

FINANCIAL INTELLIGENCE AGENCY BERMUDA



2018–2019

ANNUAL REPORT

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Sinclair White
Director

Director's Message

I am honored and pleased to present the 2018/2019 Annual Report of the Financial Intelligence Agency (FIA) Bermuda. This is the 11th Annual report that the FIA has written since its transition from a Law Enforcement Financial Investigative Unit of the Bermuda Police Service (the 'FIU') to an administrative Financial Intelligence Agency (the 'FIA'). The FIA, which was established by the Financial Intelligence Agency Act 2007, is operationally independent and has the authority and capacity to carry out its functions freely, including the autonomous authority to analyse, request, and disseminate information in accordance with the provisions as set out in the FIA Act. The FIA Act became operable on 15 November, 2008, pursuant to the relevant Official Gazette Notices.

The FIA, through its legislation, has a Board of Directors appointed by the Minister of Justice to manage the affairs and business of the FIA. The Minister may from time to time give the Board such general policy directions that are in the best interest of the public and the Board shall act in accordance with such directions.

The FIA Board of Directors has been very supportive of the Minister and the FIA. They have provided guidance and direction to the FIA during this reporting period, especially as the FIA prepared itself for Bermuda's onsite Mutual Evaluation Assessment. On behalf of the Agency, may I take this opportunity to thank the Minister of Legal Affairs and the FIA Board of Directors for their invaluable assistance to the FIA during this reporting period. We look forward to your continued and positive assistance in 2020 and beyond.

In reference to the supervision of the Dealers in Precious Metals and Stones and the Regulated Dealers in High Value Goods, the Board of Directors advised on the draft paper of the Supervision Guidance Notes and provided advice where applicable. The draft papers were subsequently submitted to the Ministry of Legal Affairs for final review and approval before the FIA could publish the papers, place them on the FIA website and then send them to the respective Reporting Entities. However, later in the year, meetings were held to discuss and review the overall efficiency and effectiveness of Bermuda's regime for AML/ATF supervision of High Value Dealers and Dealers in Precious Metal & Stones. Consideration was given to whether it was appropriate to continue to have the FIA as a designated supervisor in the regime with responsibilities for only the High Value Dealer sector. The conclusion was that this was not a cost effective or efficient position for Bermuda. Therefore, the Ministry decided that given the Bermuda framework, the only practical alternative would be to appropriately integrate the oversight of this sector into another competent authority within the Bermuda Government structure.

“The FIA has been able to strengthen its own capabilities and field of knowledge as it begins to address the new phenomena of Virtual Assets and Virtual Assets Service Providers.”

Included in this report are four diversified case studies that showcase the depth of analysis and the sharing of information with relevant competent authorities.

Although I have only highlighted two key matters of the work in which the FIA has been involved, this Annual Report will also help us to reflect on the achievements gained. Whilst appreciating the huge amount of work done by the FIA during the Mutual Evaluation (ME), the FIA continued to perform its daily operational functions to the best of its ability. Those matters included and were not limited to the sharing and exchanging of information with other domestic competent authorities, foreign FIUs and most importantly, internally. The FIA has been able to strengthen its own capabilities and field of knowledge as it begins to address the new phenomena of Virtual Assets and Virtual Assets Service Providers. Through continued training and fostering of new partnerships, the FIA seeks to fully address this growing financial activity as highlighted in the amended FATF Recommendation 15.

FIA Bermuda will continue its activity in the Heads of FIUs meetings both at the Egmont Group Plenary and Working Group Meetings, and the CFATF Heads of FIU Forums. It is important that the FIA's relationships with such esteemed organisations and other international bodies never falter. The FIA shall continue to collaborate, coordinate and communicate with our colleagues, forging on with the fight against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction.



Sinclair H White

Director

SUSPICIOUS ACTIVITY REPORTS VS SUSPICIOUS TRANSACTION REPORTS

Suspicious Activity Report (SAR) – A suspicious activity report details circumstances where there are reasonable grounds to suspect (knowledge or suspicion) that an activity or pending transaction is related to a money laundering offence, terrorist financing, terrorist activity and/or that the funds or assets identified are possible proceeds of crime.

Suspicious Transaction Report (STR) – A suspicious transaction report details circumstances where there are reasonable grounds to suspect (knowledge or suspicion) that a specific transaction or transactions is related to a money laundering offence, terrorist financing or terrorist activity and/or that the funds or assets identified are possible proceeds of crime.

In early 2017, the FIA introduced a new method within the goAML electronic reporting platform of reporting suspicious reports to the FIA. This platform allowed the reporting entities to file not only suspicious transaction but also suspicious activity. Previously, filings of SARs were coming led with that of STRs. Due to this separation of the report filings, it has further assisted the FIA in its analysis of the information/intelligence received.

With this new reporting feature, the FIA continues to emphasize the concept of filing SARs relative to suspicious activity during its training sessions. An example that is given in the presentations is for the reporting entity to consider declined business. If a prospective client is rejected for not providing the necessary documentation, this alone may not be enough to file a SAR. If the reporting entity identifies that this prospective client has been/is currently involved in an investigation/court proceedings etc. relative to money laundering, terrorist financing activity or any predicate offence of which criminal proceeds could have been obtained along with not providing the necessary documentation, then, this can be reported to the FIA.

In the above scenario, when this subject is declined from having access to the services offered by the reporting entity, it is not uncommon for that subject to shop around and attempt to gain business or services from another Bermuda company (reporting entity) offering similar services. By filing a SAR on such suspicious activity, it provides the FIA with the opportunity to investigate and analyse the information in relation to the risks. Upon analysis the FIA will utilise its gathering powers to ascertain information from other reporting entities within the related sectors as well as provide disseminations to the relevant competent authorities.



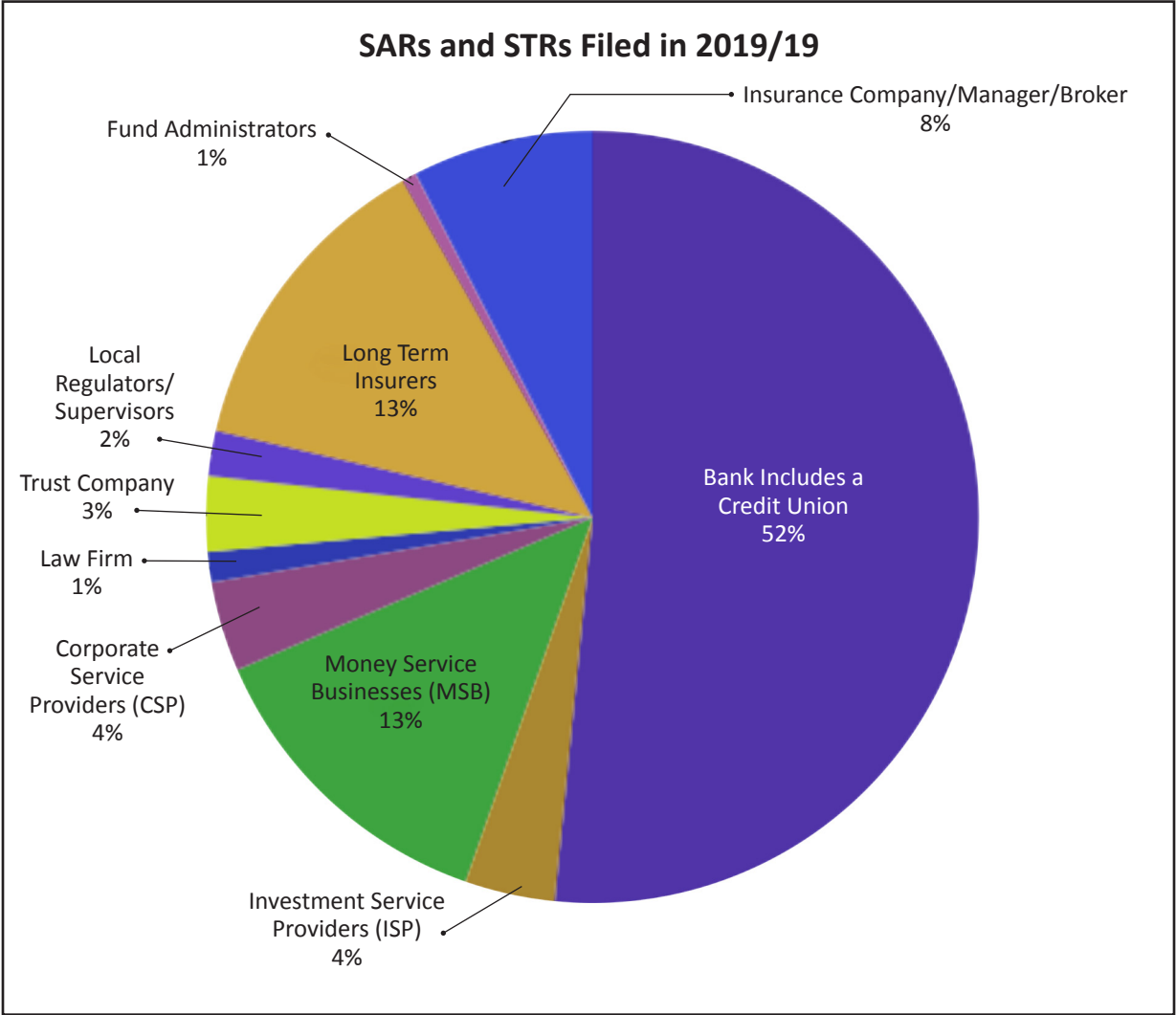
FIA INTELLIGENCE UNIT STATISTICS

1st April 2018 – 31st March 2019 (the “Reporting Period”)

SARs AND STRs FILED

During the Reporting Period, a total of 588 Suspicious Activity Reports (SARs) and Suspicious Transaction Reports (STRs) were filed with the FIA as compared to 1008 filed during 2017/2018. The major contributor of SARs/STRs filed during this Reporting Period continued to be the Banks. Again, the Money Service Business (MSBs) and the Long Term Insurers continue to feature as the second and third major contributors of SARs/STRs filed, respectively, during this Reporting Period.

Chart 1



A breakdown of SAR/STR filings by sector revealed that there were a total of 17 sectors listed in the FIA's 2017/2018 Annual Report. During the 2018/2019 Reporting Period, there were also 17 sectors of which the following 7 sectors filed less than 2 SARs/STRs:

1. Accounting Firms,
2. Real Estate,
3. Dealers in Precious Metals & Stones (Jewellers),
4. Registered Charity Organizations,
5. Asset Recovery/Insolvency,
6. High Value Dealers (Auto, Cycle & Marine), and
7. Financial Lenders.

