

FTR Act & You

How Private is Your Personal Information

National Anti-Money Laundering Conference

18 February 2009

Holiday Inn, Suva

Razim Buksh
Director Financial Intelligence Unit

Overview

- ✓ **Concerns Regarding Privacy of Personal Information**
- ✓ **Functions, Duties & Powers of the FIU**
- ✓ **Overriding of Secrecy**
- ✓ **Access and Use of Information by the FIU**
- ✓ **Protection & Security of Information**
- ✓ **Why is FIU Concerned**

Is my Personal Information Protected?

Some Concerns of a Citizen

- **“When I am born in this world till the time I enroll into the schooling system, till I get married and even till I die, at some point in life, my personal details are captured by the Government, the Private Sector including my bank account details”.**
- **How do I ensure that the information I provide is used by the agency only whom I provide the information to?**
- **Who gives them the right to share the information with another agency?**
- **I don't remember signing any agreements for my information to be shared to another agency....?**

No More Privacy for Individuals!

A Concerned Citizen

Fiji Sun:

15 January 2008

“I began to get a little worried – not that I’m involved in dodgy deals, but I’m interested to know how and who gave such an institution a powerful mandate to be able to delve into the private lives of people”.

By Rizwan Ud Dean



No More Privacy for Individuals!

A Spy Agency!



FijiFIU
Fiji Financial Intelligence Unit

State sets up money spy unit

By ROBERT MATAU

A NEW Financial Intelligence Unit (FIU) has been set up to monitor and counter money laundering and financing of terrorism.

FIU will be housed at the Reserve Bank of Fiji until the enactment of a proposed Financial Transactions Reporting Act which would establish the FIU by law.

Two officers on secondment from RBF and the Fiji Police Force will staff the FIU.

The Ministry of Justice, RBF, Director of Public

Prosecutions and the police force yesterday signed a memorandum of agreement to establish an interim unit before the necessary laws are enacted to establish a formal unit.

A joint statement from the four organisations said the establishment of the FIU was in response to Fiji's obligations under UN Special Resolution 1373 and the recommendations of the Financial Action Task Force—the international standard setting body in the area of countering money laundering and financ-

ing of terrorism.

"Fiji is committed to working towards meeting international standards in this area," they said.

"The FIU will be the central agency in Fiji responsible for receiving, analysing and disseminating to the relevant law enforcement authorities suspicious transaction reports and other financial information concerning suspected proceeds of crime and other related serious offences in order to counter money laundering and the financing of terrorism in Fiji.

"Prior to this agreement,

financial institutions were required to submit suspicious transaction reports to the Fiji Police Force and the Director of Public Prosecutions and the Reserve Bank of Fiji separately.

"The handling of the suspicious transaction reports and other financial information by the FIU is expected to make Fiji's anti-money laundering regime more efficient in the way that the other relevant authorities within this regime would be able to dedicate their resources more effectively to their respective functions."

THE FIJIAN TIMES — TUESDAY JULY 15, 2003

Invasion of Privacy?

Fiji Islands Business Magazine:

January 2009

“Such wide powers to information access by one organisation can easily be construed as an invasion of privacy”.

Is there a line between one's personal information and what could be used by the FIU in an investigation?

- Or is there even any such thing as privacy in a set up such as this?**

Invasion of privacy?

Such wide powers to information access by one organisation can easily be construed as an invasion of privacy. Is there a line between one's personal information and what could be used by the FIU in an investigation? Or is there even any such thing as privacy in a set up such as this?

“Well, everything is done within the ambit of the legislation and the FTR Act is a very comprehensive piece of legislation which establishes the FIU and provides a lot of other operational machinery for combating money laundering and other financial crimes,” said Buksh.

“This legislation makes it mandatory for each and every customer, whenever they go and do a financial transaction to give some information to the financial institution before the actual transaction takes place.

“That information is confidential between the client/customer and the institution. Now the FIU has direct access to these information should we suspect that the person or the transaction may be involved in proceeds of crime or any other serious offence.

“We cannot just go in to ask and collect these personal and confidential information if we have no reason to believe that the person and transaction is suspicious. So that's the proviso.

“We would be committing an offence under the FTR Act if we were to go and start asking unnecessary information about a client that we don't have any interest in. So there is that level of protection of financial information.”

