## NAME OF PRACTITIONER/FIRM

## ……………….……………

**Attorney-at-Law**

**Name:**

**Address**

**Telephone Numbers:1(868)**

**Fax Number: 1(868)**

**Email :**

**COMPLIANCE PROGRAM**

**Of [name of practitioner/firm**

**&FIU Registration #]**

**Submitted to the:**

**FINANCIAL INTELLIGENCE UNIT**

**IN ACCORDANCE WITH SECTION 55 (5) OF THE**

**PROCEEDS OF CRIME ACT, 2000**

**(AS AMENDED)**

**AND**

**REGULATION 31 (1)**

**OF THE**

**FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO REGULATIONS, 2011**

**DATED: …………, 201..**

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1. **INTRODUCTION**

The Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) policies in this document are consistent with the following Acts and Regulations:

* [Miscellaneous Provisions (Financial Intelligence Unit of Trinidad and Tobago and Anti-Terrorism) Act, 2012](http://www.fiu.gov.tt/content/Miscellaneous%20Provisions%20%28FIU%20of%20Trinidad%20and%20Tobago%20and%20Anti-Terrorism%20Act,%202012.pdf)
* [Financial Intelligence Unit of Trinidad and Tobago Act, 2009, Act No.11 of 2009](http://www.fiu.gov.tt/content/The%20Financial%20Intelligence%20Unit%20Act-%202009.pdf)
* [Financial Intelligence Unit of Trinidad and Tobago (Amendment) Act, 2011, Act No.3 of 2011](http://www.fiu.gov.tt/content/FIU_Act_Amendment.%20No.%203%20of%202011.pdf)
* [Financial Intelligence Unit of Trinidad and Tobago (Amendment)(No. 2) Act, 2011, Act No.8 of 2011](http://www.fiu.gov.tt/content/Act%20No.%208%20of%202011%20The%20Financial%20Intell%20Unit_2.pdf)
* [Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011](http://www.fiu.gov.tt/content/FIU%20Regulations%202011.pdf)
* [Financial Obligation Regulations 2010](http://www.fiu.gov.tt/content/The%20Financial%20Obligation%20Regulations%20-%202010.pdf)
* [Proceeds of Crime Act, Chap: 11:27](http://www.fiu.gov.tt/content/The%20Proceeds%20of%20Crime%20Act%20-2000.pdf)
* [Proceeds of Crime (Amendment) Act, 2009, No 10 of 2009](http://www.fiu.gov.tt/content/The%20Proceeds%20of%20Crime%20Act%20%28Amended%29%20-2009.pdf)
* [Anti-Terrorism Act, Chap; 12:07](http://www.fiu.gov.tt/content/The%20Anti-Terroism%20Act-%202005.pdf)
* [Anti-Terrorism (Amendment) Act, 2010, Act 2 of 2010](http://www.fiu.gov.tt/content/The%20Anti-Terroism%20Act%20%28Amended-%202010%29.pdf)
* [Financial Obligations (Financing of Terrorism) Regulations, 2011.](http://www.fiu.gov.tt/content/Financial%20of%20Terrorism%20Regulations%202011.pdf)
* [Anti-Terrorism (Amendment) Act, 2011, Act No. 16 of 2011](http://www.fiu.gov.tt/content/35.pdf)hereinafter collectively called the AML/CFT Laws and Regulations

1. **POLICY STATEMENT**

I am a sole practitioner and my main office in Port of Spain and a receiving office in San Fernando/Tobago/We are a firm whose main office is situated in Port of Spain with a Branch Office in San Fernando/Tobago. My/Our areas of practice include corporate/commercial, conveyancing, intellectual property and civil litigation. The legal services which I/we provide, in particular corporate practice, bring me/us within the definition of a “listed business” as set out in the First Schedule of *the Proceeds of Crime Act, 2000* (as amended) (“POCA”).[[1]](#footnote-2)

I am/we are committed to the provision of the highest quality service to my/our clients, both local and foreign, and I am/we are ever mindful of my legal and moral obligations to the Republic of Trinidad and Tobago in joining in the combat of money laundering and the financing of terrorism.

