
A BILL FOR AN ACT

To enact a new chapter 18 of title 12 of the Code of the Federated States of Micronesia to establish a Financial Transactions Reporting Law for the Federated States of Micronesia.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Title 12 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by enacting a
3 new chapter 18 entitled "Financial Transactions Reporting".

4 Section 2. Title 12 of the Code of the Federated States of
5 Micronesia, as amended, is hereby amended by adding a new
6 subchapter I of chapter 18 entitled "General Provisions".

7 Section 3. Title 12 of the Code of the Federated States of
8 Micronesia, as amended, is hereby amended by adding a new section
9 1801 of chapter 18 to read as follows:

10 "Section 1801. Title. This act shall be known and
11 cited as the 'Financial Transactions Reporting Act of
12 2006' "

13 Section 4. Title 12 of the Code of the Federated States of
14 Micronesia, as amended, is hereby amended by adding a new section
15 1802 of chapter 18 to read as follows:

16 "Section 1802. Purpose. The purpose of this chapter is
17 to facilitate the prevention, detection, investigation
18 and prosecution of money laundering, the financing of
19 terrorism and other serious offenses; enable the
20 establishment of a Financial Intelligence Unit that will

1 collect, analyze, investigate and disseminate suspicious
2 transactions reports and other financial information;
3 and to require financial institutions to undertake due
4 diligence measures and other measures to combat money
5 laundering and the financing of terrorism."

6 Section 5. Title 12 of the Code of the Federated States of
7 Micronesia, as amended, is hereby amended by adding a new section
8 1803 of chapter 18 to read as follows:

9 "Section 1803. Definitions. For purposes of this
10 chapter, the following terms shall have the following
11 meanings:

12 (1) 'account' means any facility or arrangement by
13 which a financial institution does any of the following:

14 (a) accepts deposits of currency;

15 (b) allows withdrawals of currency; or

16 (c) pays checks or payment orders drawn on the
17 financial institution, or collects checks or payment
18 orders on behalf of a person other than the financial
19 institution,

20 and includes any facility or arrangement for a safety
21 deposit box or for any other form of safe deposit;

22 (2) 'auditing authority' means an office of the public
23 auditor established pursuant to National or State laws,
24 or a private auditor that is either paid in whole or in
25 part with National or State funds, or funds received
26 from a foreign government or international organization,

1 or is required by law to be contracted by a financial
2 institution to perform periodic audits;

3 (3) 'Banking Commissioner' means the person appointed
4 pursuant to section 206 of title 29 of the Code of the
5 Federated States of Micronesia;

6 (4) 'cash' means any coin or paper money that is
7 designated as legal tender in the country of issue and
8 includes bearer bonds, travelers' checks, postal notes
9 and money orders;

10 (5) 'currency' means the cash, including coin and
11 paper money of Federated States of Micronesia or of a
12 foreign country, that is designated as legal tender and
13 which is customarily used and accepted as a medium of
14 exchange in the country of issue;

15 (6) 'customer' in relation to a transaction or an
16 account includes:

17 (a) the person who is arranging, opening or
18 undertaking a transaction or account;

19 (b) the person in whose name, or on whose behalf,
20 a transaction or account is arranged, opened or
21 undertaken;

22 (c) a signatory to a transaction or account;

23 (d) any person to whom a transaction has been
24 assigned or transferred;

25 (e) any person who is authorized to conduct a
26 transaction;

1 (f) an applicant for a transaction or a business
2 relationship; and

3 (g) such other person as may be prescribed by the
4 Secretary through regulations promulgated pursuant to
5 this chapter;

6 (7) 'data' means representations, in any form, of
7 information or concepts;

8 (8) 'document' means any material on which data is
9 recorded or marked and which is capable of being read or
10 understood by a person, computer system or other device
11 or any record of information, and includes:

12 (a) anything on which there is writing or
13 printing;

14 (b) anything on which there are marks, figures,
15 symbols, or perforations having meaning for persons
16 qualified to interpret them;

17 (c) anything from which sounds, images or
18 writings can be produced, with or without the aid of
19 anything else;

20 (d) a map, plan, drawing, photograph or similar
21 thing; and

22 (e) an electronic document.

23 (9) 'Financial Intelligence Unit' means the entity
24 established pursuant to section 1818 of this chapter;

1 (10) 'financial institution' means any person who
2 carries on any of the following businesses or
3 activities:

4 (a) banking as defined by section 102 of title 29
5 of the Code of the Federated States of Micronesia,
6 including acceptance of deposits and other repayable
7 funds from the public;

8 (b) lending, including consumer credit, mortgage
9 credit, factoring (with or without recourse) and
10 financing of commercial transactions;

11 (c) financial leasing;

12 (d) money transmission services;

13 (e) issuing and managing means of payment (such
14 as credit cards, travelers' checks and bankers' drafts);

15 (f) issuing financial guarantees and commitments;

16 (g) trading for his or her own account or for
17 account of customers in money market instruments (such
18 as checks, bills, certificates of deposit), foreign
19 exchange, financial futures and options, exchange and
20 interest rate and index instruments, commodity futures
21 trading and securities;

22 (h) underwriting and participating in shares and
23 securities issues and the provision of financial
24 services related to such issues;

25 (i) money-broking;

- 1 (j) individual and collective portfolio
2 management and advice;
- 3 (k) investing, administering or managing funds or
4 money on behalf of other persons
- 5 (l) safekeeping and administration of cash or
6 liquid securities on behalf of other persons;
- 7 (m) safe custody services;
- 8 (n) credit reference services;
- 9 (o) advice to undertakings on capital structure,
10 industrial strategy and related questions, and advice
11 and services relating to mergers and the purchase of
12 undertakings;
- 13 (p) insurance, including insurance
14 intermediaries, agents and brokers;
- 15 (q) dealing in bullion;
- 16 (r) issuing, selling or redeeming travelers
17 checks, money orders or similar instruments;
- 18 (s) collecting, holding and delivering cash as
19 part of a business providing payroll services;
- 20 (t) operating a gambling house, casino or lottery
21 including carrying on such a business through the
22 internet;
- 23 (u) trustee or manager of a unit trust;
- 24 (v) trustee, administrator or investment manager
25 of a superannuation scheme but excluding closed-ended
26 schemes;

1 (w) real estate agent, broker or other person
2 involved in transactions for clients relating to the
3 buying and selling of real estate;

4 (x) dealer in precious metals, precious stones,
5 artwork or antiquities;

6 (y) attorney, notary, other independent legal
7 professional and an accountant when preparing for or
8 carrying out transactions for clients relating to the
9 following activities:

10 (i) buying and selling of real estate;

11 (ii) managing of client money, securities or
12 other assets;

13 (iii) management of bank, savings or
14 securities accounts;

15 (iv) organization of contributions for the
16 creation, operation or management of companies; and

17 (v) creation, operation or management of
18 legal persons or arrangements, and buying and selling of
19 business entities;

20 (z) trust or company service provider not
21 otherwise covered by this definition, which as a
22 business, provides any of the following services to
23 third parties:

24 (i) formation or management of legal
25 persons;

1 (ii) acting as (or arranging for another
2 person to act as) a director or secretary of a company,
3 a partner of a partnership, or a similar position in
4 relation to other legal persons;

5 (iii) providing a registered office,
6 business address or accommodation, correspondence or
7 administrative address for a company, a partnership or
8 any other legal person or arrangement;

9 (iv) acting as (or arranging for another
10 person to act as) a trustee of an express trust;

11 (v) acting as (or arranging for another
12 person to act as) a nominee shareholder for another
13 person; or

14 (aa) such other business as may be
15 prescribed by the Secretary through regulations
16 promulgated pursuant to this chapter;

17 (11) 'Money laundering offense' means an offense under
18 section 912 of title 11 of the Code of Federated States
19 of Micronesia;

20 (12) 'Money transmission services' means a person
21 (other than a bank) carrying on a business of:

22 (a) exchanging cash or the value of money;

23 (b) money changing;

24 (c) collecting, holding, exchanging or remitting
25 funds or the value of money, or otherwise negotiating

1 transfers of funds or the value of money, on behalf of
2 other persons;

3 (d) delivering funds; or

4 (e) issuing, selling or redeeming traveler's
5 checks, money orders or similar instruments.

6 (13) 'negotiable instrument' means a document
7 representing ownership of debts or obligations,
8 including but not limited to, bank checks, bills of
9 exchange, promissory notes or certificates of deposit,
10 whether made payable to the bearer or not;

11 (14) 'offense of the financing of terrorism' means an
12 offense under subchapter II of chapter 13 of title 11 of
13 the Code of the Federated States of Micronesia;

14 (15) 'person' means any natural or legal person
15 including a group, association or body of persons,
16 whether it has legal personality or not;

17 (16) 'politically exposed person' includes any person
18 who is or has been entrusted with any prominent public
19 function in a foreign country such as a Head of State or
20 of Government, a senior government, judicial or military
21 official, a senior executive of a state-owned
22 corporation, an important political party official, an
23 ambassador or head of a consular post, and any family
24 members or close associates of such a person;

25 (17) 'property' means currency and all other real or
26 personal property of any kind, whether corporeal or

1 incorporeal, moveable or immovable, tangible or
2 intangible, and legal documents or instruments in any
3 form including electronic or digital, evidencing title
4 to, or interest in, such property, including but not
5 limited to bank credits, travelers checks, bank checks,
6 money orders, shares, securities, bonds, drafts, letters
7 of credit, whether situated in Federated States of
8 Micronesia or elsewhere and includes any legal or
9 equitable interest in any such property;

10 (18) 'record' means any material on which data is
11 recorded or marked and which is capable of being read or
12 understood by a person, computer system or other device;

13 (19) 'State' means one of the four states of the
14 Federated States of Micronesia;

15 (20) 'Secretary' means the Secretary of the Department
16 of Justice for the Federated States of Micronesia.

17 (21) 'serious offense' shall have the meaning given to
18 it by section 903 of title 11 of the Code of Federated
19 States of Micronesia;

20 (22) 'supervisory authority' means any department,
21 office, agency, board of directors, or public official
22 established pursuant to the National or State laws of
23 the Federated States of Micronesia that has regulatory
24 or supervisory authority over a financial institution or
25 group of financial institutions;

1 (23) 'Supreme Court' means the Supreme Court of the
2 Federated States of Micronesia, and all its divisions,
3 wherever or whenever constituted;

4 (24) 'suspicious transaction report' means a report
5 required to be made under section 1811 of this chapter.

