



Making Barbados Work Better



Proposed Anti-Money Laundering Guidelines for Accountants

Presentation to ICAB

April 16, 2009



Agenda

- ✓ Details of Money Laundering & Terrorist Financing
- ✓ International, Regional & Local Perspective
- ✓ DNFBPs
- ✓ Vulnerabilities to ML/TF
- ✓ General Typologies
- ✓ Duties of Accountants
- ✓ The Risk-Based Approach
- ✓ The Role of the FIU*



Details of Money Laundering & Terrorist Financing

Money laundering has been defined as the act or attempted act to disguise the source of money or assets derived from criminal activity. It is the effort to transform "dirty" money, into "clean" money.





Details of Money Laundering & Terrorist Financing

3 Stages of Money Laundering:

- ✓ Placement
- ✓ Layering
- ✓ Integration

Details of Money Laundering & Terrorist Financing

Terrorist Financing is the act of providing financial support to terrorists or terrorist organizations to allow them to execute terrorist acts.



International Perspective

Financial Action Task Force (FATF):-

- √ Spreading the AML message worldwide
- √ Monitoring implementation of the FATF Recommendations (40+9)
- √ Reviewing ML trends & countermeasures

Regional Perspective

Caribbean Financial Action Task Force (CFATF)

- ✓ 30 Countries
- ✓ Mutual Evaluation***

Local Perspective

- ✓ Anti-Money Laundering Authority (AMLA)
- ✓ Financial Intelligence Unit (FIU)
- ✓ Money Laundering and Financing of Terrorism Act (MLFTA), Cap. 129
- ✓ Anti-Terrorism Act (ATA), Cap. 158

Local Perspective (ML)

MLFTA, Cap. 129 states

3. (1) A person engages in money laundering where

(a) the person engages, directly or indirectly, in a transaction that involves money or other

property, that is proceeds of crime; or



Local Perspective (ML)

(b) the person receives, possesses, conceals, disposes of, or brings into or sends out of Barbados, any money or other property that is proceeds of crime.

Local Perspective (ML)

(2) For the purposes of this section a person engages in money laundering whether he knows or has reasonable grounds to suspect that the property is derived or realised directly or indirectly from some form of unlawful activity,



Local Perspective (ML)

or, where the person is

(a) an individual, he fails without reasonable excuse to take reasonable steps to ascertain whether or not the property is derived or realised directly or indirectly, from some form of unlawful activity; or

Local Perspective (ML)

(b) a financial institution, the person fails to take reasonable steps to implement or apply procedures to control or combat money laundering.



Local Perspective-Penalties (ML)

20. (1) A person who engages in money laundering is guilty of an offence.

(2) Any person who attempts or who aids, abets, counsels or procures the commission of, or who conspires to commit the offence of, money laundering is guilty of an offence.

Local Perspective-Penalties-ML

Under subsection (1), the penalty is either a fine of \$200,000 or to imprisonment for 5 years or to both in the Magistrate's court;

and a fine of \$2,000,000 or imprisonment for 25 years or both in the High Court.

Local Perspective-Penalties-ML

Under subsection (2), the penalty is either a fine of \$ 150,000 or to imprisonment for 3 years or to both in a Magistrate's Court;

and a fine of \$1,500,000 or imprisonment for 15 years or to both in the High Court.

Local Perspective-Penalties-ML

Section 12 MLFTA

“ A person convicted of indictable offence under the Act may not be licensed to carry on the business of a financial institution; where a financial institution, the license shall be cancelled.”

Local Perspective (TF)

Section 4 ATA defines the financing of terrorism

- ∅ Penalty-imprisonment for a term of 25 years.
- ∅ Person who aids, abets, procures, counsels, incites, solicits the offence is liable to be punished as a principal offender

Local Perspective-Definition (FI)

S.2 defines financial institution (fi) includes:-

(ii) ..Any person whose business involves money transmission services, investment services or any other services of a financial nature..





The Gatekeepers DNFBPs-Rec.12

- Designated Non-Financial Business Persons-
- ✓ Casinos
 - ✓ Real Estate Agents
 - ✓ Dealers in precious metals and precious stones
 - ✓ Lawyers, notaries and other independent legal professionals and accountants
 - ✓ Trust & Company Service Providers



DNFBPs- Rec. 12

Preparation/ Execution of transactions for clients:

- ✓ Buying & Selling of Real Estate
- ✓ Management of client money, securities or other assets
- ✓ Management of bank, savings or securities accounts
- ✓ Organization of contributions for creation, operation or management of companies

Target Audience

- √ Sole Practitioners
- √ Partners/ Employed Professionals



Vulnerabilities to ML

- ✓ Financial Tax Advice
- ✓ Creation of corporate vehicles or other complex legal arrangements
- ✓ Buying or Selling of Property
- ✓ Performing financial transactions
- ✓ Gaining introductions to financial institutions

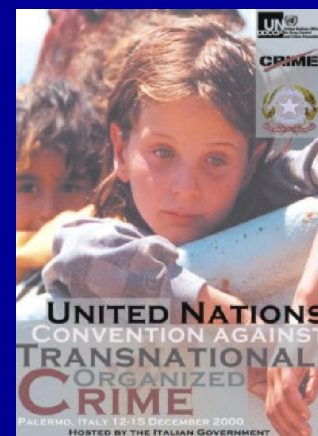


General Typologies

- ✓ Use of Cash Couriers
- ✓ Purchase of real estate, vehicles & other tangible objects, usually registered in different names
- ✓ Investments in cash intensive businesses where victims of human trafficking/migrants are “employed”

General Typologies

- ✓ Use of non-resident bank accounts
- ✓ Loans given to a legal person in cash
- ✓ Use of false ID, illegal migrants, victims of trafficking
- ✓ Important significant transfers on accounts followed immediately by repeated cash withdrawals





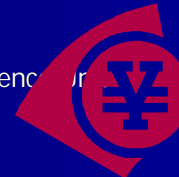
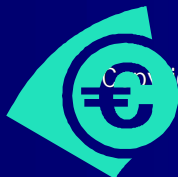
General Typologies

- n Depositing money in small amounts but where the totals are large in a short time
- n Atypical/uneconomic/unjustified transfers to & from jurisdictions
- n Use of back-to-back loans
- n Under-invoicing/over-invoicing/false invoicing

Duties Of Accountants

S. 7,8 MLFTA, Proposed Guidelines*

- ✓ Customer Due Diligence/Know Your Customer (Rec.12)
- ✓ Record-Keeping (Rec.12)
- ✓ Monitoring & Reporting Suspicious Activities (Rec.16,24)*
- ✓ Internal Controls



Duties Of Accountants

Internal Controls

- ✓ Internal Policies, procedures & controls (s.9,10)
- ✓ Compliance culture
- ✓ Senior management ownership & support
- ✓ Training (s.10,s.21)

Duties Of Accountants

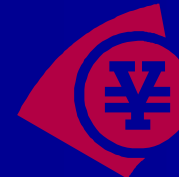
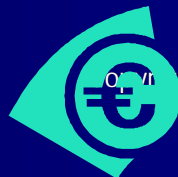
Other Penalties

NB. Section 8 (4)-failure to report

Section 8(5)-failure to keep records

Section 19-failure to meet obligations

Section 22-tipping off*





The Risk-Based Approach

- √ Systems & controls that are commensurate with specific risks of money laundering & terrorist financing
- √ Risk varies across jurisdictions, customer base, products & services, size of entity, delivery channels



The Risk-Based Approach

- ✓ Allows firms to minimize adverse impact of ML,TF controls on legitimate customers
- ✓ Efficient use of allocation of resources
- ✓ Focus on real & identified threats
- ✓ Flexibility to adapt to risks that change over time



The Risk-Based Approach

ML/TF Risk:

- √ Geographic Risk
- √ Service Risk
- √ Client Risk

The Risk-Based Approach

Client Risk

- ✓ Non-face to face customers
- ✓ Politically Exposed Persons (PEPs)*
- ✓ Beneficial ownership is unclear
- ✓ Inexplicable changes of ownership/unnecessarily complex client structure
- ✓ Client reluctant to provide relevant info/doubt that information is correct/adequate

The Role of the Financial Intelligence Unit

- ✓ RECEIVE
(eg.STR)
- ✓ ANALYSE
- ✓ DISSEMINATE*



Thank You For Your Attention

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