

No. 29 of 2024

VIRGIN ISLANDS
FINANCIAL INVESTIGATION AGENCY (AMENDMENT) ACT,
2024

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Section 2 amended
3. Section 5A amended
4. Section 5B amended
5. Section 5C amended
6. Section 5J amended
7. Sections 5L, 5M, 5N, 5O, 5P, 5Q and 5R inserted
8. Schedule 1 amended

No. 29 of 2024

**Financial Investigation Agency
(Amendment) Act, 2024**

**Virgin
Islands**

I ASSENT

**Daniel Pruce,
Governor.
28th November, 2024**

VIRGIN ISLANDS

No. 29 of 2024

AN ACT TO AMEND THE FINANCIAL INVESTIGATION AGENCY ACT, REVISED EDITION 2020, TO EMPOWER THE AGENCY TO MAKE CERTAIN DISCLOSURES TO A FOREIGN FINANCIAL INVESTIGATION AGENCY AND TO SUPERVISE NPOs AT RISK OF TERRORIST FINANCING ABUSE, TO ENHANCE THE ENFORCEMENT POWERS OF THE AGENCY, TO PROHIBIT PERSONS FROM CARRYING ON THE BUSINESS OF A DNFBP WITHOUT FIRST BEING REGISTERED BY THE AGENCY AND FOR OTHER MATTERS CONNECTED THEREWITH.

[Gazetted 5th December, 2024]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement

1. (1) This Act may be cited as the Financial Investigation Agency (Amendment) Act, 2024.

(2) This Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Section 2 amended

2. The Financial Investigation Agency Act, Revised Edition 2020 (hereinafter referred to as “the principal Act”), is amended in section 2(1) by inserting in its appropriate alphabetical order the following new definition:

““law enforcement agency” means an institution of government which has responsibility, whether under an enactment or otherwise, for the detection, prevention and investigation of crime;”.

Section 5A amended

3. The principal Act is amended in section 5A

(a) by repealing subsection (2) and substituting the following subsection:

“(2) Without prejudice to any other powers of disclosure that may be conferred on the Agency by any other enactment, the Agency may, upon request in writing or on its own volition

- (a) having regard to the purposes for which the disclosure is to be made;
- (b) having regard to the interests of third parties; and
- (c) subject to such conditions as the Agency may impose, including conditions as to further disclosure,

disclose to a foreign financial investigation agency information disclosed to or in the possession of the Agency for any of the purposes outlined in subsection (2A).”; and

(b) by inserting after subsection (2), the following new subsection:

“(2A) The purposes referred to in subsection (2) are

- (a) to report the commission or possible commission of an offence;
- (b) to initiate a criminal investigation regarding the matter disclosed;
- (c) subject to section 5P in relation to a foreign financial investigation agency, to assist with or facilitate any investigation or criminal proceedings regarding the matter disclosed; or
- (d) to generally give effect to the provisions of this Act or any other enactment concerned with the detection and prevention of the commission of a financial offence.”.

Section 5B amended

4. The principal Act is amended in section 5B

(a) by repealing subsection (1) and substituting the following subsection:

“(1) Where the Agency receives any disclosure of information pursuant to section 4(2)(c), the Agency may order in writing any person to refrain from permitting or completing any transaction relating to the disclosure for a period not exceeding seventy-two hours.”; and

(b) in subsection (4)

- (i) in the opening paragraph by inserting after the words “disclosure not to”, the words “permit or”;
- (ii) in paragraph (a) by deleting the words “if completed” and substituting the words “if permitted or completed”;
- (iii) in paragraph (c) by inserting before the word “completion”, the words “permitting or”;
- (iv) in paragraph (d) by inserting after the words “have been started or”, the word “are”;

- (v) by repealing paragraph (e) and substituting the following paragraph:
 - “(e) the permitting or completion of the transaction may affect any order that a court is likely to make in relation to proceedings under this Act or any other enactment relating to money laundering, terrorist financing and proliferation financing, including the Drugs (Prevention of Misuse) Act, Revised Edition 2020”; and
- (vi) in the closing paragraph by inserting after the words “refrain from”, the words “permitting or”.

