

CAYMAN ISLANDS



**PROCEEDS OF CRIME (AMENDMENT)
LAW, 2019**

(Law 9 of 2019)

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CAYMAN ISLANDS

**PROCEEDS OF CRIME (AMENDMENT) LAW,
2019****(Law 9 of 2019)**

A LAW TO AMEND THE PROCEEDS OF CRIME LAW (2019 REVISION) TO PROVIDE FOR THE INCLUSION OF THE ANTI-CORRUPTION COMMISSION IN THE ANTI-MONEY LAUNDERING STEERING GROUP; TO PROVIDE FOR THE INCLUSION OF VIRTUAL SERVICE PROVIDERS IN THE LAW; TO ADDRESS OTHER DEFICIENCIES IN THE COMPLIANCE FRAMEWORK; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the *Proceeds of Crime (Amendment) Law, 2019*.

Amendment of section 2 of the Proceeds of Crime Law (2019 Revision) - interpretation

2. The *Proceeds of Crime Law (2019 Revision)*, in this Law referred to as the “principal Law”, is amended in section 2 as follows —
 - (a) by deleting the definition of the word “**constable**” and substituting the following definition —

“ “**constable**” includes a person appointed as an investigating officer under the *Anti-Corruption Law (2019 Revision)* and a



person appointed as an officer of Customs and Border Control under the *Customs and Border Control Law, 2018*;" and

- (b) by inserting the following definitions in the appropriate alphabetical sequence -

“**fiat currency**” means currency that is issued by the relevant body in a country or by a government that is designated as legal tender in its country of issuance through, among other things, government decree, regulation or law;

“**property investment**” means dealing in land, including the sale or purchase of land or interests in land, as a business within the meaning of the *Trade and Business Licensing Law (2019 Revision)*;

“**single family office**” means a legal entity or legal arrangement formed in the Islands by a single family to conduct securities investment business for or on behalf of that single family where -

- (a) the securities are not beneficially owned by a third party; and
- (b) the legal entity or legal arrangement does not hold itself out to the public as conducting securities investment business for any person except members of the single family;

“**Supervisory Authority**” means the Monetary Authority or other body that may be assigned, pursuant to section 4(9), the responsibility of monitoring compliance with regulations made under this Law in relation to persons carrying out relevant financial business who are not otherwise subject to such monitoring by the Monetary Authority;

“**transfer**”, in relation to a virtual asset, means conducting a transaction on behalf of a natural or legal person that moves a virtual asset from one virtual asset address or account to another;

“**virtual asset**” means a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes; and

“**virtual asset service**” means the business of conducting one or more of the following activities or operations for or on behalf of a person -

- (a) exchanging between virtual assets and fiat currencies;
- (b) exchanging between one or more other forms of convertible virtual assets;
- (c) transferring virtual assets;
- (d) safekeeping or administering virtual assets or instruments enabling control over virtual assets; and



- (e) participating in and providing financial services related to an issuer's offer or sale of a virtual asset;"

Insertion of new section 2A - meaning of "single family"

2A. The principal Law is amended by inserting after section 2 the following section -

"Meaning of "single family"

- 2A.** (1) For the purposes of the definition of "single family office", "single family" means -
- (a) an individual; or
 - (b) a group of individuals who are connected in at least one of the ways set out in subsection (2).
- (2) The following persons are connected persons in relation to an individual within a single family -
- (a) spouse;
 - (b) the descendants of the individual and their spouses;
 - (c) parents, including step-parents;
 - (d) grandparents;
 - (e) parents-in-law, including step-parents-in-law;
 - (f) brother, step-brother, sister, step-sister and their spouses;
 - (g) spouse's grandparents;
 - (h) spouse's brother, step-brother, sister, step-sister and their spouses and children;
 - (i) parent's brother, step-brother, sister, step-sister and their spouses;
 - (j) children of the brother, step-brother, sister or step-sister of the individual's parents, both present and future, including stepchildren, and their spouses; and
 - (k) children of the individual's brother, step-brother, sister or stepsister, both present and future, including step-children, and their spouses.
- (3) For any of the relationships listed in subsection (2) that may be established by blood, that same relationship may also be established by adoption.
- (4) In subsection 2(b), the term "descendants of the individual" means the individual's children, the children of that individual's children, the children of those children, and so on.

- (5) For the purpose of subsection (4), the term “children” includes step-children.”

