



**FINANCIAL
INVESTIGATIONS
DIVISION**

FINANCIAL INTELLIGENCE UNIT



POCA S.101A Breaches
(Limit on Cash Transaction)

FID-TR-2024-02

TYPOLOGY REPORT – BREACH OF POCA 101A

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TYOLOGY REPORT – BREACH OF POCA 101A

PURPOSE OF REPORT

The report covers the period **September 2018** to **December 2023**. It looks on the vulnerabilities, methods and/or channels used to launder money through the financial sector, with focus on the breach of POCA Section 101A. The intention also is to encourage financial institutions to review their existing policy, and where necessary to strengthen their AML framework.

Additionally, the Typology Report is to bring awareness to the public of the implications of conducting cash transactions in excess of one million (J\$1M) dollars or its equivalent in any other currency.

GENERAL INFORMATION

The Proceeds of Crime Act (POCA), section 101A covers critical areas dealing with a prohibition of certain cash transaction in excess of one million (J\$1M) dollars. These breaches include a transaction or transactions involving the purchase of any property or service, the payment or reduction of indebtedness, and transactions for the payment or reduction of accounts payable or other financial obligation using cash in excess of one million (J\$1M) dollars. It also highlights the fact of “artificially” separating a transaction(s) so as to make it appears less than the prescribed amount of one million (J\$1M) dollars or its equivalent, also constitute a breach.

See online article published by the Observer, dated October 21, 2015, entitled “*Pastor, car dealer convicted of breaching POCA*” (retrieved from <https://www.jamaicaobserver.com/2015/10/22/pastor-car-dealer-convicted-of-breaching-poca/>). A pastor and a car dealer were charged and convicted for breaches of POCA Section 101A, resulting from the purchase/ sale of 2010 Toyota Yaris motorcar amounting to J\$1.1M. Investigations lead to the recovery of two (2) receipts showing a transaction for the purchase of the motor vehicle at the pastor’s home and the corresponding duplicate at the car dealer’s home. They both plead guilty to conducting a cash transaction for the purchase/ sale of a property, specifically a motor car.

Section 101A makes it an offence for persons to generally conduct cash transactions in excess of Jamaican one million (J\$1M) dollars or its equivalent in any other currency. However, this is not applicable to “permitted or exempted persons” or “exempted transactions” or a Ministerial Exemption issued under that section to conduct cash transactions of that magnitude.

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The following definitions are outlined in the Act:-

- “exempted person or exempted transaction” means a person or transaction to which the Minister is satisfied that it is in the public interest to do so.
- “permitted person” means a bank, licensed deposit-taking institution and a person who is licensed to operate an exchange bureau all of which are regulated by the Bank of Jamaica.

The penalty for any breach vary depending on the court which handle the matter. For the **Parish Court** (formerly Resident Magistrate’s Court), the fine does not exceed Three Million Dollars (J\$3M) or a prison term not exceeding Three (3) years or to both fine and imprisonment. While for the **Circuit Court**, the penalty is a fine or to imprisonment for a term not exceeding ten (10) years or to both such fine and imprisonment.

Once there is a breach and the Financial Institution becomes aware it now has an obligation to submit a report to the Financial Investigations Division (FID). Failure to do so, both institution and or the Nominated Officer responsible could be fined. Hence, it is critical for businesses and individuals in the regulated sector to be aware, such that the requirements of Section 101A becomes part of the policy.

STATISTICAL INFORMATION

Reports submitted to the FID through the goAML platform, assist with the identification of ML/TF and predicate offences. Based on several reports submitted by the Financial Institutions, there is evidence of continued breaches of POCA Section 101A. In many instances, the top reason or source of income provided are the sale of motor vehicle, sale of property and/ or business income.

The table below is a summary position of the level of activities based on reports that were submitted in relation to POCA Section 101A¹.

Agency Business Type	Report Type			Grand Total
	Authorized Disclosure	Threshold Transaction Report	Suspicious Transaction Report	
BANK (Commercial)		\$16,953,778.88	\$833,737,465.27	\$850,691,244.15
Building Society			\$6,263,375.68	\$6,263,375.68
Cambio		\$1,004,000.00	\$1,314,000.00	\$2,318,000.00
Credit Union		\$13,075,000.00	\$143,372,859.69	\$156,447,859.69
Gaming Lounge			\$34,833,382.48	\$34,833,382.48

¹ The above statistics were retrieved from the goAML platform for the period September 2018-December 2023.

