

FINANCIAL INTELLIGENCE UNIT

- **Compliance Commission Training for DPMS**
- **Anti-Money Laundering and Combating Terrorist Financing Training**



Role of the FIU

Core Functions:

- Receiving STRs..... 4(1)
- (And as Permitted Requesting)..... 4(2)(d)
- Analyzing STRs..... 4(1)
- Disseminating Information..... 4(2)(f)
- 3 Day freeze..... 4(2)(b)
- 5 Day freeze..... 4(2)(c)
- Issue Guidelines..... 15(1)
- Annual Reports..... 10(1)(b)



DNFBP(Designated non-financial businesses and professionals) means...

- **Person whose business or any part involves buying for the purpose of trade, sale, exchange, or otherwise dealing in precious metals or stones or lending cash on the security of the same**
- **a counsel and attorney or accountant when they engage in, or carry out transactions for a client concerning —**
 - **the buying or selling of real estate;**
 - **a deposit or investment of cash;**
 - **the management of client funds or securities;**
 - **the management of bank, savings or securities accounts;**
 - **the organization of contributions for the creation, operation or management of a legal person;**
 - **the creation, incorporation, operation or management of a**
- **Legal person or legal arrangement, and buying and selling of a business entity;**
- **the provision of a registered office or acting as a registered agent;**
- **the acting as or arranging for another person to act as, a nominee shareholder for another person;**



Registration as a DNFBP

- As a DNFBP the institution must ensure that they are registered with the Compliance Commission. Failure to do so is an offence under the FTRA and the FI is liable to a penalty of five thousand dollars for each day that the financial institution remains unregistered.



What are Suspicious Transactions?

- Suspicious transactions are financial transactions in which there are reasonable grounds to suspect are related to the proceeds of criminal conduct.
- **“Reasonable grounds to suspect”** is determined by what is reasonable in your circumstances, including normal business practices and systems within the industry.



Obligation to Report Suspicious Transactions

- Any person who conducts or seeks to conduct any transaction by, through or with a financial institution (whether or not the transaction or proposed transaction involves cash) and the FI knows suspects or has reasonable grounds to suspect that the transaction or proposed transaction :-
 - i. involves the proceeds of criminal conduct as defined under the POCA
 - ii. is related to an offence under the POCA
 - iii. Is attempted to avoid the enforcement of any provision of the POCA or
 - iv. Is an identified risk

The FI shall as soon as practicable after forming the suspicion report the transaction or proposed transaction to the FIU.

A tipping off provision has been added to this section (s.30)



“Tipping off”

- An offence of tipping off is defined under s.30 of the FTRA.
- A person commits an offence if he knows or suspects that any disclosure relating to a suspicious transaction has been made and if he makes a disclosure relating to the suspicious transaction which is likely to prejudice any investigation which might be conducted following the disclosure .



Loose lips sink ships –

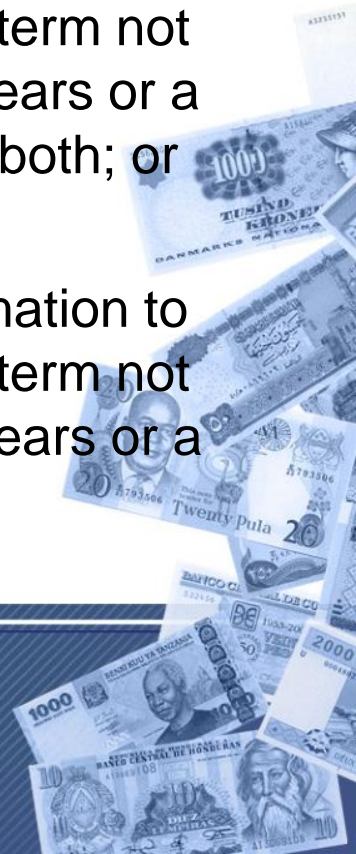


Penalties for Tipping Off



A person guilty of an offence of money laundering shall be liable –

- (a) On summary conviction to imprisonment for a term not exceeding twelve years or a fine of \$500,000 or both; or
- (a) conviction on information to imprisonment for a term not exceeding twenty years or a fine or both.



