

A BILL FOR AN ACT

To amend RPPL 6-4, the Money Laundering and Proceeds of Crime Act of 2001, and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIIL ERA KELULAU DO ENACT AS FOLLOWS:

1 **Section 1.** Amendment of RPPL 6-4, the Money Laundering and Proceeds of Crime Act
2 of 2001. RPPL 6-4 is hereby amended to read as follows:

3 **“MONEY LAUNDERING AND PROCEEDS OF CRIME ACT**

4 **SUBCHAPTER 1. GENERAL PROVISIONS**

5 **Section 1.**

6 **Section 2.**

7 **Section 3.** Definition of money laundering.

8 (a) For the purposes of this Act, the following acts either singly or collectively
9 shall constitute the offense of money laundering:

10 (1) the conversion or transfer of property for the purpose of concealing or
11 disguising the illegal origin of such property or assisting any person who is involved
12 in the commission of a predicate offense to evade the legal consequences of his or her
13 actions; or

14 (2) the concealment or disguise of the illegal nature, source, location,
15 disposition, movement, or ownership of property by any person who knows that the
16 property constitutes the proceeds of crime as defined herein; or

17 (3) the acquisition, possession, or control of property by any person who
18 knows that the property constitutes the proceeds of crime as defined herein.

19 (b)

20 (c) A person need not be convicted of a predicate offense to establish that property
21 was the proceeds of a predicate offense or to be convicted of laundering such proceeds.

22 (d) The offense of money laundering is not a lesser included offense of any crime.

23 **Section 4.** Definitions. In this Act, unless the context otherwise requires:

1 **SUBCHAPTER II. PREVENTION OF MONEY LAUNDERING**

2 **Section 5. Report on the use of cash and bearer securities.**

3 (a) Credit or financial institutions shall keep regular reports of all transactions made
4 in cash or bearer securities in excess of at least US \$10,000.00, or its equivalent in foreign
5 cash or bearer securities. Such reports are required to have accurate and meaningful
6 originator and recipient information including, but not limited to, name, address and account
7 number. Such information must remain with the transfer or related message through the
8 payment chain.

9 (b) The US \$10,000.00 threshold in subsection (a) may be met either through a
10 single transaction or a series of contemporaneous transactions that in the aggregate are at
11 least US \$10,000.

12 (c) Within 15 days from the date of the transaction, or as otherwise provided by
13 regulation by the FIC , all such reports shall be provided to the FIU and FIC offices in the
14 form and manner as set forth by the FIU or the FIC.

15 **Section 6. Requirement to effect domestic or international transfers of funds via**
16 **credit or financial institutions.**

17 (a) Any transfer to or from a foreign ~~countries~~ country of moneys or securities
18 involving a sum greater than of at least US \$10,000.00 \$5,000.00 or its equivalent shall be
19 made by or through a credit or financial institution licensed under the laws of the Republic
20 of Palau.

21 (b) All transfers are required to have and maintain through the payment chain,
22 accurate and meaningful originator and recipient information, including but not limited to,
23 name, address, and account number.

24 **Section 7. Financial institutions and cash dealers to verify customers' identity.**

25 (a) Credit and financial institutions and cash dealers shall be required to verify their
26 customers' identity and address before opening ordinary accounts or passbooks; establishing
27 business relations; taking stocks, bonds, or other securities into safekeeping; granting safe-

1 deposit facilities; managing assets; ~~or~~ or effecting or receiving payments on behalf of either
2 natural or legal persons.

3 (b) A natural person's identity and address shall be evidenced by the presentation
4 of either an original official identification document that is unexpired and bears a photograph
5 or a reasonable alternative. A copy thereof shall be taken or other adequate record shall be
6 retained or the verification shall be retained as established by regulation by the FIC.

7 (c) A legal person shall be identified by the production of its articles of incorporation
8 or charter or its equivalent or any other document establishing that it has been lawfully
9 registered and that it is actually in existence at the time of the identification, a document
10 establishing its address and a notarized document setting forth its directors and, wherever
11 necessary to know the true identity of the customer, its principal owners and beneficiaries.
12 A copy ~~thereof~~ of such documents shall be taken by the credit and financial institution and
13 the cash dealer.