Table 1
TOTAL SARs FILED PER SECTOR ANNUALLY

| | BANKS (includes a credit union) | INVESTMENT SERVICE PROVIDERS ISP'S | MONEY SERVICVE BUSINESSES MSB'S | CORPORATE SERVICE PROVIDERS CSP'S | LAW FIRM | TRUST COMPANY | LOCAL REGULATORS & SUPERVISORS | LONG TERM INSURERS | ACCOUNTING FIRM |
|--------------------|--|---|--|--|-------------|------------------|---|--------------------------|--------------------|
| 2018/2019 TOTAL | 273 | 26 | 91 | 35 | 12 | 14 | 9 | 75 | 0 |
| 2017/2018 TOTAL | 613 | 20 | 130 | 20 | 6 | 4 | 6 | 192 | 3 |
| Difference | -340 | +6 | -39 | +15 | +6 | +10 | +3 | -117 | -3 |
| % Change | -55.46 | 30 | -30 | 75 | 100 | 250 | 50 | -60.94 | -100 |

| | FUND ADMINS. | INSURANCE COMPANY/ MANAGER/ BROKER | REAL ESTATE | DEALER IN PRECIOUS METAL & STONES (JEWELLERS) | REGISTERED CHARITY ORGANIZATION | ASSET RECOVERY/ INSOLVENCY | HIGH VALUE DEALERS (AUTO, CYCLE & MARINE) | FINANCIAL LENDER |
|--------------------|-----------------|---|----------------|---|---------------------------------------|----------------------------------|--|---------------------|
| 2018/2019 TOTAL | 11 | 37 | 1 | 2 | 2 | 0 | 0 | 0 |
| 2017/2018 TOTAL | 6 | 1 | 1 | 1 | 1 | 2 | 1 | 0 |
| Difference | +5 | +36 | 0 | +1 | +1 | -2 | -1 | 0 |
| % Change | 83.33 | 3600 | 0 | 100 | 100 | -100 | -100 | - |

Overall the FIA saw a drastic decrease in SAR/STR filing, averaging at **-41.67%** from the last Reporting Period. Although Banks, MSBs and Long Term Insurers maintained their statuses as the most frequent SAR/STR filers, there were corresponding and significant decreases in the number of filings compared to the 2017/2018 Report Period. In contrast, there was an increase in SARs/STRs filed by the law firms, fund administrators and insurance company/manager/broker due to declined suspect business, KYC matters, fraud e.g. email phishing schemes, sanctions, corruption, remediation projects and new reporting entity registrations submitted to the FIA etc.

Contained within these STRs were **11,001** transactions for a total value of **\$177,940,607.00 BMD** of which 13 of the STRs involved amounts in excess of 1 million BMD. These included the Banks, Long Term Insurers, Fund Administrators, Insurance Managers, Investment Service Providers, and a Trust Company. Once again, the Banks and Long Term Insurers were the major filers of STRs amounting to 1 million BMD and more. The majority of SARs filed with the FIA continue to be of a quality standard with the necessary SAR narrative and supporting documentation being provided to assist with the FIA’s analysis. There were, however, submissions that required the FIA to continuously contact the reporting entity as supporting documentation was not provided or errors in reported information needed to be addressed.

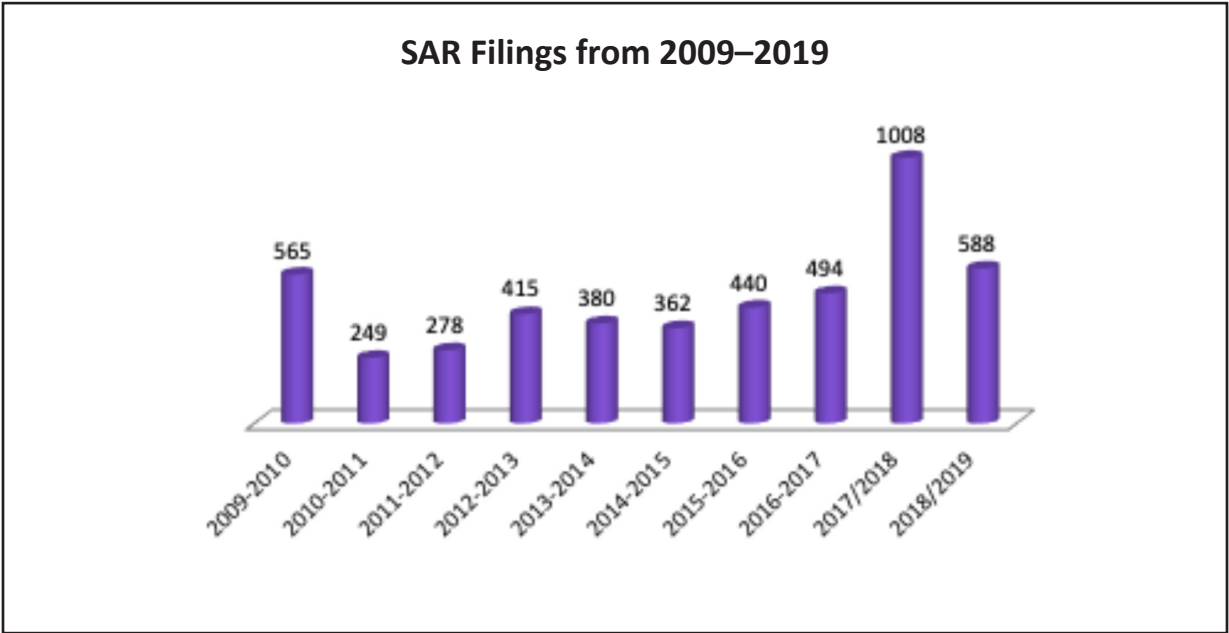
During this Reporting Period, the FIA also rejected two (2) submissions due to a premature submission of the report, a lack of supporting documentation and incomplete entries in required fields within goAML.

Despite the low number of SAR/STR filings, during this Reporting Period, the FIA continue to offer complimentary training and presentations that are sector specific, allowing for discussion and examples that are aligned to that specific entity. Presentations are also geared towards SAR/STR reporting which can assist in improved SAR filings. In addition to Reporting Entities, the FIA has training sessions with Supervisors and Stakeholders. These sessions have been instrumental in furthering their knowledge of the AML/CFT, the relevant indicators to look for according to their line of business and the reasons for filing SARs/STRs.

Training and presentations given to the Reporting Entities, Supervisors and Stakeholders tend to address KYC (Know Your Customer), Money laundering, terrorist financing, the use of the goAML online platform and risk management. Discussions are held about useful policies and procedures that can be introduced to assist the registrants’ staff members in identifying and dealing with suspicious activity and transactions. We are pleased to see the positive results from this training, as it has allowed for discussions that ultimately help trainees with the filing of useful SARs and provide the FIA with valuable feedback that can be used in subsequent presentations, training, and reports.

Below is a Comparison Chart outlining the number of SARs filed with the FIA during previous reporting periods.

Chart 2



CASH EXCHANGE STRs

Typically, STRs classified as money laundering involving cash exchanges of Bermuda currency for a foreign currency, usually USD via Banks, are ranked as the most reported activity to the FIA; however, during this Reporting Period, STRs classified as money laundering involving cash exchanges only totalled **193** in comparison to STRs involving money laundering, which totalled **261**. Although the classification of ‘money laundering’ is generic, further review of the respective STRs identified that they involved clients/account holders not using their accounts for their intended purpose e.g. use of a personal account instead of a business account, credits from unknown sources, excessive/inexplicable ATM debits in foreign countries, large deposits in a short time period from unknown sources, credits exceeding known sources of income/wealth, KYC discrepancies etc.

WIRE TRANSFER STRs

Also, **101** STRs involved suspicious wires out of Bermuda using Money Service Businesses as their transmitter for a total value of **BMD \$158,587.00** in **156** transactions at an average of **BMD \$1,016.58** per transaction. Wire transfers via MSBs continue to be used as a means of moving funds as per the FIA’s analytical findings. Please be mindful that Bermuda Direct Limited is currently the only registered MSB in Bermuda, which explains the decrease in the total number of transactions and monetary value reported during the previous reporting period.

Table 2

Comparison of Wire Transfer STRs filed in 2017/2018 to 2018/2019 Reporting Period

| | 2017/2018 REPORTING PERIOD | 2018/2019 REPORTING PERIOD |
|--|-------------------------------|-------------------------------|
| STRs Filed | 120 | 101 |
| \$ Value (BMD) | \$270,640.00 | \$158,587.00 |
| No. of Transactions | 199 | 156 |
| Average \$ Value per Transaction (BMD) | \$1,360.00 | \$1,016.58 |

REPORTING CLASSIFICATIONS

During this Reporting Period, the following ten (10) reporting classifications were noted in SARs/STRs filed (see Chart 3 below for breakdown):-

1. Money Laundering
2. Money Laundering/Cash Exchanges
3. Fraud
4. Tax Offences (International)
5. Corruption
6. Sanctions
7. Insider Trading
8. Narcotics
9. Terrorist Financing
10. Weapons of Mass Destruction/ Proliferation of Financing

Table 3

| REPORTING CLASSIFICATIONS | BANKS | ISP'S | MSB'S | CSP'S | LAW FIRM | FUND ADMIN | LOCAL REGULATORS | LONG TERM INSURERS |
|-------------------------------------|-------|-------|-------|-------|----------|------------|------------------|--------------------|
| Corruption | 4 | 2 | | 3 | 2 | 1 | | 9 |
| Fraud | 37 | 10 | 1 | 9 | 5 | 4 | 2 | 19 |
| Money Laundering | 74 | 11 | 90 | 7 | 2 | 3 | 4 | 33 |
| Money Laundering/ Cash Exchanges | 138 | | | | | | 2 | |
| Tax Offences | 13 | 1 | | 2 | 1 | | | 8 |
| Terrorist Financing | 1 | | | | | | | |
| Insider Trading | | 2 | | 1 | | 1 | | |
| Sanctions | 1 | | | 4 | | | 1 | 2 |
| WMD/Proliferation | | | | | | | | |
| Narcotics | | | | | | | | 1 |

| REPORTING CLASSIFICATIONS | INSURANCE COMPANY | INSURANCE MANAGER | JEWELER | TRUST COMPANY | PRECIOUS METAL DEALERS | REAL ESTATE SECTOR | REG. CHARITY |
|-------------------------------------|-------------------|-------------------|---------|---------------|------------------------|--------------------|--------------|
| Corruption | 11 | | | 1 | | | |
| Fraud | 2 | | | 2 | 1 | 1 | 1 |
| Money Laundering | 9 | 3 | 1 | 4 | | | |
| Money Laundering/ Cash Exchanges | | | | | | | |
| Tax Offences | | 1 | | 1 | | | |
| Terrorist Financing | | | | | | | |
| Insider Trading | | | | 1 | | | |
| Sanctions | 1 | | | | | | |
| WMD/Proliferation | | 1 | | | | | |
| Narcotics | | | | | | | |

REPORT INDICATORS

A plethora of Report Indicators are available when filing a SAR/STR. The purpose of this list is to assist the FIA in the categorization of the report filed according to the activity noted. These vital details help the analysts to notice patterns and trends that can then be shared with all sectors, local stakeholders and supervisors, as well as overseas competent authorities.

A summary of two of the reporting indicators highlighted in the SARs filed during this Reporting Period is shown below.

DECLINED/REFUSED BUSINESS – SUSPECTED CRIMINAL ACTIVITY

The FIA has received **42 STRs/SARs** this Reporting Period from eight (8) different sectors selecting this indicator, declined/refused business. This being Banks (including Credit Union), Investment Service Provider, Local Regulatory Agency, Long Term Insurer, Money Service Business, Law Firm, Insurance Company and Precious Metals Dealer, totaling in the amount of **\$30,644,109.00 BMD**. Filings across the different sectors in relation to this classification are welcomed as the awareness and identification of suspected criminal activity linked to prospective and current clients can assist the investigations of the Supervisors, overseas FIUs and local law enforcement as well as encourage the dissemination of useful bulletins and typologies by the FIA about this activity.