Other STR Obligations (s7(8) and (9))

- If a FI forms a suspicion that a transaction relates to an identified risk the FI shall take into account the risk of tipping off when performing the CDD measures.
- Where the FI reasonably believes that performing the CDD measures will tip off the facility holder or potential facility holder, it may choose not to pursue those measures and shall file a STR.



Identified Risks Defined

- **Identified Risks** means
Corruption, Cybercrime, Human trafficking, Money Laundering, Financing of proliferation of weapons of mass destruction, Terrorism or financing of terrorism or such other risks as the minister may prescribe by regulations.
- Additionally,
- An offence under the Prevention of Bribery Act, Chapter 88.
- An offence under section this Act (POCA).
- An offence under the Anti-Terrorism Act, Chapter 107.
- An offence which may be tried on information in The Bahamas other than a drug trafficking offence.
- An offence committed anywhere that, if it had occurred in The Bahamas, would constitute an offence in The Bahamas as set out in this Schedule or Part III of this Act.



Role of the MLRO

- The MLRO should be **sufficiently senior** and possesses the requisite authority to make **independent decisions** on whether or not to file an STR.
- The MLRO has to determine whether the information give rise to the knowledge or suspicion that the client is engaged in money laundering or the financing of terrorism.
- The MLRO should be well versed in the various types of products and services offered by the institution based on international standards.
- To identify the possible risks to the organization.
- To reduce the likelihood that a risk will come to fruition.
- To minimize the impact of risk if it comes to fruition.



Reporting Chain



Employee



MLRO



FIU



Section 5, Conduct a Risk Assessment

- Identify, assess and understand identified risks
- Implement a risk management system
- Manage and mitigate the risks
- Take account of the National Risks Assessment and regulatory guidance
- Upon request, provide the Supervisory Authority with a copy of the RA.
- RA must be documented in writing outlining the outcome of the assessment and it should also be kept current and made available to relevant competent authorities and regulatory bodies request.



On going Due Diligence (s.12)

- Every FI shall exercise risk based on going due diligence throughout the course of each business relationship course, which shall include –

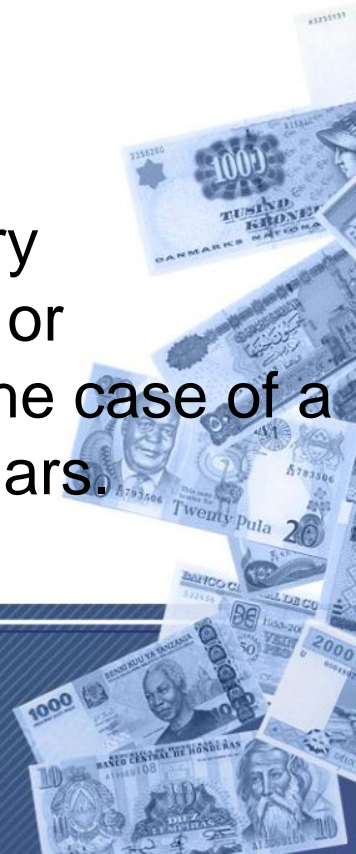
Scrutinizing transactions to ensure that the transactions are consistent with the financial institution's knowledge of the customer, the facility holder's risk profile and where necessary the source of funds.



Inability to Fulfill Customer ID Obligation

- Any FI that is unable to fulfill its requirements under ss. 5 – 9 and 14 shall:-
 1. NOT open the account or establish the business relationship
 2. NOT carry out the transaction
 3. Terminate the business relationship; and
 4. Consider filing a suspicious transaction report

Failing to follow these provisions can result in summary conviction to a fine not exceeding \$500,000 dollars or imprisonment for a term of two years or both or in the case of a legal person to a fine not exceeding one million dollars.



PEP rules ...

- Every FI must conduct a risk assessment of PEPs
- Every financial institution shall have in place appropriate risk management systems to determine whether a facility holder or beneficial owner is a politically exposed person and shall —
- (a) prior to establishing or continuing a business relationship with such facility holder or beneficial owner, obtain the approval of senior management of the institution;
- (b) take reasonable measures to identify the source of wealth and source of funds of the facility holder;
- (c) conduct enhanced on-going monitoring of the business relationship.



