

## FINANCIAL INVESTIGATIONS DIVISION

### ADVISORY NUMBER 1

#### **REPORTING OBLIGATIONS FOR FINANCIAL INSTITUTIONS AND DESIGNATED NON FINANCIAL INSTITUTIONS UNDER THE PROCEEDS OF CRIMES ACT.**

##### **BACKGROUND**

The FID is empowered to issue guidance to Financial Institutions and Designated Non-Financial Institutions pursuant to section 5(2) (c) of the Financial Investigations Division Act after consultation with the relevant Competent Authority.

In addition, the Proceeds of Crime (Money Laundering Prevention) Regulations, 2007 regulation 2(3) and the Terrorism Prevention (Reporting Entities) Regulations, 2010 also state that *“...In determining whether a person has complied with any of the requirements of these regulations, a court shall take account of any relevant guidance that was at the time concerned:-*

- (a) issued by the designated authority or a body that regulates, or is representative of, any trade profession, business or employment concerned;*
- (b) approved by the Minister; and*
- (c) published in the Gazette.”*

This Advisory should be read in conjunction with the relevant legislation and replaces Advisories 1, 2 and 3 previously issued by the FID to financial institutions on the 29th of July 2004, the 25th of June 2007 and the 20th of June 2008, respectively.

The categories of Financial Institutions (FIs) and Designated Non-Financial Institutions (DNFIs) that are required to report are set out at **Appendix 1**.

**This document seeks to provide Guidance on the reporting obligations of FIs and DNFIs under the POCA.** The objective of the legislation in mandating the making of Cash Threshold Reports (CTRs) and Suspicious Transactions Reports (STRs) by businesses in the regulated sector is to provide information to the Designated Authority (which by itself or together with other information) may point to illicit behaviour and therefore prompt an investigation. The information in CTRs and STRs may also support on-going investigations. The obligations on a business in the regulated sector are to assess transactions at the time they are presented with same. However, sometimes information may come to the attention of the business in the regulated sector, which causes the business to reconsider a past transaction or series of transactions (that were not considered suspicious at the time of execution) and to deem it or them suspicious. This should trigger the making of a STR.

This Guidance does not however purport to cover every aspect of the obligations of regulated businesses under the POCA and Regulations issued thereunder and as such businesses in the regulated sector should seek further guidance whether from the Designated Authority, their Competent Authority or their legal advisors in cases of uncertainty. In addition they should also make reference to Guidance or other materials issued by their supervisory authorities on the subject of anti-money laundering measures.

This Guidance proposes to deal with the following reporting issues in the following order:

1. Cash Threshold Reporting
2. Suspicious Transactions Reports
3. How do I know what to report?
4. Specific reporting procedures for threshold transaction reports and suspicious transaction reports
5. The Consent Regime;
6. Reasonable Excuse
7. The distinction between Requests for Consent and Making a Suspicious Transaction Report;
8. Safe Harbour provisions
9. Tipping Off
10. Confidentiality of the Designated Authority;
11. POCA Section 101A issues
12. Conclusion

## 1. CASH THRESHOLD REPORTS

This obligation arises pursuant to regulation 3 of the POC(ML)R. **It is only applicable to FIs.**

Under the law, FI are under an obligation to report (both on the FI's own initiative or on the request from the Designated Authority) any cash transaction(s) amounting to or exceeding the prescribed amount being carried out by any person with the institution in any one (1) business day.

Cash transaction means a transaction involving the physical transfer of currency from one person to another.

The prescribed amount means in relation to:

- (a) a money transfer and remittance agent or agency five thousand dollars (\$5,000) or more;
- (b) cambios and bureaux de change, eight thousand dollars (\$8,000) or more;
- (c) any other financial institution, fifteen thousand dollars (\$15,000) or more,

in the currency of the United States of America or an equivalent amount in Jamaican currency or in any other currency.

Currency refers to the coin and paper money designated as the legal tender of any country and which circulates and is customarily used and accepted as a medium of exchange in the country of issue.

Examples of these cash transactions include:

- (a) lodgements made at a financial institution in cash involving or exceeding the relevant prescribed amount;
- (b) withdrawals, encashments or other requests for payments in cash involving or exceeding the relevant prescribed amount;
- (c) payment of loans, insurance premiums or other similar payments in cash involving or exceeding the relevant prescribed amount;
- (d) receipt or payment of cash involving or exceeding the relevant prescribed amount for the purposes of effecting or completing a remittance transaction;
- (e) sale or purchase of foreign currency or domestic currency in cash involving or exceeding the relevant prescribed amount.
- (f) receipt or payment of cash involving or exceeding the relevant prescribed amount for the purposes of effecting or completing a financial transaction with a deposit taking institution, securities dealer or other FI;

FIs should note that:

- (a) Transactions with the entities and bodies referred to in regulation 3(2) of the POC(ML)R are exempt from the reporting requirement under regulation 3.
- (b) They are prohibited from disclosing the existence of a report made under this regulation;
- (c) The FI, its directors and employees are exempted from liability for prosecution under sections 92 or 93 of the POCA in relation to the conduct contained in the report and from any criminal civil or administrative liability for any breach of any restriction on disclosure of information imposed by contract or by any legislative regulatory or administrative provision.

Regulation 3(6) allows the FID as the Designated Authority to issue directions to FIs with respect to:

- (a) previous or existing reports,
- (b) the provision of information required in such reports,
- (c) the provision of additional information including with respect to due diligence procedures followed in relation to a specified transaction, persons authorized to sign on the account in question, errors identified in the reports and such other matters as may be specified in the directions.

It should be noted as well that a series of transactions between an individual and the FI that amounts to or exceed the relevant prescribed amount should not be reported as a Cash Threshold Transaction. Where such transactions are suspicious in nature (including the fact that they appear to be structured for the purpose of avoiding cash threshold reporting requirements), they should be reported as a Suspicious Transaction.

## **2. SUSPICIOUS TRANSACTION REPORTS**

Section 94 of the POCA establishes the obligations on all businesses in the regulated sector to make the required disclosure in circumstances where the 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 and 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 the business in the regulated sector.

To avoid the criminal liability, the person must make the required disclosure as soon as practicable and in any event within 15 days after the information or other matter comes to him.

The required disclosure is made either to the nominated officer of the regulated business or to the designated authority in the manner prescribed by the regulations issued under the Act.

Section 95 establishes the obligation on nominated officers to make reports whilst section 96 imposes similar obligations on authorized officers.

### **3. HOW DO I KNOW WHAT TO REPORT?**

The core issue for businesses in the regulated sector is: how can they decipher whether another person has engaged in a transaction that could constitute or be related to money laundering?

For a transaction to constitute or be related to money laundering, the transaction should have involved or be related to:

- (a) an act that constitutes or is related an offence under section 92 or 93 or
- (b) constitutes an attempt, conspiracy or incitement to commit those offences or
- (c) constitutes aiding or abetting counselling or procuring the commission of the offences in sections 92 and 93.

In short, the transactions should appear to contain one or more elements of the following acts:

- (a) the person has engaged in a transaction involving criminal property;
- (b) the person has concealed, disguised or disposed of or brings such property into Jamaica;
- (c) the person has converted transfers or removes any such property from Jamaica;
- (d) the person has entered into or has become concerned in an arrangement that facilitates the acquisition of retention use or control of criminal property by or on behalf of another person;
- (e) the person has acquired uses or has possession of criminal property;
- (f) the person made an attempt, conspires or incites the commission of any of the acts from (a) to (e) above;
- (g) the person has aided or abetted counselled or procured the commission of the acts from (a) to (e) above.

It is important for businesses in the regulated sector to understand that they do not need to determine the mental state of the person who they believe has committed the acts named at (a) to (g) above. Also, it is important to note that the transaction does not have to occur directly with the regulated business.

It is on this basis that a person who does not end up carrying out a transaction with a regulated business but who attempted or incited or counselled someone else to engage in a transaction may be the subject of a suspicious transaction report. In such cases the business in the regulated sector should make a suspicious transaction report.

