



facility holder,  
and";  
(iii) by the insertion in its  
appropriate alphabetical  
position of the following-

"foreign financial  
institution" means a  
f i n a n c i a l  
institution which,  
in a country  
specified in the  
First Schedule,  
exercises functions  
equivalent to the  
c o r r e s p o n d i n g  
f i n a n c i a l  
institution in the  
Bahamas and referred  
to in section  
2(3).";

(b) in subsection (3), by the deletion of the  
figures and symbols "11(2)".

Amendment 3. Subsection (1)(k)(iii) of section 3 of the  
of section principal Act is repealed and replaced by the following -  
3 of the "(iii) to be held in a client  
principal account;".  
Act.

Amendment 4. Subsection (6) of section 6 of the principal  
of section Act is amended by the deletion of the words "six months"  
6 of the appearing in paragraphs (b) and (c) and the substitution  
principal therefor of the words "twelve months" respectively.  
Act.

Amendment 5. Section 7 of the principal Act is amended -  
of section (a) in subsection (1) -  
7 of the (i) by the repeal of paragraph  
principal (a) and the replacement  
Act. thereof by the following-  
"(a) the amount of cash  
involved in the  
transaction exceeds

the prescribed amount; or";

(ii) by the repeal of sub-paragraph (iii) of paragraph (b) and the replacement thereof by the following -

"(iii) the total amount of cash involved in those transactions exceeds the prescribed amount.";

(b) in subsection (2), by the repeal of paragraphs (a) and (b) and the replacement thereof by the following-

"(a) that financial institution is unable to readily determine whether or not the transaction involves cash because the funds involved in the transaction are deposited by the transactor into a facility (being a facility in relation to which that financial institution is a facility holder) provided by another financial institution; and

(b) the financial institution has obtained in writing confirmation that the other financial institution has verified the identity of the person:

Provided that such confirmation may be accepted from a foreign financial institution."

Amendment  
of section  
8 of the

6. Section 8 of the principal Act is amended -  
(a) in subsection (1), by the repeal of paragraph (b) and the replacement thereof

principal  
Act.

by the following -

"(b) the amount of cash involved in the transaction exceeds the prescribed amount."

(b) in subsection (2), by the repeal of paragraph (c) and the replacement thereof by the following -

"(c) the total amount of cash involved in those transactions exceeds the prescribed amount,".

Amendment  
of section  
9 of the  
principal  
Act.

7. Section 9 of the principal Act is amended -

(a) in subsection (1), by the repeal of paragraph (b) and the replacement thereof by the following -

"(b) the amount of cash involved in the transaction exceeds the prescribed amount; and";

(b) in subsection (2), by the repeal of paragraph (c) and the replacement thereof by the following -

"(c) the total amount of cash involved in those transactions exceeds the prescribed amount;".

Amendment  
of section  
33 of the  
principal  
Act.

8. Paragraph (b) of subsection (1) of section 33 of the principal Act is repealed and replaced by the following -

"(b) to use such assistance as may be reasonable in the circumstances for the purpose of the entry and search;".

Amend-  
ment of  
section 44  
of the  
principal  
Act.

9. Section 44 of the principal Act is amended -

(a) by the renumbering of the section as subsection (1);

(b) by the insertion after subsection (1) of the following -

"(2) Any person failing or refusing to produce any record or to supply any information or explanation as is required

by subsection (1) is guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.”.

Amendment of the principal Act. 10. The principal Act is amended by the insertion after section 44 of the following -

principal Act.

“Confidentiality. 44A. (1) Subject to subsections (2) and (3), the Commission or any officer, employee, agent or adviser of the Commission who discloses any information relating to -

- (a) the affairs of the Commission;
- (b) the affairs of a financial institution; or
- (c) the affairs of a customer or client of a financial institution,

that it or he has acquired in the course of its or his duties or in the exercise of the Commission’s functions under this or any other law, is guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years.