Some of the other following red flags/indicators identified within these STRs/SARs were:-

- Criminal History
- Misrepresentation
- Inadequate/Evasive Explanation
- Inconsistent Account Activity
- No Source of Funds
- Suspect Comportment
- False Documents
- High Risk Country
- Use of Insurance Products
- Corruption
- Insider Trading
- Adverse Media
- No Source of Wealth
- Refusal to Comply with KYC requirements
- Cancelled Transaction
- Structuring

CRYPTOCURRENCY/BITCOIN

The FIA has received **5 SARs** that selected this indicator from two sectors namely, Banks (including a Credit Union), and Law Firms. The total amount involved was **\$240,420.00 BMD**. These filings across the two sectors in relation to this classification reiterate their ability to identify and willingness to report this suspicious activity.

Within these STRs/SARs, some of the following red flags were identified:-

- Cash Exchanges BMD/USD
- Inconsistent Account Activity
- Misuse Accounts – business transactions in person
- Money Laundering
- No Source of Funds
- Tax Evasion
- Wires
- Use of Corporate Vehicles
- Refusal to comply with KYC requirements
- Inadequate/Evasive Explanation
- Foreign Agency contacting Reporting Entity
- Criminal History
- Firearm Involvement
- Beneficial Ownership
- False Documents
- Adverse Media
- High Risk Country

OVERALL TRANSFERS OF MONIES OUT OF BERMUDA 2018–2019

During this Reporting Period, the FIA has received numerous SARs relating to wires (EFTs) to numerous jurisdictions, mainly filed by the MSBs. The total dollar value of wires being sent out of Bermuda totals **\$101,647.00 BMD** via 105 transactions compared with **\$288,654.00 BMD** being sent out of Bermuda in 2017/2018 via 216 transactions. This represents a 64.7% decrease in the value of suspicious EFTs. This decrease can be attributed to the fact that one of the MSBs in Bermuda of which there were two, is no longer operating in this capacity. This is only reflective of what has been reported as suspicious. In Chart 9 below, see a summary of the 28 countries identified as recipients of suspect wires:

Chart 9

| No. | DESTINATION COUNTRY |
|-----|---------------------|
| 1 | Barbados |
| 2 | Cambodia |
| 3 | Canada |
| 4 | China |
| 5 | Colombia |
| 6 | Costa Rica |
| 7 | Dominican Republic |
| 8 | Ecuador |
| 9 | France |
| 10 | Guyana |
| 11 | Honduras |
| 12 | Hong Kong |
| 13 | Indonesia |
| 14 | Italy |
| 15 | Jamaica |
| 16 | Malaysia |
| 17 | Mexico |
| 18 | Panama |
| 19 | Philippines |
| 20 | Poland |
| 21 | Republic of Moldova |
| 22 | Romania |
| 23 | Singapore |
| 24 | Taiwan |
| 25 | Trinidad & Tobago |
| 26 | Turkey |
| 27 | United Kingdom |
| 28 | United States |

CASE STUDIES 2018–2019

Case 1

An overseas Incoming Request for Information (IRI) was received by the FIA on the suspect activity of Company A, a Bermuda registered Class B exempt fund which has been named as a defendant in a class action lawsuit filed in the United States District Court, Southern District of New York. The class action lawsuit is on behalf investors who purchased or acquired securities in a Greek shipping company, Company B which owns and operates ocean going cargo vessels worldwide. The investors are seeking to recover compensable damages caused by the defendants' violations of the Securities Exchange Act of 1934. Two of the defendants listed in the class action lawsuit have an existing relationship with Company A, most notably Company C, a BVI registered company which is owned by a Canadian hedge fund manager, Subject 1.

Company A is backed by Subject 1, the mastermind of the plan to flood the stock market with shares of Company B, driving the stock price down by 99.9% due to a series of dilutive stock offerings. In a series of transactions beginning on or around June 8, 2016, it has been alleged that Company B engaged in a systematic stock-manipulation scheme to artificially inflate its share price by selling a considerable amount of discounted shares to Company C, which in turn resold them quickly, propping up Company B's value with "reverse splits" or as what is commonly known as "stock merging". This influx of capital enabled Company B to raise USD \$720 million in equity and roughly double the size of its fleet to 36 vessels, thus enabling the company to rebound in 2018 and return to profitability in the first quarter.

Further analysis undertaken by the FIA revealed that during the time of the market manipulation, the following shareholders in Company A executed the following subscriptions into the Fund:

- Company D, a BVI registered company whose underlying beneficial owner is Subject 1, entered into a loan agreement dated 7th April 2017 with Company A for the sum of USD \$34,275,921.00 and received the proceeds of the investment.
- Company E, a BVI registered company placed a subscription on 01-Feb-2013 into Company A in the amount of USD \$1,400,000.00 which was classified as a "loan" on behalf of The ABC Settlement, the beneficiary being Subject 1. The proceeds from this investment are believed to have yielded USD \$4,000,000.00.
- Company F, a BVI registered company placed a subscription into Company A on 27-Nov-2014 in the amount of USD \$1,000,000.00.

In confirmation of who the underlying beneficial owner for Company A is, the FIA analysis revealed it was ABCD Management Ltd, whose sole shareholder as per the company's Share Register is a foundation. Of particular interest, the FIA noted that the Articles of Association for the foundation state that its purpose *'is to participate in any way whatsoever in businesses and companies and to acquire, alienate and manage currencies, securities and items of property in general and to do all that is connected herewith or may be conducive hereto. The Foundation does not have any profit intention: any excess proceeds of the Foundation shall be spent for humanitarian causes'*.

The FIA believes that the financial business footprint for Company B has demonstrated that the company has placed an emphasis on growing its fleet than creating value for investors. Company B's management was intent on selling its shares hand over fist in order to raise \$720 million in equity. The conspiracy and conduct listed in the class action lawsuit illustrated the manipulative arrangements employed outside of the public's awareness to generate profits at the expense of ordinary shareholders. Noted below is a summary of what drove the share price from \$4.00 to \$100.00:

- Company B's stock traded at all time high of approximately \$190,000 a share and low of about \$4.00 a share, the adjusted price due to the reverse stock split.
- Company B's stock spiked up 614% over a two day period during November 14th – 15th 2016.
- Within five days over the period of November 9th-15th 2016, Company B's stock rose from about \$4.00 to \$100.00, an increase of 2100%.
- When pressed to comment on this situation, Company B stated that they had no knowledge of any information which would have contributed to the increase in trading activity.
- In reporting its third quarter earnings on November 9th 2016, a net loss for Company B was posted of \$5.2 million for the quarter.

- The Wall Street Journal reported as follows:

“Traders said the price surge stems from a collision between hope and greed that created an unlikely bidding war for this thinly traded stock.”

This intelligence was forwarded on to the local regulatory authority for further action.

INDICATORS

- Foreign Agency Contacting Reporting Agency
- Collusion
- Foreigner(s)
- Fraud
- Wires
- Market Abuse
- Misrepresentation
- Pass Through Vehicle
- Adverse media
- Use of Corporate Vehicles
- Securities Fraud
- Securities or Brokerage

INDICATORS OF SUSPECTED MONEY LAUNDERING

- Company B has made a vast profit selling its shares to Company C than from its own operations. In 2017 alone, Company B sold approximately \$0.5 billion in shares to Company C, which in turn dumped these shares on the public. The funds realized from the death spiral financing utilized by Company C, could be linked to the incoming electronic fund transfers flagged by the FIA, that are associated with the local bank accounts held by Company A.
- A further analysis by the FIA regarding the banking account activity for Company A, would suggest that it is used as a master feeder fund for suspect transactions solely executed by the financial control of Subject 1 and the underlying shareholders of Company A.
- The intended nature of business and expected transaction activity for Company A has changed considerably since bank account opening.
- The underlying beneficial ownership for Company A is a foundation, the disclosed purpose of which does not match the detected suspicious activity or nature in which the bank accounts have been used.

Case 2

A Request for Information was received from an Overseas Financial Intelligence Unit (FIU), regarding the suspect activity of two related Subjects, who are citizens of its jurisdiction and are part-time residents in Bermuda. The Subjects were suspected of being involved in a tax fraud scheme. Whilst in Bermuda, the Subjects set up a company through which funds from various persons would be received and then sent to one of the Subject’s overseas accounts linked to a precious metal investment company owned by the Subjects. Checks conducted by the FIA identified the following about the Subjects:

- They are seasonal visitors to Bermuda.
- They did set up a company in Bermuda and are registered for social insurance.
- They do hold bank accounts in Bermuda.
- No SARs had ever been filed on the Subjects.
- The Subjects were not known to local law enforcement for any suspect/criminal activity.

Despite the inquiries conducted, the FIA were not able to substantiate the suspect activity identified by the overseas FIU and this matter was closed until further information/intelligence surfaces.

Indicators:

- Foreigner(s)
- Money Laundering
- Wires
- Tax Evasion
- Fraud
- Travel
- Investment Related

Case 3

The Subject is a well-known person in her country, who set up a universal life insurance policy with a local long term insurer. The Subject's niece was noted as the ultimate beneficial owner (UBO) and the policy was insured in the amount of USD\$1.5 million. A routine due diligence check conducted 12 years later by the local insurer revealed that the Subject had been arrested and criminally charged in her country with criminal conspiracy, and misappropriation of funds. The adverse media linked the Subject to corruption and deemed the Subject and the UBO to be Politically Exposed Persons (PEPs). As a result, a Suspicious Activity Report (SAR) was filed with the FIA.

A subsequent SAR was filed by the same local insurer stating that the Subject had issued a policy ownership request in order for the niece to assume ownership of the policy.

A third SAR was then filed by the same local insurer stating that a surrender request had been received from the Subject, requesting that the funds be sent to the Subject's overseas bank account.

As a result, a letter of Non-Consent was given to the local insurer and disclosures were made to the respective Overseas Financial Intelligence Units (FIUs) to see if there was any interest in the forfeiture of the funds held in Bermuda and any other information regarding the Subject and the UBO.

Bermuda is now in the process of seizing these funds along with the assistance of Overseas FIU and Law Enforcement Agencies.

Indicators:

- Adverse media
- Company
- Corruption
- Fraud
- Misuse Accounts – business taking in personal account(s)
- PEP Foreign
- Beneficial Ownership
- Investment Related
- Previous filings on Subject/Entity
- Watch Lists
- Early Redemption
- Consent Request

Case 4

A SAR was filed by a local company registrar in respect to a Bermuda Charitable Trust, whose purported structure and activities appeared to launder the proceeds of tax and crime in obscuring the source and ultimate destination of funds. The main conductors in the disbursement of flow of funds through the structures associated with the Bermuda Charitable Trust, Subject 1 and Subject 2 are foreigners who used to work in Bermuda, now residing in the United States of America.

During the course of a renewal application process conducted by the local Charities Commissioners to register the Bermuda Charitable Trust as a charity, a number of accounting irregularities were noted which led to an internal investigation being opened by the local company registrar. As a result, the local company registrar decided to undertake a desk based review of the Bermuda Charitable Trust in compliance with Bermuda's Anti Money Laundering/Anti-Terror financing regime. In response, the Bermuda Charitable Trust disclosed its application had been 'filed erroneously' and advised they wished to withdraw it, a request which was denied.

