



The Financial Investigations Division (FID)

OUR ROLE AND YOU...

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Who we are

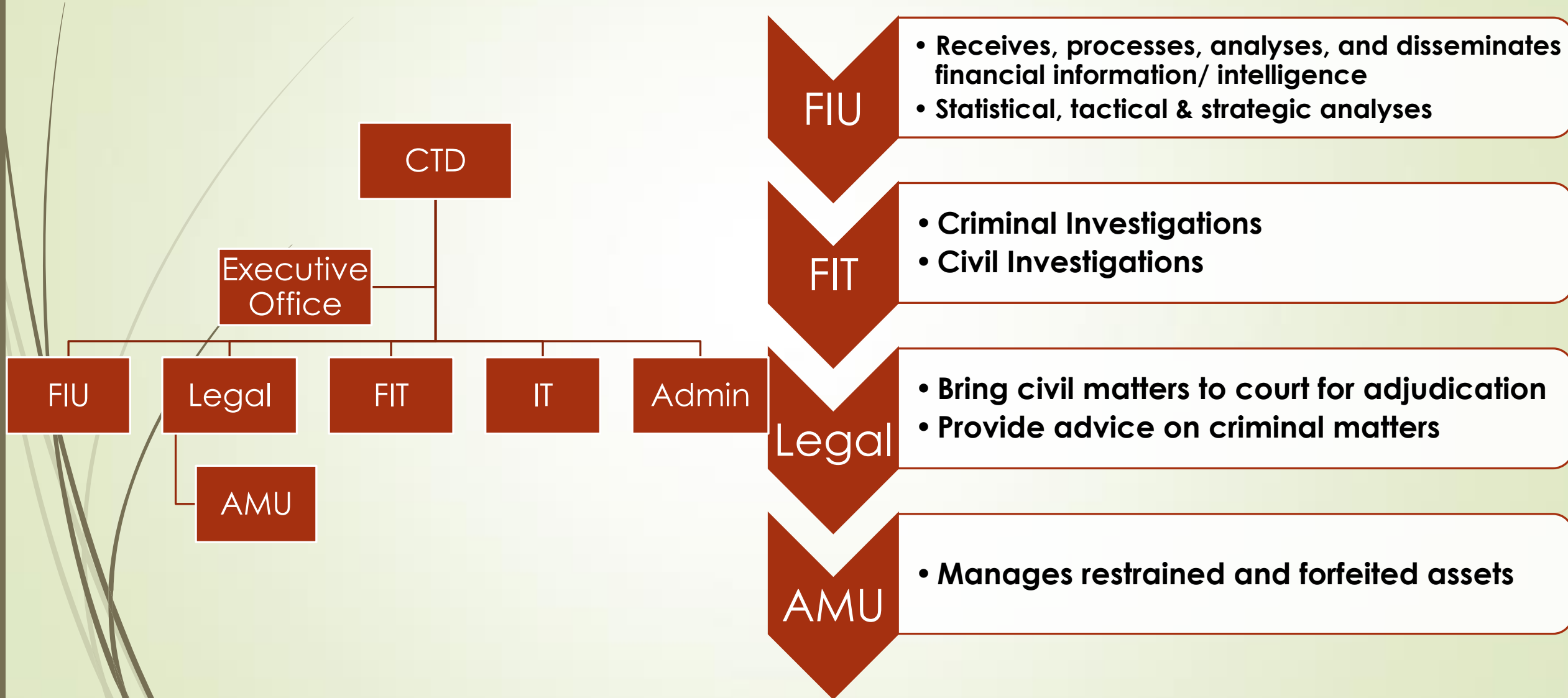
- ▶ FID is Jamaica's Financial Intelligence Unit (FIU) referred to as the Designated Authority, who is ultimately the Chief Technical Director.
- ▶ FID is a division under the Ministry of Finance established in December 2002, governed by:
 1. The Financial Investigations Division Act, 2010
 2. The Proceeds of Crime Act (POCA) 2007 (Amended 2013)
 3. The Proceeds of Crime (Money Laundering Prevention) Regulations, 2007 (Amended 2013)
 4. The Terrorism Prevention Act (TPA) 2005 (Amendments 2011, 2012 & 2013)
 5. The Terrorism Prevention (Reporting Entities) Regulations, 2010
- ▶ FID is an integral part of the Anti-Money Laundering (AML)/ Counter Terrorist Financing (CTF).



OUR MANDATE

- To deter the use of Jamaica's economy for money laundering, terrorist financing and other financial crimes, while ensuring protection of personal information under our control.
- To grant “consent to perform a prohibited act”, to financial institutions.
- To increase public awareness of financial crimes and the impact and importance of their elimination from the society.