**The key requirement is that a person in a regulated business takes the view that, based on the facts before the business, her or she knows or believes or has reasonable grounds for knowing or believing that a another person has engaged in money laundering and the information supporting that belief came about in the course of the regulated business’ affairs.<sup>1</sup>**

The regulated business does not need to have all the relevant facts before it forms a definitive conclusion, but the information should rise above the level of mere suspicion to a belief based on reasonable grounds. Those facts may prove subsequently to be incorrect, however what is necessary is that there was at the time some information that gave rise to the belief<sup>2</sup>. Thus knowledge of criminal proceedings in relation to a customer may give

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<sup>1</sup> The standard is not whether one suspects but whether one actually “knows or believes or has reasonable grounds for knowing or believing”. The Jamaican Court of Appeal in the case of **Jamaican Bar Association v. The Attorney General, The General Legal Council [2017] JMFC Full 02**, explained that mere suspicion is much lower than what the law demands. Businesses that go by the lower standard will make much more reports than is required by the legislation.

The Court said at paragraph 158: that, “In Jamaica, Parliament has intentionally included in the provisions a minimum higher mental element relating to the obligation to make a disclosure. **...The lower the threshold for *mens rea*, the more reports will be made...**” (emphasis added).

<sup>2</sup> As is stated at paragraph 160 of the Jamaica Bar Association Judgement referred to above: “**...the statute does not require an attorney to be ‘suspicious’ but to have ‘knowledge’ or ‘belief’ and these must be based on reasonable grounds;** thus containing a subjective and an objective element.

- I. The three main terms for a person to consider before making a report are “*knowledge*”, “*belief*” and “reasonable grounds”.
  - a. *Knowledge* – Knowledge is actual knowledge.<sup>2</sup> Actual knowledge may be describes something observed and known as a fact as opposed to anything believed, presumed, suspected, or guessed at.
  - b. *Belief* – “...is essentially something short of knowledge, it is the state of mind of someone who is not certain that the property is illicit but who says to himself that there is no other reasonable conclusion in the

**rise to the belief that the person has engaged in money laundering, considering the type of criminal offence for which the person is charged and any other available and relevant information** (even if those charges are subsequently dropped or the person is acquitted).<sup>3</sup> Similarly, a customer who is reluctant or unwilling to provide information to the FI or decides to withdraw an application for services or a pending transaction because of the due diligence enquiries of a FI may be grounds for the making of a suspicious transaction report.

As a general guide, a transaction may be connected to a money laundering offence if **the transaction (or a group of transactions) is not in keeping with what is expected in relation to the account or client (for example, it is noticeably inconsistent with the terms of usage of the account, manifestly deviates from the normal or average usage of the account, noticeably deviates from relevant information disclosed by client previously as to their earnings etc.); if the transaction is inconsistent with normal industry practices; if the transaction fits into patterns generally associated with criminality (such as manifest attempts to avoid scrutiny and the prevalent use of cash without any discernable legitimate source); and/or if the transaction fits into any pattern which may be communicated from time to time by Guidance Notes issued by regulatory bodies associated with your industry (e.g., the Bank of Jamaica, the General Legal Council, etc.).**

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**circumstances.”** (paragraph 157, Jamaica Bar Association Judgement)  
(Emphasis added)

- c. *Reasonable grounds* – Both knowledge and belief must be based on “reasonable grounds”, before any obligation to report arises. This may be described as sufficient information upon which a reasonable person would have come to such knowledge or belief.<sup>2</sup> Further guidance is found in the Privy Council decision of the **Assets Recovery Agency (Ex-parte) (Jamaica)** [2015] UKPC 1, paragraph 19:

*“Reasonable grounds for believing a primary fact, such as that the person...has committed a money laundering offence, do not involve proving that he has done such a thing...The test is concerned not with proof but the existence of grounds (reasons) for believing (thinking) something, and with the reasonableness of those grounds...the test does not ask for the primary fact to be proved. It...asks...to show that it is believed to exist, and that there are objectively reasonable grounds for that belief.*

<sup>3</sup> Whether the proceedings are for any offence for which a customer is likely to have derived a benefit, an acquisitive offence, or any offence listed in the Second Schedule of the Proceeds of Crime Act, will be of central significance in contemplating whether to make a report.

The context, in which the transaction occurs or is attempted, is a significant factor in assessing **“the reasonableness of the knowledge or belief that an individual has engaged in money laundering.”** This will vary from business to business and from one client to another. You should evaluate transactions in terms of what seems appropriate and is within normal practice in your particular line of business, and based on your knowledge of your client. The fact that transactions do not appear to be in keeping with normal industry practices may be a relevant factor for determining whether there are reasonable grounds to believe that the transactions are related to money laundering.

An assessment of **“the knowledge or belief that an individual has engaged in money laundering** should be based on a reasonable evaluation of relevant factors, including the knowledge of the customer’s business, financial history, background, risk profile and behaviour. **“Please note that the relevant consideration is not whether the person appears suspicious, but whether their behaviour or transactions gives rise to the knowledge or belief that they have engaged in activity associated with money laundering.”** Also, it could be the consideration of many factors, not just one factor, which will lead to a conclusion that there are reasonable grounds to believe that a transaction is related to the commission or attempted commission of a money laundering offence. All circumstances surrounding a transaction(s) should be reviewed.

Businesses in the regulated sector are also expected to make a determination on these matters based on their utilization of external sources of information that assist these businesses. Examples of these external tools include supervisory guidance, press reports, due diligence software and other such materials.

Additionally, businesses in the regulated sector may take guidance from examples of circumstances that are considered by the Designated Authorities that are considered to be suspicious. Examples of these are set out at **Appendix 2**. Businesses in the regulated sector should also take careful note of the guidance and other materials issued by their Competent Authorities to understand the particular cases of suspicious activity that may apply to their industry.

These examples or indicators are not intended to cover every possible situation and their application will depend on the circumstance of each case. Thus a single indicator is not necessarily indicative of reasonable grounds to suspect money laundering. However, if a number of indicators are present during a transaction or a series of transactions, then this would suggest strong grounds for making the determination to make the report.

The indicators also have to be assessed in the context in which the transaction occurs or is attempted. Each indicator may contribute to a conclusion that there are reasonable grounds to know or believe that the transaction is related to the commission or attempted commission of a money laundering offence. However, it may also offer no indication of this in light of factors such as the client's occupation, business, financial history and past business patterns. **Taken together the presence of one or more indicators as well as your institution's knowledge of the client's business or financial affairs may form reasonable grounds for knowing or believing that a person has engaged in money laundering.**

Some of the indicators provided could result in the transaction being aborted if the client requests a service that is prohibited by your business or by your anti-money laundering measures. Some businesses in the regulated sector may use financial institutions in the conduct of their business to facilitate financial transactions with their customers. **The obligations of regulated businesses under POCA may not be delegated to other parties.** Therefore the fact that a business in the regulated sector (whether a designated non-financial institution or a financial institution) utilizes the services of another business in the regulated sector to interface with the first business' customers does not in any way abrogate the first business' obligations to carry out all of its anti-money laundering obligations with respect to that customer, including carrying out required customer due diligence measures, record-keeping and suspicious transaction reporting. This would not include special provisions relating to introduced business contained in the Proceeds of Crimes (Money Laundering) Regulations.

The Financial Investigations Division realizes that new typologies of money laundering are constantly evolving. The Division intends to review the listing of examples set out in this Guidance at Appendix 2 over time to reflect typologies that it observes through the sectors.

#### **4. SPECIFIC REPORTING PROCEDURES FOR THRESHOLD TRANSACTION REPORT AND SUSPICIOUS TRANSACTION REPORT**

There are two (2) methods in which Reporting Institutions can submit both the Threshold and Suspicious Transaction Reports. These are;

1. Hard Copy (Typed and Printed)

The template available on the FID's website ([www.fid.gov.jm](http://www.fid.gov.jm)) is completed and printed with only the section for signature of the preparer being handwritten in accordance to the 'FID

Advisory to Financial Institutions (2014)' Section 4.4 – Prescribed Forms. This printed report(s) is then submitted to the Designated Authority (DA).