(2) Subsection (1) shall not apply to a disclosure -

- (a) lawfully required or permitted by any court of competent jurisdiction within The Bahamas;

- (b) for the purpose of assisting the Commission to exercise any functions conferred on it by this Act, by any other Act or by regulations made thereunder;
- (c) in respect of the affairs of a financial institution or of a customer or client of a financial institution, with the consent of the financial institution, customer or client, as the case may be, which consent has been voluntarily given;
- (d) where the information disclosed is or has been available to the public from any other source;
- (e) where the information disclosed is in a manner that does not enable the identity of any financial institution or of any customer or client of a financial institution to which

the information relates to be ascertained;

- (f) to a person with a view to the institution of, or for the purpose of -
  - (i) criminal proceedings,
  - (ii) disciplinary proceedings, whether within or outside The Bahamas, relating to the exercise by a counsel and attorney, auditor, accountant, valuer or actuary of his professional duties,
  - (iii) disciplinary proceedings relating to the discharge by a public officer, or a member or employee of the Commission of his duties; or
- (g) in any legal proceedings in connection with -
  - (i) the winding-up or dissolution of a financial institution, or
  - (ii) the appointment

or duties of a receiver of a financial institution.

(3) Subject to subsection (6), the Commission may disclose to an overseas regulatory authority information necessary to enable that authority to exercise regulatory functions including the conduct of civil or administrative investigations and proceedings to enforce laws, regulations and rules administered by that authority.

(4) In deciding whether or not to exercise its power under subsection (3), the Commission may take into account -

- (a) whether the inquiries relate to the possible breach of a law or other requirement which has no close parallel in The Bahamas or involve the assertion of a jurisdiction not recognised by The Bahamas; and
- (b) the seriousness of the matter to which the inquiries relate and the importance to the inquiries of the information sought in The Bahamas.

(5) The Commission may decline to exercise its power under subsection (3) unless the overseas



regulatory authority undertakes to make such contribution towards the cost of the exercise as the Commission considers appropriate.

(6) Nothing in subsection (3) authorises a disclosure by the Commission unless -

- (a) the Commission has satisfied itself that the intended recipient authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality; or
- (b) the Commission has been given an undertaking by the recipient authority not to disclose the information provided without the consent of the Commission; and
- (c) the Commission is satisfied that the assistance requested by the overseas regulatory authority is required for the purposes of the overseas regulatory authority's regulatory functions including the conduct of civil or administrative

investigations or proceedings to enforce laws, regulations and rules administered by that authority; and

(d) the Commission is satisfied that information provided following the exercise of its power under subsection (3) will not be used in criminal proceedings against the person providing the information.

(7) Where in the opinion of the Commission it appears necessary in relation to any request for assistance received from an overseas regulatory authority to invoke the jurisdiction of a Stipendiary and Circuit Magistrate in obtaining information requested by the overseas regulatory authority, the Commission shall immediately notify the Attorney-General with particulars of the request, and shall send him copies of all documents relating to the request, and the Attorney-General shall be entitled, in a manner analogous to *amicus curiae*, to appear or take part in any proceedings in The Bahamas, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(8) The Commission may provide information that it has acquired in

the course of its duties or in the exercise of its functions under this or any other law to any other regulatory authority in The Bahamas where it considers such information may be relevant to the functions of such other regulatory authority.

(9) In this section-

"overseas regulatory authority" means an authority which in a country or territory outside The Bahamas exercises functions corresponding to any functions of the Commission;".

Amendment of section 47 of the principal Act.

11. Subsection (3) of section 47 of the principal Act is repealed and replaced by the following -

"(3) In any proceedings under this Act against any person in respect of anything alleged to have been done or omitted to be done by an employee or agent of that person, it shall be a defence for that person to prove that he or she or it took such steps as were reasonably practicable to prevent the employee or agent, as the case may be, from doing or omitting to do such thing."

Amendment of the First Schedule to the principal Act.

12. The First Schedule to the principal Act is amended by the insertion in their appropriate alphabetical positions of the following -

- "Bermuda
- Cayman Islands
- Channel Islands
- Greece
- Isle of Man
- Liechtenstein
- Panama".