

Newsletter

FIU COMPLIANCE DIVISION



FINANCIAL
INTELLIGENCE UNIT

Issue July 2021
Published by
FIU Compliance Division

Where are we now?

The FIU Compliance Division is pleased to issue its 2nd Newsletter for the quarter ended June 2021. We hope that our 1st newsletter helped to keep you informed about AML/CFT news and provided you with vital tips. This edition will elaborate on the various topics such as the National Risk Assessment on VAs/VASPs, Registration on the GoAML platform and sanctions for failure to register, STR obligations of reporting persons, FATF's grey list and black list, upcoming outreach activities, transparency and beneficial ownership of legal arrangements, and Targeted Financial Sanctions Screening.

Financial Intelligence Unit (FIU)

Vision Statement

To protect the integrity of our financial system and contribute to the safety of our citizens through deterrence of money laundering and terrorist financing.

Mission Statement

To be the leader in financial intelligence works in the region and be recognized worldwide as an FIU that adheres to international standards.

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Disclaimer

The information contained in this document has been produced by the FIU (Mauritius) for educational purposes only. Recipients must only use this resource to enhance their understanding of their obligations and to assist with their compliance under the AML/CFT regulatory framework. The use of this information for any other purpose is not permitted, except with the consent of the FIU. This resource does not represent legal advice. Any reporting person who is unsure about his obligations under the AML/CFT regulatory framework should seek independent legal advice.



National Risk Assessment on Virtual Assets (VAs) & Virtual Assets Service Providers (VASPs)

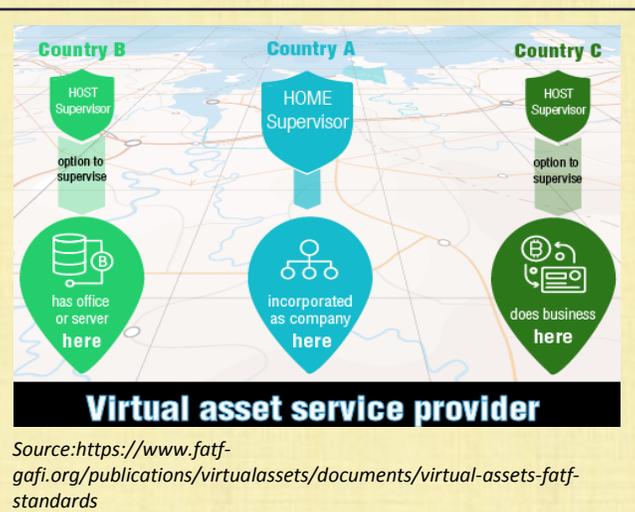
Mauritius has committed itself to fully implement all the FATF Recommendations and to swiftly address all weaknesses in its current regime with respect to ML/TF.

In this regard, and in accordance with FATF Recommendation 15 – New Technologies, the FIU has been conducting a ML/TF risk assessment of VAs/VASPs.

A comprehensive risk based online survey form has been circulated to that effect to Reporting Persons falling under its purview, namely ILPs, DPMS, and REAs.

This survey had been conducted in the context of the fast-changing developments of products and services in financial technologies. This will help Regulatees to identify, assess, and take effective actions to better manage and mitigate the risks associated with VAs/VASPs.

Following the positive responses received a deeper analysis is being conducted by the FIU to assess the risk impact of VAs/VASPs on respondents' businesses and/or dealings. More information will be released in our forthcoming newsletter.



Registration on the GoAML platform

Pursuant to Section 14C Registration of Reporting Person of the FIAMLA, “Every reporting person or auditor shall, within such time and in such form and manner as may be prescribed, register with FIU.”

A “reporting person” as per FIAMLA means a bank, financial institution, cash dealer or member of a relevant profession or occupation; and “member of a relevant profession or occupation” means a person specified in Column 1 of Part I of the First Schedule and performing any transaction in the manner specified in Part II of that Schedule. On 16th October 2020 and 1st June 2021, the FIU issued two notices inviting specified categories of Reporting Persons to apply for registration.

Registration of Reporting Persons is done through the GoAML platform and is mainly used for filing of Suspicious Transaction Reports (STRs) in line with Section 14 (1) of FIAMLA.

