

# **BILL NO. 48 OF 2022**

## **A BILL**

FOR AN ACT TO AMEND THE FINANCIAL TRANSACTIONS REPORTING ACT  
2004

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

**1.**—(1) This Act may be cited as the Financial Transactions Reporting (Amendment) Act 2022.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Financial Transactions Reporting Act 2004 is referred to as the “Principal Act”.

*Section 2 amended*

**2.** Section 2 of the Principal Act is amended in the definition of “cash” by deleting “and includes bank drafts, bank cheques, bearer bonds, travellers’ cheques, postal notes and money orders”.

*Section 13 amended***3.** Section 13 of the Principal Act is amended by—

(a) in subsection (1)—

- (i) after “A financial institution”, inserting “carrying on the business or activity set out in paragraph (a) of the Schedule”; and
- (ii) deleting “in cash exceeding \$10,000” and substituting “of \$5,000 and above”;

(b) after subsection (1), inserting the following new subsection—

“(1A) A financial institution carrying on any business or activity set out in paragraphs (b) to (z) of the Schedule must, in the prescribed form and manner, report to the Unit any transaction of an amount in cash of \$5,000 and above or such other amount as may be prescribed, in the course of a single transaction (or its equivalent in foreign currency).”;

(c) in subsection (5) after “subsection (1)”, inserting “, (1A)”; and

(d) in subsection (6) after “subsection (1)” wherever it appears, inserting “, (1A)”.

August 2022

## **FINANCIAL TRANSACTIONS REPORTING (AMENDMENT) BILL 2022**

### **EXPLANATORY NOTE**

*(This note is not part of the Bill and is intended only to indicate its general effect)*

#### **1.0 BACKGROUND**

- 1.1 The Financial Transactions Reporting Act 2004 (**‘Act’**) provides, *inter alia*, for the regulation and control of financial institutions in Fiji to prevent and detect money laundering, terrorist financing and other serious criminal activities.
- 1.2 The Act establishes the Financial Intelligence Unit (**‘FIU’**) as an intelligence agency of the Government responsible for the detection of money laundering, terrorist financing and other serious criminal activities.
- 1.3 In particular, section 13(1) of the Act provides that a financial institution must report to the FIU any transaction (**‘cash transaction reports’**) of an amount exceeding \$10,000 in cash.
- 1.4 The cash transaction reports are a key data source for the FIU as they provide critical information that is used to form intelligence of possible money laundering, terrorist financing and other serious criminal activities which is then disseminated to law enforcement agencies.
- 1.5 Analysis of banking statistics shows that a large number of transactions (75%), cash and non-cash, undertaken by customers of financial institutions in Fiji are for transactions valued below \$10,000. Currently, Fiji has a 99% reporting rate of cash transaction reports.
- 1.6 The threshold for cash transaction reports is a requirement under the Financial Action Task Force’s international standards on anti-money laundering. However, the threshold to be reported is at the discretion of each country.

1.7 Therefore, the Financial Transactions Reporting (Amendment) Bill 2022 (**'Bill'**) seeks to amend the Act to revise the threshold for cash transaction reports as follows:

- (a) redefine "cash" to mean currency notes and coins only;
- (b) reduce the threshold for cash transaction reports for all financial institutions from "\$10,000" to "\$5,000" or its equivalent in foreign currency;
- (c) require that financial institutions, such as commercial banks, report all transactions (cash and non-cash transactions) of \$5,000 and above (or its equivalent in foreign currency) to the FIU; and
- (d) require that financial institutions, such as non-banks, report only cash transactions involving notes and coins of \$5,000 and above (or its equivalent in foreign currency) to the FIU.

1.8 The revision of the threshold for cash transaction reports will result in a wider data set for intelligence purposes and will strengthen the ability of the Fiji Revenue and Customs Service and FIU to be more efficient in profiling and investigating tax evasion cases. This will result in an improvement in tax revenue collection and tax compliance. Moreover, other law enforcement agencies such as the Fiji Police Force and Fiji Independent Commission Against Corruption will have access to more data on transactions which will be useful in financial investigations linked to money laundering, terrorist financing and other serious criminal activities.

1.9 The revision of the threshold for cash transaction reports will not affect customers of financial institutions and members of the public.

## **2.0 CLAUSES**

2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

2.2 Clause 2 of the Bill amends section 2 of the Act by amending the definition of "cash" to limit the definition to notes and coins that are designated as legal tender in the country of issue. The rationale for this amendment is to simplify the cash transaction reports for financial institutions. Currently, commercial banks have to identify whether transactions are in cash or non-cash before reporting the transactions of \$10,000 and above to the FIU. However, with this amendment, commercial banks under the Act will no longer have to identify whether the transactions are in cash or non-cash but will report all debit and credit transactions of \$5,000 and above to the FIU. On the other hand, non-banks will only be required to report cash transactions of \$5,000 and above and will no longer be required to report to the FIU transactions involving bank drafts,

bank cheques, bearer bonds, travellers' cheques, postal notes and money orders. These payment instruments together with all personal cheque transactions of \$5,000 and above will only be reported to the FIU by commercial banks.

2.3 Clause 3 of the Bill amends section 13 of the Act by—

- (a) decreasing the threshold for cash transaction reports from “\$10,000” to “\$5,000”;
- (b) requiring financial institutions, such as commercial banks, to report all transactions of \$5,000 and above (or its equivalent in foreign currency) to the FIU; and
- (c) requiring financial institutions, such as non-banks, to report only cash transactions of \$5,000 and above (or its equivalent in foreign currency) to the FIU.

### **3.0 MINISTERIAL RESPONSIBILITY**

3.1 The Act comes under the responsibility of the Attorney-General.

A. SAYED-KHAIYUM  
Attorney-General