And in case you may be wondering how many of the “suspicious transactions” reported to FIU actually end up in successful investigation and prosecutions, this happens to be very strictly confidential and is not information the FIU can disclose.

FB

Magazine, January 2009

FIU: Duties & Powers

Established under Part 4 of the FTR Act

Provides mandate and powers of FIU

Executive Authority of the FIU vested to the Director FIU

Custodian of reportable suspicious, financial and border currency transaction reports

Power to demand information from financial institutions

AML Regulator and Supervisor (power to issue guidelines, directives, conduct examinations)

Powers to enforce compliance

Powers to enter into information exchange MOU's with domestic and foreign agencies

FTR Act & You

FTR Act: Part 4 - Section 25 (Access of Information)

The FIU may:

- **COLLECT** information, whether or not publicly available,
 - including commercially available databases;
 - including information that is stored in databases maintained by government;
- **OBTAIN** information on parties or transactions reported to the FIU;
- **REQUEST** information from any government agency, LEA, and supervisory agency without charge for the purpose of FTR Act;
- **INSTRUCT/request** financial institutions to give any further information.



FTR Act: Section 37.

Overriding of Secrecy

A financial institution (including Lawyers & Accountants) must comply with the requirements of the FTR Act notwithstanding any obligation as to secrecy or other restriction on the disclosure of information by any written law or otherwise.

Why is anyone interested in your personal information!

- ✓ **To confirm who you really are;**
- ✓ **To establish ownership of property;**
- ✓ **To prove your citizenship;**
- ✓ **To indicate relationships (parent, spouse, children, sibling, etc.);**
- ✓ **To gain access to premises;**
- ✓ **To cross borders;**
- ✓ **To open bank accounts;**
- ✓ **To conduct financial transactions and trade;**

Why is anyone interested in your personal information?

**It may be a statutory
requirement**



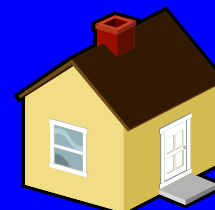
Access to Your Personal Information

- ✓ **Bank Account Details**
- ✓ **BDM Records**
- ✓ **Passport Records**
- ✓ **Travel History Records**
- ✓ **FNPF Details**
- ✓ **Investment Details**
- ✓ **Tax Records**
- ✓ **Company Records**
- ✓ **Criminal Records**
- ✓ **Property Ownership Records**



Bank Account Details

PASSPORT



Residential/Business Address



Business/Company Records



I.D.

Identification Document

D.O.B.

