

RED/WM

A BILL FOR AN ACT

To establish title 27 of the Code of the Federated States of Micronesia as the National Monetary Transactions Act for the purpose of requiring certain reports or records where they have a high degree of usefulness in criminal, tax or regulatory investigations or proceedings, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 101 of title 27 of the Code of the
2 Federated States of Micronesia is hereby established to read as
3 follows:

4 "Section 101. Title. This act shall be known and cited
5 as the "National Monetary Transactions Act."

6 Section 2. Section 102 of title 27 of the Code of the
7 Federated States of Micronesia is hereby established to read as
8 follows:

9 "Section 102. Definitions and application. As used in
10 this title, unless contrary intention appears:

11 (1) 'Account' means any facility or arrangement by
12 which a financial institution or cash dealer does any
13 one or more of the following:

14 (a) Accepts deposits of currency;

15 (b) Allows withdrawals of currency;

16 (c) Pays checks or payment orders drawn on a
17 financial institution or cash dealer by, or collects
18 checks or payment orders on behalf of, a person, and
19 includes a facility or arrangement for a safety deposit
20 box.

21 (2) 'Cash dealer' means:

22 (a) A person who carries on a business of an
23 insurer, an insurance intermediary, a securities dealer,
24 a futures broker, an operator of a gambling house,
25 casino or lottery;

1 (b) A person who carries on a business of
2 issuing, selling or redeeming travellers checks, money
3 orders or similar instruments, of dealing in bullion, or
4 of collecting holding and delivering cash as part of a
5 business of providing payroll services;

6 (c) A trustee, or manager of a unit trust.

7 (3) 'Cash transaction' means a transaction
8 involving the physical transfer of currency from one
9 person to another.

10 (4) 'Currency' means the coin and paper money of
11 the United States of America or of a foreign country
12 that is designated as legal tender and which is
13 customarily used and accepted as a medium of exchange in
14 the country of issue.

15 (5) 'Financial institution' means any person that
16 carries on a business of:

17 (a) Acceptance of deposits and other repayable
18 funds from the public;

19 (b) Lending, including consumer credit,
20 mortgage credit, factoring (with or without recourse)
21 and financing of commercial transactions;

22 (c) Financial leasing;

23 (d) Money transmission services;

24 (e) Issuing and administering means of payment
25 including, but not limited to, credit cards, traveller's

- 1 checks and banker's drafts;
- 2 (f) Guarantees and commitments;
- 3 (g) Trading for own account or for account of
4 customers in money market instruments, foreign exchange,
5 financial futures and options, exchange and interest
6 rate instruments, and transferable securities;
- 7 (h) Participation in securities issues and the
8 provision of services related to such issues;
- 9 (i) Advice to undertakings on capital
10 structure, industrial strategy and related questions,
11 and advice and services relating to mergers and the
12 purchase of undertakings;
- 13 (j) Money-brokering;
- 14 (k) Portfolio management and advice;
- 15 (l) Safekeeping and administration of
16 securities;
- 17 (m) Credit reference services;
- 18 (n) Safe custody services;
- 19 (o) Any other business designated by
20 regulation which may have a high degree of usefulness in
21 criminal, tax, or regulatory matters.
- 22 (6) 'Secretary of Finance' means the Secretary of
23 Finance of the Federated States of Micronesia.
- 24 (7) 'Unit trust' means any arrangement made for the
25 purpose or having the effect of providing, for a person

1 having funds available for investment, facilities for
2 the participation by the person as a beneficiary under a
3 trust, in any profits or income arising from the
4 acquisition, holding, management or disposal of any
5 property pursuant to the trust."

6 Section 3. Section 103 of title 27 of the Code of the
7 Federated States of Micronesia is hereby established to read as
8 follows:

9 "Section 103. Duty to verify customers identity.

10 (1) A financial institution or cash dealer shall
11 take reasonable measures to satisfy itself as to the
12 true identity of any applicant seeking to enter into a
13 business relationship with it, or to carry out a
14 transaction or series of transactions with it, and of
15 any other person on whose behalf the applicant purports
16 to act in the transaction by requiring the applicant to
17 produce an official record reasonably capable of
18 establishing the true identity of the applicant, such as
19 a certificate of incorporation, birth certificate, or
20 passport.

21 (2) In determining what constitutes reasonable
22 measures for the purposes of subsection (1), regard
23 shall be had for all the circumstances of the case, and
24 in particular:

25 (a) To whether the applicant is a person based

1 or incorporated in a country in which there are in force
2 provisions to prevent the use of the financial system
3 for the purpose of money-laundering;

4 (b) To custom and practice as may from time to
5 time be current in the relevant field of business.

6 (3) Nothing in this section shall require the
7 production of any evidence of identity where:

8 (a) The applicant is itself a financial
9 institution or a cash dealer to which this title
10 applies; or

11 (b) There is a transaction or a series of
12 transactions taking place in the course of a business
13 relationship, in respect of which the applicant has
14 already produced satisfactory evidence of identity."