The submission of the report(s) must be accompanied with a cover letter done in duplicate on the reporting entity's letterhead. The cover letter should indicate the reporting period, the number of reports being submitted and request that the copy be signed and returned as acknowledgement of receipt. For large submissions a summary sheet can be attached to the cover letter by way of an appendix. This is all in accordance to the 'FID Advisory to Financial Institutions (2014)' Section 4.5.3 - Cover Letter.

## 2. Soft Copy (CD/DVD)

The reporting template available on the FID's website ([www.fid.gov.jm](http://www.fid.gov.jm)) is completed and saved in PDF or XLM format to a CD/DVD. To safeguard and protect the data, in accordance to the 'FID Advisory to Financial Institutions (2014)' Section 4.5.4 – Submitting Reports on CD/DVD, the reports must be submitted with an encryption and hash code. This encryption code should be physically and confidentially delivered to the FID preferable the Nominated Officer or his/ her representative. The CD/ DVD must be accompanied with a cover letter (as described above) where the hash code can be indicated.

For CD/DVD submissions a summary sheet must be attached to the cover letter by way of an appendix. Each page of the summary sheet must be numbered, dated and signed by the Nominated Officer. This is an indication that the information so contained on the CD/DVD is being provided with the full knowledge of the Nominated Officer. This is in accordance to the 'FID Advisory to Financial Institutions (2014)' Section 4.5.4 – Submitting Reports on CD/DVD, which also indicate that the following information should be included on the summary sheet:

- i. Unique Reference Number
- ii. Customer Name (Last name and first name in separate columns and for companies, insert companies' name in 'Last Name' column)
- iii. Transaction Date
- iv. Transaction Type
- v. Transaction Amount
- vi. Transaction Currency
- vii. USD Equivalent

**Businesses in the Regulated Sector should be aware that the FID as Designated Authority will shortly be introducing the goAML web based reporting portal. Further information and guidance will be issued as to the modalities of making reports with goAML. However businesses in the regulated sector will be permitted to make reports to the Designated Authority using the methods indicated above for a period to be advised even after the**

**introduction of goAML to allow for businesses to adjust to the new reporting method and to receive training with regards to same.**

The time frame for reporting Suspicious Transactions Reports are to be done as soon as is reasonably practicable and in any event within fifteen (15) days after the information or other matter came to the attention of the nominated officer in the regulated sector.

For Threshold Transaction Reports, the time frame for reporting is quarterly with the due date for submission being on or before the last day of the following month after the end of the quarter. See table below:

<b>NO.</b>	<b>QUARTER</b>	<b>DUE DATE IS ON OR BEFORE</b>
1	January – March	April 30
2	April – June	July 31
3	July – September	October 31
4	October – December	January 31

Businesses in the Regulated Sector should be aware that with the introduction of the online reporting these submission dates will be revised.

## **5. THE CONSENT REGIME**

Under section 92 of POCA, offences are created for engaging in a transaction that involves criminal property, concealing, disguising, disposing of or bringing into Jamaica such property and converting, transferring and/ or removing property from Jamaica where the person knows or has reasonable grounds to believe that at the time he does any of these acts, that the property is criminal property. The section also creates an offence for entering into or becoming concerned in an arrangement that the person knows or has reasonable grounds to believe and facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.

Under section 93 of the POCA, offences are created for the acquisition, use or possession of criminal property in Jamaica where the person knows or has reasonable grounds to believe that at the time he does any of these acts, that the property is criminal property.

Under both sections, the law establishes a defence where either:

- (a) Before doing any act described in the sections the person makes an authorized disclosure and receives the appropriate consent to act;
- (b) The person intended to make a disclosure before the doing the act and has a reasonable excuse for not doing so, and does make such a disclosure as soon as it is reasonably practicable to do so.

These offences apply to all persons, whether they are in the regulated sector or not.

The regime for the obtaining consent is set out under section 99 of the Act.

The section at subsection (4) outlines the fact that where a nominated officer is seeking consent, the designated authority may give oral notice of its consent or refusal to a nominated officer but shall as soon as is practicable and in any event, within 5 days after giving the oral notice, send a written form of the notice to the nominated officer.

Requests for consent may be forwarded to any of the three following officers of the FID:

- (a) The Chief Technical Director
- (b) The Principal Director
- (c) The Director of the Financial Intelligence Unit.

The purpose of the Consent Regime is to provide sufficient time for the Division to assess the facts provided to the Division and make a determination together with other intelligence or investigatory material on whether to launch an investigation and possibly apply for an investigatory or restraint order.

## **6. REASONABLE EXCUSE**

Both the provisions relating to Requests for Consent and the making of Suspicious Transactions make reference to the defence of reasonable excuse, where businesses in the regulated sector fail to meet their statutory obligations under these section, but may have a reasonable excuse for so failing.

The law does not prescribe what a reasonable excuse would be. However the FID believes that it is useful to set out the Division's view of cases when there could be a reasonable excuse not to seek consent at the time of doing the prohibited transaction. These cases should involve drastic situations where seeking consent would have been impossible or would put an innocent party in danger.

Cases could include:

- (a) Cases where there is an apprehension of a threat to life or property in which the person believes that not carrying out the transaction will be substantially detrimental to himself or the organization;
- (b) Cases where there is an express or implied element of coercion or duress in which the person believes that not carrying out the transaction will be detrimental to himself or the organization;
- (c) Cases where the transaction is occurring at a time when the obtaining of consent is impractical, (i.e. the transaction in question is occurring outside of the office hours of the Designated Authority) **and** postponing the transaction is not possible without arousing suspicion on the part of the customer.
- (d) Cases where the transaction does not meet the criteria for applying for consent based on the information known to the person conducting the transaction at the time of doing the transaction, but subsequently information becomes known that makes the transaction suspicious.
- (e) Cases where there are documented attempts to obtain a Consent from the Designated Authority have failed **and** postponing the transaction is not possible without arousing suspicion on the part of the customer.

**In all of these cases, the regulated business should proceed to make the necessary disclosure as soon as possible thereafter, indicating in detail the reason for not seeking consent for the transaction.**

**It should be noted that regulated businesses should be aware that these provisions do not mean that businesses in the regulated sector should undertake every type of transaction notwithstanding the risk. Each entity should have their own assessment procedures as to the level of acceptable risks that the entity is willing to bear in relation to its customers and the transactions that it is willing to engage in. Therefore the policies of the business should be clear as to the nature and type of transactions that it will not accept and the type and profile of customer that it will not do business with.**

## **7. REQUEST FOR CONSENT OR SUSPICIOUS TRANSACTION REPORT?**

It should be noted that suspicious transaction reporting obligations only arise with respect to cases where the transaction has already taken place (i.e. where the regulated business suspects that the person has engaged in money laundering and hence suspicious transaction report) or

whilst a consent is necessary where the regulated business is faced with a transaction that involves proceeds of crime.

Where both factors are present in the same set of facts, the regulated business should opt to seek consent, unless there is a reasonable excuse not to do so. The making of a request for consent obviates the need to make a suspicious transaction report regarding the same facts. The regulated business should ensure that the request for consent contains the same detailed information that would have been contained in a Suspicious Transaction Report. **Where the regulated business believes it has a reasonable excuse not to request consent, and instead makes a Suspicious Transaction Report after the transaction, it should give the detailed reasons for not requesting the Consent in the Suspicious Transaction Report.**

## **8. SAFE HARBOUR PROVISIONS.**

Section 137 of the POCA affords protection to regulated businesses and their directors, officers and other connected parties involved in the making reports under the POCA. It provides that no civil or criminal proceedings for breach of confidentiality may be brought or nor any professional sanction for such breach may be taken against any person or against a director or employee of an institution who provides or transmits information requested by the enforcing authority under this Act (which includes the Designated Authority) or submits reports to that body.

Additionally, no action, suit or proceedings may be brought against the Director or any officer of the Agency or against any financial institution or other business in the regulated sector or any director principal, employee or agent of that financial institution or business in the regulated sector in respect of any act done or omission made in good faith in the course of carrying out the provisions of this Act.

