

Chapter 33

Money Laundering

[Header A: MONEY LAUNDERING 17 PNCA § 3301

]

Subchapter I

Money Laundering

§ 3301. Definitions.

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§ 3301. Definitions.

In this chapter, unless a different meaning plainly is required:

(a) “Account” means any facility or arrangement by which a financial institution or Designated Non-financial Business or Profession accepts deposits of funds; allows withdrawals or transfers of funds; or pays negotiable or transferable instruments or orders drawn on, or collects negotiable or transferable instruments or payment orders on behalf of, any other person; and includes any facility or arrangement for a safety deposit box for any other form of safe deposit.

(b) “Beneficial owner” means the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those natural persons who exercise ultimate effective control over a legal person or arrangement.

(c) “Benefit” means any advantage, gain, profit, or payment of any kind that a person derives or obtains or that accrue to him, including those that another person derives, obtains or that otherwise accrue to such other person, if the other person is under the control of, or is directed or requested by, the first person.

(d) “Business relationship” means a business, professional or commercial relationship which is connected with the professional activities of a financial institution or a designated non-financial business

or profession and which is expected, at the time when the contact is established, to have an element of duration.

(e) "Control" in relation to property means the exercise of practical control over the property whether or not that control is supported by any property interest or other legally enforceable power.

[Header B: 17 PNCA § 3301 CRIMES

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(f) "Controlled" in relation to a legal person, group or entity includes any of the following:

(1) having the right to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person, group or entity;

(2) having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person, group or entity who have held office during the present and previous financial year;

(3) controlling alone, pursuant to an agreement with other shareholders in or members of a legal person, group or entity, a majority of shareholders' or members' voting rights in that legal person, group or entity;

(4) having the right to exercise a dominant influence over a legal person, group or entity, pursuant to an agreement entered into with that legal person, group or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person, group or entity permits its being subject to such agreement or provision;

(5) having the power to exercise a dominant influence referred to in paragraph(D), without being the holder of that right;

(6) having the right to use all or part of the property of a legal person, group or entity;

(7) managing the business of a legal person, group or entity on a unified basis, while publishing consolidated accounts;

(8) sharing jointly and severally the financial liabilities of a legal person, group or entity, or guaranteeing them.

(g) "Correspondent relationship" means the provision of banking, payment and other services by one financial institution ("the correspondent institution") to another financial institution ("the respondent institution") to enable the latter to provide services and products to its own customers.

(h) "Currency" means a coin and paper money of Palau or of any foreign country that is designated as legal tender or customarily used and accepted as a medium of exchange.

(i) "Customer" means any person for whom a transaction or account is arranged, opened or undertaken; who is a signatory to a transaction or account; to whom an account or right or obligation under a transaction has been assigned or transferred; who is authorized to conduct a transaction or control an account; who attempts to take any of the actions set out under this definition; and any person as may be prescribed by regulation as set forth by the Financial Intelligence Unit.

(j) "Designated Non-financial Business or Profession" means any of the following:

(1) Casinos, including internet casinos and other businesses engaged in operating online games involving gambling;

(2) Real estate agents, and any person involved in the transfer of real property in the regular course of business;

(3) Dealers in precious metals and precious stones, including, but not limited to, gold, silver, platinum bullion, rare coins, diamonds, emeralds, rubies or sapphires;

(4) Lawyers and other independent legal professionals when they prepare for, engage in, or carry out transactions for a client concerning the buying or selling of real estate; managing of client money, securities or other property; management of a bank, savings, or securities accounts; organization of contributions for the creation, operation, or management of legal persons; creation, operation or management of legal persons or arrangements, and buying and selling of business entities;

(5) Trust and company service providers not otherwise covered by this law which, as a business, prepare for or carry out transactions on behalf of customers in relation to any of the following services to third parties: acting as formation, registration or management agent of legal persons; acting as, or arranging for another person to act as, a director or secretary of a company or a partner of a partnership, or to hold a similar position in relation to other legal persons; providing a registered office, business address or accommodation, correspondence of administrative address for a company, a partnership of any other legal person or arrangement; acting as, or arranging for another to act as a trustee of an express trust or other similar arrangement; acting as or arranging for another person to act as a nominee, shareholder for another person; and

(6) Other such companies, institutions, and persons as may be prescribed by regulation as set forth by the Financial Intelligence Unit.

(k) "Director" means the Director of the Financial Intelligence Unit.

(l) "Financial Institution" means any bank or banking association, commercial bank or trust company, any private bank, industrial savings bank, savings or thrift institution, savings and loan association, building and loan association, credit union, agency, agent or branch of a foreign bank, currency dealer or exchange, business engaged primarily in the cashing of checks, person engaged in the issuing, selling or redeeming of traveler's checks, money orders or similar instruments, any broker or dealer in securities, licensed transmitters of funds or other person regularly engaged in transmitting funds to a foreign nation for others, any investment banker or investment company, any insurer, any pawnbroker, any telegraph company, any person regularly engaged in the delivery, transmittal, or holding of mail or packages, vehicle, vessel, or aircraft, any personal property broker, any person or business acting as a real property securities dealer, and any natural or legal person that conducts as a business any of the following activities:

(1) Acceptance of deposits and other repayable funds from the public, including private banking;

(2) Lending, including but not limited to, consumer credit, mortgage credit, factoring, and financing of commercial transactions, including forfeiting;

(3) Financial leasing other than with respect to arrangements relating to consumer products;

(4) The transfer of money or value;

(5) Issuing and managing means of payment, including but not limited to credit and debit cards, traveler's checks, money orders and bankers' drafts, and electronic money;

(6) Issuing financial guarantees and commitments;

(7) Trading in money market instruments, including but not limited to checks, bills, certificates of deposit and derivatives; foreign exchange; exchange, interest rate and index instruments; transferable securities; and commodity futures;

(8) Participation in securities issues and the provision of financial services related to such issues; individual and collective portfolio management;

(9) Safekeeping and administration of cash or liquid securities on behalf of other persons;

(10) Investing, administering of cash or liquid securities on behalf of other persons;

(11) Underwriting and placement of life insurance and other investment related insurances; and

(12) Money and currency changing;

(13) Any other activity as prescribed by regulation as set forth by the Financial Intelligence Unit.

(m) "Freezing" in relation to property or funds means prohibiting any moving, transfer, conversion, disposition, alteration, use of, dealing with or movement of property or funds in any way that would result in any change in its volume, amount, location, ownership, possession, character, destination or any other change that would enable the use of the property or funds, including for portfolio management, or to obtain goods, property or funds, or services in any way, including but not limited to, selling, hiring or mortgaging them.

(n) "Money Laundering" means the offense as defined in 17 PNC Section 3302.

(o) "Originator" means the account holder, or [where] there is no account, the person that places the order with a financial institution to perform a wire transfer.

(p) "Person" means any natural or legal person.

(q) "Politically exposed person" means any person who is or has been entrusted with prominent public functions in Palau or in a foreign country, for example Head of State or of government, a senior politician, a senior government, judicial or military official, and any person who is or has been a senior executive of a national or state owned company or a senior political party official. This definition is deemed to include categories of family members and business associates as set forth in regulations promulgated by the Financial Intelligence Unit.

(r) "Proceeds of Crime" or "proceeds" means any property or economic advantage derived from or obtained, directly or indirectly, wholly or partially, through the commission of an offense, including economic gains from the property and property converted or transformed, in full or in part, into other property.

