WHY SHOULD ATTORNEYS / LAW FIRMS ENGAGE IN AML / CFT COMPLIANCE?

The Financial Action Task Force (FATF) recommendations specifically apply to legal professionals - lawyers, notaries, and other legal professionals.

Legal professionals such as barristers, solicitors and other specialist advocates, and notaries; are considered gatekeepers to the financial sector. This is a common element in complex money laundering schemes due to their ability to manage assets and funds, perform transactions efficiently, and avoid detection.

Many of the functions performed by lawyers, notaries, and other legal professionals are susceptible to potential money laundering.

MITIGATING ATTORNEY / LAW FIRM AML / CFT RISK

Risk Assessment
Identify and assess the risk, given the particular client, to ensure that your entity is not being used unwittingly to launder funds or finance terrorist activity.

Training
Ensure that staff is exposed to Anti Money Laundering / Combating the Financing of Terrorism (AML/CFT) training, so that they easily recognise, and report attempted or completed suspicious financial transactions.

Compliance
Implement AML/CFT compliance programs to avoid undertaking illegal business with unsanctioned individuals, organizations and jurisdictions.

Report Suspicious Transactions
Immediately report all attempted or completed suspicious transactions to the FIA. Provide supporting documents.

SOME INDICATORS OF MONEY LAUNDERING

- Attempts to conduct transaction with large volumes of cash.
- Client(s) attempt to engage legal professionals to undertake activities which make little economic sense and is unnecessarily complex.
- Attempts to use accounts, legal structures and/or companies based in foreign jurisdictions which are not necessary to conduct the relevant transaction.
- Excessively secretive / obstructive or reluctant to provide proper, clear identification documents.
- Attempts to conduct transactions not commensurate with the client's financial profile, the frequency and pattern of transactions is suspicious and out of the usual financial activity known to be associated to the individual.
- Even after being provided with sound advice, the client is unconcerned about incurring losses or realizing extremely low profits in comparison with persons engaged in similar business activities.
- Client's receipt of cash or high value cheque which does not correlate to the volume of work or type of business / job activity, particularly if these transactions are carried out with countries exposed to high ML/TF risks.
- Disproportionate amounts, frequency and nature of transactions carried out by the customer are not commensurate with the nature of his business, or profession.
- Unexpected funds into and out of the company are sent to, or received from unidentified third party/ies.
- Unjustified amounts of deposits in the client's accounts whose origin or cause is difficult to identify.
- Client deposits funds to law firm's account and requests that it be distributed to several different persons overseas shortly after the deposit was made.

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Financial Intelligence Agency

Turks and Caicos Islands

Guidance for

Attorneys / Law Firms and Legal Professionals

THE FINANCIAL INTELLIGENCE AGENCY (FIA)

The Financial Intelligence Agency (FIA) serves as the Financial Intelligence Unit (FIU) in the Turks and Caicos Islands (TCI). It was established under the Financial Intelligence Agency Ordinance in 2014. It is one of more than 160 FIUs making up the Egmont Group of FIUs and is required under the Financial Action Task Force (FATF) recommendations to be established in the TCI.

MISSION

To identify perpetrators of money laundering, terrorist financing and connected crimes for dissemination to relevant authorities for further investigation.

VISION

That where it occurs, perpetrators of money laundering, terrorist financing and connected crimes are detected and brought to justice, ultimately becoming a deterrent to the commission of these offences in the Turks and Caicos Islands.

ROLE OF THE FIA

(FIA Ordinance 2014)
The FIA is an independent agency established under law.

The FIA receives reports of suspicious transactions from financial institutions and other persons.

The FIA gathers, stores, analyses and disseminates information to law enforcement authorities and relevant bodies; and for connected purposes.