In this regard, I/we have prepared this compliance programme in accordance with section 55 (5) of POCA and Regulation 31 (1) of *the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011* (“FIU Regulations”) to ensure and monitor compliance with the AML/CFT laws and Regulations and in particular *the Financial Obligations Regulations 2010* (“FOR”) made under section 56 of POCA and *the Financial Obligations (Financing of Terrorism) Regulations, 2011 made under section 41 of the Anti-Terrorism Act, 2005* (as amended) (“ATA”).

The purpose of the compliance programme is to assist my/our employees, through a system of internal controls and training designed to detect, prevent and report suspicious activities or transactions and thereby protects my/our practice from being used for the illegal purposes of money laundering and the financing of terrorism. I am/our employees[including partners and associates] are required to abide by the policies and procedures contained herein.

Section 57 of POCA makes it an offence to knowingly contravene or fail to comply with the provisions for the keeping and retaining of records of complex, for paying special attention to complex unusual or large financial transactions, whether or not completed, and to reporting to the Financial Intelligence Unit (FIU) as set out in section 55 of the POCA. Section 22 of the ATA imposes similar obligations in relation to terrorist funds. Accordingly, it is mandatory for all of my/our employees to abide by the obligations set out in this Compliance Programme.

This Compliance Programme of [name of practitioner/firm] has been approved by me/All Partners on [date]

[Name(s) and Signature(s) of practitioner/All Partners

1. **OVERVIEW OF MONEY LAUNDERING AND FINANCING OF TERRORISM CRIMES**

**Explanation of Crimes**

**Money Laundering** is the attempt to transfer, conceal or disguise the nature, location, source ownership or control of illegally obtained money. The various offences which comprise money laundering are set out in sections 43, 44, 45, 46, 51 and 52 of POCA and include suspicious dealing with property, concealing or disguising one’s own or another’s proceed of crime, receiving another’s proceed of crime; tipping-off and failure to disclose knowledge or suspicion of money laundering.

There are three stages of money laundering:

i. Placement, the initial stage of money laundering, where the launderer introduces his illegal profits into the financial system. This might be done by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited directly into a bank account, or by purchasing a series of monetary instruments (cheques, money orders, etc.) that are then collected and deposited into accounts at another location.

ii. Layering, the 2nd stage, the launderer engages in a series of conversions or movements of the funds to distance them from their source. The funds might be channelled through the purchase and sales of investment instruments, or the launderer might simply wire the funds through a series of accounts at various banks across the globe. In some instances, the launderer might disguise the transfers as payments for goods or services, thus giving them a legitimate appearance.

iii. Integration, the 3rd stage is, where the launderer, having successfully processed his criminal profits through the first two phases moves the funds and re-enters the legitimate economy. The launderer might choose to invest the funds into real estate, luxury assets, or business ventures.

The **Financing of Terrorism** (FT) is the provision of funds directly or indirectly intending or knowing that the funds are to be used to fund terrorist acts or organizations. The funds used to finance terrorism could be derived from legitimate sources or could be the proceeds of criminal activity. FT involves the provision of services for the commission of terrorist acts, collection or provision of property to commit terrorist acts, arrangements for the retention or control of terrorist property, dealing with terrorist property and soliciting or giving support for the commission of terrorist acts.

In these circumstances, POCA, ATA, FOR, ATA (FOR) and FIU Regulations require the filing of specific reports and to maintain records on certain transactions to deter, detect and prevent the laundering of money and the financing of terrorism. The legislation also requires the obtaining of documentation that may be used to assist in the prosecution of money launderers and those who commit terrorist acts or facilitate the commission of terrorist acts.

I/We am/are required by the FIU Regulations to register with the FIU for the purpose of identifying myself/our firm as a supervised entity under the supervision of the FIU for AML/CFT compliance. On [Put date here] we were registered with the FIU as LB/AAL/#####.

