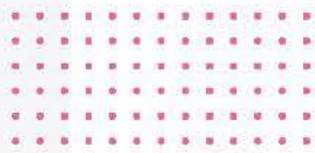




GUIDANCE NOTES

REAL ESTATE PROFESSIONALS



VERSION 2.0

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FINANCIAL INTELLIGENCE AGENCY BERMUDA

SECTOR SPECIFIC GUIDANCE NOTES FOR REAL ESTATE PROFESSIONALS FOR FILING A GOOD QUALITY SUSPICIOUS ACTIVITY REPORT (SAR) AND SUSPICIOUS TRANSACTIONS REPORT (STR)

The Financial Intelligence Agency (FIA) was established by the [Financial Intelligence Agency Act 2007](#) to act as an independent agency authorized to receive, gather, store, analyse and disseminate information relating to suspected proceeds of crime and potential financing of terrorism received in the form of Suspicious Activity Reports (SARs) and Suspicious Transaction Reports (STRs). The FIA only accepts SARs and STRs that have been submitted electronically via the FIA's designated platform (currently goAML) using the online submission form or XML transmission. In exceptional circumstances, an alternative method can be provided.

This document contains information that will assist persons with their reporting obligations pursuant to the [Proceeds of Crime Act 1997](#) (POCA) Sections 46 and 47, and [Anti-Terrorism \(Financial and Other Measures\) Act 2004](#) Sections 9, 10 and 10A. This guidance does not represent legal advice. If you are unsure about your obligations in a specific case, please seek independent legal advice.

Bermuda Personal Information Protection Act (PIPA) and SAR/STR Reporting

The Bermuda Personal Information Protection Act 2016 (PIPA) establishes a framework governing the collection, use, and disclosure of personal information by organisations operating in Bermuda. PIPA requires that personal data be handled in accordance with established privacy principles, including obtaining consent and limiting disclosure to purposes for which the information was originally collected. Financial institutions and other reporting entities must be mindful of their obligations under PIPA when handling client data in the ordinary course of business.

However, obligations arising under Bermuda's anti-money laundering and anti-terrorist financing regime — including the duty to file SARs and STRs pursuant to the Proceeds of Crime Act 1997 and the Anti-Terrorism (Financial and Other Measures) Act 2004 — take precedence over the privacy protections afforded by PIPA. Section 55 of PIPA expressly provides for exemptions where disclosure is required or authorised by law, which encompasses the statutory obligation to report suspicious transactions to the Financial Intelligence Agency (FIA). Accordingly, reporting entities must not allow PIPA considerations to impede or delay the filing of a SAR/STR, and no client consent is required — nor should it be sought — when making such a report. The tipping-off provisions further underscore this point: notifying a client that a SAR/STR has been filed is itself a criminal offence, reinforcing that the duty to report operates independently of, and overrides, any data privacy obligations under PIPA.

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TABLE OF CONTENTS

- 1.PURPOSE OF A SAR AND STR REPORT 3
- 2.DEFINING SAR AND STR 3
- 3.QUALITY OF SARs/STRs 3
- 4.TIPPING OFF 4
- 5.DEVELOPING THE SAR/STR NARRATIVE 4
 - 5.1. WHO is involved?..... 4
 - 5.2. WHAT is the activity or transaction?..... 5
 - 5.3. WHERE did the activity or transaction take place and where are funds involved held? 5
 - 5.4. WHEN did the activity or transaction take place? 5
 - 5.5. WHY are you suspicious? 5
 - 5.6. HOW was the activity or transaction executed? 5
- 6.EXAMPLES OF COMPLETE AND INCOMPLETE REPORTS 5
 - 6.1. Examples-Real Estate Professionals 5
 - Incomplete SAR/STR 5
 - Complete SAR/STR..... 5
- 7.SUPPORTING DOCUMENTS..... 7
 - 7.1. Natural Persons..... 7
 - 7.2. Trusts..... 7
 - 7.3. Corporate Entities..... 7
 - 7.4. Non-Profit Organizations..... 8
- 8.RETENTION PERIOD 8
- 9.SEEKING CONSENT TO CONDUCT A TRANSACTION..... 8
- 10. RED FLAG INDICATORS 8
 - 10.1. Red Flag Indicators for Real Estate Professionals..... 8
- 11. REPORTING RESPONSIBILITIES10
- 12. goAML SUPPORT CONTACT DETAILS10

