

Newsletter

FIU COMPLIANCE DIVISION



FINANCIAL
INTELLIGENCE UNIT

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FIU Compliance Division

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.

Getting Started

The FIU Compliance Division is pleased to issue its 1st Newsletter which shall be a quarterly feature of its outreach activities conducted in line with its Awareness Strategy 2021-2022. The objective is to provide supervised sectors within the supervisory purview of FIU regular insights of their various Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) obligations as well as keep them informed on new developments in the AML/CFT framework in Mauritius and internationally. This edition shall cover the role and scope of FIU in its capacity as AML/CFT supervisory body of DNFBSs namely the real estate agents (REAs), the dealers in precious stones and metals (DPMS) and individual legal professionals (ILPs) conducting prescribed activities as listed under Part II of FIAMLA 1st Schedule; and their obligations with respect to STR reporting, identification of beneficial owners, targeted financial sanctions and onsite inspections.

The Role of the FIU

The FIU of Mauritius was established in 2002, as the central authority to receive, analyse and disseminate results of its findings regarding suspected proceeds of crime and alleged money laundering offences as well as the financing of any activities or transactions related to terrorism, to relevant authorities. The department within the FIU dealing with the core functions set under Section 10 of the FIAMLA (the Act) is known as the Financial Investigative Analysis Division (**FIAD**).

Other Functions of the FIU

In November 2015, the Asset Recovery Act 2011 was amended and the duties of asset recovery (enshrined through the 'Enforcement Authority') was re-assigned from the Office of the Director of Public Prosecutions to the FIU. Hence, since January 2016, the Asset Recovery Investigative Division (**ARID**) operates as a department of the FIU and is staffed by Police Officers and analysts. Its main role is to carry out assets tracing and confiscation of assets be it conviction based or civil based.

The FIU, through ARID, is thus one of the authorities in Mauritius with powers to confiscate criminal assets. The ARID is also defined as an investigatory authority under FIAMLA.

In 2012, the FIAMLA was amended and the FIU was designated as the Regulatory body for 'Dealer under the Jewellery Act' and the 'Agent in Land and/or Building or Estate Agency under the Local Government Act 2011'. However, this new function was only operationalized following the addition of Part IVB – Supervision by Regulatory Bodies in May 2019 to the FIAMLA.

Since then, the AML/CFT regulatory role of the FIU had been extended to 'Attorney', 'Barrister' and 'Notary', in addition to the two initial sectors. The department within the FIU that acts as AML/CFT Regulatory Body for Dealer under Jewellery Act, Agent in Land and/or Building under Local Government Act, Attorneys, Barristers and Notaries, is referred to as the **FIU Compliance Division**.

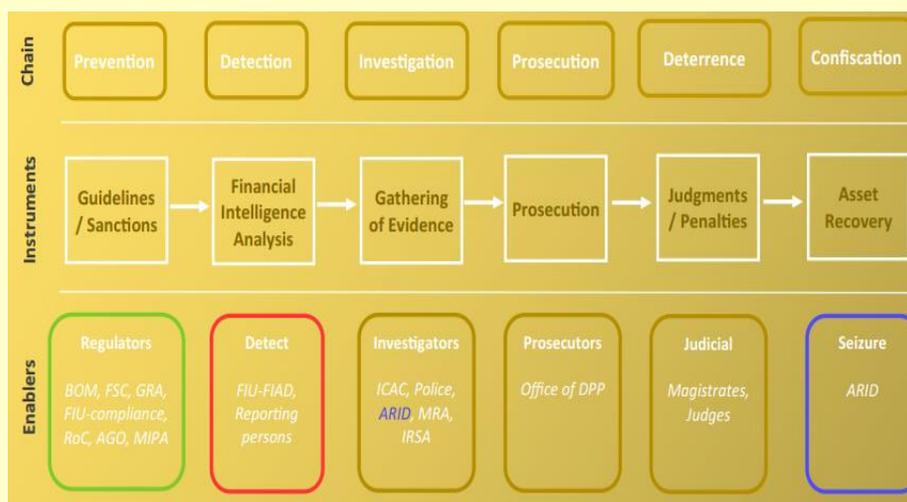
Regulatory Powers of the FIU under FIAMLA