15 Section 4. Section 104 of title 27 of the Code of the
16 Federated States of Micronesia is hereby established to read as
17 follows:

18 "Section 104. Duty to establish and maintain customer
19 records.

20 (1) A financial institution or cash dealer shall
21 establish and maintain:

22 (a) Records of all transactions carried out by
23 it in accordance with the requirements of subsection

24 (3);

25 (b) Where evidence of a person's identity is

1 obtained in accordance with section 103 a record that
2 indicates the nature of the evidence obtained, and which
3 comprises either a copy of the evidence or such
4 information as would enable a copy of it to be obtained.

5 (2) Customer accounts of a financial institution or
6 cash dealer shall be kept in the true name of the
7 account holder.

8 (3) Records required under subsection (1)(a) shall
9 contain information sufficient to identify the:

10 (a) Name, address and occupation, or where
11 appropriate business or principal activity, of each
12 person;

13 (i) conducting the transaction; or

14 (ii) if known, on whose behalf the

15 transaction is being conducted, as well as the method
16 used by the cash dealer to verify the identity of each
17 such person;

18 (b) Nature and date of the transaction;

19 (c) Type and amount of currency involved;

20 (d) Type and identifying number of any account
21 with the cash dealer involved in the transaction;

22 (e) If the transaction involves a negotiable
23 instrument other than currency, the name of the drawer
24 of the instrument, the name of the institution on which
25 it was drawn, the name of the payee (if any), the amount.

1 and date of the instrument, the number (if any) of the
2 instrument and details of any endorsements appearing on
3 the instrument; and

4 (f) The name and address of the cash dealer,
5 and of the officer, employee or agent of the cash dealer
6 who prepared the report.

7 (4) Records required under subsection (1) shall be
8 kept by the financial institution for a period of at
9 least 5 years from the date the relevant business or
10 transaction was completed."

11 Section 5. Section 105 of title 27 of the Code of the
12 Federated States of Micronesia is hereby established to read as
13 follows:

14 "Section 105. Duty to report transactions.

15 (1) Whenever a financial institution or cash dealer
16 is a party to a transaction of an amount of more than
17 \$10,000 or its equivalent value, it shall:

18 (a) Take reasonable measures to ascertain from
19 the relevant customer the purpose of the transaction,
20 the origin and ultimate destination of the funds
21 involved, and the identity and address of any ultimate
22 beneficiary;

23 (b) Prepare a report of the transaction in
24 accordance with subsection (2); and

25 (c) Communicate the information contained

1 therein to the Secretary of Finance in writing or in
2 such other form as the Secretary of Finance may
3 prescribe.

4 (2) A report required by subsection (1) shall:

5 (a) Contain particulars of the matters
6 specified in subsection (1)(a) and in section 104;

7 (b) Be filed with the Secretary of Finance no
8 later than 7 calendar days from the date of the
9 transaction; and

10 (c) Be signed or otherwise authenticated by
11 the financial institution or cash dealer.

12 (3) A financial institution or a cash dealer which
13 has reported a transaction in accordance with this title
14 shall, if requested to do so by the National Attorney
15 General, give such further information as it has in
16 relation to the transaction."

17 Section 6. Section 106 of title 27 of the Code of the
18 Federated States of Micronesia is hereby established to read as
19 follows:

20 "Section 106. Duty to establish and maintain internal
21 reporting procedures. In order to guard against money-
22 laundering a financial institution or cash dealer shall:

23 (1) Develop internal policies, procedures and
24 controls;

25 (2) Designate a compliance officer;

- 1 (3) Take appropriate measures for the purpose of
2 making employees aware of the Federated States of
3 Micronesia's laws relating to money-laundering, and the
4 procedures and related policies established and
5 maintained by it pursuant to this title; and
6 (4) Provide its employees with appropriate training
7 in the recognition and handling of money-laundering
8 transactions."

9 Section 7. Section 107 of title 27 of the Code of the
10 Federated States of Micronesia is hereby established to read as
11 follows:

12 "Section 107. Other reports.

13 (1) Any person who accepts in the Federated States
14 of Micronesia, in the course of any trade, business
15 profession or occupation, any payment of cash in excess
16 of \$3,000 or such other amounts as the Secretary of
17 Finance may prescribe, shall:

18 (a) Provide a written report to the Secretary
19 of Finance in a form and at a time prescribed by the
20 Secretary of Finance."

21 Section 8. Section 108 of title 27 of the Code of the
22 Federated States of Micronesia is hereby established to read as
23 follows:

24 "Section 108. Money-laundering offenses.

25 (1) A person commits the offense of money-

1 laundering if he or she:

2 (a) Acquires, possesses or uses property,
3 knowing or having reason to believe that it is derived
4 directly or indirectly from acts or omissions:

5 (i) in the Federated States of
6 Micronesia which constitute an offense against this
7 title, or another law of the Federated States of
8 Micronesia punishable by imprisonment for not less than
9 2 years;

10 (ii) outside the Federated States of
11 Micronesia which, had they occurred in the Federated
12 States of Micronesia, would have constituted an offense
13 under Federated States of Micronesia law punishable by
14 imprisonment for not less than 2 years;

15 (b) Renders assistance to another person for:

16 (i) the conversion or transfer of
17 property derived directly or indirectly from those acts
18 or omissions, with the aim of concealing or disguising
19 the illicit origin of that property, or of aiding any
20 person involved in the commission of the offense to
21 evade the legal consequences thereof;

22 (ii) concealing or disguising the true
23 nature, origin, location, disposition, movement or
24 ownership of the property derived directly or indirectly
25 from those acts or omissions.

