include

(a) the use of sealed envelopes;

(b) dedicated secured electronic communication gateways; and

(c) any other administrative method that preserves the confidentiality and integrity of the information.

(9) No person who receives a request; or obtains information directly or indirectly, shall disclose the request or the information to another person, except in accordance with this Act.

(10) Notwithstanding subsection (6), competent authorities may share information with competent authorities of another state spontaneously or upon request, provided that the requesting competent authority has provided an undertaking that-

(a) the confidentiality of the information requested will be protected;

(b) that the information will be utilised for the purpose for which it was provided; and

(c) unless provided by prior consent;

(i) there will be no dissemination of the information to other competent authorities or third parties; and

(ii) the use of the information shall not be used beyond that originally approved.

(11) Where the written consent is obtained to disclose to a third party, any information which is shared pursuant to this section, the competent authority requesting to do so, shall ensure that

(a) adequate warning and notice is given to the third party;

(b) the third party is informed of the restrictions surrounding its use and dissemination of the information; and

(c) the third party provides an undertaking to abide by these restrictions.

(12) Where the requesting competent authority of another state is unable to protect the information effectively, competent authorities shall refuse to provide the information requested, until it is satisfied, on reasonable basis, that the requesting competent authority of that state can protect the information effectively.

(13) International cooperation and exchange of information with other overseas supervisory

authorities and overseas relevant competent authorities, where relevant, shall also include any matter relating to virtual assets, crypto assets and virtual asset service providers.

(14) Competent authorities shall monitor the quality of assistance they receive from other countries in response to requests for-

(a) basic and beneficial ownership information; or

(b) assistance in locating beneficial owners residing abroad.

(15) Competent authorities shall-

(a) have clear processes for the prioritisation and timely execution of requests;

(b) respond to requests for feedback from overseas competent authorities who rendered assistance in a timely manner;

(c) ensure that agreements or arrangements are executed with the widest range of foreign counterparts;

(d) negotiate and sign agreements or create arrangements in a timely manner;

(e) conduct inquiries on behalf of foreign counterpart competent authorities; and

(f) exchange with their foreign counterpart competent authorities all information that would be obtainable by the competent authority, if such inquiries were being carried out domestically.

(16) For the purpose of this section, 'competent authorities' include all public authorities referred to in section 7A(7) of this Act, and also include-

(a) the Ministry with responsibility for Legal Affairs;

(b) the Ministry with responsibility for National Security or Home Affairs or Central Authority;

(c) the Commercial and Deeds Registry;

(d) the Wildlife Conservation and Management Commission;

(e) the Integrity Commission;

(f) relevant competent authorities including the Customs Anti-Narcotics Agency, the Guyana Police Force, Immigration

Services, the Special Organised Crime Unit and the Guyana Defence Force;

(g) the Committee; and

(h) any other authority or institution as designated by the Minister by order.".

Amendment of section 108 of the Principal Act.

41. Section 108 of the Principal Act is amended by inserting immediately after the words "money laundering", the words ", proliferation financing".

Insertion of new sections 109 and 110A

42. The Principal Act is amended by inserting immediately after section 108, the following sections 109A and 110A –

"Role of the Special Organised Crime Unit.

109A (1) The Special Organised Crime Unit shall be a semi-autonomous unit within the Guyana Police Force, with the specialist functions of, inter alia-

(a) investigating money laundering, terrorism, terrorism financing proliferation financing offences and related serious offences;

(b) prosecuting money laundering, terrorism, terrorism financing, proliferation financing offences and related serious offences;

(c) the restraining, confiscating, seizure, detention and forfeiting of tainted property and proceeds of crime;

(d) cooperating, collaborating and engaging with information gathering, sharing and exchange with any supervisory authority, competent authority, relevant competent authority, Ministry, Agency and any other authorised person or body in Guyana;