6 (25) 'terrorist' shall have the meaning given to it by
7 section 1303 of title 11 of the Code of the Federated
8 States of Micronesia;

9 (26) 'terrorist act' shall have the meaning given to it
10 by section 1303 of title 11 of the Code of the Federated
11 States of Micronesia;

12 (27) 'terrorist organization' means a group composed of
13 two or more persons, whether organized or not, that
14 engages in terrorism;

15 (28) 'terrorist property' means:

16 (a) proceeds from the commission of a terrorist
17 act;

18 (b) property which has been, is being, or is
19 likely to be used to commit a terrorist act;

20 (c) property which has been, is being, or is
21 likely to be used by a terrorist or terrorist
22 organization;

23 (d) property owned or controlled by or on behalf
24 of a terrorist or terrorist organization; or

1 (e) property which has been collected for the
2 purpose of providing support to a terrorist or
3 terrorist organization, or funding a terrorist act; and

4 (29) 'transaction' includes:

5 (a) opening of an account;

6 (b) any deposit, withdrawal, exchange, remittance
7 or transfer of funds in any currency whether in cash or
8 negotiable instrument, and whether by electronic or
9 other non-physical means;

10 (c) use of a safety deposit box or any other form
11 of safe deposit;

12 (d) entering into any fiduciary relationship;

13 (e) any payment made in satisfaction, in whole or
14 in part, of any contractual or other legal obligation;
15 and

16 (f) such other transactions as may be prescribed
17 by the Secretary through regulations promulgated
18 pursuant to this chapter."

19 Section 6. Title 12 of the Code of the Federated States of
20 Micronesia, as amended, is hereby amended by adding a new
21 subchapter II of chapter 18 entitled "Record Keeping and Identity
22 Verification".

23 Section 7. Title 12 of the Code of the Federated States of
24 Micronesia, as amended, is hereby amended by adding a new section
25 1804 of chapter 18 to read as follows:

1 "Section 1804. Financial institution to verify customer
2 identity.

3 (1) A financial institution shall obtain the identity
4 of a customer on the basis of any official or other
5 identifying document, and shall verify the identity of
6 the customer on the basis of reliable and independent
7 source documents, data or information or other evidence
8 as is reasonably capable of verifying the identity of
9 the customer when -

10 (a) entering into a continuing business
11 relationship, or in the absence of such a relationship,
12 conducts any transaction;

13 (b) carrying out an electronic funds transfer
14 other than an electronic funds transfer referred to in
15 subsections 1809(2) or 1809(3) of this chapter;

16 (c) there is a suspicion of a money laundering or
17 the financing of terrorism offense; or

18 (d) there is doubt about the veracity or adequacy of the
19 customer identification and verification documentation
20 or information previously obtained from the customer.

21 (2) Without limiting the general requirements of
22 subsection (1) of this section, a financial institution
23 shall -

24 (a) when establishing a business relationship,
25 obtain information on the purpose and intended nature of
26 the business relationship; and

1 (b) if the customer is a natural person,
2 adequately verify his or her true identity by:

3 (i) obtaining the customer's name, address,
4 occupation; and

5 (ii) requiring the customer to produce a
6 birth certificate, national identity card, passport or
7 other official identifying document prescribed by law or
8 the Secretary through regulations promulgated pursuant
9 to this chapter;

10 (c) if the customer is a legal entity, adequately
11 verify its legal existence and structure, including
12 obtaining information relating to:

13 (i) the customer's name, legal form, address
14 and directors, including a certificate of incorporation
15 together with its latest tax return filed with the
16 National government of the Federated States of
17 Micronesia;

18 (ii) the principal owners and beneficiaries
19 of the customer, as well as its control structure;

20 (iii) provisions regulating the power to bind
21 the customer; and

22 (iv) the identity of persons authorized to
23 act on behalf of the customer; or

24 (d) if the customer is a politically exposed
25 person,

1 (i) adequately identify and verify his or
2 her identity as set out in this section;

3 (ii) have appropriate risk management systems
4 to determine whether the customer is a politically
5 exposed person;

6 (iii) obtain the approval of senior management
7 of the financial institution before establishing a
8 business relationship with the customer; and

9 (iv) conduct regular and ongoing enhanced
10 monitoring of the business relationship.

11 (3) Where a customer requests a financial institution
12 to enter into a continuing business relationship, or in
13 the absence of such a relationship, any transaction,
14 then the institution shall take reasonable measures to
15 establish whether the person is acting on behalf of
16 another person, whether as a trustee, nominee, agent,
17 power of attorney or otherwise. If it appears to a
18 financial institution that a customer is acting on
19 behalf of another person, then the financial institution
20 shall obtain and verify the identity of any person on
21 whose behalf, or for whose ultimate benefit, the
22 customer may be acting in the transaction or business
23 relationship.

24 (4) A financial institution shall, in relation to its
25 cross-border correspondent banking and other similar
26 business relationships -

1 (a) adequately identify and verify the person
2 with whom it conducts such a business relationship;

3 (b) gather sufficient information about the
4 nature of the business of the person;

5 (c) determine from publicly available information
6 the reputation of the person and the quality of
7 supervision to which the person is subject;

8 (d) assess the person's anti-money laundering and
9 anti-terrorist financing controls;

10 (e) obtain approval from senior management of the
11 financial institution before establishing a new
12 correspondent banking relationship; and

13 (f) document the responsibilities of the
14 financial institution and the person.

15 (5) A financial institution shall, in relation to its
16 payable-through account and other similar business
17 relationships, ensure that the person with whom it has
18 established the business relationship -

19 (a) has verified the identity of and performed
20 ongoing due diligence on that person's customers that
21 have direct access to accounts of the financial
22 institution; and

23 (b) is able to provide the relevant customer
24 identification data upon request to the financial
25 institution.

1 (6) Where a financial institution relies on an
2 intermediary or third party to undertake its obligations
3 under subsections (1), (2) or (3) of this section, or to
4 introduce business to it, it shall -

5 (a) immediately obtain the necessary information
6 required by subsections (1), (2) and (3) of this
7 section;

8 (b) ensure that copies of identification data and
9 other relevant documentation relating to the
10 requirements of subsections (1), (2) and (3) of this
11 section will be made available to it from the
12 intermediary or the third party upon request without
13 delay; and

14 (c) satisfy itself that the intermediary or third
15 party is regulated and supervised for, and has measures
16 in place to comply with, the requirements set out in
17 sections 1804, 1805 and 1806 of this chapter.

18 (7) The Secretary may prescribe through regulations -

19 (a) the official or identifying documents, or the
20 reliable and independent source documents, data or
21 information or other evidence that is required for
22 identification and verification of any particular
23 customer or class of customers;

24 (b) the timing of the identification and
25 verification requirements under this section of any
26 particular customer or class of customers; and

1 (c) the threshold for, or the circumstances in
2 which, the provisions of this section shall apply in
3 relation to any particular customer or class of
4 customers.

5 (8) Nothing in this section shall require the
6 production of any evidence of identity where:

7 (a) the transaction or series of transactions is
8 part of an existing and regular business relationship
9 with a person who has already produced satisfactory
10 evidence of identity unless the financial institution
11 has reason to suspect that the transaction is suspicious
12 or unusual;

13 (b) the transaction is an occasional transaction
14 not exceeding \$1,000, other than an electronic funds or
15 wire transfer, unless the financial institution has
16 reason to suspect that the transaction is suspicious or
17 unusual; or

18 (c) in such other circumstances as may be
19 prescribed by the Secretary through regulations
20 promulgated pursuant to this chapter.

21 (9) For purposes of this section, 'occasional
22 transaction' means any transaction involving cash that
23 is conducted by a person other than through an account
24 in respect of which the person is the customer."

1 Section 8. Title 12 of the Code of the Federated States of
2 Micronesia, as amended, is hereby amended by adding a new section
3 1805 of chapter 18 to read as follows:

4 "Section 1805. Necessity of identification to conduct
5 business. If adequate evidence of identity is not
6 submitted to or obtained by a financial institution
7 under section 1804 of this chapter, the financial
8 institution shall not proceed any further with the
9 transaction unless -

10 (1) it reports the attempted transaction to the
11 Financial Intelligence Unit as a suspicious transaction
12 under section 1811 of this chapter; and

13 (2) the Financial Intelligence Unit authorizes the
14 financial institution to proceed with the transaction."

15 Section 9. Title 12 of the Code of the Federated States of
16 Micronesia, as amended, is hereby amended by adding a new section
17 1806 of chapter 18 to read as follows:

18 "Section 1806. Financial institutions to establish and
19 maintain customer records.

20 (1) A financial institution shall establish and
21 maintain files of:

22 (a) records of all transactions carried out by
23 it, in accordance with the requirements of subsection
24 (2) of this section;

25 (b) records of a person's identity obtained in
26 accordance with section 1804 of this chapter;

1 (c) records of all reports made to the Financial
2 Intelligence Unit; and

3 (d) all enquiries relating to money laundering
4 and the financing of terrorism made to it by the
5 Financial Intelligence Unit and other law enforcement
6 agencies.

7 (2) Records required under subsection (1)(a) of this
8 section shall be those records as are reasonably
9 necessary to enable the transaction to be readily
10 reconstructed at any time by the Financial Intelligence
11 Unit or other law enforcement agency, including, but not
12 limited to, information sufficient to identify the:

13 (a) name, address and occupation (or where
14 appropriate, business or principal activity) of each
15 customer conducting the transaction, and if applicable,
16 on whose behalf the transaction is being conducted, as
17 well as the documents used by the financial institution
18 to obtain and verify the identity of each such customer;

19 (b) nature and date of the transaction;

20 (c) type and amount of currency involved;

21 (d) type and identifying number of any account
22 with the financial institution involved in the
23 transaction;

24 (e) if the transaction involves a negotiable
25 instrument other than currency, the name of the drawer
26 of the instrument, the name of the institution on which

1 it was drawn, the name of the payee (if any), the amount
2 and date of the instrument, the number (if any) of the
3 instrument and details of any endorsements appearing on
4 the instrument; and

5 (f) the name and address of the financial
6 institution, and of the officer, employee or agent of
7 the financial institution who gathered and reported the
8 information specified in this subsection.

9 (4) The records listed in subsection (1) of this
10 section shall be kept for a minimum period of 5 years
11 from the later of the following dates:

12 (a) the date that evidence of a customer's
13 identity was obtained;

14 (b) the date of any transaction or
15 correspondence; or

16 (c) the date the account is closed or the
17 business relationship ceased.

18 (5) Where any record is required to be kept under this
19 chapter -

20 (a) it shall be maintained in a manner and form
21 that will enable the financial institution to comply
22 immediately with requests for information from the
23 Financial Intelligence Unit, the Banking Commissioner or
24 other law enforcement agency or supervisory authority;
25 and

26 (b) a copy of it shall be kept:

1 (i) in a machine-readable form, if a paper
2 copy can be readily produced from it; or

3 (ii) in an electronic form, if a paper copy
4 can be readily produced from it and an electronic
5 signature of the person who keeps the record is
6 retained.

7 (6) The records maintained under subsection (1) of
8 this section shall be made available upon request to the
9 Financial Intelligence Unit and Banking Commissioner for
10 purposes of ensuring compliance with, and conducting
11 investigations pursuant to, this chapter.

12 (7) Any financial institution, or any director,
13 officer, employee or agent of a financial institution,
14 that knowingly fails to comply with subsection (1) or
15 (2) of this section shall be guilty of a felony offense
16 punishable on conviction:

17 (a) in the case of a natural person, by
18 imprisonment for a maximum of five (5) years, or a
19 maximum fine of \$50,000, or both; or

20 (b) in the case of a legal person that is not a
21 natural person, by a maximum fine of \$250,000.

22 Section 10. Title 12 of the Code of the Federated States of
23 Micronesia, as amended, is hereby amended by adding a new section
24 1807 of chapter 18 to read as follows:

1 "Section 1807. Financial institutions to maintain
2 account in true name.

3 (1) A financial institution shall maintain accounts in
4 the true name of the account holder.

5 (2) A financial institution shall not open or maintain
6 any anonymous or numbered account, or any account which
7 is in a fictitious, false or incorrect name.

8 (3) Any financial institution, or director, officer,
9 employee or agent of a financial institution, that
10 knowingly violates subsection (1) or (2) of this section
11 shall be guilty of a felony offense punishable on
12 conviction:

13 (a) in the case of a natural person, by
14 imprisonment for a maximum of five (5) years, or a
15 maximum fine of \$50,000, or both; or

16 (b) in the case of a legal person that is not a
17 natural person, by a maximum fine of \$250,000."

18 Section 11. Title 12 of the Code of the Federated States of
19 Micronesia, as amended, is hereby amended by adding a new section
20 1808 of chapter 18 to read as follows:

21 "Section 1808. Financial institutions to monitor
22 transactions.

23 (1) A financial institution shall pay special
24 attention to:

1 (a) any complex, unusual or large transactions,
2 and any unusual patterns of transactions, that have no
3 apparent or visible economic or lawful purpose;

4 (b) business relations and transactions with
5 persons in jurisdictions that do not have adequate
6 systems in place to prevent or deter money laundering or
7 the financing of terrorism; and

8 (c) electronic funds transfers, other than an
9 electronic funds transfer referred to in subsections
10 1809(2) and 1809(3) of this chapter that do not contain
11 complete originator information.

12 (2) In relation to subsection (1) of this section, a
13 financial institution shall:

14 (a) establish policies and procedures for
15 identifying transactions requiring special attention;

16 (b) examine as far as possible the background and
17 purpose of the transactions or business relations and
18 record its findings in writing; and

19 (c) upon request, make available such findings to
20 the Financial Intelligence Unit.

21 (3) A financial institution shall conduct ongoing due
22 diligence on the business relationships with its
23 customers to ensure that -

24 (a) its obligations under section 1804 of this
25 chapter are met and the transactions conducted by or on
26 behalf of a customer are consistent with the information

1 that the financial institution has of its customer and
2 the profile of the customer's business; and

3 (b) any transaction undertaken throughout the
4 course of the business relationship with a customer is
5 consistent with the financial institution's knowledge of
6 the customer, the customer's business and risk profile,
7 including, where necessary, the source of funds."

8 Section 12. Title 12 of the Code of the Federated States of
9 Micronesia, as amended, is hereby amended by adding a new section
10 1809 of chapter 18 to read as follows:

11 "Section 1809. Banks and money transmission service
12 providers to include originator information.

13 (1) A financial institution shall include accurate
14 originator information and other related messages on
15 electronic funds, wire and other forms of funds
16 transfers, and such information shall remain with the
17 transfer.

18 (2) Subsection (1) of this section shall not apply to
19 an electronic funds transfer, other than a money
20 transfer effected as means of payment, that results from
21 a transaction carried out using a credit or debit card;
22 provided that, the credit or debit card number is
23 included in the information accompanying such a
24 transfer.

25 (3) Subsection (1) of this section shall not apply to
26 electronic funds transfers and settlements between

1 financial institutions where the originator and
2 beneficiary of the funds transfer are acting on their
3 own behalf."

4 Section 13. Title 12 of the Code of the Federated States of
5 Micronesia, as amended, is hereby amended by adding a new
6 subchapter III of chapter 18 entitled "Reporting Obligations".

7 Section 14. Title 12 of the Code of the Federated States of
8 Micronesia, as amended, is hereby amended by adding a new section
9 1810 of chapter 18 to read as follows:

10 "Section 1810. Financial institutions to report certain
11 financial transactions.

12 (1) A financial institution shall report to the
13 Financial Intelligence Unit in such form and manner as
14 prescribed by the Secretary through regulations
15 promulgated pursuant to this chapter the following
16 transactions:

17 (a) any transaction of an amount in cash equal to
18 or exceeding \$10,000, or its equivalent in foreign
19 currency in a single transaction, unless both the
20 recipient and the sender is a financial institution;

21 (b) any transmission out of the Federated States
22 of Micronesia at the request of a customer of an
23 electronic funds or wire transfer equal to or exceeding
24 \$5,000, or its equivalent in foreign currency, in the
25 course of a single transaction; and

1 (c) the receipt from outside the Federated States
2 of Micronesia at the request of a customer of an
3 electronic funds or wire transfer of an amount equal to
4 or exceeding \$5,000, or its equivalent in foreign
5 currency, in the course of a single transaction.

6 (2) The Secretary may prescribe higher threshold
7 amounts for subsection (1) of this section through
8 regulations promulgated pursuant to this chapter.

9 (3) Any financial institution, or director, officer,
10 employee or agent of a financial institution, that
11 knowingly fails to comply with subsection (1) of this
12 section shall be guilty of a felony offense punishable
13 on conviction:

14 (a) in the case of a natural person, by
15 imprisonment for a maximum of five (5) years, or a
16 maximum fine of \$50,000, or both; or

17 (b) in the case of a legal person that is not a
18 natural person, by a maximum fine of \$250,000.

19 (4) Where a customer conducts two or more transactions
20 that are individually of an amount below the threshold
21 set out in subsection (1) of this section but which
22 cumulatively are equal to or exceed the threshold
23 amount, a financial institution shall report the
24 transactions to the Financial Intelligence Unit if it
25 appears to the financial institution that the customer
26 is trying to circumvent the reporting requirements of

1 this section. In making this determination, a financial
2 institution shall consider the manner and form in which
3 the transactions were conducted, including without
4 limitation, the following:

5 (a) the value of the currency involved in each
6 transactions;

7 (b) the aggregate value of the currency involved
8 in the transactions;

9 (c) the period of time over which the
10 transactions occurred;

11 (d) the interval of time between any of the
12 transactions;

13 (e) the locations at which the transactions were
14 initiated or conducted; and

15 (f) any explanation made by the customer as to
16 the manner or form in which the transactions were
17 conducted."

18 Section 15. Title 12 of the Code of the Federated States of
19 Micronesia, as amended, is hereby amended by adding a new section
20 1811 of chapter 18 to read as follows:

21 "Section 1811. Financial institutions to report
22 suspicious transactions.

23 (1) Where a financial institution:

24 (a) suspects that any transaction or attempted
25 transaction may be related to the commission of, or
26 preparation to commit, a serious offense, a money

1 laundering offense, an offense of the financing of
2 terrorism or a violation of this chapter; or

3 (b) has any information that it suspects may be
4 relevant to:

5 (i) the commission of, or preparation to
6 commit, a serious offense, a money laundering offense,
7 an offense of the financing of terrorism or a violation
8 of this chapter;

9 (ii) an investigation or prosecution of a
10 person or persons for a serious offense, a money
11 laundering offense, an offense of financing of terrorism
12 or a violation of this chapter; or

13 (iii) may otherwise be of assistance in the
14 enforcement of this chapter, subchapter II of chapter 9
15 of title 11 of the Code of the Federated States of
16 Micronesia or subchapter II of chapter 13 of title 11 of
17 the Code of the Federated States of Micronesia;
18 then the financial institution shall, as soon as
19 practicable, after forming that suspicion or receiving
20 the information, but no later than two working days,
21 report the transaction, attempted transaction or the
22 information to the Financial Intelligence Unit.

23 (2) A report under subsection (1) of this section
24 shall be in writing and shall:

25 (a) contain information concerning the purpose of
26 the transaction, the origin and ultimate destination of

1 the funds involved, the identity and address of the
2 customer and beneficiary, and such other details as the
3 Secretary may prescribe through regulations promulgated
4 pursuant to this chapter;

5 (b) contain a statement of the grounds on which
6 the financial institution bases the suspicion;

7 (c) be signed or otherwise authenticated by the
8 financial institution; and

9 (d) be transmitted in such form and manner as the
10 Secretary may prescribe through regulations promulgated
11 pursuant to this chapter.

12 (3) A financial institution that has made a report
13 pursuant to this section, or has given any information
14 to the Financial Intelligence Unit regarding a
15 suspicious transaction, shall give the Financial
16 Intelligence Unit any further information that it has
17 about the transaction or attempted transaction or the
18 parties to the transaction if requested to do so in
19 writing by the Financial Intelligence Unit.

20 (4) Any financial institution, or director, officer,
21 employee or agent of a financial institution, that
22 knowingly fails to comply with subsection (1) of this
23 section shall be guilty of a felony offense punishable
24 on conviction:

1 (a) in the case of a natural person, by
2 imprisonment for a maximum of five (5) years, or a
3 maximum fine of \$50,000, or both; or

4 (b) in the case of a legal person that is not a
5 natural person, by a maximum fine of \$250,000."

