



VIRGIN ISLANDS

# **FINANCIAL INVESTIGATION AGENCY ACT**

## **Revised Edition**

showing the law as at 1 January 2020

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act 2014.

This edition contains a consolidation of the following laws—

### **FINANCIAL INVESTIGATION AGENCY ACT**

Act 19 of 2003 .. in force 1 April 2004

Amended by Acts: 5 of 2007 .. in force 28 February 2007

5 of 2008 .. in force 8 July 2008

12 of 2013 .. in force 2 December 2013

10 of 2015 .. in force 22 April 2015

9 of 2017 .. in force 10 June 2017

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## FINANCIAL INVESTIGATION AGENCY ACT

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## FINANCIAL INVESTIGATION AGENCY ACT

*(Acts 19 of 2003, 5 of 2007, 5 of 2008, 12 of 2013,  
10 of 2015 and 9 of 2017)*

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS THE FINANCIAL INVESTIGATION AGENCY, THE FUNCTIONS AND POWERS OF THAT BODY AND FOR OTHER MATTERS CONNECTED THEREWITH.

### Commencement

*[1 April 2004]*

### Short title

1. This Act may be cited as the Financial Investigation Agency Act.

### Interpretation

2. (1) In this Act, unless the context otherwise requires—

“Agency” means the Financial Investigation Agency established by section 3;

“Board” means the Board of the Agency referred to in section 3(2);

“Chairman” means the Chairman of the Board referred to in section 3(2);

“Commission” means the Financial Services Commission established under section 3(1) of the Financial Services Commission Act, 2001;

“Director” means the Director of the Agency referred to in section 3(3);

“financial offence” means an offence under any financial services legislation or an offence relating to money laundering, including drug money laundering, the financing of terrorism or the breach of any international or domestic sanction prescribed by or under any enactment; *(Substituted by Act 5 of 2007 and amended by Act 5 of 2008)*

“financial services legislation” means any legislation listed in Schedule 2 of the Financial Services Commission Act, 2001;

“foreign financial investigation agency” means such body or bodies in a foreign jurisdiction as may from time to time be designated by Order of the Governor and which performs functions similar to those of the Agency;

“Minister” means the Minister to whom responsibility for finance is assigned;

“Steering Committee” means the committee referred to in section 3(3);

“suspicious transaction guidelines” means guidelines issued by the Commission under section 20(1).

(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.

*(Inserted by Act 5 of 2008)*

(2) Where in any enactment relating to a financial offence the jurisdiction of the Agency is not specifically excluded, the Agency shall have the authority to deal with such offence to the extent of the powers granted to it under that Act and this Act and, for this purpose, the definition of “constable” in article 3(1) of the Anti-terrorism (Financial and Other Measures) Overseas Territories) Order 2002 shall be construed to include the Agency and its investigators. *(Inserted by Act 5 of 2007)*

### **Establishment of the Agency, the Board and the Steering Committee**

3. (1) There is hereby established a body corporate to be known as the Financial Investigation Agency which shall have power to do all such things as are necessary or incidental to the performance of its functions and the provisions of section 21 of the Interpretation Act shall apply accordingly.

(2) There shall be a Board of the Agency which shall comprise—

- (a) the Deputy Governor or a retired Judge appointed by the Cabinet as Chairman; *(Amended by Act 12 of 2013)*
- (b) the Attorney General as the Deputy Chairman; *(Amended by Act 12 of 2013)*
- (c) the Financial Secretary;
- (d) the Commissioner of Police;
- (e) the Commissioner of Customs; *(Amended by Act 12 of 2013)*
- (f) the Managing Director of the Commission; and
- (g) the Director, *ex officio*. *(Inserted by Act 12 of 2013)*

(3) The Agency shall have a committee styled the Steering Committee, which is hereby established to comprise—

- (a) the Attorney General as Chairman;
- (b) the Managing Director of the Commission; and
- (c) the Director of the Agency.

(4) Schedule 1 shall have effect with respect to the meetings of the Board, the administration and proceedings of the Agency, the Director and otherwise in relation to the Agency.

