

A BILL

entitled

PROCEEDS OF CRIME (MISCELLANEOUS) ACT 2025

WHEREAS it is expedient to amend the Proceeds of Crime Act 1997, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, and the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 to make provisions for the enhancement and effectiveness of Bermuda's anti-money laundering, anti-terrorist financing and counter proliferation financing regime in adherence with international standards;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Proceeds of Crime (Miscellaneous) Act 2025.

Amends the Proceeds of Crime Act 1997

2 (1) In section 42A(1) of the Proceeds of Crime Act 1997, in the definition of "AML/ATF regulated financial institution", delete paragraph (e) and substitute—

"(e) carries on fund administration provider business within the meaning of section 2(2) of the Fund Administration Provider Business Act 2019;"

(2) In section 42B(1) of that Act, after the words "relevant competent authorities", insert "and supervisory authorities".

(3) In section 49 of that Act—

(a) in subsection (1)(e), delete the words "money laundering and terrorist financing risks" and substitute "money laundering, terrorist financing, and proliferation financing risks,";

(b) in subsection (2), delete "or" at the end of paragraph (eg), and insert—

"(eh) the Permanent Secretary of the Ministry of National Security; or".

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Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008

3 (1) In section 5 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, after subsection (2), insert—

“(2A) Notwithstanding subsection (2), a supervisory authority may also issue from time to time rules, codes of conduct or statements of principles as to compliance with the matters referred to in paragraphs (a) to (e) of subsection (2).”

(2) In section 13 of that Act, after subsection (4), insert—

“(5) The competent authority shall publish in the Gazette, in such form as it thinks fit, notice of every cancellation of a registration of a non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession under this Act.”

(3) In section 20 of that Act—

- (a) in subsection (1)(a), delete the words “specified in subsection (3)”; and
- (b) repeal subsection (3).

(4) Section 22 of that Act is repealed.

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008

4 (1) In regulation 11 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008—

- (a) in paragraph (3), delete “A banking institution (the “correspondent”) which has or proposes to have a correspondent banking relationship” and substitute “An AML/ATF regulated financial institution (the “correspondent”) which has or proposes to have a correspondent relationship”;
- (b) in paragraph (3)(d), delete “banking”; and
- (c) after paragraph (3A), insert—

“(3AA) For the purposes of regulation 11(3), a “correspondent relationship” shall mean a business arrangement between two institutions, wherein one entity (the correspondent) provides financial or similar services to or facilitates such transactions on behalf of the other entity (the respondent) that allows the respondent to access financial markets, payment systems, or services that it cannot directly provide or access on its own.”

(2) In regulation 13(1) and (2) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, delete “A banking institution” and substitute “An AML/ATF regulated financial institution”.

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Commencement

5 This Act shall come into operation on such day as the Minister may appoint by Notice published in the Gazette.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Proceeds of Crime Act 1997, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, and the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 to allow the Minister of Finance to make provisions for the enhancement and effectiveness of Bermuda's anti-money laundering, anti-terrorist financing and counter proliferation financing regime in adherence with international standards.

Clause 1 provides the citation for this Bill.

Clause 2 amends sections 42A(1), 42B(1), and 49 of the Proceeds of Crime Act 1997. Section 42A(1) is amended to correct the reference to the definition of fund administration provider business. Section 42B(1) is amended to enable all supervisory authorities to advise the Minister responsible for Justice on the designation of financial groups. Section 49 is amended to expand the scope of the national risk assessment to include proliferation financing risks and widens the list of the statutory members of the National Anti-Money Laundering Committee to include the PS of the Ministry of National Security.

Clause 3 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008. The Act repeals section 22 to resolve a legislative disharmony in relation to the issuance of warning and decision notices with section 24A and 24B of the Act. Section 5(2) is amended to include a new subsection (2A) regarding a discretionary power enabling the issuance of rules, codes of conduct or statement of principles by a supervisory authority. Section 13 is amended by requiring a notice to be published in the Gazette for the cancelling of registered institutions, or regulated businesses or professions. Section 20 is amended to expand a competent authority's ability to impose a civil penalty for breaches of the AML/ATF Regulations.

Clause 4 amends regulations 11 and 13 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008. Regulation 11 is amended to broaden "correspondent relationships" and insert a definition for "correspondent relationship". Regulation 13 is amended to extend the prohibition of entering into a correspondent relationship with a shell bank to all AML/ATF regulated financial institutions.

Clause 5 provides for commencement.