14 (d)

15 (e) If the transaction is not face-to-face, the credit or financial institution or cash
16 dealer shall require a notarized identification from the customer's local bank. If, however,
17 the local bank is located in, or a branch office of the bank is located in a Non-Cooperative
18 Countries and Territories jurisdiction as that term is defined by the Financial Action Task
19 Force on Money Laundering, the non-face-to-face transaction shall not be completed.

20 (f) Credit and financial institutions and cash dealers shall, to the extent not
21 already done, verify their existing customers identity and address.

22 (g) Credit and financial institutions and cash dealers shall identify and verify their
23 customers where the institution has doubts about the veracity or adequacy of previously
24 obtained customer identification.

25 (h) Credit and financial institutions and cash dealers shall not establish any
26 business relationship with or complete any financial transaction for any anonymous person
27 or entity or for any person or entity using a false or fictitious name.

1 (i) If a prospective or existing customer is either unwilling to provide the
2 documentation required in this section or the credit or financial institution or cash dealer is
3 unable to resolve doubts about the prospective or existing customer’s identity, the credit or
4 financial institution or cash dealer shall not open the account and shall file a suspicious
5 transaction report as specified in section 20 and its accompanying regulations.

6 **Section 8. Licensing and regulations concerning alternative remittance systems.**

7 (a) All persons, and their agents, that provide a service for the transmission of
8 money or value, including transmission through an alternative remittance system or informal
9 money or value transfer system or network (hereinafter referred to as “Alternative
10 Remittance Systems”), shall be required to be licensed by the Financial Institutions
11 Commission of Palau. The FIC shall promulgate such regulations as may be necessary for
12 the proper licensing and regulation of such Alternative Remittance Systems, and such
13 regulations shall become effective in accordance with 6 PNC § 127. Persons licensed under
14 other provisions of this Act need not be licensed pursuant to this section.

15 (b) Alternative Remittance Systems shall keep regular reports of all transactions
16 made in cash or bearer securities in excess of US \$1,000.00, or its equivalent in foreign cash
17 or bearer securities. Such reports are required to have accurate and meaningful originator
18 and recipient information including, but not limited to, name, address and account number.
19 Such information must remain with the transfer or related message through the payment
20 chain. Alternative Remittance Systems are required to pay special attention to all complex,
21 unusually large transactions, or unusual patterns of transactions, that have no apparent
22 economic or lawful purpose, to examine as far as possible the background and purpose of
23 such transactions, to set forth their findings in writing, and provide such findings to the FIU
24 upon completion. Alternative Remittance Systems are required to follow the requirements
25 of Section 12 of this Act as if they were a financial institution.

26 (c) Within 15 days from the date of the transaction, or as otherwise provided by
27 regulation by the FIC, all reports required by section 8(b) shall be provided to the FIU and
28 FIC offices in the form and manner as set forth by the FIU or FIC.

1 **SUBCHAPTER III. TRANSPARENCY IN FINANCIAL TRANSACTIONS**

2 **Section 8 9.** Identification of casual customers of financial institutions.

3 (a) Casual customers of financial institutions shall be identified; in the manner
4 specified in section 7 in the case of any transaction involving a sum ~~greater than~~ at least the
5 equivalent of US \$10,000.00. If the amount of the transaction is unknown at the time of the
6 operation, the customer shall be identified as soon as the threshold amount ~~of US \$10,000.00~~
7 becomes known or is reached by the transaction.

8 (b)

9 **Section 9 10.**

10 **Section 10 11.** Special monitoring of certain transactions.