ACHIEVING OUR MANDATE



ACHIEVING OUR MANDATE: FID POWERS (INVESTIGATIVE TOOLS)

POCA & FIDA have specifics as it relates to the investigative tools/orders available for FID to carry out its investigations with the ultimate being prosecution. The investigative orders referred to as Judicial Orders include:

- ✓ **Production and Inspection Order** - an instruction to the regulated entity to hand over to an **authorized officer**, specified material relevant to the investigation of a **financial crime**.
- ✓ **Customer Information Order** – mandates a financial institution to provide any “customer information” it has relating to a specified person.
- ✓ **Disclosure Orders** – mandates a person to produce specified information deemed necessary to an investigation and the information appears to be in the possession or control of the person.
- ✓ **Account Monitoring Order** – mandates a financial institution to provide information on the account of the named subject based on future transactions.



PIO vis-à-vis DO

	PIO	DO
Legislation	FIDA	POCA
Applicant	CTD, CTD Authorized Officer or CP Authorized Constable. (On CTD's suspicion)	Officer of the Agency, Customs Officer, CP Designated Constable, Constable & any other person designated by the Minister
Court	Supreme Court or RM Court	Supreme Court
Relevant Investigations	Financial crimes	Money laundering, Forfeiture and Civil Recovery Investigations
Advantages	Speed, user friendly forms, less legalistic, wider application, no involvement of an attorney, another authorized officer may collect the disclosed material.,	Attorney involvement, greater judicial scrutiny.
Effective Date	April 9, 2010	May 30, 2007
Who	FIs, MDA, Companies etc	FIs, MDA, Companies etc

ACHIEVING OUR MANDATE: FID POWERS (FREEZING OF ASSETS)

- **Restraint Orders** – this is applied for when a criminal investigation has been started with regard to an offence or proceedings have been started for an offence and not concluded, or enforcement authority has made application for confiscation or it is a civil recovery case or the court believes a civil recovery application will be made.
- **Cash Seizure Orders** – this is made by an authorized officer once there is reasonable grounds for suspecting that the cash is recoverable property; or intended by any person for use in unlawful conduct.
- **Forfeiture Orders** – this occurs where a person pleads guilty/ is convicted of an offence from which they have benefitted. This requires the DPP or ARA to make the application for the matter to be considered, which must be committed from RM to Supreme Court.

Who reports to FID?

- ➔ The Regulated sector comprising of:

FINANCIAL INSTITUTIONS	DESIGNATED NON-FINANCIAL INSTITUTIONS
1. Commercial Banks (Banking Act)	1. Accountants (Public Accountancy Board)
2. Financial Institution (Financial Institutions Act)	2. Real Estate Dealers (Real Estate Board)
3. Building Society (Building Societies Act)	3. Casinos (Casinos Gaming Commission)
4. A Society (Co-operative Societies Act)	4. Gaming Lounges (Betting, Gaming & Lotteries Commission)
5. Money Transfer, Remittance Agents, Exchange Bureau (Bank of Jamaica Act)	5. Attorneys (General Legal Council)
6. Investment Dealers/ Adviser (Securities Act)	
7. Insurance Business (Insurance Act)	

REGULATED SECTOR REQUIREMENTS

- Appoint a **Nominated Officer** who will be responsible for the submission of:

Reports to be submitted by FINANCIAL INSTITUTIONS under POCA

- Suspicious Transaction Report (STR)
- Authorized Disclosure and Request for Consent
- Threshold Transaction Report (TTR)
- Terrorism Prevention Act (TPA) Listed Entity Report
- Cross Border Form

Reports to be submitted by DNFIs under POCA

- Suspicious Transaction Report (STR)
- Authorized Disclosure and Request for Consent

➤ Comply with all relevant Orders (Account Monitoring, Disclosure, Customer Information)

➤ Provide appropriate training for all staff members (especially front-line)

WHAT IS A SUSPICIOUS TRANSACTION REPORT?

According to Section 94 of POCA - A person in the regulated sector is to make a required disclosure (STR) if:

- ▶ that person knows or believes, or has reasonable grounds for knowing or believing, that another person has engaged in a transaction that could constitute or be related to money laundering;
- ▶ (b) the information or matter on which the knowledge or belief is based or which gives reasonable grounds for such knowledge or belief, came to him in the course of a business in the regulated sector.



REQUIRED SUBMISSION DATE

- ❑ STRs are to be made to the nominated officer or Designated Authority as soon as is reasonably practicable and in any event **within fifteen days** after the information or other matter came to the person.
- ❑ The nominated officer should report to the designated authority as soon as is reasonably practicable and in any event **within fifteen days** after the information or other matter came to him.



SUSPICIOUS TRANSACTION REPORTS

STR forms can be downloaded at www.fid.gov.jm

Completed Forms should be submitted with a cover letter (in duplicate) on the entity's letterhead

A stamped copy of cover letter is returned in acknowledgement of receipt.