(s) "Property" or "funds" means asset of every kind, whether tangible or intangible, corporeal or incorporeal, moveable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to currency, bank credits, deposits and other financial resources, travelers checks, bank checks, money orders, shares, securities, bonds, drafts and letters of credit, whether situated in Palau or elsewhere, and any interest, dividends, or other income on or value accruing from or generated by such assets.

(t) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, or the arrangement thereof, and includes but is not limited to opening of an account; any deposit, withdrawal, exchange or transfer of funds in any currency whether in cash or by check, payment order, or other instrument or by electronic or other non- physical means; the use of a safe deposit box or any other form of safe deposit; entering into any fiduciary relationship; any payment made or received in satisfaction, in whole or in part, of any contractual or other legal obligation; any payment made in respect of a lottery, bet or other game of chance; establishing or creating a legal person or legal arrangement; and any such other transaction as may be prescribed by regulation.

(u) "Transfer" means any transaction carried out on behalf of an originator through a financial institution by electronic means with a view to making an amount of money available to a beneficiary at another financial institution. The originator and beneficiary may be the same person.

(v) “United Nations Sanctions Committee” means the Committees of the Security Council of the United Nations established by Security Council Resolution 1267 (1999) of October 15, 1999 and Security Council Resolution 1988 (2011).

Source

RPPL 9-21 § 5 [Chapter 33 § 3300], modified.

[Header A: MONEY LAUNDERING 17 PNCA § 3302

]

Notes

In the original statute section numbering in Chapter 33 read §§ 3300 - 3350 which have been renumbered to §§ 3301 - 3351 to conform with the Code numbering format.

In this Chapter [Subchapters I to V] read [Parts I to V] in the original legislation and were changed to “Subchapter” to conform with the standard format used in the PNCA.

Former Chapter 33 of Title 17 of the Palau National Code entitled “Firearms Control Act” is renumbered as Chapter 45 of Title 17 of the Palau National Code by RPPL 9-21 § 4(c).

Section referenced in this section has been renumbered to conform with the Code numbering format. In subsection (o), the bracketed [where] replaced the word “wether” in the original legislation per Code Commission. Also, subsections previously codified with number designations have been re-lettered to comply with the Code format.

§ 3302. Money laundering.

(a) Any person commits the offense of money laundering who knowing, suspecting or having reasonable grounds to suspect that property is the proceeds of crime,

(1) acquires, possesses or uses such property;

(2) conceals or disguises the true nature, source, location, disposition, movement, ownership or any rights with respect to such property;

(3) converts, transfers or engages in a transaction of such property; or

(4) enters into or becomes concerned in an arrangement with the intention to facilitate, by whatever means, the acquisition, retention, use or control of such property.

(b) Money laundering is a Class A felony.

(c) Notwithstanding 17 PNC section 651, any person convicted of an offense under this chapter shall be subject to a maximum fine of twice the amount laundered, twice the value of the benefit derived by the commission of the offense, or five hundred thousand dollars (\$500,000), whichever is greater.

(d) In assessing the value of the benefit derived by a defendant from the commission of an offense, the court may treat as property of the defendant any property that the court

[Header B: 17 PNCA § 3302 CRIMES

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finds is subject to the effective control of the defendant, whether or not the defendant has any legal or equitable interest in the property, or any right, power or privilege in connection with the property. The court may take into consideration, inter alia, shareholdings in, debentures over, or directorships in any company, corporation or commercial enterprise that has an interest, whether direct or indirect, in the property, and any trust that has any relationship to the property.

(e) Any element of the offense of money laundering that occurs outside the national territory of the Republic of Palau may be utilized to prove the offense of money laundering, and a predicate offense may include actions committed outside the national territory of the Republic of Palau, if such actions would have constituted an offense in the Republic of Palau.

Source

RPPL 9-21 § 5 [Chapter 33 § 3301], modified

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3303. Court authority to restrict business.

Pursuant to 17 PNC section 619, when a high managerial agent as defined by 17 PNC section 230(c) is convicted of money laundering, the court may:

(a) terminate a person's business that is connected to the commission of the offense;

(b) impose a temporary or permanent prohibition to directly or indirectly engage in the certain types of businesses connected with the commission of the offense;

(c) impose a temporary or permanent prohibition of the use of premises connected with the commission of the offense;

(d) place such person under supervision pursuant to the conditions prescribed by the court.

Source

RPPL 9-21 § 5 [Chapter 33 § 3302], modified

Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3304. Increased penalties.

[Header A: MONEY LAUNDERING 17 PNCA § 3305

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The penalties imposed under 17 PNC section 3302 may be increased by one third in the following cases:

(a) if the offense underlying the money laundering offense carries a penalty of deprivation of liberty for a term exceeding two times that specified for the money laundering offense;

(b) if the money laundering offense is perpetrated in the pursuit of a trade or occupation;

(c) if the money laundering offense is perpetrated as part of the activities of an organized criminal group;

(d) if the amount of property laundered exceeds one million dollars (\$1,000,000).

(e) if the purpose of the commission of the money laundering offense is to make profit;

(f) if the purpose of the commission of the money laundering offense is to promote further criminal activity or to conceal the true nature or origin of illicit funds.

Source

RPPL 9-21 § 5 [Chapter 33 § 3303], modified

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3305. Decreased penalties.

The penalties imposed under 17 PNC section 3302 may be reduced by one third if the perpetrator of the money laundering offense provides the judicial authorities with information they would not have otherwise obtained so as to assist them in:

- (a) preventing or limiting the effects of the money laundering offense;
- (b) identifying or prosecuting other perpetrators of the money laundering offense;
- (c) obtaining evidence;
- (d) preventing the commission of other money laundering offenses; or
- (e) depriving organized criminal groups of property over which the defendant has no interest or control.

[Header B: 17 PNCA § 3305 CRIMES

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Source

RPPL 9-21 § 5 [Chapter 33 § 3304], modified

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3306. Forfeiture.

Any property offered, conferred, agreed to be conferred, or accepted as a benefit, pecuniary benefit, or compensation in the commission of money laundering is forfeited to the Republic of Palau, subject to the requirements of 17 PNC Chapter 7 of this Penal Code.

Source

RPPL 9-21 § 5 [Chapter 33 § 3305], modified

Subchapter II

Preventive Measures And Monitoring

- § 3311. Anonymous accounts.
- § 3312. Customer due diligence.
- § 3313. Measures to identify politically exposed persons.
- § 3314. Complex patterns in transactions.
- § 3315. Third party due diligence.
- § 3316. Misuse of information technology.
- § 3317. Physical presence of financial institutions.
- § 3318. Wire transfers.
- § 3319. Penalties.
- § 3311. Anonymous accounts.

Financial institutions and designated non-financial business and professions are not permitted to establish or maintain anonymous accounts or accounts in fictitious names.

Source

RPPL 9-21 § 5 [Chapter 33 § 3310], modified

§ 3312. Customer due diligence.

[Header A: MONEY LAUNDERING 17 PNCA § 3314

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(a) Financial institutions and designated non-financial business and professions shall apply customer due diligence measures.

(b) In relation to cross border correspondent relationships, in addition to performing due diligence measures under subsection (a), financial institutions and designated non- financial business and professions shall gather information about the institution's business, its reputation, and the nature and quality of the supervision to which it is subject, before establishing a new correspondent relationship, and conduct an assessment of the quality of Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) controls applicable to the foreign respondent institution's and designated non-financial business and professions' business.

