

BELIZE
FINANCIAL INTELLIGENCE UNIT ACT*

[CONSOLIDATED TEXT]

NOTE

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** Cap. 138:02 (2003 Rev. Ed.); Act No. 35 of 2002; Act No. Act 21 of 2013; Act No. 6 of 2014*

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FINANCIAL INTELLIGENCE UNIT ACT

[CONSOLIDATED TEXT]

PART I

Preliminary

Short title.

1. This Act may be cited as the Financial Intelligence Unit Act.

Interpretation.

2. In this Act, unless the context otherwise requires,

“crime” includes an offence punishable under the Criminal Code, Cap. 101 or under any other statute, rule, regulation or order;

“Director” means the Director of the Financial Intelligence Unit, appointed pursuant to section 4 of this Act;

“financial crime”,

(a) means an offence under any of the enactments set out in the First Schedule, or under any subsidiary legislation made thereunder; and

(b) includes,

(i) computer crimes;

(ii) internet fraud;

(iii) pyramid schemes;

(iv) illegal deposit taking;

(v) any suspected offence which appears to the Director, on reasonable grounds, to involve serious or complex fraud; and

(vi) any activity carried out outside Belize and which, had it taken place in Belize, would have constituted an offence referred to in paragraph (a) above or this paragraph (b) of this subsection;

“financial institution” shall have the meaning ascribed to it in the Money Laundering and Terrorism (Prevention) Act; [*Act 6 of 2014, s. 10*]

“Financial Intelligence Unit” means the Financial Intelligence Unit established pursuant to section 3 of this Act;

“Foreign Financial Intelligence Unit” means such body or bodies in another jurisdiction as may from time to time be designated by Order of the Minister and which performs functions similar to those of the Financial Intelligence Unit;

“Minister” means the Prime Minister; [*Act 6 of 2014, s. 2*]

“Money Laundering and Terrorism (Prevention) Act” means the Money Laundering and Terrorism (Prevention) Act, No. 18 of 2008, as may be amended from time to time, and any law that replaces it; [*Act 6 of 2014, s. 2*]

“Person” means a natural person or a legal person and includes any public body and anybody of persons, corporate or un-incorporate;

“reporting entity” has the same meaning assigned to it in the Money Laundering and Terrorism (Prevention) Act; [*Act 21 of 2013, s. 2*]

“supervisory authority” has the same meaning assigned to it in the Money Laundering and Terrorism (Prevention) Act; [*Act 21 of 2013, s. 2*]

“Unit” means the Financial Intelligence Unit established pursuant to section 3 of this Act.

PART II

Establishment of Financial Intelligence Unit

Establishment of Financial Intelligence Unit.

3. There is hereby established a body to be known as the Financial Intelligence Unit having perpetual succession and a common seal with operational independence, power to enter into contracts and to do all such things necessary for the performance of its functions. [*Act 6 of 2014, s. 3*]

Appointment of Director.

4. —(1) There shall be a Director of the Unit who shall be appointed by the Governor-General on the advice of the Prime Minister for such period of not less than three years and upon such terms as may be specified in his instrument of appointment. [*Act 6 of 2014, s. 4*]

(2) The Director shall be the chief executive officer of the Unit and shall be responsible for the day-to-day management and administration of the Unit and for the performance of its functions under this Act and of the functions conferred upon him under this Act or any other law. [*Act 6 of 2014, s. 4*]

(3) A person shall not be qualified to be appointed Director if that person—

(a) is a member of either House of the National Assembly;

(b) is a director, officer or employee of any financial institution;

(c) holds, directly or by proxy a shareholding of more than five percent of the issued capital in a financial institution; or

(d) has been convicted of an offence in respect of which a penalty of imprisonment for twelve months or more is provided for. [Act 6 of 2014, s. 4]

(4) The Director –

(a) may, at any time, by notice in writing to the Governor-General resign his office; and

(b) shall without delay vacate office –

(i) if any of the circumstances set out in subsection (3) arise; or

(ii) on attaining the age of seventy-five. [Act 6 of 2014, s. 4]

(5) A person holding the office of Director may be removed from office within the period of his appointment only for inability to exercise the functions of his office, whether arising from infirmity of body or mind or from any other cause, or for misbehaviour and shall not be so removed except in accordance with the provisions of this section. [Act 6 of 2014, s. 4]

(6) The Director shall be removed from office by the Governor-General if the question of his removal from office has been referred to the Belize Advisory Council in accordance with the next following subsection and the Belize Advisory Council has advised the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour. [Act 6 of 2014, s. 4]

(7) If the Prime Minister represents to the Governor-General that the question of removing the Director under this section ought to be investigated, then –