11 (a) Where a credit or financial institution, cash dealer, or alternative remittance
12 system has reasonable grounds to suspect that a transaction involves a sum greater than the
13 equivalent of US \$10,000.00 and is conducted in a manner that appears to have an unlawful
14 purpose funds that are derived from, related to, or are the proceeds of a crime, the credit or
15 financial credit or financial institution, cash dealer, or alternative remittance system shall
16 immediately provide information as to the origin and destination of the money, the purpose
17 of the transaction, and the identity of the transacting parties to the FIU as required in section
18 20. The credit or financial institution shall submit to the FIU and Office of the Attorney
19 General, pursuant to section 19, a confidential written report containing all relevant
20 information on the methods of the transaction and the identity of the principal and, where
21 applicable, of the transacting parties. The report shall be maintained by the credit or
22 financial institution, cash dealer, or alternative remittance system as specified in Section 11
23 12.

24 (b) Transactions that involve business relations or transactions with persons in
25 jurisdictions that do not have adequate systems in place to prevent or deter money laundering
26 or the financing of terrorism should be given special attention by all credit and financial
27 institutions, cash dealers, and alternative remittance systems. Credit and financial
28 institutions, cash dealers, and alternative remittance systems are required to pay special

1 attention to all complex, unusually large transactions, or unusual patterns of transactions, that
 2 have no apparent economic or lawful purpose, to examine as far as possible the background
 3 and purpose of such transactions, the origin and destination of the money, and the identity
 4 of the transacting parties. All credit and financial institutions, cash dealers, and alternative
 5 remittance systems are required to set forth their findings in writing, and retain such record
 6 pursuant to section 12.

7 **Section ~~11~~ 12. Record-keeping by credit and financial institutions.** Credit and
 8 financial institutions shall maintain and hold at the disposal of the authorities ~~pursuant to~~
 9 ~~section 12:~~

10 (a)

11 (b) records of transactions conducted by customers that fall under section 5 and
 12 the reports provided for in section ~~10~~ 11 for five years following execution of the transaction.

13 **Section ~~12~~ 13. Communication of information.**

14 (a) The confidential information and records referred to in sections ~~7, through 11~~
 15 9, and 10 shall be delivered to the FIU and the Office of the Attorney General upon the
 16 application of the Office of the Attorney General or the FIU to the Supreme Court, Trial
 17 Division, for an order allowing the FIU or the Office of the Attorney General or both to
 18 examine the contents of confidential reports and records of a credit or financial institution
 19 based upon a finding of probable cause; provided, however, that the FIU or FIC may review
 20 such records as part of the compliance audit. The Court's order shall further specify with
 21 ~~particularly~~ particularity the documents to be produced or delivered by the reporting party.
 22 Such application shall be made pursuant to an investigation by the FIU or the Office of the
 23 Attorney General for the detection and suppression of money laundering or predicate
 24 offenses.

25 (b) Upon an ex parte showing of probable cause, the Supreme Court shall order
 26 the credit or financial institution, ~~or over-the-counter cash exchange dealer,~~ or alternative
 27 remittance system to produce and deliver the above-described confidential reports and
 28 records. When exigent circumstances ~~require it exist,~~ require it exist, the Office of the Attorney General or

1 the FIU may make the aforesaid application for an order via telephonic exchange with any
2 sitting Justice of the Supreme Court at any time. The Office of the Attorney General's or
3 FIU's written affirmation of the Court's oral order for production shall be transmitted to the
4 reporting party immediately, either by facsimile or by any other written means.

5 (c) Notwithstanding the foregoing, the Office of the Attorney General or the FIU
6 shall follow up the aforesaid request with a sworn written application to the Court for the
7 order by the close of business on the next business day following receipt by the reporting
8 party of the Court's oral order directing the production and delivery of reports and records.
9 Should the Office of the Attorney General or the FIU fail to submit the written application
10 by the close of business on the business day following the issuance of the Order, all the
11 confidential reports and records shall be returned to the credit or financial institution, cash
12 dealer, or alternative remittance system and any copies shall be destroyed immediately by the
13 FIU and the Office of the Attorney General.