6 Section 16. Title 12 of the Code of the Federated States of
7 Micronesia, as amended, is hereby amended by adding a new section
8 1812 of chapter 18 to read as follows:

9 "Section 1812. Supervisory or auditing authority to
10 report suspicious transactions. A supervisory authority
11 or auditing authority of a financial institution shall
12 report to the Financial Intelligence Unit any
13 information that it has concerning any transaction or
14 attempted transaction that it suspects may be -

15 (1) related to the commission of, or preparation to
16 commit, a serious offense, a money laundering offense,
17 an offense of financing of terrorism or a violation of
18 this chapter;

19 (2) relevant to an investigation or prosecution of a
20 person or persons for a serious offense, a money
21 laundering offense, an offense of financing of terrorism
22 or a violation of this chapter; or

23 (3) may otherwise be of assistance in the enforcement
24 of this chapter, subchapter II of chapter 9 of title 11
25 of the Code of the Federated States of Micronesia or

1 subchapter II of chapter 13 of title 11 of the Code of
2 the Federated States of Micronesia."

3 Section 17. Title 12 of the Code of the Federated States of
4 Micronesia, as amended, is hereby amended by adding a new section
5 1813 of chapter 18 to read as follows:

6 "Section 1813. Duty to disclose information relating to
7 terrorist property.

8 (1) Every person shall immediately disclose to the
9 Financial Intelligence Unit:

10 (a) the existence of any property in his or her
11 possession or control that he or she knows, or has
12 reasonable grounds to suspect, is terrorist property; or

13 (b) any information regarding a transaction or
14 attempted transaction that he or she knows, or has
15 reasonable grounds to suspect, involves terrorist
16 property.

17 (2) The Financial Intelligence Unit may disclose to
18 the appropriate authority of a foreign state any
19 information in its possession relating to any terrorist
20 property, if such information is requested in accordance
21 with chapter 17 of title 12 of the Code of the Federated
22 States of Micronesia, or if the Financial Intelligence
23 Unit is of the view that the information would be
24 relevant to an investigation or prosecution of a
25 terrorist or terrorist organization in the foreign
26 state.

1 (3) Any person who knowingly fails to comply with
2 subsection (1) of this section shall be guilty of a
3 felony offense punishable on conviction:

4 (a) in the case of a natural person, by
5 imprisonment for a maximum of five (5) years, or a
6 maximum fine of \$50,000, or both; or

7 (b) in the case of a legal person that is not a
8 natural person, by a maximum fine of \$250,000."

9 Section 18. Title 12 of the Code of the Federated States of
10 Micronesia, as amended, is hereby amended by adding a new section
11 1814 of chapter 18 to read as follows:

12 "Section 1814. Disclosure of suspicious transaction
13 reports and other information.

14 (1) A person shall not disclose to any other person:

15 (a) that information or a report has been
16 provided, or may be provided, to the Financial
17 Intelligence Unit pursuant to subsection 1805, 1806(6),
18 subsection 1808(2), section 1810, section 1811, section
19 1812 or section 1813 of this chapter;

20 (b) that a financial institution or supervisory
21 authority has formed a suspicion in relation to a
22 transaction or attempted transaction for purposes of
23 sections 1811 and 1812 of this chapter; or

24 (c) that any other information from which the
25 person to whom the information is disclosed could
26 reasonably be expected to infer that a suspicion has

1 been formed by a financial institution or that a
2 financial institution has or may provide information or
3 a report to the Financial Intelligence Unit regarding
4 the transaction or attempted transaction.

5 (2) Subsection (1) of this section shall not apply to
6 disclosures made to:

7 (a) an officer, employee or agent of the person
8 providing the information or report pursuant to section
9 1805, subsection 1806(6), subsection 1808(2), section
10 1810, section 1811, section 1812 or section 1813 of this
11 chapter for any purpose connected with the performance
12 of that person's duties under this chapter;

13 (b) an attorney or legal advisor for the purposes
14 of obtaining legal advice in relation to the person's
15 obligations under this chapter;

16 (c) a supervisory or auditing authority of a
17 financial institution for the purposes of carrying out
18 the authority's functions; or

19 (d) pursuant to an order of a court of competent
20 jurisdiction in the Federated States of Micronesia.

21 (3) A person to whom a disclosure is made pursuant to
22 subsection (2) of this section is subject to the
23 nondisclosure requirements of subsection (1).

24 (4) Any person who knowingly violates subsection (1)
25 or (3) of this section shall be guilty of a felony
26 offense punishable on conviction:

1 (a) in the case of a natural person, by
2 imprisonment for a maximum of five (5) years, or a
3 maximum fine of \$50,000, or both; or

4 (b) in the case of a legal person that is not a
5 natural person, by a maximum fine of \$250,000.

6 (5) Any person who knowingly violates subsection (1)
7 or (3) of this section with the intent to prejudice an
8 investigation of a serious offense, a money laundering
9 offense, an offense of the financing of terrorism or a
10 violation of this chapter, or for the purpose of
11 obtaining a direct or indirect advantage or pecuniary
12 gain for him or herself or any other person, shall be
13 guilty of a felony offense punishable on conviction:

14 (a) in the case of a natural person, by
15 imprisonment for a maximum of ten (10) years, or a
16 maximum fine of \$100,000, or both; or

17 (b) in the case of a legal person that is not a
18 natural person, by a maximum fine of \$500,000."

19 Section 19. Title 12 of the Code of the Federated States of
20 Micronesia, as amended, is hereby amended by adding a new section
21 1815 of chapter 18 to read as follows:

22 "Section 1815. Protection of identity of persons and
23 information.

24 (1) Other than for the purpose of enforcing,
25 investigating or prosecuting a serious offense, a money
26 laundering offense, an offense of the financing of

1 terrorism or a violation of this chapter, a person shall
2 not disclose any information that will identify or is
3 likely to identify:

4 (a) any person who has handled a transaction in
5 respect of which information or a report has been
6 provided to the Financial Intelligence Unit pursuant to
7 section 1805, subsection 1806(6), subsection 1808(2),
8 section 1810, section 1811, section 1812 or section 1813
9 of this chapter;

10 (b) any person who has made, prepared or
11 submitted a suspicious transaction report pursuant to
12 sections 1811 or 1812 of this chapter; or

13 (c) any information contained in a suspicious
14 transaction report or other reports or information
15 provided to the Financial Intelligence Unit pursuant to
16 section 1805, subsection 1806(6), subsection 1808(2),
17 section 1810, section 1811, section 1812 or section 1813
18 of this chapter.

19 (2) No person shall be required to disclose any
20 information to which this section applies in any
21 judicial proceedings unless the judge or other presiding
22 officer is satisfied that the disclosure of information
23 is necessary and in the interests of justice."

24 Section 20. Title 12 of the Code of the Federated States of
25 Micronesia, as amended, is hereby amended by adding a new section
26 1816 of chapter 18 to read as follows:

1 "Section 1816. Protection of persons reporting
2 suspicious transactions.

3 (1) In relation to any action carried out in good
4 faith under section 1805, subsection 1806(6), subsection
5 1808(2), section 1810, section 1811, section 1812 or
6 section 1813 of this chapter, or in compliance with
7 directions given by the Financial Intelligence Unit
8 pursuant to subsections 1820(1)(b), (c) or (i), or in
9 compliance with orders of the Supreme Court pursuant to
10 sections 1828 and 1829 of this chapter, no civil,
11 criminal or disciplinary proceedings shall be taken
12 against:

13 (a) a financial institution, or an auditing or
14 supervisory authority of a financial institution; or

15 (b) its director, officer, employee or agent
16 acting the the course of that person's employment or
17 agency.

18 (2) Subsection (1) of this section shall not apply in
19 respect of proceedings for an offense against section
20 1814 of this chapter."

21 Section 21. Title 12 of the Code of the Federated States of
22 Micronesia, as amended, is hereby amended by adding a new section
23 1817 of chapter 18 to read as follows:

24 "Section 1817. Other preventative measures by financial
25 institutions.

26 (1) A financial institution shall:

1 (a) appoint a compliance officer who shall be
2 responsible for ensuring the financial institution's
3 compliance with the requirements of this chapter;

4 (b) identify the person or persons to whom an
5 employee is to report any information which comes to the
6 employee's attention in the course of employment, and
7 which gives rise to knowledge or suspicion that any
8 transaction or attempted transaction may be related to
9 the commission of a serious offense, a money laundering
10 offense or an offense of the financing of terrorism, and
11 enables any person so identified to have reasonable
12 access to any information relevant to determine if
13 sufficient basis exists to report the matter pursuant to
14 subsection 1811(1) of this chapter and require the
15 identified person to report the matter pursuant to the
16 Financial Intelligence Unit in the event he or she
17 determines that sufficient basis exists;

18 (c) establish and maintain procedures and systems
19 to:

20 (i) implement the customer identification
21 requirements under section 1804 of this chapter;

22 (ii) implement the record keeping and
23 retention requirements under section 1806 and 1807 of
24 this chapter;

25 (iii) implement the monitoring requirements
26 under section 1808 of this chapter;

1 (iv) implement the reporting requirements
2 under sections 1810 and 1811 of this chapter;

3 (v) make its officers, employees and agents
4 aware of the laws relating to money laundering and the
5 financing of terrorism; and

6 (vi) screen persons before hiring them as
7 employees to ensure that they have not been convicted of
8 a serious offense, a money laundering offense, an
9 offense of the financing of terrorism or a violation of
10 this chapter;

11 (d) establish an audit process to test its anti-
12 money laundering and anti-financing of terrorism
13 procedures and systems; and

14 (e) train its officers, employees and agents to
15 recognize suspicious transactions.

16 (2) Subsection (1) of this section does not apply to
17 an individual who, in the course of carrying on his or
18 her business, does not employ or act in association with
19 any other person.

20 (3) A financial institution shall ensure that its
21 foreign branches and majority owned subsidiaries adopt
22 and observe measures consistent with subchapters II and
23 III of this chapter to the extent that local laws and
24 regulations permit and where the foreign branch or
25 subsidiary is unable to adopt and observe such measures,
26 to report the matter to the relevant supervisory

1 authority, or in the absence of a supervisory authority,
2 to the Financial Intelligence Unit."

3 Section 22. Title 12 of the Code of the Federated States of
4 Micronesia, as amended, is hereby amended by adding a new
5 subchapter IV of chapter 18 entitled "Financial Intelligence
6 Unit".

7 Section 23. Title 12 of the Code of the Federated States of
8 Micronesia, as amended, is hereby amended by adding a new section
9 1818 of chapter 18 to read as follows:

10 "Section 1818. Establishment of Financial Intelligence
11 Unit.

12 (1) A Financial Intelligence Unit is hereby
13 established within the Department of Justice of the
14 Federated States of Micronesia.