THE CONSENT REGIME

Statutory Requirements

- Where a regulated entity has knowledge or reasonable grounds to believe that the funds involved in a transaction are **criminal property**, the regulated entity must obtain the appropriate consent before doing that transaction or otherwise decline to proceed with the transaction. Failing this, the regulated entity may be liable for engaging in a prohibited transaction.
- **A prohibited act is defined as a money laundering offence under sections 92 and 93 of POCA.**

THE CONSENT REGIME

Authorized Disclosures (POCA S.100.4)

It is made under the following conditions:

- ➔ Firstly, that the disclosure is made before the person does the **prohibited act**.
- ➔ Secondly, if the disclosure is made after doing the **prohibited act**, the person has a reasonable excuse for failing to make the disclosure before doing the act and the disclosure is made on the person's own initiative and as soon as is reasonably practicable for him to make it.



THE CONSENT REGIME

Procedures for Seeking Consent

- **Submit authorized disclosure to FID (Form III) or STR with cover letter for the Nominated Officer to apply for appropriate consent.**
- **Form III is to be gazetted, should soon be available.**
- **For urgent responses, a verbal consent or refusal provided, followed within 5 days by written confirmation**

TIPPING OFF PROVISIONS

Under POCA section 97 (1), a person commits an offence if:

- ▶ Knowing or having reasonable grounds to believe that a disclosure falling within section 100 has been made, he makes a disclosure which is likely to prejudice any investigation that might be conducted, or
- ▶ Knowing or having reasonable grounds to believe that the enforcing authority is acting or proposing to act in connection with a money laundering investigation which is being, or about to be conducted, he discloses information or any other matter relating to the investigation to any other person.

CONSENT REGIME AND YOU...





LIMIT ON CASH TRANSACTIONS (Section 101(A) – POCA)

- ▶ Limit of one million Jamaican dollars (or its equivalent in any other currency) is not permitted to be conducted with cash for transactions such as:
 - ✓ the purchase of any goods or services
 - ✓ the payment or reduction of any indebtedness
 - ✓ accounts payable or other financial obligation unless the transaction is done with a permitted or exempted person.



LIMIT ON CASH TRANSACTIONS

We are not to artificially separate a single activity or course of activities into a set of transactions so that each transaction involves a payment and receipt of cash that is less than the prescribed amount but which activity or course of activities in aggregate involves payment and receipt of cash that exceeds the prescribed amount.



COMPLIANCE REQUIRED: EZRA 7 VS. 26

- ➔ Whoever will not observe the law of your God and the law of the king, let judgement be executed upon him strictly, whether for death or for banishment or **for confiscation of goods or for imprisonment.**



PENALTIES FOR NON-REPORTING - INSTITUTIONS

Under POCA only institutions can be penalized for failure to submit required reports to the Designated Authority (although the Nominated Officer can be charged for non-disclosure).

- Failure to file a report a fine of \$400,000;
- An institution found guilty of concealing or dealing with criminal property a fine of up to \$5,000,000;

PENALTIES FOR NON-REPORTING - INDIVIDUALS

Individuals can be penalized for five types of Money Laundering:

- For dealing or concealing with criminal property a fine of \$3 million, up to five years in prison or both;
- Acquiring, using, or possessing criminal property fine up to \$3 million, up to 5 years in prison or both;
- Employee non-disclosure up to \$1 million fine up to 1 year in prison or both;
- Non-disclosure by the Nominated Officer up to \$1 million fine up to 1 year in prison or both;
- Tipping off up to \$1 million fine up to 1 year in prison.

NEW ISSUES: TPA

- Right now only financial institutions are under TPA
- Soon the Non-FIs including casinos and gaming houses will be under TPA;
- This means mainly that Casinos and Gaming Operators will have to be aware of the Listings issued under the TPA by the DPP under section 14 of that Act;
- They will have to check the ID of customers against that list and if there is a clear hit, then a report should be made.
- This will require outreach sensitization and training



ISSUES ON THE HORIZON: goAML

- The FID is launching its electronic reporting portal goAML by end first quarter 2018.
- It will allow for electronic reporting of suspicious transactions via the internet through a secure website;
- Initially being rolled out for financial institutions who are the largest reporters;
- Soon to be rolled out for non financial institutions in probably first quarter 2019;
- Will improve ability to data mine and also improve the quality of reports since it won't accept incomplete reports.

SUMMARY

- The role of the regulated sector is of high importance in assisting to stem the threat of **Money Laundering & Terrorist Financing**. Each entity, irrespective of size, can have a significant impact by simply ensuring:
 1. Customers are known (Customer Due Diligence) and there are proper record keeping methods implemented.
 2. Staff members are sufficiently trained and skilled in detecting these threats.
 3. Appropriate policies, internal controls and reporting systems are in place to guide Management & Staff in executing their roles in detecting these threats.
 4. Keeping up to date with all relevant laws and statutory requirements imposed on the sector in which they operate.
 5. Comply with the regulatory and other legal requests as best as possible.



THANK YOU!!!

QUESTIONS???