Microcredit Sensitization Session

Microcredit Regulatory Oversight Department
Bank of Jamaica

FINANCIAL INVESTIGATIONS DIVISION

April 2022
Disclaimer:
The information provided in this presentation is for information. It does not and is not intended to constitute professional legal advice nor does it seek to be an exhaustive statement of the law. You should obtain professional legal advice on any particular matter in or arising from the presentation which concerns you.
OBJECTIVES

• The Role of FID
• The Regulated Sector & it’s Responsibilities
• Sanctions & Penalties
• Court Orders
1. Financial Investigations Division Act (2010)  
   • Amended 2013
   • Amended 2013, 2016 & 2019
   • Amended 2013 & 2019
   • Amended 2011, 2013 & 2019
5. Terrorism Prevention (Reporting Entities) Regulations, 2010  
   • Amended 2019
   • Amended 2019
The Financial Investigations Division

FIU
- Receives, processes, analyses, and disseminates financial information/intelligence
- Statistical, tactical & strategic analyses

FIT
- Criminal Investigations
- Civil Investigations

Legal
- Bring civil matters to court for adjudication
- Provide advice on criminal matters

ARA
- Manages restrained and forfeited assets
Role & Functions of the FID

- Provide policy advice to the Minister of Finance and the Public Service
- Collect, request, receive, process, analyse and interpret Reports
- Sharing of information
- Investigate
- Promote Public Awareness
Role & Functions of the FID

• Record Keeping
• Management & Control of Assets
• Provide information to public bodies
• Provide guidance to financial institutions and designated non-financial institutions
The Regulated Sector and it’s Responsibilities
# The Regulated Sector

<table>
<thead>
<tr>
<th>Regulator</th>
<th>Reporting Category</th>
<th>Sector</th>
<th>Established Licensee Entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Betting Gaming &amp; Lotteries Commission</td>
<td>Designated Non-Financial Institutions</td>
<td>Gaming Lounge</td>
<td>13</td>
</tr>
<tr>
<td>Real Estate Board</td>
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<td>Real Estate Broker/ Sales Representative</td>
<td>372</td>
</tr>
<tr>
<td>Public Accountancy Board</td>
<td></td>
<td>Accountants</td>
<td>4</td>
</tr>
</tbody>
</table>

**COMPETENT AUTHORITY TOTAL** 389

<table>
<thead>
<tr>
<th>Bank of Jamaica</th>
<th>Financial Institutions</th>
<th>Commercial Banks</th>
<th>8</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Building Societies</td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Merchant Banks</td>
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<tr>
<td></td>
<td></td>
<td>Cambios</td>
<td>51</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Remittances</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Credit Unions</td>
<td>25</td>
</tr>
</tbody>
</table>

**BOJ TOTAL** 94

<table>
<thead>
<tr>
<th>Financial Services Commission (FSC)</th>
<th>Financial Institutions</th>
<th>Insurance</th>
<th>37</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Securities Dealers</td>
<td>39</td>
</tr>
</tbody>
</table>

**FSC TOTAL** 76

**GRAND TOTAL** 559
The Regulated Sector Responsibilities

1. Establish programmes, policies, procedures and controls that includes:
   ✓ Procedures that ensure high standards of integrity of employees
   ✓ Develop system to evaluate the personal employment and financial history of those employees
   ✓ Establish programmes for training of employees on a continuing basis
   ✓ Arrangements for an independent audit in order to ensure that the programmes are implemented
   ✓ Permit disclosure of information between companies within the group for the purposes of Customer ID, transaction verification & risk management
   ✓ Ensure the safeguarding of confidentiality and govern the use of the information disclosed within the group

2. Appoint a Nominated Officer who MUST be an employee that performs management functions of the regulated entity.
Responsibilities of the Nominated Officer

• Implement programmes, policies, procedures and controls.

• Submit the requisite reports to the FID that includes:
  - Threshold Transaction
  - Suspicious
  - Nil
  - TPA Listed Entity
  - TPA Suspicious
  - Authorized Disclosure (request for consent or s. 100(4))
  - Cross Border
  - UNSCRIA - United Nations Security Council Resolutions Implementation Act

• Comply with all relevant orders
REGULATED SECTOR POCA REPORTING REQUIREMENTS

• Threshold Transaction Report (TTR) (POCA Reg. 3) – monthly cash transactions at or above the prescribed amounts to be reported by the 15th day of the following month.
  - Remittance – US$5,000
  - Cambio - US$8,000
  - Any other financial institution – US$15,000

• Suspicious Transaction Report (STR) (POCA S. 94) – persons in the course of business in the regulated sector in relation to each customer must pay special attention to all complex, unusual or large business transactions carried out by the customer and make the required disclosure within 15 days the information or other matter come to his/her attention.
REGULATED SECTOR POCA REPORTING REQUIREMENTS

• **Authorized Disclosure (Request for Consent) (POCA S. 99)** – The regulated entity has knowledge or reasonable grounds to believe that the funds involved in a transaction are criminal property as a result is required to seek the appropriate consent.

