

## Chapter 38

### Money Laundering and Proceeds of Crime Act

#### Subchapter I

#### General Provisions

[Header A: MONEY LAUNDERING 17 PNCA § 3802

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§ 3801. Short title

§ 3802. Definition of money laundering

§ 3803. Definitions

#### **§ 3801. Short title.**

This chapter shall be known and may be cited as the Money Laundering and Proceeds of Crime Act.

#### **Source**

RPPL 6-4 § 1[1]. Amended by RPPL 7-39 § 1.

#### **Notes**

RPPL 6-4 § 1[2] reads: “Purpose. The Republic of Palau shall, by the implementation of this Act, facilitate the transparency of transactions of credit and financial institutions as defined herein, for the purposes of the detection and suppression of money laundering offenses as defined herein.”

This Act was designated as chapter 36 by RPPL 6-4 but was codified as chapter 38 by the Code Commission.

Pamintuan v. ROP, 16 ROP 32, 34 (2008).

#### **§ 3802. Definition of money laundering.**

(a) For the purposes of this chapter, the following acts either singly or collectively shall constitute the offense of money laundering:

(1) the conversion or transfer of property for the purpose of concealing or disguising the illegal origin of such property or assisting any person who is involved in the commission of a predicate offense to evade the legal consequences of his or her actions; or

(2) the concealment or disguise of the illegal nature, source, location, disposition, movement, or ownership of property by any person who knows that the property constitutes the proceeds of crime as defined herein; or

(3) the acquisition, possession, or control of property by any person who knows that the property constitutes the proceeds of crime as defined herein.

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(b) Knowledge, intent, or purpose is required as an element of the offense of money laundering and may be inferred from objective factual circumstances.

(c) A person need not be convicted of a predicate offense to establish that property was the proceeds of a predicate offense or to be convicted of laundering such proceeds.

(d) The offense of money laundering is not a lesser included offense of any crime.

**Source**

RPPL 6-4 § 1[3], RPPL 7-39 § 1[3] amends subsection (a) and adds new subsections (c) and (d).

**§ 3803. Definitions.**

In this chapter, unless the context otherwise requires:

(a) “account” means any facility or arrangement by which a financial institution or cash dealer does any one or more of the following:

(1) accepts deposits of currency;

(2) allows withdrawals of currency or transfers into or out of the account;

- (3) pays checks or payment orders drawn on a financial institution or cash dealer by, or collects checks or payment orders on behalf of, a person;
- (4) supplies a facility or arrangement for a safety deposit box;
- (b) "appeal" includes proceedings by way of discharging or setting aside a judgment, and an application for a new trial or for a stay of execution;
- (c) "Attorney General" means the Attorney General of the Republic of Palau;
- (d) "authorized officer" means a person or class of persons designated by the Minister of Justice or the Attorney General as an authorized officer;
- (e) "cash dealer" or "over the counter exchange dealer" means:

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- (1) a person who carries on a business of an insurer, an insurance intermediary, a securities dealer or a futures broker;
- (2) a person who carries on a business of dealing in bullion, of issuing, selling or redeeming travelers checks, money orders or similar instruments, or of collecting, holding and delivering cash as part of a business of providing payroll services;
- (3) an operator of a gambling house, bingo parlor, casino or lottery, including but not limited to all forms of internet gambling; or
- (4) a trustee, or manager of a unit trust.

[Header A: **MONEY LAUNDERING 17 PNCA § 3803**

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- (f) "confiscation" means the permanent deprivation of property by final order of the Supreme Court after all appeals are exhausted;
- (g) "crime" or "predicate offense" shall be any act committed in the Republic of Palau that is a felony, or any act committed abroad, which constitutes an offense in that country, and that would have constituted a felony had it occurred in the Republic of Palau;
- (h) "criminal organization" means any structured association having the aim of committing crimes;

(i) "currency" means any coin or paper that is designated as legal tender and which is customarily used and accepted as a medium of exchange in the country of issue;

(j) "document" means any material on which data is recorded or marked and which is capable of being read or understood by a person, computer system, or other device, and any record of information, and includes:

- (1) anything on which there is writing;
- (2) anything on which there are marks, figures, symbols, or perforations having meaning for persons qualified to interpret them;
- (3) anything from which sounds, images or writings can be produced, with or without the aid of anything else; and
- (4) a map, plan, drawing, photograph or similar thing.

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(k) "financial institution" or "credit institution" means any bank, savings and loan institution, credit union, securities broker or dealer, or an entity or person whose primary business activity includes:

- (1) acceptance of deposits and other repayable funds from the public;
- (2) lending, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions;
- (3) financial leasing;
- (4) money transmission services;

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- (5) issuing and administering means of payment (such as credit cards, travelers checks and bankers drafts);
- (6) guarantees and commitments;

(7) trading for their own account or for account of customers in money market instruments (such as checks, bills, certificates of deposit), foreign exchange, financial futures and options, exchange and interest rate instruments, and transferable securities;

(8) underwriting share issues and participation in such issues;

(9) money-brokering;

(10) portfolio management and advice;

(11) safekeeping and administration of securities;

(12) credit reference services;

(13) safe custody services; or

(14) any other entity licensed by the Financial Institutions Commission as a financial institution.

(l) "Financial Intelligence Unit" ("FIU") means the governmental agency created

pursuant to § 3831;

(m) "FIC" means the "Financial Institutions Commission";

(n) "instrumentality" means any property used or intended to be used in any manner to commit one or more criminal offenses;

(o) "interest," in relation to property, means:

(1) a legal or equitable estate or interest in the property;

(2) a right, power or privilege in connection with the property.