Section 5C amended

5. The principal Act is amended in section 5C

- (a) by repealing subsection (1) and substituting the following subsection:
 - “(1) No person shall carry on in or from within the Territory the business of a DNFBP without being registered in accordance with subsection (3).”;
- (b) by inserting after subsection (1), the following new subsection:
 - “(1A) The Agency shall exercise supervisory responsibility of a DNFBP for money laundering, terrorist financing and proliferation financing purposes.”;
- (c) by repealing subsection (2) and substituting the following subsection:
 - “(2)The Agency shall
 - (a) identify and assess NPOs that are engaged primarily in raising and disbursing funds;
 - (b) exercise supervisory responsibility of NPOs identified under paragraph (a) that are at risk of terrorist financing abuse; and
 - (c) where it considers it necessary, exercise supervisory responsibility of NPOs for money laundering and proliferation financing risks.”;
- (d) by inserting after subsection (2), the following new subsections:
 - “(2A) For purposes of subsection (2), the Agency shall
 - (a) use all relevant sources of information or data to identify the types and features of NPOs that are likely to be at risk of being used for terrorist financing including, as the Agency considers necessary, those that may be at risk of being used for money laundering or proliferation financing purposes; and
 - (b) whether acting in accordance with section 20(1) or otherwise, identify the nature of threats that

may be posed to NPOs by individuals, groups or organisations that may, in particular, be engaged in terrorism or terrorist financing and how such individuals, groups or organisations abuse or misuse NPOs.

(2B) Where the Agency identifies an NPO that is at risk of terrorist financing abuse under subsection (2), it shall notify the NPO that it is subject to supervision by the Agency for terrorist financing purposes.

(2C) Where the Agency considers that an NPO identified under subsection (2B) is no longer at risk of terrorist financing abuse, the Agency shall remove the NPO from supervision and notify the NPO accordingly.

(2D) In carrying out its supervisory responsibility of DNFBPs and NPOs, the Agency shall adopt a risk-based approach and shall take into account the following:

- (a) the risk which each DNFBP or NPO presents;
- (b) the risk associated with DNFBPs or NPOs or any class of DNFBPs or NPOs; and
- (c) the risk which the Territory may be exposed to by any DNFBP or NPO or any class of DNFBPs or NPOs.”;

(e) in subsection (4), by repealing paragraph (c);

(f) by inserting after subsection (6), the following new subsections:

“(6A) A DNFBP shall not effect any change in its directors or senior officers or the persons holding a significant interest or controlling interest in the DNFBP without the prior written approval of the Agency.

(6B) Notwithstanding any notification to the Agency under subsection (7)(c)(ii) or (iii) or anything to the contrary contained in the Non-Profit Organisations Act, 2012, an NPO that is subject to supervision by the Agency under subsection (2B) shall not effect any change in its directors or senior officers or the persons holding a significant interest or controlling interest in the NPO without the prior written approval of the Agency.

(6C) The Agency shall not grant approval under subsection (6A) or (6B), unless it is satisfied that

- (a) in the case of directors or senior officers, the new directors or senior officers sought to be appointed are fit and proper; and
- (b) in the case of a change in significant interest or significant control, following the change, any person who will acquire a significant interest or controlling interest in the DNFBP or NPO, as the case may be, is fit and proper.

(6D) Where a change occurs in the directorship or senior officer position, or in the significant interest or controlling interest, of a DNFBP, the DNFBP concerned shall notify the Agency within fourteen days after the date of occurrence of the change.”;

(g) in subsection (8) by repealing paragraph (d) and substituting the following paragraph:

“(d) where the Agency exercises a power under paragraph (a) or (c) in respect of

(i) a DNFBP, notify the Government department or institution by which the DNFBP is licensed, registered, approved, authorised or otherwise established of that fact in writing; or

(ii) an NPO, notify the NPORB of that fact in writing,

but a notification under this paragraph is without prejudice to the Agency’s exercise of its enforcement powers under section 5J.”; and

(h) in subsection (13)(a) by deleting the words “means a person who” and substituting the words “includes a person who operates a gaming or betting business or”.

