

FINANCIAL INTELLIGENCE AGENCY



FINANCIAL INTELLIGENCE AGENCY Annual Report 2008 | 2009





November 23, 2009

Sen. the Hon. Kim Wilson, JP
Minister of Justice
Attorney General's Chambers
4th Floor, Global House
43 Church Street
Hamilton HM 12

Dear Minister,

I have the honor to submit the Annual Report (4 $\frac{1}{2}$ months) reviewing the work of the Financial Intelligence Agency for the period 15 November, 2008 to 31 March, 2009.

The Annual Report is submitted pursuant to Section 12 of the Financial Intelligence Agency Act, 2007.

Yours respectfully,

A handwritten signature in black ink, appearing to read "Sinclair White".

Sinclair White
Director

FINANCIAL INTELLIGENCE AGENCY

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FOREWORD

“The Board recognizes the magnitude and importance of the work to be done and I am delighted to report that the dedication and determination existing when we all embarked on this project remains as strong as ever.”

Greetings,

I have great pleasure, as Chairman of the Board of Directors of the newly created Financial Intelligence Agency (FIA), in sharing my comments on the role and activities of the Board of Directors for the reporting period November 2008–March 2009.

During this period, a number of critical strategic and tactical issues were reviewed with definitive actions taken.

I remain particularly pleased with the dedication and accomplishments of the Board members and the FIA Team. The independent Board worked seamlessly and effectively with the FIA Team to realize very impressive organizational results under very aggressive deadlines.

Highlights of this period include the analysis, review and approval of the FIA 2009/2010 Budget, the identification, analysis and implementation of the core information technology platform of the FIA (GoAML) and the creation of the FIA’s Employees Handbook. A number of internal policies and procedures were also drafted and implemented.

In addition and in consultation with the Board, the FIA Team assisted in establishing clear and definitive reporting guidelines for the handling and public dissemination of FIA information, whether to the Minister of Justice, internally or other related parties. The Board also discussed and provided guidance to the FIA on its presentations and training to relevant local financial stakeholders, its participation in training courses carried out by overseas instructors from the Financial Transaction and Reports Analysis Centre of Canada (FINTRAC) and its attendance of overseas Plenaries and local seminars. The Board was also kept fully apprised of the various meetings attended by the FIA staff to foster fluid channels of communication and positive working relationships between the FIA and other authorities and financial entities. Equally important, the Board and the FIA Team continue their re-evaluation and development of the FIA’s Strategic Plan.

During the period, the Director of the FIA provided the Board with regular reports on the monthly operations of the FIA including details of the financial standing and staffing.

The Board recognizes the magnitude and importance of the work to be done and I am delighted to report that the

dedication and determination existing when we all embarked on this project remains as strong as ever. Members of the Board and the FIA Team are committed to providing positive strategic direction, administrative leadership and support to the Minister of Justice, stakeholders in Bermuda and our international colleagues, who are key partners in the detection and prevention of financial crime as it relates to the Anti-Money Laundering and Counter Terrorism Financing (AML/CFT) regime.

In closing, I would be remiss if I did not express my sincere gratitude to the Minister of Justice Sen. the Hon. Kim Wilson, JP, and her team, Mrs. Cheryl-Ann Lister, Chairperson of the National Anti-Money Laundering Committee and National AML/CFT Coordinator, my fellow Board members, the Commissioner of Police and his team and most importantly, the Director of the FIA and his team. Without their sheer dedication to making Bermuda a model of excellence in this field, our progress would not have been possible.

Yours sincerely,

Gregory Wojciechowski
Chairman
Financial Intelligence Agency



MESSAGE FROM THE DIRECTOR

“The vision of the FIA is to maintain an effective infrastructure through its well trained and competent staff.”

In the first four and a half months of operation, as the Director of the newly established Financial Intelligence Agency (the “FIA”), I am extremely delighted in submitting the FIA’s very first Annual Report. This report, in pursuant with Section 12 of the Financial Intelligence Agency Act, 2007, will cover the activities of the FIA for the period 15 November 2008 to 31 March 2009, the end of the financial year. This report will also highlight some of the FIA’s aims and objectives and its vision.

To enable the transition from a law enforcement to an administrative financial intelligence unit (FIU) model, a transition team was put in place comprising members of the Bermuda Police Service along with members of the Board – designate of the FIA. It is here that I would like to acknowledge and thank the help received from the Commissioner of Police, Mr. George Jackson; and his team for giving the FIA support in ensuring a smooth transition and in bringing it to fruition. I would also like to commend and thank the Minister of Justice, Sen. the Hon. Kim Wilson, JP, the FIA Board of Directors, and Mrs. Cheryl-Ann Lister, Chairperson of the National Anti-Money Laundering Committee and National AML/CFT Coordinator, for their invaluable assistance, guidance and input during this period.