I/all employees/all partners/associates are required to adopt the provisions of this compliance programme which is designed to ensure proper record keeping and reporting of transactions and to prevent me/our firm from being used to launder money or to finance terrorism.

The offences and penalties for which I/the firm/ employees/all partners/associates am/are liable for contravention of the AML/CFT Laws are set out in **Appendices A**.1and A.2.

1. **INTERNAL, POLICIES, PROCEDURES AND CONTROLS**

This compliance programme applies to all my/our staff, professional and administrative, who are also required to undergo a period of training and certify in writing that they understand their duties and obligations. See sample form **Appendix B**.

**Obligations under the AML/CFT Laws**

1. Under POCA,I am/the firm is required to:
2. keep and retain records relating to financial activities ;
3. pay special attention to all complex, unusual or large transactions, whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose; and
4. report any suspicious transaction or activity to the designated authority in the form specified in the Third Schedule of POCA, within fourteen (14) days of the date of the transaction was deemed to be suspicious as relating to illicit activities.

In reporting to the FIU I/we will be guided by “*the Guidance Note on Suspicious Transaction/Activity Reporting Standards*” published by the FIU and attached as **Appendix C**.

**The FACT OR contents of such report will not be disclosed to anyone other than the FIU.**

1. Under the FIU Regulations I am/we are required to:
2. respond to any request for information made by the FIU within seven (7) working days upon receipt of the request;
3. respond to the request of the Director of the FIU (“the Director”) for financial information -
4. electronically, by a secure reporting system established by the FIU;
5. by submitting the financial information according to the reporting instructions issued by the FIU; or
6. by submitting the completed financial information in writing by facsimile.
7. submit a Suspicious Transaction/Activity Report (hereinafter referred to as “STR/SAR”) to the Director either –
8. electronically, by a secure reporting system established by the FIU;
9. by submitting the completed STR/ SAR forms in writing by hand delivery or registered post; or
10. by submitting the completed STR/ SAR forms in writing by facsimile.
11. Under *the ATA*, I/we am/are required to:
12. Consult the UN 1267 List and the Consolidated List issued by the FIU (“the Lists”) to verify whether it has funds[[2]](#footnote-3) of any designated entity or listed entity. After consulting the Lists, if I/we know or have reasonable grounds to believe that a designated entity or listed entity has funds in Trinidad and Tobago, I/we will IMMEDIATELY WITHOUT DELAY report orally to the FIU the existence of funds suspected to be used for the financing of terrorism and complete and submit the Terrorist Funds Report (the “FIU TFR form”) attached as Appendix D.
13. If a designated entity or listed entity attempts to enter into a transaction or continue the business relationship, I/we will NOT enter into or continue the business transaction or the business relationship; and we will submit a STR/SAR to the FIU immediately.

**Under no circumstances wouldI/we enter into or continue a business transaction or business relationship with a designated or listed entity.**

1. Under the ATA and POCA I am/we are required to:
2. pay special attention to and report all business transactions between individuals, corporate persons and financial institutions in or from other countries which do not comply with, or who comply insufficiently with the recommendations of the Financial Action Task Force.
3. pay attention to and report to the FIU complex, unusual, or large transactions, whether completed or not, unusual patterns of transactions and significant but periodic transactions which have no apparent economic or visible purpose;
4. examine the background and purpose of all transactions which have no economic or visible legal purpose and make available to the FIU written findings after its examination where necessary; and
5. in the event that I/we know or have reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism, make a suspicious transaction, or a suspicious activity report to the FIU in the forms as set out in the Third Schedule to POCA.