(c) The respective Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) responsibilities of each financial institution and designated non-financial business and profession shall be documented.

(d) The Financial Intelligence Unit shall promulgate rules and regulations in furtherance of this section.

Source

RPPL 9-21 § 5 [Chapter 33 § 3311], modified

§ 3313. Measures to identify politically exposed persons.

Financial institutions and designated non-financial business and professions shall have in place measures to identify politically exposed persons and other customers who may pose a high risk of money laundering or financing of terrorism and to manage the risk associated with such persons as prescribed by regulations set forth by the Financial Intelligence Unit.

Source

RPPL 9-21 § 5 [Chapter 33 § 3312], modified

§ 3314. Complex patterns in transactions.

(a) Financial institutions and designated non-financial business and professions shall pay special attention to all complex, unusual large transactions or unusual patterns of transactions, which have no apparent or visible economic or lawful purpose, and to business relationships and transactions with persons, including legal persons and other financial businesses, from or in countries which do not sufficiently apply the Financial Action Task Force (FATF) Recommendations.

[Header B: 17 PNCA § 3314 CRIMES

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(b) Financial institutions and designated non-financial business and professions will be advised of concerns about weaknesses in the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) controls of other countries by the Financial Intelligence Unit.

(c) Financial institutions and designated non-financial business and professions shall set forth in writing the specific information regarding transactions described in this section, including the identity of all of the parties involved, the origin and destination of the funds, and the purpose of the transaction. The report shall be maintained by the financial institution or designated non-financial business and profession and a suspicious transaction report or reports shall be filed immediately with the Financial Intelligence Unit.

(d) The measures under this Section shall be in accordance with the requirements prescribed by regulation set forth by the Financial Intelligence Unit.

Source

RPPL 9-21 § 5 [Chapter 33 § 3313], modified

§ 3315. Third party due diligence.

(a) Financial institutions and designated non-financial business and professions may rely on an intermediary or third party to perform some of the elements of the customer due diligence measures under 17 PNC section 3312 or to introduce business.

(b) The ultimate responsibility for customer identification and verification shall remain with the financial institution and designated non-financial business and professions relying on the third party.

(c) The Financial Intelligence Unit shall promulgate regulations in regards to this section.

Source

RPPL 9-21 § 5 [Chapter 33 § 3314], modified

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format.

[Header A: MONEY LAUNDERING 17 PNCA § 3317

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§ 3316. Misuse of information technology.

(a) Financial institutions and designated non-financial business and professions shall have in place measures to prevent the misuse of information technology in the commission of an offense and to address any specific risks associated with the conducting of business relationships or executing transactions for clients that are not physically present.

(b) The measures under this Section shall be in accordance with the requirements prescribed by regulation set forth by the Financial Intelligence Unit.

Source

RPPL 9-21 § 5 [Chapter 33 § 3315], modified

§ 3317. Physical presence of financial institutions.

(a) No bank may be established in the Republic of Palau if it maintains no physical presence within Palau and is not affiliated with a regulated financial group subject to effective consolidated supervision.

(b) Financial institutions and designated non-financial business and professions shall not enter into or continue business relations with banks in jurisdictions where they are not physically present and are not affiliated with a regulated financial group subject to effective consolidated supervision.

(c) Financial institutions and designated non-financial business and professions shall not enter into or continue business relations with a financial business in a foreign country that permits its accounts to be used by banks that are registered in jurisdictions where they are not physically present and are not affiliated with a regulated financial group subject to effective consolidated supervision.

Source

RPPL 9-21 § 5 [Chapter 33 § 3316], modified

§ 3318. Wire transfers.

[Header B: 17 PNCA § 3318 CRIMES

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(a) Financial institutions and designated non-financial business and professions whose activities include wire transfers shall obtain and verify the information and maintain, manage and transmit the information as prescribed by regulation set forth by the Financial Intelligence Unit.

(b) If the financial institution or designated non-financial business and profession referred to in subsection (a) receives a wire transfer that does not contain the complete originator information, it shall take reasonable measures to obtain and verify the missing information from the ordering institution or the beneficiary.

(c) In the case that the missing information cannot be obtained, the transfer shall be refused and a suspicious transaction report shall be filed with the Financial Intelligence Unit.

Source

RPPL 9-21 § 5 [Chapter 33 § 3317], modified

§ 3319. Penalties.

(a) Any person who intentionally or by criminal negligence violates or fails to comply with or to act in accordance with the provisions of [Subchapter II] of this chapter, or any regulation implemented by the Financial Intelligence Unit in furtherance thereof, shall be guilty of a Class C felony or a maximum fine of ten thousand dollars (\$10,000), or both.

(b) In addition to the penalties provided for under subsection (a), any person found guilty of an offense under subsection (a) may also be banned permanently or temporarily from pursuing the business or profession which provided opportunity for the offense to be committed.

Source

RPPL 9-21 § 5 [Chapter 33 § 3318], modified

Notes

In this section the bracketed [Subchapter II] in subsection (a) replaced the words “Part II” in the original legislation per Code Commission.

Subchapter III

Transaction Reporting And Record Keeping

[Header A: MONEY LAUNDERING 17 PNCA § 3321

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§ 3321. Reporting of suspected terrorism.

§ 3322. Reporting of transactions.

§ 3323. Structuring.

§ 3324. Foreign branches.

§ 3325. Internal monitoring.

§ 3326. Bookkeeping.

§ 3327. Penalties.

§ 3328. Supervising authorities.

§ 3329. Administrative violation.

§ 3321. Reporting of suspected terrorism.

(a) Financial institutions and designated non-financial business and professions and their respective directors, principals, officers, partners, professionals and employees that suspect or have reasonable grounds to suspect that a transaction involves property that is the proceeds of crime; that is related or linked to or is to be used for a terrorism offense or a terrorist act, by a terrorist, or terrorist organization, or by those who finance terrorism as such terms are defined in 17 PNC Chapter 22, shall submit a report to the Financial Intelligence Unit setting forth this suspicion.

(b) The obligation under subsection (a) also applies to attempted transactions.

(c) A transaction under subsection (a) shall not be carried out until ten (10) business days after a report has been submitted to the Financial Intelligence Unit in relation to such a transaction, unless refraining from the carrying out of the transaction is impossible or likely to frustrate the efforts to investigate the transaction, in which case the transaction may be executed and the suspicion must be reported immediately thereafter.

(d) Reports under this Section shall be in accordance with the form prescribed by and contain the information set out in the rules and regulations promulgated by the Financial Intelligence Unit.

Source

RPPL 9-21 § 5 [Chapter 33 § 3320], modified.

§ 3322. Reporting of transactions.

[Header B: 17 PNCA § 3322 CRIMES

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(a) Financial institutions and designated non-financial business and professions shall submit a report to the Financial Intelligence Unit for any currency transaction in an amount above ten thousand dollars (\$10,000) whether conducted as a single transaction or several transactions that appear to be linked. The Financial Intelligence Unit shall issue rules on the procedures for and form in which the reports shall be submitted and shall publish guidance to assist financial institutions to fulfill their obligations under this Chapter. Reports shall be made without delay and at least within the timeframe set forth in the rules issued.