I have been impressed with the competence and professionalism of the FIA staff in carrying out its functions and achieving the goals and objectives set. Therefore tremendous challenges and opportunities still lie ahead as the FIA staff expand our knowledge, and maintain our focus to produce financial intelligence that is accurate meaningful and timely. It is through its active involvement in the pursuit of combating money laundering and terrorist financing, that will assist to protect Bermuda’s reputation as a premier global financial centre.

In order that the FIA achieves its objectives, it will continue to foster constructive working relationships with its partners, both international and domestic, and continue with our active participation and input into the work already being done within the Financial Action Task Force (FATF), the Caribbean Financial Action Task Force (CFATF) and the Egmont Group, to name a few.

The FIA will seek to maintain an effective infrastructure through its well trained and competent staff. The FIA will provide training and developmental modules incorporated with current legislation, clearly defined policies and procedures, and available information and technology. It aims to accomplish this through a clearly defined Strategic Plan.

There is much work to be done. In cooperation with its partners and various stakeholders, the FIA is committed to proactively provide an effective, efficient and professional financial intelligence through networking and international cooperation. I am therefore confident that the FIA’s mission will reflect a dedicated commitment in the global pursuit of combating Money Laundering and the Financing of Terrorism.

Sinclair White
Director
Financial Intelligence Agency



INTRODUCTION

BERMUDA'S ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING REGIME

"...In Bermuda, there have been long-standing obligations to have effective procedures in place to detect and prevent money laundering. The offence of money laundering has been contained in the Proceeds of Crime Act (POCA) since 1997 and obligations to combat terrorist financing set out in The Anti-Terrorism (Financial and Other Measures) Act (ATFA) since 2004. The original obligations on Regulated Institutions were established in the Proceeds of Crime (Money Laundering) Regulations, in 1998 which were supported by the Guidance Notes (issued by the Bermuda Monetary Authority (the BMA)) in January 1998. The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2009 (the Regulations), which came into effect on the 1st January 2009, repealed the 1998 Regulations and institutions subject to the regulations are now termed "AML/ATF regulated financial institutions".

Following the International Monetary Fund Review in mid 2007, a number of legislative initiatives have been finalized and passed by the Legislature. Among other things, these initiatives...expanded the obligations on AML/ATF regulated financial institutions ("institutions") affected by the legislation and increase the scope of the regulated sector.

The legislation also established a new regulatory regime. The Proceeds of Crime Regulations (Supervision and Enforcement) Act 2008 (SEA) designated the BMA as the supervisory body for securing compliance with the Regulations by AML/ATF regulated financial institutions ("institutions") and also details the obligations and powers related to this duty. A new agency, the Financial Intelligence Agency, having the responsibility for the receipt and analysis of the Suspicious Activity Reports commenced operations on the 15th November 2008 following the commencement of the Financial Intelligence Agency Act 2007..."¹

Bermuda has now successfully transitioned from the former law enforcement Financial Investigation Unit of the Bermuda Police Service (BPS) to the administrative Financial Intelligence Agency (the FIA).

In order to understand the rationale behind the transition from

the previous law enforcement Financial Investigation Unit to the administrative Financial Intelligence Agency, it may be helpful to first look at what the functions of a financial intelligence unit/agency (FIUs) are.

CORE FUNCTIONS OF A FINANCIAL INTELLIGENCE UNIT/AGENCY (FIU)

Although FIUs vary in many ways from jurisdiction to jurisdiction, they share a common definition which refers back to their basic function. FIUs are the central agency within a jurisdiction that **receive** reports of suspicious transactions from financial institutions and other persons and entities, **analyse** them and **disseminate** the resulting intelligence to local law-enforcement agencies and foreign FIUs in order to combat money laundering and the financing of terrorist activities.

These three functions are the core functions shared by all FIUs recognized by the Egmont Group, thus, being the Egmont definition of an FIU.

THE EGMONT GROUP

In 1995, a group of FIUs meeting at the Egmont Arenberg Palace in Brussels decided, in view of the benefits inherent in the development of a FIU network, to establish an informal group for the stimulation of international cooperation. Now known as the Egmont Group, these FIUs meet regularly to find ways to cooperate, especially with regard to information exchange, training, and the sharing of experience.

Up until May 2007, the Egmont Group was not a formal organization. The organization was formalized in Bermuda in May 2007 during the Egmont Group's annual Plenary with the signing of the Bermuda Charter.