1. PURPOSE OF A SAR AND STR REPORT

The purpose of the Suspicious Activity Report (SAR) and Suspicious Transaction Report (STR) is to alert the FIA that certain client/customer or related business activity is in some way suspicious and might indicate money laundering or financing of terrorism. The information provided in these reports play a vital role in aiding law enforcement in money laundering (ML), terrorist financing (TF) or proliferation financing (PF) investigations and assisting with identifying emerging trends and patterns connected to financial crimes. The information about those trends and patterns is vital to law enforcement agencies and provides valuable feedback to stakeholders. Reporters are required to submit reports that are complete, accurate, and filed promptly. Therefore, it is crucial that Money Laundering Reporting Officers (MLROs) and/or Nominated Officers (filers) provide narratives that are clear, concise, and comprehensive. The failure to adequately describe the indicators making the transaction or activity suspicious, delayed reporting and absence of supporting documentation undermines the purpose of the SAR/STR and minimizes its usefulness to law enforcement. Reports are reviewed and analysed by FIA Analysts, who then disseminate the relevant intelligence / information, if warranted, to the relevant law enforcement agencies, whether domestic or foreign to initiate potential investigations.

Reports filed with incomplete data will be rejected.

Individuals filing or reporting SAR/STRs to the FIA are guided to PRINT or SAVE a copy of their SAR/STR prior to final submission if desired. Once the SAR/STR has been approved, it will no longer be visible to the filer.

2. DEFINING SAR AND STR

A **SAR** details suspicious activity that does not currently contain any financial transactions. For example, declined business, dubious emails and requests, strange phone calls and the suspect comportment or associations of a subject or entity can be detailed in a SAR.

A **STR** details suspicious activity that involves a financial transaction. For example, unusual transactions that deviate from known client activity, unexplained large cash deposits, transactions which have no apparent lawful purpose and transactions to high-risk jurisdictions. Financial transactions are to be input into goAML to support the STR narrative along with the relevant supporting documentation.

3. QUALITY OF SARs/STRs

The FIA may reject the filing of a poor-quality or incorrectly filed report and advise the reporter to resubmit the report within five calendar days. The rejected report can be found in the draft section of the goAML platform. If a resubmission is not received before the end of five calendar days, the report will be archived, and a new SAR/STR will need to be submitted to the FIA. The FIA cannot interpret, assume, or infer what suspected money laundering, terrorist financing and/or predicate offence the reporter believes may have been committed. The FIA may also refer the consistent reporting of poor-quality SARs/STRs to the relevant supervisory body for its attention and appropriate action.

4. TIPPING OFF

Bermuda legislation requires that a financial institution, its directors, officers, employees, and agents who, voluntarily or by means of a suspicious activity report/suspicious transaction report, report suspected, or known criminal violations or suspicious activity **may not** notify any person involved that the transaction has been reported.

5. DEVELOPING THE SAR/STR NARRATIVE

The SAR/STR report narrative should be provided in the 'REASON FOR SUSPICION' section of the submitted SAR/STR forms within the goAML platform. This narrative / reason acts as a summary of the suspicious activity or transaction being reported. It should contain enough information for the FIA to analyse alongside the supporting documentation. It is vital for the reporting party to bear in mind that the Analyst handling the disclosure may not be familiar with the specifics of your business or have an in-depth understanding of your client. Therefore, it is essential to clearly detail the relationship between your business and the named subjects within the report, and to include information on any services provided to these subjects. Without this information, it can be challenging for the Analyst to fully comprehend the reported matter.

If the reporting party has engaged with law enforcement prior to submitting a SAR/STR, this should be noted in the narrative, along with relevant contact details. The report should also include contact information for the primary and secondary contacts of the reporting party, specifying which individual is responsible for each report. *Please attach a copy of the internal SAR but ensure that your narrative is clearly stated in the "reasons for suspicion" section.*

Avoid acronyms and jargon – they may not be understood by the recipient and are open to misinterpretation. If describing a service provided or a technical aspect of your work, please provide a brief synopsis in your SAR/STR to aid the reader.

Previous SAR/STR reference if the subject has been the subject of a SAR/STR.

As a basic guide, wherever you can, try to answer the following six questions to make the report as useful as possible:

5.1. WHO is involved?

Include the full legal name and address of the Subject, Client, Trust or Company being reported, and length of the business relationship (including date of initiation or the business relationship). For corporate clients, include both their registered office address and address(es) of operation, if different.

The following should be included when identifying involved parties:

- The full legal name, known aliases,
- Date of birth of all individuals involved in the suspicious activity or transaction,
- Their employer, occupation and title held,
- Business and residential address (es),
- Indicate whether domestic or foreign Politically Exposed Persons are involved,
- Outline the relationship between involved persons (i.e. business associates, colleagues, familial relationship).

If the reported subject (e.g. client/customer) has been the subject of a previous SAR/STR submitted by your organisation, please include previous FIA references numbers.

5.2. WHAT is the activity or transaction?

Describe the suspicious activity or transaction, the criminal property involved, its monetary value and source and ultimate use of funds. Clearly outline what instruments or mechanisms (including structures, administrative services, or service delivery channels) were used to conduct or facilitate the suspicious activity e.g. bank account, wire transfer, companies, insurance policies, debit or credit cards, digital assets businesses services etc.

5.3. WHERE did the activity or transaction take place and where are funds involved held?

Provide the location of the activity or transaction. Indicate all local and international financial institutions involved, type of account (personal or corporate), and corresponding account numbers.

5.4. WHEN did the activity or transaction take place?

Indicate the date of the activity and duration. If the activity takes place over a period a time, clearly identify the date the suspicious activity was detected. If there are multiple transactions to report, please enter each in a chronological order with individual dates and amounts under the transactions section.

5.5. WHY are you suspicious?

Clearly identify WHY is the activity considered suspicious, and what are the reasons for reporting. Provide a brief description of the nature and purpose of the Trust or Company to which to the suspicious activity or transaction relates. Include reasons and indicators for suspicion outlining the inconsistency with the client’s profile, normal behaviour, and business activity. Follow up actions such as intent to terminate business relationship and close client accounts should also be included.

5.6. HOW was the activity or transaction executed?

Provide details on how the activity or transaction occurred.

6. EXAMPLES OF COMPLETE AND INCOMPLETE REPORTS

6.1. Examples-Real Estate Professionals

Incomplete SAR/STR

INCOMPLETE REAL ESTATE SAR /STR

Narrative

This is a SAR regarding Javid B. FARDIN (aka Javid Girard aka Azi Vincent.) Our realty firm received an inquiry via our website (Dec 27, 2021) regarding a residential rental.

Complete SAR/STR

COMPLETE REAL ESTATE SAR /STR

Narrative

A prospect by the name of Marco VALLARDI, part owner of a Hamilton retail establishment, is in the process of buying a property in Smith’s for \$824,000.00 with 100% cash, no

Upon conducting a Google search of the name Azi VINCENT, it became apparent that the name is linked to Javid B. FARDIN, who leased a major property via our agency in 2017. In 2017, he wished to enter a one-year lease but as he did not yet have permission to reside (he represented to us that he was awaiting work permit) the landlord agreed to short term lease the property to him from April 1 - June 30, 2017, until the work permit was approved. This was so that he would not have to pay the 7.25% holiday rental fee on the full year rent that was applied to rentals to visitors. The parties would either enter a long-term lease or Fardin would make an offer to purchase the property.

As June 30 was approaching, I asked him about the progress of his work permit. He became hostile on the phone. Three days later it was discovered that he and his family had literally departed Bermuda in the middle of the night on a private jet leaving the property in horrible condition. We checked with Immigration, and they had no record of his work permit application. We know that he did formerly live and work in Bermuda for a well-known oil trading company under the name Javid GIRARD. He is a Canadian national and has a business connection with a Bermudian financial services executive who referred to FARDIN as 'my client'. I explain all this as Azi VINCENT (aka Javid FARDIN) is now seeking a short-term rental. Our suspicion is that he was previously using Bermuda for possible money-laundering, possible tax evasion, misuse of Bermuda corporate entities. Azi VINCENT's LinkedIn page describes him as principal of multiple Bermuda companies. We are aware through our business that an American who was leasing a home from us around that time had acquired one of FARDIN's companies. We have decided not to respond to 'Azi Vincent's' current request for information about TUCKER'S TOWN rentals.

