

**STATE OF ANJOUAN
UNION OF COMOROS**

EXCHANGE OF INFORMATION ACT 001 OF 2005

ARRANGEMENT OF SECTIONS

SECTION

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Schedule

OBJECTS AND REASONS

The object of this Act is to make provision for assisting overseas regulatory authorities to obtain information from within Anjouan and other related matters.

Clause 2 defines “regulatory authority” to mean the Government’s legal adviser, the Registrar of Companies, the Registrar of International Business Companies, the Offshore Finance Authority, the Commissioner of Insurance, the Commissioner of International Insurance, the Registrar of Insurance.. A “foreign regulatory authority” means an authority which, in a country or territory outside Anjouan, exercises functions corresponding to any function of a regulatory authority under an enactment.

Clause 3 lists the matters that should be considered by the Regulatory Authority in relation to requests for assistance.

Clause 4 provides for the powers of the Regulatory Authority to require information to be furnished to him.

Clause 5 restricts the disclosure of information received under the Bill.

Clause 6 confers immunity from suit to certain persons in the performance of their functions under the Bill.

Clause 7 imposes offences and penalties.

Clause 8 allows the Minister to publish in the State’s official newspaper, amend the schedule.

(2) A regulatory authority shall not exercise the powers conferred by section 4 unless it is satisfied that:

- (a) the assistance is necessary for the purpose of enabling or assisting a foreign regulatory authority in the exercise of its regulatory functions;
- (b) the assistance requested by the foreign regulatory authority may be granted under any agreement to which Anjouan and the foreign State requesting authority are parties;
- (c) the foreign regulatory authority requesting the assistance has given a written undertaking to provide corresponding assistance to an authority exercising regulatory functions in Anjouan;
- (d) the nature and seriousness of the matter to which the inquiries relate and the importance to the inquiries of the information sought in Anjouan warrant disclosure of the information;
- (e) the assistance cannot be obtained by other means; or
- (f) the relevant country or territory has enacted similar laws with relation to the exchange of information.

(3) If there are public interest considerations in the giving of the assistance sought by the foreign regulatory authority, the regulatory authority must obtain written direction from the Government's legal adviser before providing the information requested.

(4) Where a regulatory authority requires a written undertaking from a foreign regulatory authority under subsection (2), the undertaking shall be in a form as the regulatory authority may determine.

(5) A regulatory authority may decline to exercise the powers conferred under section 4 unless the foreign regulatory authority undertakes in writing to make such contributions towards the cost of the exercise of those powers as a regulatory authority considers appropriate.

Powers of a Regulatory Authority to require information to be furnished

4. (1) If in accordance with the requirements of section 3 a Regulatory Authority is satisfied that assistance should be provided with respect to a request by a foreign regulatory authority, it may request in writing any person

- (a) to furnish it with information with respect to any matter relevant to the inquiries to which the request relates;
- (b) to produce any documents relevant to the inquiries to which the request relates; or
- (c) to provide him with any assistance in relation to the inquiries to which the request relates as a regulatory authority may specify.

(2) If a person fails to comply with a request issued under subsection (1) within three days from the date of the request or such longer period as a regulatory authority may permit, the Government's legal adviser at the request of a regulatory authority may apply to the Court for an Order requiring the person to comply with the request.

(3) Notice of an application made pursuant to subsection (2) shall be served on the person against whom an Order is sought and he shall be given an opportunity to be heard.

(4) Where documents are produced pursuant to this section, a regulatory authority may take copies or extracts from them.

(5) A person shall not under this section be required to disclose information or produce a document that he would be entitled to refuse to disclose or produce on grounds of legal professional privilege, except that a lawyer may be required to furnish the name and address of his client.

(6) Where a person claims a lien on a document, its production under this section is without prejudice to his lien.

(7) In this section "document" includes information recorded in any form, and, in relation to information recorded otherwise than in legible form, the power to require its production includes power to require the production of a copy of its legible form.

Restriction on the disclosure of information

5. (1) Subject to subsection (2) information that
- (a) is supplied by a foreign regulatory authority in connection with a request for assistance; or
 - (b) is obtained by virtue of the exercise of powers under this Act,

shall not be disclosed by a regulatory authority or by any person who obtains the information directly or indirectly from it, without the consent of the person from whom a regulatory authority obtained the information and, if different, the person to whom it relates.

- (2) Information obtained in accordance with this Act may be disclosed
- (a) pursuant to an Order of a Court of competent jurisdiction in Anjouan;
 - (b) to a regulatory authority;
 - (c) to a foreign regulatory authority;
 - (d) to any person for the purpose of discharging any duty or exercising any power under this Act.

Immunity from suit 6. (1) No suit shall lie against a Regulatory Authority or any person acting under its authority for any thing done by him, in good faith, in the exercise of any power or the performance of any function under this Act.

(2) A person shall not be required to disclose any information or produce any document under this Act if to do so would expose him to prosecution for an offence.

Offences and penalties

7. (1) A person commits an offence if the person,

- (a) fails to comply with an order of the court made pursuant to section 4 (2); or
- (b) intentionally furnishes false information in purported compliance with any such direction or order.

(2) A person commits an offence if the person, mutilates, obliterates or in any way destroys or does anything to prevent the production of a document, or does anything to impede the provision of information in relation to any matter relevant to an inquiry being a matter relevant to a request for assistance made by foreign regulatory authority.

(3) A person who contravenes section 5 commits an offence.

(4) A person who commits an offence under this section is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of two years or both.

Minister may amend schedule

8. The minister may by Order published in the State's official newspaper amend the schedule.

SCHEDULE

[section 2]

REGULATORY AUTHORITIES

1. The Attorney General
2. The Registrar of Companies
3. The Registrar of International Business Companies
4. The Offshore Finance Authority
5. The Commissioner of Insurance
6. The Commissioner of International Insurance
7. The Registrar of Insurance

Passed in the Parliament this 20th day of February 2005