Countries must go through a formal procedure established by the Egmont Group in order to be recognized as meeting the Egmont definition of an FIU. Prior to the creation of the FIA, the Financial Investigation Unit of the Bermuda Police Service had been the recognized member of the Egmont Group in Bermuda.

Given Bermuda's transition to an administrative FIU model, the

FIA was required to undergo a formal assessment conducted by the Egmont Group. The assessment was completed in December 2008. The Egmont assessment team confirmed that the FIA met the Egmont definition of an FIU and recommended that the new agency continue Bermuda's membership in the Egmont Group.

It is expected that the FIA membership in the Egmont Group will be ratified at the 17th Plenary of the Egmont Group to be held in Doha, Qatar, in May 2009.

As of May 2008, there were 108 countries with membership to the Egmont Group. The Egmont Group has an annual Plenary supplemented with two Working Group meetings per year. There are five Working Groups (Outreach, Operational, Training, Information Technology and Legal) and the Egmont Committee, which are used to conduct common business along with the Egmont Group Secretariat, which sits in Toronto, Ontario, Canada.

The ongoing development and establishment of FIUs exemplifies how countries around the world continue to intensify their efforts to focus on combating money laundering, terrorist financing and other criminal conduct. This is achieved through research, analysis and information exchange between FIUs.

INTERNATIONAL CONSIDERATIONS

Although the international community quickly developed standards on combating money laundering in general, mostly through the work started by the FATF in 1989, formal recognition of an FIU as a crucial element in the AML/AFT strategy is more recent.

In the 1990 Financial Action Task Force (FATF) 40 Recommendations, mention was made of the need for financial institutions to report suspicious transactions to the "competent authorities", however, these "competent authorities" were not defined and could not be government agencies designated for that purpose. It was only with the issuance of the 2003 Special 9 Recommendations (Amended in 2004) that the FATF recognized the need for an FIU in the sense defined by the Egmont Group. Within the last decade, a number of international conventions have also recognized the usefulness of an FIU in modern AML/AFT systems and have encouraged the states that are parties to

these conventions to establish an FIU.

These conventions are as follows:

- Convention for the Suppression of Financing of Terrorism (1999) which requires the criminalization of the financing of terrorism
- UN Convention against Transnational Organized Crime (Palermo 2001) which requires the criminalization of participating in organized international criminal groups
- UN Convention against Corruption 2003 which requires the criminalization of various forms of corruption, money laundering, concealment of the Proceeds of Crime and obstruction of justice

One common element of these conventions is that they require States/Member Countries that are parties to these conventions to criminalize money laundering and to adopt measures to prevent it.

THE BENEFITS OF AN ADMINISTRATIVE FIU

"Often financial institutions facing a problematic transaction or relationship do not have hard evidence of the fact that such a transaction involves criminal activity or that the customer involved is part of a criminal operation. They will therefore be reluctant to disclose it directly to a law-enforcement agency, out of concern that their suspicion may become an accusation that could be based on a wrong interpretation of facts.

*The role of the administrative FIU is then to substantiate the suspicion and send the case to the authorities in charge of criminal investigations and prosecutions only if the suspicion is substantiated."*²

Most administrative FIUs do not have investigative or prosecutorial powers and their ability to disclose any information that is obtained under their statutory powers is usually quite narrow so as to protect and preserve the confidentiality of the information that is provided to them.

"By making an administrative authority a "buffer" between

¹ Guidance Notes for AML/ATF Regulated Financial Institutions on Anti-Money Laundering & Anti-Terrorist Financing, p5

² p 10 "Financial Intelligence Units: An Overview" International Monetary Fund & The World Bank

“Often financial institutions facing a problematic transaction or relationship do not have hard evidence of the fact that such a transaction involves criminal activity or that the customer involved is part of a criminal operation.”

the financial institution and law-enforcement sectors, authorities can more easily enlist the cooperation of reporting institutions, which are often conscious of the drawbacks vis-à-vis their clients of having direct institutionalized links with law-enforcement agencies.”³

THE FINANCIAL INTELLIGENCE AGENCY – An Overview

THE TRANSITION

Bermuda has now successfully transitioned from the former law enforcement Financial Investigation Unit of the Bermuda Police Service to the administrative Financial Intelligence Agency.

The FIA was established by the Financial Intelligence Agency Act 2007 (the ‘FIA Act’) which became operable on 15 November 2008 pursuant to Official Gazette Notices Nos. 70 and 71 of 2008. The FIA is the independent agency authorized to receive, gather, store, analyse and disseminate information relating to suspected proceeds of crime and potential financing of terrorism which is received in the form of a Suspicious Activity Report (SAR). The FIA is empowered to disseminate such information to the Bermuda Police Service and foreign financial intelligence authorities.