### **Functions of the Agency, the Board and the Steering Committee**

4. (1) In the exercise of its functions under subsection (2), the Agency shall be responsible for receiving, obtaining, investigating, analysing and disseminating information which relates or may relate to—

- (a) a financial offence or the proceeds of a financial offence; or
- (b) a request for legal assistance from an authority in a foreign jurisdiction which appears to the Agency to have the function of making such requests.

(2) Without limiting subsection (1) and notwithstanding any other law to the contrary, the Agency—



- (a) shall receive all disclosures of information required to be made pursuant to any financial services legislation which is relevant to its functions or pursuant to any other enactment relating to a financial offence, including information from any foreign financial investigation agency; *(Substituted by Act 5 of 2007)*
  - (b) *(Repealed by Act 5 of 2008)*
  - (c) may, upon receipt of a request (whether through the Governor, Attorney General, Commission or otherwise) from a foreign financial investigation agency or a law enforcement authority, including the Commissioner of Police, order in writing any person to freeze a person's bank account for a period not exceeding five days if satisfied that the request relates to the proceedings of a financial offence; *(Amended by Act 5 of 2007)*
  - (d) may require in writing the production of such information, excluding information subject to legal professional privilege, that the Agency considers relevant to the performance of its functions; *(Amended by Act 5 of 2007)*
  - (e) shall retain a record of all information that it receives for a minimum of five years after the information is received;
  - (f) may, subject to this Act and to such conditions as may be determined by the Director, provide information to the Commissioner of Police where such information may relate to the commission of a criminal offence, including a financial offence; *(Substituted by Act 9 of 2017)*
  - (g) *(Repealed by Act 5 of 2008)*
  - (h) may, subject to section 60 of the Virgin Islands Constitution Order, 2007 U.K. S.I. 2007, No. 1678 and subsection (3)(b), enter into an understanding, in writing, with a foreign financial investigation agency which the Governor considers necessary or desirable for the discharge or performance of the functions of the Agency; *(Amended by Act 12 of 2013)*
  - (i) shall inform the public and financial and business entities of their obligations under measures that have been or might be taken to detect, prevent and deter the commission of financial offences.
- (2A) Any entity or individual, required to provide the Agency with information under subsection (2)(d), shall do so within five working days of receiving a written request. *(Inserted by Act 12 of 2013)*
- (3) The Board shall be responsible for making the policy of the Agency and, in addition to any powers conferred by or under this Act, shall—
- (a) subject to section 13, approve the budget of the Agency; and
  - (b) exercise supervisory functions over the Agency in relation to the power specified in subsection (2)(h).
- (4) Any person failing or refusing to provide the information required under subsection (2)(d) commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars or to imprisonment for a term not exceeding two years or to both.

(5) The Steering Committee shall be responsible for steering the conduct of investigations of the Agency and shall, in addition to any powers conferred by or under this Act—

- (a) on its own volition or upon the request of the Board or the Commission, investigate or cause the investigation of any matter referred to in any financial services legislation or in any enactment relating to a financial offence or which is the subject of a request for legal assistance pursuant to an enactment; (*Amended by Act 5 of 2007*)
- (b) perform, subject to subsection (3), any of the functions referred to in subsection (2).

(6) A person who is aggrieved by an order under subsection (2)(c), may apply to a Judge in Chambers to discharge the order of the Agency and shall, if he so applies, serve notice on the Agency to join in the proceedings, but the order shall remain in force until the Judge determines otherwise.

(7) The Board may appoint to the service of the Agency, such investigating officers as it thinks fit, who shall have all the powers of police officers and shall, without prejudice to the generality of this subsection, be subject to such specific or general directions of the Governor, the Attorney General or any other authority in accordance with any relevant law.

(8) Where in the performance of its functions, the Agency becomes aware of evidence that a criminal offence, including a financial offence, has or may have been committed in the Territory, the Agency shall report the matter to an appropriate officer of the Police Force, and that officer or such other officer as the Commissioner may designate shall from time to time take over the investigation. (*Substituted by Act 9 of 2017*)

(9) (*Repealed by Act 9 of 2017*)

### **Directions of the Board**

5. The Board may, without prejudice to section 4(3), issue directions in writing of a general nature as to the policy to be followed by the Agency in the performance of its functions as appear to the Board to be necessary or expedient in the public interest and the Agency shall give effect to those directions.