## **9. TIPPING OFF**

Under section 97 (1) of POCA, a person commits an offence if knowing or having reasonable grounds to believe that a disclosure has been made or 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 the information, which is likely to prejudice any investigations, to

any other person. Once the regulated business or any person within its employ knows or suspects that a disclosure has been made this must be kept confidential and not shared with any other person. The tipping off offence is a serious offence and businesses in the regulated sector and their employees are to be aware of the provisions, as the penalties are a fine of 1 million dollars, imprisonment or both a fine and imprisonment.

Further, there are a number of defences that may be available such as; the disclosure was made to an attorney-at-law for the purpose of obtaining legal advice or at the time of making the disclosure, the person did not know or suspect that it was likely to be prejudicial.

Businesses in the regulated sector should consider taking measures such as including in their policies or contract documentation the power to delay transactions based on the management's assessment of the risk (which may include seeking, if necessary, the consent of the Designated Authority). Such a policy then allows the front line staff to be able to rely on such policies in dealing with the customer (without revealing the fact of the application for consent).

## **10. CONFIDENTIALITY OF THE DESIGNATED AUTHORITY**

Section 10 of the Financial Investigations Division's Act (FIDA) imposes an obligation of secrecy with respect to all persons employed in the administration of that Act, which administration includes the receipt of reports from businesses in the regulated sector.

The officers of the FID must regard and treat as secret and confidential all information book records or documents relating to the functions of the Division and must subscribe to a declaration to that effect before a Justice of the Peace upon assuming duties. Person to whom such information is communicated must also maintain its confidentiality.

A communication of confidential information in circumstances that are otherwise than:

- (a) pursuant to functions under the FIDA or any other statute or
- (b) pursuant to a court order or
- (c) pursuant to an information sharing arrangement as set out under section 12,

Is punishable as an offence and attracts a penalty of a fine not exceeding one million dollars or imprisonment for a term not exceeding a year (in the case of an individual) or a fine not exceeding 3 million dollars (in the case of a body corporate).

Operationally, the FID's information technology platforms are sufficiently robust to protect information provided to it.

## 11. POCA SECTION 101A

Section 101A makes it an offence for persons who are not specifically named in the section as "*permitted persons*" or who do not have a Ministerial Exemption issued under that section to conduct cash transactions where the transaction or a series of transactions which appear linked exceed Jamaican One Million dollars (J\$1,000,000.00) or its equivalent in any other currency.

These types of cash transactions are carefully circumscribed in the law. They include:

- (a) transactions involving the purchase of any good or service
- (b) transactions for the payment or reduction of indebtedness
- (c) transactions for the payment or reduction of accounts payable or other financial obligation.

It is therefore critical that businesses in the regulated sector (particular those who are not permitted persons or who otherwise have a Ministerial exemption) consider carefully the provisions of the law to ensure that they are not in breach. The Minister may also exempt certain types of transactions from the prohibition.

Please note that save in the cases above, (permitted persons or persons with a valid Ministerial exemption or exempted transactions) the prohibition is absolute, once the transaction meets the statutory criteria. A regulated business that does not fall into these specified categories cannot accept the transaction if it breaches the limit. **The Designated Authority cannot grant consent for a person who does not fall in the permitted or exempted categories to conduct a cash transaction if it will breach the limit.**

The nature of this offence raises the issue of the relevant types of reports that should be made where a regulated business believes that the transaction involves funds or assets that are derived from a transaction that breaches the statutory limits.

The first question to ask is whether such funds/assets generated by the breach transaction constitute criminal property? Property is criminal property if it constitutes a person's benefit from criminal conduct or represents such a benefit in whole or in part and whether directly or indirectly (and it is immaterial who carried out or benefitted from the transaction). Criminal conduct is conduct occurring on or after the appointed day, being conduct which constitutes an

offence in Jamaica or which if it occurs outside of Jamaica it would constitute an offence if it occurred in Jamaica.

On the face of it, the FID considers that funds generated from a section 101A breach transaction constitute criminal property. Also on the face of it, the persons engaged in the initial transaction could be dealing with criminal property and thereby be guilty of money laundering.

The second question to ask is whether certain transactions fall within the transactions at (a), (b) or (c) above.

These transactions should be interpreted to include payments that are consequent on contractual obligations, whether they be payments pursuant to an insurance or loan contract, a contract for the sale of land, the terms of wagering issued by a gaming establishment, the payment of bills for services rendered or a contract for the sale and repurchase of securities.

Other transactions such as a donation to charity or to another cause would not be covered by the provision. In cases of uncertainty, legal advice or clarification from of the Designated Authority should be sought.

The following seeks to outline the recommended actions that should be taken when presented with a situation involving funds which have been generated by a section 101A breach transaction.

- (a) **For permitted persons and persons with Ministerial exemptions**, these parties may proceed to process such a transaction, but should file a Suspicious Transaction Report, immediately thereafter. Because these persons are expressly authorized by the law to carry out these transactions, this obviates the need for these entities to request consent prior to carrying out these transactions. However the fact that there is a suspicion that the funds being handled have been generated from a section 101A breach means that the transaction is suspicious and warrants a report.
- (b) **For businesses in the regulated sector who are not permitted persons and that do not have a Ministerial Exemption:**
  - i. They may not engage in a transaction which falls within the categories and which exceed the statutory threshold. Thus, for example, a gaming lounge or casino should never make a pay-out to a customer in cash exceeding the threshold or they will breach the section, nor should an accountant or attorney at law accept cash fees or a cash deposit on the sale of land that will breach the threshold.
  - ii. Where regulated businesses are faced with a transaction where they are being asked to engage in a transaction involving funds (whether cash or not)

that the regulated business knows has arisen from a section 101A breach transaction (but where the transaction with the regulated business is not itself a section 101A breach, ie. does not involve or exceed J1,000,000 in cash), they should seek a Consent unless there is in the view of the management a reasonable excuse not to do so. In such a case a Suspicious Transaction should be filed as soon as possible thereafter (stating the reasons for not initially seeking consent).

- (c) **For all businesses in the regulated sector**, all attempts to wilfully circumvent the requirements of the section or any wilful attempt to carry out a breach transaction which is aborted, should be reported as a suspicious transaction report, provided that the regulated business knows or reasonably suspects that a section 101A breach transaction is involved.

A regulated business is not under a statutory reporting obligations where it learns that a person is **about** to engage in a section 101A breach transaction, say withdrawing cash to engage in the cash purchase of a vehicle, as no offence has yet been committed. The making of a report in such an instance is solely the prerogative of the management.

## 12. CONCLUSION

The FID welcomes feedback on this document. Comments and queries may be sent to, either the Chief Technical Director or the Director, Financial Intelligence Unit (FIU).

As regards requests for consents, these should be sent to, either the Chief Technical Director or the Director, FIU (or the persons carrying out the functions of these officers at the relevant time).

In the case of an oral request for consent, the following numbers may be used:

**Chief Technical Director:** 876 9674025

or

the **Director FIU:** 876 9673891

The general switchboard numbers for the Division are 876 928 5141.

## APPENDIX 1

### (LISTING OF ENTITIES IN THE REGULATED SECTOR)

- (a) A bank, merchant bank or building society licensed under the Banking Services Act;
- (b) A society registered under the Co-operative Societies Act
- (c) A person who engages in insurance business within the meaning of the Insurance act or performs services as an insurance intermediary within the meaning of the Insurance Act (not including an insurance consultant or adjuster;
- (d) A person licensed under the Bank of Jamaica Act to operate an exchange bureau;
- (e) A person licensed under the Securities act as a dealer or investment advisor;
- (f) Approved money transfer and remittance agents and agencies as defined by section 2 of the Bank of Jamaica Act
- (g) Any other person declared by the Minister responsible for National Security by Order subject to affirmative resolution to be a financial institution for the purpose of the Proceeds of Crimes Act;
- (h) Attorneys-at-law pursuant to the Proceeds of Crime (Designated Non-Financial Institution) (Attorneys-at-law) Order 2013<sup>4</sup>;
- (i) Real Estate Dealers pursuant to the Proceeds of Crime (Designated Non-Financial Institution) (Real Estate Dealers) Order 2013;
- (j) Gaming machine Operators pursuant to the Proceeds of Crime (Designated Non-Financial Institution) (Gaming Machine Operators) Order 2013;
- (k) Casino Operators pursuant to the Proceeds of Crime (Designated Non-Financial Institution) (Casinos Operators) Order 2013;
- (l) Public Accountants pursuant to the Proceeds of Crime (Designated Non-Financial Institution) (Public Accountants) Order 2013;
- (m) The Development Bank of Jamaica pursuant to the Proceeds of Crime (Designated Non-Financial Institution) (Development Bank of Jamaica) Order 2014.