Amendment of section 4 of the principal Law - powers, functions and duties of Financial Reporting Authority

3. The principal Law is amended in section 4(2), by inserting after paragraph (a) the following paragraph —

“(aa) shall be provided with such information, as may be prescribed, including cash transaction reports, wire transfer reports and threshold-based declarations or disclosures where the information is required by law;”

Amendment of section 5 of the principal Law- Anti-Money Laundering Steering Group

4. The principal Law is amended in section 5 as follows —

- (a) in subsection (1), by inserting after paragraph (f) the following paragraph —

“(fa) the Chairman of the Anti-Corruption Commission;”;

- (b) in subsection (2)(e), by deleting the words “between regulators and law enforcement agencies” and substituting the words “among competent authorities in a manner that ensures the compatibility of the requirements for combating money laundering and terrorist financing with the law protecting personal data, privacy and related matters in the Islands”;

- (c) in subsection (3A)(a), by deleting the word “ensuring” and substituting the word “promoting”;

- (d) in subsection (3A)(b), by inserting after subparagraph (iii) the following subparagraph —

“(iiia) the Anti-Corruption Commission;”;

- (e) in subsection (3B), by inserting after paragraph (a) the following paragraph —

“(aa)ensure the compatibility of requirements for combating of money laundering and terrorist financing with the law protecting personal data and privacy and related matters in the Islands;”.

Amendment of section 139 of the principal Law - tipping off

5. The principal Law is amended in section 139 as follows —

- (a) in subsection 1(b), by inserting after the words “in paragraph (a)” the words “, (whether or not the investigation is conducted)”;



- (b) in subsection (2), by repealing paragraph (a) and substituting the following paragraph —
- “(a) the disclosure of the information was done in accordance with information sharing obligations under a financial group’s group-wide programmes against money laundering and terrorist financing as may be prescribed under section 145;”.

Insertion of new section 199A - power of Supervisory Authority to enter, search, etc

5A. The principal Law is amended by inserting after section 199 the following section—

“Power of Supervisory Authority to enter, search, etc.

- 199A.(1) Where a Supervisory Authority reasonably suspects or is informed that a person who is required to comply with regulation 55F of the *Anti-Money Laundering Regulations (2018 Revision)* has not complied, an appropriate officer may lay before a magistrate or a justice of the peace an information on oath setting out the grounds for the suspicion and apply for the issue of a warrant to search the premises.
- (2) Where an application is made under subsection (1) for a warrant, the magistrate or justice of the peace may issue a warrant authorizing the appropriate officer to enter upon the premises and search and inspect the premises with such assistance, including assistance from a police officer, and by such force as is necessary and reasonable, and to —
- (a) examine, inspect, make copies of, seize or remove any document or record that the appropriate officer or police officer has reasonable grounds to believe is evidence of the contravention; and
- (b) seize any equipment or other property found on the premises in the course of the search that the appropriate officer or police officer has reasonable grounds to believe is being used in the contravention of regulation 55F.”.

Amendment of section 201 of the principal Law - regulations

6. The principal Law is amended in section 201 as follows —
- (a) by repealing subsection (3) and substituting the following subsections —
 - “(3) The Cabinet may, by Order, designate a jurisdiction as one which has serious deficiencies in its compliance with recognized international standards for combating money laundering and the financing of terrorism and, as a result of that, require the application of counter-measures proportionate to the risk posed by that jurisdiction.
 - (3A) The counter-measures under subsection (3) may include that dealings shall not be conducted with that jurisdiction or that enhanced due diligence be applied to —
 - (a) transactions involving certain entities or class of entities; or
 - (b) certain transactions or class of transactions.
 - (3B) An Order under subsection (3) may also be made by the Cabinet on the recommendation of either the Anti-Money Laundering Steering Group or the Financial Action Task Force.”;
 - (b) in subsection (4), by deleting the words “subsection (3)” and substituting the words “subsection (3B)”;
 - (c) by inserting after subsection (4) the following subsection —
 - “(5) For the purposes of this Part, “Financial Action Task Force” means the task force established by the Group of Seven to develop and promote national and international policies to combat money laundering and terrorist financing.”.

Amendment of Schedule 6 - activities falling within the definition of “Relevant Financial Business”

7. The principal Law is amended in Schedule 6 as follows —
- (a) in paragraph 14 as follows —
 - (i) in the opening chapeau, by inserting after the words “estate agency” the words “(including real estate agency or real estate brokering)”;
 - and
 - (ii) by inserting after subparagraph (b) the following subparagraph —
 - “(ba) organization of contributions for the creation, operation or management of companies”;
 - (aa) by inserting after paragraph 14 the following paragraphs —
 - “14A. Undertaking property development within the meaning set out in section 2 of the *Trade and Business Licensing Law*



(2019 Revision) and the subsequent sale of that property without using a real estate agent or broker.

- 14B. Undertaking property investment without using a real estate agent or broker.”;
- (b) in paragraph 17, by deleting the words “of fifteen thousand dollars” and substituting the words “that is equivalent to fifteen thousand United States dollars”; and
- (c) by inserting after paragraph 20 the following paragraphs —
- “21. Providing virtual asset services.
22. Operating a single family office.”.

Passed by the Legislative Assembly the 5th day of June, 2019.

Hon. W. McKeeva Bush
Speaker

Zena Merren-Chin
Clerk of the Legislative Assembly

