

Cayman Attorneys Regulation Authority Suspicious Activity Reporting Outreach

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Financial Reporting Authority

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DISCLAIMER

Agenda

- ⌘ Overview of the Financial Reporting Authority
- ⌘ Role of Private Sector in combatting ML / TF / PF
- ⌘ Filing of Suspicious Activity Reports (SARs)

The FRA and its Functions

What is the Role of the FRA?

- Established as the Financial Intelligence Unit pursuant to Section 3 of the Proceeds of Crime Law (2019 Revision) (PCL)
 - Administrative FIU
- Responsible for receiving, analysing and disseminating disclosures of information regarding proceeds of criminal conduct or suspected proceeds of criminal conduct

The FRA and its Functions

What is the Role of the FRA?

- In 2017 assumed responsibility for ensuring the implementation of targeted financial sanctions with respect to terrorism, terrorism financing, proliferation, proliferation financing, and other restrictive measures related to anti-money laundering, and combatting the financing of terrorism and proliferation from and within the Cayman Islands.

The Role of the Private Sector

- ✧ The private sector plays a crucial role in preventing the abuse of the financial system for the purposes of money laundering, terrorist financing or proliferation financing. The private sector is the first line of defence in detecting and helping to prevent such activity, particularly through their implementation of customer due diligence, record keeping measures and filing of SARs.
- ✧ **Just over 40% of the FATF Recommendations apply to the private sector**
 - ✧ Preventive measures: R.9-23
 - ✧ Targeted financial sanctions: R.6-7

Domestic Legislation to Combat ML / TF / PF

- ✧ The Proceeds of Crime Law (2019 Revision) (“PCL”)
- ✧ The Anti-Money Laundering Regulations (2018 Revision)
- ✧ The Terrorism Law (2018 Revision)
 - ✧ Plus relevant Overseas Orders in Council
- ✧ The Proliferation Financing (Prohibition) Law (2017 Revision)
 - ✧ Plus relevant Overseas Orders in Council
- ✧ The Anti-Corruption Law (2019 Revision)
- ✧ The Misuse of Drugs law (2017 Revision)

Obligation to Report

Section 136 (PCL)

A person commits an offence if –

- (a) he knows of suspects or has reasonable grounds for knowing or suspecting that another person is engaged in criminal conduct;
- (b) the information or other matter on which his knowledge or suspicion is based, or which gives reasonable grounds for such knowledge or suspicion, came to him in the course of a business in the regulated sector or other trade, profession, business or employment;
- (c) he does not make the required disclosure to a nominated officer, or the Financial Reporting Authority, as soon as is practicable after the information or other matter mentioned in paragraph (b) comes to him; and

Obligation to Report

Section 136 (PCL)

- (d) the required disclosure is a disclosure of –
- (i) the identity of the person who may be involved in money laundering, if he knows it;
 - (ii) information or other matter in the form and manner prescribed by regulations to this Law or the prior Law;
 - (iii) the whereabouts of the property with respect to which the criminal conduct is committed, so far as he knows it; and
 - (iv) the information or other matter mentioned in paragraph (b), or prescribed under section 201 for purposes of this section.

Obligation to Report

Section 136(2)(b) (PCL)

But he does not commit an offence under this section if —

(b) he is a professional legal adviser or other relevant professional adviser and the information or other matter came to him in privileged circumstances.

Criminal Conduct

Section 144 of PCL

Criminal conduct is conduct which –

- (a) constitutes an offence in any part of the Islands; or
- (b) would constitute an offence in any part of the Islands if it occurred there.

Tipping Off

Section 139 of PCL

139. (1) A person commits an offence if –

- (a) he knows or suspects that an activity in relation to which a disclosure is required to be made under this Law is about to take place, is taking place or has taken place (whether or not a disclosure has been or is likely to be made in relation thereto); and
- (b) he makes a disclosure which is likely to prejudice any investigation which might be conducted following the disclosure referred to in paragraph (a), (whether or not the investigation is conducted).

Tipping Off

Section 139 of PCL

(2) A person does not commit an offence under subsection (1) if —

- ⌘ (a) the disclosure of the information was done in accordance with information sharing obligations under a financial group's group-wide programmes against money laundering and terrorist financing as may be prescribed under section 145;”.
- ⌘ (b) the disclosure is made in carrying out a function he has relating to the enforcement of any provision of this Law or of any other enactment relating to a criminal conduct or benefit from a criminal conduct ; and
- ⌘ (c) he is a professional legal adviser and the disclosure falls within subsection (3).

Internal Reporting / Red Flags

⌘ What is Unusual activity?

- ⌘ Out of the ordinary
- ⌘ Possible one-off transactions
- ⌘ May raise eyebrows
- ⌘ Not all unusual activity is suspicious

⌘ What is Suspicious activity?