14 (d) Upon receipt of confidential information by the Office of the Attorney
15 General or the FIU pursuant to this section, the Ministry of Justice, ~~Financial Intelligence~~
16 Unit ("FIU"), the office of the Attorney General, and all related employees and agencies shall
17 be prohibited from disclosing or making known the existence and content of the information
18 received, except as provided in sections 17 and 19. Under no circumstances shall persons
19 be required to transmit the above information and reports, nor shall any other individual
20 having knowledge thereof be required to communicate such information or reports to any
21 natural or legal person other than those specified in subsection (a).

22 **Section 13 14.** ~~Internal anti-money-laundering programs at credit and financial~~
23 institutions and compliance requirements. Credit and financial institutions shall develop
24 written policies and procedures, to the extent such programs and procedures do not currently
25 exist, for the prevention of money laundering. Such programs shall include the following:

26 (a)

27 (b)

28 (c)

1 (d) ~~i~~Internal audit arrangements to check compliance with and effectiveness of
2 the measures taken to implement this ~~a~~Act ;

3 The FIC shall conduct random compliance audits to assess compliance with this Act.
4 Any credit or financial institution that fails to comply with the requirements of sections 5,
5 7, 8, 9, 10, 11, 12, 13, 14, or 20 are subject to remedial provisions, including fines, as
6 provided for in regulations promulgated pursuant to this Act. Any credit or financial
7 institution that repeatedly fails to comply with the requirements of sections 5, 7, 8, 9, 10, 11,
8 12, 13, 14, or 20 may have a fine imposed, or their license suspended or revoked, by the FIC
9 after a hearing by the FIC Board.

10 **Section ~~14~~ 15. Over-the-counter exchange dealings.** Natural or legal persons whose
11 occupation is that of an over-the-counter exchange dealer and who are not otherwise licensed
12 by the FIC as a financial institution shall be required to do the following:

13 (a)

14 (b)

15 (c)

16 **SUBCHAPTER IV. DETECTION OF MONEY LAUNDERING**

17 **Section ~~15~~ 16. Cooperation with anti-money-laundering authorities.**

18 (a) A Financial Intelligence Unit (“FIU”) shall be created within the Office of the
19 Attorney General or the Financial Institutions Commission by Executive Order of the
20 President. Other agencies of the government may be assigned to assist the FIU by the
21 President at the request of the ~~Attorney General~~ FIU. The ~~Attorney General~~ FIU, in
22 consultation with the President of the Republic of Palau, may promulgate regulations
23 pertaining to the duties and functions of the FIU pursuant to the Administrative Procedure
24 Act, 6 PNC Chapter 1.

25 (b)

26 (c) The FIU members may not concurrently hold ~~any other public or private~~
27 ~~employment or hold~~ or pursue any elective office in the Palau National Government or any

1 State Government, ~~or engage in other assignments or activities which might affect the~~
2 ~~independence of their position~~ and may not hold any other private employment.

3 (d) The FIU shall receive the reports transmitted by the persons referred to in
4 sections ~~10~~11 and ~~19~~20. The FIU shall analyze the reports on the basis of the information
5 at its disposal and shall gather, in particular from organizations and government ministries
6 and agencies involved in combating organized crime, any additional information that may
7 help to establish the origin of the funds or the nature of the suspect transactions forming the
8 subject of the reports.

9 (e) The reports required of the persons referred to in section ~~19~~20 shall be sent to the
10 FIU by any rapid means of confidential communication. The FIU shall confirm in writing
11 receipt of any reports received and of money laundering trends.

12 (f) Beginning on June 1, 2006, an ~~an~~ annual report shall be submitted by the FIU
13 to the President, ~~the Minister of Justice,~~ and the Olbiil Era Kelulau. The report shall provide
14 an overall analysis and evaluation of the reports received and of money laundering trends.

15 **Section ~~16~~ 17. General provisions.**

16 (a) The FIU shall be responsible for receiving, analyzing, and processing reports
17 required pursuant to this Act. All officials, employees, and agents of the national
18 government or any other government shall keep confidential the information thus obtained,
19 which may not be used for any purposes other than those provided for in this Act.