(e) collaborating with the Guyana Police Force, the Guyana Defence Force, the Customs Anti-Narcotics Unit, the Financial Intelligence Unit, the Director of Public Prosecutions and any other relevant Competent Authority or agency with regards to the investigation and prosecution of unlawful conduct under the Anti-Terrorism and Terrorist Related Activities Act;

(f) forming joint investigative teams to conduct cooperative investigations, including with relevant competent authorities of another state;

(g) establishing, in a timely manner, bilateral or multilateral arrangements to enable joint investigations or any necessary operations in cooperation with relevant competent authorities of another state when required;

(h) assist, as well as request assistance, from domestic and overseas supervisory authorities and overseas relevant competent authorities with requests to to identify, freeze, seize or confiscate proceeds of crime, including property or currency;

(i) performing any required functions under section 76 of this Act;

(j) establishing-

(i) Standard Operating Procedures;

(ii) a system to collect and maintain comprehensive statistics on money laundering, terrorist financing and proliferation financing investigations, prosecutions and convictions; and

(iii) a system to collect and maintain maintaining comprehensive statistics on confiscation and asset forfeiture;

(k) management of seized and detained assets;

(l) sharing of assets seized, where necessary, with overseas relevant competent authorities, whether or not confiscation is directly or indirectly a result of coordinated law enforcement actions; and

(m) any other function as required to effectively perform its mandate.

(2) Officers of the Guyana Police Force who are employed within the Special Organised Crime Unit shall retain all police powers as prescribed under the Police Act.

Cap. 16:01

(3) The Head of the Special Organised Crime Unit shall be a senior police officer who would have at least achieved the rank of Superintendent.

Establishment of the Guyana Compliance Commission.

110A. (1) There is established a Commission to be known as the Guyana Compliance Commission, which shall be the designated supervisor for select designated non-financial businesses and professions, and other reporting entities as determined by the Minister responsible for Finance for anti-money laundering/countering the financing of terrorism/countering proliferation financing compliance purposes.

(2) The functions and responsibilities of the Guyana Compliance Commission are provided in the Guyana Compliance Commission Act.".

Insertion of a new section 112A.

43. The Principal Act is amended by inserting immediately after section 112, the following-

"Ability to accept Forensic Accountant or Financial Analyst Reports as Expert Reports.

112A. The Court may accept the report of a Forensic Accountant or Financial Analyst as an Expert Report in relation to any proceeding under this Act.".

Amendment to the First Schedule.

44. The First Schedule to the Principal Act is amended as follows –

(a) by substituting the words "Used car dealers or car parts dealers" for the words "Auto dealers";

(b) by inserting immediately after the item "Cooperatives", the item "Commissioners of Oaths to Affidavits";

(c) by inserting immediately after paragraph (m), the following-

"(m)A engaging in the activity or business of providing access to financial inclusion products, including providing access to affordable financial products or services to meet the needs of individuals and business who, in the general course of business, are otherwise disadvantaged or excluded from access to the financial services or products through the regular financial system, including payment service provider licensed under the National Payments System Act 2018.";

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(d) by inserting the following as paragraph (n)-

engaging in the activity or business of providing a payment service or product under a licence the National Payments System Act 2018;

(e) renumbering paragraph (n) as paragraph (o);

(f) by inserting immediately after the word "pawn-broking" the words "and Money Lenders";

(g) by inserting immediately after the words "Venture risk Capital" the words 'Virtual Assets and Virtual Assets Service Providers and any other person, body corporate, legal person or legal arrangement involved in dealing with virtual assets, digital assets and crypto-assets.

Amendment to the Second Schedule.

45. The Second Schedule to the Principal Act is amended by inserting immediately after the item "Piracy", the item "Proliferation Financing".

Amendment to the Fourth Schedule.