- Requests for Information – Section 19J**
 The FIU may request any information or document from its Regulatees; that is members falling within FIU’s purview. Failure to comply with this section is an offence and shall, on conviction, be liable to a fine not exceeding one million Rupees and to imprisonment for a term not exceeding 2 years.
- On-site Inspections – Section 19K**
 The FIU has the powers to carry out on-site inspections of regulatees falling under its purview. It may examine; audit books, direct its regulatee to produce documents, take copies/extracts from documents relevant to the inspection and retain documents. The FIU has to be given full and free access to records/other documents deemed relevant to the inspection. Intentional obstruction of a regulatory body in the performance of its duties under Section 19K is an offence; and the regulatee may on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.
- Directions by FIU - Section 19L**
 The FIU may give its regulatee a Direction when there is reasonable cause to believe that he/she has failed/is failing to take measures required under the relevant Acts/Regulations/Guidelines and/or is involved in ML/TF/PF. The FIU may direct its regulatee to do a specified act to comply with relevant Acts / Regulations / Guidelines; and implement corrective measures and report back on implementation of such corrective measure.

 Failure to comply with directions issued by the FIU-Compliance is an offence; and the regulatee may on conviction, be liable to a fine of Rs.5,000 for each day of noncompliance.
- Administrative Sanctions & the Review Panel (S19N & S19Q & ors)**
 FIU can exercise administrative sanctions and regulatees may make an application to review such sanctions to the Review Panel. In relation to ILPs, all matters requiring sanctions or other related measures are usually referred to the Attorney General.

The FIU in the Institutional AML/CFT Framework of Mauritius

The Financial Action Task Force (FATF), as the international standards setter has issued 40 Recommendations aiming to prevent illegal activities, including Money Laundering, Terrorism Financing and Proliferation Financing (ML/TF/PF). The Recommendations can be regrouped under 6 pillars, namely prevention; detection; investigation; prosecution; deterrence; and confiscation, in the AML/CFT framework. As such, in Mauritius, the Institutions which have responsibilities along the above mentioned 6 pillars and which play a crucial role along the chain of responsibilities under the framework, can be seen in the below chart.



The FIU plays 3 key roles in this framework; namely as a regulator (FIU-Compliance); as intelligence analysis (FIU-Intelligence); and at assets recovery (ARID).

The Compliance Division of the FIU

The Compliance Division has been structured in a way to cater mainly for four different aspects, which are interlinked and which cover the whole supervisory role of the FIU, namely assistance, risk assessment, assessment and enforcement. As such, the Division comprises of the following units.

The **Relations and Support Unit (“RSU”)** assists reporting entities in understanding their AML/CFT obligations and ML/TF risks. This is usually done through education, training and assistance over phone and through email.

The **Research and Analysis Unit (“RAU”)** collects and analyses information gathered from regulatees to assess their respective ML/TF risks as well as the risks of the supervised sectors. The Unit is also responsible for monitoring the quality of the data received from regulatees.

The **Assessment and Enforcement Unit (“AEU”)** has an assessment team and an enforcement team. The assessment team conducts supervisory examination (off-site and on-site inspections) while the enforcement team is responsible to address non-compliance with legislative requirements..

The UNODC goAML Platform



The [goAML](#) application is one of the solutions offered by UNODC to combat the global financial crime including money laundering and terrorist financing. goAML is an integrated database and intelligent analysis system developed by the Enterprise Application Center Vienna (EAC-VN). The FIU has deployed the goAML application since 2014 and it is administered by the FIAD. The solution assist FIU (FIAD) in carrying their functions; namely:

- Receipt and Collection: Reports and data from all reporting persons
- Analysis of information: Through linkages, risk profiling and business rules
- Data exchange: Dissemination to investigatory and supervisory authorities

Reporting persons, including regulatees of FIU-Compliance have an obligation to be registered on the goAML platform in line with S14C of the FIAML Act 2002.