- ⌘ Pattern of unusual activity
- ⌘ PCL gives no definition of “suspicious activity”
- ⌘ S.136..... knows or suspects or has reasonable grounds for knowing or suspecting that person is engaged in criminal conduct
- ⌘ Objective test

Before filing a SAR

- (a) Make Enquiries
 - avoid tipping off
- (b) Do background checks
- (c) Check customer profile
- (d) Flag account for internal monitoring

How to Report

- “form and manner prescribed by regulations to this Law”
 - The Proceeds of Crime (Disclosure) Order 2010
- Completed SAR form - All available information to be provided

SAR Filing

Incomplete SAR

CONFIDENTIAL

FINANCIAL REPORTING AUTHORITY

Delivery Address:
133 Elgin Ave., 4th Floor
Government Administration Building
George Town, Grand Cayman
Cayman Islands
Tel No. (345) 945-6267
Fax No. (345) 945-6268



Mailing Address:
P.O. Box 1004
Grand Cayman KY1 - 1102
Cayman Islands

SUSPICIOUS ACTIVITY REPORT

Note: This form should preferably be typed using arial 12 point font.

Date of this Report: **08 May 2013**

Date of Original Report :

FRA Case No. (if known):

1. REPORTING ENTITY DETAILS:

Name of Reporting Entity:

Reference of Reporting Entity:

Corporate Services International

Address of Reporting Entity:

**122 Cayman Way
Grand Cayman**

Name of Money Laundering Reporting Officer:

John Brown

Note: The name of an individual who is authorized to discuss the contents of this report must be provided.

Phone number: **949-1234**

Fax number: **949-2345**

Direct private fax:

yes

no

Do you wish to be contacted prior to faxes being sent to this number: yes no

Type of Reporting Entity: **Corporate Services Provider**

(i.e. bank, trust company, mutual fund administrator, insurance manager etc.)

Nature of service(s) provided to the individual and / or entity that is the subject of this report:

SAR Filing

Incomplete SAR

2. SUBJECT(S) OF REPORT (Natural Persons):

Note: Please attach additional sheets as necessary.

Surname:

Smith

First Name:

John

Gender:

Date of Birth:

Place of Birth:

Nationality:

Occupation/Profession:

Address(es):

PO Box:

Street No. and
Name:

City/Town

State/Province

Country

Zip/Postal Code:

Telephone No:

Fax No.:

E-Mail:

Identification Document Type:
(i.e. passport, driver's license etc.)

Identification Document Number:

Date of Issue:

Place of Issue:

Account number(s) if applicable:

Other signatories on the account. (Please include relevant KYC details):

Other Information:

SAR

Filing

Incomplete SAR

3. SUBJECT(S) OF REPORT (Legal Entities)

Entity Type (company, trust, partnership, charity, other):

Name of Entity:

Smith Corporation

Jurisdiction of Incorporation/Registration:

Date of Incorporation/Registration:

Purpose of Entity:

Registered Office Address (or address of Trustee or General Partner etc.):

Business Address (if different from registered office address):

NOTE: Please include relevant information for entity type (i.e. settlor and beneficiary information for a trust). For each of the following which is a following which is a natural person please provide the information noted in Section 2.

Shareholder(s):

Name(s):

Director(s):

Name(s):

Ultimate Beneficial Owner (s) if different from above:

Name(s):

Account number(s) if applicable:

Other signatories on the account: (Please include relevant KYC details):

4. OTHER FINANCIAL SERVICE PROVIDERS INVOLVED IN ACTIVITY:

Name(s):

Address(es):

Account number(s) if applicable:

Other Information:

5. REASON FOR SUSPICION

Note: Please include relevant details including date business relationship established/declined, source of funds, value of assets currently held if any and nature of the suspicion. Attach additional sheets as necessary.

Please see the attached article.

Signature of Money Laundering Reporting Officer

SAR Filing

Incomplete SAR

Importance of Filing a Quality SAR

- SARs are the primary source of financial intelligence for the FRA and local law enforcement agencies
- SAR narrative should be clear and informative:
 - Answer the ‘five Ws and How’ – “who, what, where, when, why, and how.”
- What specifically led to filing the SAR?
- Any connections to previous SARs?
- All available information to be provided:
 - Nationality / Jurisdiction of establishment
 - Beneficial Ownership / Control
 - Transactions and assets
- Repercussions for poor quality and tardy SARs

Overview of 2018 SARs from Attorneys

- 17 cases filed by 11 reporting entities
- Types of suspicion:
 - Debt collection scams
 - Sanctions – UN and OFAC
 - Tax evasion
 - International corruption
 - Declined business
- Actions taken:
 - 4 cases disclosed to LEAs and / or OFIUs
 - 1 case NFA
 - Rest pending

Conclusions

Understand your obligations regarding SAR Reporting:

- ✧ Reporting obligation to the FRA
- ✧ Appointment of a Money Laundering Reporting Officer
- ✧ Robust procedures for internal and external SAR reporting
- ✧ Training for staff

