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

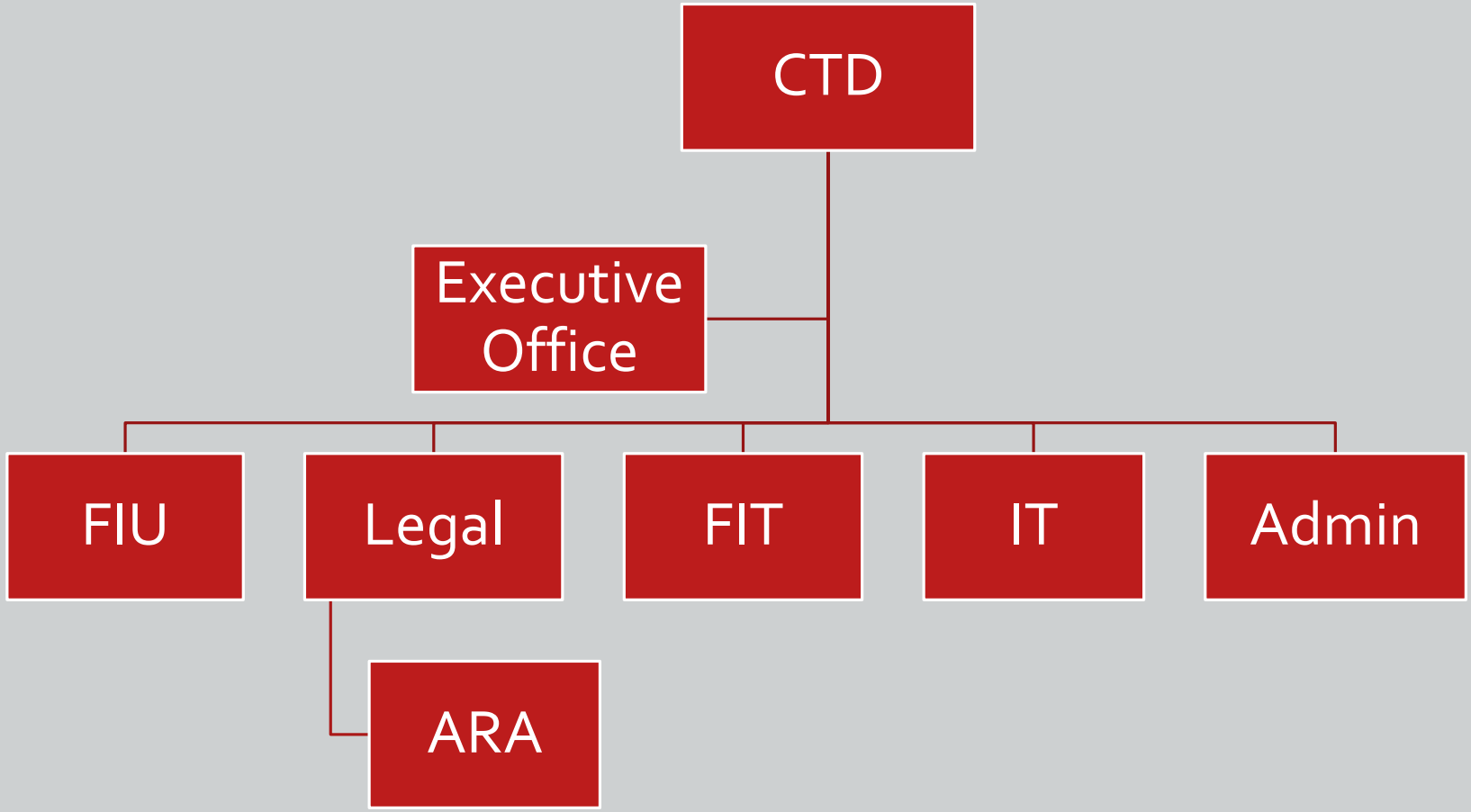
OBJECTIVES

- The Role of FID
- The Regulated Sector & it's Responsibilities
- Sanctions & Penalties
- Court Orders