### **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.

*(Inserted by Act 5 of 2008)*

### **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.

*(Inserted by Act 5 of 2008)*

### **No order for evidence**

6. Notwithstanding the provisions of any other enactment, no order for the provision of information, documents or evidence may be issued against the Agency, the Board or Steering Committee or any member thereof, the Director, officers or personnel of the Agency or any person engaged pursuant to this Act.

### **Immunity of officers from suit**

7. No action shall lie against the Agency, the Director, officers or personnel of the Agency or any person acting under the direction of the Agency or the Director for anything done or omitted to be done in good faith in the discharge or purported discharge of any functions, duties or powers under this Act.

### **No criminal or civil liability for providing information**

8. (1) No proceeding for breach of banking or professional confidentiality may be instituted against any person or against any director or employee of a financial or business entity who in good faith transmits information or submits reports in accordance with any financial services legislation, of any enactment relating to the provision of mutual legal assistance or the investigation and detection of a financial crime. *(Amended by Act 5 of 2007)*

(2) No civil or criminal action may be brought nor any professional sanction taken against any person who, or against any director or employee of a financial or business entity that, in good faith transmits information or submits reports to the Agency.

### **Confidentiality**

9. (1) Any person who obtains information in any form as a result of his connection with the Agency shall not disclose that information to any person except so far as it is required or permitted under this Act or any other enactment.

(2) Any person who communicates any information in breach of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year, or to both.

### **Duty to take oath**

10. (1) The members of the Board, the Director and the staff of the Agency shall, prior to assuming office with the Agency, subscribe to the Oath of Confidentiality set out in Schedule 2.

(2) The Oath of Confidentiality referred to in subsection (1) shall be taken before a Magistrate, Additional Magistrate, Registrar of the High Court or a Justice of the Peace.

(3) The Director shall keep a record of all Oaths of Confidentiality taken pursuant to this section.

### **Annual report**

11. (1) The Director shall—

(a) from time to time advise the Board on the work of the Agency and, in particular, on matters that could affect public policy or the priorities to be set by the Agency;

(b) prepare and submit to the Board on or before the 30th day of June in each year an annual report reviewing the work of the Agency during the previous year.

(2) The Chairman shall forward a copy of every annual report to the Cabinet, which shall cause the report to be laid on the table of the House of Assembly before the end of the year immediately following the year to which the annual report relates. *(Amended by Act 12 of 2013)*

### **Funds and resources**

12. (1) The funds and resources of the Agency shall consist of—

(a) monies appropriated by the House of Assembly for the purposes of the Agency; and

(b) a portion of such assets obtained by the Government under an asset sharing agreement, as the House of Assembly may, by resolution approve.

*(Substituted by Act 12 of 2013)*

(2) The Agency shall open and maintain with a reputable bank licensed and operating in the Territory and approved by Cabinet, an account to be known as “Financial Investigation Agency Asset Fund. *(Amended by Act 12 of 2013)*

(3) Monies provided to the Agency by House of Assembly and proceeds arising out of an asset sharing agreement shall be paid into Financial Investigation Agency Asset Fund. *(Amended by Act 12 of 2013)*

(4) Financial Investigation Agency Asset Fund shall be for the exclusive use of the Agency. *(Amended by Act 12 of 2013)*

(5) Where there is a surplus on the budget approved for the Agency’s expenditure for any financial year, such surplus shall be paid into a reserve account to be established by the Agency, unless otherwise agreed upon with the Cabinet. *(Amended by Act 12 of 2013)*

### Annual budget

13. (1) The Board shall, not later than three months before the commencement of each financial year, prepare in respect of the financial year, and submit for the approval of the Cabinet, estimates of the expected expenditure and expected income of the Agency. *(Amended by Act 12 of 2013)*

(2) The Board shall seek the views of the Minister concerning the estimates referred to in subsection (1) before submitting the estimates for the approval of the Cabinet. *(Amended by Act 12 of 2013)*

(3) Notwithstanding that the Appropriation Act in respect of a financial year has not come into force by the beginning of that financial year, the Minister may authorise the withdrawal from the Consolidated Fund of such monies not exceeding the amount appropriated to the Agency for the immediately preceding financial year as may be necessary to carry on the operations of the Agency until such time as the Appropriation Act comes into force.