Information obtained by the FIA may also be disclosed to the Minister of Finance for the purpose of enabling or assisting the Minister to discharge her functions under any statutory provisions and similarly to the Bermuda Monetary Authority to enable it to discharge its functions under any statutory provisions.⁴

The FIA operates independently both domestically and internationally and has been designated as the central reporting authority in Bermuda for receiving SARs. The FIA acts as a buffer between the financial sector and law enforcement. It operates at the pre-investigation stage and analyses the documentation received with the SAR.

The affairs and business of the FIA are managed by a Board of Directors (the ‘Board’) appointed by the Minister of Justice. The current members of the Board are as follows:

- Greg Wojciechowski – Chairman
- Barbara Tannock – Deputy Chairman
- Anthony Whaley
- Cheryl-Ann Mapp
- Patrick Tannock
- Sinclair White – *Ex-Officio* (Director of the FIA)

OVERVIEW OF THE FUNCTIONS OF THE FINANCIAL INTELLIGENCE AGENCY

- Core FIA work – Receives, collates, analyses, stores and disseminates financial intelligence relating to suspected money laundering, terrorist financing offences and criminal conduct
- Conducts analysis at both strategic and tactical levels
- Prepares disclosures for law enforcement, the Minister of Finance and the Bermuda Monetary Authority where deemed necessary
- Sanitizes sharing of financial intelligence whether spontaneously or upon request from other Egmont members
- Liaises with domestic agencies and foreign counterparts
- Maintains a financial intelligence database
- Provides training and advice to financial institutions
- Provides education and public awareness to the community

STATUTORY POWERS – AN OVERVIEW

Sharing of Intelligence with Foreign FIUs – Section 14 of the FIA Act

The FIA is empowered, amongst other things, to receive and disseminate information relating to suspected proceeds of crime and financing of terrorism to foreign financial intelligence units. Accordingly, a formal Memorandum of Understanding is not required by the FIA to enable it to exchange information with its foreign counterparts.

The FIA does, however, recognize that certain jurisdictions have a statutory requirement limiting or restricting the exchange of information without the existence of a formal agreement covering the scope of such information exchange. Accordingly, section 19 of the FIA Act enables the FIA to enter into such arrangements when it is considered appropriate to do so.

³ p 12 “Financial Intelligence Units: An Overview” International Monetary Fund & The World Bank

⁴ Section 18, the FIA Act

The FIA is empowered, amongst other things, to receive and disseminate information relating to suspected proceeds of crime and financing of terrorism to foreign financial intelligence units.



Freezing of Funds - Section 15 of the FIA Act

The FIA may in the course of enquiring into a suspicious transaction serve a written notice on any relevant institution in Bermuda requiring it not to make available any funds to any person specified in the notice for a period not exceeding 72 hours.

A relevant institution commits an offence if without reasonable excuse it fails to comply with a freezing notice served and is liable on summary conviction to a fine of \$50,000.

Obtaining Information - Section 16 of the FIA Act

The FIA may, in the course of enquiring into a suspicious transaction, serve a written notice on any person requiring that person to provide the FIA with such information as it may reasonably require for the purpose of its enquiry.

Any person who without reasonable excuse fails to comply with a Request for Information Notice shall be guilty of an offence and liable on summary conviction to a fine of \$10,000 or to imprisonment for six months or to both.

It should, however, be noted that nothing in this section requires the disclosure of information which is subject to legal professional privilege.



THE NATIONAL ANTI-MONEY LAUNDERING COMMITTEE (NAMLC)

NAMLC was created under the provisions of Section 49 of the Proceeds of Crime Act 1997 for the purpose of advising the Minister of Justice on matters relating *“to the detection of money laundering in addition to developing a national plan of action to include recommendations on effective mechanisms to enable the competent authorities in Bermuda to coordinate with each other concerning the development and implementation of policies and activities to combat money laundering.”*⁵ NAMLC further advises the Minister of Justice with respect to Bermuda’s participation in the international efforts against money laundering.

NAMLC’s responsibilities have been statutorily extended to include providing advice to the Minister of Justice in regards to the making of Regulations for detecting and preventing the financing of terrorism.⁶

NAMLC meets on a regular basis throughout the year and is comprised of the following members:

- The Chairman;
- The Solicitor General;
- The Financial Secretary;
- The Permanent Secretary of the Ministry responsible for the Bermuda Police Service;
- The Commissioner of Police;
- The Director of the FIA;
- The Chief Executive Officer of the Bermuda Monetary Authority;

- The Director of Public Prosecutions;
- The Permanent Secretary for the Ministry of Justice; and
- The Collector of Customs

One of the outcomes of the commencement of the amendments to the AML/CFT legislation in 2008 is that the Minister of Justice now has primary legislated responsibility for overseeing AML/CFT matters. As provided for under the legislation, she will continue to be assisted in this regard by NAMLC in relation to policy matters and appropriate coordination. The new provisions allow for an independent Chairman to be appointed for NAMLC to, among other things, assist in the liaison between Government and the relevant industry stakeholders.

The Minister of Justice appointed Mrs. Cheryl-Ann Lister to act as the new Chairman of NAMLC in addition to taking on the role of National Coordinator for AML/CFT matters. This appointment took effect on 15 November 2008, when the relevant provisions of the Proceeds of Crime Amendment Act 2008 came into force.

⁵ Section 49 (1), Proceeds of Crime Act 1997

⁶ Section 12A (1), Anti-Terrorism (Financial and other Measures) Act 2004

WHAT IS MONEY LAUNDERING?

Money laundering is the process by which illicit funds are disguised so they appear to be legally obtained.

Money laundering is the process by which illicit funds are disguised so they appear to be legally obtained. Although many people think of large quantities of cash when they think of money laundering, as was recently illustrated by Bernard Madoff, the laundering of money can often take place entirely by electronic means.

Historically, the practice of money laundering is generally considered to have three stages: placement, layering and integration.

The first stage, 'placement', is where the first steps to introduce illicit proceeds to the financial system occur. This introduction can be by the deposit of cash obtained illegally, or the electronic transfer of monies obtained by fraud or deception away from the legitimate owner of the funds.

The second stage of money laundering is the 'layering' or structuring of transactions whereby the placed money is further separated from its illicit origin. By distancing the money from its source, the launderer begins to obscure his trail from law enforcement. Layering can be accomplished by physically breaking down large quantities of cash into smaller amounts or electronically transferring money to many unconnected accounts in various jurisdictions.

Finally, the third phase of money laundering is the 'integration' of the illicit proceeds. At this stage, the money launderer achieves his or her objective of cleaning the money. If performed successfully, at this stage the money is now indistinguishable from legitimately obtained funds and freely transferrable, complete with an appropriate pedigree or source of funds. The proceeds can take many forms at this stage, such as a balance in a bank account, far removed from the illicit source of the funds; the legal ownership of a house; or an annuity policy.

SUSPICIOUS ACTIVITY REPORTS ("SARs")

THE LEGISLATIVE BASIS FOR FILING SARs WITH THE FIA

Section 14 of the FIA Act empowers the FIA to receive information relating to suspected proceeds of crime and potential financing of terrorism. (Any person may disclose information to the FIA so that the FIA may discharge its statutory functions without fear that it may have breached any obligation of confidence owed)⁷

Further, Section 46 of POCA and Schedule 1 of the ATFA impose a duty on persons to make a report to the FIA of information or any other matter that comes to them in the course of their trade, profession, business or employment where they know or suspect that a person is engaged in money laundering or terrorist financing.

THE YEAR IN REVIEW: 15 NOVEMBER 2008 – 31 MARCH 2009

The following statistics do not represent a complete analysis of all disclosures made during the year, as a proportion are still being investigated. Accordingly, there will be an overlap between the end of 2008 and the start of 2009.

DISPOSITIONS	NUMBER OF SARs
Total Number of SARs received	195
Onward Disclosure of SARs to local law enforcement, the Bermuda Monetary Authority and the Ministry of Finance	11
Onward Disclosure of SARs to overseas FIUs	7
Requests for Information to foreign FIUs	6
Replies to Requests for Information from foreign FIUs	6

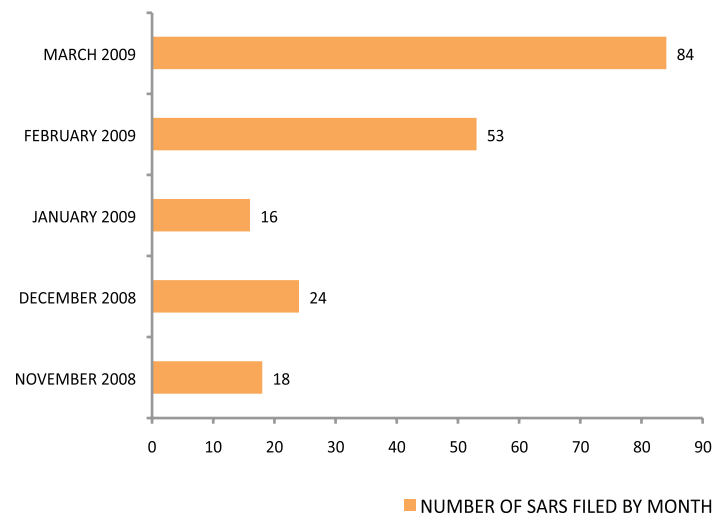
Any person may disclose information to the FIA so that the FIA may discharge its statutory functions without fear that they may have breached any obligation of confidence or owed.