The Financial Investigations Division

1. **Financial Investigations Division Act (2010)**
   - Amended 2013
2. **The Proceeds of Crime Act (2007)**
   - Amended 2013, 2016 & **2019**
3. **The Proceeds of Crime (Money Laundering Prevention) Regulations (2007)**
   - Amended 2013 & **2019**
4. **Terrorism Prevention Act (2005)**
   - Amended 2011, 2013 & **2019**
5. **Terrorism Prevention (Reporting Entities) Regulations, 2010**
   - Amended **2019**
6. **United Nations Security Council Resolutions Implementation Act (2013)**
   - Amended **2019**

The Financial Investigations Division



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

Regulator	Reporting Category	Sector	Established Licensee Entities
Betting Gaming & Lotteries Commission	Designated Non-Financial Institutions	Gaming Lounge	13
Real Estate Board		Real Estate Broker/ Sales Representative	372
Public Accountancy Board		Accountants	4
COMPETENT AUTHORITY TOTAL			**389**
Bank of Jamaica	Financial Institutions	Commercial Banks	8
		Building Societies	2
		Merchant Banks	1
		Cambios	51
		Remittances	7
		Credit Unions	25
BOJ TOTAL			**94**
Financial Services Commission (FSC)	Financial Institutions	Insurance	37
		Securities Dealers	39
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.

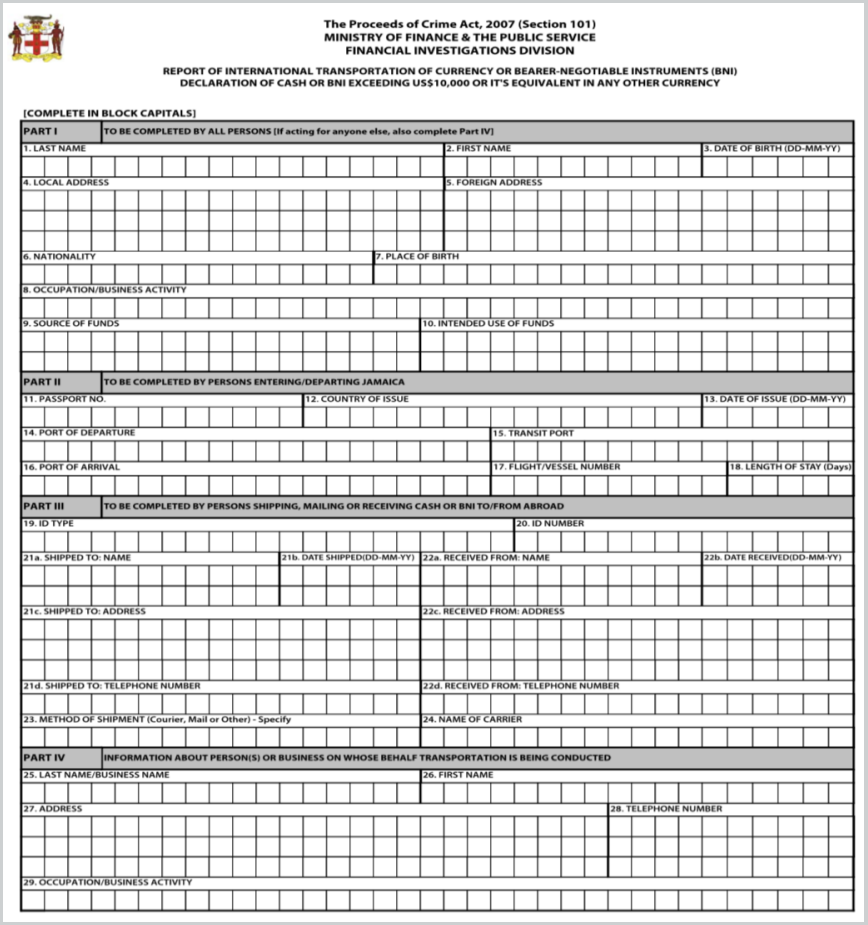
REGULATED SECTOR POCA REPORTING REQUIREMENTS

- **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.

REGULATED SECTOR POCA REPORTING REQUIREMENTS

- **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.



