



REPUBLIC OF NAURU

ANTI-MONEY LAUNDERING AND TARGETED FINANCIAL SANCTIONS (PARALLEL FINANCIAL INVESTIGATIONS) REGULATIONS 2024

SL No. 20 of 2024

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The Cabinet makes the following Regulations under Sections 13 and 130 of the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*:

1 Citation

These Regulations may be cited as the *Anti-Money Laundering and Targeted Financial Sanctions (Parallel Financial Investigations) Regulations 2024*.

2 Commencement

These Regulations commence on the date they are notified in the Gazette.

3 Objectives

The objectives of these Regulations are to:

- (a) domesticate and implement the requirements of financial investigations under the Financial Action Task Force Standards;
- (b) effectively deal with money laundering and terrorist and terrorism financing offences as part of or collateral to a predicate offence;
- (c) strengthen the Republic's financial regulatory framework;
- (d) authorise and empower the Nauru Police Force and any other law enforcement agency to carry out investigations relating to financial crime for money laundering, terrorism financing and proliferation financing concurrently with a predicate offence;
- (e) authorise, empower and permit the sharing of any information by a reporting entity having any reason to believe or have suspicion of a financial crime being committed, with the Nauru Police Force or any other law enforcement agency for the purposes of investigating any possible predicate offence; and
- (f) conduct concurrent parallel financial investigation for better utilisation of time and resources for detecting and prosecuting an offence.

4 Definitions

In these Regulations:

'craft' includes any aircraft, vessel, or other machine or vessel used or capable of being used for the carriage or transportation of persons or goods, or both, by air or water or over or under water;

'FIU' has the meaning given to it under Section 4 of the Act;

'financial crime' has the meaning given to it under Section 4 of the Act;

'financial investigation' means an enquiry into the financial affairs related to a criminal activity, with a view to:

- (a) identifying the criminal network;
- (b) identifying the scale of criminality;
- (c) identifying and tracing the proceeds of crime, terrorist and proliferation funds or any other assets that are or may become subject to seizure and confiscation; and
- (d) collating facts, information and material, which are capable of being adduced as evidence in a predicate criminal proceedings or further enhancing offences relating to financial crime;

'money laundering' has the meaning given to it under the Act and includes a criminal offence, the conduct of which is an offence in any other foreign country, irrespective of the category, denomination or terminology of the offence;

'parallel financial investigation' includes conducting a financial investigation concurrently or in the context of a criminal investigation into money laundering, terrorist or proliferation financing or predicate offence;

'predicate offence' for the purpose of parallel financial investigations, are the offences provided under Regulation 5;

'proliferation financing' has the meaning given to it under the *Anti-Money Laundering and Targeted Financial Sanctions (Financing of Terrorism and Proliferation Financing) Regulations 2023*; and

'terrorism financing' means the offence provided under the *Counter Terrorism and Transnational Organised Crime Act 2004* and as defined under the *Anti-Money Laundering and Targeted Financial Sanctions (Financing of Terrorism and Proliferation Financing) Regulations 2023*.

5 Predicate offence requiring parallel financial investigation

Where the Nauru Police Force or any other law enforcement agency is carrying out an investigation in relation to one or more of the following offences, the Nauru Police Force or any other law enforcement agency shall also carry out a parallel financial investigation:

- (a) participation in an organised criminal group and racketeering;
- (b) terrorism, including terrorism financing and proliferation financing;
- (c) trafficking in human beings and migrant smuggling;
- (d) sexual exploitation;
- (e) sexual exploitation of children;
- (f) illicit trafficking in narcotic drugs and psychotropic substances;
- (g) illicit arms trafficking;
- (h) illicit trafficking in stolen and other goods;
- (i) corruption and bribery;

- (j) fraud;
- (k) counterfeiting currency;
- (l) counterfeiting and piracy of products;
- (m) environmental offences including criminal harvesting, extraction or trafficking in protected species of wild fauna and flora, precious metals and stones, other natural resources, or waste;
- (n) murder;
- (o) grievous bodily injury;
- (p) kidnapping;
- (q) illegal restraint and hostage-taking;
- (r) robbery or theft;
- (s) smuggling, including in relation to customs and excise duties and taxes;
- (t) tax offences including offences related to direct taxes and indirect taxes;
- (u) extortion;
- (v) forgery;
- (w) piracy;
- (x) insider trading and market manipulation; or
- (y) any such other offence which may be relevant to or associated with a financial crime.