Section 5J amended

6. Section 5J of the principal Act is amended

(a) in subsection (1)

(i) by repealing paragraph (a) and substituting the following paragraph:

“(a) breaches a provision of this Act, or a provision of any other enactment relating to money laundering, terrorist financing or proliferation financing;”;

(ii) by deleting the word “or” at the end of paragraph (b); and

(iii) by inserting after paragraph (c), the following new paragraphs:

“(d) fails to comply with a requirement or an order made by the Agency under this Act;

(e) carries on business as a DNFBP, without being registered as such under section 5C(3) or after it has been deregistered pursuant to subsection (3A); or

(f) provides the Agency with any false, inaccurate or misleading information,”;

(b) in subsection (2)

(i) by inserting after paragraph (a), the following new paragraph:

“(aa) deregister a DNFBP that is registered pursuant to section 5C(3);”;

(ii) by repealing paragraph (b) and substituting the following paragraph:

“(b) subject to subsection (3A),

- (i) inform the Government department or institution by which the person is licensed, registered, approved, authorised or otherwise established that the Agency has taken enforcement action against the person which requires the person’s licence, registration, approval, authorisation or establishment to be cancelled, suspended, revoked or withdrawn; and
 - (ii) require the Government department or institution concerned to act in accordance with subsection (3);”;
- (iii) in paragraph (c), by deleting the full-stop at the end of the paragraph and substituting a semi-colon; and
- (iv) by inserting after paragraph (c), the following new paragraphs:
- “(d) issue a directive under section 5I(1);
 - (e) initiate such investigation as may be necessary to ensure compliance with this Act, the Anti-money Laundering Regulations, Revised Edition 2020, the Anti-money Laundering and Terrorist Financing Code of Practice, Revised Edition 2020, the Proliferation Financing (Prohibition) Act, 2021 and any other enactment relating to money laundering, terrorist financing and proliferation financing; and
 - (f) require the DNFBP or NPO to pay such costs and expenses as are incurred by the Agency in the taking of enforcement action against the DNFBP or NPO as the Agency thinks fit.”;

(c) by repealing subsection (3) and substituting the following subsection:

“(3) Subject to subsection (3A), where a Government department or institution by which a person is licensed, registered, approved, authorised or otherwise established receives information from the Agency in accordance with subsection (2)(b), the Government department or institution concerned shall, notwithstanding anything to the contrary contained in the Business Licensing Act, 2022, Non-Profit Organisations Act, 2012 or any other enactment, immediately cancel, suspend, revoke or withdraw, as the case may be, the person’s licence, registration, approval, authorisation or establishment.”;

(d) by inserting after subsection (3), the following new subsections:

“(3A) Where a licence issued to a person under the Business Licensing Act, 2022 enables the person, in addition to carrying on business as a DNFBP, to carry on business, trade or practice of a profession, that may not qualify the person as a DNFBP, then it shall suffice for the Agency to deregister the person as a DNFBP and issue an order prohibiting the person from acting as or performing any business or activity of a DNFBP.

(3B) Where the Agency acts in accordance with subsection (3A), it shall inform the Government department or institution that licensed, registered, approved, authorised or otherwise established the person that the person has been deregistered as a DNFBP and prohibited from acting as or performing any business or activity of a DNFBP, and of the reason for such action.”;

(e) by repealing subsection (4) and substituting the following subsection:

“(4) If the Agency requires a person’s licence, registration, approval, authorisation or establishment to be suspended as a result of taking enforcement action against the person under this section, it shall specify the period of suspension, which shall not exceed thirty days.”; and

(f) by inserting after subsection (4), the following new subsection:

“(4A) Where the Agency considers it to be in the public interest that the suspension of a person’s licence, registration, approval, authorisation or establishment should be extended, it may extend the suspension for an additional period not exceeding thirty days and notify the Government department or institution concerned which shall extend the suspension accordingly.”.