WHAT IS MONEY LAUNDERING?

- Money laundering is any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources.

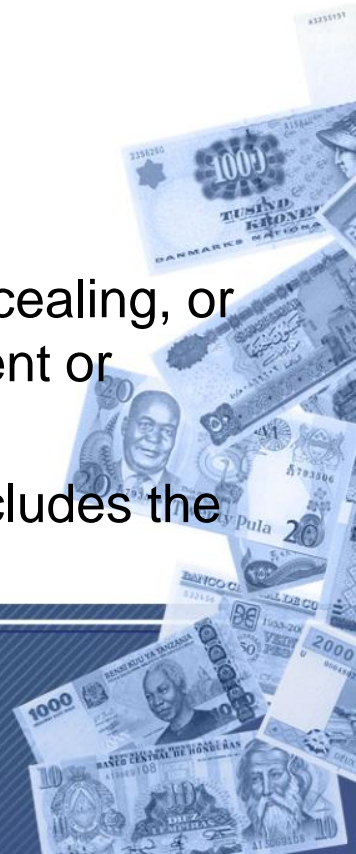


(Interpol)

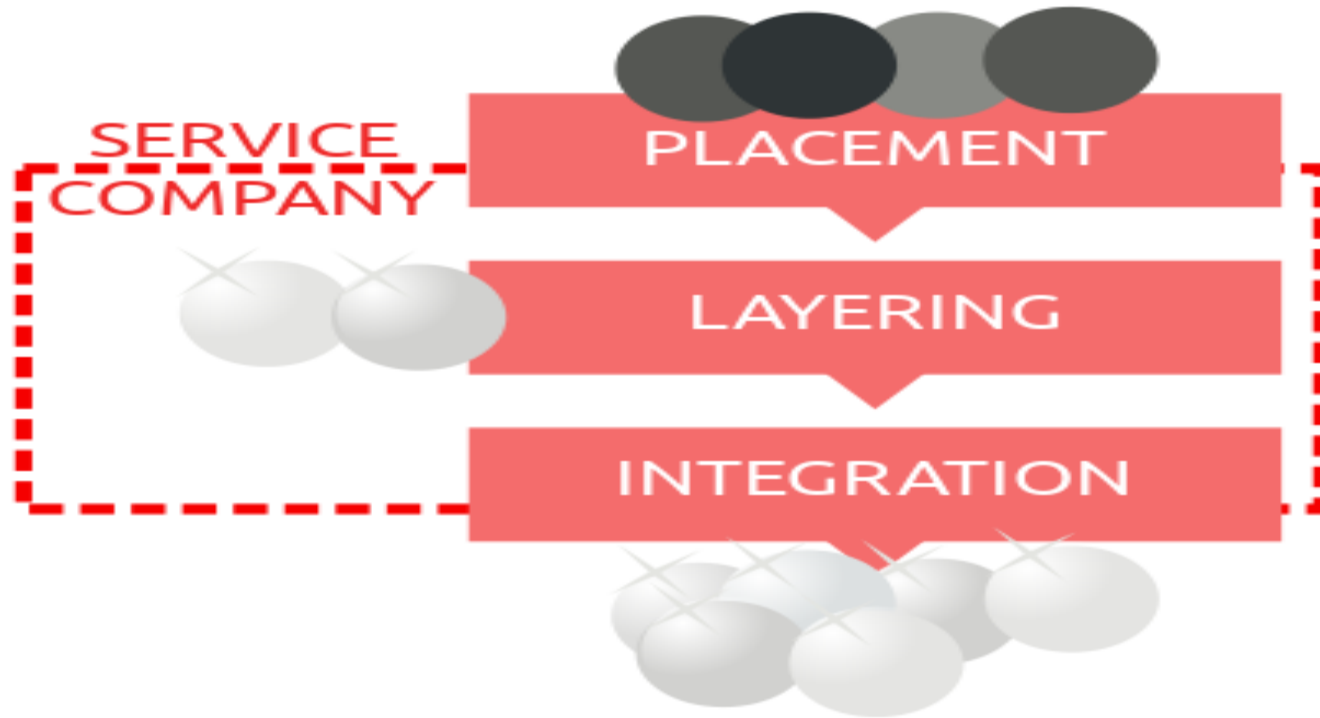


Money Laundering as Defined POCA 2018

- A person commits an offence of money laundering based on the following:-
 1. Concealing
 - a. Conceals the proceeds of crime
 - b. Disguise the proceeds of crime
 - c. Converts the proceeds of crime
 - d. Transfers the proceeds of crime
 - e. Remove the proceeds of crime from the Bahamas
 2. (a) Concealing or disguising criminal property includes concealing, or disguising its nature, source, location, disposition, movement or ownership or any rights with respect to it.
(b) Concealing or disguising the proceeds of crime also includes the proceeds of identified risk activity.



Money Laundering Process



An Act of Terrorism

A person **or terrorist entity** who carries out any act that has the purpose by its nature or context, to intimidate the public or to compel a government or an international organization to do or to refrain from doing any act; and that is intended to cause —

- (A) death or serious bodily harm to a civilian
- (B) serious risk to health or safety of the public or any segment of the public;
- (C) substantial property damage; whether to public or private property,
- (D) Serious interference with or serious disruption of an essential service, facility or system, whether public or private; not being an interference or disruption resulting from lawful advocacy or from protest, dissent or stoppage of work

is guilty of an act of terrorism.



What is Terrorist Financing?

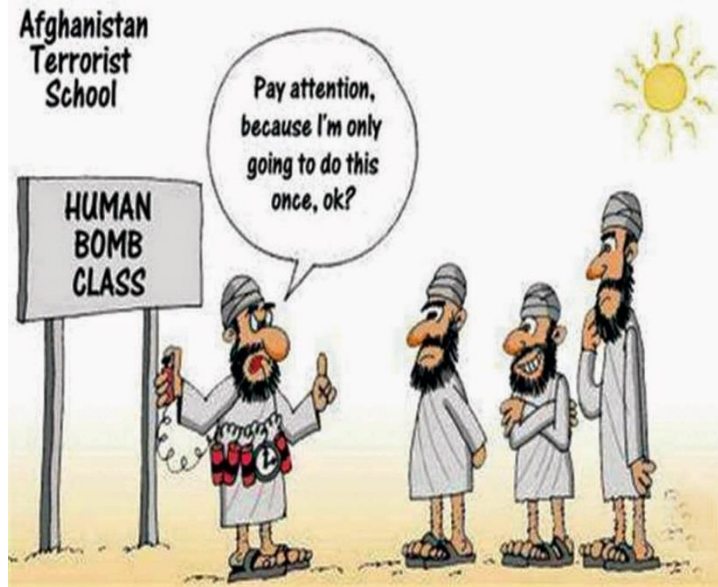