15 (2) The Financial Intelligence Unit shall be headed by
16 an Assistant Attorney General appointed by the Secretary
17 on such terms as the Secretary may determine. The Head
18 of the Financial Intelligence Unit shall report to the
19 Secretary on the exercise of his or her powers and the
20 performance of his or her duties under this chapter.

21 (3) At least one National Police Officer who has
22 received training in the investigation of financial
23 crimes, and has demonstrated a capacity to perform such
24 investigations, shall be assigned to the Financial
25 Intelligence Unit on a parttime or fulltime basis, as
26 determined by the Secretary.

1 (4) To assist with the creation, organization,
2 training and operation of the Financial Intelligence
3 Unit, the Secretary may obtain technical assistance from
4 foreign countries or international organizations,
5 including but not limited to, the temporary employment
6 of foreign law enforcement consultants.

7 (5) An officer, employee or consultant of the
8 Financial Intelligence Unit, or any other person acting
9 on behalf of the Financial Intelligence Unit, shall take
10 an oath of confidentiality and shall receive credentials
11 that identify that person as authorized to act on behalf
12 of the Financial Unit."

13 Section 24. Title 12 of the Code of the Federated States of
14 Micronesia, as amended, is hereby amended by adding a new section
15 1819 of chapter 18 to read as follows:

16 "Section 1819. Establishment of the Financial Crimes
17 Task Force.

18 (1) The Financial Crimes Task Force is established and
19 shall be comprised of:

20 (a) the Head of the Financial Intelligence Unit;

21 (b) the Chief of the National Police, Department
22 of Justice of the Federated States of Micronesia;

23 (c) the Assistant Secretary of the Division of
24 Customs and Tax Administration, Department of Finance
25 and Administration of the Federated States of
26 Micronesia, or his or her representative;

1 (d) the Director of the Division of Immigration
2 and Labor, Department of Justice of the Federated States
3 of Micronesia;

4 (e) the National Public Auditor of the Federated
5 States of Micronesia;

6 (f) the Banking Commissioner; and

7 (g) representatives from such other departments,
8 offices, agencies or institutions of the Federated
9 States of Micronesia who the Secretary may determine
10 will assist with the functions of the Financial Crimes
11 Task Force.

12 (2) The Secretary may through regulations promulgated
13 pursuant to this chapter prescribe the operational
14 implementation of the functions of the Financial Crimes
15 Task Force.

16 (3) The Financial Crimes Task Force shall:

17 (a) advise the Financial Intelligence Unit on any
18 matters relating to the prevention of money laundering
19 or the financing of terrorism;

20 (b) assist the Financial Intelligence Unit with a
21 money laundering or financing of terrorism
22 investigation, including obtaining and providing
23 information relevant to the investigation;

24 (c) assist the Financial Intelligence Unit in the
25 formation of policies or strategies relating to the

1 prevention of money laundering or the financing of
2 terrorism; and

3 (d) assist the Financial Intelligence Unit in
4 coordinating activities and information sharing between
5 the various National and State government departments,
6 offices, agencies and institutions, and liaising with
7 the financial institutions and private sector."

8 Section 25. Title 12 of the Code of the Federated States of
9 Micronesia, as amended, is hereby amended by adding a new section
10 1820 of chapter 18 to read as follows:

11 "Section 1820. Functions and Powers of the Financial
12 Intelligence Unit.

13 (1) The Financial Intelligence Unit -

14 (a) shall receive information and reports
15 provided under section 1805, section 1810, section 1811,
16 section 1812, section 1813 and subsection 1826(7) of
17 this chapter and information provided to the Financial
18 Intelligence Unit by any agency of another country,
19 information provided to the Financial Intelligence Unit
20 by a law enforcement agency or a National or State
21 government institution or agency, and any other
22 information voluntarily provided to the Financial
23 Intelligence Unit about a serious offense, a money
24 laundering offense, the offense of the financing of
25 terrorism, or a violation of this chapter;

1 (b) shall have the authority to request
2 information or reports from financial institutions under
3 subsections 1806(6) and 1808(2);

4 (c) for transactions or transfers that occurred
5 prior to the entry into force of this chapter, shall
6 have the authority to require a financial institution to
7 disclose records in the financial institution's
8 possession, custody or control that pertain to
9 transactions or transfers for a particular account or
10 person, and for a particular time period, that meet the
11 threshold amounts specified in section 1810 of this
12 chapter;

13 (d) may enter the premises of any financial
14 institution during ordinary business hours to inspect any
15 records kept pursuant to sections 1810 and 1811 of this
16 chapter, ask any questions of any employee of the
17 financial institution relating to such records, and make
18 notes and take copies of the records.

19 (e) shall have the authority to collect any
20 information that the Financial Intelligence Unit
21 considers relevant to serious offenses, money laundering
22 activities, the financing of terrorism or violations of
23 this chapter whether or not publicly available,
24 including commercially available databases, or
25 information that is collected or maintained, including
26 information that is stored in databases maintained by

1 the National government, a State government or a
2 subdivision or agency of the National or a State
3 government;

4 (f) shall have the authority to obtain from the
5 Department of Finance and Administration of the
6 Federated States of Micronesia tax and customs records
7 of a person under investigation for committing, or
8 attempting to commit, a serious offense, a money
9 laundering offense, an offense of the financing of
10 terrorism or a violation of this chapter;

11 (g) shall have the authority to obtain from the
12 Telecommunications Corporation of the Federated States
13 of Micronesia telephone call records of a person under
14 investigation for committing, or attempting to commit, a
15 serious offense, a money laundering offense, an offense
16 of the financing of terrorism or a violation of this
17 chapter;

18 (h) shall have the authority to act on behalf of
19 the Federated States of Micronesia in seeking
20 information from any National, State or foreign
21 government agency, law enforcement agency, supervisory
22 authority and auditing authority for purposes of this
23 chapter;

24 (i) shall analyze and assess all reports and
25 information;

1 (j) may refer any report, and information
2 pertaining to that report, to the appropriate National
3 or State law enforcement agency if, on the basis of its
4 analysis and assessment, the Financial Intelligence Unit
5 has reasonable grounds to suspect that the transaction
6 would be relevant to the investigation or prosecution of
7 a serious offense, money laundering offense, or
8 terrorist financing offense, and in connection
9 therewith, the Financial Intelligence Unit may send a
10 copy of such referral or information to the relevant
11 supervisory authority;

12 (k) shall destroy a suspicious transaction report
13 received or collected on the expiry of six years after
14 the date of receipt of the report if there has been no
15 further activity or information relating to the report
16 or the person named in the report, or six years from the
17 date of the last activity relating to the person or
18 report;

19 (l) shall have the authority to instruct any
20 financial institution to take such steps as may be
21 appropriate in relation to any information or report
22 received by the Financial Intelligence Unit, to enforce
23 compliance with this chapter or to facilitate any
24 investigation anticipated by the Financial Intelligence
25 Unit or a law enforcement agency;

1 (m) shall compile statistics and records, and may
2 disseminate information within Federated States of
3 Micronesia or elsewhere and make recommendations arising
4 out of any information received;

5 (n) in consultation with the relevant supervisory
6 authority, shall issue guidelines to financial
7 institutions in relation to customer identification,
8 record keeping and reporting obligations, and the
9 identification of suspicious transactions;

10 (o) shall, where appropriate, periodically
11 provide feedback to financial institutions and relevant
12 government departments, offices, agencies and
13 institutions regarding outcomes relating to the reports
14 or information provided pursuant to this chapter;

15 (p) may obtain further information on persons or
16 transactions referred to in a report made to it pursuant
17 to this chapter;

18 (q) may provide training programs for financial
19 institutions in relation to customer identification,
20 record keeping and reporting obligations, and the
21 identification of suspicious transactions;

22 (r) may conduct research into trends and
23 developments in the area of money laundering and the
24 financing of terrorism and improved ways of detecting,
25 preventing and deterring money laundering and the
26 financing of terrorist activities;

1 (s) may educate the public and create awareness
2 on matters relating to money laundering and the
3 financing of terrorism;

4 (t) may disclose any report, or information
5 derived from such report, to a National government
6 department, office or agency subject to the
7 confidentiality requirements of this chapter;

8 (u) may disclose any report, or information
9 derived from such report, to a foreign or State
10 government institution or agency, or an international
11 organization, in accordance with section 1821 of this
12 chapter;

13 (v) may liaise with, and enter into any agreement
14 or arrangement with, any foreign or State government
15 institution or agency, or international organization,
16 regarding the exchange of information pursuant to
17 section 1821 of this chapter; and

18 (w) report to the President and the Congress of
19 the Federated States of Micronesia prior to the end of
20 each fiscal year on the activities of the Financial
21 Intelligence Unit during the previous year and the
22 expected activities of the Financial Intelligence Unit
23 during the subsequent year, without disclosing
24 confidential information or information that may
25 jeopardize an ongoing investigation or prosecution.

1 (2) The Financial Intelligence Unit may apply for a
2 production order pursuant to section 971 of title 11 of
3 the Code of the Federated States of Micronesia, or a
4 restraining or monitoring order pursuant to subchapter
5 VII of this chapter, or a search warrant from the
6 Supreme Court to obtain information and evidence
7 relevant to an investigation or prosecution of a serious
8 offense, money laundering offense, terrorist financing
9 offense or offense under this chapter."

10 Section 26. Title 12 of the Code of the Federated States of
11 Micronesia, as amended, is hereby amended by adding a new section
12 1821 of chapter 18 to read as follows:

13 "Section 1821. Information sharing arrangements with
14 foreign and State governments"

15 (1) The Financial Intelligence Unit may disclose any
16 report or information to a foreign or State government
17 agency or institution, or an international organization,
18 that has powers and duties similar to those of the
19 Financial Intelligence Unit -

20 (a) on such terms and conditions as are set out
21 in an agreement or arrangement between the Financial
22 Intelligence Unit and the foreign or State government
23 institution or agency, or international organization,
24 regarding the exchange of such information under
25 subsection (2) of this section; or

1 (b) where such an agreement or arrangement has
2 not been entered into, on such terms and conditions as
3 may be agreed upon by the Financial Intelligence Unit
4 and the institution, agency or organization at the time
5 of disclosure.

6 (2) The Financial Intelligence Unit, with the approval
7 of the Secretary, may enter into a formal agreement or
8 arrangement, in writing, with a foreign or State
9 government institution or agency, or international
10 organization, with powers and duties similar to the
11 Financial Intelligence Unit regarding the exchange of
12 information between the Financial Intelligence Unit and
13 that institution, agency or organization.