(a) the Governor-General shall refer the matter to the Belize Advisory Council which shall sit as a tribunal in the manner provided in section 54 of the Constitution; and

(b) the Belize Advisory Council shall enquire into the matter and report on the facts thereof to the Governor-General and advise the Governor-General whether he should be removed under this section. [Act 6 of 2014, s. 4]

(8) If the question of removing the Director from office has been referred to the Belize Advisory Council under the preceding subsection, the Governor-General may suspend him from performing the functions of his office, and any such suspension may at any time be revoked by the Governor-General and shall in any case cease to have effect if the Belize Advisory Council advises the Governor-General that he should not be removed from office. [Act 6 of 2014, s. 4]

Appointment of other staff.

5.—(1) The Director may appoint and employ, at such remuneration and subject to such terms and conditions as may be agreed, other suitably qualified and experienced persons as officers and employees of the Unit, for the purpose of ensuring the proper performance of its functions and the attainment of its objectives. [Act 6 of 2014, s. 5]

(2) The staff of the Unit shall include at least one attorney-at-law and another person with a sound financial, economic or accounting training and experience.

(3) The Commissioner of Police shall, on the recommendations of the Director, appoint to the Unit such number of police officers, preferably with paralegal qualifications, as may be considered necessary, and while so appointed, such officers shall act on the instructions of the Director.

Secondment of staff.

6.— (1) The Governor General, acting in accordance with the advice of the Prime Minister in the case of public officers to whom section 107 of the Belize Constitution, Cap. 4 applies, and the appropriate Services Commission in the case of other public officers, may, subject to such conditions as the Governor-General acting as aforesaid, or, as the case may be, the appropriate Service Commission, may impose, approve the secondment of any public officer in the service of the Government to any office with the Unit, and any public officer so seconded shall, in relation to pension, gratuity or other retiring benefits, be treated as continuing in the service of the Government.

(2) Any officer or employee of a public statutory body may, subject to such conditions as such statutory body may impose, be seconded to the Unit, and while so seconded, such officer or employee shall, in relation to pension, gratuity or other retiring benefits, be treated as continuing in the service of the statutory body concerned.

Functions of the Unit.

7.—(1) The Unit shall, subject to the provisions of this Act,

- (a) investigate and prosecute financial crimes;
- (b) perform the functions of the competent authority, and such functions as a supervisory authority, as may be assigned under the Money Laundering and Terrorism (Prevention) Act; [*Act 6 of 2014, s. 6*]
- (c) ensure coordination and cooperation between law enforcement agencies, Government departments, regulatory authorities, private institutions and members of relevant professions in evolving methods and policies to prevent and suppress financial crimes;
- (d) take such measures as may be necessary to counteract financial crimes;
- (e) share information and cooperate with foreign financial intelligence units in the fight against financial crimes;
- (f) inform and educate the public and financial and business entities of their obligations under measures that have been or might be taken to detect, prevent and deter the commission of financial crimes;
- (g) co-operate with, and provide assistance to, foreign countries, law enforcement agencies and other regulatory or supervisory bodies relating to financial crimes in accordance with the Money Laundering and Terrorism (Prevention) Act, No. 18 of 2008; and; [*Act 6 of 2014, s. 6*]
- (h) perform such other functions related to the above as may be assigned by the Minister.

(2) The Commissioner of Police, Comptroller of Customs, Director of Immigration and any person specified as a supervisory authority under the Money Laundering and Terrorism (Prevention) Act may refer to the Unit, for the purpose of investigation and prosecution, any suspected financial crime. [*Act 6 of 2014, s. 6*]

(3) The Director may, on his own initiative, investigate any suspicious transaction or any financial crime.

(4) The Commissioner of Police, Comptroller of Customs, Director of Immigration and any person specified as a supervisory authority under the Money Laundering and Terrorism (Prevention) Act shall give such assistance to the Director as may be necessary to enable him to discharge his functions under this Act. [Act 6 of 2014, s. 6]

Power of the Commissioner of Police not affected.

8. Nothing in this Act shall derogate from the power of the Commissioner of Police to investigate and prosecute any financial crime but in every such case the Commissioner of Police shall act in consultation and coordination with the Director.

Power to obtain information.