The Proceeds of Crime Act, 2007 (Section 101)
MINISTRY OF FINANCE & THE PUBLIC SERVICE
FINANCIAL INVESTIGATIONS DIVISION

REPORT OF INTERNATIONAL TRANSPORTATION OF CURRENCY OR BEARER-NEGOTIABLE INSTRUMENTS (BNI)
DECLARATION OF CASH OR BNI EXCEEDING US$10,000 OR IT'S EQUIVALENT IN ANY OTHER CURRENCY

[COMPLETE IN BLOCK CAPITALS]

PART I TO BE COMPLETED BY ALL PERSONS [If acting for anyone else, also complete Part IV]

1. LAST NAME | 2. FIRST NAME | 3. DATE OF BIRTH (DD-MM-YY)
4. LOCAL ADDRESS | 5. FOREIGN ADDRESS
6. NATIONALITY | 7. PLACE OF BIRTH
8. OCCUPATION/BUSINESS ACTIVITY
9. SOURCE OF FUNDS | 10. INTENDED USE OF FUNDS

PART II TO BE COMPLETED BY PERSONS ENTERING/DEPARTING JAMAICA

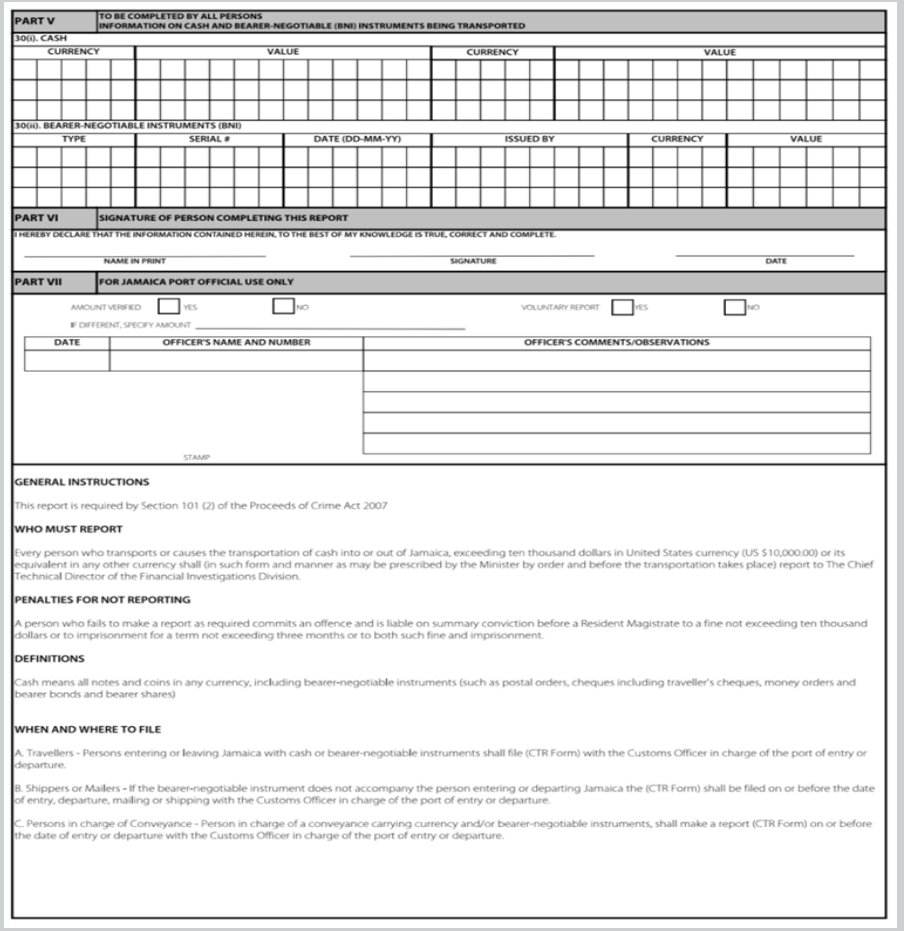
11. PASSPORT NO. | 12. COUNTRY OF ISSUE | 13. DATE OF ISSUE (DD-MM-YY)
14. PORT OF DEPARTURE | 15. TRANSIT PORT
16. PORT OF ARRIVAL | 17. FLIGHT/VESSEL NUMBER | 18. LENGTH OF STAY (Days)