(p) "money laundering offense" has the meaning provided in § 3802;

(q) "offender" means any person legally culpable for a criminal offense under the laws of the Republic of Palau as a principal, accessory, conspirator, or co-conspirator, or a person aiding and abetting the principal as such terms are defined pursuant to 17 PNC;

(r) "person" means any natural or legal person;

(s) "proceeding or proceedings" means any procedure conducted by or under the supervision of a judge or judicial officer however described in relation to any alleged or proven offense, or property derived from such offense, and includes an inquiry, investigation, or preliminary or final determination of facts;

(t) "proceeds of crime" means any property or economic advantage derived directly or indirectly from a crime;

(u) "property" means assets, real property, or personal property of every kind, whether movable or immovable, tangible or intangible, and legal documents or instruments evidencing an interest in such assets;

(v) "Supreme Court" means the Supreme Court of the Republic of Palau, and all its divisions;

(w) "unit trust" means any arrangement made for the purpose or having the effect of providing, for a person having funds available for investment, facilities for the participation by the person as a beneficiary under a trust, in any profits or income arising

from the acquisition, holding, management, or disposal of any property pursuant to the trust.

#### **Source**

RPPL 6-4 § 1[4], modified. RPPL 7-39 § 1[4] adds new subsections (g) and (m), amends subsections (d),(k),(q),(t) & (u), modified.

#### **Notes**

The subsections have been re-lettered starting with subsection (g) beginning December 19, 2007 when the law was enacted.

### **Subchapter II**

#### **Prevention of Money Laundering**

§ 3811. Report on the use of cash and bearer securities.

§ 3812. Requirement to effect domestic or international transfers of funds via credit or financial institutions.

§ 3813. Financial institutions and cash dealers to verify customers' identity.

§ 3814. Licensing and regulations concerning alternative remittance systems.

**§ 3811. Report on the use of cash and bearer securities.**

(a) Credit or financial institutions shall keep regular reports of all transactions made in cash or bearer securities of at least US ten thousand dollars (\$10,000), or its equivalent in foreign cash or bearer securities. Such reports are required to have accurate and meaningful originator and recipient information including, but not limited to, name, address and account number. Such information must remain with the transfer or related message through the payment chain.

(b) The US ten thousand dollars (\$10,000) threshold in subsection (a) may be met either through a single transaction or a series of contemporaneous transactions that in the aggregate are at least US ten thousand dollars (\$10,000).

(c) Within fifteen (15) days from the date of the transaction, or as otherwise provided by regulation by the FIC , all such reports shall be provided to the FIU and FIC offices in the form and manner as set forth by the FIU or the FIC.

**Source**

RPPL 6-4 § 1[5]. Amended in its entirety by RPPL 7-39 § 1, modified.

**§ 3812. Requirement to effect domestic or international transfers of funds via credit or financial institutions.**

(a) Any transfer to or from a foreign country of moneys or securities involving a sum of at least US five thousand dollars (\$5,000) or its equivalent shall be made by or through a credit or financial institution licensed under the laws of the Republic of Palau.

(b) All transfers are required to have and maintain through the payment chain, accurate and meaningful originator and recipient information, including, but not limited to, name, address, and account number.

[Header A: **MONEY LAUNDERING 17 PNCA § 3813**

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**Source**

RPPL 6-4 § 1[6]. Amended in its entirety by RPPL 7-39 § 1[6], modified.

**§ 3813. Financial institutions and cash dealers to verify customers' identity.**

(a) Credit and financial institutions and cash dealers shall be required to verify their customers' identity and address before opening ordinary accounts or passbooks; establishing business relations; taking stocks, bonds, or other securities into safekeeping; granting safe-deposit facilities; managing assets; or effecting or receiving payments on behalf of either natural or legal persons.

(b) A natural person's identity and address shall be evidenced by the presentation of either an original official identification document that is unexpired and bears a photograph or a reasonable alternative. A copy thereof shall be taken or other adequate record shall be retained or the verification shall be retained as established by regulation by the Financial Institutions Commission (FIC).

(c) A legal person shall be identified by the production of its articles of incorporation or charter or its equivalent or any other document establishing that it has been lawfully registered and that it is actually in existence at the time of the identification, a document establishing its address and a notarized document setting forth its directors and, wherever necessary to know the true identity of the customer, its principal owners and beneficiaries. A copy of such documents shall be taken by the credit or financial institution or the cash dealer.

(d) Natural or legal persons authorized to enter into transactions at credit or financial institutions on behalf of third parties shall produce the documents referred to in subsections (b) and (c) above for themselves and the beneficial owners.

(e) If the transaction is not face-to-face, the credit or financial institution or cash dealer shall require a notarized identification from the customer's local bank. If, however, the local bank is located in, or a branch office of the bank is located in a Non-Cooperative Countries and Territories jurisdiction as that term is defined by the Financial Action Task Force on Money Laundering, the non-face-to-face transaction shall not be completed.

(f) Credit and financial institutions and cash dealers shall, to the extent not already done, verify their existing customer's identity and address.

(g) Credit and financial institutions and cash dealers shall identify and verify their

[Header B: 17 PNCA § 3813 CRIMES

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customers where the institution has doubts about the veracity or adequacy of previously obtained customer identification.



(h) Credit and financial institutions and cash dealers shall not establish any business relationship with or complete any financial transaction for any anonymous person or entity or for any person or entity using a false or fictitious name.

(i) If a prospective or existing customer is either unwilling to provide the documentation required in this section or the credit or financial institution or cash dealer is unable to resolve doubts about the prospective or existing customer's identity, the credit or financial institution or cash dealer shall not open the account and shall file a suspicious transaction report as specified in § 3835 and its accompanying regulations.

