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An Act to amend the Financial Transactions Reporting Act 2004

(9 December 2013)

The Parliament of the Cook Islands enacts as follows—

1 Title

This Act is the Financial Transactions Reporting Amendment Act 2013.

2 Commencement

This Act comes into force on the day after the day on which it receives the assent of the Queen's Representative.

3 Principal Act amended

This Act amends the Financial Transactions Reporting Act 2004.

4 Section 2 amended (Definitions)

In section 2(1), insert in their appropriate alphabetical order—

“**foundation** means a foundation established under the Foundations Act 2012

“**international trust** has the same meaning as in section 2 of the International Trusts Act 1984”.

5 Section 4 amended (Reporting institution must identify and verify customer)

(1) Section 4(2)(b) is amended by replacing “legal entity,” with “legal entity (other than a trust or a foundation),”.

(2) Section 4(2) is amended by repealing paragraph (d) and substituting the following paragraphs—

“(d) if the customer is the trustee of a trust, a reporting institution must adequately identify and verify the relevant trust's existence and structure, including by obtaining information relating to—

- “(i) the name of the trust; and
 - “(ii) in the case of an international trust, its registered office and address for service; and
 - “(iii) the nature of the trust; and
 - “(iv) the creator and all trustees of the trust; and
 - “(v) subject to subsections (2A) and (2B), the beneficiaries of the trust:
- “(da) if the customer is a foundation (or a member or members of the council of a foundation acting in their capacity as members of the council), a reporting institution must adequately identify and verify the foundation’s existence and structure, including by obtaining information relating to—
- “(i) the name of the foundation; and
 - “(ii) the registered agent of the foundation (within the meaning of section 3 of the Foundations Act 2012); and
 - “(iii) the founder and all members of the council of the foundation; and
 - “(iv) subject to subsections (2A) and (2B), the beneficiaries of the foundation (within the meaning of section 3 of the Foundations Act 2012);”.
- (3) Section 4 is amended by inserting the following subsections after subsection (2):
- “(2A) A birth certificate of a beneficiary of a trust or a foundation who is an individual under the age of 18 years is adequate evidence for the purposes of subsection (2)(d)(v) or (2)(da)(iv).
 - “(2B) A reporting institution is not required to obtain information for the purposes of subsection (2)(d)(v) or (2)(da)(iv) in relation to a beneficiary with a discretionary interest in a trust or a foundation (however that interest is described) unless and until a transaction is to be made for the purpose of making a distribution from the trust or foundation to that beneficiary.”