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Agency Business Type	Report Type			Grand Total
	Authorized Disclosure	Threshold Transaction Report	Suspicious Transaction Report	
Individual Reporting Entity	\$6,488,000.00			\$6,488,000.00
Insurance Company		\$1,000,000.00	\$8,300,000.00	\$9,300,000.00
Remittance			\$933,324.79	\$933,324.79
Grand Total	\$6,488,000.00	\$32,032,778.88	\$1,028,754,407.91	\$1,067,275,186.79

TYPOLOGY

The following is an example/scenario provided by the reporting entities that may give rise to the breach of POCA Section 101A:

DEPOSIT OF PROCEEDS FROM SALE OF PROPERTY/ASSET

Involved Parties:

- Individual ‘A’, real estate/property – seller
- Individual ‘B’, real estate/property – buyer

Lodgement Options used:

- Incremental
- One off

Step 1 – Asset purchase or sold

Individual ‘A’ received cash from sales of asset (motor vehicle, property, land etc.) from individual ‘B’. Once the transaction is finalized, cash is paid in exchange for goods, the cash is then deposited to individual’s ‘A’ account at a Financial Institution.

Step 2 – Cash deposit/lodgement

Cash deposits are either one off or in excess of J\$1M; amounts in excess of J\$1M is split and deposited at different intervals within a short period of time with source indicated to be from the sale of a property (deposit conducted ‘artificially’). Whether the transaction is one off or split, individual ‘A’ deposits the amount received to their account as payment for sale of assets to individual ‘B’.

Step 3 – Institution Enquiry of Cash deposit/lodgement

Deposit/lodgement of money by individual ‘A’, the financial institution enquiry about the source of funds. Upon enquiry by the institution, Individual ‘A’ explains that the money is received from Individual ‘B’ as payment for the sale of an asset.

Often times no prove of sale is submitted to the financial institution, which may leads to other financial crimes being committed, for example Fraud. It should be noted that, whether the financial institution refused or processed the transaction, a report is usually made to the Financial Investigations Division (The Designated Authority).

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TYOLOGY CASE STUDY/EXAMPLE

On November 24, 2020, the Customer visited a known Financial Institution (FI) to make a cash deposit J\$2,282,000.00 to account # 000000 @ 30205. The FI being a permitted entity could have accepted the cash. However, due to the quantum of cash involved, the FI's representative enquired about the source of the funds, which the Customer stated that he could not provide any information at this time. Due to the lack of supporting documentation, the FI refused to accept the cash deposit of J\$2,282,000.

The customer proceeded to deposit the cash in increments via the ATM and/ or different branches to facilitate a RTGS transfer.

SUSPICIOUS INDICATORS

Reporting entities must be mindful that the existence of a single indicator on its own may seem insufficient. However, when combined with other indicators the transaction can be related to a breach of POCA Section 101A.

Examples of some transaction type that may give rise to a breach as per Section 101A.

- ❖ Structuring of cash withdrawals within a relatively short timeframe with the intention to purchase property, motor vehicle, or any assets.
- ❖ Customer indicated that cash represented part proceeds/proceeds from the sale of equipment, property/assets.
- ❖ A single withdrawal in excess of J\$1M for the purchase of assets.
- ❖ Inconsistent cash deposit that does not align with the Customer's profile.
- ❖ Re-deposits of cash previously withdrawn due to alleged failure to conduct the purchase of asset.
- ❖ Customer claim that source of funds are accumulated from savings, partner draw, round robin etc.
- ❖ Usage of the Automated Banking Machine (ABM), to deposits cash in excess of J\$1M dollars, within a relatively short timeframe
- ❖ Customer attempt to deposit money through business (present an invoice) indicating to purchase large quantities of items.

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CONCLUSION REMARKS

Financial Institution should be mindful of the various ways used by customers to deposit money, which might indicate money laundering activity and/or breach of **POCA Section 101A**.

1. Pay attention to customers making deposits in excess of \$1M, without any relevant supporting documents.
2. Flag clients who attempt to initiate transactions multiple times, which are not in line with the nature of business or do not match their profile.
3. Staff should become familiarized with the law/ or guidelines as it relates to the breach of cash limit (BCL).

Once a transaction is legitimate, regardless of the amount, a person can freely make his/her cash deposit(s) with a permitted person. The permitted person, however is not relieved of its duty to conduct the necessary due diligence.