The FIAD and FIU Compliance Division have been collaborating since the inception of the latter, on registration of regulatees and dissemination of intelligence. The FIU-Compliance is now making use of goAML website as part of its outreach program. Updates, AML/CFT, Quarterly Bulletins, newsletters are few of the resources available on the goAML website. Please register yourself to get full access to a wide variety of resources that may assist you.

Suspicious Transaction Reports

Reporting persons are obliged to report suspicious transactions to the FIU, i.e., the central agency in Mauritius. The STRs are made by reporting persons via the goAML platform

Suspicious Transactions is defined under the FIAML Act:

- Reasonable grounds of suspicion it may involve the proceeds of crime; or linked to financing of terrorism
- Appears to be made in circumstances of unusual or unjustified complexity
- Appears to have no economic justification
- Is made by a person whose identity has not been established
- Gives rise for suspicion for any other reason

There is no monetary threshold for making a report concerning a suspicious transaction under section 14 of the FIAML Act. A suspicious transaction may involve several factors that may on their own seem insignificant, but when taken together, may raise suspicion that the transaction, including proposed / attempted, is related to the commission of a money laundering offence.

Pursuant to reporting obligations under section 14 of FIAMLA, reporting entities are required to file suspicious transactions on the goAML platform of the FIU whenever they come across such transactions during the course of their business or profession **not later than 5 working days** after the suspicion arose. Reporting entities are further required to keep a register of all the STRs that they have filed.

The FIU has developed and published a series of documentation/ video tutorials on its website and on the goAML platform that may assist Reporting Persons in registering on goAML and in filing STRs. For more details, please visit www.fiumauritius.org

Did You Know?



The **Financial Action Task Force (FATF)** was set up in 1989 by the G7 countries. It sets out the standards and promotes effective implementation of legal, regulatory and operational measures for combating Money Laundering (ML), Terrorism Financing (TF), Proliferation Financing (PF) and all other threats to the global financial system.

The FATF assesses the level of compliance of countries with its recommendations through the following two components:

(a) Technical Compliance

The assessment addresses the specific requirements of the FATF Recommendations

(b) Level of Effectiveness:

The effectiveness assessment, on the other hand, examines the adequate implementation of the FATF Recommendations.



The **Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG)**, is a FATF-Style Regional Body (FSRB), whose purpose is to combat money laundering, financing of terrorism and proliferation by implementing the FATF Recommendations. ESAAMLG consists of 18 countries, including Mauritius.

Through a peer review mechanism, the ESAAMLG conducts the mutual evaluations of its members by assessing and monitoring their technical compliance (AML/CFT legal and institutional framework) and level of effectiveness with the FATF standards. Mauritius had its second round of Mutual Evaluation in July 2018, and monitoring progress is ongoing. For more details, please visit www.fiumauritius.org

"The future depends on what you do today." – Mahatma Gandhi

Outreach Activities

Since 2020, the FIU Compliance Division has been actively involved in raising awareness of its regulatees on ML/TF risks and their obligations under the FIAML Act, the FIAML Regulations, the Guidelines issued by the FIU and the United Nations (Financial Prohibitions, Travel Ban and Arms Embargo) Sanctions Act 2019 (UN Sanctions Act). The FIU-Compliance has actively collaborated with self-regulatory bodies (SRBs) and industry associations, in promoting the understanding of their members on various aspects covering the supervisory framework affecting them.

Online Materials

As part of its Awareness Strategy, the FIU has first of all produced AML/CFT guidelines for the businesses and professions under its regulatory purview and educational tools such as video tutorials and presentations to further promote understanding among its regulatees. Video tutorials and presentations cover various aspects such as the legal obligations of regulatees under the FIAMLA and FIAML Regulations 2018, Targeted Financial Sanctions obligations under the United Nations (Financial Prohibitions, Travel Ban and Arms Embargo) Sanctions Act 2019 (UN Sanctions Act) and the National Risk Assessment Findings. In addition, the FIU has started the 'Tip of the Month' initiative since February 2021. The purpose of the initiative is to send monthly email featuring refreshers, relevant and useful information or answers to common questions which regulatees may have on their obligations.

All the abovementioned resources can be accessed [here](#), on the Compliance Page of the FIU's website.

