

REPUBLIC OF NAURU
ANTI-MONEY LAUNDERING (AMENDMENT) BILL 2018
EXPLANATORY MEMORANDUM

The Anti-Money Laundering (*Amendment*) Bill is a Bill for the Anti-Money Laundering (*Amendment*) Act 2018.

This memorandum provides an explanation of the Bill and is only intended to indicate the general effect.

EXPLANATION OF CLAUSES

Clause 1 provides that, once enacted, the short title of the Bill will be the Anti-Money Laundering (*Amendment*) Act 2018.

Clause 2 sets out when the Bill's provisions will commence.

Clause 3 is the enabling provision for the amendment of the Anti-Money Laundering Act 2008.

Clause 4 amends the definitional section by inserting a definition of 'beneficial owner' and substituting the definition of 'politically exposed person'. They are defined as follows:

❖ '**beneficial owner**' means a natural person:

- (a) who has ultimate control, directly or indirectly, of a customer; or
- (b) who ultimately owns, directly or indirectly, the customer; or
- (c) on whose behalf a transaction is being conducted;

❖ '**politically exposed person**' means:

(a) a person who is or has been entrusted with prominent public functions by a foreign country, including but not limited to a:

- (i) Head of State or the head of a government;
- (ii) senior politician;
- (iii) senior government official;
- (iv) senior judicial official;
- (v) senior military official;
- (vi) senior executive of a State owned Corporation;
- (vii) person who is or has been a senior political party official; or
- (viii) person who is a family member or close associate of a person listed from (i) to (vii);

(b) a person who is or has been entrusted with a prominent function by an international organisation, including but not limited to directors, deputy directors and members of the board or equivalent positions; or

(c) a person who is or has been entrusted in the Republic with prominent public functions, including but not limited to a:

- (i) Head of State or the head of a government;
- (ii) senior politician;
- (iii) senior government official;
- (iv) senior judicial official;
- (v) senior military official;
- (vi) senior executive of a State owned corporation;
- (vii) person who is or has been a senior political party official;
- (viii) person who is a family member or close associate of a person listed from (i) to (vii);

Clause 5 omits and replaces the current section 27. Financial institutions are required to know their customer, know who they are dealing with therefore they need to have adequate processes in place to ensure they understand whom they're doing business with. They must fully understand the risks posed by a particular person or entity, including a politically exposed person's risk. This is primarily to prevent money-laundering and combating the financing of terrorism, through the use of the financial systems and its products.

This clause prohibits financial institutions from keeping anonymous accounts in obvious fictitious names. It requires financial institutions to undertake Customer Due Diligence measures with its customers when establishing a relationship with them.

A financial institution must identify the identity of its customer and apply the same if the customer is a beneficial owner. If the customer or beneficial owner is a politically exposed person, to apply the additional Customer Due Diligence measures which are to:

- obtain the approval of senior management to commence or continue the business relationship with the customer or the beneficial owner;
- take reasonable measures to establish the source of wealth and source of funds; and
- conduct enhanced monitoring of the business relationship.