Date of Birth



FNPF Membership

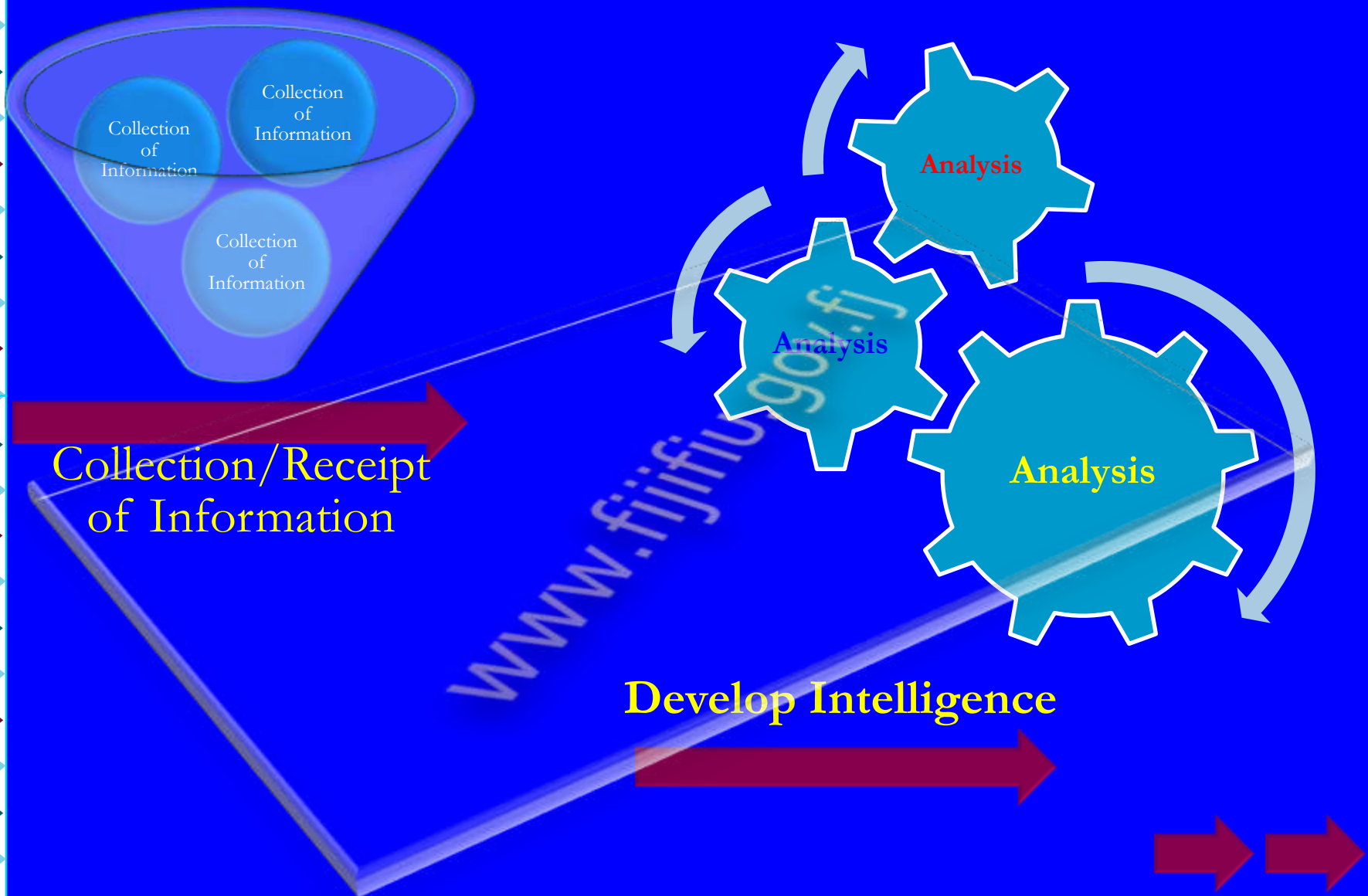


Other FI Details

Access to Your Personal Information

- ✓ **Over 400,000 bank account records**
- ✓ **Millions of annual financial transactions**
- ✓ **Over 1 billion historical financial transaction data**
- ✓ **Over ½ million passport records**
- ✓ **Over 50,000 visa records**
- ✓ **Over 150,000 motor vehicle registration records**
- ✓ **Personal records (BDM) of 837,271 people**
- ✓ **FNPF member records of almost half the population**
- ✓ **Over ½ million annual visitor arrival information**
- ✓ **Investments, Tax, Company records & other records**

Permissibility to Disseminate Information



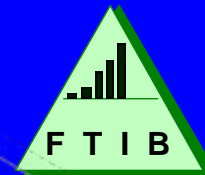
Permissibility to Disseminate Information

DISSEMINATION

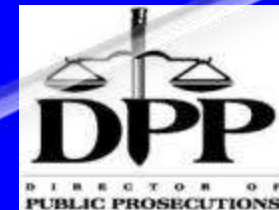
“The FIU may: refer any matter or any information derived from any report or any other **information it receives to the appropriate law enforcement or supervisory authorities, both domestic and foreign**, if having considered the report or information, the Unit has **reasonable grounds** to suspect that the transaction or **information is relevant to the investigation or prosecution of a money laundering offence, terrorist financing or a serious offence.**”



Transnational
Crime Unit
(TCU)