⁷ Section 20, FIA Act

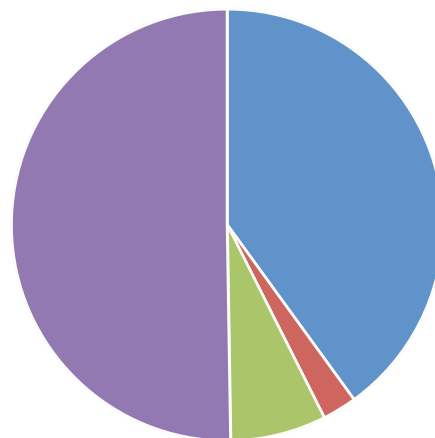
COMPARISON OF MONTHLY SARs

NUMBER OF SARs FILED BY MONTH



TOTAL SUSPICIOUS ACTIVITY REPORTS RECEIVED: 195

- Banks (including Credit Union and Deposit Companies)
- Corporate Service Providers
- Investment Providers
- Money Service Businesses



Source of SARs

The SARs received by the FIA have been separated into the following four classes of reporters: Banks (including Credit Unions and Deposit Companies), Corporate Service Providers, Investment Providers and Money Service Businesses.

The SARs received by the FIA can be broken down as follows:

- **98 or 50%** were received from Money Service Bureaus;
- **78 or 40%** were received from Banks (including Credit Union and Deposit Companies);
- **14 or 7%** were received from Investment Providers; and
- **5 or 3%** were received from Corporate Service Providers.

SARs Trend Analysis - Indicators

During its first four-and-a-half months of operation, the following money laundering indicators were identified by the FIA that may be of interest to Bermuda entities:

1. Making regular deposits of cash into many accounts in relatively small amounts to avoid suspicion.
2. Using multiple branches of the same financial institution, often within a short timeframe, in an attempt to avoid suspicion.
3. Establishing accounts at multiple institutions, to avoid the suspicion of any one financial institution.
4. Using unrelated third parties to make deposits into a single account or multiple accounts.
5. Using unrelated third parties to wire money out of the jurisdiction to a common party or related parties.
6. Front loading credit and debit cards for retrieval from overseas cash machines by cardholders or third parties.
7. Depositing cash during busy periods, immediately prior to holidays and closing times to avoid raising suspicion.
8. Purchasing and/or exchanging Bermuda currency into US currency using third parties and multiple institutions for physical transport, courier or mailing out of Bermuda.
9. Using unnecessarily complex business structures to obscure the origin and destination of funds.
10. Using gatekeepers such as Corporate Service Providers and Trust Service Providers to lend legitimacy and complexity to a money laundering scheme.

CASE STUDY

The following sanitized case has been obtained from the Egmont Group and is available at www.egmontgroup.org. It illustrates a pattern of money laundering.

EGMONT Case Ref: 06058

Distribution: Unrestricted

Chapter: Use of gatekeepers

An FIU in country Z received information from a foreign FIU regarding two trusts that were established there. The trustee had been requested to make two payments in favour of a bank in an offshore finance centre. Correspondence between the trustees and the settlor was always conducted through a law firm, which had also established the trust.

Investigation identified that the beneficiaries of the trusts were siblings. These subjects (Mr. A and Mr. B) were managers of two companies, established in country Z that had been the subject of a serious fraud investigation. Even though Messrs A and B were not managers of the companies at the time of the investigation, it became clear that part of the funds in the trusts may have originated from the criminal activity of the said companies as they were managed by their father at the time.

Indicators

- Use of gatekeepers
- Use of nominees, trusts, family members or third parties
- Use of offshore banks / businesses

TERRORIST FINANCING

Terrorism is defined by the Bermuda Anti-Terrorism (Financial and Other Measures) Act 2004, as an act that “involves the use or threat of action to influence the government, intimidate the public and to advance a political, religious or ideological cause.”⁸ Terrorist Financing legislation is intended to capture a nuance that Money Laundering legislation does not, the use of legitimate funds for an illegitimate purpose, i.e. terrorism. This distinction is important, as the only illegal act connected with money intended to finance an act of terrorism may be the actual terror event itself.