46. The Fourth Schedule to the Principal Act is amended by inserting immediately under the item "Cooperatives", the following columns -

First Column	Second Column
Auto Dealers	Supervisory Authority appointed by the Minister responsible for Finance
Attorneys-at-Law	Guyana Compliance Commission
Accountants	Guyana Compliance Commission
Auditors	Guyana Compliance Commission

Commissioners of Oaths to Affidavits'	Guyana Compliance Commission
Non-Financial Trust and Company Service Providers	Guyana Compliance Commission
Real Estate Agents, Brokers, Dealers, Valuers and Housing Developers	Real Estate Agents Authority
Money Lenders	Supervisory Authority appointed by the Minister responsible for Finance
Virtual Assets and Virtual Assets Service Providers	Supervisory Authority appointed by the Minister responsible for Finance
Financial Inclusion and Payment Service Providers and Operators	The Governor of the Bank of Guyana appointed under the Bank of Guyana Act.

Insertion of a Fifth Schedule.

47. The Principal Act is amended by inserting the following Schedule as the Fifth Schedule-

FIFTH SCHEDULE

(section 4)

1. REPORTING THRESHOLD APPLICABLE TO GAMING SECTOR

(lotteries, casinos, betting shops, including a person who carries on such a business through the internet)

All persons licensed to conduct casinos under the Gambling Prevention Act, and lotteries, shall report all transactions of its customers equal to or above $500,000 Guyana Dollars or more as may be determined by the Minister responsible for Finance.

All persons licenced to conduct betting shops under the Tax Act shall report all transactions of its customers equal to or above $500,000 Guyana Dollars or more as may be determined by the Minister responsible for Finance.

2. REPORTING THRESHOLD APPLICABLE TO PAWNBROKERS

Every Pawnbroker and Money Lender shall report all transactions of its customers involving $300,000 Guyana Dollars or more.

3. REPORTING THRESHOLD APPLICABLE TO CREDIT UNIONS

All Credit Unions shall report all transactions of its customers involving $500,000 Guyana Dollars or more.

Amendment to other Acts.

48. The Acts mentioned in the Schedule shall be amended in the manner and to the extent described in that Schedule.

Schedule

SCHEDULE **sec. 48**

Acts	**Amendments**
Combatting of Trafficking in Persons Act, No. 7 of 2023.	(a) Section 2 is amended by inserting immediately after the item "purposes of exploitation" the following items – "migrant" refers to a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons; "migrant smuggling" or 'smuggling of migrants' means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into- (i) Guyana; or (ii) any State party to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime of which the person is not a national or a permanent resident' and shall mean all conduct criminalised under section 12A of this Act; (b) By inserting after section 14, the following sections as new sections 14A and 14B- "Migrant smuggling. 14A (1) -Any person who arranges for an unauthorised migrant to enter Guyana or any

	other country, commits an offence if that person- (a) does so for a material benefit; and (b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant. (2) Any person who arranges for an unauthorised migrant to be brought to Guyana or any other country, commits an offence if that person- (a) does so for a material benefit; and (b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant; and (c) either — (i) knows that the person intends to try to enter Guyana or any other country; or (ii) is reckless as to whether the person intends to try to enter the Guyana or any other country. (3) Any person who intentionally, in order to obtain directly or indirectly a financial

	or other material benefit, produces, procures, provides or possesses a fraudulent travel or identity document for the purpose of enabling the smuggling of migrants, commits an offence. (4) Any person who intentionally, in order to obtain directly or indirectly a financial or material benefit, uses illegal means to enable a person who is not a national or a permanent resident to remain in the Guyana or another country without complying with the necessary requirements for legally remaining in the Guyana or another country, commits an offence. (5) Any person who attempts to commit an offence under this section commits an offence. (6) Any person who participates as an accomplice to an offence under subsections (1) to (5) above where this involves producing a fraudulent travel or identity document, commits an offence. (7) Any person who organises or directs another person or persons to commit an offence under this section, commits an offence. (8) A natural person who contravenes this section commits an offence and shall be liable on conviction - (a) to a fine of not less than two million