PART III TO BE COMPLETED BY PERSONS SHIPPING, MAILING OR RECEIVING CASH OR BNI TO/FROM ABROAD

19. ID TYPE | 20. ID NUMBER
21a. SHIPPED TO: NAME | 21b. DATE SHIPPED(DD-MM-YY) | 22a. RECEIVED FROM: NAME | 22b. DATE RECEIVED(DD-MM-YY)
21c. SHIPPED TO: ADDRESS | 22c. RECEIVED FROM: ADDRESS
21d. SHIPPED TO: TELEPHONE NUMBER | 22d. RECEIVED FROM: TELEPHONE NUMBER
23. METHOD OF SHIPMENT (Courier, Mail or Other) - Specify | 24. NAME OF CARRIER

PART IV INFORMATION ABOUT PERSON(S) OR BUSINESS ON WHOSE BEHALF TRANSPORTATION IS BEING CONDUCTED

25. LAST NAME/BUSINESS NAME | 26. FIRST NAME
27. ADDRESS | 28. TELEPHONE NUMBER
29. OCCUPATION/BUSINESS ACTIVITY



PART V TO BE COMPLETED BY ALL PERSONS
INFORMATION ON CASH AND BEARER-NEGOTIABLE (BNI) INSTRUMENTS BEING TRANSPORTED

30(i). CASH

CURRENCY	VALUE	CURRENCY	VALUE

30(ii). BEARER-NEGOTIABLE INSTRUMENTS (BNI)

TYPE	SERIAL #	DATE (DD-MM-YY)	ISSUED BY	CURRENCY	VALUE

PART VI SIGNATURE OF PERSON COMPLETING THIS REPORT

I HEREBY DECLARE THAT THE INFORMATION CONTAINED HEREIN, TO THE BEST OF MY KNOWLEDGE IS TRUE, CORRECT AND COMPLETE.

NAME IN PRINT | SIGNATURE | DATE

PART VII FOR JAMAICA PORT OFFICIAL USE ONLY

AMOUNT VERIFIED ☐ YES ☐ NO VOLUNTARY REPORT ☐ YES ☐ NO
IF DIFFERENT, SPECIFY AMOUNT

DATE	OFFICER'S NAME AND NUMBER	OFFICER'S COMMENTS/OBSERVATIONS

STAMP

GENERAL INSTRUCTIONS

This report is required by Section 101 (2) of the Proceeds of Crime Act 2007

WHO MUST REPORT

Every person who transports or causes the transportation of cash into or out of Jamaica, exceeding ten thousand dollars in United States currency (US $10,000.00) or its equivalent in any other currency shall (in such form and manner as may be prescribed by the Minister by order and before the transportation takes place) report to The Chief Technical Director of the Financial Investigations Division.

PENALTIES FOR NOT REPORTING

A person who fails to make a report as required commits an offence and is liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

DEFINITIONS

Cash means all notes and coins in any currency, including bearer-negotiable instruments (such as postal orders, cheques including traveller's cheques, money orders and bearer bonds and bearer shares)

WHEN AND WHERE TO FILE

A. Travellers - Persons entering or leaving Jamaica with cash or bearer-negotiable instruments shall file (CTR Form) with the Customs Officer in charge of the port of entry or departure.

B. Shippers or Mailers - If the bearer-negotiable instrument does not accompany the person entering or departing Jamaica the (CTR Form) shall be filed on or before the date of entry, departure, mailing or shipping with the Customs Officer in charge of the port of entry or departure.

C. Persons in charge of Conveyance - Person in charge of a conveyance carrying currency and/or bearer-negotiable instruments, shall make a report (CTR Form) on or before the date of entry or departure with the Customs Officer in charge of the port of entry or departure.

REGULATED SECTOR TPA REPORTING REQUIREMENTS

- **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.