#### **Source**

RPPL 6-4 § 1[7]. Subsections (a), (b) & (c) are amended by RPPL 7-39 § 1[7], modified, and new subsections (e) to (i) are added.

#### **§ 3814. Licensing and regulations concerning alternative remittance systems.**

(a) All persons, and their agents, that provide a service for the transmission of money or value, including transmission through an alternative remittance system or informal money or value transfer system or network (hereinafter referred to as "Alternative Remittance Systems"), shall be required to be licensed by the Financial Institutions Commission of Palau. The Financial Institutions Commission shall promulgate such regulations as may be necessary for the proper licensing and regulation of such Alternative Remittance Systems, and such regulations shall become effective in accordance with 6 PNC § 127. Persons licensed under other provisions of this chapter need not be licensed pursuant to this section.

(b) Alternative Remittance Systems shall keep regular reports of all transactions made in cash or bearer securities in excess of US one thousand dollars (\$1,000), or its equivalent in foreign cash or bearer securities. Such reports are required to have accurate and meaningful originator and recipient information including, but not limited to, name, address and account number. Such information must remain with the transfer or related message through the payment chain. Alternative Remittance Systems are required to pay special attention to all complex, unusually large transactions, or unusual patterns of transactions, that have no apparent economic or lawful purpose, to examine as far as possible the background and purpose of such transactions, to set forth their findings in writing, and provide such findings to the Financial Intelligence Unit upon completion. Alternative Remittance Systems are required to follow the requirements of § 3824 of this chapter as if they were a financial institution.

[Header A: **MONEY LAUNDERING 17 PNCA § 3821**

(c) Within fifteen (15) days from the date of the transaction, or as otherwise provided by regulation by the Financial Institutions Commission, all reports required by § 3814(b) shall be provided to the Financial Intelligence Unit and Financial Institutions Commission offices in the form and manner as set forth by the Financial Intelligence Unit or Financial Institutions Commission.

### **Source**

RPPL 7-39 § 1[8], modified.

### **Subchapter III**

#### **Transparency in Financial Transactions**

§ 3821. Identification of casual customers.

§ 3822. Identification of beneficial owners.

§ 3823. Special monitoring of certain transactions.

§ 3824. Record-keeping by credit and financial institutions.

§ 3825. Communication of information.

§ 3826. Internal anti-money-laundering programs at credit and financial institutions and compliance requirements.

§ 3827. Over-the-counter exchange dealings.

#### **§ 3821. Identification of casual customers of financial institutions.**

(a) Casual customers of financial institutions shall be identified in the manner specified in § 3813 in the case of any transaction involving a sum of at least the equivalent of US ten thousand dollars (\$10,000). If the amount of the transaction is unknown at the time of

the operation, the customer shall be identified as soon as the threshold amount becomes known or is reached by the transaction.

(b) Identification of casual customers pursuant to this section shall also be carried out in cases where the customer's separate transactions are conducted in a manner that reasonably appears to have an unlawful criminal purpose; in that case, the credit or financial institution shall submit a confidential report as described in § 3823 to the

Financial Intelligence Unit and the Office of the Attorney General pursuant to § 3835.

**Source**

RPPL 6-4 § 1[8], modified. Subsection (a) is amended by RPPL 7-39 § 1[9], modified.

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**§ 3822. Identification of beneficial owners.**

If, in the opinion of the credit or financial institution, it is uncertain whether a customer is acting on his or her own behalf, the credit or financial institution shall seek information by any legal and reasonable means to ascertain the true identity of the principal or party on whose behalf the customer is acting. If good faith attempts by credit and financial institutions to verify the identity of any beneficial owner and the true identity of the beneficial owner have doubtful results, the banking relationship shall be terminated, without prejudice to the credit or financial institution.

**Source**

RPPL 6-4 § 1[9].

**§ 3823. Special monitoring of certain transactions.**

(a) Where a credit or financial institution, cash dealer, or alternative remittance system has reasonable grounds to suspect that a transaction involves funds that are derived from, related to, or are the proceeds of a crime, the credit or financial institution, cash dealer, or alternative remittance system shall immediately provide information as to the origin and destination of the money, the purpose of the transaction, and the identity of the transacting parties to the Financial Intelligence Unit as required in § 3835. The report shall be maintained by the credit or financial institution, cash dealer, or alternative remittance system as specified in § 3824.

(b) Transactions that involve business relations or transactions with persons in jurisdictions that do not have adequate systems in place to prevent or deter money laundering or the financing of terrorism should be given special attention by all credit and financial institutions, cash dealers, and alternative remittance systems. Credit and financial institutions, cash dealers, and alternative remittance systems are required to pay special attention to all complex, unusually large transactions, or unusual patterns of transactions, that have no apparent economic or lawful purpose, to examine as far as possible the background and purpose of such transactions, the origin and destination of the money, and the identity of the transacting parties. All credit and financial institutions, cash dealers, and alternative remittance systems are required to set forth their findings in writing, and retain such record pursuant to § 3824.

### Source

RPPL 6-4 § 1[10], modified. Amended in its entirety by RPPL 7-39 § 1[11], modified.

### [Header A: MONEY LAUNDERING 17 PNCA § 3825

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#### **§ 3824. Record-keeping by credit and financial institutions.**

Credit and financial institutions shall maintain and hold at the disposal of the authorities:

- (a) records of customer identification for five (5) years after the account has been closed or the relations with the customer have ended; and
- (b) records of transactions conducted by customers that fall under § 3811 and the reports provided for in § 3823 for five (5) years following execution of the transaction.