Sections 5L, 5M, 5N, 5O, 5P, 5Q and 5R inserted

7. The principal Act is amended by inserting after section 5K, the following new sections:

“Power to issue public statement

5L. (1) Where the Agency is entitled to take enforcement action against a financial institution, or any DNFBP, NPO or other person, the Agency may issue a public statement in such manner as it considers fit setting out the reasons for the enforcement action and the enforcement action that it intends to take, or has taken, against the financial institution, or the DNFBP, NPO or other person.

(2) Where it considers it in the public interest to do so, the Agency may issue a public statement in such manner as it considers fit with respect to

- (a) any person who, in the opinion of the Agency, is carrying on business as a DNFBP without being registered in accordance with section 5C(3), including as to any action that the Agency intends to take or has taken against that person;
- (b) any person who, not being a DNFBP or NPO, is holding himself or herself out as a DNFBP or NPO; and
- (c) any matter relating to the business of a DNFBP or NPO where the Agency considers that the statement is desirable for
 - (i) the protection of the public, whether within or outside the Territory, against financial loss arising

out of the dishonesty, incompetence, malpractice or insolvency of persons engaged in the business of a DNFBP or NPO in the Territory;

- (ii) the protection and enhancement of the reputation of the Territory; and
- (iii) the reduction of crime and other unlawful activities in the Territory.

(3) Subject to subsection (4), where a public statement is to be issued under this section in relation to a DNFBP, NPO or any other person, the Agency shall give that DNFBP, NPO or other person three days written notice of its intention to issue the public statement and the reasons for the issue of the statement.

(4) If the Agency is of the opinion that it is necessary to do so to protect the public interest or the interests of any of the customers, creditors or investors of a DNFBP, NPO or any other person, it may issue a public statement under subsection (3) without notice to the DNFBP, NPO or other person, or with such shorter notice period as it considers appropriate.

Power to conduct inspection

5M. (1) The Agency's exercise of its powers under this section

- (a) applies in relation to an entity that is a subsidiary of a DNFBP and any reference to a DNFBP or DNFBPs shall be construed accordingly; and
- (b) is without prejudice to its exercise of the powers conferred on it by section 5D.

(2) The Agency may, for any purpose specified in subsection (3)

- (a) inspect the premises and business, whether in or outside the Territory, including the procedures, systems and controls, of a DNFBP or NPO;
- (b) inspect the assets, including cash, belonging to or in the possession or control of a DNFBP or NPO;
- (c) examine and make copies of documents belonging to or in the possession or control of a DNFBP or NPO that, in the opinion of the Agency, relate to the carrying on of business by the DNFBP or NPO; and
- (d) seek information and explanations from the officers, employees, agents and representatives of a DNFBP or NPO, whether verbally or in writing, and whether in preparation for, during or after an inspection.

(3) An inspection may be undertaken for any of the following purposes:

- (a) the supervision of a DNFBP or NPO, including monitoring and assessing the DNFBP's or NPO's compliance with

- (i) this Act and any other enactment relating to money laundering, terrorist financing and proliferation financing that apply to the DNFBP or NPO;
 - (ii) any guidelines issued by the Agency in relation to DNFBPs and NPOs; and
 - (iii) any directives issued by the Agency that apply to DNFBPs or NPOs;
- (b) monitoring and assessing a DNFBP's or NPO's compliance with the requirements of, and its obligations under, the Proceeds of Criminal Conduct Act, Revised Edition 2020, the Anti-money Laundering Regulations, Revised Edition 2020 and the Anti-money Laundering and Terrorist Financing Code of Practice, Revised Edition 2020, and with such other enactments and guidelines relating to money laundering, terrorist financing and proliferation financing; and
- (c) as part of an investigation or inquiry into or in relation to any matter which the Agency has power to investigate or inquire into, whether
- (i) under this Act, the Proceeds of Criminal Conduct Act, Revised Edition 2020, the Anti-money Laundering Regulations, Revised Edition 2020 and the Anti-money Laundering and Terrorist Financing Code of Practice, Revised Edition 2020, or any other enactment;
 - (ii) pursuant to a request from a foreign financial investigation agency or generally in relation to the Agency's execution of its international cooperation obligations under this Act or any other enactment; or
 - (iii) pursuant to a request from a domestic competent authority or law enforcement agency, or generally in relation to the Agency's execution of its cooperation obligations under this Act or any other enactment or under a memorandum of understanding or other agreement.