- A person carries out an act of terrorism if he directly or indirectly, lawfully and willfully provides or collects funds or provides financial services or makes such services available where the intention is that those funds are to be used to carry out an act of terrorism.



Penalties for Terrorist Activity

■ Terrorism



■ Terrorist Financing



- Death or life imprisonment
- Imprisonment of a term of 25 years



PROLIFERATION

- Proliferation financing is the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual-use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.



CASE STUDY

ACAMS STUDY GUIDE 6th Edition

On June 5, 2003, U.S. Immigration and Customs Enforcement (ICE) agents arrested 11 individuals at seven jewelry stores in Manhattan's diamond district on charges of participating in an international money laundering scheme. The agents had received information that Colombian drug cartels were laundering money through the purchase, smuggling and resale of diamonds and gold. The cartels were instructing their U.S. employees to buy precious stones in New York with drug proceeds and then to smuggle them to Colombia, where they were resold to refiners for clean pesos that the traffickers could use risk-free. Based on this information, ICE agents launched an investigation in 1999 into several New York jewelers alleged to be involved in the money laundering. According to the charges, the jewelers were approached by undercover agents posing as drug dealers. The agents told the jewelers they were looking to buy gold and diamonds with illicit funds so they could smuggle these precious metals to Colombia and then resell them to refiners for clean cash. According to the charges, the jewelers willingly accepted \$1 million in drug funds from the undercover agents. The jewelers offered to smelt the gold into small objects, such as belt buckles, screws and wrenches, to facilitate smuggling the transfer into Colombia.