### Source

RPPL 6-4 § 1[11], modified. Subsection (b) was amended by RPPL 7-39 § 1[12], modified.

#### **§ 3825. Communication of information.**

- (a) The confidential information and records referred to in §§ 3813, 3821, and 3822 shall be delivered to the Financial Intelligence Unit and the Office of the Attorney General upon the application of the Office of the Attorney General or the Financial Intelligence Unit to the Supreme Court, Trial Division, for an order allowing the Financial Intelligence Unit or the Office of the Attorney General or both to examine the contents of confidential reports and records of a credit or financial institution based upon a finding of probable cause; provided, however, that the Financial Intelligence Unit or Financial Institutions Commission may review such records as part of the compliance audit. The Court's order shall further specify with particularity the documents to be produced or delivered by the reporting party. Such application shall be made pursuant to an investigation by the Financial Intelligence Unit or the Office of the Attorney General for the detection and suppression of money laundering or predicate offenses.
- (b) Upon an ex parte showing of probable cause, the Supreme Court shall order the credit or financial institution, cash dealer, or alternative remittance system to produce and deliver the above-described confidential reports and records. When exigent circumstances exist, the Office of the Attorney General or the Financial Intelligence Unit may make the aforesaid application for an order via telephonic exchange with any sitting Justice of the Supreme Court at any time. The Office of the Attorney General's or Financial Intelligence Unit's written affirmation of the Court's oral

order for production shall be transmitted to the reporting party immediately, either by facsimile or by any other written means.

[Header B: **17 PNCA § 3825 CRIMES**

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(c) Notwithstanding the foregoing, the Office of the Attorney General or the Financial Intelligence Unit shall follow up the aforesaid request with a sworn written application to the Court for the order by the close of business on the next business day following receipt by the reporting party of the Court's oral order directing the production and delivery of reports and records. Should the Office of the Attorney General or the Financial Intelligence Unit fail to submit the written application by the close of business on the business day following the issuance of the Order, all the confidential reports and records shall be returned to the credit or financial institution, cash dealer, or alternative remittance system and any copies shall be destroyed immediately by the Financial Intelligence Unit and the Office of the Attorney General.

(d) Upon receipt of confidential information by the Office of the Attorney General or the Financial Intelligence Unit pursuant to this section, the Ministry of Justice, Financial Intelligence Unit, the Office of the Attorney General, and all related employees and agencies shall be prohibited from disclosing or making known the existence and content of the information received, except as provided in § 3832 and § 3834. Under no circumstances shall persons be required to transmit the above information and reports, nor shall any other individual having knowledge thereof be required to communicate such information or reports to any natural or legal person other than those specified in subsection (a).

**Source**

RPPL 6-4 § 1[12], modified. Amended in its entirety by RPPL 7-39 § 1[13], modified.

**§ 3826. Internal anti-money-laundering programs at credit and financial institutions and compliance requirements.**

(a) Credit and financial institutions shall develop written policies and procedures, to the extent such programs and procedures do not currently exist, for the prevention of money laundering. Such programs shall include the following:

[Header B: **17 PNCA § 3827 CRIMES**

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- (1) Centralization of information on the identity of customers, principals, beneficiaries, authorized agents, and beneficial owners, and regarding suspicious transactions;
- (2) Designation of compliance officers, at central management level, in each branch and at each agency or local office;
- (3) On-going training for officials or employees: and
- (4) Internal audit arrangements to check compliance with and effectiveness of the measures taken to implement this chapter.

[Header A: **MONEY LAUNDERING 17 PNCA § 3827**

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(b) The Financial Institutions Commission shall conduct random compliance audits to assess compliance with this chapter. Any credit or financial institution that fails to comply with the requirements of §§ 3811, 3813, 3814, 3821, 3822, 3823, 3824, 3825, 3826, or 3835 are subject to remedial provisions, including fines, as provided for in regulations promulgated pursuant to this chapter. Any credit or financial institution that repeatedly fails to comply with the requirements of sections §§ 3811, 3813, 3814, 3821, 3822, 3823, 3824, 3825, 3826, or 3835 may have a fine imposed, or their license suspended or revoked, by the Financial Institutions Commission after a hearing by the Financial Institutions Commission Board.

#### **Source**

RPPL 6-4 § 1[13]. Subsections are re-lettered and renumbered and (b) added by RPPL 7-39 § 1[14], modified.

#### **§ 3827. Over-the-counter exchange dealings.**

Natural or legal persons whose occupation is that of an over-the-counter exchange dealer and who are not otherwise licensed by the Financial Institutions Commission as a financial institution shall be required to do the following:

- (a) Before commencing to do business in the Republic of Palau, to submit a declaration of activity to the Minister of Justice for the purpose of obtaining a license to establish and operate an over-the-counter exchange dealer business, as provided for under the applicable laws of Palau, and, in that declaration, to furnish proof of the lawful origin of the capital required to establish the business;

(b) To verify the identity of their customers, by requiring the presentation, prior to any transaction involving a sum greater than the equivalent of US two thousand five hundred (\$2,500) or, in the case of any transaction conducted in conditions of unusual or unjustified complexity, of an official original document of identification of the customer that is unexpired and bears a photograph, a copy of which shall be taken.

(c) To record, in chronological order, all transactions, their nature and amount, indicating the customer's complete name, such information to be maintained, in a register numbered and signed by the competent administrative officer of the business, and to retain such register for five (5) years after the last transaction is recorded.

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**Source**

RPPL 6-4 § 1[14]. The opening sentence was amended by RPPL 7-39 § 1[15], modified.

**Notes**

The word numbered in subsection (c) reads numbers in RPPL 6-4 § 1[14].