**The fact or contents of reports to the FIU WIll not be disclosed to anyONE OTHER THAN THE FIU.**

**The Offences are summarized in AppendicesA.1 and A.2.**

**Risks**

**Factors Affecting Risks**

The extent to which a relationship will expose me/us to such risks as reputational, legal and operational will depend on factors including the following:

1. the identity of the client;
2. the occupation of the client;
3. the nature and type of client;
4. the commercial rationale for the relationship;
5. the geographical location of the client’s residence;
6. the geographical location of the client’s business interests/and or assets;
7. the value of the assets concerned in the relationship;
8. the nature of the assets concerned in the relationship;
9. the need for any delegated authority e.g. powers of attorney or missed boards;
10. the source of funds,
11. the client’s source of wealth; and
12. the role of any introducer and the introducer’s regulated or professional status.

I/We/The firm will from a prudential perspective, routinely consider the risks that all of their existing and future client relationships expose them to and the manner in which those risks can be limited. To do this, I/we/the firm must know my/our clients with reference to the documented Customer Due Diligence (CDD) information. If I/we/the firm do/does not know my/our clients I/we will not be in a position to be able to recognise and manage the risks inherent in the relationship.

High risk activities lie in conveyancing transactions such as purchasing and selling real estate and the grant of mortgage loans.[[3]](#footnote-4)

[*here YOU HAVE TO STATE YOUR/the firm’s assessment ofHIGH RISK CLIENTS, ACTIVITIES AND SERVICES. For example:*

1. ***Clients****- High Risk Clients include –Politically Exposed Persons (PEPs), non-resident clients , non-face to face clients; where the client comes from a Jurisdiction identified by the FATF Sufficiently Compliant with its recommendations; from a Country in which it is known or suspected that the production or transportation of illegal drugs maybe taking place, from a Country with known or suspected terrorist activities, etc*
2. ***Services****- High risk services include cash intensive clients/ complex transactions, conveyancing, debt collection, etc.*
3. ***Activities –*** *High risk activities include company formation, provision of nominee shareholders, trust, etc.*

*State at what stage are you/the firm most vulnerable to ML eg placement, layering or integration and to FT.*

*State whether you have and what is the limit for cash receipts.]*

**Red Flag Indicators**

There are a number of transactions that should raise my/our suspicion and that should lead to further information being sought from an applicant prior to entering into or continuing a business relationship. Such transactions include:

1. transactions carried out on behalf of minors, incapacitated persons or other persons who appear to lack economic capacity to make such purchases;
2. transactions involving persons who are being tried or have been sentenced for a crime/ crimes or who are publicly known to be linked to criminal activities involving illegal enrichment, or there are suspicions of involvement in such activities and that these activities may be considered to underlie money laundering/financing of terrorism;
3. transactions involving persons who are in some way/manner associated with the foregoing persons for example where they share an address or have the same representatives or attorneys;
4. several transactions involving the same party or those undertaken by groups of persons who may have links to one another (for example, family ties, business ties, persons of the same nationality, persons sharing an address or having the same representatives or attorneys etc; and
5. individuals who unexpectedly repay problematic loans or mortgages or who repeatedly pay off large loans or mortgages early, particularly if they do so in cash.

**Client Due Diligence Measures**

I/We are required to know the identity of my/our clients as well as the purpose for which the business relationship was/is being established.

Client identification and verification would be completed:

1. before establishing a business relationship or
2. before completing a transaction of TT$90,000 and over for occasional customers or
3. before completing two or more linked transactions which together totals TT$90,000 or more
4. before completing a transaction for a non‐resident customer.
5. Single Wire transfer of TT$6,000.00 and over or wire transfers which are linked and together total TT$6,000.00 or more

I/We will adopt the following “know your customer” measures in determining whether to establish a business relationship or complete a transaction.

