

A BILL

entitled

PROCEEDS OF CRIME AMENDMENT ACT 2019

WHEREAS it is expedient to amend the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and the Financial Intelligence Agency Act 2007;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Proceeds of Crime Amendment Act 2019.

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008

2 The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended—

- (a) in section 20(1)(a), by deleting the word “it” and substituting the words “the authority”, and by deleting “or” at the end of that paragraph;
- (b) in section 20(1)(b), by deleting the word “on” in the second place where it occurs, by deleting the word “it” and substituting the words “the authority”, and by deleting the full-stop at the end of that paragraph and substituting “; or”, and by inserting after that paragraph—
 - “(c) on an AML/ATF regulated financial institution, financial group or insurer, a real estate broker, real estate agent or a regulated non-financial business or profession supervised by the authority, which fails to comply with its international sanctions obligations.”;
- (c) in section 20C(1)(c), by inserting after the words “comply with”, the words “international sanctions obligations, or with”;
- (d) in section 20E(1), by inserting after the word “Regulations”, the words “or has failed to comply with international sanctions obligations”;

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- (e) in section 20I(1)(b), by inserting after the word “Regulations” the words “or has failed to comply with international sanctions obligations”;
- (f) in section 21(1), by—
 - (i) inserting after the words “a penalty” the words “or other disciplinary measure specified in section 20A, 20B, 20C, 20E or 20F”;
 - (ii) inserting after the words “financial group” the words “, a real estate broker, real estate agent”.

Amends the Financial Intelligence Agency Act 2007

3 Section 18(1)(aa) of the Financial Intelligence Agency Act 2007 is amended by inserting after the word “Governor,” the words “or the person to whom he has delegated authority.”.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 and the Financial Intelligence Agency Act 2007.

Clause 1 is the citation.

Clause 2 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 as follows. In section 20(1) some clarification is added to paragraphs (a) and (b), and new paragraph (c) is inserted which specifies that civil penalties can be imposed for breach of obligations in relation to international sanctions. Section 20C(1)(c) is amended to authorise the revocation of a licence as a penalty for a breach of obligations in relation to international sanctions. Section 20E(1) is amended to provide that public censure can be used for breach of obligations in relation to international sanctions. Section 20I(1)(b) is amended to authorise supervisory authorities to use the power to petition the court for the winding up of a company or dissolution of a firm for breach of international sanctions obligations. Section 21(1) is amended to provide that any decision made to impose any of the disciplinary measures provided in Chapter 4 can be the subject of publication, and to include real estate agents and brokers within the scope of the section.

Clause 3 amends the Financial Intelligence Agency Act 2007 by inserting after the word "Governor," the words "or the person to whom he has delegated authority,.". This amendment is being made in order to reflect the fact the Governor of Bermuda has delegated some of his statutory functions in relation to international sanctions. These amendments will authorise the FIA to make appropriate disclosures to the Governor and or the delegated Minister in relation to international sanctions matters as the need dictates.