20 (b) The FIU may, upon suspicion of money laundering, terrorist financing, or a
21 predicate offense, disseminate such information to domestic authorities as it deems
22 necessary.

23 **Section ~~17~~ 18. Access to information.** The FIU may also obtain from any public
24 authority or from any natural or legal person information and records, ~~specified in section 12,~~
25 within the scope of investigations conducted following the report of a suspicion of illegal
26 activities as set forth in section ~~23~~24. The FIU shall, upon request, be granted reasonable
27 access to databases of all public authorities. In all cases, the use of information thus obtained
28 shall be limited to the purposes of this Act.

1 **Section ~~18~~ 19. Relationships with foreign financial intelligence units.**

2 (a) The FIU, ~~subject to a reciprocal arrangement with foreign governments, shall~~
3 ~~exchange information with financial intelligence units of foreign countries responsible for~~
4 ~~receiving and processing reports of money laundering~~ may enter into reciprocal arrangements
5 with foreign financial intelligence units, or other law enforcement agencies, for the formal
6 exchange of financial intelligence information, provided that such ~~exchanges~~ arrangements
7 are governed by confidentiality requirements substantially similar to those set forth in this
8 Act.

9 (b) The FIU, subject to a reciprocal arrangement with foreign financial
10 intelligence units, shall exchange information on a peer to peer basis with financial
11 intelligence units of foreign countries responsible for receiving and processing reports of
12 money laundering, provided that such exchanges are governed by confidentiality
13 requirements substantially similar to those set forth in this Act.

14 (c) Upon receipt of a request for information or transmission from a counterpart
15 foreign financial intelligence unit, the FIU may comply with that request within the scope of
16 the powers set forth in the reciprocal agreement, so long as such compliance is not in conflict
17 with Palau law.

18 **Section ~~19~~ 20. Requirement to report suspicious transactions.**

19 (a) ~~Any natural or legal person who, in connection with his, her, or its trade or~~
20 ~~occupation, carries out or advises on operations involving deposits, exchange operations,~~
21 ~~investments, conversions, or any other movements of capital, and in particular to credit and~~
22 ~~financial institutions and financial intermediaries, and any over-the-counter exchange dealer,~~
23 ~~as defined in section 14, shall be required to report to the FIU transactions referred to in~~
24 ~~section 10 involving money that reasonably appears to be derived from the perpetration of~~
25 ~~a crime described in section 3~~ credit and financial institutions, financial intermediaries, over-
26 the-counter exchange dealer as defined in section 15, cash dealer, alternative remittance
27 system, or other natural or legal person subject to sections 5-11, shall be required to report
28 to the FIU transactions referred to in section 11. The persons referred to in this section shall

1 be required to report the transactions carried out even if it was not feasible to defer their
2 execution or if it became clear only after completion of a transaction that it involved a money
3 laundering offense or terrorist financing. Any natural or legal person referred to in this
4 subsection shall also be required to report without delay any information that might confirm
5 or invalidate the suspicion of a violation of section 3.

6 (b)

7 **Section ~~20~~ 21. Stop notice on ~~uncompleted~~ incomplete transactions.**

8 (a) If the FIU or the Office of the Attorney General considers it necessary, the
9 FIU or the Office of the Attorney General shall petition the Supreme Court for an order to
10 stop the execution of a transaction. Upon an ex parte showing of probable cause, the
11 Supreme Court shall order stoppage of the transaction. When exigent circumstances require
12 it, the FIU or the Office of the Attorney General may make the ~~aforesaid application~~ petition
13 for an order via telephonic communication with any sitting Justice of the Supreme Court at
14 any time.