1. **Natural Persons (Individuals)**
2. I/employees/partners/associates shall on initiating a business relationship or transaction with an individual obtain relevant identification records of that applicant as follows:
3. Full name of the applicant (s);
4. Permanent address and proof thereof;
5. Date and place of birth;
6. Nationality;
7. Nature and place of business/occupation where applicable;
8. Occupational income where applicable;
9. Signature;
10. Purpose of the proposed business relationship or transaction
11. Source of funds for the transaction; and
12. Any other information deemed appropriate by my practice.
13. A valid passport, national identification card or driver’s licence shall be proof of identification and shall also be obtained or examined by me/us or any member of my/our staff. Copies of the identification documents are to be kept on file.
14. Where the business relationship involves a foreign customer a reference shall be sought from the foreign customer’s bank or other reputable institution. Copies of the identification documents are to be kept on file.– with notarisation/certification of said copies.
15. Where original documents are not available, copies shall be acceptable only where they are certified by identification by a suitable certifier e.g.: a Notary Public, an Attorney-at-Law, Judicial Officer, Head Consular Officer or a person known to myself/senior partners/associates.

The client identification checklist must be used in each transaction conducted by my/our staff and/or employees. See the attached checklist in **Appendix E**.**1.**

1. **Non-Natural Persons (Companies/Firms/Organisations)**
2. I/employees/partners/associates shall, on initiating a business relationship or transaction with a business applicant, identify and verify the entity’s identity, legal status and the nature of its business. I/we will obtain relevant identification records of the directors and senior officers of a company, partners of a partnership, account signatories, beneficial owners and sole traders by means of documentary evidence in the same manner as set out in relation to Natural Persons in the form set out in **Appendix E**.**2.**
3. In addition, to the extent relevant to a proposed business relationship or transaction all staff and/or employees shall obtain-
   * 1. the Certificate of Incorporation or Certificate of Continuance;
     2. the Articles of Incorporation;
     3. a copy of the by-laws, where applicable;
     4. management accounts for the last three years for self-employed persons and business which have been in operation for more than three years; and
     5. information on the identity of shareholders holding more than ten per centum of the paid up share capital of the company.
   1. In the event that an applicant for business cannot satisfy the requirements of clause (2) (d), I/employees/partners/associates may request other forms of proof of the integrity of the source of funds to be used for the transaction.
   2. (i) Where an applicant for business is a trustee, nominee or fiduciary customer, in addition to the requirements outlined in relation to Natural Persons, either myself/a partner or associate or any member of my/our staff shall obtain the following information:
      1. evidence of the appointment of the trustee by means of a certified copy of the Deed of Trust;
      2. the nature and purpose of the trust; and
      3. verification of the identity of the trustee.
   3. In this regulation, “trustee” includes the settler, protector, person providing the trust funds, controller or any person holding power to appoint or remove the trustee.
   4. Where there is a beneficial owner who is NOT the customer, I/we verify his/her identity so I am/we are satisfied that I/we know who is the individual or person who is the intended beneficiary of the transaction.

The beneficial owner is the person who owns or controls an account or who exercises ultimate control over a company or legal arrangement or who benefits from the transaction

1. **Politically Exposed Persons**
2. A “politically exposed person” means a person who is or was entrusted with important public functions in Trinidad and Tobago or a foreign country such as:
3. a current or former senior official in the executive, legislative, administrative or judicial branch of government, whether elected or not;
4. a senior official of a major political party;
5. a senior executive of a government-owned commercial enterprise;
6. a senior military official;
7. an immediate family member of any of the persons mentioned above meaning the spouse, parents, siblings or children of that person and the parents, siblings and additional children of the person’s spouse; and
8. any individual publicly known or actually known which I know to be a close personal or professional associate of the person mentioned above.
9. I, all staff and/or employees shall on initiating a business relationship or transaction with an applicant who is a foreigner, obtain, in addition to the relevant identification records of that applicant as set out in relation to Natural Persons, information as to whether that applicant falls within any of the categories of persons set out at clause (1) above.

[*Include in the Client identification checklist a question whether the client or key persons in the business fall into any one of the categories at (1) above.*

1. [State here that paragraph (1) also applies to a domestic PEP and paragraph (2) obligations also apply to a domestic PEP]
2. Where an applicant for business is found to be a politically exposed person, my/senior partner/management’s permission is required before establishing a business relationship with that applicant.
   1. Where an applicant is found to be a politically exposed person, reasonable measures shall also be taken to determine source of wealth/funds and enhanced on-going monitoring will be conducted once a business relationship has been established.