Any technical queries in relation to registering on GoAML may be directed to the email address goamlhelpdesk@fiumauritius.org or by calling on 4541423

Sanctions for failure to register with the FIU

Failure to register with the FIU amounts to a breach of the FIAMLR 2019 Regulation and upon conviction can result in a fine not exceeding one million rupees.

Additionally, the FIU may, in line with Section 19H (d) of the FIAMLA, impose administrative sanctions to a member, falling under its purview, who failed to register within a specific deadline.

The type of administrative sanctions that the FIU may apply to members falling under its purview includes:

- i. issue a private warning;
- ii. issue a public censure;
- iii. impose such administrative penalty as may be prescribed by the regulatory body;

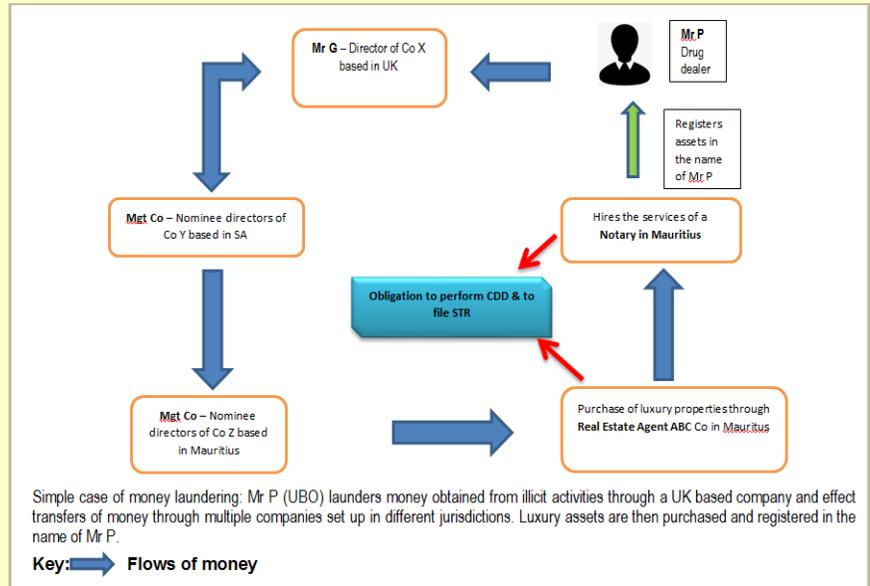
Suspicious Transaction Reporting (STR)

Obligations of Reporting Persons involved in a real estate transaction

One of the requirements of the AML/CFT Framework in Mauritius is that the regulatees of the FIU namely, REAs and ILPs, are required to keep a record of all the beneficial owners of the properties acquired in Mauritius. The regulatees of the FIU are also required to carry out CDD, and EDD where applicable, for all clients, and to comply with all other guidelines issued by the FIU. They, therefore, act as gatekeepers of ML/TF in Mauritius.

Properties in Mauritius are sold either directly by owners or through a Real Estate Agent (REA). REAs as well as Land promoters and property developers are reporting persons when they perform the prescribed activities for their profession under Part II of FIAMLA's First Schedule. They must thus comply with the full range of AML/CFT obligations provided for under the FIAMLA and UN Sanctions Act and any guidelines issued and regulations made thereunder. Real estate transactions will usually involve a REA, a legal practitioner (in almost all cases this will be a notary) and a bank or financial institution.

In accordance with the FIAMLA, cash transactions (payments and receipts) are limited to Rs500,000. As almost all properties are above that limit, payments in real estate transactions by foreigners have to be effected through the banking system in Mauritius and through the notary's bank account.



All reporting persons involved in a real estate transaction have the obligation of filing an STR in accordance with Section 14 of the FIAMLA, if they form reasonable suspicions about the transaction. For example, a bank, notary or real estate agent or promoter may file such an STR. If the transaction is suspicious, the FIU would expect to receive STRs from all reporting persons involved in the transaction. Absence of an STR from one of the reporting persons could signal a lack of controls in place to detect suspicious transactions and would trigger regulatory action as appropriate.

Real estate Agents must have in place a robust AML/CFT program comprising of clear policies and procedures, the appointment of a Compliance Officer, a training programme and an audit function for its systems. The FIU's AML/CFT guidelines provide ample detail on each obligation, and REAs must comply with them.

Reporting obligation of a Reporting Person under the purview of the FIU

Reporting Persons have certain obligations set out under the FIAMLA and one of the obligations relates to the filing of STRs to the FIU.

