

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE PROCEEDS OF CRIME LAW
(2018 REVISION) TO PROVIDE THAT THE FINANCIAL REPORTING
AUTHORITY WILL NOT NEED TO CONSULT WITH THE ANTI-
MONEY LAUNDERING STEERING GROUP TO ENTER INTO
CERTAIN AGREEMENTS AND ARRANGEMENTS WITH ANY
OVERSEAS FINANCIAL INTELLIGENCE UNIT; TO PROVIDE THAT
THE FINANCIAL REPORTING AUTHORITY DOES NOT REQUIRE
THE CONSENT OF THE ATTORNEY GENERAL FOR THE
DISCLOSURE OF INFORMATION TO OVERSEAS FINANCIAL
INTELLIGENCE UNITS; TO INCREASE THE POWERS OF THE ANTI-
MONEY LAUNDERING STEERING GROUP; AND FOR INCIDENTAL
AND CONNECTED PURPOSES**

THE PROCEEDS OF CRIME (AMENDMENT) BILL, 2018

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Proceeds of Crime Law (2018 Revision) ('the principal Law') in order to bring some provisions into conformity with the international standards recommended by the Financial Action Task Force that require the Financial Reporting Authority to be operationally independent and autonomous.

The Bill also seeks to give the Anti-Money Laundering Steering Group certain powers which are critical to the effective combating of money laundering and terrorist financing in the Islands.

Clause 1 provides the short title to the legislation.

Clause 2 amends section 4 of the principal Law to provide that the Financial Reporting Authority will no longer have to consult with the Anti-Money Laundering Steering Group to enter into arrangements and agreements with an overseas financial intelligence unit which the Financial Reporting Authority considers necessary or desirable for the discharge or performance of its responsibilities and functions.

However section 4 is also amended to provide that the Financial Reporting Authority will have to inform the Steering Group as soon as it has entered into any such agreement or arrangement.

Clause 3 amends section 5 of the principal Law to empower the Anti-Money Laundering Steering Group, as part of the general oversight of the anti-money laundering policy of the Government, to, after consultation with the Monetary Authority, designate jurisdictions as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands.

Clause 4 amends section 138 of the principal Law to provide that the Financial Reporting Authority will no longer require the prior consent of the Attorney General to disclose to any overseas financial intelligence unit any information received under the principal Law.

Clause 5 amends section 145 of the principal Law to provide that the Cabinet may, upon the recommendation of the Anti-Money Laundering Steering Group, the Monetary Authority and the Financial Reporting Authority, make regulations to prescribe fees, subscriptions or other monies which may be payable by any person who is to be supervised by an authority in accordance with the legislation.

THE PROCEEDS OF CRIME (AMENDMENT) BILL, 2018

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 4 of the Proceeds of Crime Law (2018 Revision) - powers, functions and duties of Financial Reporting Authority
3. Amendment of section 5 - Anti-Money Laundering Steering Group
4. Amendment of section 138 - disclosure by the Financial Reporting Authority
5. Amendment of section 145 - regulations

CAYMAN ISLANDS

A BILL FOR A LAW TO AMEND THE PROCEEDS OF CRIME LAW (2018 REVISION) TO PROVIDE THAT THE FINANCIAL REPORTING AUTHORITY WILL NOT NEED TO CONSULT WITH THE ANTI-MONEY LAUNDERING STEERING GROUP TO ENTER INTO CERTAIN AGREEMENTS AND ARRANGEMENTS WITH ANY OVERSEAS FINANCIAL INTELLIGENCE UNIT; TO PROVIDE THAT THE FINANCIAL REPORTING AUTHORITY DOES NOT REQUIRE THE CONSENT OF THE ATTORNEY GENERAL FOR THE DISCLOSURE OF INFORMATION TO OVERSEAS FINANCIAL INTELLIGENCE UNITS; TO INCREASE THE POWERS OF THE ANTI-MONEY LAUNDERING STEERING GROUP; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

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| 1. This Law may be cited as the Proceeds of Crime (Amendment) Law, 2018. | Short title |
| 2. The Proceeds of Crime Law (2018 Revision), in this Law referred to as the “principal Law”, is amended in section 4 as follows -
<div style="margin-left: 40px;">(a) in subsection (2)(e) by deleting the words “, after consultation with the Steering Group,”; and
(b) by inserting after subsection (2) the following subsection -</div> | Amendment of section 4 of the Proceeds of Crime Law (2018 Revision) – powers, functions and duties of Financial Reporting Authority |

“(2A) Where the Financial Reporting Authority enters into any agreement or arrangement under subsection (2)(e), the Financial Reporting Authority shall as soon as practicable inform the Steering Group that it has done so.”.

Amendment of section 5
- Anti-Money
Laundering Steering
Group

3. The principal Law is amended in section 5 as follows -

(a) by repealing subsection (2) and substituting the following subsection -

“(2) The Steering Group is responsible for the general oversight of the anti-money laundering policy of the Government which includes -

- (a) where the Steering Group considers it necessary to do so, and after consultation with the Monetary Authority, designating jurisdictions as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands;
- (b) determining the general administration of the business of the Financial Reporting Authority;
- (c) overseeing and inspecting the work of the Financial Reporting Authority;
- (d) reviewing annual reports submitted by the Director under section 11(b);
- (e) promoting effective collaboration between regulators and law enforcement agencies;
- (f) monitoring interaction and cooperation with overseas financial intelligence units; and
- (g) taking such other measures which may be necessary to ensure compliance with requirements within the Islands for the combating of money laundering and terrorist financing.”; and

(b) by inserting after subsection (2) the following subsection -

“(2A) A designation under subsection (2)(a) shall be made by notice in writing and such notice shall be published by the Steering Group in the Gazette, on the website of the Monetary Authority and on any other government website determined by the Steering Group.”.

Amendment of section
138 - disclosure by the
Financial Reporting
Authority

4. The principal Law is amended in section 138 as follows -

(a) in subsection (1) -

- (i) in paragraph (a), by deleting the words “,without obtaining the consent of the Attorney General,”;
 - (ii) in paragraph (b), by deleting the words “,without having to obtain the consent of the Attorney General,”; and
 - (iii) in paragraph (c), by deleting the words “, but subject to subsection (2),”; and
- (b) by repealing subsection (2).

5. The principal Law is amended in section 145(2) as follows -

Amendment of section
145- regulations

- (a) by deleting the word “and” after paragraph (b)(ii);
- (b) by deleting the full stop after paragraph (c) and substituting a semi colon and thereafter the word “and”; and
- (c) by inserting after paragraph (c) the following paragraph -

“(d) prescribe fees, subscriptions or other monies which may be payable by any person who is supervised in accordance with this Law and the regulations.”.

Passed by the Legislative Assembly the day of , 2018.

Speaker.

Clerk of the Legislative Assembly.