SUSPICIOUS TRANSACTION REPORTS/ SUSPICIOUS ACTIVITY REPORTS (STRS/SARS)

WITHIN THE CONTEXT OF MONEY LAUNDERING, SUSPICIOUS ACTIVITY IS ANY CONDUCT OR ATTEMPTED TRANSACTION OR PATTERN OF TRANSACTIONS THAT YOU KNOW, SUSPECT OR HAVE REASON TO SUSPECT MEET ANY OF THE FOLLOWING CONDITIONS:

1. The person conducting the transaction is engaging in Money Laundering.
2. Involves money from criminal activity.
3. Is designed to evade Anti-Money Laundering requirements, whether through structuring or other means.
4. Appears to serve no business or other legal purpose and for which avaliable facts provide no reasonable explanation.
5. Involves the use of business/companies to facilitate money laundering.

Note: Where the above activities are identified, a STR/SAR should be made to the FIA.

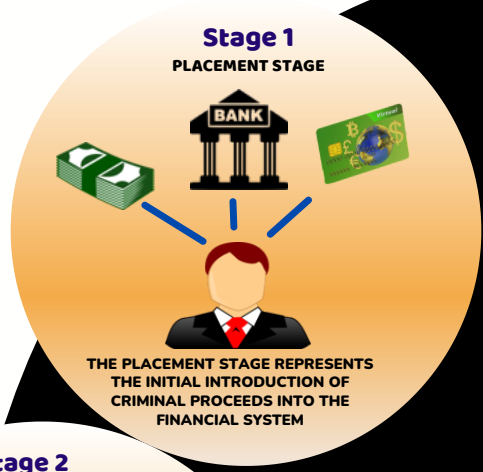
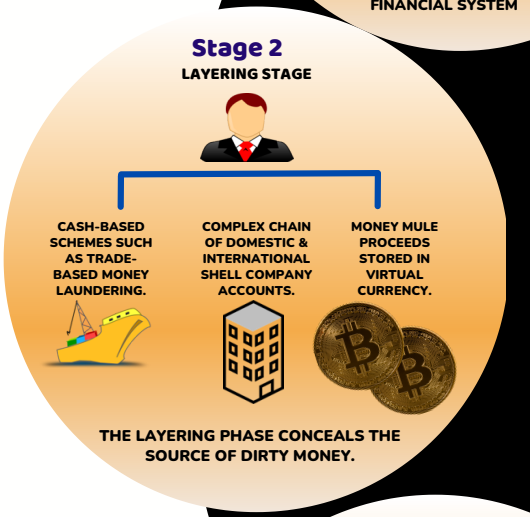
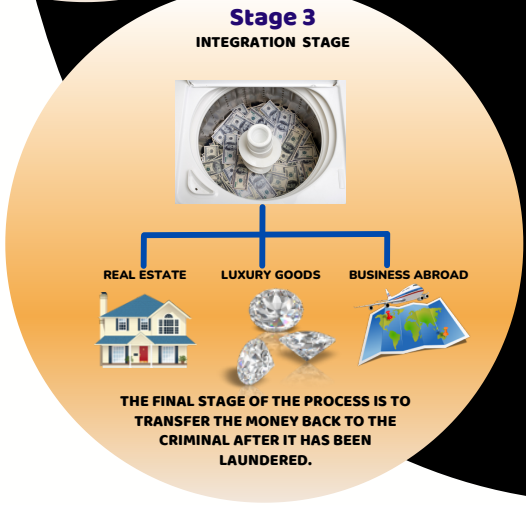
WHY IS IT REQUIRED THAT THE FIA BE PROVIDED WITH SAR INFORMATION?

FINANCIAL ACTION TASK FORCE RECOMMENDATIONS

"Rec. 29 – Countries should establish a financial intelligence unit (FIU) that serves as a national center for the receipt and analysis of:

(a) Suspicious transaction reports; and
(b) Other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis.

The FIU should be able to obtain additional information from reporting entities and should have access on a timely basis to the financial, administrative and law enforcement information that it requires to undertake its functions properly."

WHAT IS MONEY LAUNDERING?

Money laundering occurs when one attempts to make illegally obtained money appear to have been derived from legal sources. Below are the stages of money laundering: