



Guideline 8

Financial Transactions Reporting Act

This Guideline is an enforceable instrument issued pursuant to the powers of the Financial Intelligence Unit under the Financial Transactions Reporting Act No.22 of 2004 [Section 25.1.j FTR Act & Regulation 35 and 37 FTR Regulations].

AML Compliance Obligations of Real Estate Agents and Businesses

1 INTRODUCTION

- 1.1 The Financial Transactions Reporting (FTR) Act and Regulations applies to real estate agents and businesses¹ when providing services to clients in relation to the buying or selling of real estate.
- 1.2 The objective of this Guideline is to provide guidance to real estate agents and businesses on their obligations under the FTR Act and Regulations.
- 1.3 This Guideline may also be used by real estate agents and businesses as a basis for developing their internal procedures, policies, systems and controls on anti-money laundering (AML) and combating the financing of terrorism (CFI).

2 OBLIGATIONS UNDER THE FTR ACT AND REGULATIONS

- 2.1 Real estate agents or businesses are obligated under the FTR Act and Regulations to:
 - i. identify and verify its clients;
 - ii. establish source of funds;
 - iii. monitor clients' transactions;
 - iv. maintain proper clients records;
 - v. report suspicious transactions and suspicious clients to the Financial Intelligence Unit (FIU);
 - vi. report cash or bank cheque transactions of \$10,000 and above to the FIU;
 - vii. provide staff with training and awareness on AML policies and procedures;
 - viii. put in place internal policy and procedures on AML; and

¹ Real estate agents or businesses are a category of Designated Non-Financial Businesses and Professions (DNFBPs) and are included in the definition of "financial institution" that are covered by the FTR Act as specified in the Schedule of the FTR Act.

- ix. put in place other control measures such as appointing an AML Compliance Officer, etc.

3 DEVELOPING AN INTERNAL POLICY ON OBLIGATIONS UNDER THE FTR ACT

- 3.1 Real estate agents or businesses' should have clear and documented internal procedures, policies, systems and controls which incorporate the requirements of the FTR Act, FTR Regulations and any FIU issued policies and guidelines.
- 3.2 The procedures should clearly outline the steps or processes that staff must take or follow in order to comply with the specific requirements of the FTR Act.

4 CLIENT IDENTIFICATION AND VERIFICATION/ CLIENT DUE DILIGENCE

- 4.1 Real estate agents or businesses must identify all its clients and verify its clients' identities using reliable and independent source documents. They must also ensure that client engagement files are opened and maintained in the true name of clients.
- 4.2 These client identification or client due diligence (CDD) measures must be applied on a risk based approach by first assessing the level of money laundering or terrorist financing (ML/TF) risks of their clients upon first engagement.

5 RISK BASED APPROACH

- 5.1 Real estate agents or businesses must first identify the following categories of clients:
 - i. Natural person (domestic or foreign);
 - ii. Company;
 - iii. Trust;
 - iv. Beneficial owners of companies and trusts; and
 - v. Politically Exposed Persons (PEPs).
- 5.2 Once the clients are identified, the type or level of risk of that client must be established. For detailed requirements on how to assess ML/TF risks, refer to FIU Policy Advisory 5/2007.
- 5.3 If the risk assessment determines that the client or business engagement presents a high risk for ML/TF, the real estate agent or business must perform enhanced CDD.
- 5.4 For high risk clients, the following details should be obtained by collecting and verifying to reliable and independent source documents (for natural person):
 - i. Name of the client. This should be the true name of the client;
 - ii. Date of birth;
 - iii. Permanent residential address in Fiji. This should be a physical address and not a postal address;

- iv. Occupation including name of the employer or if the client is self-employed, the nature of self-employment or business;
 - v. Source of funds, in particular what is the normal source of fund or income for the client e.g. salary, rental income, pension etc. Some clients, such as the unemployed or minors, will have no regular source of income;
 - vi. Citizenship; and
 - vii. Specimen signature.
- 5.5 If the risk assessment determines that the client or business engagement presents a low risk for ML/TF, the real estate agent or business can perform simplified CDD.
- 5.6 For low risk clients, the following minimum details should be obtained by collecting and verifying to reliable and independent source documents (for natural person):
- i. Client's name;
 - ii. Client's permanent residential address in Fiji; and
 - iii. Client's occupation.
- 5.7 For detailed requirements on CDD, refer to FIU Enforceable Guideline 4 and Enforceable Guideline 7.