(b) Financial institutions and designated non-financial business and professions shall submit a report to the Financial Intelligence Unit for any request by a person to conduct a transaction to create a legal person, legal entity, or other legal arrangement; to manage a legal person, legal entity, or other legal arrangement; or to utilize a legal person, legal entity, or other legal arrangement to conduct a transaction described in subsection (a), if the person making the request fails to provide the necessary information to allow the financial institution or designated non-financial business and profession to comply with sections 3311, 3312, 3313, 3315, or 3317 of this Chapter, or if the request implicates section 3314.

(c) No financial institution or designated non-financial business and profession, including employees and agents of such financial institutions and designated non-financial business and professions shall disclose to any customer or third party that a report or any other information will be, is being or has been submitted to the Financial Intelligence Unit in accordance with the provisions of this Chapter, or that a money laundering or financing of terrorism investigation is being or has been carried out.

(d) Subsection (c) does not apply in relation to disclosures or communications between and among directors, officers and employees of the financial institutions; or in the case of a lawyer or other independent legal professional when seeking to dissuade a client from engaging in illegal activity.

(e) Except for the purpose of the due administration of this Law, no person shall disclose any information that will identify or is likely to identify the person who prepared or made a report made in accordance with the provisions of this Chapter, or handled the underlying transaction.

(f) No person shall be required to disclose a report made in accordance with the provisions of this Chapter or any information contained in such a report or provided in connection with it, or the identity of the person preparing or making such report or handling the underlying transaction in any judicial proceeding unless the judge is satisfied that the disclosure of the information is necessary in the interests of justice.

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(g) No criminal, civil, disciplinary or administrative proceeding for breach of banking or professional secrecy or contract may be instituted against a financial institution, or its respective directors, principals, officers, partners, professionals or employees who in good faith submit a report or provide information in accordance with the provisions of this section.

(h) No criminal action for money laundering or financing of terrorism shall be brought against a financial institution [or] designated non-financial business [or] professions, or its directors, officers or employees in connection with an action undertaken in good faith to execute a transaction if a report was made in good faith and in a timely manner.

(i) Lawyers and other independent legal professionals have no obligation to report information required to be reported by this section that they receive or obtain from a client in the course of developing a legal position for a client, or performing the task of defending a client or representing a client in, or concerning a judicial proceeding, including rendering advice on how to avoid such judicial proceedings, regardless of whether such information is received or obtained before, during, or after such judicial proceedings. The reporting required of lawyers and other legal professionals by this Division is hereby deemed to be in accordance with American Bar Association Rule of Professional Conduct No. 1.6(b)(2) and (3) as a permissible disclosure to prevent, mitigate, or rectify a crime, fraud, or substantial injury to the financial interests or property of another that is reasonably certain to occur, or that has occurred, and in furtherance of which the lawyer's legal services have been utilized by the client.

Source

RPPL 9-21 § 5 [Chapter 33 § 3321], modified

Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format. In subsection (h) the bracketed [or] replaced the word “and” in the original legislation per Code Commission.

§ 3323. Structuring.

[Header B: 17 PNCA § 3323 CRIMES

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Any person who carries out two or more transactions below the threshold set out in 17 PNC section 3322 so as to ensure or attempting to ensure that no report in accordance with this Section is made commits the offense of structuring and shall be guilty of a Class C felony or a maximum fine of ten thousand dollars (\$10,000), or both.

Source

RPPL 9-21 § 5 [Chapter 33 § 3322], modified.

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3324. Foreign branches.

(a) Financial institutions shall require their foreign branches and majority owned subsidiaries to implement the requirements under this Law and any regulations issued in execution of this Law to the extent that local applicable laws and regulations so permit.

(b) If the law of the country where the majority owned subsidiary or branch is situated prohibits compliance with any of these obligations, the financial institution in Palau shall so advise its competent supervisory authority.

Source

RPPL 9-21 § 5 [Chapter 33 § 3323], modified.

§ 3325. Internal monitoring.

Financial institutions shall develop and implement internal policies, procedures and programs for the prevention of money laundering and financing of terrorism and the proper implementation of the provisions of this Law. Such policies, procedures and programs shall include, amongst others:

(a) customer identification and verification of identity measures, including identification and verification of beneficial owners, ongoing due diligence and anti-money laundering and countering financing of terrorism risk management procedures, to successfully comply with the requirements under this Law and any regulation issued in execution of this Law;

(b) procedures to ensure compliance with the property freezing obligations under 17 PNC Chapter 33, [Subchapter V].

[Header A: MONEY LAUNDERING 17 PNCA § 3326

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(c) appropriate compliance management arrangements and adequate screening procedures to ensure high standards when hiring employees;

(d) ongoing training for officials and employees including training to assist them in recognizing transactions and actions that may be linked to money laundering or financing of terrorism; and

(e) internal audit arrangements to check conformity, compliance with and effectiveness of the measures taken in execution of this Law.

Source

RPPL 9-21 § 5 [Chapter 33 § 3324], modified.

Notes

In subsection (b) the bracketed [Subchapter V] replaced the word “Part V” in the original legislation per Code Commission.

§ 3326. Bookkeeping.

(a) Financial institutions and designated non-financial business and professions shall maintain all books and records with respect to their customers and transactions as set forth in subsection (b) and shall ensure that such records and the underlying information are available on a timely basis to the Financial Intelligence Unit, the Financial Institution Commission and other competent authorities.

(b) The books and records referenced in subsection (a) shall include, at a minimum:

(1) account files, business correspondence, and copies of documents evidencing the identities of customers and beneficial owners obtained in accordance with the provisions in this Law, which shall be maintained for not less than five years after the business relationship has ended;

(2) records on transactions sufficient to reconstruct each individual transaction for both account holders and non-account holders, which shall be maintained for not less than five years from the date of the transaction;

(3) copies of all suspicious transaction reports made pursuant to 17 PNC section 3321 or 3322, including any accompanying documentation, which shall be maintained for at least five years from the date the report was made to the Financial Intelligence Unit.

[Header B: 17 PNCA § 3326 CRIMES

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(4) a written record of findings with respect to the transactions referenced in 17 PNC section 3314, which shall be maintained for not less than five years from the date of the transaction.

(c) This section shall not apply to lawyers and other legal professionals, except for subsection (b)(3) and (4) and the appropriate record keeping sufficient to provide proof to the Financial Intelligence Unit of compliance with the Preventive Measures and Monitoring required by [Subchapter II] of this Division.

(d) Where it is necessary and reasonable for the execution of this Law, the Financial Intelligence Unit shall have the power to extend the record retention period set out in subsection (b) in relation to a specific customer or transaction.

Source

RPPL 9-21 § 5 [Chapter 33 § 3325], modified.

Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format. In subsection (c) the bracketed [Subchapter II] replaced the word "Part II" in the original legislation per Code Commission.

§ 3327. Penalties.

(a) Any person who intentionally or by criminal negligence fails to comply with [Subchapter III] of Chapter 33 of 17 PNC shall be guilty of a Class C felony or a maximum fine of ten thousand dollars (\$10,000), or both.

(b) In addition to the sanctions provided for under subsection (a), any person found guilty of an offense under subsection (a) may also be banned permanently or temporarily from pursuing the business or profession which provided opportunity for the offense to be committed.

(c) In addition to the penalties provided for under subsections (a) and (b), a financial institution or designated non-financial business and profession that intentionally or by criminal negligence fails to

comply with the obligations under this chapter or any regulation issued in execution of this chapter may be subject to the measures and sanctions provided for under 17 PNC section 3329.

Source

RPPL 9-21 § 5 [Chapter 33 § 3326], modified.