(4) Subject to subsection (5), the Agency shall give reasonable notice to a DNFBP or NPO of its intention to exercise its powers under subsection (3).

(5) Where it appears to the Agency that the circumstances so justify, the Agency may exercise its powers under subsection (3) without giving notice to the DNFBP or NPO.

(6) Subject to subsection (7), the Agency may, upon the written request of a domestic competent authority, law enforcement agency, foreign financial investigation agency or any other authority the Agency considers appropriate for information exchange or other cooperation purposes, permit the domestic competent authority, law enforcement agency, foreign financial investigation agency or other authority to take

part in an inspection undertaken by the Agency under this section and any guidelines issued by the Agency.

(7) The Agency shall not permit participation in an inspection under subsection (6), unless it is of the opinion that such participation is reasonably required

- (a) for the effective supervision of a DNFBP or NPO which operates in the Territory and in another jurisdiction (irrespective of whether that other jurisdiction is that of the foreign financial investigation agency); and
- (b) in the case of a domestic competent authority or law enforcement agency, for the purposes of
 - (i) the due execution of functions of the domestic competent authority or law enforcement agency; or
 - (ii) advancing an investigation by the domestic competent authority or law enforcement agency;
- (c) in the case of a foreign financial investigation agency, for the purposes of advancing an investigation by the foreign financial investigation agency; and
- (d) in the case of any other authority, for the purposes of information exchange or for purposes of advancing an investigation.

(8) In deciding whether to permit a foreign financial investigation agency to take part in an inspection under subsection (6), the Agency may take into account whether the foreign financial investigation agency is subject to adequate legal restrictions on further disclosure and, in particular, whether it is likely, without the written permission of the Agency, to

- (a) disclose information obtained or documents examined or obtained during the inspection to any person other than an officer or employee of the foreign financial investigation agency; or
- (b) use the information obtained or the documents examined or obtained for a purpose other than the purpose for which the request is made under subsection (6).

(9) For the avoidance of doubt, the Agency may conduct an inspection of a DNFBP or NPO in respect of any function outsourced by the DNFBP or NPO.

Confidentiality of inspection reports

5N. (1) Where an inspection report (“the report”) has been produced in respect of a DNFBP or NPO pursuant to an inspection under section 5M

- (a) a copy of the report shall be transmitted by the Agency to the DNFBP or NPO with such directions as the Agency may provide; and

- (b) the report shall be maintained confidentially, and shall not, save as provided under subsection (2), be disclosed to any person
 - (i) by the Agency, save to the DNFBP or NPO and in respect of the performance of its functions under this Act and in the discharge of any obligations under any other enactment; and
 - (ii) by the DNFBP or NPO.

(2) The report may be disclosed

- (a) by a DNFBP or NPO to its directors, members, senior officers, auditor and such other employees of the DNFBP or NPO as the DNFBP or NPO may authorise, in relation to the performance of their duties in connection with the DNFBP or NPO; and
- (b) to such other person, including a foreign financial investigation agency, domestic competent authority or law enforcement agency, as the Agency may approve in writing.

(3) For the purposes of subsection (2)(b), the Agency may, either on its own volition or upon receipt of a request in writing from any person who, in the opinion of the Agency, has a legitimate need for it, provide the report, or approve the report to be made available, to that person.

(4) In exercising its power under subsection (3), the Agency shall consider whether providing the report, or approving the report to be made available, in any particular case accords with the objects of this Act and is in the public interest.