9.— (1) Without prejudice to the powers of the supervisory authority under the Money Laundering and Terrorism (Prevention) Act, the Director may, by notice in writing, require-

- (a) a person whose affairs are the subject of investigation whether in Belize or elsewhere, to furnish such information or produce such documents as may be required with respect to any matter relevant to such investigation; and
- (b) a person, reporting entity, supervisory authority, law enforcement agency, public utility or domestic government agency who may have evidence relevant to a law enforcement investigation whether conducted in Belize or elsewhere, to furnish such information or produce such documents as may be required with respect to any matter relevant to such investigation; or
- (c) any public officer to furnish information or to produce any document in his custody or under his control. [Act 21 of 2013, s. 2]

(2) The Director may take copies or extracts from any document produced under subsection (1) of this section and may require the person producing it to give any explanation relating to such document.

(3) Where material to which an investigation relates consists of information stored in a computer, disc, cassette, or on microfilm, or preserved by any mechanical or electronic device, the request from the Director shall be deemed to require the person named therein to produce or give access to it in a form in which it can be taken away and in which it is visible and legible.

(4) A person required to furnish information or to produce any specified documents or any documents of a specified class shall not, without reasonable excuse, fail to furnish information or produce a document or class of documents.

(5) It shall be a reasonable excuse, for the purposes of subsection (4) of this section, for a person to refuse or fail to furnish information or to produce a document or a class of documents that he is required to furnish or produce, where the furnishing of the information or the production of the document or class of documents might tend to incriminate him.

(6) Any person who contravenes subsection (4) of this section, commits an offence and shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(7) This section and the next following section 10 of this Act, shall have effect notwithstanding anything to the contrary in any other law.

Power of entry and search for purposes of investigation.

10.—(1) Where the Director has reasonable grounds to believe that a financial crime has been, is being or is about to be committed, he may (without prejudice to the power of the Supervisory Authority under the Money Laundering (Prevention) Act), Cap. 104, authorise any of the officers of the Unit to enter and search, at all reasonable times, any premises or place of business and remove therefrom any documents or material which may provide evidence relevant to an investigation being conducted by the Unit.

(2) In the exercise of any powers under this Act, an authorised officer shall, when requested by any person affected, produce to that person, his authority to exercise the power so conferred.

(3) Any person who refuses entry to or otherwise obstructs the authorised officer from carrying out his duties under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Attachment order.

11.—(1) Where the Director has reasonable grounds to suspect that a person has committed, is committing or is about to commit a financial crime, he may without prejudice to the powers of the Supervisory Authority under the Money Laundering and Terrorism (Prevention) Act, apply to a Judge in Chambers *ex parte* for an attachment order and the Judge may, subject to subsection (3) of this section, grant the application.[*Act 6 of 2014, s. 10*]

(2) An attachment order shall,

- (a) attach in the hands of any person named in the order all moneys and other property due or owing or belonging to or held on behalf of the suspect;
- (b) require that person to declare in writing to the Director within 48 hours of service of the order, the nature and source of all moneys and other property so attached; and
- (c) prohibit the person from transferring, pledging or otherwise disposing of any money or other property so attached except in such manner as may be specified in the order.

(3) The Judge in Chambers shall not make an order under subsection (1) of this section unless he is satisfied that the suspect has committed, is committing or is about to commit a financial crime.

(4) An attachment order under this section shall take effect forthwith and the Director shall,

- (a) cause a notice of the order to be published in the next issue of the *Gazette* and in at least one daily newspaper published and circulated in Belize; and
- (b) give notice of the order to,

- (i) all banks and financial institutions; and
- (ii) any other person who may hold or be vested with property belonging to or held on behalf of the suspect.

Confidentiality and oath.

12.—(1) The Director and every officer of the Unit,

- (a) shall take the oath specified in the Second Schedule;
- (b) shall not, except in accordance with this Act or otherwise as authorised by law,
 - (i) divulge any information obtained in the exercise of a power or in the performance of a duty under this Act;
 - (ii) divulge the source of such information or the identity of any informer or the maker, writer or issuer of a report given to the Director;
- (c) shall maintain and aid in maintaining confidentiality and secrecy of any matter, document, report and other information relating to the administration of this Act or any regulations made thereunder that becomes known to him or comes in his possession or under his control.

(2) Notwithstanding subsection (1) of this section, the Director may, for the purpose of an enquiry into any matter under this Act, impart to an agency in Belize or abroad, such information, as may appear to him to be necessary to assist an investigation or prosecution of money laundering or other financial crimes.

(3) Any person who, without lawful excuse, contravenes this section shall commit an offence and shall, on summary conviction, be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

No order may be issued to the Unit.

13. Notwithstanding the provisions of any other Act, no order for the provision of information, documents or evidence may be issued in respect of the Unit or against the Minister, Director, officers or personnel of the Unit or any person engaged pursuant to this Act.

Immunity from suit or other process.

14. No action shall lie against the Minister, Director, officers or personnel of the Unit or any person acting under the direction of the directors for anything done or omitted to be done in good faith and in the administration or discharge of any functions, duties or powers under this Act.