15 (b) ~~Notwithstanding the foregoing, the Office of the Attorney General shall~~
16 ~~follow up a telephonic request with a sworn written application to the Court within the~~
17 ~~business day following receipt of the Court's oral order directing the stoppage~~ Following a
18 telephonic request pursuant to subsection (a), the Office of the Attorney General or the FIU
19 shall submit a sworn written application to the Court on the next business day after issuance
20 of the Court's oral order directing the stoppage. The Court's order stopping the transaction
21 shall be transmitted to the reporting party immediately, either by facsimile or by any other
22 written means. The stop notice order shall defer the execution of the transaction for a period
23 not to exceed 72 hours. Should the Office of the Attorney General or the FIU fail to submit
24 the written application as required herein, after issuance of the Court's stop notice order, the
25 transaction may be completed.

26 (c) To extend the stoppage of the transaction, the Office of the Attorney General
27 or the FIU must immediately notify all parties to the transaction by facsimile and
28 simultaneously move the Court for an order allowing an extension of the stoppage for an

1 additional period not to exceed eight (8) days. Upon receipt of the motion, the Court shall
2 order an expedited hearing to be held within the shortest possible time after actual notice of
3 the motion to all parties.

4 **Section ~~21~~ 22.**

5 **Section ~~22~~ 23.** Exemption from liability arising out of the execution of transactions.

6 (a)

7 (b) The foregoing exemption of liability shall only apply if a person subject to
8 this Act carries out any transaction at the request of the FIU; or the Office of the Attorney
9 General; ~~or the Office of the Minister of Justice~~, acting pursuant this Act.

10 **Section ~~23~~ 24.**

11 **Section ~~24~~ 25.** Undercover operations and controlled delivery. No punishment may
12 be imposed on officials competent to investigate the money laundering offenses who, for the
13 sole purpose of obtaining evidence relating to offenses referred to in this Act, perform, in the
14 manner specified herein, acts which might be construed as elements constituting any of the
15 offenses referred to in this Act. The authorization of the Supreme Court shall be obtained
16 prior to any operation as described in sections ~~12~~ 13 and ~~23~~ 24. A detailed report in the form
17 of a sworn affidavit by the officer supervising the investigation shall be transmitted to the
18 Supreme Court upon application for any further order to the Court which may include
19 allowing the officials charged with investigating the money laundering offenses to carry out
20 such operations, including the delay of, freezing, or seizure of money or any other property,
21 until the investigation has been completed and, if necessary, order specific measures for the
22 safekeeping of such property. However, money, assets, and property shall not be frozen for
23 any period in excess of three (3) months after seizure or freezing, absent a conviction for the
24 crimes under investigation, without a further application being made to the Supreme Court.
25 The Supreme Court may extend the seizure or freezing of such assets for one or more
26 additional three-month periods upon a showing of good cause by the Office of the Attorney
27 General or the FIU.

1 **Section ~~25~~ 26.** Disallowance of bank secrecy. Banking or professional secrecy may
2 not be invoked as grounds for refusal to provide information referred to in section ~~11~~12 or
3 required in connection with an investigation which relates to money laundering and is
4 ordered by or carried out pursuant to an order of the Supreme Court.

5 **Section ~~26~~ 27.**

6 **Section ~~27~~ 28.** Provisional measures. The Supreme Court may upon motion of the
7 Office of the Attorney General or the FIU issue a temporary order, at the expense of the
8 national government, freezing capital and financial transactions relating to property of
9 whatsoever nature that is liable to seizure or confiscation under this Act. The lifting of those
10 measures may be ordered at any time at the request of the Office of the Attorney General or
11 the FIU or upon motion of the beneficial owner ~~the order of~~ to the Supreme Court. However,
12 any capital, property, transactions, money, or other assets seized or confiscated and not
13 adjudicated by the Court to be the fruit of the crime of money laundering may not be seized
14 or confiscated for any period in excess of three (3) months, after a seizure or confiscation,
15 absent a conviction for the crimes under investigation, without a further application being
16 made to the Supreme Court. The Supreme Court may extend the seizure or confiscation of
17 such assets for one or more additional three-month periods upon a showing of good cause
18 by the Office of the Attorney General or the FIU.