(4) Any monies withdrawn from the Consolidated Fund under subsection (3) shall, upon the coming into force of the Appropriation Act referred to in that subsection, be set off against the amount appropriated to the Agency by that Appropriation Act.

### Accounts and audit

14. (1) The Agency shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts of the Agency for each financial year shall be audited by the Auditor General or such other auditor as may be appointed by the Board with the prior written approval of the Minister.

(3) The financial year of the Agency shall be the period commencing on 1st January and ending on 31st December in each year.

(4) As soon as the accounts have been audited, the Agency shall submit a copy thereof to the Minister together with a copy of any report made by the Auditor General or other auditor.

(5) The Minister shall lay on the table of the House of Assembly before the end of the immediately subsequent year a copy of every such audited accounts, together with a copy of any report made by the Auditor General or other auditor on the accounts. *(Amended by Act 12 of 2013)*

### Annual meeting between Cabinet and Board

15. (1) The Cabinet and the Board shall in each year meet for the Board—

- (a) to apprise the Cabinet of the operations of the Agency; and
- (b) to discuss with the Cabinet issues relating to—
  - (i) the operation, management and performance of the Agency;
  - (ii) the initiatives and future direction of the Agency;
  - (iii) Government policy with respect to the Agency;

- (iv) international developments which may affect the operations of the Agency; and
- (v) such other matters as either party may consider essential for strengthening the role of the Agency.  
(Amended by Act 12 of 2013)

(2) The meeting referred to in subsection (1) shall be arranged by the Chairman after consultation with the Chief Minister.

### **Exemption from taxation, etc**

16. The Agency is exempt from the payment of all taxes, levies and licence fees on its income and operations and from the payment of all taxes, duties and rates on its property and documents.

### **Appointment of staff**

17. (1) The Board may appoint such officers, employees and agents as it considers necessary and proper for the administration, management and performance by the Agency of its functions under this Act.

(2) Appointments under this Act shall be on such terms as to remuneration, expenses, pensions and other conditions of service as the Board thinks fit.

(3) The Board may, by Rules, establish and maintain such schemes or make such other arrangements as it thinks fit for the payment of pensions and other benefits in respect of its officers and employees.

### **Secondment of public officers and police officers to the Agency**

18. (1) A public officer may, with his own consent and the approval of the Director of Human Resources, be seconded to the Agency.

(2) A member of the Police Force may, with his own consent and the approval of the Commissioner of Police, be seconded to the Agency.

(3) A person who is seconded to the Agency shall draw the full pay of the post to which he is seconded and is eligible for any increment that is normally payable in that post.

(4) The pay of a person who is seconded to the Agency shall be paid by the Agency.

(5) During the period that a person is seconded to the Agency, he shall be deemed to remain on—

- (a) the establishment of the Government department from which he is seconded, in the case of a public officer; or
- (b) the establishment of the Police Force, in the case of a member of the Police Force,

and he shall be eligible for promotion *in absentia* on the basis of the performance evaluation reports submitted under subsection (6).

(6) The Board shall cause the performance evaluation reports of a person who is seconded to the Agency to be forwarded to—

- (a) the Director of Human Resources and the head of the Government department from which he is seconded, in the case of a public officer; and
  - (b) the Commissioner of Police, in the case of a member of the Police Force.
- (7) The service of a person who is seconded to the Agency shall—
- (a) in the case of a public officer, count as service with the Government department from which he is seconded for the purposes of the Pensions Act; or
  - (b) in the case of a member of the Police Force, count as service with the Police Force for the purposes of Part VI of the Police Act.
- (8) A person who is seconded to the Agency is eligible for leave applicable to the post to which he is seconded and while on such leave he shall be paid the pay of that post.
- (9) Where a member of the Police Force is permanently appointed to a post on the establishment of the Agency, he shall retain his rank as a member of the Police Force and the Board may, with the approval of the Commissioner of Police, promote him in rank as if he were a member of the Police Force.
- (10) Where a member of the Police Force is seconded or permanently appointed to a post on the establishment of the Agency, he shall continue to have the powers and immunities conferred upon members of the Police Force by law.

