

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
41ST CONSTITUTION REGULAR SESSION, 2020



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

BANKING (AMENDMENT) ACT, 2020

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BANKING (AMENDMENT) ACT, 2020

AN ACT to amend Title 17, Chapter 1 of the Marshall Islands Revised Code to clarify additional requirements of the Chapter in line with international standards for anti-money laundering and countering the financing of terrorism.

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

§101. Short title.

This Act may be cited as the Banking (Amendment) Act, 2020.

§102. Amendments.

(1) *Section 102 of the Republic of the Marshall Islands Banking Act 1987 is hereby amended to add new subsections (hh) and (ii) as follows:*

§102. Interpretation.

...

(hh) “**virtual asset**” means a digital representation of value (other than digital representations of fiat currencies, securities, and other financial assets that are already covered elsewhere in this Chapter) that can be digitally traded, or transferred, and can be used for payment or investment purposes;

(ii) “**virtual asset service provider**” means any natural or legal person, other than a bank, who as a business conducts one or more of the following activities or operations for or on behalf of another natural or legal person:

- (i) exchange between virtual assets and fiat currencies;
- (ii) exchange between one or more forms of virtual assets;
- (iii) transfer of virtual assets (i.e., conducting a transaction on behalf of another natural or legal person that moves a virtual asset from one virtual asset address or account to another);
- (iv) safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and
- (v) participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

(2) *Section 123 of the Republic of the Marshall Islands Banking Act 1987 is hereby amended as follows:*

§123. Requirement of license and prudential supervision of financial services provider.

- (1) No financial services provider business shall be transacted in or from within the Republic except by a corporation or entity which is in possession of a valid license issued by the Commissioner of Banking, authorizing the transaction of financial services provider business in or within the Republic.
- (2) No virtual asset service provider business shall be transacted by a corporation or entity incorporated or otherwise formed in the Republic except by a licensed financial services provider.
- (3) Any person desirous of obtaining approval for licensing as financial services provider shall apply in writing to the Commissioner in such manner as the Commissioner may specify by Regulation.
- (4) The Commissioner of Banking shall be authorized to conduct prudential supervision of all licensed financial services providers and issue new prudential standards by way of Regulations for this purpose.
- (5) If the Commissioner has reasonable ground to believe that any person is transacting financial services provider business, including virtual asset service provider business, without a license, the Commissioner may examine, or authorize an officer in writing to examine, the books, accounts and records of such person for the

purpose of ascertaining whether such person has contravened or is contravening any of the provisions of this Chapter. Any refusal by such person to submit such books, accounts or records to the Commissioner or authorized officer shall be prima facie evidence that such person is transacting financial services provider business without a license.

(6) Any person transacting financial services provider business, including virtual asset service provider business, without a license shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$10,000.

(3) *Section 163 of the Republic of the Marshall Islands Banking Act 1987 is hereby amended as follows:*

§163. International Cooperation.

(1) The Commissioner, in his capacity as financial supervisor, may cooperate with foreign counterparts (regardless of their respective nature or status), consistent with the applicable international standards for supervision, in particular with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes.

(2) The Commissioner may exchange with foreign counterparts information domestically available to the Commissioner, including information held by banks or financial services providers, in a manner proportionate to their respective needs. The following types of information may be exchanged when relevant for AML/CFT purposes:

(a) regulatory information, such as information on the domestic regulatory system, and general information on the financial sectors;

(b) prudential information, in particular for Core Principles supervisors, such as information on the bank's or financial services provider's business activities, beneficial ownership, management, and fit and properness; and

(c) AML/CFT information, such as internal AML/CFT procedures and policies of banks or financial services providers, customer

due diligence information, customer files, samples of accounts and transaction information.

(3) The Commissioner may conduct inquiries on behalf of foreign counterparts, and as appropriate to authorize or facilitate the ability of foreign counterparts to conduct inquiries themselves in the Republic, in order to facilitate effective group supervision.

(4) *Section 167(1) of the Republic of the Marshall Islands Banking Act 1987 is hereby amended to add a new subsection (p) as follows:*

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

(1) The Commissioner, amongst other duties:

...

(p) upon request of domestic competent authorities conducting investigations of money laundering, associated predicate offenses, and terrorist financing, shall provide all relevant information held by the Unit.

§103. Effective Date.

This Bill, and all Acts contained herein, shall take effect in accordance with the Constitution and the Rules of Procedures of the Nitijela.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 35 was passed by the Nitijela of the Republic of the Marshall Islands on the 10th day of November 2020; and

2. That I am satisfied that Nitijela Bill No: 35 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 11th day of December 2020.



Hon. Kenneth A. Kedi

Speaker

Nitijela of the Marshall Islands

Attest:



Morean S. Watak

Clerk

Nitijela of the Marshall Islands