[Header A: MONEY LAUNDERING 17 PNCA § 3328

]

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format. In subsection (a) the bracketed [Subchapter III] replaced the word “Part III” in the original legislation per Code Commission.

§ 3328. Supervising authorities.

(a) The following authorities shall have the powers and duties to monitor and supervise compliance by financial institutions and designated non-financial business and professions with the provisions of this Law and any regulation issued on the basis thereof:

(1) the Financial Institutions Commission;

(2) the Financial Intelligence Unit;

(3) any authority designated by way of regulation.

(b) To properly carry out their supervisory mandate, the authorities listed in subsection (a) shall have the following duties and powers:

(1) to regulate, monitor and supervise financial institutions and designated non-financial business and professions for compliance with the provisions of this Law and any regulation issued in execution of this Law, including through regular on-site examinations, based on and in accordance with the perceived risk of money laundering and financing of terrorism;

(2) to issue instructions, guidelines and recommendations to assist financial institutions and designated non-financial business and professions to comply with their obligations under the provisions of this Law and any regulation issued in execution of this Law;

(3) to establish and apply fit and proper criteria for owning, controlling, or participating, directly or indirectly, in the directorship, management or operation of financial institutions;

(4) to provide information and assistance to competent authorities in investigating, prosecuting or conducting proceedings relating to any offense;

(5) to apprise the Financial Intelligence Unit whenever it appears that a financial institution or designated non-financial business and profession or any of their respective directors, officers or employees, is not complying or has not complied with the obligations set out in this Law or any regulation issued in execution of this Law;

[Header B: 17 PNCA § 3328 CRIMES

]

(6) to report promptly to the Financial Intelligence Unit any information concerning suspicious transactions or facts that could be related to money laundering or financing of terrorism, or to the implementation of the obligations under [Subchapter III] of this chapter;

(7) to enter into cooperation and information sharing arrangements with other competent domestic authorities and to provide prompt and effective cooperation to such competent authorities, including in the absence of a cooperation and information sharing arrangement;

(8) to ensure that financial institutions and designated non-financial business and professions of the Republic of Palau apply and enforce measures consistent with the provisions of this Law and any Implementing Regulations issued in accordance with this Law to their foreign branches and majority-owned subsidiaries, to the extent permitted by local laws and regulations;

(9) to compel the production or obtain access to all documents, records and information relevant to monitor and supervise compliance with the provisions of this Law and any regulation issued in execution of this Law by financial institutions;

(10) to enter into cooperation and information sharing arrangements and to provide prompt and effective cooperation to agencies that perform similar functions in other nations, including in the absence of a cooperation and information sharing arrangement; and

(11) to maintain statistics concerning measures adopted and sanctions imposed by it in enforcing the provisions of this Law and any Implementing Regulation issued in execution of this Law.

(12) The duties and powers set out in subsection one (1) to (10) may be further described by regulation.

Source

RPPL 9-21 § 5 [Chapter 33 § 3327], modified.

[Header A: MONEY LAUNDERING 17 PNCA § 3329

]

Notes

In subsection (b)(6) the bracketed [Subchapter III] replaced the word “Part III” in the original legislation per Code Commission.

§ 3329. Administrative violation.

A supervisory authority that discovers an administrative violation by a financial institution it supervises of the obligations established under this Chapter 33 of 17 PNC or any regulation issued in execution of the provisions of this chapter, may impose one or more of the following measures and sanctions:

(a) Written warnings;

(b) Order to comply with specific instructions;

(c) Order to submit regular reports on the measures the financial institution is taking to remedy the administrative violation;

(d) Issue a fine as provided for in regulations promulgated pursuant to this chapter.

(e) Replace or restrict the power of managers, directors or controlling owners and appoint an ad hoc administrator, if necessary;

(f) Impose conservatorship or suspend, restrict or withdraw the license and prohibit the continuation of the business of the financial institution;

(g) Publish information on the measures taken pursuant to subsections (a) to (f); or

(h) Take any other measures that may be provided for through regulation as set forth by the Financial Intelligence Unit.

Source

RPPL 9-21 § 5 [Chapter 33 § 3328], modified.

Subchapter IV

The Financial Intelligence Unit

[Header B: 17 PNCA § 3331 CRIMES

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§ 3331. Financial Intelligence Unit.

§ 3332. Director.

§ 3333. Candidates for director.

§ 3334. Powers, duties and obligations of Financial Intelligence Unit

§ 3335. Disclosure.

§ 3336. Budget.

§ 3331. Financial Intelligence Unit.

(a) The Financial Intelligence Unit established by the Money Laundering and Proceeds of Crime Act 2001 shall continue to be established as if established by this Act.

(b) The Financial Intelligence Unit shall be an independent agency responsible for receiving, analyzing, investigating and disseminating information concerning suspected proceeds of crime and terrorist property, as provided for under this Law.

Source

RPPL 9-21 § 5 [Chapter 33 § 3330], modified.

§ 3332. Director.

The Director of the Financial Intelligence Unit shall be appointed by the Governing Board of the Financial Institutions Commission on such terms and conditions as the Board may determine in consultation with the Money Laundering Working Group (MLWG).

(a) The Director may exercise all of the functions, powers and duties of the Financial Intelligence Unit under this Act, and any regulations promulgated under the authority of the Money Laundering and Proceeds of Crime Act of 2001, such regulations shall remain in full force and effect as if promulgated under this Act.

(b) The Director shall report to the Governing Board of the Financial Institutions Commission on the exercise of his or her powers and the performance of his or her duties under this Chapter.

(c) The Director may appoint such other officers and employees of the Financial Intelligence Unit as are necessary for the efficient exercise of the duties, functions and powers of the Financial Intelligence Unit.

[Header A: MONEY LAUNDERING 17 PNCA § 3332

]

(d) The Director may authorize any person subject to any terms and conditions that the Director may specify, to carry out any power, duty, or function conferred on the Director under this chapter.

(e) The Director shall ensure that an officer, employee or agent of the Financial Intelligence Unit received training or will receive training in the investigation of financial crimes, intelligence analysis and financial auditing as are necessary for the efficient exercise of the duties, functions and powers of the Financial Intelligence Unit.

(f) To assist with the creation, organization, training and operation of the Financial Intelligence Unit, the Director of the Financial Intelligence Unit may obtain technical assistance from foreign countries or

international organizations, including but not limited to, the temporary employment of foreign law enforcement and intelligence consultants.

(g) The Director shall ensure that an officer, employee or consultant of the Financial Intelligence Unit, or any other person acting on behalf of the Financial Intelligence Unit, shall take an oath of confidentiality and shall receive credentials that identify that person has been authorized to act on behalf of the Financial Intelligence Unit.

(h) The Director may generally or particularly, delegate to any employee or agent of the Financial Intelligence Unit, as he or she thinks fit, all or any of the powers in the same manner and with the same effect as if they had been conferred to him or her directly by this chapter and not by delegation.

(1) Subject to any general or specific directions given or conditions attached by the Director, the employee or agent to whom those powers are delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him or her directly by this chapter and not by delegation.

(2) Until a delegation is revoked in writing, it continues in force according to its tenor and in the event of the Director ceasing to hold office, the delegation continues to have effect as if made by the person for the time being holding office as Director.

(3) Every delegation made under this Section is revocable at will and no delegation prevents the exercise of any power by the Director.

(i) Any officer, employee or agent of the Financial Intelligence Unit may at any time be removed or suspended from office by the Director for disability affecting the performance of duty, neglect of duty, incompetence or misconduct proven to the satisfaction of the Director.