14 (3) The information exchanged under subsection (1) or
15 (2) of this section shall be limited to information that
16 the Financial Intelligence Unit, the foreign or State
17 government institution or agency, or the international
18 organization has reasonable grounds to suspect would be
19 relevant to the investigation or prosecution of a
20 serious offense, a money laundering offense or a
21 financing of terrorism offense, or an offense that is
22 substantially similar to these offenses. Agreements or
23 arrangements entered into under subsection (1) or (2) of
24 this section shall include the following terms:

25 (a) a restriction on the use of the report or
26 information to purposes relevant to investigating or

1 prosecuting a serious offense, a money laundering
2 offense or an offense of the financing of terrorism, or
3 an offense that is substantially similar to these
4 offenses; and

5 (b) a stipulation that the report or information
6 be treated in a confidential manner and not be further
7 disclosed without the express consent of the Financial
8 Intelligence Unit."

9 Section 27. Title 12 of the Code of the Federated States of
10 Micronesia, as amended, is hereby amended by adding a new section
11 1822 of chapter 18 to read as follows:

12 "Section 1822. Protection against liability. Any
13 employee of the Financial Intelligence Unit, or any
14 officer, agent or person authorized to act on behalf of
15 the Financial Intelligence Unit, shall not be liable for
16 damages for any acts or omissions made in the discharge
17 of his or her duties under this chapter unless it is
18 shown that the act or omission was made in bad faith."

19 Section 28. Title 12 of the Code of the Federated States of
20 Micronesia, as amended, is hereby amended by adding a new
21 subchapter V of chapter 18 entitled "Compliance".

22 Section 29. Title 12 of the Code of the Federated States of
23 Micronesia, as amended, is hereby amended by adding a new section
24 1823 of chapter 18 to read as follows:

25 "Section 1823. Power to examine.

1 (1) The Banking Commissioner, or his or her authorized
2 representative, may examine the records and inquire into
3 the business and affairs of any financial institution
4 for the purpose of ensuring compliance with this chapter
5 or any regulations promulgated pursuant to this chapter,
6 and for that purpose may:

7 (a) at any reasonable time, enter any premises in
8 which the Banking Commissioner or his or her authorized
9 representative has reasonable grounds to believe that
10 there are records relevant to ensuring compliance with
11 subchapters II and III;

12 (b) use or cause to be used any computer system
13 or data processing system in the premises to examine any
14 data contained in or available to the system;

15 (c) reproduce any record, or cause it to be
16 reproduced from the data, in the form of a printout or
17 other intelligible output and remove the printout or
18 other output for examination or copying; and

19 (d) use or cause to be used any copying equipment
20 in the premises to make copies of any record.

21 (2) The owner or person responsible for the premises
22 referred to in subsection (1) of this section, and every
23 person found therein, shall give the Banking
24 Commissioner and any of his or her authorized
25 representatives all reasonable assistance to enable them
26 to carry out their responsibilities and shall furnish

1 them with any information that they may reasonable
2 require with respect to the administration of
3 subchapters II and III or the regulations promulgated
4 pursuant to this chapter.

5 (3) The Banking Commissioner shall report any
6 instances of noncompliance with this chapter or any
7 regulations promulgated pursuant to this chapter to the
8 Financial Intelligence Unit.

9 (4) The Financial Intelligence Unit may apply for a
10 search warrant from the Supreme Court to enter any
11 premises belonging to a financial institution, or a
12 director, officer, employee or agent of the financial
13 institution, that the Financial Intelligence Unit has
14 probable cause to believe has failed to comply with the
15 obligations imposed by the provisions of this chapter,
16 including an order of the Supreme Court pursuant to
17 subsection (4) of section 1824 of this chapter.

18 (5) Any person who willfully obstructs, hinders, or
19 fails to cooperate with an examination pursuant to
20 subsections (1) and (2) of this section or a search
21 pursuant to subsection (4) of this section, or threatens
22 harm to a person conducting an examination or search
23 pursuant to these subsections, shall be guilty of a
24 felony offense punishable on conviction:

1 (a) in the case of a natural person, by
2 imprisonment for a maximum of five (5) years, or a
3 maximum fine of \$50,000, or both; or

4 (b) in the case of a legal person that is not a
5 natural person, by a maximum fine of \$250,000."

6 Section 30. Title 12 of the Code of the Federated States of
7 Micronesia, as amended, is hereby amended by adding a new section
8 1824 of chapter 18 to read as follows:

9 "Section 1824. Powers to enforce compliance.

10 (1) All directors, officers, employees and agents of a
11 financial institution shall take all reasonable steps to
12 ensure compliance by that financial institution with its
13 obligations under this chapter or the regulations
14 promulgated pursuant to this chapter. Failure to
15 implement an action plan to ensure compliance with this
16 chapter and the regulations promulgated pursuant to this
17 chapter shall be grounds for a finding of noncompliance
18 under this subchapter.

19 (2) The Banking Commissioner shall establish through
20 regulations a schedule of fines for each instance of a
21 financial institution's noncompliance with this chapter,
22 or regulations promulgated pursuant to this chapter.

23 (3) If the Banking Commissioner determines that a
24 financial institution has without reasonable excuse
25 failed to comply with this chapter, or the regulations

1 promulgated pursuant to this chapter, he or she shall
2 transmit his or her findings to the financial
3 institution, including the amount of and justification
4 for any fines imposed upon the financial institution for
5 noncompliance. The financial institution shall have
6 thirty (30) days to respond in writing to the Banking
7 Commissioner's findings. Upon receipt of the financial
8 institution's response, the Banking Commission shall
9 have fifteen (15) days to review the financial
10 institution's response and either affirm, amend or
11 revoke his or her decision to impose fines upon the
12 financial institution. Upon receipt of the Banking
13 Commissioner's decision to affirm, amend or revoke the
14 fines, the financial institution shall have fifteen (15)
15 days to file a complaint with the Supreme Court seeking
16 review of the fines. Judicial review shall be limited
17 to determining whether the Banking Commissioner acted
18 arbitrarily or abused his or her discretion in fining
19 the financial institution for noncompliance.

20 (4) Where a financial institution fails without
21 reasonable excuse to comply with this chapter, or the
22 regulations promulgated pursuant to this chapter, or
23 fails to comply with a decision of the Banking
24 Commissioner under subsection (3) of this section, the
25 Department of Justice for the Federated States of
26 Micronesia may obtain an order from the Supreme Court

1 against any or all of the directors, officers, employees
2 or agents of that financial institution in such terms as
3 the Court deems necessary to enforce compliance with
4 such obligations. If a financial institution, or any of
5 its directors, officers, employees or agents, fail to
6 comply with the Court's order in the time period
7 specified by the Court, the Court may impose a financial
8 penalty of up to \$1,000 for each day of noncompliance in
9 addition to any fines imposed by the Banking
10 Commissioner pursuant to subsection (3) of this
11 section."

12 Section 31. Title 12 of the Code of the Federated States of
13 Micronesia, as amended, is hereby amended by adding a new
14 subchapter VI of chapter 18 entitled "Cash or Negotiable
15 Instruments at the Border".

16 Section 32. Title 12 of the Code of the Federated States of
17 Micronesia, as amended, is hereby amended by adding a new section
18 1825 of chapter 18 to read as follows:

19 "Section 1825. Reporting at the border.

20 (1) Any person referred to in subsection (3) of this
21 section importing to or exporting from the Federated
22 States of Micronesia, cash or negotiable instruments of
23 a collective value equal to or greater than \$10,000
24 shall report the value and nature of the cash or
25 negotiable instruments to an authorized officer in the

1 form and manner prescribed by the Secretary through
2 regulations promulgated pursuant to this chapter.

3 (2) Any person who knowingly violates, or attempts to
4 violate, the reporting requirements of subsection (1) of
5 this section shall be guilty of a felony offense
6 punishable on conviction:

7 (a) in the case of a natural person, by
8 imprisonment for a maximum of five (5) years, or a
9 maximum fine of \$50,000, or both; or

10 (b) in the case of a legal person that is not a
11 natural person, by a maximum fine of \$250,000.

12 (3) Cash or negotiable instruments shall be reported
13 under subsection (1) of this section by the following
14 persons:

15 (a) where the cash or negotiable instruments are
16 in the possession, custody or control of a person
17 leaving or entering the Federated States of Micronesia
18 onboard a vessel, aircraft or other means of transport,
19 or are carried onboard along with that person in his or
20 her baggage or cargo, by that person;

21 (b) where cash or negotiable instruments are
22 imported to the Federated States of Micronesia by
23 courier or mail, by the importer;

1 (c) where cash or negotiable instruments are
2 exported from the Federated States of Micronesia by
3 courier or mail, by the exporter;

4 (d) where cash or negotiable instruments are
5 imported into or exported from the Federated States of
6 Micronesia, other than through the means specified in
7 paragraphs (a), (b) and (c) of this subsection, by the
8 person in charge of the means of transport; and

9 (e) in any other case, by the person on whose
10 behalf the cash or negotiable instruments are imported
11 or exported.

12 (4) For the purpose of this section and sections 1826
13 and 1827 of this chapter, the term 'authorized officer'
14 means:

15 (a) a Customs Officer of the Division of Customs
16 and Tax Administration, Department of Finance and
17 Administration of the Federated States of Micronesia;

18 (b) a National Police Officer of the Department
19 of Justice of the Federated States of Micronesia; or

20 (c) any other law enforcement officer authorized
21 by the Secretary through regulations promulgated
22 pursuant to this chapter."

23 Section 33. Title 12 of the Code of the Federated States of
24 Micronesia, as amended, is hereby amended by adding a new section
25 1826 of chapter 18 to read as follows:

26 "Section 1826. Searches and seizures.

1 (1) If an authorized officer has reasonable grounds to
2 suspect that a person has failed to fully and accurately
3 report cash or negotiable instruments in his or her
4 possession in contravention of subsection (1) of section
5 1825, the authorized officer may, with such assistance
6 and force as is reasonable, search the person and any
7 baggage, package, container or other article in the
8 person's possession, custody or control.

9 (2) If an authorized officer has reasonable grounds to
10 suspect that there is onboard an aircraft, ship or other
11 means of transport, cash or negotiable instruments that
12 has not been reported in accordance with subsection (1)
13 of section 1825, the authorized officer may stop, board
14 and search the vessel, and any baggage, package,
15 container, cargo or other article onboard the vessel, or
16 direct the vessel moved to a suitable location for the
17 search.