Dedicated Assistance

Since July 2020, the FIU, through the Relations and Support Unit of the Compliance Division, has been providing constant support to all the sectors under its AML/CFT Supervisory purview through the establishment of a help desk. The purpose of the help desk is to give clarifications on issues or a response to particular questions which regulatees may have. Queries can also be sent by email at relationscompliance@fiumauritius.org

"The activity you're most avoiding contains your biggest opportunity." - Robin Sharma

Workshops/Webinars/Mass Campaign

As at early March 2021, the FIU-Compliance Division has organized the following outreach sessions for its regulatees:

- 18 sectoral workshops between August 2020 to February 2021
- 2 joint workshops with the Interagency Coordination Committee (ICC) in February and March 2021 respectively.
- 3 webinars between December 2020 and February 2021.
- 1 TV programme in December 2020

Meetings

The Compliance Division has held a number of meetings with the Self-Regulatory Bodies and Industry Associations of its regulatees to establish a regular channel of communication through which feedback and other topics such as outreach activities, AML/CFT obligations, and the supervisory role of the FIU can be discussed. The meetings also provided the FIU with a better understanding of industry operations and challenges faced by its regulatees.

Future Outreach Activities

As part of its outreach plan for 2021-2022, the FIU shall continue to support its regulatees in fulfilling their obligations by providing outreach via webinars, sectoral workshops, Tip of the month publications, newsletters, simplified guidelines for the REAs, DPMS and ILPs. The Compliance Division will also continue to collaborate with the FIU-FIAD, SRBs and industry associations to promote further understanding of ML/TF risks and obligations.

Media Campaign – Dec 2020

The FIU collaborated with the Ministry of Financial Services and Good Governance and Industry Associations to produce a television ('TV') programme in line with its initiative to educate and create awareness on AML/CFT obligations.

The said TV programme titled "**Pran Konte ou larzan**" was aired, for the first time, on the National TV, (Mauritius Broadcasting Corporation ('MBC')) on the 21st of December 2020 at prime time. To ensure greater dissemination, the FIU has simultaneously posted the programme on Social Media page of the MBC.



The programme has been re-broadcast on several channels over 3 weeks, starting from 25th December 2020 till 4th January 2021 and has yielded a total of around 891,000 views on TV and some 5800 views on MBC Facebook page.

The purpose was to raise awareness specifically amongst the clients of the Designated Non-Financial Businesses and Professions ('DNFBPs') on the regulatory obligations. That is to inform the members of the public that as a repercussion of the implementation of the AML/CFT obligations by the Supervised Sectors, they would be required to alter their purchase habits such that they will be required to produce certain identification documents when carrying out transactions in the jewellery sector or the Real Estate sector or when seeking legal advice from legal professionals in respect of some identified activities under the law.

The content of the TV programme covered the FATF and Mauritius being on the FATF list of High-risk and other monitored jurisdictions, the DNFBPs and their AML/CFT Obligations and the role of the general public to collaborate with DNFBPs and competent authorities.

Amongst the interveners were the Minister of Financial Services and Good Governance, the Hon. Mr. Mahen Seeruttun; Mr G Ollivry, the then Director of the FIU; Mr. Aldo Etienne, the AML Officer of the Gambling Regulatory Authority; Mr. Kailash Ramkhalawon, the Chairman of the Jewellery Advisory Council and the President of the Association for Real Estate Agents, Mr. Laval Savreemootoo.

In an ongoing effort to tackle the reluctance faced by clients of the Supervised Sectors, the FIU will continue to use mass media in the future to help each and every stakeholder in adopting and sustaining a compliance culture in respect of AML/CFT obligations.

Transparency on Beneficial Ownership

Did you Know?

**FATF Recommendations -
Beneficial owner**

According to the *General Glossary* of the FATF Recommendations, a Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement. This definition is also reflected in the FIAMLA and the Companies Act 2001.

Identifying beneficial ownership is one of the central themes of the FATF Recommendation 24 on 'Transparency and Beneficial Ownership of Legal Persons' where countries should take measures to prevent the misuse of legal persons for ML/TF. In so doing, there should be access to *adequate, accurate* and *timely* information on the beneficial ownership of legal persons by competent authorities.