• **Authorized Disclosure (POCA S. 100)** - disclosure of information or other matter involving a suspicion involving money laundering and/ or criminal property observed by a person during the person’s course of business, trade, profession and/ or employment. Once a disclosure constitutes an authorized disclosure it would be expressly exempt from the breach of any obligation of confidentiality that may otherwise occur.
• Cross Border Report – The duty to report the transportation, either into or out of Jamaica, of cash in excess of US$10,000 or its equivalent and also applies to the general public.
• **Listed Entity Report (LER)** – entities shall determine on a continuous basis whether they are in possession or control of property owned or controlled by or on behalf of a listed entity and make this declaration once in every four (4) calendar months or in response to a request made by the designated authority.

<table>
<thead>
<tr>
<th>No.</th>
<th>Four Months Period</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>January-April</td>
<td>May 31</td>
</tr>
<tr>
<td>2</td>
<td>May-August</td>
<td>September 30</td>
</tr>
<tr>
<td>3</td>
<td>September - December</td>
<td>January 31</td>
</tr>
</tbody>
</table>

• **TPA – Suspicious Transaction Report (TPA S. 3 & 3A)** - persons in the course of business in the regulated sector in relation to each customer must pay special attention to all complex, unusual or large business transactions carried out by the customer and make the required disclosure within 15 days the information or other matter come to his/ her attention.

- **Freeze without delay** – immediate notification of an updated TPA UN Listing – Submission of TPA (STR).
• **Proscribed Entity Report (PER)** – entities shall determine on a continuous basis whether they are in possession or control of property owned or controlled by or on behalf of a proscribed entity and make this declaration once in every four (4) calendar months or in response to a request made by the designated authority.

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REPORTING OBLIGATIONS

goAML - https://goaml.fid.gov.jm/

Welcome

goAML is the FID's electronic platform that facilitates the receipt of reports from Financial Institutions, Designated Non-Financial Institutions and persons in their normal course of profession, trade, business and/or employment, who have reasonable grounds to believe that property is criminal property.

The core role of the FID is that it serves as the country’s central agency for the collection, analysis and dissemination of information regarding money laundering, the financing of terrorism and proliferation (weapons of mass destruction).
ROLE OF NOMINATED OFFICER- goAML

Management/implementation of programme & policies:
- Responsible Officer - Administrator
- Assign roles to subsequent users
- Fully involved with the process
- Responsible for information uploaded unto the goAML system
- Training
- Responsible for timely response to communications sent via Message Board
STATUS & ACCEPTANCE NOTIFICATION

Reports submitted:

- The Status must be checked to ensure it is at the PROCESSED stage by:
  - Selecting Submitted Reports tab.
  - PROCESSED status reports must be saved or printed.
- Will be acknowledged and the status provided, i.e. whether it was successfully processed or rejected.
Rejected reports will provide details as it relates to the required amendments for resubmission.
Sanctions and Penalties for Breaches

Quote:

‘You cannot escape the responsibility of tomorrow by evading it today’

Abraham Lincoln
Penalty – AML Policies & Procedures

Amendments to POCA Regulations - November 2019

s.5. Failure to establish, implement policies and procedures or failure to appoint employee with management functions to implement programmes.

<table>
<thead>
<tr>
<th></th>
<th>Parrish Court</th>
<th>Circuit Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>≤ $3m and/or 3 yrs</td>
<td>Fine or ≤ 20 yrs</td>
</tr>
<tr>
<td>Body corporate</td>
<td>≤ $5m</td>
<td>Fine</td>
</tr>
</tbody>
</table>

s.6 Failure to implement KYC measures & training:

<table>
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<tr>
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<th>Parrish Court</th>
<th>Circuit Court</th>
</tr>
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<tbody>
<tr>
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<td>Fine or ≤ 20 yrs</td>
</tr>
<tr>
<td>Body corporate</td>
<td>≤ $5m</td>
<td>“Fine”</td>
</tr>
<tr>
<td><strong>Failure to file TTR or STR:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Company</td>
<td>≤ $1m</td>
<td>““</td>
</tr>
</tbody>
</table>

Financial Investigations Division

4/13/22
## Second Schedule
### Part 1 – Fixed Penalties

### Fixed Penalty: (Regulation 20)

<table>
<thead>
<tr>
<th>Offence:</th>
<th>Fixed Penalty:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>In case of -</strong></td>
<td>(1) An individual</td>
</tr>
<tr>
<td>(1) An offence under regulation 5 (5), failure to comply with</td>
<td>$2,100,000</td>
</tr>
<tr>
<td>- a) Regulation 5(1)</td>
<td></td>
</tr>
<tr>
<td>a) Regulation 5(3)</td>
<td></td>
</tr>
<tr>
<td>(2) An offence under regulation 6(2)</td>
<td>$2,100,000</td>
</tr>
<tr>
<td>(3) An offence under regulation 18(3)</td>
<td>$2,100,000</td>
</tr>
</tbody>
</table>