18 (3) If an authorized officer has reasonable grounds to
19 suspect that there is in any baggage, package or other
20 article, cash or negotiable instruments that has not
21 been reported in accordance with subsection (1) of
22 section 1825, the authorized officer may search the
23 baggage, package, container or other article, or direct
24 that the baggage, package or other article be moved to a
25 suitable place for the search.

1 (4) If an authorized officer has reasonable grounds to
2 suspect that there is mail which contains cash or
3 negotiable instruments that has not been reported in
4 accordance with subsection (1) of section 1825, the
5 authorized officer may search the mail, or direct that
6 the mail to be moved to a suitable place for the search.

7 (5) An authorized officer may seize any cash or
8 negotiable instrument, or any other document or tangible
9 object, discovered in the course of a search pursuant to
10 this section that the officer has reasonable suspicion
11 to believe is evidence of the commission or attempted
12 commission of a serious offense, a money laundering
13 offense or an offense of the financing of terrorism.

14 (6) An authorized officer may seize any cash or
15 negotiable instrument, or any other document or tangible
16 object, discovered in the course of a search pursuant to
17 this section that the officer has probable cause to
18 believe is evidence of the commission or attempted
19 commission of a a serious offense, a money laundering
20 offense, an offense of the financing of terrorism or an
21 offense under section 1825(2) of this chapter.

22 (7) An authorized officer who has seized cash or
23 negotiable instruments, or any other document or
24 tangible object, under subsections (5) or (6) of this
25 section shall report such seizure to the Financial
26 Intelligence Unit within 24 hours of seizure.

1 (8) Nothing in this section shall be interpreted as
2 preventing authorized agents from performing routine
3 inspections of persons, articles or vessels at a border
4 or port of entry of the Federated States of Micronesia
5 consistent with the laws and constitution of the
6 Federated States of Micronesia."

7 Section 34. Title 12 of the Code of the Federated States of
8 Micronesia, as amended, is hereby amended by adding a new section
9 1827 of chapter 18 to read as follows:

10 "Section 1827. Retention and release of seized cash and
11 negotiable instruments.

12 (1) Cash or negotiable instruments seized under
13 subsections (5) or (6) of section 1826 shall not be
14 detained for more than five (5) business days, within
15 which time an authorized officer shall file an ex parte
16 application to the Supreme Court for an order for the
17 continued detention of the seized cash or negotiable
18 instruments.

19 (2) The Supreme Court shall issue an ex parte order
20 within five (5) business days of the making of an
21 application by an authorized officer, failing which the
22 cash or negotiable instruments shall be released to the
23 person from whom the cash or negotiable instruments were
24 seized.

25 (3) The Supreme Court shall grant an order for the
26 continued detention of cash or negotiable instruments

1 seized pursuant to subsection (5) of section 1826 for a
2 period not exceeding three months from the date of
3 seizure upon being satisfied that:

4 (a) there are reasonable grounds to suspect that
5 the cash or negotiable instruments are evidence of a
6 serious offense, a money laundering offense or an
7 offense of the financing of terrorism; and

8 (b) the detention of the cash or negotiable
9 instruments is justified while the matter is further
10 investigated.

11 (4) The Supreme Court shall grant an order for the
12 continued detention of cash or negotiable instruments
13 seized pursuant to subsection (6) of section 1826 for a
14 period not exceeding six months from the date of seizure
15 upon being satisfied that:

16 (a) there is probable cause to believe that the
17 cash or negotiable instruments are evidence of a serious
18 offense, a money laundering offense, an offense of the
19 financing of terrorism or an offense under section
20 1825(2) of this chapter; and

21 (b) the detention of the cash or negotiable
22 instruments is justified while the matter is further
23 investigated.

24 (5) The Supreme Court may subsequently order, after
25 hearing, with notice to all parties concerned, the
26 continued detention of the cash or negotiable

1 instruments seized pursuant to subsection (6) of section
2 1826 if it is satisfied that the conditions listed in
3 subsection (4) of this section are still met; provided
4 however, the total period of detention shall not exceed
5 two years from the date of the seizure. The notice to
6 an interested party shall be mailed to the last known
7 address of the party.

8 (6) No cash or negotiable instrument shall be ordered
9 released by the Supreme Court where

10 (a) an application has been made under subchapter III of
11 chapter 9 of title 11 of the Code of the Federated
12 States of Micronesia for a restraining, confiscation or
13 pecuniary penalty order for all or part of the value of
14 the cash or negotiable instrument; or

15 (b) the cash or negotiable instrument is relevant
16 evidence in a pending criminal proceeding alleging a
17 serious offense, a money laundering offense, an offense
18 of the financing of terrorism, or a violation of this
19 chapter.

20 (7) Where the cash or negotiable instrument seized
21 pursuant to subsections (5) or (6) of section 1826 has
22 not been claimed by any person within two (2) years of
23 it being seized, an authorized officer may apply to the
24 Supreme Court for such cash or negotiable instrument to
25 be forfeited to the Forfeited Assets Fund established

1 under section 980 of title 11 of the Code of the
2 Federated States of Micronesia."

3 Section 35. Title 12 of the Code of the Federated States of
4 Micronesia, as amended, is hereby amended by adding a new
5 subchapter VII of chapter 18 entitled "Restraining and Monitoring
6 Orders.

7 Section 36. Title 12 of the Code of the Federated States of
8 Micronesia, as amended, is hereby amended by adding a new section
9 1828 of chapter 18 to read as follows:

10 "Section 1828. Restraining orders.

11 (1) Where the Financial Intelligence Unit has
12 reasonable grounds to suspect that a transaction or
13 attempted transaction may involve the proceeds of a
14 serious offense, a money laundering offense, or an
15 offense of the financing of terrorism, or be preparatory
16 to the offense of the financing of terrorism, it may by
17 an ex parte application in writing and supported by
18 affidavit request that the Supreme Court order a
19 financial institution not to proceed with the carrying
20 out of that transaction or attempted transaction or any
21 other transaction in respect of the funds affected by
22 that transaction or attempted transaction in order to
23 allow the Financial Intelligence Unit:

24 (a) to make any necessary inquiries concerning
25 the transaction or attempted transaction; and

1 (b) if the Financial Intelligence Unit deems it
2 appropriate, to consult or advise the relevant law
3 enforcement agency.

4 (2) Upon receipt of an application submitted pursuant
5 to subsection (1) of this section, and upon being
6 satisfied that there are reasonable grounds to suspect
7 that a transaction or attempted transaction may involve
8 the proceeds of a serious offense, a money laundering
9 offense, an offense of the financing of terrorism or may
10 be preparatory to the offense of the financing of
11 terrorism, the Supreme Court may grant the requested
12 order in writing, or by telephone to be followed up in
13 writing within 24 hours, for a period to be determined
14 by the Court, which may not be more than fourteen (14)
15 days.

16 (3) The Financial Intelligence Unit may apply for an
17 extension of time setting out the grounds for the
18 extension of the order set out in subsection (2) of this
19 section."

20 Section 37. Title 12 of the Code of the Federated States of
21 Micronesia, as amended, is hereby amended by adding a new section
22 1829 of chapter 18 to read as follows:

23 "Section 1829. Monitoring orders.

24 (1) Where the Financial Intelligence Unit has probable
25 cause to believe that a person has committed, was
26 involved in the commission, or is about to commit or be

1 involved in the commission of a serious offense, a money
2 laundering offense, an offense of the financing of
3 terrorism, the Financial Intelligence Unit may may by an
4 ex parte application in writing and supported by
5 affidavit request the Supreme Court to issue a
6 monitoring order directing a financial institution to
7 give information to the Financial Intelligence Unit
8 regarding any accounts held by that person with the
9 financial institution.

10 (2) The Supreme Court shall not issue a monitoring
11 order unless the Court is satisfied that there is
12 probable cause to believe that the person in respect of
13 whose account the order is sought:

14 (a) has committed or was involved in the
15 commission, or is about to commit or be involved in the
16 commission of a serious offense, a money laundering
17 offense or an offense of the financing of terrorism;

18 (b) has benefited directly or indirectly, or is
19 about to benefit directly or indirectly from the
20 commission of a serious offense, a money laundering
21 offense, an offense of the financing of terrorism; or

22 (c) has used the account for purposes of the
23 commission of a serious offense, a money laundering
24 offense, an offense of the financing of terrorism.

25 (3) A monitoring order:

1 (a) may direct the financial institution to
2 disclose information obtained by the institution about
3 transactions conducted through an account held by a
4 particular person with the institution;

5 (b) shall not have retrospective effect;

6 (c) shall only apply for a period of a maximum of
7 12 months from the date of making; and

8 (d) shall specify the name or names in which the
9 account is believed to be held and the type of information
10 that the institution is required to give.

11 (4) A financial institution that is, or has been
12 subject to a monitoring order shall not knowingly
13 disclose the existence or operation of the order to any
14 person except:

15 (a) an officer or agent of the institution for the
16 purpose of ensuring compliance with the order;

17 (b) a legal adviser for the purpose of obtaining
18 legal advice or representation in respect of the order; or

19 (c) a police officer authorized in writing by the Financial
20 Intelligence Unit to receive the information.

21 (5) A person described in sections (4) (a), (b) or (c)
22 shall not knowingly disclose the existence or operation of a
23 monitoring order except to another such person, and may do
24 so only for the purposes of the performance of the person's
25 duties or functions.

1 (6) Any financial institution, or director, officer,
2 employee or agent of a financial institution, that
3 knowingly fails to comply with a monitoring order issued
4 pursuant to this section, or that provides the Financial
5 Intelligence Unit with materially false or misleading
6 information pursuant to a monitoring order issued
7 pursuant to this section, shall be guilty of a felony
8 offense punishable on conviction:

9 (a) in the case of a natural person, by
10 imprisonment for a maximum of five (5) years, or a
11 maximum fine of \$50,000, or both; or

12 (b) in the case of a legal person that is not a natural
13 person, by a maximum fine of \$250,000.

14 (7) Any person who knowingly violates subsections (4)
15 or (5) of this section shall be guilty of a felony
16 offense punishable on conviction:

17 (a) in the case of a natural person, by
18 imprisonment for a maximum of five (5) years, or a
19 maximum fine of \$50,000, or both; or

20 (b) in the case of a legal person that is not a
21 natural person, by a maximum fine of \$250,000.

22 (8) Nothing in this section prevents the disclosure of
23 information concerning a monitoring order for the purposes
24 of or in connection with legal proceedings or in the course
25 of proceedings before a court, provided that nothing in this
26 section shall be construed as requiring a legal adviser to

1 disclose to any court the existence or operation of a
2 monitoring order."