## Regulations

**19.** (1) The Cabinet may, on the advice of the Agency, make such regulations as it thinks necessary or expedient for carrying out or giving effect to this Act. *(Amended by Act 12 of 2013)*

(2) Without prejudice to the generality of subsection (1), such regulations may in particular—

- (a) require financial and other institutions as may be prescribed to establish and maintain procedures relating to the keeping of records and the making of reports and training;
- (aa) make provision for the implementation of any bilateral or international agreement or treaty extended or applicable to the Territory as may be consistent with the functions of the Agency; *(Inserted by Act 5 of 2007)*
- (b) create criminal offences and penalties triable summarily for failing to comply with the regulations;
- (c) provide that in determining whether a person has complied with the regulations the trial court shall take account of any relevant guidelines issued by the Agency;
- (d) prescribe all matters required or permitted by this Act to be prescribed.



### **Commission to issue guidelines**

20. (1) Subject to section 21, the Commission shall from time to time issue, in respect of a financial institution to which this Act applies, guidelines—

- (a) setting out the features of a transaction that may give rise to suspicion that the transaction is or may be relevant to the enforcement of this Act;
- (b) setting out the procedures for reporting a suspicious transaction orally.

(2) Suspicious transaction guidelines shall be issued in such manner as the Commission shall from time to time determine.

(3) The Commission may from time to time issue an amendment or revocation of any suspicious transaction guidelines.

(4) Without limiting subsection (1), suspicious transaction guidelines issued under this section may relate to one or more kinds of financial institution and such guidelines may make different provisions for different kinds of financial institutions and different kinds of transactions.

### **Consultation of proposed guidelines.**

21. (1) The Commission shall, before issuing any suspicious transaction guidelines—

- (a) consult with such other agencies and entities as the Board may by Order designate and shall have regard to any representations made by such agencies and entities;
- (b) publish in the *Gazette* and in a newspaper circulating in the Territory, notice of its intention to issue the guidelines, which notice shall contain an invitation to financial institutions that are likely to be affected by the proposed guidelines, and industry organisations that are representative of those financial institutions, to express to the Commission, within such reasonable period as is specified in the notice, their interest in being consulted in the course of the development of the guidelines; and
- (c) consult with, and invite representations from, those financial institutions and industry organisations which express such an interest, and shall have regard to any such representations.

(2) Nothing in subsection (1) prevents the Commission from—

- (a) adopting any additional means of publicising the proposal to issue any suspicious transaction guidelines or of consulting with interested parties in relation to such a proposal; and
- (b) taking a final decision on matters arising from consultations.

(3) This section also applies in respect of any amendment or revocation of any suspicious transaction guidelines.

### **Commission to make guidelines available**

22. On request by any financial institution in respect of which any suspicious transaction guidelines are for the time being in force, or by any industry

organisation that represents any such financial institution, the Commission shall, without charge—

- (a) make those guidelines, and all amendments to those guidelines, available for inspection, by that financial institution or as the case requires, that industry organisation at the Commission's offices; and
- (b) provide copies of those guidelines, and all amendments to those guidelines, to that financial institution, or as the case requires, that industry organisation.

### **Review of guidelines**

**23.** (1) The Commission shall from time to time review any suspicious transaction guidelines for the time being in force.

(2) Section 21 applies, with all necessary modifications, in relation to any such review as if the review were a proposal to issue suspicious transaction guidelines.

### **Consequential amendments and revocation**

**24.** (1) Section 27(2) of the Proceeds of Criminal Conduct Act, 1997 is repealed.

(2) The Reporting Authority (Constitution and Procedure) Order, 1998 is revoked.

(3) A reference in any enactment to the Reporting Authority established under section 27(2) of the Proceeds of Criminal Conduct Act, 1997 repealed by subsection (1) and the Reporting Authority (Constitution and Procedure) Order, 1998 revoked by subsection (2), shall be construed as a reference to the Steering Committee.

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## **SCHEDULE 1**

*(Section 3(4))*

### **PROVISIONS RELATING TO THE MEETINGS OF THE BOARD, THE Administration AND Proceedings OF THE Agency AND THE DIRECTOR OF THE Agency**

#### **Meetings of the Board**

1. (1) The Board shall meet at least once every quarter at such place and time as may be designated by the Chairman.

(2) At every meeting of the Board, the Chairman shall preside.