[Header B: 17 PNCA § 3332 CRIMES

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Source

RPPL 9-21 § 5 [Chapter 33 § 3331], modified.

§ 3333. Candidates for director.

(a) The Director must not be –

(1) a member of Congress;

(2) a member of a local authority, except for the Bureau of Public Safety;

(3) a director, officer or employee of, or holds any shares in any financial institution or designated non-financial business and professions, or

(4) hold any other office or carry out any other professional activity without prior approval from the Governing Board of the Financial Institutions Commission.

(b) The Director may at any time be removed or suspended from office by the Governing Board of the Financial Institutions Commission for disability affecting the performance of duty, neglect of duty, incompetence or misconduct proven to the satisfaction of the Board.

Source

RPPL 9-21 § 5 [Chapter 33 § 3332], modified.

§ 3334. Powers, duties and obligations of Financial Intelligence Unit.

To properly implement its functions under this Law, the Financial Intelligence Unit shall have the following powers and duties:

(a) to receive information and reports in accordance with its functions and, in relation to any information or report it has received, to make inquiries with or obtain from any financial institution any additional information the Financial Intelligence Unit deems necessary to carry out its functions, regardless of whether the requested person has made a report. The information requested shall be provided within the time limits and the form specified by the Financial Intelligence Unit;

[Header A: MONEY LAUNDERING 17 PNCA § 3334

]

(b) to analyze and assess any report or information received in accordance with its functions;

(c) for transactions or attempted transactions that occurred prior to the entry into force of this Act, to require financial institutions and designated non-financial business and professions to disclose records in the financial institution's or the designated non-financial business and profession's control, that

pertain to the transaction or attempted transaction for a particular account for or by a particular person, and for a particular time period, if such disclosure would have been required to be reported under the provisions of this Act if it had been in effect during the particular time period in question;

(d) to enter the premises of any financial institution or designated non-financial business and profession during ordinary business hours to inspect any records kept pursuant to this Act and that are necessary to the fulfillment of the functions of the Financial Intelligence Unit, and to ask any questions and make enquiries relating to and make notes and take copies of such records;

(e) in relation to any report or information it has received in accordance with its functions, to obtain or collect any information it deems necessary to carry out its function, whether or not publicly available, including commercially available databases or information and information stored in databases maintained by other government agencies that may hold relevant information such as Bureau of Revenue, Customs and Taxation, Bureau of Public Safety, Office of the Attorney General or other competent supervisory authorities;

(f) to act on behalf of the Republic of Palau in seeking information from any foreign government agency, foreign law enforcement agency, foreign supervisory authority and foreign auditing authority for purposes of this Law;

(g) to refer any report or information it has received in accordance with its functions to the appropriate law enforcement agency in the Republic of Palau if, on the basis of its analysis and assessment, the Financial Intelligence Unit has reasonable grounds to suspect that a transaction or attempted transaction involves proceeds of crime, or is related to or intended for financing of terrorism, or is terrorist property;

(h) to apprise the competent supervisory authority whenever it appears that a financial institution or designated non-financial business and profession, or any of its respective directors, officers or employees, is not complying or has not complied with the obligations under this Law or any regulation issued in execution of this Law;

[Header B: 17 PNCA § 3334 CRIMES

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(i) to destroy a suspicious transaction report received or collected on the expiry of six years after the date of receipt of the report if there has been no further activity or information relating to the report or the person named in the report, or six years from the date of the last activity relating to the person or report, whichever date is later;

(j) to instruct any financial institution or designated non-financial business and profession to take such steps as may be appropriate in relation to any information or report received by the Financial Intelligence Unit to enforce compliance with this Law or to facilitate any investigation anticipated by the Financial Intelligence Unit or a law enforcement agency;

(k) based on reasonable grounds to suspect that a transaction or attempted transaction involves proceeds of crime, or is related to or intended for financing of terrorism, or is terrorist property, to direct in writing that the financial institution or designated non-financial business and profession involved in the transaction either proceed or refrain from proceeding with the transaction or attempted transaction, for a period to be determined by the Financial Intelligence Unit.

(1) Any direction must not exceed five (5) working days if the direction is in writing.

(2) Any direction given orally must not exceed twenty four (24) hours and must be confirmed in writing within twenty four (24) hours of the oral direction.

(3) Before the expiration of five days of giving the direction, the Financial Intelligence Unit may apply to the Supreme Court for an order to extend the period of the direction.

(l) to issue guidelines to financial institutions and designated non-financial business and professions on the manner of transaction reporting under [Subchapter III] of this chapter, including specification of reporting forms, content of transaction reports and the procedures that should be followed when reporting transactions;

(m) to provide feedback to the financial institution, designated non-financial business or profession and any relevant government department, office, agency or institution regarding outcomes relating to the reports or information provided by it under the provisions of this Law;

[Header A: MONEY LAUNDERING 17 PNCA § 3334

]

(n) to provide training programs for financial institutions and designated non-financial business and professions in relation to reporting obligations, and the identification of suspicious transactions;

(o) to conduct research into and compile and provide information and statistics on trends and developments in the area of money laundering, the financing of terrorism, and ways to detect, prevent and deter such activities;

(p) to educate the public and create awareness on matters relating to money laundering and the financing of terrorism;

(q) to cooperate and share information with other domestic competent authorities;

(r) to assist competent authorities to investigate or prosecute any offense;

(s) to provide information to and assist competent authorities to apply seizing and confiscation measures pursuant to 17 PNC Chapter 7; or to freeze property under 17 PNC Chapter 33, [Subchapter V];

(t) to advise financial institutions and designated non-financial business and professions of concerns about weaknesses in the anti-money laundering and countering financing of terrorism (AML/CFT) systems of other countries;

(u) to cooperate, share information and enter into agreements or arrangements with foreign government institution or agency, or any international organization, in accordance with 17 PNC section 3335; and

(v) to report in writing to the Governing Board of the Financial Institutions Commission of the Republic of Palau prior to the end of each fiscal year on the activities of the Financial Intelligence Unit during the previous year and the expected activities of the Financial Intelligence Unit during the subsequent year, without disclosing confidential information or information that may jeopardize an ongoing investigation or prosecution.

(w) to promulgate any rules and regulations as may be necessary to give effect to the intent of Chapter 33 of this Title of the Palau National Code; in addition, any regulations previously promulgated by the Financial Intelligence Unit under the authority of the Money Laundering and Proceeds of Crime Act of 2001 shall remain in full force and effect as if promulgated under the authority of this Act.

[Header B: 17 PNCA § 3334 CRIMES

]

Source

RPPL 9-21 § 5 [Chapter 33 § 3333], modified.

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format. In subsection (l) the bracketed [Subchapter III] replaced the word “Part III” and in subsection (s) the bracketed [Subchapter V] replaced the word “Part V” in the original legislation per Code Commission.

§ 3335. Disclosure.

(a) The Financial Intelligence Unit may disclose any report or information to a foreign government agency or institution, or an international organization, that performs similar functions and is subject to similar secrecy obligations as the Financial Intelligence Unit:

(1) on such terms and conditions as are set out in an agreement or arrangement between the Financial Intelligence Unit and the foreign government institution or agency, or international organization, regarding the exchange of such information; or

(2) where such an agreement or arrangement has not been entered into, on such terms and conditions as may be agreed upon by the Financial Intelligence Unit and the foreign institution, agency or organization at the time of disclosure.