1. An offence under regulation 5 (5), failure to comply with:
   - a) Regulation 5(1)
   - a) Regulation 5(3)

2. An offence under regulation 6(2)

3. An offence under regulation 18(3)
# Fixed Penalty Schedule

**PROCLAMATIONS, RULES AND REGULATIONS**  
**[OCT. 29, 2019]**  
Options available to the competent authority.

<table>
<thead>
<tr>
<th>Second Schedule</th>
<th>Part 1 – Fixed Penalties</th>
<th>(Regulation 20)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Offence</strong></td>
<td></td>
<td>Fixed Penalty</td>
</tr>
<tr>
<td>4. An Officer under regulation 20 (1)</td>
<td>Failure to comply with ID &amp; transaction verification</td>
<td>2,100,000</td>
</tr>
<tr>
<td></td>
<td>Failure to establish risk profile to carry out due diligence</td>
<td>3,500,000</td>
</tr>
<tr>
<td></td>
<td>Lack of identification procedures for transactions conducted by an agent</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Failure to comply with record–keeping requirements</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Failure to comply with requirements for internal reporting procedures</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Failure to comply with requirements to prohibit transactions on numbered, anonymous or fictitious accounts</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Failure to comply with requirements as to form of reports.</td>
<td></td>
</tr>
</tbody>
</table>

Financial Investigations Division
FIXED PENALTY NOTICE

SECOND SCHEDULE, contd.

Part II—Fixed Penalty Notice

THE PROCEEDS OF CRIME ACT

The Proceeds of Crime (Money Laundering Prevention) Regulations, 2007

Fixed Penalty Notice

FRONT OF FORM

Serial No. of Notice: __________________________

Take notice that I have cause to believe that on the _______ day of

__________, 20_______ at (enter location) or about (enter time)

you: ___________________________________________

Surname First name Middle name

of ____________________________________________ in the parish of

____________________________________________

committed one or more of the following

offences contrary to the provisions of the Proceeds of Crime (Money Laundering Prevention) Regulations, 2007, for which I allege that you are liable—

(Choose the alleged offence)

Regulation 5(3) — requirement to establish and implement programmes, policies, procedures and controls necessary for the purpose of preventing or detecting money laundering.

Regulation 5(5) — requirement to nominate employees to be responsible for implementing programmes, etc.

Non-compliance with regulation 6(1) in forming a business relationship or carrying out a one-off transaction.

Failure to comply, implement and conform with, or to advise of inability to conform with, etc., standards and conduct set out in Part V of the Act and in the Regulations.

Failure to comply with regulation—

(a) 7—requirements regarding identification and transaction verification procedures, etc.;

(b) 7A—requirement to establish risk profile and carry out due diligence;

(c) 11—requirements regarding identification procedures concerning transactions carried out by agents;

(d) 14—record-keeping requirements;

(e) 15—requirements for internal reporting procedures;

(f) 16—prohibition on conducting transaction by means of numbered account, anonymous account or account in a fictitious names;

(g) 17—requirements as to form of reports.

Thereafter, in accordance with the provisions of the Act, in three months from the date of the serving of this notice, you are required to attend before the appropriate court (or other court having jurisdiction) to answer to the charge(s) for the offence(s).

Back of Form

How to pay fixed penalty:

Payment may be made in cash at any collection of taxes.

I enclose the sum of $__________, as payment of the fixed penalty for the offence mentioned in this notice.

Signed

/office

Date

OFFICE

Date

SIGNATURE OF AUTHORISED OFFICER

Financial Investigations Division

4/13/2022
INVESTIGATIVE TOOLS

The investigative orders referred to as Judicial Orders include:

✓ **Production and Inspection Order** - an instruction to the regulated entity to hand over to an **authorized officer**, specified material relevant to the investigation of a **financial crime**.

✓ **Customer Information Order** - mandates a financial institution to provide any “customer information” it has relating to a specified person.

✓ **Disclosure Orders** - mandates a person to produce specified information deemed necessary to an investigation and the information appears to be in the possession or control of the person.

✓ **Account Monitoring Order** - mandates a financial institution to provide information on the account of the named subject based on future transactions.

✓ **Search Warrants** - allows an **authorized officer** to enter a premises and search for such book, record or other document and seize and detain any book found that is likely to be of substantial value to the investigation.

FREEZING OF ASSETS

✓ **Restraint Orders** – this is applied for when a criminal investigation has been started with regard to an offence or proceedings have been started for an offence and not concluded, or enforcement authority has made application for confiscation or it is a civil recovery case or the court believes a civil recovery application will be made.

✓ **Cash Seizure Orders** – this is made by an authorized officer once there is reasonable grounds for suspecting that the cash is recoverable property; or intended by any person for use in unlawful conduct.

✓ **Forfeiture Orders** – this occurs where a person pleads guilty/ is convicted of an offence from which they have benefitted. This requires the DPP or ARA to make the application for the matter to be considered, which must be committed from RM to Supreme Court.
Thank You!

Financial Investigations Division