(5) A DNFBP or NPO that discloses a report contrary to subsection (1)(b)(ii) commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars.

Frequency of inspection

50. (1) The Agency shall, for the purposes of conducting an inspection of a DNFBP or NPO under section 5M, determine the frequency at which such inspection should be conducted, and the frequency may relate to the DNFBP or NPO, a class of DNFBPs or NPOs or the risk posed by the DNFBP or NPO or class of DNFBPs or NPOs.

(2) Without prejudice to subsection (1), the Agency shall determine the frequency of inspection of a DNFBP or NPO or a class of DNFBPs or NPOs in such manner and for such purposes as it considers necessary, including on the basis of, though not limited to

- (a) the money laundering, terrorist financing and proliferation financing risks and policies and the internal controls, processes and procedures associated with the DNFBP or NPO or a class of DNFBPs or NPOs, as assessed by the Agency;

- (b) the money laundering, terrorist financing and proliferation financing risks present in the Territory or elsewhere;
- (c) the characteristics of the DNFBP or NPO or class of DNFBPs or NPOs and the degree of discretion allowed to the DNFBP or NPO or a class of DNFBPs or NPOs under the risk-based approach and risk assessment framework implemented by the Agency; and
- (d) trends or typologies with respect to the money laundering, terrorist financing and proliferation financing policies, processes, procedures and internal controls associated with a DNFBP or NPO or a class of DNFBPs or NPOs.

(3) The Agency may, at any time it considers there are developments in the management and operations, or with respect to any aspect, of a DNFBP or NPO it is concerned about, conduct an inspection of the DNFBP or NPO, including a review of

- (a) the assessment of the money laundering, terrorist financing and proliferation financing risks of the DNFBP or NPO;
- (b) the DNFBP's or NPO's policies, processes, procedures and internal controls; and
- (c) the DNFBP's or NPO's overall compliance culture.

Power to provide assistance to foreign financial investigation agency

5P. (1) Subject to subsection (2), the Agency may, on the written request of a foreign financial investigation agency and subject to such conditions as it considers appropriate

- (a) exercise the power conferred on it by section 5D;
- (b) appoint one or more investigating officers appointed under section 4(7) to investigate any matter;
- (c) make an application for the examination of a person under section 5F or require a person to be examined under section 5G; or
- (d) disclose information, or provide documentation, to the foreign financial investigation agency, whether such information or documentation is already in the Agency's possession or whether it is obtained pursuant to the exercise of a power under paragraph (a), (b) or (c) or pursuant to an inspection carried out under section 5M.

(2) The Agency shall not exercise the power conferred on it by subsection (1) unless it is of the opinion that the information or documentation to which the request relates, or the investigation is sought, is reasonably required by the foreign financial investigation agency for the purposes of its investigative functions.

(3) Where the Agency considers it appropriate in any case to do so, it may, notwithstanding anything to the contrary contained in this Act, provide a foreign financial investigation agency with information in its control or possession, whether or not obtained pursuant to the exercise of any power under this Act, although the information has not been specifically requested by the foreign financial investigation agency.

(4) In deciding whether to exercise the powers conferred on it by subsection (1), the Agency may take into account, in particular

- (a) whether corresponding assistance would be given to the Agency in the country or territory of the foreign financial investigation agency concerned;
- (b) the nature and seriousness of the matter to which the request for assistance relates, the importance of the assistance to be provided in the Territory and whether the assistance can be obtained by other means;
- (c) the relevance of the information or documentation to the inquiries to which the request relates; and
- (d) whether it is otherwise appropriate in the public interest to provide the assistance sought.

(5) For the purposes of subsection (4)(a), the Agency may require the foreign financial investigation agency making the request to give a written undertaking, in such form as the Agency may require, to provide corresponding assistance to the Agency.

(6) If a foreign financial investigation agency fails to comply with a requirement of the Agency made under subsection (5), the Agency may refuse to provide the assistance sought by the foreign financial investigation agency.