In October 2019, the FATF issued its *Best Practices on Beneficial Ownership For Legal Persons*. In this publication, the FATF has finalised best practices with examples from across the global network of FATF and FATF-Style regional bodies' members, which help countries implement the Beneficial Ownership requirements. The report highlights that jurisdictions using a 'multi-pronged approach' with several sources of information are often more effective in preventing the misuse of legal persons for criminal purposes.

The 'multi-pronged approach' recommends that countries should use one or more of mechanisms (the *Registry Approach*, the *Company Approach* and the *Existing Information Approach*) to ensure that information on the beneficial ownership of a company is obtained by that company and available at a specified location in their country; or can be otherwise determined in a timely manner by a competent authority.



Reporting persons should:

- Understand the ownership and control structure of the customer, and understand the ML/TF risks in relation to legal persons.
- Adequately carry out CDD measures at the incorporation stage and conduct ongoing CDD on the business relationship to make sure that the information on beneficial ownership is accurate and up-to-date.
- Scrutinise transactions throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer and its business and risk profiles, including, the customer's source of funds.
- Record the CDD procedures performed and maintain these records for at least seven years.
- Report suspicious transaction activities in cases there are suspicion relating to the beneficial ownership of legal person

Beneficial Ownership of Legal Persons

The FIU has published a presentation on Beneficial Ownership of Legal Persons which covers the FATF Recommendation 24 - 'Transparency and Beneficial Ownership of Legal Persons, and its implementation in the Mauritian context.

The presentation explains the concept of Beneficial Ownership of legal persons and legal arrangements as recommended by FATF and its effectively implementation in the Mauritian AML/CFT Framework, including a sanitized case with respect to the misuse of legal persons.

The presentation has been disseminated to all reporting persons registered on the goAML platform.

"Predicting rain doesn't count, building the ark does" – Warren Buffett

**Targeted Financial Sanctions (TFS) -
Its Importance and Non-Compliance with
Obligations**



**Terrorism Financing Risk
Assessment on Non- Profit
Organisations**

A Terrorism Financing (TF) risk assessment of the Non-Profit Organisations (NPOs) was commissioned by the Government of Mauritius as part of its commitment as a member of the ESAAMLG, to combat the financing of terrorism.

The risk assessment meets the core FATF requirements in relation to Recommendation 8 and Immediate Outcome 10. Specifically, paragraph 8.1 of the FATF Methodology which states that countries should:

“(a) identify which subset of organizations fall within the FATF definition of NPO...

(a) identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse;

(b) identify the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs”.

The risk assessment identified the following types of NPOs as meeting the FATF’s definition: Associations (RoA Act), NPOs (statute), Charitable Foundations, Charitable Trusts and Companies Limited by Guarantee.

Six features, characteristics or activities were identified which increase the risk of TF abuse amongst NPOs in Mauritius, namely (i) Cross border movement of funds, (ii) Alternative sources of funds and remittance systems, (iii) Involvement in complex international transactions or structures, (iv) Cash fund-raising from anonymous sources, (v) Ethnic or religious activities and (vi) Trusts.

Overall, the risk assessment revealed that there is a lack of known cases of TF in NPOs in Mauritius, and that five of six risk factors for NPOs were unusual or very rare.

In this context, the overall inherent risk of terrorist financing abuse of NPOs in Mauritius was assessed as Low-Medium. More details here: [link](#)

“The problems we have today, cannot be solved by thinking the way we thought when created them” – Albert Einstein

TFS are sanctions imposed through United Nations Security Council Resolutions (UNSCRs) against specific individuals and entities identified by the UN Security Council (or relevant UN committees) as contributing to a particular threat to, or breach of, international peace and security. For instance, there are UNSCRs issued to address risks of proliferation of weapons of mass destruction emanating from Iran and the Democratic People Republic of Korea.