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<sup>4</sup> As at the date of writing, attorneys-at-law are not subject to the requirements of the Proceeds of Crimes Act and Regulations by virtue of an injunctive order issued by the Jamaican Supreme Court.

## APPENDIX 2

The following are examples of common indicators that may point to suspicious or unusual transactions:

### 1 General (On-boarding and subsequent behaviour)

- (a) Client admits or makes statements about involvement in criminal activities;
- (b) Client does not want correspondence sent to home address;
- (c) Client appears to have accounts with several financial institutions in one area for no apparent reason;
- (d) Client conducts transactions at different physical locations in an apparent attempt to avoid detection;
- (e) Client repeatedly uses an address but frequently changes the names involved.
- (f) Client is accompanied and watched at all relevant times;
- (g) Client shows uncommon curiosity about internal systems, controls and policies;
- (h) Client has only vague knowledge of the amount of a deposit;
- (i) Client presents confusing details about the transaction or knows few details about its purpose;
- (j) Client appears to informally record large volume transactions, using unconventional bookkeeping methods or “off-the-record” books;
- (k) Client over justifies or explains the transaction;
- (l) Client is secretive and reluctant to meet in person;
- (m) Client is nervous, not in touch with the transaction;
- (n) Client is involved in transactions that are suspicious but seems blind to being involved in money laundering activities;
- (o) Client’s home or business telephone number has been disconnected or there is no such number when an attempt is made to contact client shortly after opening account;
- (p) Normal attempts to verify the background of a new or prospective client are difficult;
- (q) Client appears to be acting on behalf of a third party, but does not tell you;
- (r) Client is involved in activity out-of-keeping for that individual or business;
- (s) Client insists that a transaction be done quickly;
- (t) Inconsistencies appear in the client’s presentation of the transaction;
- (u) The transaction does not appear to make sense or is out of keeping with usual or expected activity for the client;

- (v) Client appears to have recently established a series of new relationships with different financial entities;
- (w) Client attempts to develop close rapport with staff;
- (x) Client uses aliases and a variety of similar but different addresses;
- (y) Client spells his or her name differently from one transaction to another;
- (z) Client provides false information or information that you believe is unreliable;
- (aa) Client offers you money, gratuities or unusual favours for the provision of services that may appear unusual or suspicious;
- (bb) Client pays for services or products using financial instruments, such as money orders or traveller's cheques, without relevant entries on the face of the instrument or with unusual symbols, stamps or notes;
- (cc) You are aware that a client is the subject of a money laundering investigation;
- (dd) You are aware or you become aware, from a reliable source (that can include media or other open sources), that a client is suspected of being involved in illegal activity;
- (ee) A new or prospective client is known to you as having a questionable legal reputation or criminal background; and
- (ff) Transaction involves a suspected shell entity (that is, a corporation that has no assets, operations or other reason to exist).
- (gg) Client attempts to convince an employee not to complete any documentation required for the transaction;
- (hh) Client makes inquiries that would indicate a desire to avoid reporting;
- (ii) Client has unusual knowledge of the law in relation to suspicious transaction reporting;
- (jj) Client seems very familiar with money laundering or terrorist financing activity issues;
- (kk) Client is quick to volunteer that funds are "clean" or "not being laundered";
- (ll) Client appears to be structuring amounts to avoid record keeping, client identification or reporting thresholds;
- (mm) Client appears to be collaborating with others to avoid record keeping, client identification or reporting thresholds.
- (nn) Client provides doubtful or vague information;
- (oo) Client produces seemingly false identification or identification that appears to be counterfeited, altered or inaccurate;
- (pp) Client refuses to produce personal identification documents;
- (qq) Client only submits copies of personal identification documents;
- (rr) Client wants to establish identity using something other than his or her personal identification documents;
- (ss) Client's supporting documentation lacks important details such as a phone number;
- (tt) Client inordinately delays presenting corporate documents;

- (uu) All identification presented is foreign or cannot be checked for some reason;
- (vv) All identification documents presented appear new or have recent issue dates;
- (ww) Client presents different identification documents at different times;
- (xx) Client alters the transaction after being asked for identity documents;
- (yy) Client presents different identification documents each time a transaction is conducted.

## 2 Cash transactions

- (a) Client starts conducting frequent cash transactions in large amounts when this has not been a normal activity for the client in the past;
- (b) Client frequently exchanges small notes for large ones;
- (c) Client uses notes in denominations that are unusual for the client, when the norm in that business is different;
- (d) Client presents notes that are packed or wrapped in a way that is uncommon for the client;
- (e) Client deposits musty or extremely dirty bills;
- (f) Client makes cash transactions of consistently rounded-off large amounts (e.g., USD9,000, J\$990,000 etc.) or consistently makes cash transactions that are just under the reporting threshold amount in an apparent attempt to avoid the reporting threshold;
- (g) Client consistently makes cash transactions that are significantly below the reporting threshold amount in an apparent attempt to avoid triggering the identification and reporting requirements;
- (h) Client presents uncounted funds for a transaction. Upon counting, the client reduces the transaction to an amount just below that which could trigger reporting requirements;
- (i) Client conducts a transaction for an amount that is unusual compared to amounts of past transactions;
- (j) Client frequently purchases traveller's cheques, or other bearer negotiable instruments with cash when this appears to be outside of normal activity for the client;
- (k) Client asks you to hold or transmit large sums of money or other assets when this type of activity is unusual for the client;

- (l) There are shared address for individuals involved in cash transactions, particularly when the address is also for a business location, or does not seem to correspond to the stated occupation (for example, student, unemployed, self-employed, etc.);
- (m) Stated occupation of the client is not in keeping with the level or type of activity (for example a student or an unemployed individual makes daily maximum cash withdrawals at multiple locations over a wide geographic area);
- (n) Cash is transported by a cash courier;
- (o) Large transactions using a variety of denominations.

### **3 Transactions that lack economic purpose**

- (a) Transaction seems to be inconsistent with the client's apparent financial standing or usual pattern of activities;
- (b) Transaction appears to be out of the normal course for industry practice or does not appear to be economically viable for the client;
- (c) Transaction is unnecessarily complex for its stated purpose;
- (d) Activity is inconsistent with what would be expected from declared business;
- (e) A business client refuses to provide information to qualify for a business discount;
- (f) No business explanation for size of transactions or cash volumes;
- (g) Transactions of financial connections between businesses that are not usually connected
- (h) (for example, a food importer dealing with an automobile parts exporter);
- (i) Transaction involves non-profit or charitable organization for which there appears to be no logical economic purpose or where there appears to be no link between the stated activity of the organization and the other parties in the transaction.

### **4 Transactions involving accounts**

- (a) Opening accounts when the client's address is outside the local service area;
- (b) Opening accounts in other people's names;
- (c) Opening accounts with names very close to other established business entities;
- (d) Attempting to open or operating accounts under a false name;

- (e) Account with a large number of small cash deposits and a small number of large cash withdrawals;
- (f) Funds are being deposited into several accounts, consolidated into one and transferred outside the country;
- (g) Client frequently uses many deposit locations outside of the home branch location;
- (h) Multiple transactions are carried out on the same day at the same branch but with apparent attempt to use different tellers;
- (i) Activity far exceeds activity projected at the time of opening of the account;
- (j) Establishment of multiple accounts, some of which appear to remain dormant for extended periods;
- (k) Account that was reactivated from inactive or dormant status suddenly sees significant activity;
- (l) Reactivated dormant account containing a minimal sum suddenly receives a deposit or series of deposits followed by frequent cash withdrawals until the transferred sum has been removed;
- (m) Unexplained transfers between the client's products and accounts;
- (n) Large transfers from one account to other accounts that appear to be pooling money from different sources;
- (o) Multiple deposits are made to a client's account by third parties;
- (p) Deposits or withdrawals of multiple monetary instruments, particularly if the instruments are sequentially numbered;
- (q) Frequent deposits of bearer instruments (for example, cheques, money orders) in amounts just below a determined threshold;
- (r) Unusually large cash deposits by a client with personal or business links to an area associated with drug trafficking;
- (s) Regular return of cheques for insufficient funds;
- (t) Correspondent accounts being used as "pass-through" points from foreign jurisdictions with subsequent outgoing funds to another foreign jurisdiction;
- (u) Multiple personal and business accounts are used to collect and then funnel funds to a small number of foreign beneficiaries, particularly when they are in locations of concern, such as countries known or suspected to facilitate money laundering activities.