Protection of disclosures.

15.—(1) Where a person, in good faith, transmits information or submits reports in accordance with this Act, the disclosure—

- (a) shall not be treated as a breach of any law, rule of law or agreement restricting the disclosure of information; and
- (b) shall not give rise to criminal or civil proceedings.

(2) For the avoidance of doubt, where a director, officer or employee of a reporting entity, in good faith, transmits information or submits reports in accordance with this Act —

- (a) the director, officer or employee of the reporting entity, shall not be treated as having breached any law, rule of law or agreement restricting the disclosure of information; and
- (b) no criminal or civil proceedings may be taken against the director, officer or employee of a reporting entity, or against the reporting entity, by reason of the disclosure. [*Act 6 of 2014, s. 7*]

PART III

Financial Provisions Accounts and Reports

Funds and resources of the Unit.

16. The funds and resources of the Unit shall consist of any moneys as may from time to time be provided by the National Assembly.

Annual budget.

17. The Unit shall prepare for each new financial year an annual budget of revenue and expenditure which shall be submitted to the Minister at least three months prior to the commencement of the financial year.

Accounts and audits.

18.—(1) The Unit shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts of the Unit for each year shall be audited by an auditor to be appointed by the Director with the approval of the Minister.

(3) As soon as the accounts have been audited, the Director shall submit a copy thereof to the Minister together with a copy of any report made by the auditor.

Annual report.

19.—(1) The Director shall,

- (a) from time to time advise the Minister on matters relating to financial crime that could affect public policy or the priorities to be set by the Unit; [*Act 6 of 2014, s. 8*]
- (b) prepare and submit to the Minister on or before June 30 in each year an annual report reviewing the work of the Unit.

(2) The Minister shall lay or cause to be laid a copy of every annual report on the table of both Houses of the National Assembly.

PART IV

Amendment of the Money Laundering (Prevention) Act

20 *[Deleted Act 6 of 2014, s. 9]*

21 *[Deleted Act 6 of 2014, s. 9]*

PART V

Miscellaneous

Restriction on execution.

22. No execution by attachment of property or process in the nature thereof shall be issued against the Unit.

Exemption from taxes.

23—(1) The Unit shall be exempt from the payment of income tax, business tax, property tax, customs duties and all other duties, rates, charges and imposts charged or levied by the Government or a local authority.

(2) All instruments executed by or on behalf of the Unit shall be exempt from stamp duty.

Validity of Unit's acts.

24. No acts done or proceedings taken under this Act shall be questioned or invalidated on the grounds of the existence of any vacancy in the membership, or of any defect in the constitution of the Unit, or of any omission, defect or irregularity.

Amendment of Schedules.

25.—(1) The Minister may from time to time, by order published in the *Gazette*, amend any of the Schedules to this Act.

(2) Every order made under subsection (1) of this section shall be laid before the National Assembly as soon as may be after the making thereof and shall be subject to negative resolution.

Regulations.

26. The Unit may, with the approval of the Minister, from time to time make regulations prescribing all matters and things required or authorised by this Act to be prescribed or provided, for the carrying out of, or the giving full effect to, the provisions of this Act and its due administration.

FIRST SCHEDULE

FINANACIAL INTELLIGENCE UNIT ACT

Financial Crime Enactments

(Section 2)

1. Domestic Banks and Financial Institutions Act. *[Act 6 of 2014, s. 11]*

2. Offshore Banking Act. [*Act 6 of 2014, s. 11*]
3. International Financial Services Commission Act.
- 3A. International Foundations Act. [*Act 6 of 2014, s. 11*]
4. International Insurance Act.
5. International Business Companies Act.
6. Money Laundering and Terrorism (Prevention) Act. [*Act 6 of 2014, s. 9*]
7. Mutual Funds Act.
8. Protected Cell Companies Act.
- 8A. Non-Governmental Organisations Act. [*Act 6 of 2014, s. 11*]
9. Trusts Act, in so far as it relates to offshore trusts.

SECOND SCHEDULE

FINANACIAL INTELLIGENCE UNIT ACT Confidentiality Oath/Affirmation. (*Section 12*)

I _____ being Director/officer of the Financial Intelligence Unit, do hereby swear/solemnly affirm that I will, to the best of my judgment, act in accordance with the Financial Intelligence Unit Act, and any regulations made thereunder and shall not, on any account and at any time, disclose, otherwise than in the performance of my duties, any confidential information obtained by me by virtue of my official capacity.

Signature

Dated: _____

Taken before me

Commissioner of the Supreme Court