As soon as a Reporting Person becomes aware of a suspicious transaction, he/she is required to make a report to FIU of such transaction not later than 5 working days after the suspicion arose. The FIU has developed and published a series of documentation and video tutorials ('resources') that may assist Reporting Persons in filing STRs on its website <http://www.fiumauritius.org>

As per Section 16(1) of the FIAMLA, any Reporting Person and auditor, and any of their officers shall not disclose to any person that a STR is being or has been filed, or that related information is being or has been requested by, furnished or submitted to the FIU. Pursuant to Section 16(3A), any person who fails to comply with Section 16(1) of FIAMLA shall, on conviction, be liable to a fine not exceeding 5 million rupees and to imprisonment for a term not exceeding 10 years.

STR should be filed via the goAML platform (after log in).

Financial Action Task Force Grey List & Black List



FATF's Grey list or Black list? Get the facts right!

The Financial Action Task Force (FATF) is the global money laundering and terrorist financing watchdog. It is the FATF's International Co-operation Review Group (ICRG) who oversees the review process. The review is conducted in line with the FATF's methodology and takes into account the threats, vulnerabilities, or particular risks arising from the jurisdiction concerned.

The Grey list

Jurisdictions under Increased Monitoring (more commonly referred to as the grey list) refers to those jurisdictions which are "actively working with the FATF to address strategic deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing". It means that the country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring.

The Black list

When a jurisdiction is placed in the "High-risk Jurisdictions subject to a Call for Action" list (more commonly referred to as the black list), this means that that particular jurisdiction has "significant strategic deficiencies in its regime to counter money laundering, terrorist financing, and proliferation financing". When dealing with countries identified as high-risk, the FATF recommends all jurisdictions to apply Enhanced Due Diligence procedures.

More information can be obtained [here](#).

The case of Mauritius

In February 2020, Mauritius was placed on FATF's list of jurisdictions under increased monitoring (grey list). Subsequently, Mauritius made a high-level political commitment to the FATF to address the identified strategic deficiencies in its AML-CFT Framework.

At its June 2021 Plenary, the FATF has made the initial determination that Mauritius achieved substantial progress in the implementation of its action plan and warrants an on-site assessment to verify the AML/CFT regime in place.

More information can be obtained [here](#).

Outreach activities

During the second quarter of 2021, The FIU Compliance Division, in collaboration with other Supervisory Authorities, have been conducting a number of online training to support its members in adopting and applying a robust AML/CFT Framework in line with recommended guidelines.

In addition, several other documents have been released. These include Tip of the Month articles on Customer Due Diligence (CDD), Politically Exposed Persons (PEPs), reporting of Suspicious Transaction Reports (STRs), Transaction Monitoring, and Targeted Financial Sanctions (TFS) Screening.

The Tip of the Month of June guides members on how to file an STR on the GoAML platform. The Tip of the Month of July which will be released soon will focus on the obligations, purpose and procedures in conducting a Targeted Financial Sanctions (TFS) screening.

Some more practical documents and/or video tutorials have been uploaded on the FIU's website in order to guide members on how to register on the GoAML platform and to assist them in understanding the requirements of AML/CFT Framework.

Upcoming outreach activities for the Supervisory cycle 2021/22 will emphasize on the Inspection findings, specific to the members under the purview of the FIU Compliance Division.

A new document entitled "Guidance on the prescribed activities for Independent Legal Professionals" will be released in July 2021. This will further elaborate on the obligations of Law Practitioners (LPs) who, by nature of their expertise and services provided, may act as gatekeepers of ML/TF. Other more practical guidelines, articles or videos on previously issued topics shall be released in the upcoming months as a refresher to members.

Furthermore, other activities, in terms of webinars, workshops, or website presentation upload will help members to address deficiencies in their AML/CFT policies and procedures and to further increase their awareness across the different sectors.

In an ongoing effort to support members of the regulated sectors, the FIU will continue to provide online education, resources and materials, some in collaboration with the Financial Services Institute, the Financial Services Commission, or the Interagency Coordination Committee (ICC), to help each and every stakeholder in meeting their obligations with respect to legislations, regulations and guidelines issued.