## **5 Transactions involving areas outside Jamaica**

- (a) Client and other parties to the transaction have no apparent ties to Jamaica;

- (b) Transaction crosses many international lines;
- (c) Use of a credit card issued by a foreign bank that does not operate in Jamaica by a client that does not live and work in the country of issue;
- (d) Cash volumes and international remittances in excess of average income for migrant worker clients;
- (e) Excessive demand for migrant remittances from individuals or entities based on migrant worker population;
- (f) Transactions involving high-volume international transfers to third party accounts in countries that are not usual remittance corridors;
- (g) Transaction involves a country known for highly secretive banking and corporate law;
- (h) Transactions involving countries deemed by the Financial Action Task Force as requiring enhanced surveillance;
- (i) Foreign currency exchanges that are associated with subsequent wire/electronic transfers to locations of concern, such as countries known or suspected to facilitate money laundering activities;
- (j) Deposits followed within a short time by wire/electronic transfer of funds to or through locations of concern, such as countries known or suspected to facilitate money laundering activities;
- (k) Transaction involves a country where illicit drug production or exporting may be prevalent, or where there is no effective anti-money-laundering system;
- (l) Transaction involves a country known or suspected to facilitate money laundering activities.

## **6 Transactions related to offshore business activity**

Any individual or entity that conducts transactions internationally should consider the following indicators:

- (a) Accumulation of large balances, inconsistent with the known turnover of the client's
- (b) business, and subsequent transfers to overseas account(s);
- (c) Frequent requests for traveller's cheques or other negotiable instruments;
- (d) Loans secured by obligations from offshore banks;
- (e) Loans to or from offshore companies;
- (f) Offers of multimillion-dollar deposits from a confidential source to be sent from an offshore bank or somehow guaranteed by an offshore bank;

- (g) Transactions involving an offshore “shell” bank whose name may be very similar to the name of a major legitimate institution;
- (h) Unexplained electronic funds transfers by client on an in and out basis;
- (i) Use of letter-of-credit and other method of trade financing to move money between countries when such trade is inconsistent with the client’s business;
- (j) Use of a credit card issued by an offshore bank.

## **7 Industry-Specific Indicators**

In addition to the general indicators outlined above, the following industry-specific indicators may point to a suspicious transaction, whether completed or attempted. Depending on the services you provide, you may need information about indicators in more than one of the following sections. For example, if you are a financial advisor, you might sell both life insurance products and securities products.

### **7.1 Financial institutions**

The following indicators are for your consideration if you are an institution that opens accounts and holds deposits on behalf of individuals or entities.

- (a) Client appears to have accounts with several financial institutions in one geographical area;
- (b) Client has no employment history but makes frequent large transactions or maintains a large account balance;
- (c) The flow of income through the account does not match what was expected based on stated occupation of the account holder or intended use of the account;
- (d) Client makes one or more cash deposits to general account of foreign correspondent bank (i.e., pass-through account);
- (e) Client makes frequent or large payments to online payment services;
- (f) Client runs large positive credit card balances;
- (g) Client uses cash advances from a credit card account to purchase money orders or to wire/electronically transfer funds to foreign destinations;
- (h) Client takes cash advance to deposit into savings or cheque account;
- (i) Large cash payments for outstanding credit card balances;
- (j) Client makes credit card overpayment and then requests a cash advance;

- (k) Client visits the safety deposit box area immediately before making cash deposits;
- (l) Client wishes to have credit and debit cards sent to international or domestic destinations other than his or her address;
- (m) Client has numerous accounts and deposits cash into each of them with the total credits being a large amount;
- (n) Client deposits large endorsed cheques in the name of a third-party;
- (o) Client frequently makes deposits to the account of another individual who is not an employer or family member;
- (p) Client frequently exchanges currencies;
- (q) Client frequently makes automatic banking machine deposits just below the reporting threshold;
- (r) Client's access to the safety deposit facilities increases substantially or is unusual in light of their past usage;
- (s) Many unrelated individuals make payments to one account without rational explanation;
- (t) Third parties make cash payments or deposit cheques to a client's credit card;
- (u) Client gives power of attorney to a non-relative to conduct large transactions;
- (v) Client has frequent deposits identified as proceeds of asset sales but assets cannot be substantiated;
- (w) Client acquires significant assets and liquidates them quickly with no explanation;
- (x) Client acquires significant assets and encumbers them with security interests that do not make economic sense;
- (y) Client requests movement of funds that are uneconomical;
- (z) High volume of wire/electronic transfers are made or received through the account.

## **7.2 Corporate and business transactions**

Some businesses may be susceptible to the co-mingling of illicit funds with legitimate business income. This is a very common method of money laundering. These businesses include those that conduct a significant part of their business in cash, such as restaurants, bars, parking lots, convenience stores and vending machine companies. On opening accounts with the various businesses in your area, you would likely be aware of those that

are mainly cash based. Unusual or unexplained increases in cash deposits made by those entities may be indicative of suspicious activity. Below are some of the examples:

- (a) Accounts are used to receive or disburse large sums but show virtually no normal business- related activities, such as the payment of salaries, invoices, etc.;
- (b) Accounts have a large volume of deposits in bank drafts, cashier's cheques,
- (c) Money orders or electronic funds transfers, which is inconsistent with the client's business;
- (d) Accounts have deposits in combinations of monetary instruments that are atypical of legitimate business activity (for example, deposits that include a mix of business, payroll, and social security cheques);
- (e) Accounts have deposits in combinations of cash and monetary instruments not normally associated with business activity;
- (f) Business does not want to provide complete information regarding its activities;
- (g) Financial statements of the business differ noticeably from those of similar businesses;
- (h) Representatives of the business avoid contact with the branch as much as possible, even when it would be more convenient for them;
- (i) Deposits to or withdrawals from a corporate account are primarily in cash rather than in the form of debit and credit normally associated with commercial operations;
- (j) Client maintains a number of trustee or client accounts that are not consistent with that type of business or not in keeping with normal industry practices;
- (k) Client operates a retail business providing cheque-cashing services but does not make large withdrawals of cash against cheques deposited;
- (l) Client pays in cash or deposits cash to cover bank drafts, money transfers or other negotiable and marketable money instruments;
- (m) Client purchases cashier's cheques and money orders with large amounts of cash;
- (n) Client deposits large amounts of currency wrapped in currency straps;
- (o) Client makes a large volume of seemingly unrelated deposits to several accounts and frequently transfers a major portion of the balances to a single account at the same bank or elsewhere;
- (p) Client makes a large volume of cash deposits from a business that is not normally cash- intensive;
- (q) Client makes large cash withdrawals from a business account not normally associated with cash transactions;
- (r) Client consistently makes immediate large withdrawals from an account that has just received a large and unexpected credit from abroad;
- (s) Client makes a single and substantial cash deposit composed of many large bills;

- (t) Small, one-location business makes deposits on the same day at different branches across a broad geographic area that does not appear practical for the business;
- (u) There is a substantial increase in deposits of cash or negotiable instruments by a company offering professional advisory services, especially if the deposits are promptly transferred;
- (v) There is a sudden change in cash transactions or patterns;
- (w) Client wishes to have credit and debit cards sent to international or domestic destinations other than his or her place of business;
- (x) There is a marked increase in transaction volume on an account with significant changes in an account balance that is inconsistent with or not in keeping with normal business practices of the client's account;
- (y) Asset acquisition is accompanied by security arrangements that are not consistent with normal practice;
- (z) Unexplained transactions are repeated between personal and commercial accounts;
- (aa) Activity is inconsistent with stated business;
- (bb) Account has close connections with other business accounts without any apparent reason for the connection;
- (cc) A large number of incoming and outgoing wire/electronic transfers take place for which there appears to be no logical business or other economic purpose, particularly when this is through or from locations of concern, such as countries known or suspected to facilitate money laundering activities.