The movement of funds through the Bermuda Charitable Trust raised questions of suspicion surrounding the actual purpose of the Trust, purported to have been established for the advancement of religious benefits, in Bermuda and overseas. The significant amount of funds raised since the Trust was formed, versus that which has been distributed by a related entity formed to provide management, administration and accounting services for the trust has decreased every year. There appears to be little indication that the funds are actually raised here in Bermuda and thus, the Trust and its related counterparties appear to run as a modus operandi of facilitating money laundering as pass through vehicles.

In the analysis completed by the FIA, open source documents indicated that seemingly related Foundation is in fact owned by the Bermuda Charitable Trust. The Foundation carries out its charitable purpose through international grant making and mission related investments. It enables Christian donors (US citizens & High Net Worth individuals) to donate and invest in the 'Kingdom of Christ' through a tax neutral jurisdiction, that being Bermuda. Further analysis indicated that the Foundation still appears to be soliciting charitable funds and in itself, is funded by donations that are used for funding operational expenses. Local banking transaction activity for accounts held for the Foundation, confirmed electronic fund payments executed for the benefit of the Bermuda Charitable Trust. Further, 100% of the Trusts expenses seemingly are paid for by another related entity identified within the trust Structure, Company B, enabling all such donations and funding to be distributed.

The FIA determined that the banking account transaction activity indicated that there have been frequent donations credited into the Bermuda Charitable Trust's bank account by local residents and foundations. The majority of donations to date have not been to local beneficiaries, but rather those located overseas, which is permitted by Subject 1 and Subject 2 in their capacity as Trustees. The outgoing transaction activity has consisted primarily of wire payments remitted to beneficiaries overseas (USA & Canada), the likes of which are Christian missionaries, bible colleges and schools, Christian empowerment programs for children in schools and organizations involved in the prevention of human and sex trafficking.

The bank accounts held by the Bermuda Charitable Trust and related parties therein have since either been closed, or have minimal balances, which would lean towards the fact that Subject 1 and Subject 2 are now residents in the United States.

Research using open source documents was completed by the FIA in verification of the benefactors who received wire payments from the Bermuda Charitable Trust, the findings of which appear to lend legitimacy as to their involvement in Christ centred charitable organizations, projects and missions.

This intelligence was forwarded on to the local company registrar for further action.

Indicators

| | |
|-----------------------------------|-------------------------------|
| Cash In/Out International | Tax Evasion |
| Cash In/Out Local | Tax Offences |
| Charities/Non-Profit Organization | Use of Corporate Vehicles |
| Fraud | Use of Trusts |
| Legal Arrangements | Inconsistent Account Activity |
| Money Laundering | Guest Worker(s) |
| Structuring | |

INDICATORS OF SUSPECTED MONEY LAUNDERING

- Proposed structure and activities associated with the Bermuda Charitable Trust and related entities, appear to be ripe in obscuring the true source and ultimate destination of funds.
- Transaction activity suggests the bank accounts are well placed to launder the proceeds of tax evasion and other possible financial crimes under the guise of being a charitable trust established for the advancement of religious purposes, primarily for the benefit of Bermuda.
- Incoming funds remitted from overseas donations raised concern in that these monies were then not ultimately used for charitable benefit to Bermuda, but rather donated to overseas charitable organizations which could be viewed as being an underlying tax evasion scheme employed by Subject 1 and Subject 2.
- From 2016, as a registered Charity, the Bermuda Charitable Trust has been required by the Charities Act and the Regulations thereto, to be in adherence with Bermuda AML/ATF policies and procedures, inclusive of the appointment of a Compliance Officer. The Bermuda Charitable Trust submitted a complete application for the 2016 year, in which they were required to confirm that they had implemented AML/ATF Policies and Procedures and appointed a Compliance Officer. Thereafter, the Bermuda Charitable Trust did not file for 2017, and the charity was therefore struck off of the Charity Register.
- When the Bermuda Charitable Trust were notified that a AML/ATF desk based review was to be completed, the Trustee Company for the Bermuda Charitable Trust advised the local company registrar that the “application had been filed erroneously” and they now sought to withdraw their application.

FILING OF CASH TRANSACTION REPORTS (CTR)

Following the 2016 amendments to the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervisions and Enforcement) Act 2008 (SEA) in relation to dealers in High Value Goods (DiHVG), 2 businesses registered with the FIA during the Reporting Period which enabled them to accept a total cash payment of BMD \$7,500 or more¹ in a single transaction or series of linked transactions. **A DiHVG who intends to accept such cash payments must register with the FIA before accepting these cash payments.**

To be caught by the requirements of the AML/ATF legislation, a ‘total cash payment’ includes the total cash derived from a series of linked transactions. Linked transactions separated by an interval of three months or more need not be treated as linked, provided there is no evidence of a link and the transactions do not otherwise give rise to a business relationship.

Whenever cash equal to or over the BMD \$7,500 threshold is accepted by a DiHVG that is registered with the FIA, that business must file a cash transaction report (CTR) with the FIA pursuant to the provisions of Section 9(3) of SEA.

The FIA can report that a total of 3 CTRs were filed during this Reporting Period. The following chart shows the breakdown of filings per quarter.

Chart 10

| | 1ST QUARTER | 2ND QUARTER | 3RD QUARTER | 4TH QUARTER | TOTAL |
|------------------|-------------|-------------|-------------|-------------|-------|
| Regulated entity | 1 | 1 | 1 | 0 | 3 |

¹ A cash payment of BMD \$7,500 or more is a total cash payment (in any currency: notes, coins, travellers’ cheques) that is equivalent to at least BMD \$7,500 in any single transaction or series of linked transactions. Transactions separated by an interval of three months or more need not be treated as linked, provided there is no evidence of a link and the transactions do not otherwise give rise to a business relationship.

DISPOSITION OF SARs/STRs DURING THE REPORTING PERIOD

All SARs/STRs received by the FIA are analysed and subjected to an initial review, after which they are either filed for intelligence or assigned to a case for further analysis and potential disclosure to the FIA’s partner agencies.

During the Reporting Period, the FIA has made **112** disclosures. There were **79** local disclosures and **33** made overseas with the majority made locally to the BPS. Used within these disclosures were **95** SARs/STRs in comparison with the 2017/2018 Reporting Period, as the FIA made **85** disclosures containing **510** SARs/STRs. **68** disclosures were made locally and **17** were made overseas.

Within this period, the review and use of SARs/STRs had decreased contrary to the total number of SARs filed during this period. The decrease in SARs/STRs utilized within these disclosures was **81.3725%**.

GATHERING POWERS

As it relates to the FIA using its gathering powers under Section 16 of the FIA Act, a total of **388** “Notice to Provide Information” requests letters were sent to **22** separate entities during this Reporting Period. Compared to the 2017/2018 period, there were **619** “Notice to Provide Information” requests letters sent to **28** separate Reporting Entities. The decrease in the number of Notice to Provide Information requests is commensurate to the decrease in the number of SARs filed during this period.

The Notice to Provide Information Requests are only used when the FIA has escalated a SAR to be a case, requiring further analysis.

DISCLOSURE STATISTICS

During this Reporting Period, the FIA made **112 disclosures** of classified information/intelligence to local and foreign partners compared to **85** disclosures during the 2017/2018 period. These disclosures consisted of information received by the FIA from **588** SARs; information/intelligence obtained by the FIA further to its information gathering powers under Section 16 of the FIA Act, and Open Source Information. Most importantly, all of these disclosures contained analysis conducted by the FIA’s staff in our efforts to provide useful intelligence to the FIA’s local and foreign partners.

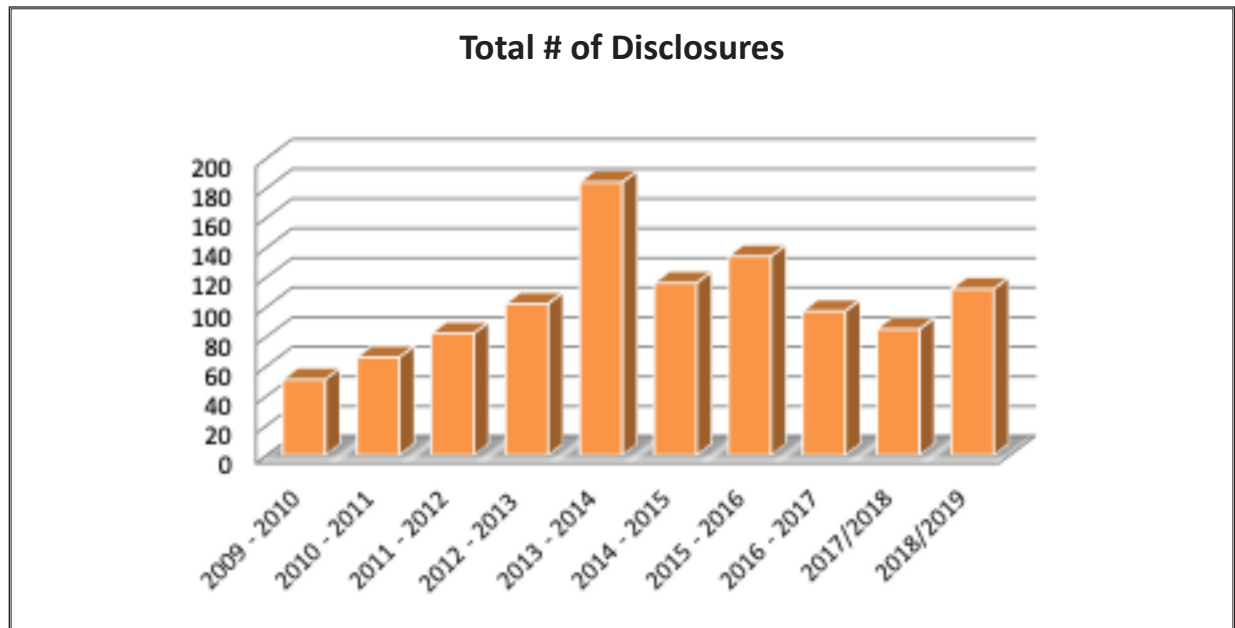
Chart 11 found over page compares the total Disclosures and SARs/STRs utilised during this Reporting Period and the FIA Annual Report for 2017-2018. Some of the SARs/STRs utilised were from previous year submissions.

Chart 11

| | 1ST QUARTER | | 2ND QUARTER | | 3RD QUARTER | | 4TH QUARTER | | TOTAL | |
|----------------------|-------------|-------|-------------|-------|-------------|-------|-------------|-------|-------|-------|
| DISSEMINATIONS | 17/18 | 18/19 | 17/18 | 18/19 | 17/18 | 18/19 | 17/18 | 18/19 | 17/18 | 18/19 |
| Total Disclosures | 10 | 21 | 31 | 17 | 14 | 32 | 30 | 42 | 85 | 112 |
| Total SARs Disclosed | 14 | 9 | 188 | 4 | 6 | 33 | 302 | 49 | 510 | 95 |

Chart 12 illustrates the total number of disclosures from 2009 – 2019.

Chart 12



INTERACTION WITH FOREIGN FIUs

Sections 14 and Section 18 of the FIA Act establish the lawful basis for the FIA to provide international co-operation to foreign FIUs as well as foreign non-counterparts. The FIA has autonomous authority to determine how to exercise its functions. The FIA adheres to the Egmont Group of Financial Intelligence Units’ Charter and Principles of Information Exchange between FIUs, which directs the efficient use of cooperation.