		dollars nor more than fifty million dollars and to imprisonment for five years; or (b) to both. (9) A body corporate which contravenes this section commits an offence and shall be liable on conviction a fine of not less than ten million dollars nor more than two hundred million dollars; (10) Proceedings may be brought under the section even if the unauthorised migrant did not in fact enter Guyana, or the country concerned. (11) Proceedings may be brought under this section even if the unauthorised migrant was not in fact brought to the State concerned.
	Offence by a body corporate.	14B. Where an offence under the provisions of section 14A is committed by a body of persons, whether corporate or unincorporated, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as director, manager, secretary or other similar officer, or was purporting to act in such capacity, is guilty of that offence, unless that person adduces evidence to show that the offence was committed without his knowledge, consent or connivance and that they exercised all due diligence to prevent the commission of the offence.".

Anti-Terrorism and Terrorist Related Activities Act, No. 15 of 2015	(a) By inserting after section 54, the following sections as 54A and 54B–
"Anti-Terrorism Unit	54A. (1) There is hereby established, a Unit within the Guyana Police Force, known as the Special Branch Anti-Terrorism Unit, which shall be responsible for investigations and intelligence gathering on matters related to terrorism, in conjunction with the officers of the Guyana Police Force, the Special Organised Crime Unit and any other relevant competent Authority as determined by the Minister. (2) The Special Branch Anti-Terrorism Unit shall- (a) collect, collate and analyse terrorism-related intelligence, including the collection of comprehensive statistics on terrorism; (b) disseminate to investigatory authorities such intelligence concerning any suspicious person or activity or terrorism-related offence including

	terrorist financing and proliferation financing offences; (c) transmit terrorism-related information to the Commissioner of Police; (d) educate the public against terrorism; and (e) enlist and foster public support in combating terrorism. (3) Officers of the Guyana Police Force who are employed within the Special Branch Anti-Terrorism Unit shall retain all police powers as prescribed under the Police Act. (4) The Head of the Special Branch Anti-Terrorism Unit shall be a senior police officer who would have at least achieved the rank of Superintendent. (5) The Minister may, on the recommendation of the Commissioner of Police–

		(a) designate such public officers as may be necessary to assist the Special Branch Anti-Terrorism Unit; or (b) enlist, as may be necessary, the services of suitable counterterrorism experts to advise the Special Branch Anti-Terrorism Unit. (6) Any officer designated or expert enlisted under subsection (1) shall be under the administrative control of the Commissioner of Police.
	"Anti-Terrorism Task Force.	54B. (1) There is hereby established, a Committee known as an Anti-Terrorism Task Force, which shall comprise of the following members – (a) The Minister or his or her designate; (b) The Attorney General or his or her designate; (c) The Head of the Special Branch Unit or their designate; (d) The Head of the Special Organised Crime Unit or their designate;

	(e) Director of the National Intelligence and Security Agency or their designate; (f) The Director of Public Prosecutions or their designate; and (g) The Director of the Financial Intelligence Unit or their designate. (2) The Anti-Terrorism Task Force may invite to any of its meetings persons from competent authorities, supervisory authorities or reporting entities to attend to and participate in discussions of any of its meetings. (3) The functions of the Anti-Terrorism Task Force shall be to- (a) develop national anti-terrorism policies and strategies informed by the risks identified; (b) ensure effective mechanisms are in place which facilitate cooperation and where appropriate, co-ordination among policy makers regarding counter terrorism and (c) any other functions as are necessary for the purposes of this Act.".

Evidence Act, Cap. 503	(a) By substituting for section 11, the following section as section 11 – "11. In any cause or matter in which a bank is not a party, that bank or an officer of that bank, is not compellable to produce any banker's book or appear as a witness to prove the matters, transaction and accounts therein recorded, except- (a) by order of a Court made for special cause; (b) pursuant to a summons issued by the Integrity Commission established by the Integrity Commission Act; or (c) by order of the Court under section 24 of the Anti-Money Laundering/Countering the Financing of Terrorism Act." Cap. 10:11 (b) Section 16 is amended by inserting immediately after subsection (6), the following subsection – "(7) The Court may accept the report of a Forensic Accountant or Financial Analyst as an Expert Report in relation to any proceeding under this Act, the Anti-Money Laundering/Countering the Financing of Terrorism Act and the Anti-Terrorism and Terrorist Related Activities Act.". Cap. 10:11 No. 15 of 2015
Financial Institutions Act, Cap 85:03	(a) Section 31 of the Principal Act is amended as follows- (i) by deleting subsections (6) and (8); and

(ii) by renumbering subsections (7), (9), (10) and (11) as subsections (6), (7), (8) and (9) respectively.

