



GOVERNMENT OF BERMUDA

NATIONAL ANTI-MONEY LAUNDERING COMMITTEE (NAMLC) CONSULTATION PAPER

Proposed Amendment of Bermuda's Proceeds of Crime Act ("POCA"), Proceeds of Crime (AML/ATF Supervision & Enforcement) Act ("POCA SEA") and Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations ("the POCA Regulations")

Introduction

1. Bermuda's Anti-Money Laundering, Anti-Terrorist Financing (AML/ATF) regime was assessed against the Financial Action Task Force (FATF) Standards and its Report was published in 2020. Bermuda was deemed to have robust systems in place in combatting money laundering and terrorist financing activities. Since Bermuda's assessment, the FATF has revised its Standards, and this has triggered a review of the legislation currently in place in respect of whether we are compliant with the revised Standards. This review is a necessary process as we embark on our 5th Round of Mutual Evaluation in October 2026 against these revised Standards.

The Need for Consultation

2. In order to consider the legislative amendments required to enhance Bermuda's AML/ATF/CPF framework, it is necessary to engage industry on proposed amendments that are required for Bermuda to satisfy its international obligations and remain a leading jurisdiction in AML/ATF matters.
3. NAMLC is therefore interested in soliciting your views, input and comments on the proposed amendments to address the requirements of the revised FATF Standards at the country level.
4. The proposed amendments are to:
 - i. The Proceeds of Crime Act 1997 (POCA);
 - ii. Proceeds of Crime (AML/ATF Supervision & Enforcement) Act 2008 (POCA SEA); and
 - iii. The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.
5. The purpose of this Consultation Paper is therefore to:
 - Advise industry and the public of the proposed amendments
 - Solicit comments from stakeholders on the proposed amendments for areas of potential impact and concern to them.

The Request

6. You are therefore requested to provide feedback on the proposed legislative amendments as outlined below.

PROPOSED LEGISLATIVE AMENDMENTS due to changes in the FATF Standards:

i. **Proliferation Financing (PF) Risk Assessment**

It is proposed that section 49(1) of the POCA be amended to provide the legislative basis for a PF risk assessment.

This amendment addresses one of the new requirements of the revised FATF Recommendation 1 which requires competent authorities and supervisory authorities to coordinate activities to identify, assess and understand Bermuda's proliferation financing risk and to take commensurate action aimed at ensuring that these risks are mitigated effectively. This will impact institutional risk assessments and other supervisory measures.

ii. **NAMLC Statutory Members**

It is proposed that section 49(2) of the POCA be amended to reflect the inclusion of the Permanent Secretary of the Ministry of National Security as a statutory member of the NAMLC.

This amendment is in keeping with the Ministry having been appointed a NAMLC agency by the Minister of Finance, pursuant to the provisions of the Proceeds of Crime Act, on July 2, 2024.

iii. **Designation of Attorney-General's Chambers Enforcement Authority**

It is proposed that the Minister of Justice of the Attorney-General's Chambers be delegated or designated as Enforcement Authority for the recovery of property obtained through unlawful conduct pursuant to section 36F of POCA.

This amendment would aim to augment the available investigative tools in Civil Recovery Matters.

iv. **The Requirement for Publication of Cancellation Notices**

It is proposed that section 20 of the POCA SEA be amended to include provisions requiring the publication in the Official Gazette of a notice of every cancellation of a registration of a non-licensed AML/ATF regulated financial institution or regulated non-financial business or profession.

This amendment is aimed at ensuring consistency with the requirement in respect of licensed financial institutions.

v. **The Civil Penalties**

It is proposed that section 20(3) of the SEA Act be amended to grant competent authorities the power to impose civil penalties imposed for all breaches of the POCA Regulations. The amendments proposed would explicitly include Regulations 10, all of Regulation 11, 17A and 18A, which are currently omitted from the list, as well as adding a catch-all provision at the end to future-proof for potential additional regulations added over time.

This amendment is aimed at ensuring civil penalties can be imposed for all breaches.

vi. **Consequential Amendment**

It is proposed that there be a consequential amendment to Section 42A of the POCA to reflect the legislative change in 2019 that removed the licensing regime for fund administration business from the 'Investment Funds Act 2006' to the Fund Administration Provider Business Act 2019.

This amendment is aimed at ensuring that the POCA addresses the current legislation in place in respect of Fund Administration.

vii. **Resolution of Conflicting Provisions in POCA SEA**

It is proposed that section 22 of POCA SEA be amended to resolve conflicting provisions with sections 23 and 24 of POCA SEA with respect to the time periods for the issuance of a Decision Notice in relation to a proposed civil penalty.

viii. **Designation of Financial Group**

It is proposed that section 42B of the POCA be amended to enable all statutory authorities to advise the Minister of Justice on the designation of financial groups.

This amendment is aimed at ensuring compliance with the revised FATF Standards which include all groups subject to supervision in the definition of 'financial groups'.

ix. **Additional Duties of Supervisory Authorities**

It is proposed that section 5 of the POCA SEA be amended to include in the section 5 duties of supervisory authorities, provisions enabling them to issue rules, codes of conduct or statements of principles as regards compliance with the AML/ATF Regulations and other relevant legislation and best practice.

This amendment is aimed at enhancing the powers of supervisory authorities.

x. **Correspondent Banking**

It is proposed that section 13 of POCA be amended to reflect that a correspondent relationship should be seen as broader than a bank to bank relationship. A correspondent relationship may be offered by any regulated financial institution to a client who may be a bank, or another financial institution such as a DAB.

This amendment addresses one of the revisions to FATF Recommendation 15, obligations which previously related only to correspondent banking now apply to all correspondent relationships in order to capture Virtual Asset Service Providers (VASPs).

xi. **Suspicious Activity Reporting Obligations on Non-Professional Trustees**

It is proposed that section 46 of POCA be amended to ensure that the obligations with respect to suspicious activity reporting clearly extend to Non-Professional Trustees. This would be captured by adding an activity to describe the discharge of his trustee obligations.

This amendment addresses one of the requirements of the revised FATF Standards, and in particular, Recommendation 25 which addresses Beneficial Ownership and Transparency of Legal Arrangements.

CONCLUSION & NEXT STEPS

7. NAMLC therefore seeks the cooperation of industry to review this Consultation Paper; and should you have any preliminary observations concerning the proposed legislative amendments you may provide written comments and feedback **no later than July 30, 2025** to the email address below:

info-namlc@gov.bm