During the current Reporting Period, the FIA received **31** Incoming Requests for Information (IRI) from **19** foreign FIUs. See Chart 13 over page outlining the Number of IRIs submitted.

Chart 13

| | 1ST QUARTER | 2ND QUARTER | 3RD QUARTER | 4TH QUARTER |
|---|-------------|-------------|-------------|-------------|
| Foreign Incoming Requests for Information | 7 | 12 | 8 | 4 |

In keeping with EGMONT FIU agreements, the FIA considers all IRIs from foreign FIUs as containing classified information.

In addition to responses to requests made by other entities to the FIA, the FIA also made a number of disclosures of information to foreign partners. Of the **112** disclosures made by the FIA during the current Reporting Period, **33** of the disclosures were made to foreign FIUs, which are listed below in Chart 14.

Chart 14

| | 1ST QUARTER | 2ND QUARTER | 3RD QUARTER | 4TH QUARTER |
|-----------------------------|-------------|-------------|-------------|-------------|
| Disclosures to Foreign FIUs | 5 | 11 | 14 | 3 |

The FIA does not require any agreement to enable it to exchange information with foreign FIUs as this is permissible by virtue of Section 14 of the FIA Act. The FIA will rapidly conclude MOUs with those countries that require an MOU. Section 19 of the FIA Act states that the FIA may, in connection with the exercise of its functions under this Act, enter into arrangements for cooperation with bodies or persons (in Bermuda or elsewhere) that it considers appropriate.

Currently, the FIA has signed 43 MOUs with foreign FIUs since its establishment in November 2008. The FIA has also received confirmation from a further 14 FIUs that an MOU is not required by their FIUs to facilitate international co-operation. The FIA has also signed 8 domestic MOUs with the relevant competent authorities since inception.

SUPERVISORY UNIT

DEALERS IN HIGH VALUE GOODS (DIHVG)

The Supervisory Unit of the FIA is responsible for effectively monitoring DiHVG, on a risk sensitive basis, and take necessary measures for the purpose of securing compliance by Registered DiHVGs with relevant AML/ATF Regulations. Policing the Perimeter activities are equally important to ensure that unregistered DiHVGs are not advertently or inadvertently breaching Bermuda's AML/ATF regime.

2018/2019 was a busy year for the Supervisory Unit. There was a continued focus on educating all businesses with the DiHVG sector to enhance their understanding of Bermuda's AML/ATF regime. Further, the Supervisory Unit was actively involved in all aspects of the preparatory work and the on onsite assessment of Bermuda being conducted by the Caribbean Financial Action Task Force. In addition to submitting information, submissions and documentation in support of Bermuda's Technical Compliance and Effectiveness Submissions with the FATF standards, representatives from both the Supervisory Unit of the FIA along with a representative from a Registered DiHVG met with the CFAFT assessment team during their onsite review which took place in Bermuda during the period of 24 September to 5 October 2018.

The results of Bermuda's Mutual Evaluation are expected to be tabled for discussion during the CFATF Plenary in November 2019 and are expected to be published following the FATF Plenary in February 2020.

SUPERVISORY ACTIVITIES

Registration

The FIA received 2 applications for registration from businesses. Fit and proper assessments were conducted with positive assessments being made and registration granted to both applicants.

Onsite Assessments

Onsite Assessments were conducted in December 2018. The Registered Dealers have cooperated fully with the FIA during the assessments and are taking steps to address and implement the remediation plan formulated by the FIA.

Given the newness of the regime, all assessments will be in-depth for the first 3 years to ensure the registered DiHVG have a strong understanding of the ML/TF risks.

Section 16 Notice to Provide Information

1. As noted in the 2017/2018 Annual Report, the FIA issued Section 16 SEA notices requesting information of businesses to ascertain their compliance with Section 9 of SEA within the following sectors:

These assessments of unregistered businesses resulted in 4 onsite visits of businesses and 1 desk based review. The Supervisory Unit is grateful for the cooperation it received from these businesses which allowed for a thorough and efficient review of the accounts and operations of these businesses.

2. Businesses were found non-compliance with SEA. Given the circumstances surrounding these infractions and the willingness of the businesses to take immediate steps to rectify the offending activities, the FIA determined it was appropriate to issue a warning and place the business under enhanced supervision for one year. It is anticipated that an additional on-site examination will take place during the enhanced year to assess the business' continued compliance with SEA.
3. As noted in the 2017/2018 Annual Report, the FIA required all businesses within the DiHVG sector to complete a Sector Risk Analysis questionnaire (SRA). The purpose of the SRA was to gather data that was not available during the NRA and to enable the FIA to conduct a thorough review of the various risks associated with each type of business within the DiHVG sector.

Completed questionnaires were filed with the FIA from February – June 2018. The analysis of this data was conducted from July – September 2018 with a focus on the dealers in precious metals and stones sector (DPMS). The results of the 2018 Sector Risk Analysis of the DPMS Sector are discussed in detail below.

The FIA continued to gather data via the SRA in 2019. The SRA questionnaire was again sent to all businesses in January 2019 seeking statistical data from 2018. A similar timeframe for conducting the analysis of the results is expected in 2019, with the goal of ascertaining if the risk profile for the various types of businesses has altered.

Training

- June – September 2018 Email and In-Person Outreach was conducted to over 40 businesses, which included dropping off and collecting Sectoral Risk Assessment Questionnaires and providing businesses within the DiHVG sector fact sheets as to the restrictions on accepting cash over the statutory threshold of \$7,500 and providing details about the registration requirements with the FIA. A copy of that fact sheet can be found at Annex 1 to this Annual Report;
- August 2018 – In person on site AML/ATF, CTR, Sanctions and SAR Filing training for 1 registered DiHVG was conducted;
- Updated Sanctions training was delivered to all registered DiHVG on **17 September 2018** to advise of the new Financial Sanctions Implementation Unit (FSIU) that was being established in Bermuda and highlighted the changes to the sanctions regime. Results from the 2018 Sectoral Risk assessment were also provided along with details of the FIA's 2019 Supervision Plan and the 2018 Guidance Notes (which provided details on amendments to legislation in 2017 and 2018);
- **28 September 2018** – further outreach to the registered DiHVG was conducted following issuance of Guidance Notes by the FSIU.

2018 SECTORAL RISK ASSESSMENT OF THE DEALERS IN PRECIOUS METALS AND STONES SECTOR

Summary of findings:

The overall vulnerability rating of the sector continues to be Medium.

Whilst there have been significant improvements to the Controls for this Sector, the Inherent Vulnerabilities rating of 0.41 continue for the Sector.

1. INTRODUCTION

The 2018 Sectoral Risk Assessment (SRA) examined the money laundering vulnerabilities within the Dealers in Precious Metals and Stones sector in Bermuda (Sector). The SRA served as an update to the National Risk Assessments that was commissioned by the Government of Bermuda in 2017 (NRA).

The NRA determined the overall vulnerability rating of the Sector was MEDIUM. This finding was attributed to the Sector not being within scope of Bermuda's Anti-Money Laundering/Anti-Terrorist Financing preventative measures regime (AML/ATF Regime) during the assessment period of 2013-2016 for the NRA. Amendments to the AML/ATF regime were brought into scope from 1 December 2016. Consequently, there is an expectation that the risk ratings for these variables would improve as the supervision of the Sector mature.

2. OVERVIEW OF SECTOR

The Sector is comprised wholly of retail businesses; there are no known wholesale importers or exporters in Bermuda and mining activities do not exist in Bermuda. The sector contributed less than 1% to the gross domestic product of Bermuda during the relevant period.

- 2013 – \$19.9 million
- 2014 – \$22.3 million
- 2015 – \$22.8 million
- 2016 – \$25.2 million
- 2017 – \$21.4 million

The level of cash activity, in particular large level transactions, within the Sector is minimal and is in keeping with the general formalization of Bermuda’s economy. There are less than 30 retailers operating in Bermuda. Only 1 retailer offers loose stones for purchase on a regular basis. There is a low ratio of non-resident clients (seasonal transactions) versus annual purchases by residents. During high tourist season (May-October) sales of jewellery increased due to tax-free status of many jewellery items.

3. METHODOLOGY AND SCOPE OF SRA

Vulnerabilities are defined by the Financial Action Task Force as those things that can be exploited by a money laundering or terrorist financing (ML/TF) threat or that may support or facilitate its activities. In the ML/TF risk assessment context, looking at vulnerabilities as distinct from the threats means focusing on, for example, the factors that represent weakness in AML/ATF systems or controls.

Accordingly, the vulnerability assessment is conducted in three phases; the assessment of **inherent vulnerability** when no controls or mitigating factors are in place, the evaluation of controls that have been implemented and finally the **residual vulnerability** that measures the vulnerability after AML/ATF controls have been taken into account (i.e. the net vulnerability). The SRA accordingly followed the same methodology that was applied for the NRA.

To accurately assess the on-going ML/TF risks for the purposes of the SRA, the FIA compiled a questionnaire that was sent to all businesses in the sector in January 2018. The FIA required all businesses within the sector to complete a Sector Risk Analysis Questionnaire (“Questionnaire”) by 28 February 2018. The Questionnaire sought information covering the calendar year 2017 in relation to the following topics:

- does the business track repeat customers;
- does the business operate a payment via layaway service;
- does the business limit the size of cash transactions;
- details on value of all inventory maintained by the business;
- total sales for the year;
- breakdown of cash transactions
 - ▶ over \$10,000,
 - ▶ in the range of \$7,500 and \$9,999 and
 - ▶ those below \$7,500.

The response rate for the submission of completed questionnaires from the entire DIHVG sector was below 30%. Given the newness of the supervisory regime for this sector, the diminutive initial response rate was expected. The Supervisor conducted multiple follow-up initiatives following the 28 February 2018 submission deadline, mostly involving face-to-face conversations to improve the response rate. The response rate for the Sector was 60%.

4. ANALYSIS OF THE RESULTS OF THE QUESTIONNAIRE FOR THE SECTOR

1. **75 % of businesses in the Sector are incorporated.**
2. The average number of sales staff across the businesses is **5**.
3. **91%** of Sector is not part of a group of companies that is currently supervised for AML/ATF purposes.
4. **1/3** of Sector does track repeat customers however, the responses in relation to the tracking of overseas vs domestic customers were lacking and therefore analysis could not be completed.
5. **1/3** of Sector **DO NOT** offer layaway services for the purchase of items.
6. Of the **2/3** of Sector that does offer a layaway service, **56%** of them **DO NOT** accept third party cash payments.
7. Only 1 business in the Sector that is not registered with the FIA indicated that they **DO NOT** limit the size of cash transactions. The data provided in response to this questionnaire does not suggest any cash payment over \$7,500 was received.
8. **41%** of Sector has cash limits that are less than \$5,000 and **46%** have cash limits between \$7,000–\$7,500.
9. **30%** of Sector advised they do not have any written policies in place relating to large cash transactions to assist them in “knowing your client” e.g. proof of customer identity; verification of source of funds; series of linked transactions etc
10. For whole Sector, **97%** of their inventory has a retail price **below \$7,500**.
11. For whole Sector, **90%** of their TOTAL sales were for inventory with a retail price below \$7,500 of which **20%** were paid in cash.