**Subchapter IV**

**Detection of Money Laundering**

§ 3831. Cooperation with anti-money-laundering authorities.

§ 3832. General provisions.

§ 3833. Access to information.

§ 3834. Relationships with foreign financial intelligence units.

§ 3835. Requirement to report suspicious transaction.

§ 3836. Stop notice on incomplete transactions.

§ 3837. Exemption from liability for bona fide reporting of suspicions.

§ 3838. Exemption from liability arising out of the execution of transactions.

§ 3839. Special investigative techniques.

§ 3840. Undercover operations and controlled delivery.

§ 3841. Disallowance of bank secrecy.

§ 3842. Seizure.

§ 3843. Provisional measures.

§ 3844. Money laundering penalties.

§ 3845. Penalties applicable to corporate entities.

§ 3846. Civil penalties.

§ 3847. Penalties for other offenses

§ 3848. Confiscation.

§ 3849. Confiscation of property of criminal organizations.

§ 3850. Avoidance of certain legal instruments.

§ 3851. Disposal of confiscated property.

§ 3852. Applicable law for rulemaking and regulations.

§ 3853. Cultural traditions exempted from compliance with this chapter.

**§ 3831. Cooperation with anti-money-laundering authorities.**

(a) A Financial Intelligence Unit (“FIU”) shall be created within the Office of the Attorney General or the Financial Institutions Commission by Executive Order of the President. Other agencies of the government may be assigned to assist the Financial Intelligence Unit by the President at the request of the Financial Intelligence Unit. The Financial Intelligence Unit, in consultation with the President of the Republic of Palau, may promulgate regulations pertaining to the duties and functions of the Financial Intelligence Unit pursuant to the Administrative Procedure Act, 6 PNC Chapter 1.



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(b) The Financial Intelligence Unit members shall be required to keep confidential any information obtained within the scope of their duties, even after cessation of those duties with the Financial Intelligence Unit. Such information may not be used for any purposes other than those provided for by this chapter.

(c) The Financial Intelligence Unit members may not concurrently hold or pursue any elective office in the Palau National Government or any State Government and may not hold any other private employment.

(d) The Financial Intelligence Unit shall receive the reports transmitted by the persons referred to in § 3823 and § 3835. The Financial Intelligence Unit shall analyze the reports on the basis of the information at its disposal and shall gather, in particular from organizations and government ministries and agencies involved in combating organized crime, any additional information that may help to establish the origin of the funds or the nature of the suspect transactions forming the subject of the reports.

(e) The reports required of the persons referred to in § 3835 shall be sent to the Financial Intelligence Unit by any rapid means of confidential communication. The Financial Intelligence Unit shall confirm in writing receipt of any reports received and of money laundering trends.

(f) Upon the effective date of this chapter, an annual report shall be submitted by the Financial Intelligence Unit to the President and the Olbiil Era Kelulau. The report shall provide an overall analysis and evaluation of the reports received and of money laundering trends.

#### **Source**

RPPL 6-4 § 1[15], modified. Subsections (a), (c), (d), (e) and (f) are amended by RPPL 7-39 § 1[16], modified.

#### **§ 3832. General provisions.**

(a) The Financial Intelligence Unit shall be responsible for receiving, analyzing, and processing reports required pursuant to this chapter. All officials, employees, and agents of the national government or any other government shall keep confidential the information thus obtained, which may not be used for any purposes other than those provided for in this chapter.

[Header B: 17 PNCA § 3831 CRIMES

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(b) The Financial Intelligence Unit may, upon suspicion of money laundering, terrorist financing, or a predicate offense, disseminate such information to domestic authorities as it deems necessary.

**Source**

RPPL 6-4 §1[16]. Amended by RPPL 7-39 § 1[17], modified.

**§ 3833. Access to information.**

The Financial Intelligence Unit may also obtain from any public authority or from any natural or legal person information and record within the scope of investigations conducted following the report of a suspicion of illegal activities as set forth in § 3839. The Financial Intelligence Unit shall, upon request, be granted reasonable access to databases of all public authorities. In all cases, the use of information thus obtained shall be limited to the purposes of this chapter.

**Source**

RPPL 6-4 § 1[17], modified. Amended by RPPL 7-39 § 1[18], modified.

**§ 3834. Relationships with foreign financial intelligence units.**

(a) The Financial Intelligence Unit may enter into reciprocal arrangements with foreign financial intelligence units, or other law enforcement agencies, for the formal exchange of financial intelligence information, provided that such arrangements are governed by confidentiality requirements substantially similar to those set forth in this chapter.

(b) The Financial Intelligence Unit, subject to a reciprocal arrangement with foreign financial intelligence units, shall exchange information on a peer to peer basis with financial intelligence units of foreign countries responsible for receiving and processing reports of money laundering, provided that such exchanges are governed by confidentiality requirements substantially similar to those set forth in this chapter.

(c) Upon receipt of a request for information or transmission from a counterpart foreign financial intelligence unit, the Financial Intelligence Unit may comply with that request within the scope of the powers set forth in the reciprocal agreement, so long as such compliance is not in conflict with Palau law.

**Source**

RPPL 6-4 § 1[18]. Amended in its entirety and subsection (c) added by RPPL 7-39 § 1[19], modified.

**[Header A: MONEY LAUNDERING 17 PNCA § 3835**

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**§ 3835. Requirement to report suspicious transactions.**

(a) Any credit and financial institutions, financial intermediaries, over-the-counter exchange dealer as defined in § 3827, cash dealer, alternative remittance system, or other natural or legal person subject to § 3811 - § 3823, shall be required to report to the Financial Intelligence Unit transactions referred to in § 3823. The persons referred to in this section shall be required to report the transactions carried out even if it was not feasible to defer their execution or if it became clear only after completion of a transaction that it involved a money laundering offense or terrorist financing. Any natural or legal person referred to in this subsection shall also be required to report without delay any information that might confirm or invalidate the suspicion of a violation of § 3801.