19 **Section ~~28~~ 29.** Money laundering penalties. Any natural person convicted of
20 violating section 3 as a principal, involving proceeds of crime having a total value of less
21 than \$2,500.00, shall be fined not less than US \$5,000.00, nor more than double the amount
22 laundered or attempted to be laundered, ~~whichever is greater,~~ or imprisoned for not more
23 than ~~ten years~~ one year and one day, or both. Any natural person convicted of violating
24 section 3 as a principal, involving proceeds of crime having a total value of \$2,500.00 or
25 more, shall be fined not less than \$5,000.00, nor more than double the amount laundered or
26 attempted to be laundered, whichever is greater, or imprisoned for not more than ten years,
27 or both. Any natural person convicted for being an accessory to a violation of section 3 shall
28 be punished pursuant to 17 PNC 103. Any natural person convicted of attempting to violate

1 section 3 shall be punished pursuant to 17 PNC 104. Any natural person found guilty of
 2 aiding and abetting a violation of section 3 shall be punished pursuant to 17 PNC 102. Any
 3 natural person found guilty of conspiracy to violate section 3 shall be punished pursuant to
 4 17 PNC 901.

5 **Section ~~29~~ 30. Penalties applicable to corporate entities.** Corporate entities, other
 6 than the National Government of the Republic of Palau, on whose behalf or for whose
 7 benefit a money laundering offense has been committed by one ~~or~~ of their agents or
 8 representatives shall be fined in an amount equal to two times the fines specified for natural
 9 persons, without prejudice to the conviction of those individuals as perpetrators of the
 10 offense or accessories to it. In the case ~~of~~ where a corporate ~~entities~~ entity's agents or
 11 representatives, on the entity's behalf or benefit, ~~which~~ are convicted of three or more
 12 offenses under section 3 within a five-year period, such ~~entities~~ entity may be:

13 (a) permanently or for a ~~maximum~~ minimum of five years banned from directly
 14 or indirectly carrying on the business activities in the Republic of Palau for which they are
 15 licensed or conducted at the time of the offense;

16 (b) ordered to close permanently or for a ~~maximum~~ minimum of five years their
 17 premises which were used for the commission of the offense; and/or

18 (c) required to publicize the judgment in the press or by radio or television.

19 **Section ~~30~~ 31. Civil penalties.** Any person who fails to comply with sections 5, 6, 7,
 20 8, 9,10, 11, 12, 13, ~~or~~ 14, 15, or 20, shall, upon conviction therefor on the basis of clear and
 21 convincing evidence, be subject to a civil penalty not to exceed US \$50,000.00 upon
 22 application by the Office of the Attorney General or the FIU. The rules governing
 23 adjudicative proceedings under the Administrative Procedure Act, 6 PNC Chapter 1, shall not
 24 apply to this section.

25 **Section ~~31~~ 32. Penalties for other offenses.**

26 (a) A penalty of not more than two years' imprisonment or a fine not to exceed US
 27 \$10,000.00 shall be imposed on:

1 (1) persons and directors or employees of organizations that carry out or
2 advise on operations involving deposits, exchange operations, investments,
3 conversions, or any other movements of capital, and in particular to credit and
4 financial institutions and financial intermediaries, who knowingly disclose, to the
5 owner of the sums or to the principal of the transactions specified in that section, a
6 report which they are required to make or the action taken on it as specified in sections
7 ~~10~~ 11, ~~12~~ 13, ~~19~~ 20, and ~~24~~ 25;

8 (2) anyone who knowingly destroys or removes registers or records which are
9 maintained pursuant to sections ~~10~~11, 12 or ~~14~~ 15;

10 (3) anyone who under a false identity performs or attempts to perform any
11 of the operations specified in sections 5, 6, 7, 8, 9, 10, 11 or ~~14~~ 15;

12 (4)

13 (5) anyone who knowingly communicates deeds or records specified in section
14 ~~23(e)~~ 24(e) to the FIU or Office of the Attorney General or to the officials competent
15 to investigate the offenses, knowing such deeds or records to contain material errors
16 or omissions, without informing them of that fact; and

17 (6) anyone who upon a reasonable suspicion fails to report, pursuant to section
18 ~~19~~ 20, in cases where the circumstances of the transaction admit the conclusion that
19 the money was derived from one of the offenses referred to in section ~~19~~20.

