

No. 5 of 2008

VIRGIN ISLANDS

FINANCIAL INVESTIGATION AGENCY (AMENDMENT) ACT, 2008

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Section 2 amended.
3. Section 4 amended.
4. Sections 5A and 5B inserted.

I Assent

**(Sgd.) ELTON GEORGES, CMG, OBE
Acting Governor**

8th July, 2008

VIRGIN ISLANDS

No. 5 of 2008

An Act to amend the Financial Investigation Agency (Amendment) Act, 2003 (No. 19 of 2003).

[Gazetted 24th July, 2008]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title. **1. This Act may be cited as the Financial Investigation Agency (Amendment) Act, 2008.**

Section 2 amended. No. 19 of 2003 **2. Section 2 of the Financial Investigation Agency Act, 2003 (hereinafter referred to as “the principal Act”) is amended**

(a) in subsection (1) by inserting after “money laundering,” in the definition of “financial offence”, the words “including drug money laundering.”; and

(b) by inserting after subsection (1), the following subsection:

“(1A) For the purposes of the definition of “financial offence” under subsection (1),

- (a) “money laundering” has the meaning assigned by section 31 (7) of the Proceeds of Criminal Conduct Act, 1997; and
- (b) “drug money laundering” has the meaning assigned by section 2 (1) of the Drug Trafficking Offences Act, 1992.”.

3. Section 4 of the principal Act is amended in subsection (2) by repealing paragraphs (b) and (g).

Section 4 amended.

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

Sections 5A and 5B inserted.

“Disclosure of information.

5A. (1) The Agency may disclose any information in its possession, whether the information is acquired through disclosure to the Agency or otherwise,

- (a) to any law enforcement agency in the Territory; and
- (b) to any other institution in the Territory in so far as such disclosure is for the purposes of detecting or preventing the commission, or facilitating the investigation, of an offence.

(2) Without prejudice to any other powers of disclosure that may be conferred on the Agency by any other enactment, the Agency may,

- (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 intelligence authority information disclosed to or in the possession of the Agency, in order

- (i) to report the commission or possible commission of an offence;
- (ii) to initiate a criminal investigation regarding the matter disclosed;
- (iii) to assist with or facilitate any investigation or criminal proceedings regarding the matter disclosed; or
- (iv) 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.

Restrictions on completion of transactions.

5B. (1) Where the Agency receives any disclosure of completion of information pursuant to section 4 (2) (a), the Agency may order in writing any person to refrain from completing any transaction relating to the disclosure for a period not exceeding seventy-two hours.

(2) Where the Agency issues an order under subsection (1), it may extend in writing the validity of the order for a period not exceeding another seventy-two hours.

(3) If, at the end of the period specified in an order under subsection (1) or, in the case of an extension, at the end of the period specified under subsection (2), the Agency

- (a) fails to communicate further on the order refusing to give its consent to the transaction, or
- (b) gives its consent for the completion of the transaction,

the transaction may be proceeded with and completed.

(4) Where before the end of the period specified in an order under subsection (1) or, in the case of an extension, before the end of the period specified under subsection (2), the Agency advises the person making the disclosure not to complete the transaction on the ground that

- (a) the transaction, if completed, would constitute an act that is prohibited under law,
- (b) the transaction relates to a financial offence,
- (c) the completion of the transaction would jeopardize an investigation that has been started or is about to be embarked upon,
- (d) the transaction relates to criminal proceedings that have been started or about to be started, or
- (e) the completion of the transaction may affect any order that a court is likely to make in relation to proceedings under the
 - (i) Drugs (Prevention of Misuse) Act,
 - (ii) Drug Trafficking Offences Act, 1992,
 - (iii) Proceeds of Criminal Conduct Act, 1997, or
 - (iv) Anti-terrorism (Financial and Other Measures) (Overseas Territories) Order 2002,

the person shall refrain from completing the transaction until otherwise advised by the Agency in writing.”.

Passed by the House of Assembly this 27th day of June, 2008.

(Sgd.) ROY HARRIGAN,
Speaker.

(Sgd.) ALVA MCCALL,
Clerk of the House of Assembly.