**[Header B: 17 PNCA § 3835 CRIMES**

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(b) Reports of suspicions of violations of § 3801 shall be transmitted to the Financial Intelligence Unit by a confidential communication in writing. Reports of suspicions of violations communicated by telephone shall be confirmed by a confidential communication in writing within the shortest reasonable time. Such reports shall, as appropriate, indicate:

(1) the reasons why the transaction was executed; or

(2) the time limit within which the transaction is to be executed. The Financial Intelligence Unit shall immediately acknowledge receipt of such reports by confidential written communication to the reporting party.

**Source**

RPPL 6-4 § 1[19], modified. Subsection (a) amended by RPPL 7-39 § 1[20], modified.

**§ 3836. Stop notice on incomplete transactions.**

(a) If the Financial Intelligence Unit or the Office of the Attorney General considers it necessary, the Financial Intelligence Unit or the Office of the Attorney General shall petition the Supreme Court for an order to stop the execution of a transaction. Upon an ex parte showing of probable cause, the Supreme Court shall order stoppage of the transaction. When exigent circumstances exist, the Financial Intelligence Unit or the Office of the Attorney General may make the petition for an order via telephonic communication with any sitting Justice of the Supreme Court at any time.

[Header B: 17 PNCA § 3836 CRIMES

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(b) Following a telephonic request pursuant to subsection (a), the Office of the Attorney General or the Financial Intelligence Unit shall submit a sworn written application to the Court on the next business day after issuance of the Court's oral order directing the stoppage. The Court's order stopping the transaction shall be transmitted to the reporting party immediately, either by facsimile or by any other written means. The stop notice order shall defer the execution of the transaction for a period not to exceed seventy-two (72) hours. Should the Office of the Attorney General or the Financial Intelligence Unit fail to submit the written application as required herein, after issuance of the Court's stop notice order, the transaction may be completed.

(c) To extend the stoppage of the transaction, the Office of the Attorney General or the Financial Intelligence Unit must immediately notify all parties to the transaction, either by facsimile or by any other written means, and simultaneously move the Court for an order allowing an extension of the stoppage for an additional period not to exceed eight (8) days. Upon receipt of the motion, the Court shall order an expedited hearing to be held within the shortest possible time after actual notice of the motion to all parties.

**Source**

RPPL 6-4 § 1[20]. Amended in its entirety by RPPL 7-39 § 1[21].

**§ 3837. Exemption from liability for bona fide reporting of suspicions.**

(a) No cause of action, suit, or other judicial proceeding for breach of banking or professional secrecy may be instituted against a person who in good faith has carried out a transaction which later is determined to be a suspect transaction or money laundering offense or has transmitted information or submitted a report pursuant to this chapter.

(b) No civil or criminal action may be brought, nor any professional sanction taken, against any person who in good faith transmits information or submits reports pursuant to

this chapter, even if the investigation or judicial decision does not give rise to a charge for any offense.

(c) No civil or criminal action may be brought against any person by reason of any material or non-material loss or economic or non-economic damage of any kind resulting from the freezing of a transaction or the reporting of suspicious transactions or possible violations or other wrongdoing as contemplated by this chapter.

[Header A: **MONEY LAUNDERING 17 PNCA § 3839**

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**Source**

RPPL 6-4 § 1[21], modified.

**§ 3838. Exemption from liability arising out of the execution of transactions.**

(a) In cases where a suspect transaction has been carried out and unless the Supreme Court has determined that there is probable cause to believe there was a conspiracy with the perpetrator or perpetrators of the money laundering offense, no criminal proceedings in respect of money laundering may be brought against any person who, in connection with his, her, or its trade or occupation, carried out or gave advice regarding the suspect transaction.

(b) The foregoing exemption of liability shall only apply if a person subject to this chapter carries out any transaction at the request of the Financial intelligence Unit or the Office of the Attorney General, acting pursuant [to] this chapter.

**Source**

RPPL 6-4 § 1[22]. Subsection (b) amended by RPPL 7-39 § 1[23], modified.

**§ 3839. Special investigative techniques.**

In the course of an investigation, the Financial intelligence Unit or the Office of the Attorney General may:

(a) monitor bank accounts;

(b) access computer systems, networks, and servers;

(c) place under surveillance or tap telephone lines, facsimile machines, or electronic transmission or communication facilities;

(d) electronically record acts and behavior or conversations; and

(e) inspect communications of notarial and private deeds or of bank, financial, and commercial records.

The Supreme Court may also order the seizure of the aforementioned documents. These operations (subsections (a)-(e) as set forth in this section) shall be possible only when the aforesaid evidence exists which constitutes probable cause for suspecting that such accounts, telephone lines, computer systems and networks, or documents are or may be used by persons suspected of participating in offenses referred to in section 3801. Absent exigent circumstances, these operations (subsections (a)-(e) as set forth in this section) shall be permitted only pursuant to a warrant issued by the Supreme Court. All investigations and applications for hearing for the above orders shall be filed under seal and kept confidential unless and until charges constituting crimes in the Republic of Palau are brought against suspected parties. Where appropriate, the Court may order that the charges remain under seal until all related investigations have been completed.

[Header B: **17 PNCA § 3839 CRIMES**

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**Source**

RPPL 6-4 § 1[23], modified.