1 Penalty: A person willfully violating this subsection
2 shall be imprisoned for not more than 15 years, or fined
3 more than \$250,000, or both.

4 (2) Any person who:

5 (a) Acquires information in the course of a
6 trade, profession, business or employment about another
7 person's affairs;

8 (b) Thereby knows, or has reasonable grounds
9 to suspect, that the other person has committed or is
10 about to commit an offense against subsection (1); and

11 (c) Fails, without showing reasonable grounds
12 for such failure, to disclose his knowledge or suspicion
13 as soon as is reasonably practicable to the National
14 Attorney General, commits an offense.

15 Penalty: A person willfully violating this subsection
16 shall be imprisoned for not more than 5 years, or fined
17 more than \$25,000, or both."

18 Section 9. Section 109 of title 27 of the Code of the
19 Federated States of Micronesia is hereby established to read as
20 follows:

21 "Section 109. Related offenses.

22 (1) Any person who brings into the Federated States
23 of Micronesia, or takes or sends out of the Federated
24 States of Micronesia an amount of more than \$10,000 or
25 its equivalent value, or such other amount of currency

1 or its equivalent value as the Secretary of Finance may
2 prescribe commits an offense, unless:

3 (a) The transfer is one of a class prescribed
4 by the Secretary of Finance as one to which this section
5 does not apply;

6 (b) The transfer is effected through a
7 financial institution; or

8 (c) The person has given to the National
9 Attorney General a report specifying:

10 (i) the type and amount of currency
11 involved;

12 (ii) the date it is to be so brought in,
13 or taken or sent out of the Federated States of
14 Micronesia; and

15 (iii) the name, address, occupation or
16 where appropriate, the business or principal activity of
17 the recipient, sender or bearer.

18 (2) A person shall not open or operate an account
19 with a financial institution or a cash dealer in a false
20 name.

21 Penalty: A person willfully violating these subsections
22 shall be imprisoned for not more than 5 years, or fined
23 more than \$25,000, or both.

24 (3) Any person who:

25 (a) Knows or suspects that a report under

1 subsection (1) is being prepared or has been sent to the
2 National Attorney General; and

3 (b) Discloses to another person information or
4 other matter which is likely to prejudice any
5 investigation of an offense or possible offense of
6 money-laundering under subsection 108(1) commits an
7 offense.

8 (4) In proceedings for an offense against
9 subsection (3), it is a defense that the person did not
10 know or have reasonable grounds to suspect that the
11 disclosure was likely to prejudice any investigation of
12 an offense or possible offense in money-laundering under
13 subsection 108(1).

14 Penalty: A person willfully violating subsection 109(3)
15 shall be imprisoned for not more than 5 years, or fined
16 more than \$25,000, or both."

17 Section 10. Section 110 of title 27 of the Code of the
18 Federated States of Micronesia is hereby established to read as
19 follows:

20 "Section 110. Forfeiture. Nothing in the penalty
21 provisions of this title shall preclude an action for
22 forfeiture brought pursuant to applicable laws of the
23 Federated States of Micronesia."

24 Section 11. Section 111 of title 27 of the Code of the
25 Federated States of Micronesia is hereby established to read as

1 follows:

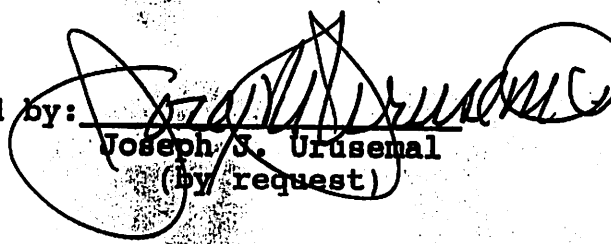
2 "Section 111. Liability for disclosures. Any financial
3 institution or cash dealer, or any director, officer,
4 employee or agent of the same, who voluntarily discloses
5 any possible violation of law or regulation pursuant to
6 this title, shall not be liable to any person under any
7 constitution, law, or regulation of the Federated States
8 of Micronesia or its States."

9 Section 12. Section 112 of title 27 of the Code of the
10 Federated States of Micronesia is hereby established to read as
11 follows:

12 "Section 112. The Secretary of Finance is hereby
13 authorized to issue and promulgate rules and regulations
14 implementing the provisions of this title which, upon
15 approval by the President of the Federated States of
16 Micronesia, shall have the force and effect of law."

17 Section 13. This act shall become law upon approval by the
18 President of the Federated States of Micronesia or upon its
19 becoming law without such approval.

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21 Date: 10/23/96

Introduced by: 
Joseph S. Urusemal
(by request)

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