No.	Four Months Period	Due Date
1	January-April	May 31
2	May-August	September 30
3	September - December	January 31

- 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).**

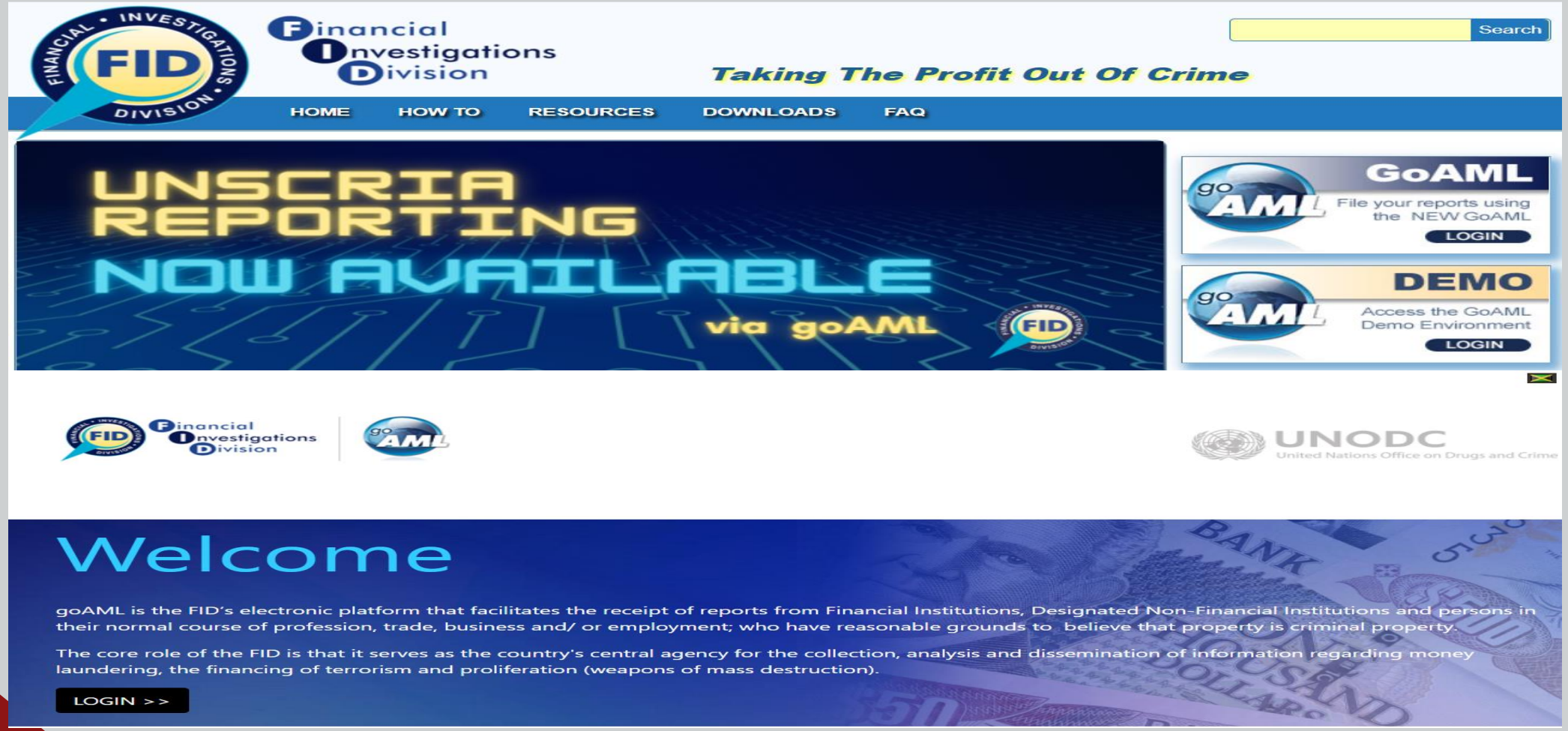
REGULATED SECTOR UNSCRIA REPORTING REQUIREMENTS

- **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.

No.	Four Months Period	Due Date
1	January-April	May 31
2	May-August	September 30
3	September - December	January 31