(3) The quorum of the Board shall be five. *(Amended by Act 12 of 2013)*

(4) At any meeting for the conduct of its business, the Board shall take its decision by a majority vote of the members present and in the event of a tie the Chairman shall have a casting vote.

(5) The Chairman shall at any time convene a special meeting of the Board upon receipt of a request signed by at least three members calling upon him to do so, and such meeting shall be held not later than fourteen days after receipt of the request.

(6) No act or proceeding of the Board shall be invalid by reason only of the existence of a vacancy among its members or of any defect in the appointment of a member.

(7) Notwithstanding anything contained in this paragraph, the Chairman may, in any matter he considers exceptional, make arrangements for a decision of the Board to be taken on such matter through a process of consultation without the need for an actual meeting.

(8) Subject to the provisions of this Act, the Board shall establish its own rules of procedure for the purposes of the conduct of its meetings.

#### **Official seal of the Agency**

2. (1) The Agency shall have an official seal for the authentication of documents issued by the Agency and the application of the seal of the Agency shall be authenticated by the signature of the Chairman or a person authorised to do so by the Board.

(2) A document purported to be executed under the seal of the Agency, or signed on its behalf, shall be received in evidence and, unless the contrary is proved, shall be taken to be so executed or signed.

#### **Things required to be done**

3. Anything permitted or required to be done by the Agency may be done by any member of the Board or any employee of the Agency who is authorized for that purpose by the Agency either generally or specifically.

**Ad hoc committees**

4. The Board may establish committees which may include persons who are not members of the Board or the Steering Committee.

**Appointment of Director**

5. (1) The Board shall appoint a fit and proper person to be the Director of the Agency on such terms and conditions as it considers appropriate. (*Substituted by Act 10 of 2015*)

(2) The Director shall not be appointed or re-appointed for a period exceeding five years.

.

6. (1) The Director shall not, while holding office as such, hold any other office or employment, whether remunerated or not, without the prior approval of the Board.

(2) Subject to subparagraph (1), a person may not be appointed or remain Director who—

(a) is a member of the House of Assembly; (*Amended by Act 12 of 2013*)

(b) is a public officer; or

(c) is director, officer or employee of, or has a controlling interest in, any financial institution.

**Deputy Director and Acting Director**

7. The Board may appoint a Deputy Director or any person eligible to be appointed as Director to act temporarily in the place of the Director whenever the Director is absent or is unable to act.

**Resignation of Director**

8. The Director may at any time by notice in writing to the Chairman resign his office.

**Vacancy of office of Director**

9. If the Board is satisfied that the Director—

(a) has become bankrupt or made arrangements with his creditors;

(b) is incapacitated by physical or mental illness;

(c) has been convicted of an offence and sentenced to a penalty of a fine or imprisonment; or

(d) is otherwise unable or unfit to discharge the functions of Director,

the Board may declare the office of Director vacant and shall notify that fact in such manner as the Board thinks fit, and thereupon that office shall become vacant.

**Remuneration of Director**

10. The Director shall receive such remuneration whether by way of salary, allowance or fees, as the Board may determine and, if a person ceases to be the Director and it appears to the Board that there are special circumstances which make it right that the person should receive compensation, the Board may direct a sum of such amount as the Board may determine to be paid to that person.

**Director responsible for administration of Agency**

11. The Director shall have charge of the day-to-day management and operation of the agency and shall be accountable therefor.

**SCHEDULE 2**

*(Section 10(1))*

**OATH OF CONFIDENTIALITY**

I, ....., being a Board member / the Director / an officer / an employee / an agent / an adviser\* of the Financial Investigation Agency solemnly swear / affirm\* that I shall keep confidential all information which comes to my knowledge in my capacity as a Board member / the Director / an officer / an employee / an agent / an adviser\* of the Agency and I shall not divulge such information except as authorised by and in accordance with law.

So help me God! (omit if affirming)

Sworn / Affirmed before me, a Magistrate / Additional Magistrate / Registrar of the High Court / Justice of the Peace\* this ..... day of ....., .....

\_\_\_\_\_  
(Name of person swearing / affirming)

\_\_\_\_\_  
(Magistrate / Additional Magistrate/  
Registrar of the High Court/  
Justice of the Peace)\*

\* Delete as appropriate