**Monitoring of Business Relationship**

My/our staff and/or employees should look for transactions that do not appear to bear any relation to the value of the real estate that is being transferred.

Transactions where a client purchases real estate and then immediately sells it for a sum that is greatly in excess of its value should be immediately reported to the Compliance Officer.

A Source of Funds Declarations Form is to be completed for all transactions in excess of TT$60,000.00 or wire transfers in excess of US$10,000.00.Wire transfers, both domestic and cross-border, are also subject to due diligence**. (See Appendix F)**

***[Confirm cash threshold for transactions]***

**Due diligence for cross border business:**

* **Personal Customer Due Diligence**

Where original documents are not available, copies shall be acceptable only where they are certified by identification by a suitable certifier e.g.: a Notary Public, an Attorney-at-Law, Judicial Officer, Head Consular Officer or a person known to myself/senior partners/associates. Picture identification only will be acceptable.

* **Business Customer Due Diligence**

I/my employees/partners/associates will not transact business unless all relevant documentation for corporate accounts are obtained and verified with the Companies Registry. The identity of the directors, partners, sole traders, officers, account signatories and beneficial owners shall be verified by obtaining at least one (1) piece of picture identification and “in person” meetings.

**Enhanced Due Diligence (EDD) Measures**

* **EDD to be taken for complex, unusual or large transactions of $90,000.00 and over;**
* **EDD to be taken in relation to transactions with persons from countries that do not sufficiently comply with the Financial Action Task Force (FATF)**

In addition to the measures adopted for due diligence for cross border business, I/we will not transact business with persons from countries that do not sufficiently comply with the FATF unless my/our staff and/or employees receive from that person’s bank:

1. a history of the bank’s relationship with the applicant certified by a senior official of that bank;
2. a declaration from that bank signed by a senior official that the applicant has sufficient funds in his account to cover the transaction; and
3. a declaration from that bank signed by a senior official stating there have been no unusual transactions in relation to the applicant’s account(s) at that bank.

* **High Risk Clients or Business**

*[State here the EDD measures which will be taken for the HIGH Risk clients/business identified above e.g. my/ senior/partner/management consent before establishing the relationship; verification of identification; documentary evidence of the source of funds; .]*

**[*State here Persons with whom I/we will NOT do business***

***[State here all the persons with whom you will not do business under any circumstances eg.***

* ***Where the client comes from a Jurisdiction identified by the Financial Action Task Force (FATF) as Non‐Compliant]***
* ***where satisfactory evidence of the identity of the Customer cannot be obtained i.e. there may be persons who do not satisfy my/our CDD measures***
* ***With shell banks***
* ***With anonymous accounts***
* ***For Persons designated as terrorist entities by the Security Council of the United Nations (“the UN List”).***
* ***Persons on the FIU consolidated list***

**I/We will consult The FATF List and UN List which are available on the FIU’s Website.**

**Retrospective due diligence**

**CDD must be conducted periodically on all existing customers. *[The appropriate time frame should be that agreed upon by the LATT].* Enhanced ongoing monitoring is also required in all high risk situations identified above.**

**Internal Suspicious Activity/Transaction Reporting**:

If an employee has reason to suspect a suspicious activity or transaction:

1. the employee will report the suspicious activity or transaction **immediately** to the me/the Compliance Officer via the form set out in **Appendix G**.
2. the employee shall **not** inform any client or person of the filing of the STR/SAR at the FIU. Any disclosure to such client or person is known as “tipping off” and is illegal. “Tipping off” includes actually informing the client or person orally or in writing of the intended filing of an STR/SAR at the FIU or any investigation into suspicious activity by the Compliance Officer or the FIU.
   * **Reporting Suspicious Transaction/Activity to the FIU**:
3. I/the Compliance Officer will investigate the internal suspicious transaction/ activity thoroughly.
4. If I/the Compliance Officer has reason to suspect a suspicious activity or transaction, I/the compliance officer will report the suspicious activity or transaction within fourteen (14) days to the FIU in the form in **Appendix H.**
5. Any transaction where there are reasonable grounds to suspect that it is related to the financing of terrorism must be reported to the FIU within fourteen (14) days in the form in **Appendix H**;
6. If I/ the Compliance Officer know or suspect that a designated or listed entity has funds within my/our business I/ the Compliance Officer shall immediately report it to the FIU in the TFR attached as **Appendix D**

If a designated entity or listed entity attempts to enter into a transaction and I/the Compliance Officer will submit a STR/SAR to the FIU in the form in **Appendix H**.

1. I/ employees/partners/associates am/are required to co-operate fully with the FIU or such other person(s) as may be appointed in any investigation relating to a transaction or client(s); and
2. A record will be kept of all internal reports to management and reports made to the FIU by the Compliance Officer in electronic format and or physical file.
3. The contact details of the FIU are as follows:

The Director

The Financial Intelligence Unit of Trinidad and Tobago

Level 25, Tower D

International Financial Complex

1A Wrightson Road

Port of Spain

Trinidad, West Indies

Tel: 1 (868)-625-8351

Fax: 1 (868) 627-7018

Website: [www.fiu.gov.tt](http://www.fiu.gov.tt)

Email: [fiu@gov.tt](mailto:fiu@gov.tt)

1. **THE COMPLIANCE OFFICER**

The Compliance Officer is the liaison between my/our practice and the FIU. My practice comprises 5 or less persons and therefore I am the Compliance Officer/A Compliance Officer who is senior partner/ management has been appointed by the firm. The identity of the Compliance Officer must be treated with the strictest confidence by my/our employees.

The Compliance Officer has the duty to:

* 1. keep the following registers:
     + a register of enquiries made by law enforcement authorities,
     + a register of suspicious transaction/activity and suspicious activity reports, TFR submitted to the FIU;
     + a register and training materials of AML/CFT training received by staff, which includes date, signatures of trainer and trainees.
  2. monitor the FATF’s list of Non-Cooperative Jurisdictions and High Risk Jurisdictions, UN 1267 list and consolidated lists issued by the FIU.

1. ensuring that the necessary compliance programme procedures and controls are in place and are being followed;
2. receiving and reviewing SARs/ STRs made by my/our employees and report same to the FIU; and
3. co-ordinating and monitoring the implementation of the compliance programme to ensure continuous compliance.
4. Transaction Monitoring to ensure that the activity fits in with customer profile
5. Provide training to all junior and senior level staff in performing their duties under the AML/CFT obligations and equip them to understand the techniques for identifying any suspicious transactions or suspicious activities.

**Specific Reporting Obligations of the Compliance Officer:**

* + 1. to ensure that the STR/SAR is in the form prescribed in the Third Schedule of POCA. See **Appendix H**.
    2. to forward reports to the FIU within fourteen (14) days of the date on which my/our office knew or had reasonable grounds to suspect that the funds used were the proceeds of money laundering or the financing of terrorism;
    3. the duty to cooperate with FIU;
    4. the duty to report both complete and incomplete or declined business;
    5. the submission of a STR/SAR if there is reasonable belief that funds are being used for terrorist activities.
    6. The duty to submit TFR immediately to the FIU. **See Appendix D**

**RECORD KEEPING**

Regulations 31 and 32of FOR impose an obligation on me/us to retain records of all domestic and international transactions as well as identification data obtained in the due diligence process in order to comply with requests for information from auditors or other relevant authorities for the purposes of criminal investigations or prosecutions. This time may be extended at the request of the FIU.

The records will be kept in any format specified by the FIU. The records should contain sufficient details so as to permit reconstruction of the transaction(s) and make available to the FIU at its request.