Action

We did not respond to Azi VINCENT's inquiry

goAML Indicators selected

- Declined/Refused business – suspected criminal activity
- Misrepresentation/Fraud
- Immigration/Immigration Related
- Inadequate/Evasive Explanation
- Tax Evasion
- Real Estate

Supporting Documents provided

None

Missing Information

- Javid FARDIN's photo identification/Copy of correspondence
- Information to support the suspicion of money-laundering, possible tax evasion, misuse of Bermuda corporate entities

COMPLETE REAL ESTATE SAR /STR

mortgage, to be paid with USD550,000.00 and the balance in BDA dollars. Contracts have been sent to the respective lawyers for review so a deposit will be expected soon.

The Risk Screen search I performed on Mr. VALLARDI raised red flags including an Interpol Red Notice that expired in November 2018 and articles indicating that he was wanted by the British police for cheating and dishonestly inducing delivery of property, criminal conspiracy, and assault. These charges may or may not be tied to a bitter divorce from his former wife. I have uploaded a copy of his passport and the RiskScreen report. Please let me know how to proceed.

Action

Sales and Purchase Agreement has been prepared and sent to lawyers for review

goAML Indicators selected

- Adverse media
- Cash Deposit – multiple/large single transaction
- Cash Purchase
- Property
- Real Estate

Supporting Documents provided

- Marco Vallardi's passport
- Copy of RiskScreen report

Missing Information

None

7. SUPPORTING DOCUMENTS

All documents referenced in the submission, and which were crucial in forming your suspicion and creating the filing should be attached to the original submission. The following key documents should also be considered when submitting a SAR/STR to determine if they provide confirmation or clarification of the report and would reduce the need for the FIA to make formal requests minimizing the time to complete the analysis. The FIA understands documentation may be limited depending on the relationship with the subject(s) being reported.

7.1. Natural Persons

- **MANDATORY** - Certified passport or other government issued identification for all citizenships held
- **MANDATORY** - Certified proof of residential address
- Declaration of source of wealth/funds where available
- Real estate related application forms including seller and purchase details.

7.2. Trusts

- Certified extract of original Deed of Settlement detailing Settlor, Beneficiaries, Protector/Enforcer
- Supplemental Deeds showing any changes to the original Deed of Settlement
- **MANDATORY** - Certified Due Diligence (Government issued identification showing full name; proof of residential address) for all named persons in items 1 & 2
- Source of wealth/funds
- **MANDATORY** - Evidentiary correspondence that contains supporting details, suspicious requests, incriminating statements
- Internal SAR

7.3. Corporate Entities

- Certificate of Incorporation
- Directors & Officers Register
- Share Register
- **MANDATORY** - Confirmation of registered address, principal business address and mailing address (if different from the registered address)
- **MANDATORY** - Certified due diligence (Government issued identification showing full name; proof of residential address) for all named persons in items 2 & 3. For item 3, where interest held is 10% or more.
- Ownership structure chart
- Most recent financials (list of all assets held)
- Source of wealth/funds
- **MANDATORY** - Evidentiary correspondence that contains supporting details, suspicious requests, incriminating statements

- Internal SAR

7.4. Non-Profit Organizations

- Register of Directors or Trustees
- **MANDATORY** - Certified due diligence (Government issued identification showing full name; proof of residential address) for all named persons in item 1.
- Most recent financials (list of all assets held)
- Source of wealth/funds
- **MANDATORY** - Evidentiary correspondence that contains supporting details, suspicious requests, incriminating statements
- Internal SAR

8. RETENTION PERIOD

Financial institutions shall retain the following for five years from the date of the filing:

- A copy of all filed SARs/STRs
- The original or business record of any supporting documentation
- All supporting documentation for the benefit and/or use of the FIA and any other appropriate local law enforcement agency or regulatory authorities.

9. SEEKING CONSENT TO CONDUCT A TRANSACTION

For detailed guidance on seeking Consent, please refer to our standalone Consent Guidance document.

10. RED FLAG INDICATORS

The following list is not exhaustive and may be updated as emerging money-laundering and financing of terrorism trends and patterns evolve. The existence of an indicator may not alone imply suspicion but combined with other indicators may suggest a suspicious transaction.

