NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

32ND CONSTITUTIONAL REGULAR SESSION, 2011 BILL NO.: 77

P.L. 2011-57

AN ACT

to amend Sections 166 and 167 of the Banking Act 1987 in order to improve the Act and to ensure compliance with international anti-money laundering and combating the financing of terrorism standards.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS:

Section 1. **Short Title**

This Act may be cited as the Banking (Amendment) Act, 2011.

Section 2. **Amendments**

(1) Section 166 is hereby amended to read as follows:

§166. Money laundering offenses and penalties.

(1) A person commits the offense of money laundering if the person:

(a) acquires, possesses or uses property, knowing or having reason to believe that the property is the proceeds of crime;

(b) knowing or having reason to believe that such property is the proceeds of crime, renders assistance to another person for:

(i) the conversion or transfer of property, with the aim of concealing or disguising the illicit origin of that property, to evade the legal consequences thereof; and

(ii) concealing or disguising the true nature, origin, location, disposition, movement or ownership of the property.

(c) nothing in this Act shall prevent a person that committed any other offense that generated the proceeds of crime from being convicted of an offense of money laundering in respect of those proceeds of crime.

(d) a person who attempts, facilitates, conspires, or aids and abets any other person to commit an offense of money laundering commits an offense and is liable on conviction to the penalties specified under this section.

(e) for the purposes of this section, when proving that property is the proceeds of crime, it is not necessary that a person is convicted of the serious offense that generated the proceeds of crime.

(f) for the purposes of this section, it is not necessary that the serious offense that generated the proceeds of crime was committed within the Marshall Islands.

(2) Where a person is convicted of any of the offenses specified under this Section, in the case of a natural person, such person shall be liable to imprisonment for a term not exceeding twenty (20) years or a fine not exceeding $2,000,000, or both, and in the case of a body corporate five (5) times such a fine or double the amount of money involved in the offense scheme, whichever is greater.

(2) Section 167 is hereby amended to read as follows:

§167. Commissioner's authority in prohibiting money laundering activity

(1) The Commissioner, amongst other duties:

(a) shall receive reports of transactions issued by financial institutions or cash dealers pursuant to Section 170 of this Act;

(b) shall send any such report to the appropriate law enforcement authorities, if there are reasonable grounds to suspect that the transaction is suspicious;

(c) may enter the premises of any financial institution or cash dealer during ordinary business hours to inspect any record and ask any question relating to such record, make notes and take copies of the whole or any part of the record;

(d) shall send to the appropriate law enforcement authorities, any information derived from an inspection carried out pursuant to Subsection (1)(c) of this Section, if it gives the Commissioner reasonable grounds to suspect that a transaction involves money laundering, proceeds of crime, and or the financing of terrorism;

(e) may instruct any financial institution or cash dealer to take such steps as may be appropriate to facilitate any investigation anticipated by the Commissioner;

(f) may compile statistics and records, disseminate information within the Republic of the Marshall Islands or elsewhere, make recommendations arising out of any information received, issue guidelines to financial institutions and cash dealers, and advise the appropriate officials;

(g) shall create training requirements and provide such training for any financial institution and cash dealer with respect to transaction record-keeping and reporting obligations provided for in this Act;

(h) may consult with any relevant person, institution or organization for the purpose of exercising its powers or duties under Subsections (1)(e), (f), (g) or (1) of this Section;

(i) shall have the authority to request additional information from financial institutions and cash dealers where the Commissioner has reasonable grounds to believe that such information is essential in discovering money laundering activity, proceeds of crime, and or the financing of terrorism;

(j) shall have the authority and ability to exchange information between international administrative authorities;

(k) shall have the authority and ability to facilitate and assist international administrative authorities in conducting proceeds of crime, money laundering, and or the financing of terrorism investigations;

(l) shall have the authority and ability to apply for a warrant to enter any premises belonging to, or in the possession or control of a financial institution, cash dealer or any officer or employee thereof, and to search the premises and remove any documents, materials, or other things therein for the purposes of preventing money laundering activity, the financing of terrorism, or tracing the proceeds of crime, as so ordered by the High Court and specified in the warrant other than as authorized in subsections (c) and (i) above;

(m) shall have the authority and ability to obtain information under this Section notwithstanding any secrecy or other restrictions on disclosure of information imposed by this Act;

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(n) shall conduct, in association with law enforcement authorities, investigations into the proceeds of crime, money laundering, and or the financing of terrorism, only where the Commissioner has reasonable grounds to suspect the proceeds of crime, money laundering activity, and or the financing of terrorism is occurring; and

(o) shall prepare annually, a report of the activities of the Domestic Financial Intelligence Unit that shall include statistics, typologies and trends as well as information regarding the activities of the Domestic Financial Intelligence Unit, which shall be submitted to Cabinet before the end of each financial year.

Section 3. **Effective Date**

This Act shall take effect in accordance with the Constitution and the Rules of Procedures of the Nitijela.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No.77 was passed by the Nitijela of the Republic of the Marshall Islands on the 11th day of August, 2011; and
2. That I am satisfied that Nitijela Bill No.77 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 17th day of October 2011.

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Attest:

Hon. Alvin T. Jacklick	**Lena E. Tiobech**
Speaker	Acting Clerk
Nitijela of the Marshall Islands	Nitijela of the Marshall Islands