5. SECOND SCENARIO OF THE RISK ASSESSMENT

Having regard to all of the above data, the second scenario of the ML risk assessment was conducted using the World Bank tool in line with the NRA. Conducting the second scenario following the same methodology enabled a comparative analysis with the 2017 results and the areas of improvement can be easily identified.

6. ANALYSIS OF ML CONTROL

The analysis of controls improved significantly since the NRA. The noted areas of vulnerability within the Sector included: **AML Knowledge of Business/Profession Staff and Effectiveness of SAR Monitoring and Reporting**. The controls are dependent upon the existence of an effective supervisory regime. The Sector was brought within scope of Bermuda’s AML/ATF preventative measures regime in 2017. Consequently, supervision of the Sector continues to mature. Despite the newness of the supervisory oversight, significant improvement has been seen within the past 18 months.

Whilst SAR reporting has increased since 2017, the level of reported suspicious activity is low. This area of vulnerability is expected given the analogous vulnerability with AML Knowledge of staff. Accordingly, increased training to help improve AML Knowledge should have the resultant effect of improving SAR monitoring and reporting.

7. ANALYSIS OF SECTOR’S INHERENT ML VULNERABILITY

An assessment of the Inherent Vulnerability of the Sector resulted in a final rating of medium; however this is at the lowest end of a medium rating. This overall rating was driven by a Low Total Turnover/Value of the Business/Profession and Low Level of cash activity associated with the business/profession. The Sector contributed less than 1% to the gross domestic product of Bermuda during the relevant period and is not a cash intensive sector.

Despite the increase in controls, the noted areas of vulnerability continue to impact the Inherent Vulnerabilities thereby resulting in an unchanged Final Vulnerability for 2018.

8. CONCLUSION

Having regard to the foregoing, the overall vulnerability rating for the Sector was **Medium**. The results of the sectoral vulnerability are consistent with the fact that the Sector was recently brought within scope of Bermuda's AML/ATF preventative measures regime in 2017. As a direct result, the vulnerabilities are expected.

The FIA has implemented a supervisory regime for the Sector which will address these vulnerabilities concurrently: AML Knowledge of Business/Professions Staff & Effectiveness of Suspicious Activity Monitory and Reporting

Training

- Continued NRA outreach to the Sector along with releasing the results of the SRA;
- In conjunction with the Analytical Unit of the FIA, develop (and deliver on a quarterly basis) sector specific training for both registered and non-registered businesses to assist in the following:
 - ▶ identify and report suspicious activity;
 - ▶ develop procedures with respect to declined business to capture CDD information for occasional transactions;
- Targeted outreach to other non-registered businesses within the Sector that have known large cash based transactions.

9. WAY FORWARD AND RECOMMENDATIONS

The FIA will continue to focus on all of the Priorities as set out above for the 12 months after this Sectoral Risk Assessment.

FIA Supervision Plan—through December 2019

- Continue Outreach and Training to the Sector;
- 2nd round On-site inspections of the 2 registered businesses to take place in November 2018;
- Risk-based targeted review of non-registered businesses within the Sector to ensure they comply with the exemption requirements for registering with the FIA;
- Random sampling of businesses within the sector to support the risk-based approach.

AML/ATF LEGISLATIVE BULLETIN

I. 2018 LEGISLATIVE AMENDMENTS

The following amendment Bills were enacted in 2018, as part of the continued effort to enhance Bermuda's anti-money laundering/anti-terrorist financing (AML/ATF) legislative framework.

- a. Proceeds of Crime (Miscellaneous) Act 2018;
- b. Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Act 2018 (and related Orders);
- c. Companies Amendment Act 2018;
- d. Companies and Limited Liability Company (Initial Coin Offering) Amendment Act 2018 (and related Regulations and Orders);
- e. Digital Asset Business Act 2018 (and related Rules);
- f. Charities Amendment Act 2018;
- g. Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Amendment Act 2018;
- h. Proceeds of Crime (Miscellaneous) (No.2) Act 2018;
- i. Proceeds of Crime (Miscellaneous) (No.3) Act 2018;
- j. Proceeds of Crime (Miscellaneous) (No.4) Act 2018;
- k. Chartered Professional Accountants of Bermuda Amendment Act 2018;

- l. Chartered Professional Accountants of Bermuda Amendment By-Laws 2018;
- m. Bermuda Bar Amendment Act 2018;
- n. Bermuda Bar (Barristers and Accountants AML/ATF Board) Rules 2018;
- o. Bar Professional Conduct Committee Amendment Rules 2018;
- p. Barristers’ Code of Professional Conduct Amendment Rules 2018;
- q. Bar Disciplinary Tribunal Amendment Rules 2018;
- r. Bermuda Bar (Practicing Certificate) Amendment Rules 2018; and
- s. International Sanctions (Delegation of Governor’s Functions) Notice 2018.

A summary is provided below of the key legislative amendments effected through the above legislation.

A. AMENDMENTS TO CORE AML/ATF LEGISLATION:

1. AMENDED POCA² TO:

- a. Widen the scope of the offence of prejudicing an investigation in section 42, by removing the element requiring a production order, monitoring order or warrant to have been issued in a criminal conduct or civil recovery investigation. The amendment makes it an offence for a person to do an act that is likely to prejudice a criminal conduct civil recovery investigation, in circumstances where that person knows that such investigation is being conducted;
- b. update the definition of “AML/ATF regulated financial institution” in section 42A to include:
 - i. Private trust companies that do not either utilise the services of a Corporate Service Provider (CSP) licensed by the BMA or a have a BMA-licensed trustee in their corporate structure;
 - ii. a new paragraph (j), for the purpose of including within the meaning of that term, a person who carries on a business of providing to their customers any of the financial activities listed in the new Schedule 3 to this Act. A transitional period of three (3) months (legislation brought into effect September 7, 2018) was provided for persons affected by this amendment and the provisions contained in Schedule 3, to allow them to continue to carry on business during which time they should apply for registration with the BMA under section 9 of SEA;
- c. introduce and define the concept of a ‘financial group’ (s.42A) and empower and make provisions for the Minister responsible for Justice to designate a financial group (s.42B), for the purpose of applying group supervision for anti-money laundering and anti-terrorist financing;
- d. specify in sections 45 – 46 that disclosures should be made promptly to the FIA, in relation to suspicious activities, regarding the acquisition, possession or use of property believed to be the proceeds of criminal conduct;
- e. specify in section 47 that the tipping off offence also arises where the breach occurs regarding reports of suspicions that are in the process of being made within the internal reporting mechanism or externally to the FIA;
- f. expand the responsibilities of the National Anti-Money Laundering Committee to include coordinating the identification, assessment and understanding of money-laundering and terrorist financing risks and ensuring that such risk assessments are kept up to date;
- g. Include financial groups and regulated non-financial businesses and professions within the scope of persons to whom the Minister may issue directions under this Act (ss.49AA – 49M); and also specify that the Minister can issue directions, not only when countries are called upon to apply specified AML/ATF counter-measures by the FATF, but also when required to do so by the Caribbean Financial Action Task Force (CFATF);

² Proceeds of Crime Act 1997

- h. extend from three months to six months, the period for which seized property may be authorized for continued detention by the courts. The total maximum period for which any property can be detained under section 50 of the Act remains at two years;
- i. insert a new Schedule 3, which provides as follows:
 - i. paragraph 1 lists the financial activities which are specified for the purposes of paragraph (j) of the definition of “AML/ATF regulated financial institution”. This list matches the list of activities that comprise the definition of “financial institution” in the glossary to the FATF’s 2012³ Standards² and 2013 Methodology⁴;
 - ii. paragraph 2 specifies the exceptions which are not to be considered “financial activities” for the purposes of the new paragraph (j) in the definition of “AML/ATF regulated financial institution”; and
 - iii. paragraph 3 provides interpretation for some terms used in paragraph 2 of Schedule 3.

NB: the intended purpose of this amendment, read together with the amendment to the definition of the term “AML/ATF regulated financial institution”, is to include within the scope of the AML/ATF regime lending, financial leasing and financial guarantee businesses that are not otherwise covered under the AML/ATF regime, unless they are expressly exempted by this amendment.

2. AMENDED ATFA⁵ TO:

- a. update and consolidate the definition of the term “AML/ATF regulated financial institution” in this Act, by repealing the existing definition and referring to the amended definition in POCA;
- b. introduce and define the concept of a ‘financial group’, by reference to the relevant provision in POCA;
- c. specify the definition of ‘relevant person’ for consistency with the remainder of the AML/ATF laws;
- d. make a consequential amendment in the definition of the term insurer, to account for the fact that the term “AML/ATF regulated financial institution” is now substantively defined in section 42A of the Proceeds of Crime Act 1997 and accordingly to refer to that provision, wherein a specific paragraph is referenced for the purpose of explaining the meaning of ‘insurer’ in this Act;
- e. specify in section 9 that disclosure of information includes disclosures relating to attempted commission of an offense, offences that are in progress, as well as those which have already been committed. The amendment also requires such disclosures to be made promptly;
- f. include financial groups and regulated non-financial businesses and professions within the scope of persons to whom the Minister may issue directions under this Act (ss.12B – 12O); and also specify that the Minister can issue directions, not only when countries are called upon to apply specified AML/ATF counter-measures by the FATF, but also when required to do so by the CFATF;
- g. increase the penalties for offences under the Act, by providing in section 13 for a fine of *\$50,000 and/or imprisonment for five years upon summary conviction; and for a conviction on indictment to an unlimited fine and/or imprisonment of twenty years*;
- h. in Schedule 1 of the Act as it relates to the offence of “failure to disclose”, require disclosure in circumstances where it is known that another person is committing or attempting to commit an offense, as well as when they have already committed an offense. The amendment also requires that such disclosures are made *promptly*.