(b) The Principal Act is amended by inserting immediately after section 31 of the following section as section 31A -

"Prohibition on disclosure of specific information except in specific circumstances

31A. (1) Subject to section 31 subsections (2) and (3) any director, inspector or employee of the Bank who receives any information concerning the affairs of the financial institution, any holding company, subsidiary or other affiliate thereof or those of any customers of the financial institution, in performance of the duties specified in the Act shall not use the information for any personal benefit or disclose such information to any person other than-

(a) such officers of the Bank as the Governor may designate to receive such information;

(b) under the written authorization of the customer or his or her legal representative;

(c) for the purpose of aiding in consolidated supervision

(d) to the licensed financial institution's auditors appointed under section 22:

(e) when lawfully required to do so by an order of any court or under any law;

(2) The Bank may enter into a memorandum of understanding with the Guyana Revenue

	Authority, the Guyana Securities Council, or any local or foreign authority responsible for the supervision or regulation of financial institutions or for maintaining the integrity of the financial system. (3) Nothing in subsection (1) shall prevent the Bank from sharing any information received or any report prepared by the Bank in the performance of its duties under this Act, with the Guyana Revenue Authority, the Guyana Securities Council or any local or foreign authority responsible for the supervision or regulation of a financial institution, or for maintaining the integrity of the financial system: Provided that the information is shared for lawful supervisory and regulatory purposes, on a reciprocal basis and subject to a Memorandum of Understanding entered into under subsection (2) between the Bank and the local or foreign authority responsible for the supervision or regulation of financial institutions or for maintaining the integrity of the financial system. (4) Notwithstanding subsections (1) and (3) the Bank shall have the authority to publish in such manner and at such intervals as it may deem appropriate, aggregate or comparative data relating to the assets and liabilities of financial institutions. (5) Any director, inspector or employee of the Bank or a special inspector

	appointed by the Bank under section 32 who contravenes subsection (1) or (3) shall be liable on summary conviction to a fine of not more than one million dollars and to imprisonment for not more than two years.".
Foreign Exchange (Miscellaneous Provisions) Act, Cap. 86:01	(a) Section 2 of the Principal Act is amended by inserting immediately after the item "Commissioner", the following - "currency" means the coin and paper money of Guyana or 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; monetary instruments that may be exchanged for money (such as cheques, travellers cheques, money orders, negotiable instruments in a form in which title thereto passes on delivery), jewellery, precious metals and precious stones; where the context permits currency includes currency in electronic form; (b) By inserting immediately after the item "gold", the following- "person" includes any entity, natural or juridical, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organisation or group, capable of acquiring rights or entering into obligations;".
Second Schedule	(c) Section 6 of the Principal Act is amended as follows- (i) by substituting for subsections (1) to (4) the following subsection (1)-

	"(1) A person who transports or causes the transportation of currency into or out of Guyana, exceeding ten thousand dollars in United States currency or its equivalent in any other currency or such other amount as may be prescribed, shall make a declaration to the Commissioner in the Form in the Second Schedule."
	(ii) in subsection (5)-
	(A) by substituting for the words "two hundred and fifty thousand dollars and six months imprisonment" the words "one million dollars and two years imprisonment";
	(B) by the substituting for the word "traveller" the word "person".

Passed by the National Assembly on the 3rd August, 2023.

S.E. Isaacs.,
Clerk of the National Assembly.

(BILL No. 13/2023)