6 Financial crime which may be relevant to predicate offences

Where a reporting entity or any other law enforcement agency during the course of investigation of a financial crime has reason to believe or has suspicion of any predicate offence being committed as part of or furtherance of a financial crime, the reporting entity or the law enforcement agency shall refer the information and any other relevant material to the Nauru Police Force, for it to carry out any investigation into the predicate offence.

7 Obligations of the FIU

- (1) Where the FIU has any reason to believe or has any suspicion that a predicate offence or any financial crime has been committed and requires parallel investigation to be carried out, it shall report such suspicion to the Nauru Police Force or any other law enforcement agency.
- (2) For the purposes of subregulation (1), the FIU shall analyse and refer its findings to the Nauru Police Force or any law enforcement agency, any of the following:
 - (a) suspicious activity report;
 - (b) suspicious matter report;
 - (c) transportation of border currency report or declaration;

- (d) trade based money laundering report; or
- (e) any other matters involving financial crime reported to it.

8 Director of Public Prosecution may recommend parallel investigations

Where the Director of Public Prosecution has a reason to believe or suspicion that a financial crime may have been committed as part of or in furtherance of a predicate offence for which a person is being investigated or charged with, he or she shall direct the Nauru Police Force or any other relevant law enforcement agency to carry out parallel financial investigation.

9 Responsibilities for implementation

The following authorities or persons shall be responsible for the implementation of these Regulations:

- (a) Nauru Police Force;
- (b) FIU;
- (c) Director of Public Prosecutions;
- (d) Nauru Revenue Office;
- (e) Nauru Customs Service;
- (f) reporting entity; or
- (g) any other law enforcement agency.

10 Identification and tracing of assets

The responsible persons under Regulation 9 shall coordinate and carry out their respective functions and powers for the purposes of expeditious identifying, tracing and initiating the freezing and seizing of criminal property that is or may become, subject to confiscation or is suspected of being proceeds of crime.

11 Controlled delivery

- (1) Where the Commissioner of Police or in his or her absence, any authorised officer suspects on reasonable grounds that a person has committed, is committing or is about to commit a predicate offence which may be related to a financial crime, he or she may give written approval for:
 - (a) controlled delivery to be carried out; and
 - (b) specify persons to carry out or participate in the controlled delivery.
- (2) The enforcement activities which may be undertaken in the course of and for the purposes of controlled delivery include the following:
 - (a) allowing any craft, vehicle or other means of transport or conveyance to enter, leave, or transit through the Republic;

- (b) allowing delivery of any criminal property including cash in any currency or denomination;
- (c) using such force as may be reasonable in the circumstances to enter and search the craft, vehicle or other means of transport, or other conveyance;
- (d) placing a tracking device on board a craft, vehicle or other means of transport or other conveyance; or
- (e) allowing a person who has possession, custody or control of criminal property including cash in any currency or denomination to enter, leave or transit through the Republic.

12 Sharing of information

- (1) The responsible authorities or persons under Regulation 9, shall share information for the purpose of these Regulations.
- (2) Any information shared shall be handled:
 - (a) with confidentiality;
 - (b) without prejudice to any ongoing investigations; and
 - (c) without prejudice to any prosecution.

13 Maintaining of records of investigation

Any information, evidence or any other material which may have been obtained by the Nauru Police Force or any other law enforcement agency or reporting entity shall, where applicable, preserve, keep and maintain such information, evidence or any other material for a period of 7 years.