REPORTING OBLIGATIONS

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



ROLE OF NOMINATED OFFICER- goAML

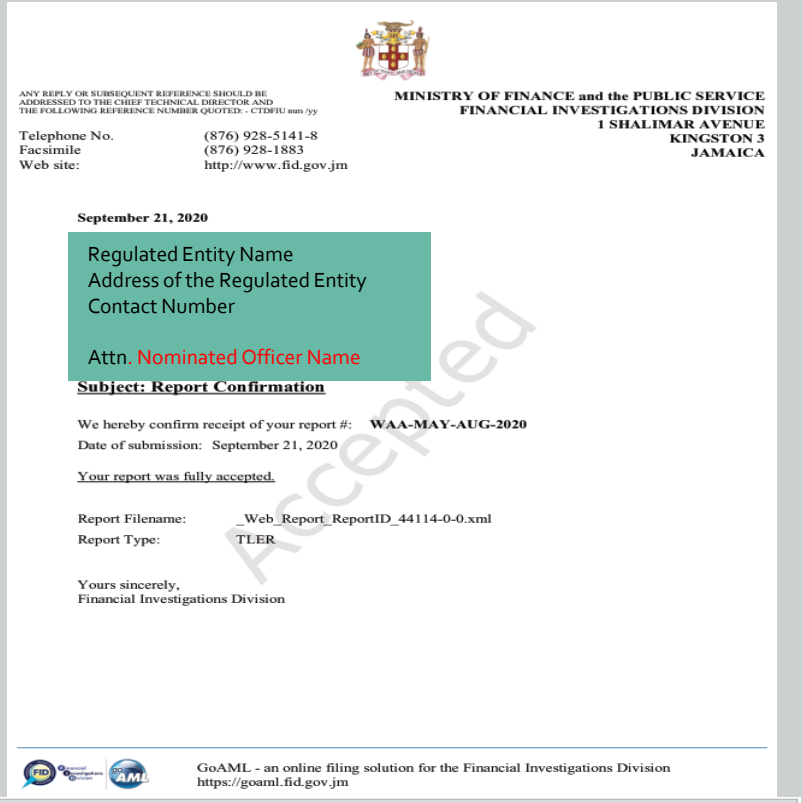
Management/implementation of programme & policies:

- 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.**



ANY REPLY OR SUBSEQUENT REFERENCE SHOULD BE ADDRESSED TO THE CHIEF TECHNICAL DIRECTOR AND THE FOLLOWING REFERENCE NUMBER QUOTED: - CTD/FIU mm /yy

MINISTRY OF FINANCE and the PUBLIC SERVICE
FINANCIAL INVESTIGATIONS DIVISION
1 SHALIMAR AVENUE
KINGSTON 3
JAMAICA

Telephone No. (876) 928-5141-8
Facsimile (876) 928-1883
Web site: http://www.fid.gov.jm

September 21, 2020

Regulated Entity Name
Address of the Regulated Entity
Contact Number

Attn. Nominated Officer Name

Subject: Report Confirmation

We hereby confirm receipt of your report #: **WAA-MAY-AUG-2020**
Date of submission: September 21, 2020

Your report was fully accepted.

Report Filename: _Web_Report_ReportID_44114-0-0.xml
Report Type: TLER

Yours sincerely,
Financial Investigations Division

Accepted

GoAML - an online filing solution for the Financial Investigations Division
https://goaml.fid.gov.jm