In its first four and a half months of operation, the FIA received no SARs involving terrorist financing.

Terrorism is defined by the Bermuda Anti-Terrorism (Financial and Other Measures) Act 2004, as an act that “involves the use or threat of action to influence the government, intimidate the public and to advance a political, religious or ideological cause.”

⁸ BAT Chapter 1 Section 3

THE FIA'S INFORMATION TECHNOLOGY REQUIREMENTS

INTRODUCTION

The FIA did not inherit a legacy Information Technology (IT) system so, as the FIA was being organized, a search was initiated for a suitable IT system for the FIA.

As all offshore jurisdictions have come under increasing scrutiny, and this trend is expected to continue, Bermuda wishes to elevate its position as a fully compliant and proactive jurisdiction in the arena of AML and CFT and to become an example of FATF compliance.

The FIA believes that one of the means to achieve our goals is the installation of an IT system for the current and future needs of a modern FIU. This system would enable the FIA to have a wholly electronic reporting system for SARs, cutting edge analytical tools, secure data storage and controlled information dissemination.

NEEDS

Any software solution for the FIA must assist the FIA to perform its functions of collecting, analysing, storing and disseminating intelligence contained in SARs. Due to the large amount of data, financial or otherwise received by FIUs, software solutions for FIUs are recognized as being of critical importance to enable them to effectively execute their functions.

Online reporting has been discussed over the years in Bermuda and this is one of the goals for the IT system.

The FIA must be able to receive SARs and supporting documentation in a format that can be stored and retrieved, and then subject this data to analysis. The FIA then must provide feedback to the reporters and disseminate information as necessary to the BPS and other foreign and domestic agencies. In addition to the core legislative functions, there is an overall need for the management of FIA workflow through the implementation of a case management system.

As part of the IT research, a simple "needs list" to evaluate potential software products was developed and included such features as: online SAR reporting, optical character recognition (OCR) capability and full text searching within the system; the storage and retrieval of data necessary for the assigned functions of the FIA; analytical tools necessary for strategic and tactical

analysis; and the provision of an integrated case management tool allowing for management of the FIA's collection, storage, analysis and dissemination of intelligence.

A comprehensive analysis of the available software packages was conducted and beginning in November 2008, research was conducted to discern the IT needs of FIUs generally and the FIA specifically. As part of this research, the Egmont Group and other FIUs were consulted.

goAML

Based upon this analysis, by 12 February 2009, goAML, a software package developed by the United Nations Office on Drugs and Crime (UNODC), was chosen as the FIA's software solution. goAML was recognized as a stand-alone whole office solution for FIUs, and the only one of its kind currently available. goAML was the only reviewed software package to meet or exceed the needs of the FIA.

Following this decision, the FIA began the process of obtaining bids from a number of local service providers to support goAML. Once this bid process is complete, an evaluation of the proposals will be conducted, and it is anticipated that goAML should be installed and running at the FIA before the end of 2009.

As a new agency, the FIA has just begun to compile data on money laundering trends in Bermuda. Going forward, it is anticipated that the goAML system will assist the FIA, and ultimately NAMLC, in identifying trends in money laundering and terrorist financing in Bermuda in addition to providing the FIA with the capability of conducting a high level of analysis.

FIA ACTIVITIES 2008/2009

ATTENDANCE AT CARIBBEAN FINANCIAL ACTION TASK FORCE AND EGMONT MEETINGS

Caribbean Financial Action Task Force Plenary St. Kitts & Nevis, 17 – 20 November 2008

The Bermuda delegation, led by the Attorney General, Senator the Hon. Kim Wilson, presented a further update on Bermuda's AML/CFT framework at the Annual Plenary. This was a significant presentation as it enabled Bermuda to announce the commencement of key legislative initiatives, in particular the commencement of the FIA's activities that were a necessary step in achieving Bermuda's goal of substantial compliance with international standards.

Egmont Working Group Meetings Guatemala, 2 – 5 March 2009

Representatives of the FIA attended these meetings and participated in the Legal, Information Technology and Training Working Group Meetings.

Given the transition from the former law enforcement FIU to an administrative FIU, Bermuda's candidacy into the Egmont Group was considered in the Legal Working Group Meetings ("LWG"). The LWG reviewed the report of the on-site assessment of the FIA that took place in December 2009. Following this review the LWG confirmed that it would recommend that Bermuda's membership with Egmont be continued and vested in the FIA. It is expected that the FIA membership in the Egmont Group will be ratified at the 17th Plenary of the Egmont Group to be held in Doha, Qatar, in May 2009.