FICAC



Other LEAs

Permissibility to Disseminate Information

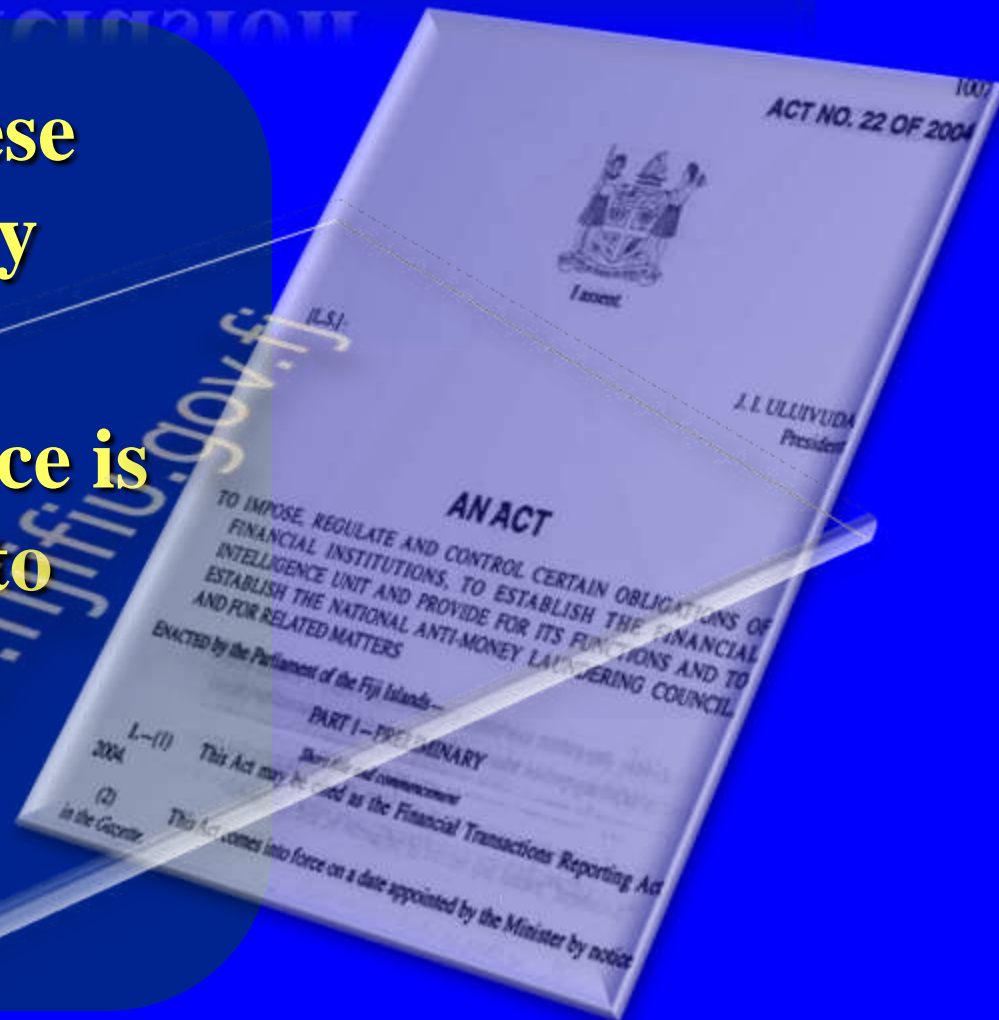
- Subject to Strict Confidentiality & Caveat;
- Subject to Strict Restriction of the use of information;
- In the administration or discharge of powers, duties or functions of the FTR Act;
- Done in Good Faith
- Intelligence only, **NOT** Evidence!
- Information not disclosed in original form;
- “Information not be disclosed without the express consent of the FIU”;
- “Disclosure of Information is necessary in the interest of justice”;

Permissibility to Disseminate Information

- 30.-(1) This Section applies to a person while the person is or after the person ceases to be Director, Officer, Employee or Agent of the Unit
- (2) Except for the purpose of the performance of his or her duties or the exercise of his or her functions under this Act or when lawfully required to do so by any court, the person referred to in subsection (1) must not disclose any information or matter which has been obtained by him or her in the performance of his or her duties or the exercise of his or her functions under this Act or which he or she has knowledge except for one or more of the following purposes:-
- a) The detection, investigating or prosecution of a serious offence, a money laundering offence or an offence of the financing of terrorism;
 - b) The enforcing of the Proceeds of Crime Act 1997 and legislation relating to money laundering and financing of terrorism

Conclusion

- ✓ Investigations these days are driven by intelligence
- ✓ Quality intelligence is subject to access to information
- ✓ Information is protected by law



www.fijifiu.gov.fj

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