Transparency on Beneficial Ownership

Legal Arrangements - Beneficial Ownership

LEGAL ARRANGEMENTS

Legal arrangements do not have separate legal personality and therefore form business relationships through their trustees (or equivalent). A trust is a type of legal arrangement.

With regard to trusts, it is the trustee of the trust who will enter into a business relationship or occasional transaction on behalf of the trust.

RECOMMENDATION 25 (TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL ARRANGEMENTS)

Recommendation 25 focuses mainly on how to apply comprehensive AML/CFT measures to trusts. The latter enables property to be managed by one person on behalf of another.

In the context of a trust, beneficial ownership includes both the natural persons receiving benefit from the trust (for example, a beneficiary, those in a class of beneficiaries or any other person who benefits from the trust) as well as those connected with, or having control over, the trust's affairs, including the following persons:

- settlor(s);
- trustee(s);
- protector(s); and
- enforcer(s).

FATF's Interpretive note to Recommendation 25 requires countries to implement measures to enhance transparency of trusts and to require accurate and up-to-date information to be shared between law enforcement agencies (LEAs) and other competent authorities.



Obligations to have transparency of the beneficial owner of a Trust

In a business relationship or occasional transaction within which the Regulatee's customer is a legal arrangement, the regulatee shall take appropriate actions to understand the ownership and control structure of that customer. This involves conducting customer due diligence, and enhanced due diligence where applicable, in order to identify the beneficial owner of the legal arrangement.

The regulatee must take reasonable measures to gather sufficient information on the identity of any intermediate entities to allow it to identify those natural persons falling within the definition of beneficial owner.

In the performance of their duties and in meeting their obligations to identify the identity of beneficial owners of a legal arrangement, regulatees must act in accordance with the requirements as per Section 17C and 17E of the FIAMLRA.

Regulatees are also required as per Regulation 3(e) of FIAMLR 2018 to conduct ongoing monitoring of a business relationship so as suspicious transactions are identified and information collected under CDD are updated and relevant.

Measures to increase transparency

Measures that could be implemented by regulatees to enhance transparency on beneficial ownership of trusts could include:

Requirements by trustees to share beneficial ownership (BO) information on the settlor, the protector (if any), the beneficiaries or class of beneficiaries, and any other person exercising control over the trust.

Implementation of a robust internal control system which requires trustees to provide timely, accurate, and up-to-date BO information as and when there is an update in the register of beneficiaries.

Require trustees to disclose information about whether transactions performed on behalf of the Trust is effected in high-risk jurisdictions as per FATF's "grey" list or "black" list.

In the event that transactions are carried out in those 'high-risk' jurisdictions, to perform enhanced due diligence (EDD) or to terminate the business relationship if the risk is assessed as too high.

To consider hiring the services of a third party with the appropriate expertise and resources to perform CDD or EDD on a trust, its trustees, and/or the beneficial owners.

The United Nations Security Council



Council Sanctions List - UPDATES

Useful Tips – Targeted Financial Sanctions (TFS) Screening

Regulatees should regularly consult the UN Security Council Consolidated List, which is a list of parties against which targeted sanctions have been imposed on the following link:
<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>.

The FIU has uploaded a presentation on how to conduct TFS screening on its website and same is accessible on the following link

[URL:http://www.fiumauritius.org/English/Seminars/Documents/220721/FIU%20Compliance%20-%20How%20to%20conduct%20TFS%20screening.pdf](http://www.fiumauritius.org/English/Seminars/Documents/220721/FIU%20Compliance%20-%20How%20to%20conduct%20TFS%20screening.pdf)

The updated version, of the Security Council Committee's List of individuals and entities subject to the sanctions measures, is available on following

URL: <https://www.un.org/securitycouncil/sanctions/1518/materials>

The true match report is submitted using the template available on the National Sanction Secretariat (NSSEC) website on the following link:

[https://nssec.govmu.org/Documents/Guidelines/Template%20for%20Reporting%20on%20Positive%20Match%20under%20section%2025\(2\)%20of%20the%20United%20Sanctions%20Act%202019.xls](https://nssec.govmu.org/Documents/Guidelines/Template%20for%20Reporting%20on%20Positive%20Match%20under%20section%2025(2)%20of%20the%20United%20Sanctions%20Act%202019.xls)

The sanction for failure to make a report to the NSSEC and the FIU about a true match is a fine not exceeding 5 million rupees and to a term of imprisonment not exceeding 10 years.

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