The FIA was highly praised by the LWG for the manner in which the transition took place between the former Law Enforcement FIU and the new FIA, in particular for ensuring that the Egmont Group was fully apprised of the status of the transition.

INDUSTRY TRAINING

Industry Awareness Seminar Elbow Beach Hotel, 11 December 2008

NAMLC and its constituent agencies affirmed their commitment to increased education and provision of relevant information to industry and the general public on matters relating to AML/

CFT. In this regard, a seminar was held for senior executives and key compliance personnel of both financial institutions and the professional firms to assist in their understanding of the implications of the new changes to the legislation that took place in 2008, particularly with regard to the requirements under the new AML/CFT Regulations.

Representatives from the FIA took part in the informative seminar to advise on the transition to an administrative FIU and to discuss the powers and functions of the new FIA.



STAFF TRAINING

Financial Intelligence Analysis Course (FIAC) FIA, 23 – 27 March 2009

The FIA, in collaboration with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), hosted an international training course at the office of the FIA. The training was delivered by instructors from FINTRAC and the participants were, in addition to FIA staff, recruited from various Bermuda law enforcement agencies, the Financial Crimes Enforcement Network, U.S.A. (FINCEN) and the Financial Intelligence Unit of Mexico.

This training was the first of its kind in Bermuda and was designed to share analytical methods and techniques to improve the capabilities of those developing cases for money laundering and terrorist financing.

FIA WEBSITE

The FIA launched its website, www.fia.bm, in December 2008. The website presently includes details on the transition to an administrative FIU, the SAR reporting form, a guide to suspicious activity reports, the FIA Act, contact information and links to other useful websites.

As the FIA grows and develops, this will be reflected on the website. The completion of the installation of the goAML system will also enable reporting entities in Bermuda to file SARs electronically through our website.

THE YEAR AHEAD

ATTENDANCE AT EGMONT AND CARIBBEAN FINANCIAL ACTION TASK FORCE MEETING

The Egmont Group

The Director and the Senior Legal Counsel will attend the 17th Annual Plenary of the Egmont Group in May 2009 to be held in Qatar wherein it is anticipated that Bermuda's continued membership in the Egmont Group will be ratified.

Representatives from the FIA will continue to actively participate in and attend the various Working Groups, of the Egmont Group throughout the next year.

Caribbean Financial Action Task Force

Representatives from the FIA will continue to actively participate in and attend the bi-annual Plenaries throughout the next year.

SIGNING OF MEMORANDA OF UNDERSTANDING WITH OTHER JURISDICTIONS

A number of Memoranda of Understandings are being negotiated with various jurisdictions with a view to them being signed at the Egmont Plenary, Egmont Working Group Meetings and CFATF bi-annual Plenaries.

INDUSTRY TRAINING

SAR Filings

The FIA has reserved the month of April 2009 to focus on the provision of training in relation to AML/CFT matters in addition to "Know Your Customer" and other matters pertinent to Money Laundering Reporting Officers/ Compliance Officers and their institutions. This training will be offered to all sectors of the reporting industry.

Whilst the majority of the training sessions will be provided during April 2009, the FIA remains committed to working with its industry partners to provide additional training on an ad hoc basis throughout the upcoming year.

GOAML Training

Upon completion of the installation of the GOAML system, it is anticipated that a representative from the UNODC will be in Bermuda to provide the initial training to the large volume

reporting entities. Thereafter, the FIA will facilitate additional user training for both group and one-on-one sessions with filing entities.

STAFF TRAINING

Tactical Analysis Training Course (TATC)

A Tactical Analysis Training Course (TATC) is being offered by the Egmont Group and will take place between 6–12 July 2009, in St. Maarten, Netherland Antilles. It is being sponsored by the Egmont Group and the World Bank.

Bermuda's FIA and Netherland Antilles FIA will lead in the implementation of this course as it is the first one being offered to the Caribbean region. It is expected that a representative of the FIA will take part in this course in addition to completing the "Train the Trainer" aspect of the TATC.

Upon successful completion of both aspects of the TATC, the FIA representative will be qualified to present the TATC training to other FIA staff members and local law enforcement in addition to other FIUs, awarding certificates upon completion.

FINTRAC COMPLIANCE TRAINING COURSE

The FIA, in collaboration with FINTRAC, will be hosting a Compliance Training Course at the offices of the FIA in October 2009. The training will be delivered by instructors of FINTRAC with the participants being the FIA and the Bermuda Monetary Authority.

Countering Terrorist Financing Giessbach III

It is anticipated that representatives from the FIA will attend the Giessbach III seminar to be held in Lucerne, Switzerland, from 15-17 December 2009 to hear from experts who will address important CFT issues.