**§ 3840. Undercover operations and controlled delivery.**

No punishment may be imposed on officials competent to investigate the money laundering offenses who, for the sole purpose of obtaining evidence relating to offenses referred to in this chapter, perform, in the manner specified herein, acts which might be construed as elements constituting any of the offenses referred to in this chapter. The authorization of the Supreme Court shall be obtained prior to any operation as described in § 3825 and § 3839. A detailed report in the form of a sworn affidavit by the officer supervising the investigation shall be transmitted to the Supreme Court upon application for any further order to the Court which may include allowing the officials charged with investigating the money laundering offenses to carry out such operations, including the delay of, freezing, or seizure of money or any other property, until the investigation has been completed and, if necessary, order specific measures for the safekeeping of such property. However, money, assets, and property shall not be frozen for any period in excess of three (3) months absent a conviction for the crimes under investigation, without a further application being made to the Supreme Court. The Supreme Court may extend the seizure or freezing of such assets for one or more additional three-month periods upon a showing of good cause by the Office of the Attorney General or the Financial intelligence Unit.

**Source**

RPPL 6-4 § 1[24], modified. The last sentence was amended by RPPL 7-39 § 1[25], modified.

**§ 3841. Disallowance of bank secrecy.**

Banking or professional secrecy may not be invoked as grounds for refusal to provide information referred to in § 3824 or required in connection with an investigation which relates to money laundering and is ordered by or carried out pursuant to an order of the Supreme Court.

[Header A: **MONEY LAUNDERING 17 PNCA § 3843**

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**Source**

RPPL 6-4 § 1[25], modified.

**§ 3842. Seizure.**

Subject to the requirements of 18 PNC, all members of Palau's law enforcement agencies responsible for the detection and suppression of money laundering offenses shall be empowered to seize property connected with the offense under investigation, as well as any evidentiary items that may make it possible to identify such property.

**Source**

RPPL 6-4 § 1[26].

**§ 3843. Provisional measures.**

The Supreme Court may upon motion of the Office of the Attorney General or the Financial intelligence Unit issue a temporary order, at the expense of the national government, freezing capital and financial transactions relating to property of whatsoever nature that is liable to seizure or confiscation under this chapter. The lifting of those measures may be ordered at any time at the request of the Office of the Attorney General or the Financial intelligence Unit or upon motion of the beneficial owner to the Supreme Court. However, any capital, property, transactions, money, or other assets seized or confiscated and not adjudicated by the Court to be the fruit of the crime of money laundering may not be seized or confiscated for any period in excess of three (3) months, after a seizure or confiscation, absent a conviction for the crimes under investigation, without a further application being made to the Supreme Court. The Supreme Court may extend the seizure or confiscation of such assets for one or more additional three-month periods upon a showing of good cause by the Office of the Attorney General or the Financial intelligence Unit.

**Source**

RPPL 6-4 § 1[27]. Amended in its entirety by RPPL 7-39 § 1[28], modified.

**§ 3844. Money laundering penalties.**

[Header B: 17 PNCA § 3844 CRIMES

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Any natural person convicted of violating § 3801 as a principal, involving proceeds of crime having a total value of less than two thousand five hundred dollars (\$2,500), shall be fined not more than double the amount laundered or attempted to be laundered or imprisoned for not more than one (1) year and one day, or both. Any natural person convicted of violating § 3801 as a principal, involving proceeds of crime having a total value of two thousand five hundred dollars (\$2,500) or more, shall be fined not less than five thousand dollars (\$5,000), nor more than double the amount laundered or attempted to be laundered, whichever is greater, or imprisoned for not more than ten (10) years, or both. Any natural person convicted for being an accessory to a violation of § 3801 shall be punished pursuant to 17 PNC § 103. Any natural person convicted of attempting to violate § 3801 shall be punished pursuant to 17 PNC § 104. Any natural person found guilty of aiding and abetting a violation of § 3801 shall be punished pursuant to 17 PNC § 102. Any natural person found guilty of conspiracy to violate § 3801 shall be punished pursuant to 17 PNC § 901.

**Source**

RPPL 6-4 § 1[28], modified. Amended in its entirety by RPPL 7-39 § 1[29], modified.

**§ 3845. Penalties applicable to corporate entities.**

Corporate entities, other than the National Government of the Republic of Palau, on whose behalf or for whose benefit a money laundering offense has been committed by one of their agents or representatives shall be fined in an amount equal to two times the fines specified for natural persons, without prejudice to the conviction of those individuals as perpetrators of the offense or accessories to it. In the case where a corporate entity's agents or representatives, on the entity's behalf or benefit, are convicted of three or more offenses under § 3801 within a five (5) year period, such entity may be:

- (a) permanently or for a minimum of five (5) years banned from directly or indirectly carrying on the business activities in the Republic of Palau for which they are licensed or conducted at the time of the offense;



(b) ordered to close permanently or for a minimum of five (5) years their premises which were used for the commission of the offense; and/or

(c) required to publicize the judgment in the press or by radio or television.

#### **Source**

RPPL 6-4 § 1[29], modified. Amended in its entirety by RPPL 7-39 § 1[30], modified.

[Header A: **MONEY LAUNDERING 17 PNCA § 3847**

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[Footer A: Supp. 6 17 - 114A]

#### **§ 3846. Civil penalties.**

Any person who fails to comply with §§ 3811, 3812, 3813, 3814, 3821, 3822, 3824, 3826, 3827, or 3835, shall, upon conviction therefor on the basis of clear and convincing evidence, be subject to a civil penalty not to exceed US fifty thousand dollars (\$50,000) upon application by the Office of the Attorney General or the Financial Intelligence Unit. The rules governing adjudicative proceedings under the Administrative Procedure Act, 6 PNC Chapter 1, shall not apply to this section.