### **7.3 Transactions with Non-profit organizations (Including registered charities)**

- (a) Inconsistencies between apparent modest sources of funds of the organization (e.g., communities with modest standard of living) and large amounts of funds raised;
- (b) Inconsistencies between the pattern or size of financial transactions and the stated purpose and activity of the organization;
- (c) Sudden increase in the frequency and amounts of financial transactions for the organization, or the inverse, that is, the organization seems to hold funds in its account for a very long period;
- (d) Large and unexplained cash transactions by the organization;

- (e) Absence of contributions from donors located in Jamaica;
- (f) The organization's directors are outside Jamaica, particularly if large outgoing transactions are made to the country of origin of the directors and especially if that country is a high-risk jurisdiction;
- (g) Large number of non-profit organizations with unexplained links;
- (h) The non-profit organization appears to have little or no staff, no suitable offices or no telephone number, which is incompatible with their stated purpose and financial flows;
- (i) The non-profit organization has operations in, or transactions to or from, high- risk jurisdictions.

#### **7.4 Electronic funds transfers (EFTs)**

If you are involved in the business of electronic funds transfers (EFTs) or the remittance or transmission of funds, consider the following indicators.

- (a) Client is reluctant to give an explanation for the remittance;
- (b) Client orders wire/electronic transfers in small amounts in an apparent effort to avoid triggering identification or reporting requirements;
- (c) Client makes or receives payments to or from persons who have no apparent relation to the client;
- (d) Client makes frequent or large funds transfers for individuals or entities that have no account relationship with the institution;
- (e) Client receives frequent funds transfers from individuals or entities who have no account relationship with the institution;
- (f) Client receives funds transfers and immediately purchases monetary instruments prepared for payment to a third party which is inconsistent with or outside the normal course of business for the client;
- (g) Client requests payment in cash immediately upon receipt of a large funds transfer;
- (h) Client instructs you to transfer funds abroad and to expect an equal incoming transfer.
- (i) Immediately after transferred funds have been cleared, the client moves the funds to another account or to another individual or entity;
- (j) Client shows unusual interest in funds transfer systems and questions the limit of what amount can be transferred;
- (k) Client transfers funds to another country without changing the currency;

- (l) Large incoming wire/electronic transfers from foreign jurisdictions are removed immediately by company principals;
- (m) Client sends frequent wire/electronic transfers to foreign countries, but does not seem to have connection to such countries;
- (n) Wire/electronic transfers are received from persons or entities having no apparent business connection with client;
- (o) Size of funds transfers is inconsistent with normal business transactions for that client;
- (p) Rising volume of remittances exceeds what was expected from the client when the relationship was established;
- (q) Several clients request transfers either on the same day or over a period of two to three days to the same recipient;
- (r) Different clients request transfers that are all paid for by the same client;
- (s) Several clients requesting transfers share common identifiers, such as family name, address or telephone number;
- (t) Several different clients send transfers that are similar in amounts, sender names, test questions, free message text and destination country;
- (u) A client sends or receives multiple transfers to or from the same individual;
- (v) Stated occupation of the client or the client's financial standing is not in keeping with the level or type of activity (for example a student or an unemployed individual who receives or sends large numbers of wire/electronic transfers).
- (w) Migrant remittances made outside the usual remittance corridors;
- (x) Personal funds sent at a time not associated with salary payments;
- (y) Country of destination for a wire/electronic transfer is not consistent with the nationality of the individual client;
- (z) Client requests transfers to a large number of recipients outside Jamaica who do not appear to be family members;
- (aa) Client does not appear to know the recipient to whom he or she is sending the transfer;
- (bb) Client does not appear to know the sender of the transfer from whom the transfer was received;
- (cc) Beneficiaries of wire/electronic transfers involve a large group of nationals of countries associated with terrorist activity;
- (dd) Client makes funds transfers to free trade zones that are not in line with the client's business;
- (ee) Client conducts transactions involving countries known as narcotic source countries or as trans-shipment points for narcotics or that are known for highly secretive banking and corporate law practices.

## 7.5 Loans

If you are involved in the business of providing loans (including mortgages) or extending credit to individuals or corporations, consider the following indicators.

- (a) Client suddenly repays a problem loan unexpectedly;
- (b) Client makes a large, unexpected loan payment with unknown source of funds, or a source of funds that does not match what you know about the client;
- (c) Client repays a long term loan, such as a mortgage, within a relatively short time period;
- (d) Source of down payment is inconsistent with borrower's background and income;
- (e) Down payment appears to be from an unrelated third party;
- (f) Down payment uses a series of money orders or bank drafts from different financial institutions;
- (g) Client shows income from "foreign sources" on loan application without providing further details;
- (h) Client's employment documentation lacks important details that would make it difficult for you to contact or locate the employer;
- (i) Client's documentation to ascertain identification, support income or verify;
- (j) Employment is provided by an intermediary who has no apparent reason to be involved;
- (k) Client has loans with offshore institutions or companies that are outside the ordinary course of business of the client;
- (l) Client offers you large deposits or some other form of incentive in return for favourable treatment of loan request;
- (m) Client asks to borrow against assets held by another financial institution or a third party, when the origin of the assets is not known;
- (n) The loan transaction does not make economic sense (for example, the client has significant assets, and there does not appear to be a sound business reason for the transaction);
- (o) Customer seems unconcerned with terms of credit or costs associated with completion of a loan transaction;
- (p) Client applies for loans on the strength of a financial statement reflecting major investments in or income from businesses incorporated in countries known for highly secretive banking and corporate law and the application is outside the ordinary course of business for the client;

- (q) Down payment or other loan payments are made by a party who is not a relative of the client.

## **7.6 Life insurance companies, brokers and agents**

If you provide life insurance or annuities as your main occupation or as one of the many services that you offer, consider the following indicators. For insurance companies that provide loans.

- (a) Client wants to use cash for a large transaction;
- (b) Client proposes to purchase an insurance product using a cheque drawn on an account other than his or her personal account;
- (c) Client requests an insurance product that has no discernible purpose and is reluctant to divulge the reason for the investment;
- (d) Client who has other small policies or transactions based on a regular payment structure makes a sudden request to purchase a substantial policy with a lump sum payment;
- (e) Client conducts a transaction that results in a conspicuous increase in investment contributions;
- (f) Scale of investment in insurance products is inconsistent with the client's economic profile;
- (g) Unanticipated and inconsistent modification of client's contractual conditions, including significant or regular premium top-ups;
- (h) Unforeseen deposit of funds or abrupt withdrawal of funds;
- (i) Involvement of one or more third parties in paying the premiums or in any other matters involving the policy;
- (j) Overpayment of a policy premium with a subsequent request to refund the surplus to a third party;
- (k) Funds used to pay policy premiums or deposits originate from different sources;
- (l) Use of life insurance product in a way that resembles use of a bank account, namely making additional premium payments and frequent partial redemptions;
- (m) Client cancels investment or insurance soon after purchase;
- (n) Early redemption takes place in the absence of a reasonable explanation or in a significantly uneconomic manner;

- (o) Client shows more interest in the cancellation or surrender of an insurance contract than in the long-term results of investments or the costs associated with termination of the contract;
- (p) Client makes payments with small denomination notes, uncommonly wrapped, with postal money orders or with similar means of payment;
- (q) The first (or single) premium is paid from a bank account outside the country;
- (r) Client accepts very unfavourable conditions unrelated to his or her health or age;
- (s) Transaction involves use and payment of a performance bond resulting in a cross border payment;
- (t) Repeated and unexplained changes in beneficiary;
- (u) Relationship between the policy holder and the beneficiary is not clearly established.

## 7.7 Securities dealers

If you are involved in the business of dealing in securities, funds management or the trading of any other financial instruments or products, consider the following indicators.