(7) Without limiting the discretion of the Agency under this section, the Agency may decide that it will not, on the request of a foreign financial investigation agency, exercise its powers under this section unless

- (a) the foreign financial investigation agency undertakes to make such contribution towards the cost of exercising its powers as the Agency considers appropriate;
- (b) it is satisfied that the foreign financial investigation agency is subject to adequate legal restrictions on further disclosure of the information and documents and that it will not, without the written permission of the Agency obtained at the time of the request or thereafter
 - (i) disclose information or documents provided to it to any person other than an officer or employee of the foreign financial investigation agency engaged in the exercise of its investigative functions; or
 - (ii) take any action on information or documents provided to it; and

- (c) it has received satisfactory assurances from the foreign financial investigation agency that any information provided to it
 - (i) will be adequately protected against unauthorised disclosure; and
 - (ii) will not be used in any criminal proceedings against the person furnishing it, other than proceedings for an offence of perjury or any equivalent offence.

(8) The reference in this section to a foreign financial investigation agency shall be construed to include a foreign financial investigation agency that is not designated by an Order of the Governor but performs functions similar to those of the Agency.

Duty to cooperate

5Q. (1) Every financial institution, DNFBP, NPO or other person subject to the requirements of, or exercise of powers under, this Act shall cooperate with the Agency in the discharge of its functions under this Act or any other enactment under or in relation to which the Agency exercises powers.

(2) Cooperation under subsection (1) may include but is not limited to

- (a) providing information that is within the domain of the financial institution, DNFBP, NPO or other person concerned;
- (b) producing documents in the possession or under the control of the financial institution, DNFBP, NPO or other person concerned; and
- (c) providing any other material which the financial institution, DNFBP, NPO or other person has access to and authority to produce.

(3) A financial institution, DNFBP, NPO or other person who acts contrary to subsection (1) commits an offence and is liable on conviction to a fine not exceeding twenty thousand dollars.

Power to require returns

5R. (1) The Agency may, by an Order published in the *Gazette*, require a DNFBP or NPO in respect of which the Agency exercises supervisory responsibility under section 5C(2) to provide to the Agency a return containing information

- (a) on directors, senior officers and persons with significant interest and controlling interest;
- (b) regarding preparation and submission of money laundering, terrorist financing and proliferation financing risk assessments of its business and affairs, including its policies, procedures, systems and internal controls; and

- (c) on any other matter concerning the business or affairs of the DNFBP or NPO and its clients or donors.
- (2) Any return required by the Agency pursuant to subsection (1)
- (a) shall be in a form and contain such detail as may be prescribed by the Agency in the Order issued under subsection (1);
 - (b) may be used for the purpose of analysing and developing relevant statistical data for use by the Agency or for public dissemination;
 - (c) may be used for the purpose of facilitating the supervisory functions of the Agency;
 - (d) may be used in response to statistical inquiries by persons who are connected to or have interest in the work of the Agency, which the Agency considers to be legitimate and appropriate;
 - (e) may be used for the purpose of meeting any obligation or undertaking of the Agency by virtue of its membership or association of any institution or organisation or of implementing any domestic or internationally established standard or commitment;
 - (f) may be applied for some other purpose consistent with the duties and functions of the Agency; and
 - (g) shall be prepared and submitted for the period and within the time frame as may be prescribed in the Order.
- (3) A DNFBP and NPO referred to in subsection (1) shall ensure that information provided in any return is accurate and complete.
- (4) Where a DNFBP or NPO referred to in subsection (1) fails to comply with subsection(2) (a) or (g) or subsection (3) or contravenes any provision of the Order, he or she is liable to such administrative penalty as the Agency may prescribe in the Order”.

Schedule 1 amended

8. The principal Act is amended in paragraph 6(2) of Schedule 1 by inserting after the words “financial institution”, the words “, DNFBP or NPO”.

Passed by the House of Assembly this 29th day of October, 2024.

(Sgd.) Corine N. George-Massicote,
Speaker.

(Sgd.) Bethsaida Smith-Hanley,
Clerk of the House of Assembly.