#### **Source**

RPPL 6-4 § 1[30], modified. Amended in its entirety by RPPL 7-39 § 1[31], modified.

#### **§ 3847. Penalties for other offenses.**

(a) A penalty of not more than two years' imprisonment or a fine not to exceed US ten thousand dollars (\$10,000) shall be imposed on:

(1) persons and directors or employees of organizations that carry out or advise on operations involving deposits, exchange operations, investments, conversions, or any other movements of capital, and in particular to credit and financial institutions and financial intermediaries, who knowingly disclose, to the owner of the sums or to the principal of the transactions specified in that section, a report which they are required to make or the action taken on it as specified in §§ 3823, 3825, 3835, and 3840;

(2) anyone who knowingly destroys or removes registers or records which are maintained pursuant to §§ 3823, 3824 or 3827;

(3) anyone who under a false identity performs or attempts to perform any of the operations specified in §§ 3811, 3812, 3813, 3814, 3821, 3822, 3823 or 3827;

(4) anyone who, having learned by reason of his or her trade or occupation of an investigation into a case of money laundering, knowingly discloses that fact, by any means, to the person or persons to whom the investigation relates:

(5) anyone who knowingly communicates deeds or records specified in § 3839(c) to the Financial Intelligence Unit or Office of the Attorney General or to the officials competent to investigate the offenses, knowing such deeds or records to contain material errors or omissions, without informing them of that fact; and

[Header B: **17 PNCA § 3847 CRIMES**

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[Footer B: Supp. 6 17 - 114B]

(6) anyone who upon a reasonable suspicion fails to report, pursuant to § 3835, in cases where the circumstances of the transaction admit the conclusion that the money was derived from one of the offenses referred to in § 3835.

(b) Persons found guilty of any offense or offenses set forth in subsection (a) may also be banned permanently or for a minimum of five (5) years from pursuing the trade or occupation which provided the opportunity for the offense to be committed.

**Source**

RPPL 6-4 § 1[31], modified. Amended by RPPL 7-39 § 1[32], modified.

**§ 3848. Confiscation.**

(a) In the event of a conviction for actual or attempted money laundering, an order shall be issued by the Supreme Court for the confiscation of the property forming the

subject of the offense, including income and other benefits obtained therefrom, against any person to whom they may belong, unless the owner can (1) establish the absence of any connection between such property, income, and other benefits and the predicate or money laundering offense and (2) establish that the owner was a bona fide purchaser for value, acquired the property in return for the provision of services corresponding to its value or acquired the property on any other legitimate grounds. The confiscation order shall specify the property with particularity and contain the necessary details to identify and locate it.

(b) In the event of a conviction for actual or attempted money laundering, an order may additionally be issued for the confiscation of the property of the convicted offender in an amount equal to the enrichment obtained by the convicted offender during a period of three years preceding the conviction unless the convicted offender can establish the absence of any connection between such enrichment and the predicate or money laundering offense. The confiscation order shall specify the property with particularity and contain the necessary details to identify and locate it.

#### **Source**

RPPL 6-4 § 1[32]. Amended in its entirety by RPPL 7-39 § 1[33], modified.

#### **§ 3849. Confiscation of property of criminal organizations.**

In the event the Supreme Court has determined beyond a reasonable doubt that an individual convicted of an offense under this chapter is a member of a criminal organization, the property over which a criminal organization has power of disposal shall be confiscated unless the lawful origin of the property is established by the organization.

[Header A: **MONEY LAUNDERING 17 PNCA § 3851**

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[Footer A: **Supp. 6 17 - 114C**]

#### **Source**

RPPL 6-4 § 1[33], modified. Amended in its entirety by RPPL 7-39 § 1[34], modified.

#### **§ 3850. Avoidance of certain legal instruments.**

Any instrument, the purpose of which is to fraudulently convey property and keep it from confiscation, shall be voidable upon a determination by the Supreme Court that the instrument has been done for fraudulent purposes.

#### **Source**

RPPL 6-4 § 1[34].

**§ 3851. Disposal of confiscated property.**

(a) Confiscated property and proceeds under this chapter shall accrue and be forfeited to the Republic of Palau, which property and proceeds shall be delivered to the general fund of the Republic after the auction sale of such property. Said confiscated property shall remain encumbered, up to its value, by any rights in rem lawfully established in favor of third parties.

(b) In cases where confiscation is ordered under a judgment by default, the confiscated property shall accrue to the Republic of Palau and be liquidated in accordance with law. However, if the Supreme Court, ruling on an application to set aside such judgment, acquits the person prosecuted, it shall order that the Republic of Palau pay full and fair restitution for the value of the confiscated property, unless it is established beyond a reasonable doubt that such property is the proceeds of crime committed in Palau. The Republic of Palau shall not be liable for any exemplary or consequential damages as a result of the sale of confiscated property.

**Source**

RPPL 6-4 § 1[35], modified. Last sentence added to subsection (b) by RPPL 7-39 § 1[36].

**§ 3852. Applicable law for rulemaking and regulations.**

[Header B: 17 PNCA § 3852 CRIMES

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[Footer B: Supp. 6 17 - 114D]

The Administrative Procedure Act, 6 PNC Chapter 1, shall apply for all rules and regulations promulgated under this chapter, unless otherwise specified.

**Source**

RPPL 6-4 § 1[36]. Amended by RPPL 7-39 § 1[37].

**§ 3853. Cultural traditions exempted from compliance with this chapter.**

This chapter shall not apply to bona fide transfers or exchanges of property pursuant to recognized cultural traditions and customs of Palau.

**Source**

RPPL 6-4 § 1[37].