Web Reports

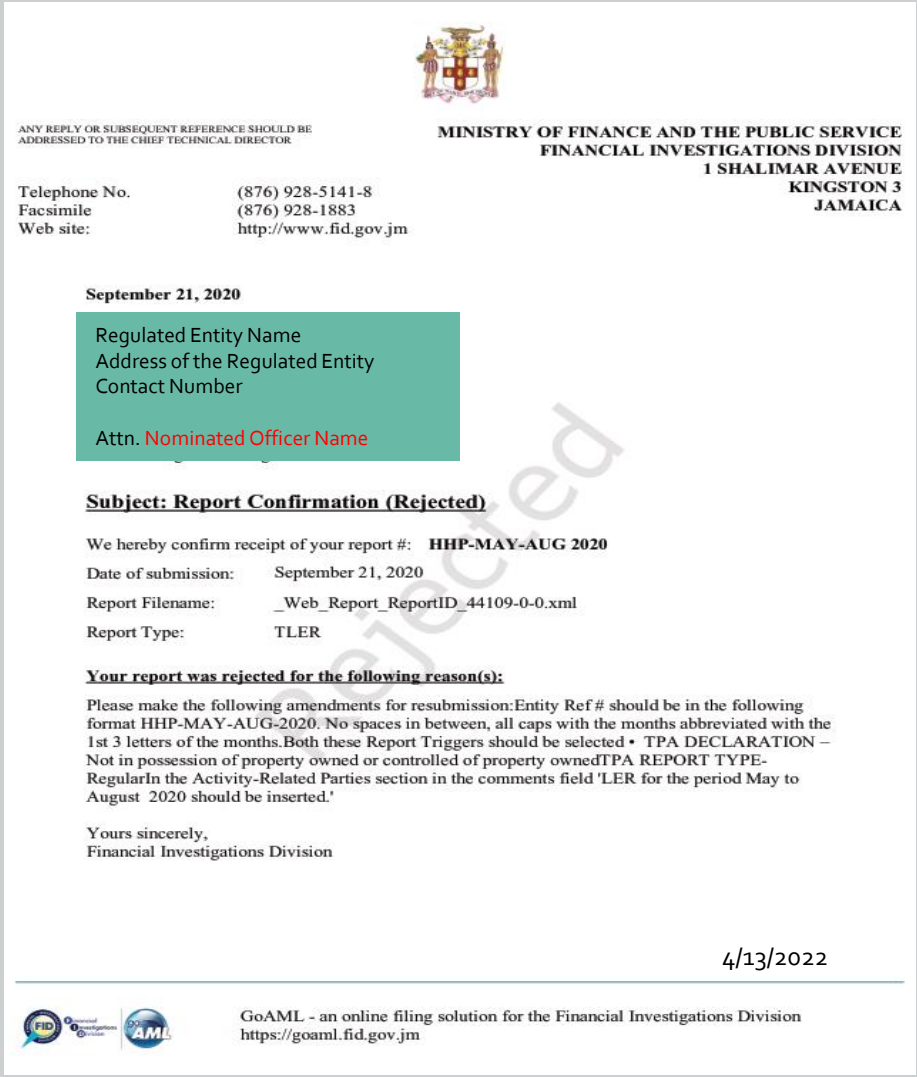
Start Date 24 October, 2021 End Date 24 November, 2021

Drag a column header here to group by that column

Report ID	Report Type	Created By	Last Updated By	Created On	Org Name	Submitting Org	Transactions	No. Rejected	Status	Submitted On	#
20061-0-0	Nil Report	fiduser	fiduser	19/11/2021	FID Bank	FID Bank	0	0	Rejected	19/11/2021	
20060-0-0	Nil Report	yanique.peynado@fid.gov.jm	yanique.peynado@fid.gov.jm	19/11/2021	Financial Intelligence Unit (FIU)	Financial Intelligence Unit (FIU)	0	0	Rejected	19/11/2021	
20043-0-0	Nil Report	kemoy.plowright@fid.gov.jm	kemoy.plowright@fid.gov.jm	25/10/2021	Financial Intelligence Unit (FIU)	Financial Intelligence Unit (FIU)	0	0	Processed	25/10/2021	

REJECTION NOTIFICATION

- Rejected reports will provide details as it relates to the required amendments for resubmission



ANY REPLY OR SUBSEQUENT REFERENCE SHOULD BE ADDRESSED TO THE CHIEF TECHNICAL DIRECTOR

MINISTRY OF FINANCE AND THE PUBLIC SERVICE
FINANCIAL INVESTIGATIONS DIVISION
1 SHALIMAR AVENUE
KINGSTON 3
JAMAICA

Telephone No. (876) 928-5141-8
Facsimile (876) 928-1883
Web site: http://www.fid.gov.jm

September 21, 2020

Regulated Entity Name
Address of the Regulated Entity
Contact Number

Attn. Nominated Officer Name

Subject: Report Confirmation (Rejected)

We hereby confirm receipt of your report #: **HHP-MAY-AUG 2020**
Date of submission: September 21, 2020
Report Filename: _Web_Report_ReportID_44109-0-0.xml
Report Type: TLER

Your report was rejected for the following reason(s):

Please make the following amendments for resubmission:Entity Ref # should be in the following format HHP-MAY-AUG-2020. No spaces in between, all caps with the months abbreviated with the 1st 3 letters of the months.Both these Report Triggers should be selected • TPA DECLARATION – Not in possession of property owned or controlled of property ownedTPA REPORT TYPE-RegularIn the Activity-Related Parties section in the comments field 'LER for the period May to August 2020 should be inserted.'