- (a) Accounts that have been inactive suddenly experience large investments that are inconsistent with the normal investment practice of the client or their financial ability;
- (b) Any dealing with a third party when the identity of the beneficiary or counter-party is undisclosed;
- (c) Client attempts to purchase investments with cash;
- (d) Client uses securities or futures brokerage firm as a place to hold funds that are not being used in trading of securities or futures for an extended period of time and such activity is inconsistent with the normal investment practice of the client or their financial ability;
- (e) Client wishes monies received through the sale of shares to be deposited into a bank account rather than a trading or brokerage account which is inconsistent with the normal practice of the client;
- (f) Client frequently makes large investments in stocks, bonds, investment trusts or other securities in cash or by cheque within a short time period,
- (g) Inconsistent with the normal practice of the client;
- (h) Client makes large or unusual settlements of securities in cash;
- (i) The entry of matching buying and selling of particular securities or futures contracts (called match trading), creating the illusion of trading;

- (j) Transfers of funds or securities between accounts not known to be related to the client;
- (k) Several clients open accounts within a short period of time to trade the same stock;
- (l) Unrelated clients redirect funds toward the same account;
- (m) Trades conducted by entities that you know have been named or sanctioned by regulators in the past for irregular or inappropriate trading activity;
- (n) Transaction of very large value;
- (o) Client is willing to deposit or invest at rates that are not advantageous or competitive;
- (p) All principals of client are located outside Jamaica;
- (q) Client attempts to purchase investments with instruments in the name of a third party;
- (r) Payments made by way of third party cheques are payable to, or endorsed over to, the client;
- (s) Transactions made by your employees, or that you know are made by a relative of your employee, to benefit unknown parties;
- (t) Third-party purchases of shares in other names (i.e., nominee accounts).
- (u) Transactions in which clients make settlements with cheques drawn by, or remittances from, third parties;
- (v) Unusually large amounts of securities or stock certificates in the names of individuals other than the client;
- (w) Client maintains bank accounts and custodian or brokerage accounts at offshore banking centres with no explanation by client as to the purpose for such relationships;
- (x) Proposed transactions are to be funded by international wire/electronic payments, particularly if from countries where there is no effective anti-money-laundering system.

## **7.8 Money services businesses**

If you are involved in the money services business, including foreign exchange dealers, money remitters, issuers of traveller's cheques consider the following indicators.

- (a) Client requests a transaction at a foreign exchange rate that exceeds the posted rate;
- (b) Client wants to pay transaction fees that exceed the posted fees;

- (c) Client exchanges currency and requests the largest possible denomination bills in a foreign currency;
- (d) Client knows little about address and contact details for payee, is reluctant to disclose this information, or requests a bearer instrument;
- (e) Client wants a cheque issued in the same currency to replace the one being cashed;
- (f) Client wants cash converted to a cheque and you are not normally involved in issuing cheques;
- (g) Client wants to exchange cash for numerous postal money orders in small amounts for numerous other parties;
- (h) Client enters into transactions with counter parties in locations that are unusual for the client;
- (i) Client instructs that funds are to be picked up by a third party on behalf of the payee;
- (j) Client makes large purchases of traveller's cheques not consistent with known travel plans;
- (k) Client makes purchases of money orders in large volumes;
- (l) Client requests numerous cheques in small amounts and various names, which total the amount of the exchange;
- (m) Client requests that a cheque or money order be made out to the bearer;
- (n) Client requests that a large amount of foreign currency be exchanged to another foreign currency.

## **8 Accountants**

If you are an accountant with anti-money laundering obligations under POCA, consider the following indicators when you are carrying out certain activities on behalf of your client.

- (a) Client appears to be living beyond his or her means;
- (b) Client has cheques inconsistent with sales (i.e., unusual payments from unlikely sources);
- (c) Client has a history of changing bookkeepers or accountants yearly;
- (d) Client is uncertain about location of company records;
- (e) Company carries non-existent or satisfied debt that is continually shown as current on financial statements;
- (f) Company has no employees, which is unusual for the type of business;
- (g) Company is paying unusual consultant fees to offshore companies;

- (h) Company records consistently reflect sales at less than cost, thus putting the company into a loss position, but the company continues without reasonable explanation of the continued loss;
- (i) Company shareholder loans are not consistent with business activity;
- (j) Examination of source documents shows misstatements of business activity that cannot be readily traced through the company books;
- (k) Company makes large payments to subsidiaries or similarly controlled companies that are not within the normal course of business;
- (l) Company acquires large personal and consumer assets (i.e., boats, luxury automobiles, personal residences and cottages) when this type of transaction is inconsistent with the ordinary business practice of the client or the practice of that particular industry;
- (m) Company is invoiced by organizations located in a country that does not have adequate money laundering laws and is known as a highly secretive banking and corporate tax haven.

## **9 Real estate brokers and sales representatives**

If you are in the real estate industry with anti-money laundering obligations under POCA, consider the following indicators when you act as an agent in the purchase or sale of real estate.

- (a) Client arrives at a real estate closing with a significant amount of cash;
- (b) Client purchases property in the name of a nominee such as an associate or a relative (other than a spouse);
- (c) Client does not want to put his or her name on any document that would connect him or her with the property or uses different names on offers to purchase, closing documents and deposit receipts;
- (d) Client inadequately explains the last minute substitution of the purchasing party's name;
- (e) Client negotiates a purchase for market value or above asking price, but records a lower value on documents, paying the difference "under the table".
- (f) Client sells property below market value with an additional "under the table" payment;
- (g) Client pays initial deposit with a cheque from a third party, other than a spouse or a parent;
- (h) Client pays substantial down payment in cash and balance is financed by an unusual source or offshore bank;

- (i) Client purchases personal use property under corporate veil when this type of transaction is inconsistent with the ordinary business practice of the client;
- (j) Client purchases property without inspecting it;
- (k) Client purchases multiple properties in a short time period, and seem to have few concerns about the location, condition, and anticipated repair costs, etc. of each property;
- (l) Client pays rent or the amount of a lease in advance using a large amount of cash;
- (m) Client is known to have paid large remodelling or home improvement invoices with cash, on a property for which property management services are provided;
- (n) Client insists on providing signature on documents by fax only;
- (o) Client buys back a property that he or she recently sold.

## **10 Casinos and Gaming Operators**

If you are engaged in the casino or gaming business with anti-money laundering obligations under the POCA, consider the following indicators.

- (a) Any casino transaction where an individual receives payment in casino cheques made out to third parties or without a specified payee;
- (b) Client requests a winnings cheque in a third party's name;
- (c) Acquaintances bet against each other in even-money games and it appears that they are intentionally losing to one of the party;
- (d) Client attempts to avoid the filing of a report for cash by breaking up the transaction;
- (e) Client requests cheques that are not for gaming winnings;
- (f) Client enquires about opening an account with the casino and the ability to transfer the funds to other locations when you do not know the client as a regular, frequent or large volume player;
- (g) Client purchases large volume of chips with cash, participates in limited gambling activity with the intention of creating a perception of significant gambling, and then cashes the chips for a casino cheque;
- (h) Client puts money into slot machines and claims accumulated credits as a jackpot win;
- (i) Client exchanges small denomination bank notes for large denomination bank notes, chip purchase vouchers or cheques;
- (j) Client is known to use multiple names;

- (k) Client requests the transfer of winnings to the bank account of a third party or a known drug source country or to a country where there is no effective anti-money-laundering system.

## **11 Lists of persons and entities believed to be associated with terrorists**

As part of international efforts to combat terrorism, the Government of Jamaica publishes a list of persons and entities believed to be associated with terrorists to prevent and suppress the financing of terrorist activities. If you determine that your customer is dealing with any person or entity from that list or you have accounts owned or controlled by or on behalf of anyone on this list, you must forthwith report its existence, as well as any transactions or proposed transactions related to these person or entity to the Financial Intelligence Unit. Such a transaction would trigger suspicion about a terrorist activity financing.

The United Nations, the US Department of State and the European Union, among others, also publish lists of terrorists and the Government of Jamaica constantly updates its list accordingly.