Records must be kept of (a) all domestic and international transactions including wire transfers , and (b) identification data obtained through client due diligence. Record keeping will include details of the transaction such as the amount and type of currency used in the course of a business relationship or one-off transaction, evidence of identity.

A register of all enquiries made to my/our practice by local or foreign law enforcement authorities is also to be maintained, separate from other records.

Records must be kept for a period of six (6) yearsand as well for a period of 6 years after the relationship has ended,

*[State whether records will be kept electronically/hard copies and stored offsite at…./onsite in secure Cabinet…]*

***[STATE who will have access to the records- it should be the Compliance Officer]***

**AML/CFT TRAINING**

I/ employees/partners/associates are to be made aware of their individual responsibility to ensure that work undertaken on behalf of a client(s) does not facilitate money laundering or financing of terrorism.

I will keep myself/employees/partners/associates in my/our AML/CFT obligations as contained in this Compliance programme and in the AML/CFT laws.

*[State who will be trained, how often and that a register/record/training documents will be kept by the Compliance Officer of the training received]*

I/employees/partners/associates will be trained to identify and record the following indicators or risk factors of a SAR/STR. This list is not exhaustive and will be reviewed periodically.

Suspicious transactions indicators

* Client makes a statement or admission about involvement in criminal activity.
* Client is accompanied and watched.
* Client appears to have accounts with several financial institutions for no apparent reason.
* Client is unusually curious about internal security controls.
* Client is vague or ambiguous about the transaction.
* Client insists that transaction be completed quickly.
* Clients contact details [e.g. telephone number, address] change frequently.
* Client offers additional money, gifts or other inducement for the provision of services.
* Client is unusually knowledgeable about money laundering issues and the law relating to same.
* Client is reluctant to comply with due diligence procedures.
* Client uses cash for large transactions in which cash is not normally used.
* Pattern of client business changes from the usual activity.
* Client engages in transaction which appears not in conformity with his apparent financial standing.

**See further indicators at page 8 of Appendix C**

I/my employees/partners/associates will be mandated to report in writing any suspicious activity or transaction to the Compliance Officer.

Notes of the suspicious activity or transaction or any assumptions regarding same must not be kept on the client’s file or disclosed to the client or any person other than the Head of Department/Compliance Officer. Failure to comply may constitute “tipping off” for which I/ the employee will be individually responsible.

**REVIEW OF COMPLIANCE PROGRAMME**

**Internal Review**

This Compliance Programme will be reviewed periodically and at least once annually by the Compliance Officer. A revised Compliance Programme will be submitted to the FIU every two (2) years unless directed otherwise by the FIU.

**External Review**

An external audit of the Compliance Programme will be conducted annually and a written report shall be submitted to me/the senior partners which shall be submitted to the FIU.

**Independent Internal Audit**

An independent internal audit shall be conducted annually and a written report shall be submitted to the Compliance Officer.

1. An attorney-at-law involved in any one or more of these areas, that is to say, an attorney-at-law is accountable when performing the following functions on behalf of a client:

   *(a)* buying and selling of real estate;

   *(b)* managing of client money, securities and other assets;

   *(c)* management of banking, savings; or

   *(d)* organisation of contributions for the creation, operation or management of companies,

   legal persons or arrangements;

   *(e)* buying or selling of business entities. [↑](#footnote-ref-2)
2. Funds include property and assets of any kind - section 2 of the ATA. [↑](#footnote-ref-3)
3. It is to be noted that under the First Schedule of POCA, Listed Business describes “Real Estate” as one of the types of business caught by POCA with this description:

   “Any natural or legal person, partnership or firm carrying on the business of buying, selling or

   leasing land and any interest in land or any buildings thereon and appurtenances thereto.”

   Therefore any attorney-at-law who is involved in this activity/type of business as well would come within the ambit of the First Schedule of POCA. [↑](#footnote-ref-4)