³ The FATF Recommendations – International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: Adopted by FATF Plenary in February 2012 (last updated October 2018)

⁴ The FATF Methodology – Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of the AML/CFT Systems: Adopted by FATF Plenary in February 2013 (last updated October 2018)

⁵ Anti-Terrorism (Financial and Other Measures) Act 2004

3. AMENDED SEA⁶ TO:

- a. update and consolidate the definition of the term “AML/ATF regulated financial institution” in this Act, by repealing the existing definition and referring to the amended definition in POCA;
- b. incorporate the concept and definition of “financial group” within the Act and specify in section 6 that the supervision of these entities is part of the supervisory functions of the BMA. Other consequential amendments are made throughout the Act to appropriately incorporate them within the scope of the Act;
- c. include the ‘Digital Asset Business Act 2018’ in the Acts listed in the definition of ‘regulatory Acts’;
- d. authorise supervisory authorities to cooperate with each other and to also cooperate with the Registrar General in his capacity as supervisor for registered charities;
- e. clarify in section 5 that supervision of relevant persons is to be conducted *on a risk-sensitive basis*, and that financial groups are appropriately included into the supervisory regime;
- f. expand the statutory responsibilities of supervisory authorities, to mandate them to also effectively monitor regulated entities for the purpose of securing their compliance with their international financial sanctions obligations, directions issued or licence conditions made by the Minister under POCA and ATFA;
- g. require supervisory authorities to also issue guidance to their regulated sectors in relation to compliance with international financial sanctions, as well as in relation to directions issued by the Minister under those Acts and to also update all such AML/ATF guidance as necessary;
- h. include Compliance Officers among the persons who are subject to the “fit and proper test”;
- i. introduce an offence in section 9 and specify the penalty for a person to carry on business without being registered as a non-licensed AML/ATF regulated financial institution or a non-regulated financial business or profession;
- j. specify in section 10 that an application for registration by a non-licensed AML/ATF regulated financial institution must include information as to whether the persons associated with the applicant are fit and proper persons within the meaning of that Act;
- k. specify in section 11 the grounds for refusal of an application for registration by a non-licensed AML/ATF regulated financial institution, to include the fact that a person associated with the applicant is not a fit and proper person. This gives teeth to the amendment in section 10;
- l. mandate in section 11A that the “fit and proper person test” will also apply to the reporting officer, compliance officer and the director, controller or senior executive of a non-licensed AML/ATF financial institution. To also stipulate that the test to determine fitness and propriety, as well as the criteria on which that determination is to be made, will be applied not only by the FIA but also by the competent authority responsible for non-licensed AML/ATF regulated financial institutions;
- m. include non-licensed AML/ATF regulated financial institutions in the definitions in section 11B, of the terms ‘director’, ‘controller’ and ‘senior executive’ for the purposes of the fit and proper test, so that it is clear which individuals associated with such institutions would be a director, controller or senior executive;
- n. expand the grounds in section 12 on which a person’s registration may be cancelled by a competent authority, to include the breach by a registered entity of a material provision of a direction or licence condition issued by the Minister under powers granted in POCA or ATFA;
- o. repeal section 13A in relation to the FIA’s power to issue directives to registered entities; in favour of more comprehensive disciplinary measures being incorporated into Part 4 of the Act;

⁶ Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008

- p. introduce a late penalty fee in section 14 for non-licensed AML/ATF financial institution ONLY, in relation to the late payment of the prescribed annual fee. The penalty is now equal to the amount of 10% of the fee due for every month that the fee remains unpaid;
- q. implement in Chapter 4, a wider array of disciplinary measures in addition to the civil penalties (of fines), for competent authorities to apply to relevant persons who breach their obligations under the Regulations, Ministerial directions or licence conditions. In the case of persons supervised by the BMA, the civil penalty has also been increased from \$500,000 to \$10 million. The additional disciplinary measures include:
 - i. Directives;
 - ii. Restriction of license;
 - iii. Revocation of license;
 - iv. Public censure;
 - v. Prohibition Orders;
 - vi. Injunctions; and
 - vii. Petition for Winding-Up or Dissolution.
- r. specify that the supervisory authority for regulated professional firms (Barristers and Accountants AML/ATF Board) may also issue directives to such firms for breaches of a direction or license condition issued by the Minister under POCA or ATFA; as well as to impose civil penalty for breach of a direction also.

4. AMENDED THE REGULATIONS⁷ TO:

- a. update and consolidate the definition of the term “AML/ATF regulated financial institution” in the Regulations, by repealing the existing definition and referring to the amended definition in POCA;
- b. remove the 25% threshold from the definition of ‘beneficial owner’ in regulation 3(3), to make it clear that a specified interest in all categories of trust property, not just the capital, will be included in the definition;
- c. specifying in regulation 4 that the Regulations also apply to “financial groups” as defined and recognised in the other AML/ATF legislation;
- d. update the list of customer due diligence measures that relevant persons must carry out for customers that are legal persons and legal arrangements, to include information of their legal powers and the nature of their business’
- e. clarify that CDD measures include obtaining information on and taking steps to understand the purpose and intended nature of the business relationship, as well as the nature of the customer’s business; and these should be considered when assessing risk and the level of due diligence to be undertaken;
- f. specify in regulation 6 that the beneficiary of a trust or life insurance policy must be included as a risk factor in determining the extent of customer due diligence measures related to a life insurance policy;
- g. remove references to “bank” in regulation 8, to ensure that the term “account” will apply to a wide range of accounts that can be opened for a customer by a relevant person;
- h. revise the requirement in regulation 9 on the obligations on relevant persons when CDD measures cannot be completed, in order to make it clear that one obligation is that they must not open an account or carry out a transaction for that customer;
- i. specify in regulation 10 that simplified due diligence can only be applied, after assessing the risk of money laundering or terrorist financing and it is determined that the ML/TF risk is low, and it is also determined that there is no suspicion of money laundering or terrorist financing;

⁷ Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008

- j. make it clear that:
 - i. the enhanced due diligence measures required in regulation 11(3) to be applied by a bank offering correspondent banking services, should also be applied to a respondent bank within Bermuda, not just to an overseas respondent bank; and
 - ii. the requirements in regulation 11(4), in relation to enhanced due diligence on business relationships with politically exposed persons (PEP), apply to both proposed new relationships with such customers, and to existing relationships with such customers, where the existing customer becomes a PEP;
- k. insert a new regulation 12A to outline the measures to be applied to the supervision of financial groups, to ensure that all required procedural regulations apply to financial groups;
- l. make it clear that the prohibition contained in regulation 13(3) against opening anonymous accounts, also applies to opening of accounts in '*obviously fictitious names*';
- m. in regulation 14, permit real estate brokers licensed under the Real Estate Brokers' Licensing Act 2017 to rely on the customer due diligence measures undertaken by other real estate brokers licensed in Bermuda, provided there is compliance with the relevant conditions outlined in that regulation;
- n. in relation to the recordkeeping requirements contained in regulation 15(2) and (3), make it explicit that CDD information and records, as well as account files and business correspondence for a customer, must be kept throughout the business relationship and for 5 years after the relationship ends, and in the case of occasional transactions, for 5 years after the transaction is completed. The amendment also made clear that all transaction records, must be retained for 5 years after the completion of the transaction, provided they are kept in a manner to allow for the reconstruction of individual transactions;
- o. in regulation 16, require relevant persons to promptly respond to enquiries from a relevant supervisor, requiring documentation of, and updating of assessments of money laundering and terrorist financing risks, such assessments taking into account the appropriate aspects of the business;
- p. require regulated entities to respond to enquiries from the Financial Intelligence Agency and the Police "without delay", instead of merely when "reasonably practicable", in order to make the requirement for prompt action clearer;
- q. specify that the legal requirements for CDD on legal persons and legal arrangements must also include information on the nature of the business and on the legal powers that regulate and bind the legal person or legal arrangement;
- r. expand the requirements in relation to enhanced due diligence, to mandate regulated entities to also apply enhanced due diligence measures to business relationships or customers, whenever a customer or transaction is in or from a country which the CFATF has identified as posing a high risk;
- s. correct language in regulation 18A, to make it clear that the provision applies to all regulated entities (relevant persons) and not just to AML/ATF regulated financial institutions;
- t. clarify the definition of "batch file transfer" in regulation 21, to specify that it includes the action of individual transfers to the *same* payment service provider; and making other amendments to regulations 22, 25, 26, 30, 31 and 31A to align more precisely with the FATF requirements in Recommendation 16.
- u. specify in regulation 22 that the absence of the details of pre-paid cards in wire transfer information is to be noted and also to ensure that any card transactions to effect a person to person transfer of funds are subject to the wire transfer information requirements; and
- v. evoke and replace regulation 25 to clarify the information requirements related to batch file transfers which include payments from only a single payer.

5. AMENDED THE FIA ACT⁸ TO:

- a. expand and clarify the mandate of the Financial Intelligence Agency (FIA) under section 14 regarding the dissemination of any information generated in the course of its functions described in section 14(1); and
- b. expand the powers of the FIA under section 16 to obtain information, via a notice, related to the *suspected proceeds of criminal conduct*, to complement their current ability to do so for suspected money laundering or terrorist financing offences. This will ensure that the agency's scope of intelligence gathering is in keeping with internationally accepted norms related to the proceeds of crime;

6. AMENDED CJICBA⁹ TO:

- a. in section 2, empower the Attorney-General to “*forthwith*” action requests for international cooperation, evidence for use overseas is being sought, upon their receipt and validation; and
- b. insert a new section 6A, to expand the scope of the Attorney General's power to provide assistance to a foreign country, to empower the Attorney General to respond to requests for evidence related to civil recovery proceedings or investigation that is in progress in the requesting country or territory. Previously, such cooperation is limited to requests for assistance with criminal investigations or proceedings only.

B. AML/ATF-RELATED AMENDMENTS TO OR PROVISIONS IN OTHER LEGISLATION

1. AMENDED THE TRUSTEE ACT 1975 TO:

- a. require all trustees (regulated and unregulated) to:
 - i. introduce themselves as the trustee to regulated professional service providers or agents, when doing business with such service providers and other agents on behalf of the trust;
 - ii. retain identification information in relation to the trustees, settlors, protectors, beneficiaries or other persons having ultimate control over the trust for which he is the trustee;
 - iii. retain a current record of the names and addresses of the regulated professional service providers and other agents who provide services to the trust of which they are the trustee.
 - iv. Require trustees to ensure that all information filed or retained, (including beneficial ownership information, accounts and records), is accurate, current and kept up to date on a timely basis. In addition, the fine for non-compliance with these requirements was increased from \$7,500 to \$20,000.

2. AMENDED THE CHARITIES ACT 2014 TO:

- a. update the references to “AML/ATF regulated financial institution” to cross-reference with the revised and consolidated definition now contained in POCA;
- b. make provision for “privately funded charities”, to amend the exemption requirements contained in section 18 and specifying the new conditions for exemption from registration. Privately funded charities are required to register with the Registrar General, unless at least one of the trustees (in the case of a trust) is a licensed trustee; or in the case of a company, if it has a registered office with and is subject to compliance by a licensed corporate service provider;
- c. require the Registrar General to maintain a separate part of the register to enter information about privately funded charities, so as to ensure that such information is not publicly available.
- d. provide for notification requirements specific to the establishment of privately funded charities, to require such charities to notify the Registrar General of the establishment of the charity and to specify whether and on what grounds the charity asserts that it is exempt from registration;

⁸ Financial Intelligence Agency Act 2007

⁹ Criminal Justice (International Cooperation) (Bermuda) Act 1994

- e. specify the transitional arrangements in place in relation to privately funded charities that are in existence at the time the amendments come into force in relation to them (effective 1-August 2018). A period of three (3) months is allowed for registration under the Act; or a period of one (1) month to notify the Registrar of an assertion of exemption and to provide the grounds for and evidence of such belief.

3. AMENDED THE INSURANCE ACT 1978 TO:

- a. remove the various classes of insurers listed in section 19 and replace with the words “no insurer”, for the purpose of specifying that no insurer shall be permitted to engage in non-insurance business, unless such business is ancillary to the insurance business carried on by them; and
- b. specify that the amendment to section 19 will come into operation on January 1, 2019.