3 Section 38. Title 12 of the Code of the Federated States of
4 Micronesia, as amended, is hereby amended by adding a new
5 subchapter VIII of chapter 18 entitled "Registration and Licensing
6 of Financial Institutions.

7 Section 39. Title 12 of the Code of the Federated States of
8 Micronesia, as amended, is hereby amended by adding a new section
9 1830 of chapter 18 to read as follows:

10 "Section 1830. Registration of financial institutions.

11 (1) A financial institution shall register with the
12 Financial Intelligence Unit in the form, time period and
13 manner prescribed by the Secretary through regulations
14 promulgated pursuant to this chapter.

15 (2) After registering with the Financial Intelligence
16 Unit, the financial institution shall provide written
17 notification to the Financial Intelligence Unit, within
18 thirty (30) days, of any information contained in the
19 original registration form that has changed or that has
20 become no longer accurate."

21 Section 40. Title 12 of the Code of the Federated States of
22 Micronesia, as amended, is hereby amended by adding a new section
23 1831 of chapter 18 to read as follows:

24 "Section 1831. Penalties for failure to register or
25 provide truthful registration information.

1 (1) If a financial institution fails to comply with
2 section 1830 of this chapter, the financial institution,
3 and its owners and directors, shall be subject to a
4 civil penalty of \$20,000 for each violation.

5 (2) Any financial institution, or director, officer,
6 employee or agent of a financial institution, that
7 knowingly fails to comply with section 1828 of this
8 chapter, or knowingly provides the Financial
9 Intelligence Unit with materially false or misleading
10 registration information, shall be guilty of a felony
11 offense punishable on conviction:

12 (a) in the case of a natural person, by
13 imprisonment for a maximum of two (2) years, or a
14 maximum fine of \$20,000, or both; or

15 (b) in the case of a legal person that is not a
16 natural person, by a maximum fine of \$100,000."

17 Section 41. Title 12 of the Code of the Federated States of
18 Micronesia, as amended, is hereby amended by adding a new section
19 1832 of chapter 18 to read as follows:

20 "Section 1832. Licensing of financial institutions
21 engaging in money transmission services.

22 (1) All financial institutions that provide money
23 transmission services shall be required to be licensed
24 by the competent supervisory authority established by
25 law, or in absence of a supervisory authority, the
26 Secretary.

1 (2) A financial institution shall receive a license to
2 engage in money transmission services only after the
3 supervisory authority, or in the absence of a
4 supervisory authority, the Secretary, is satisfied that
5 the financial institution is in compliance with the
6 requirements of this chapter, regulations promulgated
7 pursuant to this chapter, and any other applicable laws
8 of the Federated States of Micronesia.

9 (3) The supervisory authority, or in the absence of a
10 supervisor authority, the Secretary may promulgate
11 regulations establishing the procedures and requirements
12 for a financial institution seeking to engage in money
13 transmission service to obtain and maintain a license,
14 including any licensing fees."

15 Section 42. Title 12 of the Code of the Federated States of
16 Micronesia, as amended, is hereby amended by adding a new
17 subchapter IX of chapter 18 entitled "Other Matters".

18 Section 43. Title 12 of the Code of the Federated States of
19 Micronesia, as amended, is hereby amended by adding a new section
20 1833 of chapter 18 to read as follows:

21 "Section 1833. Obligations of supervisory authorities.
22 The relevant supervisory authority of a financial
23 institution shall:

24 (1) adopt any necessary measures to prevent or avoid
25 any person who is unsuitable from controlling, or
26 participating in, directly or indirectly, the

1 directorship, management or operation of a financial
2 institution;

3 (2) verify through regular examinations, that the
4 financial institution complies with the requirements of
5 this chapter;

6 (3) impose requirements that the financial institution
7 must ensure that its foreign branches and subsidiaries
8 adopt and observe measures consistent with subchapters
9 II and III of this chapter to the extent that local laws
10 and regulations permit, and where the foreign branch or
11 subsidiary is unable to adopt and observe such measures,
12 to report the matter to the supervisory authority;

13 (4) issue guidelines to assist the financial
14 institution, and its directors, officers, employees and
15 agents, in detecting suspicious transactions; and

16 (5) cooperated with the Financial Intelligence Unit
17 and other domestic and foreign law enforcement agencies
18 in any investigation, prosecution or proceedings
19 relating to a serious offense, a money laundering
20 offense, an offense of the financing of terrorism, or an
21 offense under this chapter."

22 Section 44. Title 12 of the Code of the Federated States of
23 Micronesia, as amended, is hereby amended by adding a new section
24 1834 of chapter 18 to read as follows:

25 "Section 1834. Overriding of secrecy. A financial
26 institution shall comply with the requirements of this

1 chapter notwithstanding any obligation as to secrecy or
2 other restriction on the disclosure of information
3 imposed by any law, regulation or policy.”

4 Section 44. Title 12 of the Code of the Federated States of
5 Micronesia, as amended, is hereby amended by adding a new section
6 1835 of chapter 18 to read as follows:

7 "Section 1835. Account in fictitious, false or
8 incorrect name.

9 (1) A person shall not open, operate or authorize the
10 opening or operation of an account with a financial
11 institution in a numbered, fictitious, false or
12 incorrect name.

13 (2) Where a person is commonly known by two or more
14 different names, the person shall not use one of those
15 names in opening an account with a financial
16 institution, unless the person has previously disclosed
17 the other name or names to the financial institution.

18 (3) Where a person using a particular name in his or
19 her dealings with a financial institution discloses to
20 it a different name or names by which he or she is
21 commonly known, the financial institution shall make a
22 record of the disclosure and shall give the Financial
23 Intelligence Unit a copy of that record upon request by
24 the Financial Intelligence Unit.

1 (4) A person who knowingly violates subsection (1) or
2 (2) of this section is guilty of a felony offense
3 punishable on conviction:

4 (a) in the case of a natural person, by
5 imprisonment for a maximum of five (5) years, or a
6 maximum fine of \$50,000, or both; or

7 (b) in the case of a legal person that is not a
8 natural person, by a maximum fine of \$250,000.

9 (5) For purposes of this section:

10 (a) a person opens an account in a fictitious,
11 false or incorrect name if the person, in opening the
12 account, or becoming a signatory to the account, uses a
13 name other than a name by which the person is commonly
14 known;

15 (b) a person operates an account in a fictitious,
16 false or incorrect name if the person does any act or
17 thing in relation to the account, whether by way of
18 making a deposit or withdrawal or by way of
19 communication with the financial institution concerned
20 or otherwise, and in doing so uses a name other than a
21 name by which the person is commonly known; and

22 (c) an account is in a fictitious, false or
23 incorrect name if it was opened in a fictitious, false
24 or incorrect name, whether before or after the
25 commencement date of this chapter."

1 Section 46. Title 12 of the Code of the Federated States of
2 Micronesia, as amended, is hereby amended by adding a new section
3 1836 of chapter 18 to read as follows:

4 "Section 1836. False or misleading statements. A
5 person who in making a report under section 1805,
6 subsection 1806(6), 1808(2), section 1810, section 1811,
7 section 1812, section 1813 or subsection 1825(1) of this
8 chapter makes a material representation that the person
9 knows is false or misleading, or omits from any
10 statement any matter or thing without which the person
11 knows will render the statement materially false or
12 misleading, is guilty of a felony offense punishable on
13 conviction:

14 (a) in the case of a natural person, by
15 imprisonment for a maximum of five (5) years, or a
16 maximum fine of \$50,000, or both; or

17 (b) in the case of a legal person that is not a
18 natural person, by a maximum fine of \$250,000."

19 Section 47. Title 12 of the Code of the Federated States of
20 Micronesia, as amended, is hereby amended by adding a new section
21 1837 of chapter 18 to read as follows:

22 "Section 1837. Circumventing reporting requirements.
23 Where a person conducts two or more transactions or
24 transfers in a manner or form for the purpose of
25 ensuring that no report in relation to the transactions
26 or transfers would be made by a financial institution

1 under section 1810 is guilty of a felony offense
2 punishable on conviction:

3 (a) in the case of a natural person, by
4 imprisonment for a maximum of five (5) years, or a
5 maximum fine of \$50,000, or both; or

6 (b) in the case of a legal person that is not a
7 natural person, by a maximum fine of \$250,000."

8 Section 48. Title 12 of the Code of the Federated States of
9 Micronesia, as amended, is hereby amended by adding a new section
10 1838 of chapter 18 to read as follows:

11 "Section 1838. Liability of employers and principals.

12 (1) If an offense under this chapter or any regulation
13 promulgated pursuant to this chapter is committed by a
14 person as an employee, the supervisor of the employee
15 shall be guilty of the offense if he or she knew that
16 the employee was committing the offense, or if he or she
17 should have known, after a reasonable inquiry, that the
18 employee was committing the offense and failed to take
19 all necessary and reasonable measures within his or her
20 powers to prevent the commission of the offense or to
21 submit the matter to the Department of Justice for the
22 Federated States of Micronesia for investigation and
23 prosecution.

24 (2) If an offense under this chapter or any regulation
25 promulgated pursuant to this chapter is committed by a
26 person as an agent, the principal shall be guilty of the

1 offense if he or she knew the agent was committing the
2 offense, or if he or she should have known, after a
3 reasonable inquiry, that the agent was committing the
4 offense and failed to take all necessary and reasonable
5 measures within his or her powers to prevent the
6 commission of the offense or to submit the matter to the
7 Department of Justice for the Federated States of
8 Micronesia for investigation and prosecution. This
9 subsection shall only apply where the agent acted within
10 the terms of his or her agency or contract."

11 Section 49. Title 12 of the Code of the Federated States of
12 Micronesia, as amended, is hereby amended by adding a new section
13 1839 of chapter 18 to read as follows:

14 "Section 1839. Liability of directors, controllers or
15 officers of corporations. Where any corporation is
16 convicted of an offense under this chapter or any
17 regulations promulgated pursuant to this chapter, every
18 director, controller or officer concerned in the
19 management of the corporation shall be guilty of the
20 offense where the act or omission that constituted the
21 offense took place with that person's knowledge,
22 authority, permission or consent."

23 Section 50. Title 12 of the Code of the Federated States of
24 Micronesia, as amended, is hereby amended by adding a new section
25 1840 of chapter 18 to read as follows:

Simiram Sipenuk
(by request)

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