Yours sincerely,
Financial Investigations Division

Rejected

4/13/2022

GoAML - an online filing solution for the Financial Investigations Division
https://goaml.fid.gov.jm

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.

	Parish Court	Circuit Court
Individual	≤ $3m and/or 3 yrs	Fine or ≤ 20 yrs
Body corporate	≤ $5m	Fine

s.6 Failure to implement KYC measures & training:

	Parish Court	Circuit Court
Individual	≤ $3m and/or 3 yr.	Fine or ≤ 20 yrs
Body corporate	≤ $5m	"Fine
Failure to file TTR or STR:		
Company	≤ $1m	"

Fixed Penalty Schedule

PROCLAMATIONS, RULES AND REGULATIONS [OCT. 29, 2019] Options available to the Competent Authority.			
Second Schedule **Part 1 – Fixed Penalties**		**(Regulation 20)**	
Offence:		**Fixed Penalty:**	
		In case of - **(1) An individual** **$**	**(2) A body corporate** **$**
1. An offence under regulation 5 (5), failure to comply with - **a) Regulation 5(1)** **a) Regulation 5(3)**	Failure to establish and implement policies, procedures and controls.	2,100,000	3,500,000
	Failure to appoint an employee as the Nominated Officer.	2,100,000	3,500,000
2. An offence under regulation 6(2)	Failure to maintain KYC & training procedures	2,100,000	3,500,000
3. An offence under regulation 18(3)	Failure of overseas branches to conform to higher ML standards	2,100,000	3,500,000

Fixed Penalty Schedule

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

Second Schedule **(Regulation 20)**

Part 1 – Fixed Penalties

Offence		Fixed Penalty	
		In case of - (1) An individual $	(2) A body corporate $
4. An Officer under regulation 20 (1)	Failure to comply with ID & transaction verification	2,100,000	3,500,000
	Failure to establish risk profile to carry out due diligence		
	Lack of identification procedures for transactions conducted by an agent		
	Failure to comply with record –keeping requirements		
	Failure to comply with requirements for internal reporting procedures		
	Failure to comply with requirements to prohibit transactions on numbered, anonymous or fictitious accounts		
	Failure to comply with requirements as to form of reports.		

FIXED PENALTY NOTICE

SECOND SCHEDULE, *contd.*

Part II—Fixed Penalty Notice

THE PROCEEDS OF CRIME ACT

The Proceeds of Crime (Money Laundering Perevention) 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) at or about (enter time)

you: _____ _____ _____
Surname First name Middle name

of _____ in the parish of
address

_____ 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—

(Please tick alleged offence)	Regulation —	Offence —
☐	5(5)	Failure to comply with regulation 5(1)—requirement to establish and implement programmes, policies, procedures and controls necessary for the purpose of preventing or detecting money laundering.
☐	5(5)	Failure to comply with regulation 5(3)—requirement to nominate employee to be responsible for implementing programmes, *etc.*
☐	6(2)	Non-compliance with regulation 6(1) in forming a business relationship or carrying out a one-off transaction.
☐	18(3)	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.
☐	20(1)	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.

SECOND SCHEDULE, *contd.*

Particulars of offence(s):

Date of offence(s):

Date of offence(s):

Place of offence(s):

Brief description of the acts constituting the offence(s):

However, if before the day of , 20 (*insert date being a date not earlier than the expiration of fifteen days*) you pay the fixed penalty of $_____ to the Collector of Taxes proceedings will not be taken for the offence and you shall not be liable to conviction of the offence. Payments should be made in accordance with the instructions overleaf.

If you do not pay the fixed penalty within the period specified above, you are required to attend before [specify court having jurisdiction to try the offence(s)] to answer to the charge(s) for the offence(s).

Dated this day of , 20

_____
Signature of authorised officer

BACK OF FORM

How to pay fixed penalty:

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

To: [full name and address]

I enclose the sum of $_____ as payment of the fixed peanlty for the offence mentioned in this notice.

_____ _____ _____
Surname First Name Middle Name

_____ _____
Address Parish

Dated this 29th day of October, 2019.

HORACE CHANG
Minister of National Security.

Court Orders

FID POWERS

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!

Q
&
A