As a member state of the UN, and further to Recs 6 and 7 of the FATF, Mauritius has committed to implement the UNSCRs via legislation, namely The United Nations (Financial Prohibitions, Arms Embargo, and Travel Ban) Sanctions Act 2019. TFS includes frozen assets of the specific individuals and entities identified in the UNSCRs, but also prohibitions on making funds or other assets available to them. The United Nations has established a list of parties (‘Listed Parties’) against which targeted sanctions have been imposed. The United Nations Security Council Consolidated List (The Consolidated List) which is available on FIU’s website. www.fiumauritius.org

The FIU Compliance Division supervises and enforces compliance by its regulatees with the United Nations (Financial Prohibitions, Arms, Embargo and Travel Ban) Sanctions Act 2019 (the Act), during offsite monitoring and onsite inspections. Reporting Persons are required to implement internal controls and other procedures to enable them to effectively comply with the Act and the FIU as DNFBP supervisor monitors and check the controls and procedures put in place by its regulatees to ensure compliance with the Act.

The FIU has produced a video presentation which explains the main provisions of the Act can be accessed [here](#).

In a nutshell, reporting persons should:

- regularly consult the Consolidated List and take immediate action with respect to any changes brought thereto;
- regularly consult the newspapers for any notice which may be issued by the National Sanctions Secretariat and immediately act upon it;
- immediately (i.e. without delay and not later than 24 hours), verify whether the details of the Listed Party match with the particulars of any of its customer;
- If there is a positive match, must identify whether the customer owns any funds or other assets with it, including the funds or assets mentioned in section 23(1) of the Act and make a report to the National Sanctions Secretariat (NSS), its supervisory authority (FIU Compliance) and the FIU (Intelligence) pursuant to section 14 of the FIAMLA.

Non-Compliance with TFS Obligations

- Any person who contravenes the Act shall commit an offence and shall, on conviction, be liable, where no specific penalty is provided, to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 10 years.
- Failure to make reports to the NSS and the FIU is an offence and shall, on conviction, be liable, to fine not exceeding 5 million rupees and imprisonment for term not exceeding 10 years

Understanding the Onsite Inspections Process

- Officers from the Assessment and Enforcement Unit (AEU) will visit the place of business of the Reporting Person (RP), giving sufficient prior notice, to determine whether the RP is complying with all regulatory obligations.
- The Senior Management, the Compliance Officer, the Money Laundering Reporting Officer (MLRO) and any other employee dealing with clients will be interviewed during the inspection. The inspectors shall inspect records and documents, which include AML/CFT policies and procedures, Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD) records, beneficial ownership (BO) records of clients, documents for on-boarding of clients, training logs, Politically Exposed Person (PEP) register, the RP's risk assessment and the methodology used, internal controls to detect STRs and as well as mechanisms for the screening against UN Sanctions List.
- After completion of the inspection, the inspection team will communicate the identified deficiencies to the RP, prior to sending a formal inspection findings/deficiency letter, to ensure that both parties are in agreement with the findings of the on-site inspection.
- The deficiency letter sent to the RP shall describe each deficiency identified and its respective recommendation. The RP will be required to complete the corrective actions within a specified framework. A remedial plan, detailing the steps to be taken by the RP to remedy to each deficiency mentioned within the given timeframe, will have to be provided within 30 days.
- The RP will be subject to a follow-up inspection to verify whether the corrective actions have been taken.
- If by the time of the follow-up inspection, the RP has still not addressed the deficiencies sanctions will be applicable.
- It should be noted that certain breaches identified during the on-site inspection can warrant immediate sanctions.



Useful Tips Ahead of Onsite Inspections

- ✓ Adhere to deadlines for submission of information and documents requested prior to the on-site inspection
- ✓ Keep all documents readily available as requested in the Appendix 1 of the On-site inspection letter.
- ✓ Ensure that you have a suitable area to accommodate the inspection team for the on-site examination.
- ✓ Senior Management, the Compliance Officer and the MLRO should be available during the inspection.
- ✓ Do not panic. Keep your calm and respond to questions accordingly.
- ✓ Adopt a collaborative attitude. Ask questions to clear doubts and to elucidate practical issues.
- ✓ For more information on on-site inspections, the AEU can be contacted on assessmentcompliance@fiumauritius.org

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