10.1. Red Flag Indicators for Real Estate Professionals

1. Client provides false or misleading information
2. Client linked to adverse media relating to a suspect activity or law enforcement investigation
3. Client is unwilling, unable, or uncontactable to provide information for CDD purposes
4. Politically Exposed Persons particularly where status is undisclosed or denied
5. Unusual or suspect source of funds or refusal to provide source of funds information
6. Complex or layered ownership structure for no apparent economic or business purpose
7. Purchaser appears hesitant or declines to put his name on any documents that would connect him with the property

8. Buyer is a shell company, and representatives of the company refuse to disclose the identity of the true owners
9. Purchaser pays the initial deposit with a cheque from a third party, other than an immediate family member like a spouse, parent or sibling
10. Use of complex loans, or other obscure means of finance, versus loans from regulated financial institutions
11. Client purchases property in the name of a nominee such as an associate or a relative (other than a spouse), or on behalf of minors or incapacitated persons or other persons who lack the economic capacity to conduct such purchases
12. Transactions suspected to be in violation of another country's foreign exchange laws and regulations
13. Activity inconsistent with the customer's profile and anticipated transactions
14. Purchaser buys property without making any attempt to inspect or review the brochure or marketing material of the property
15. Client purchases multiple properties in a short time period, and seems to have few concerns about the location, condition and anticipated repair costs, etc., of each property
16. Purchaser's known business activity and purpose do not match the real estate transaction, e.g. purchaser is a non-profit organisation, but the property is purchased for investment requires large financing
17. Under- or over-valued transactions
18. Request to expedite transactions without a plausible explanation and no regard for associated costs
19. Client resides in or the transaction involves a jurisdiction known to have inadequate anti-money laundering and counter financing of terrorism framework or a jurisdiction in which the FATF has called for countermeasures or enhanced client due diligence measures
20. Property is sold in a series of successive transactions, with each transaction at a significantly higher or lower price than a recent market price. Particularly, if the transactions were conducted between the same parties
21. Client is a recently created legal entity, and the amount of the transaction is large compared to their assets
22. Client pays rent or the amount of an annual lease in advance using a large amount of cash
23. The use of intermediaries who are not subject to adequate AML/CFT laws and measures and who are not adequately supervised
24. Buyer, seller or any party proposes to settle by way of digital assets, if it is thought to make some part of the transaction less transparent
25. Use of cash in a quick sale, cash exchanges directly between seller and buyer, to include a cash deposit or a large one-off cash transaction

For a more extensive list of red flags ML/TF indicators categorised, consult the FIA's Indicators list document located on its website [HERE](#).

11. REPORTING RESPONSIBILITIES

It is the responsibility of all Bermuda-supervised reporting entities to ensure that a Reporting Officer (Money Laundering Reporting Officer (MLRO)) is appointed or designated and is adequately trained, in accordance with section 17(1) and (3) of the Proceeds of Crime Act 1997.

The MLRO must be registered with, and have access to, the Financial Intelligence Agency of Bermuda's designated reporting platform in order to submit Suspicious Activity Reports (SARs) and Suspicious Transaction Reports (STRs) where the reporting officer knows, suspects, or has reasonable grounds to suspect that a person or entity is engaged in money laundering or terrorist financing.

It is strongly recommended that reporting entities establish internal policies and procedures to ensure that:

1. A Reporting Officer (MLRO or other designated reporting person) is appointed at all times.
2. An Alternate Reporting Officer is registered and authorised to submit reports in the absence of the Reporting Officer.
3. The Reporting Officer and/or Alternate Reporting Officer are adequately trained to use the FIA's reporting system, submit SARs/STRs, and receive and respond to additional requests from the FIA, including requests made pursuant to section 16 notices;
4. A group notification email address is maintained to ensure that the compliance department, or other designated personnel, receive all confirmations of receipt and follow-up communications issued by the FIA.
5. In the event of the departure, resignation, or termination of the MLRO or Alternate MLRO, the reporting entity must immediately appoint a suitably trained replacement and ensure continuity of reporting obligations through the FIA's designated reporting platform.

12. goAML SUPPORT CONTACT DETAILS

For assistance registering on goAML platform or with submitting SARs and STRs, the FIA can be contacted as follows:

Tel: 441-292-3422 ext. 8005 (Option 3)

Email: goaml_support@fia.bm

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