4. AMENDED THE COMPANIES ACT 1981 TO:

- a. require companies to file with the Registrar of Companies the following information (see sections 13(2) and 62):
 - i. Provisions in the company bye-laws which set forth how to effect the transfer of shares and the registration of estate representatives of deceased shareholders;
 - ii. provisions in company bye-laws which set forth the duties of the secretary to the company;
 - iii. provisions in company bye-laws which set forth the number of members required to constitute a quorum at any general meeting of the members of the company; and **NB: Any amendments to such provisions as specified in paras (i), (ii) & (iii) above, must be filed with the Registrar of Companies within 30 days**
 - iv. more detailed registered office address information, namely, the name of the CSP or registered office provider and the floor and building name, where applicable.
- b. prescribe in section 14, the minimum contents of the publicly available register of companies maintained by the Registrar; and specify the requirement and timing for the public availability of the register for inspection;
- c. include a requirement that the register of members kept by a company include the categories of shares and the nature of the associated voting rights of the members;
- d. insert a new section 261A, which provides for applications for voluntary strike offs of companies;

NB: Similar provisions in relation to the public register and the information to be included in the register are set out in amendments made to section 31 of the **Limited Liability Company Act 2016**, as well as section 4 of the **Limited Partnership Act 1883** and section 22 of the **Exempted Partnerships Act 1992**.

5. ENACTED THE DIGITAL ASSET BUSINESS ACT 2018 (AND RELATED RULES) TO:

- a. make provision for the regulation of digital asset business and consequentially to bring this new business activity into scope of the AML/ATF laws.

6. AMENDED THE MONEY SERVICE BUSINESS ACT 2016 TO:

- a. prohibit a money service business from using the services of non-licensed agents to provide money services business in, or from within Bermuda. Such agents will now be required to be licensed under in Bermuda under section 8 of the Act, thereby bring agents employed by a money service business within the scope of Bermuda AML/ATF regime.

7. AMENDED THE BERMUDA BAR ACT 1974 TO:

- a. introduce “fit and proper” requirements for members of the legal profession and for directors, controllers and senior executives of professional companies. It also stipulates the matters to be considered by the Bar Council and by the Barristers & Accountants AML/ATF Board in determining whether a person is fit and proper;

- b. introduce a requirement for law firms/professional companies to register with the Barristers & Accountants AML/ATF Board;
- c. introduce the power to institute and the rules surrounding the institution of limitations on practice in relation to “specified activities”; and
- d. empower the Barristers & Accountants AML/ATF Board to make disciplinary complaints to Disciplinary Committee of Bar Council on matters relevant to the professional conduct of barrister, professional company or registered associate vis-à-vis AML/ATF requirements.

8. ENACTED THE BERMUDA BAR (BARRISTERS AND ACCOUNTANTS AML/ATF BOARD) RULES 2018 TO:

- a. reinforce SEA requirements to register with the Barristers and Accountants AML/ATF Board and SEA prohibition on advising in respect of specified activities, unless registered with the Board. Requires Guidance Notes to be integrated into professional practice;
- b. provide greater detail for the registration process under SEA as respects barristers, including supply of detailed data, use of standardized terminology and collection of statistics;
- c. avoid compliance conflicts within groups, by requiring law firms to ensure separate incorporation and operation of any CSP or TSP business, with a 10 % threshold. It also provides for situations of joint supervision with the BMA;
- d. enlist the support of Bar Council in ensuring AML/ATF professional standards; and also provides for exchange of information as to SEA warnings or cancellations of registration;
- e. limit conflicts of interest, and also codifies operational relationship between the Barristers and Accountants AML/ATF Board and Bermuda Bar Association/Bar Council;
- f. authorize the Board to assist/cooperate with NAMLC; and also provides for collection of statistics; and
- g. formalize the internal constitution of the Board for transparency purposes.

9. AMENDED THE BAR PROFESSIONAL CONDUCT COMMITTEE RULES TO:

- a. enable the Barristers & Accountants AML/ATF Board to activate and influence AML/ATF discipline within the legal profession. This Board is also given standing to complain directly to the Bar Conduct Committee of breaches of professional code or the new AML/ATF Board Rules (see above). No referral from Bar Council required, thus limiting conflicts of interest. Board to be kept informed of progress of any complaint it may make.

10. AMENDED THE BARRISTERS’ CODE OF PROFESSIONAL CONDUCT RULES TO:

- a. integrate the provisions of POCA and SEA into the professional code, making breaches of POCA or failure to comply with SEA supervision an act of improper professional conduct. Effect is to trigger the Bar disciplinary procedures, which has a broad spectrum of possible sanctions. Additional amendments include reporting requirements as to criminal convictions, and a positive professional duty to register with the FIA.

11. AMENDED THE BAR DISCIPLINARY TRIBUNAL RULES TO:

- a. give the Barristers & Accountants AML/ATF Board standing to supply evidence and influence outcomes in cases of breach of professional code for POCA/SEA reasons. The amendment also creates a new sanction of restriction on advising regarding “specified activities”.

12. AMENDED THE BERMUDA BAR (PRACTICING CERTIFICATE) RULES

These operate together with the relevant section in the Bermuda Bar Act 1974, to:

- a. introduce the ‘fit and proper person test’ as a criterion for issuing and revoking practicing certificates; and
- b. require proof of registration with Board and with FIA.

13. AMENDED THE CHARTERED PROFESSIONAL ACCOUNTANTS OF BERMUDA RULES OF PROFESSIONAL CONDUCT:

- a. These operate together with relevant sections in the Chartered Professional Accountants of Bermuda Act 1973, to widen the scope of accounting services that require membership within CPA Bermuda, thus extending the scope of Board supervision of the sector.

14. AMENDED THE CHARTERED PROFESSIONAL ACCOUNTANTS OF BERMUDA BY-LAWS

These operate together with relevant sections in the Chartered Professional Accountants of Bermuda Act 1973, to:

- a. widen the scope of accounting services that require membership within CPA Bermuda, thus extending the scope of Board supervision of the sector;
- b. introduce a “fit and proper person test” as a criterion for membership in CPA Bermuda; and
- c. codify the obligations of CPA Members towards the Board and compliance with POCA and SEA, similar in scope and effect to the AML/ATF Board Rules for the Bar

15. ISSUED THE INTERNATIONAL SANCTIONS (DELEGATION OF GOVERNOR’S FUNCTIONS) NOTICE 2018:

- a. by which the Governor delegated to the Minister of Legal Affairs certain of his statutory functions under the International Sanctions legislative framework.

II. 2019 PENDING – TABLED IN THE HOUSE OF ASSEMBLY IN FEBRUARY 2019

The following Bill has been tabled for debate in the House of Assembly and Senate during the March sittings of Parliament.

I. Proceeds of Crime Amendment Act 2019

A summary is provided below of the key legislative amendments effected through the above DRAFT legislation. This Bill will:

- a. extend existing disciplinary measures/penalties, which can be imposed by supervisors on their supervised entities, to be available for breaches of obligations in relation to international sanctions;
- b. enlarge the list of entities in respect of which a decision to impose a disciplinary measure/penalty can be published, to include real estate brokers and agents;
- c. permit the publication of any decision by a supervisor to impose on a supervised entity any of the disciplinary measures now available in Chapter 4 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008; and
- d. authorise the Financial Intelligence Agency to also make disclosures to the Minister to whom the Governor has delegated some of his statutory responsibilities in relation to international sanctions, to facilitate the discharge of those statutory responsibilities.

FIA ACTIVITIES 2018–2019

Staffing of the FIA

During this Reporting Period the FIA welcomed to its ranks a new Senior Analyst with previous FIU and financial intelligence experience and knowledge. This move has provided another supervisor, allowing the FIA to more strategically increase its productivity in carrying out its mandated functions. The FIA will continue to review staffing levels to ensure that it maintains an optimum level of efficiency and effectiveness.

ATTENDANCE AT INTERNATIONAL FORA

The Egmont Group

The FIA continues with its active involvement within the Egmont Group, participating in the Technical Assistance and Training and Membership, Support and Compliance Working Groups, as well as Plenary and Working Group Meetings.

Training

Two FIA staff attended a Terrorist Financing Training course held in Barbados in November 2018. This was hosted by The World Bank. In March 2019, the FIA also sent another two analysts to Barbados to attend a Tactical and Strategic Analysis course, which was hosted by the Caribbean Financial Action Task Force (CFATF).

The FIA continues to remain involved and when possible, attend overseas training courses to further the development of its analysts.

Association of Certified Anti-Money Laundering Specialists/International Compliance Association

The FIA is committed to enhancing the skills of its staff. The Agency encourages its staff to take advantage of enrolling in on-line/webinars courses that are provided by international organisations in the areas of money laundering, terrorist financing and other courses associated with the AML/CFT regime.

In October 2018, ACAMS held a seminar in Bermuda entitled “ACAMS Virtual Currencies/Digital Assets and Beyond for Compliance Professionals” to which the Director was invited to present. The seminar was held at Rosewood, Tucker’s Point, Bermuda

National/Domestic Training

In order that Bermuda’s Reporting Entities are kept abreast of Bermuda’s AML/CFT regime, the FIA continues to provide training sessions in this area along with the latest updates in the use of goAML, our secure database for filing suspicious activity reports. Since the implementation of legislation relative to the Digital Asset and Currency Businesses, the FIA analysts have completed FinTech courses and training provided by the Bermuda Government and cryptocurrency intelligence solutions in person and via teleconference.

Bermuda 2018 Mutual Evaluation

As noted previously, 2018/2019 was extremely busy for the FIA as it prepared for the Mutual Evaluation onsite assessment of Bermuda being conducted by the Caribbean Financial Action Task Force (CFATF). In addition to submitting information, submissions and documentation in support of Bermuda’s Technical Compliance and Effectiveness Submissions with the FATF standards, representatives from the FIA met with the CFATF assessment team during the FIA’s onsite review, which took place in Bermuda during the period of 24 September 2018 and 5 October 2018.

Leading up to this onsite visit, the FIA continued its involvement in holding important meetings with relevant AML/CFT reporting entities and other competent authorities relative to its submissions for Bermuda’s 2018 Mutual Evaluation.

Bermuda submitted its first draft response of the 2018 Mutual Evaluation (ME) to the CFATF Secretariat Assessors in December, 2018. Bermuda awaits the Assessor’s reply to its first draft submission. On completion Bermuda expects its concluded report to be published by FATF in early 2020.

LIST OF ABBREVIATIONS

| | |
|-----------|---|
| AML/ATF | Anti-Money Laundering/Anti-Terrorist Financing |
| BMA | Bermuda Monetary Authority |
| BMD | Bermuda Dollar |
| BPS | Bermuda Police Service |
| CFATF | Caribbean Financial Action Task Force |
| CUSTOMS | H.M. Customs |
| DiHVG | Dealer in High Value Goods |
| DNFBP | Designated Non-Financial Business or Professional |
| EGMONT | The Egmont Group of Financial Intelligence Units |
| EFT | Electronic Funds Transfer |
| FATF | Financial Action Task Force |
| FI | Financial Institution |
| FIA | Financial Intelligence Agency |
| FIU | Financial Intelligence Unit |
| IRI | Incoming Requests for Information |
| KYC | Know Your Customer |
| MER | Mutual Evaluation Report |
| MOU | Memorandum of Understanding |
| MSB | Money Service Businesses/Bureau |
| NAMLC | National Anti-Money Laundering Committee |
| NRA | 2017 Money Laundering National Risk Assessment |
| POCA | Proceeds of Crime Act 1997 |
| POCA Regs | Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 |
| RFI | Request for Information |
| SAR | Suspicious Activity Report |
| SEA | Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 |
| STR | Suspicious Transaction Report |
| UNODC | United Nations Office on Drugs and Crimes |
| UK | United Kingdom |
| USA | United States of America |
| USD | U.S.A. Dollar |