(b) The Financial Intelligence Unit, with the approval of the Governing Board of the Financial Institutions Commission, may enter into a formal agreement or arrangement, in writing, with a foreign government institution or agency, or international organization, with powers and duties similar to the Financial Intelligence Unit regarding the exchange of information between the Financial Intelligence Unit and that institution, agency or organization.

(c) Agreements or arrangements entered into under subsection (a) or the terms and conditions under subsection (b) shall include a stipulation that:

(1) any information provided under this Section shall be used by the foreign institution, agency or organization only for the purpose of combating money laundering, financing of terrorism or any other felony. Any other use shall require consent of the Palauan authority providing the information; and

(2) any information provided under this Section may not be further disclosed or disseminated by the foreign institution, agency or organization to other authorities in the receiving State or elsewhere without the express consent of the Financial Intelligence Unit.

[Header A: MONEY LAUNDERING 17 PNCA § 3336

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(d) A decision by the director of the Financial Intelligence Unit to analyze a matter or disseminate information under 17 PNC section 3334 is not subject to review except by the Governing Board of the Financial Institutions Commission.

(e) Any person who has duties for or within the Financial Intelligence Unit is required to keep confidential any information obtained or matter disclosed to him or her within the scope of these duties, even after the cessation of those duties, except as otherwise provided by this Law or any regulation issued in execution thereof, or as ordered by the court. Such persons may only use such information for purposes provided for and in accordance with this Law.

(f) Any person or past employee of the Financial Intelligence Unit or other person who has duties for or within the Financial Intelligence Unit who willfully discloses information in contravention of subsection (e) shall be guilty of a Class C felony or a maximum fine of ten thousand dollars (\$10,000), or both.

Source

RPPL 9-21 § 5 [Chapter 33 § 3334], modified.

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3336. Budget.

(a) The Financial Intelligence Unit shall be responsible for its own budget to be determined by the Director of the Financial Intelligence Unit.

(b) The Financial Intelligence Unit shall prepare for each new financial year an annual budget of revenue and expenditure which shall be submitted to the Olbiil Era Kelulau at least two months prior to the commencement of the financial year.

(c) The Financial Intelligence Unit is subject to examination and audit by the Office of the Public Auditor.

Source

RPPL 9-21 § 5 [Chapter 33 § 3335], modified.

[Header B: 17 PNCA § 3336 CRIMES

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Subchapter V

Freezing Of Property

§ 3341. Freezing of property.

§ 3342. Financial support of frozen assets.

§ 3343. Reporting.

§ 3344. Listing of suspected terrorists.

§ 3345. Publication of UN Sanctions Committee actions.

§ 3346. Application for de-listing.

§ 3347. Procedure to unfreeze property.

§ 3348. Notice.

§ 3349. Authorization for limited use of frozen property.

§ 3350. Promulgation of rules.

§ 3351. Penalties.

§ 3341. Freezing of property.

(a) Any person shall freeze the property belonging to or wholly or jointly owned, held or controlled, directly or indirectly, by a person, group or entity designated by the United Nations Sanctions Committee, or belonging to or acting on behalf or at the direction of such a person, group or entity.

(b) Any person shall freeze the property belonging to or wholly or jointly owned, held or controlled, directly or indirectly, by any person, group or entity listed by the Attorney General under 17 PNC section

3344, or any person, group or entity acting on behalf or at the direction of such person, group or entity listed under 17 PNC section 3344.

(c) Freezing measures pursuant to subsections (a) and (b) shall be taken without delay and prior notice to the person, group or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC section 3344.

Source

RPPL 9-21 § 5 [Chapter 33 § 3340], modified.

Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3342. Financial support of frozen assets.

[Header A: MONEY LAUNDERING 17 PNCA § 3343

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(a) No person shall make property available, directly or indirectly, to or for the benefit of a person, group, or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC section 3344.

(b) Subject to 17 PNC section 3349, no person shall provide financial services to a person, group or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC section 3344.

Source

RPPL 9-21 § 5 [Chapter 33 § 3341], modified.

Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3343. Reporting.

(a) Within twenty-four (24) hours a person shall inform the Financial Intelligence Unit:

(1) of any freezing measures they took pursuant to 17 PNC section 3341;

(2) that they know or suspect that a person with whom they have dealings with is a person, group or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC section 3344;

(b) When providing information to the Financial Intelligence Unit pursuant to subsection (a), a person shall:

(1) describe the status of the property;

(2) describe any actions taken with respect to the property;

(3) describe the nature and amount or quantity of the property frozen;

(4) provide any other information relevant to the property.

(c) A person shall cooperate with the Financial Intelligence Unit to verify the information provided under this section.

(d) The Financial Intelligence Unit shall provide any information received under subsection (a) to the competent law enforcement authority for further investigation.

[Header B: 17 PNCA § 3343 CRIMES

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Source

RPPL 9-21 § 5 [Chapter 33 § 3342], modified.

Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3344. Listing of suspected terrorists.

(a) The Financial Intelligence Unit, either at its own initiative or at the request of the Financial Institutions Commission, Attorney General, Ministry of State, Ministry of Justice, Bureau of Revenue, Customs and Taxation, or the competent authority of a foreign State, shall determine the persons, groups and entities who commit or attempt to commit a terrorist act or participate in or facilitate the

commission of a terrorist act, place the names of such persons, groups and entities on a list and, as appropriate, amend that list.

(b) A decision under subsection (a) to list a person, group or entity in accordance with this section shall be made based on the Attorney General's determination that there are reasonable grounds to suspect or believe that such person, group or entity commits or attempts to commit a terrorist act or participates in or facilitates the commission of a terrorist act, and may be issued irrespective of the existence of a criminal investigation or proceeding.

(c) A decision to list a person, group or entity under subsection (a) shall come into effect upon publication in the official gazette and such publication shall occur without delay. The decision may also come into effect in relation to any person who receives notice of the listing decision before such publication and upon the service of a copy of the decision to such person.

(d) The Attorney General shall forward a copy of any decision to the Financial Institutions Commission. The Financial Institutions Commission shall forward the list to all financial institutions and designated non-financial business and professions, the Land Court, Bureau of Revenue, Customs and Taxation, Registrar of Corporations, the Foreign Investment Board and to other supervisory authorities listed in subsection (a), and publish any decision on the Financial Institutions Commission's official website.

(e) The Attorney General may revoke its decision to list a person, group or entity under this section at any time, and in such case the de-listing and publication of the de-listing shall occur in the same manner as the listing. The Attorney General shall review the list every year to ensure there are grounds for retaining the name of a person, group or entity on the list.

[Header A: MONEY LAUNDERING 17 PNCA § 3346

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(f) The admission of a matter, collection of information or evidence, and listing procedures under this Section shall be in accordance with the rules prescribed by the Attorney General.

Source

RPPL 9-21 § 5 [Chapter 33 § 3343], modified.

§ 3345. Publication of UN Sanctions Committee actions.

(a) The Financial Intelligence Unit shall make reasonable efforts to ensure that designations by a United Nations Sanctions Committee, and any amendments thereof are readily available to monitoring entities,

other persons involved in monitoring, the Financial Institutions Commission, Land Court, Registrar of Corporations, Bureau of Revenue, Customs and Taxation and the Foreign Investment Board.

(b) The Attorney General shall undertake efforts to ensure that the designations by a United Nations Sanction Committee, and any amendments thereof are readily available to financial institutions and designated non-financial business and professions, the Land Court, Foreign Investment Board, Registrar of Corporations, Bureau of Revenue, Customs and Taxation and the Financial Institutions Commission.