20 (b) Persons found guilty of any offense or offenses set forth in subsection (a) may
21 also be banned permanently or for a ~~maximum~~ minimum of five years from pursuing the trade
22 or occupation which provided the opportunity for the offense to be committed.

23 **Section ~~32~~ 33. Confiscation.**

24 (a) In the event of a conviction for actual or attempted money laundering, an order
25 shall be issued by the Supreme Court for the confiscation of the property forming the subject
26 of the offense, including income and other benefits obtained therefrom, against any person to
27 whom they may belong, ~~if it can be established~~ unless the owner can (1) establish the absence
28 of any connection between such property, income, and other benefits and the predicate or

1 money laundering offense and (2) establish that the owner was ~~not~~ a bona fide purchaser for
2 value ~~or did not acquire~~, acquired the property in return for the provision of services
3 corresponding to its value ~~or the owner did not acquire~~, or acquired the property on any other
4 legitimate grounds. The confiscation order shall specify the property with particularity and
5 contain the necessary details to identify and locate it.

6 (b) ~~If the government can establish beyond a reasonable doubt the connection~~
7 ~~between such evidence and the offense, an order may additionally be issued for the~~
8 ~~confiscation of the property of the convicted offender to the enrichment obtained by him or~~
9 ~~her during a period of three years preceding his or her conviction. In the event of a conviction~~
10 ~~for actual or attempted money laundering, an order may additionally be issued for the~~
11 ~~confiscation of the property of the convicted offender in an amount equal to the enrichment~~
12 ~~obtained by the convicted offender during a period of three years preceding the conviction~~
13 ~~unless the convicted offender can establish the absence of any connection between such~~
14 ~~enrichment and the predicate or money laundering offense.~~ The confiscation order shall
15 specify the property with particularity and contain the necessary details to identify and locate
16 it.

17 **Section ~~33~~ 34.** Confiscation of property of criminal organizations. In the event the
18 Supreme Court has determined beyond a reasonable doubt, ~~property over which a criminal~~
19 ~~organization has power of disposal, that property shall be confiscated if there is a judicial~~
20 ~~determination beyond a reasonable doubt of a connection between that property and an~~
21 ~~offense under section 3~~ that an individual convicted of an offense under this Act is a member
22 of a criminal organization, the property over which a criminal organization has power of
23 disposal shall be confiscated unless the lawful origin of the property is established by the
24 organization.

25 **Section ~~34~~ 35.**

26 **Section ~~35~~ 36.** Disposal of confiscated property.

27 (a)

1 (b) In cases where confiscation is ordered under a judgment by default, the
2 confiscated property shall accrue to the Republic of Palau and be liquidated in accordance
3 with law. However, if the Supreme Court, ruling on an application to set aside such
4 judgment, acquits the person prosecuted, it shall order that the Republic of Palau pay full and
5 fair restitution for the value of the confiscated property, unless it is established beyond a
6 reasonable doubt that such property is the proceeds of crime committed in Palau. The
7 Republic of Palau shall not be liable for any exemplary or consequential damages as a result
8 of the sale of confiscated property.

9 **Section 37.** Applicable law for rulemaking and regulations. The Administrative
10 Procedure Act, 6 PNC Chapter 1, shall apply for all rules and regulations promulgated under
11 this Act, unless otherwise specified.

12 **Section 37 38.**”

13 **Section 2.** Amendment. The Content Section of RPPL 6-4 is hereby amended so that the
14 Section numbers, titles, and page numbers coincide with the changes made in Section 1 of this Act.

1 **Section 3.** Effective date. This Act shall take effect upon its approval by the President of
2 the Republic, or upon becoming law without such approval.

Date: 1/7/05

Introduced by: /s/
Yukiwo P. Dengokl, Senator

/s/
Santy S. Asanuma, Senator