Source

RPPL 9-21 § 5 [Chapter 33 § 3344], modified.

§ 3346. Application for de-listing.

(a) The Attorney General, either on its own initiative or upon application by an affected person, may determine that a freezing measure under this chapter does not apply because the person, group or entity in relation to whom the measure has been taken is not the person, group or entity designated by a United Nations Sanctions Committee or listed by the Attorney General under 17 PNC section 3344.

(b) Any person, group or entity designated by a United Nations Sanctions Committee that is located in or a national or resident of Palau may submit an application for de-listing to the [Ministry of State] for forwarding to the focal point established within the United Nations Secretariat. A freezing measure under 17 PNC section 3341 may be revoked by the Countering Financing of Terrorism Committee only based on a decision by the relevant Sanctions Committee.

[Header B: 17 PNCA § 3346 CRIMES

]

(c) Any person listed by the Attorney General under 17 PNC section 3344 may file a written application with the Attorney General to be removed from the list. Such proceedings shall be in accordance with the rules prescribed by the Attorney General.

Source

RPPL 9-21 § 5 [Chapter 33 § 3345], modified.

Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format. The bracketed [Ministry of State] in subsection (b) read “Ministry of Foreign Affairs” in the original legislation and was changed by the Code Commission as complying with likely intention of legislation.

§ 3347. Procedure to unfreeze property.

(a) The Attorney General may in the interest of justice direct that a specific freezing measure 17 PNC section 3341 be lifted or altered.

(b) The Attorney General must lift a freezing measure if there is a request by a competent Palauan authority or any person, group or entity claiming to be affected by such measure, and it is established that 17 PNC section 3341 does not apply with respect to the property subject to the measure.

(c) A direction by the Attorney General that the person freezing the property should lift or alter a specific freezing measure shall be published in the Government Gazette. Such proceedings shall be in accordance with the rules prescribed by the Attorney General.

Source

RPPL 9-21 § 5 [Chapter 33 § 3346], modified.

Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3348. Notice.

(a) Where the Attorney General has listed a person, group or entity under 17 PNC section 3344, it shall make all reasonable efforts to provide the person, group or entity written notice of the listing within five (5) days. The notice shall inform the person, group or entity of publicly-releasable information concerning the reasons for listing, de-listing procedures and the procedures by which the person, group or entity can challenge the listing. The notice may be given:

[Header A: MONEY LAUNDERING 17 PNCA § 3349

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(1) for a natural person, by posting it to the last known address;

(2) for a legal person or entity, by posting it to its registered or principal office or local agent within two weeks or, in the absence of a registered or principal office or local agent, to its last known address; or

(3) for a group, by whatever possible means.

(b) If the person, group or entity referenced in subsection (a) is domiciled outside Palau, the Attorney General shall forward a copy of the written notice to the government of the State where the person, group or entity is domiciled or located and request that service be made at the first available opportunity. If the whereabouts of the person, group or entity are unknown, the Attorney General shall forward a copy of the written notice to the government of the State of which the person is a national and request that service be made at the first available opportunity.

Source

RPPL 9-21 § 5 [Chapter 33 § 3347], modified.

Notes

Section referenced in this section has been renumbered to conform with the Code numbering format.

§ 3349. Authorization for limited use of frozen property.

(a) Upon written request of the person, group or entity whose property was frozen, the Attorney General may grant specific authorization, under such conditions as it deems appropriate to prevent the financing of terrorism, for the use of frozen property or the provision of property for:

(1) taxes, insurance payments, public utility service fees such as water, electricity, gas, and telecommunications, and of charges due to a financial institution for the maintenance of accounts;

(2) essential basic necessities of life of a natural person or a member of his/her family, including in particular payments for foodstuffs, medicines, reasonable rent or mortgage for the family residence and reasonable fees and charges concerning medical treatment of members of that family;

[Header B: 17 PNCA § 3349 CRIMES

]

(3) the payment of reasonable fees and reimbursement of incurred expenses associated with the provision of legal services.

(b) Having determined that property frozen pursuant to 17 PNC section 3341 is to be used for purposes listed in subsection (a), the Attorney General shall notify the United Nations Sanctions Committee that has made the designation of its intention to authorize an exemption under this provision. In the absence of a negative decision from the United Nations Sanctions Committee within three (3) business days of the notification, the Attorney General may order the exclusion of the property under subsection (a) from the freezing obligation.

(c) Upon written request of the person, group or entity whose property was frozen pursuant to 17 PNC section 3341, the Attorney General may grant specific authorization, under such conditions as it deems appropriate to prevent the financing of terrorism, for the use or provision of such property upon determination that such property is necessary to cover extraordinary expenses. An authorization for necessary extraordinary expenses may be granted only upon express authorization by the United Nations Sanctions Committee that has made the designation.

(d) The following payments or credits may be made into a frozen account provided such payments or credits are or become immediately subject to the property freeze:

(1) those due to a person, group or entity listed by the Attorney General under 17 PNC section 3344 under contract, agreement or obligation that were concluded or arose before the date the account became subject to the property freeze;

(2) interest or other earnings due on the account and payments into such account in favor of a person, group or entity listed by the Attorney General under 17 PNC section 3344.

(e) Upon receipt of a request for an authorization referred to in subsections (a) or (c) above, the Attorney General shall notify the requestor within 30 days of the receipt of such request, the grounds upon which it intends either to grant or reject the request, and if granted set forth the conditions that the Attorney General considers necessary to prevent the financing of terrorism. The Attorney General may vary or revoke an authorization at any time.

Source

RPPL 9-21 § 5 [Chapter 33 § 3348], modified.

[Header A: MONEY LAUNDERING 17 PNCA § 3351

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Notes

Sections referenced in this section have been renumbered to conform with the Code numbering format.

§ 3350. Promulgation of rules.

The Attorney General shall prescribe such procedures and rules as are necessary or expedient for the implementation of the provisions under this [Subchapter V] of Chapter 33 of 17 PNC, including rules pertaining to the custody and administration of property subject to a freezing measure, the collection of information or evidence, and listing procedures, and other actions, proceedings and requests made under [Subchapter V] of this Chapter.

Source

RPPL 9-21 § 5 [Chapter 33 § 3349], modified.

Notes

The bracketed [Subchapter V] replaced the word “Part V” in the original legislation per Code Commission.

§ 3351. Penalties.

(a) Any person who intentionally or by criminal negligence fails to comply with a freeze obligation set forth in this chapter, shall be guilty of a Class C felony or a maximum fine of ten thousand dollars (\$10,000), or both.

(b) It shall also be an offense under this Section to participate intentionally or by criminal negligence in any activity the object or effect of which is, directly or indirectly, to circumvent the provisions of this Law.

(c) A financial institution or designated non-financial business and profession who commits an offense under this Section also commits an administrative violation and may be subject to the measures and sanctions provided for under 17 PNC section 3329.

(d) A person shall not be responsible for a loss or claim resulting from the freezing of property or the refusal to make property available or to provide financial services where such an act is carried out in good faith, unless criminal negligence or reckless or intentional misconduct is proven.

Source

RPPL 9-21 § 5 [Chapter 33 § 3350], modified.

[Header B: 17 PNCA § 3351 CRIMES

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Notes

Section referenced in this section has been renumbered to conform with the Code numbering format.