6 ESTABLISH SOURCE OF FUNDS

- 6.1 When conducting client identification and verification, the real estate agent or business needs to obtain information about a client's source of funds and to verify this information to reliable and independent source documents or other evidence.
- 6.2 For detailed requirements on establishing source of funds, refer to FIU Policy Advisory 1/2019.

7 MONITOR CLIENT'S TRANSACTIONS

- 7.1 Real estate agents or businesses must gather and maintain client information on an on-going basis and monitor transactions on an on-going basis.
- 7.2 On-going monitoring of a business engagement means:
- monitoring transactions throughout the course of the client engagement to ensure that the transactions are consistent with the knowledge of the client and the client's business and risk profile;
 - monitoring to identify complex or unusually large transactions, and unusual patterns of transactions which can be reported as suspicious; and
 - reviewing existing documents and information to ensure that they are relevant, sufficient, and up-to-date for the purpose of applying CDD measures.
- 7.3 Monitoring of clients' transactions may lead to the identification of suspicious transactions, activities or clients.

7.4 For the list of considered suspicious indicators or transactions, refer to the Appendices in FIU Enforceable Guideline 1.

8 MAINTAIN PROPER CLIENT RECORDS

8.1 The real estate agent or business must establish and maintain records of:

- a clients' identity and transactions conducted;
- all reports made to the FIU; and
- any enquiries made to your business by the FIU or a law enforcement agency.

8.2 All records must be kept for a minimum period of 7 years from the date a client file is closed.

8.3 For detailed requirements on record keeping, refer to the FIU Policy Advisory 7/2007.

9 REPORT SUSPICIOUS TRANSACTIONS AND CLIENTS

9.1 The real estate agent or business must report to the FIU any suspicious transaction including any attempted suspicious transaction.

9.2 The suspicious transaction must be reported to the FIU, within 2 working days of forming a suspicion.

9.3 If a staff or sales agent identifies a suspicious transaction, activity or client, they should:

- i. report their suspicion immediately to the Anti-Money Laundering Compliance Officer (AMLCO);
- ii. not “tip-off” the client, and
- iii. not discuss with any other staff or agent that they have reported a suspicious transaction report (STR).

9.4 STRs can be reported to the FIU via the online reporting system, ODDS.

9.5 For detailed requirements on suspicious transaction reporting, refer to FIU Enforceable Guidelines 1 and 2.

10 REPORT CASH AND BANK CHEQUE TRANSACTIONS

10.1 The real estate agent or business must report to the FIU any transaction involving cash or bank cheque of \$10,000 and above.

10.2 The cash or bank cheque transaction must be reported to the FIU within 5 working days from the date of the transaction.

10.3 Cash transaction reports (CTRs) can be reported to the FIU via the online reporting system, ODDS.

10.4 For detailed requirements on cash transaction reporting, refer to FIU Enforceable Guideline 3.

11 AML TRAINING AND AWARENESS

- 11.1 The real estate agent or business must train its staff and agents to recognize suspicious transactions. It must establish ongoing staff training to ensure that staff are kept informed of new developments, including –
- a) information on current money laundering and financing of terrorism techniques, methods and trends; and
 - b) requirements concerning client due diligence and suspicious and other transaction reporting.
- 11.2 Real estate agents or businesses can utilize forums organized by the FIU, FIU issued Policy Advisories, Enforceable Guidelines and the FIU website (www.fijifu.gov.fj).

12 ANTI-MONEY LAUNDERING COMPLIANCE OFFICER

- 12.1 The real estate agent or business must appoint an AMLCO who will be responsible for the real estate agents' or businesses' compliance with the requirements of the FTR Act and Regulations, FIU Directives and issued Policy Advisories or Enforceable Guidelines.
- 12.2 The real estate agent or business must inform the FIU of its nomination by providing to the FIU a completed AMLCO Nomination Form (Form 5).
- 12.3 The AMLCO is responsible for ensuring compliance and implementing the requirements of the FTR Act and Regulations, FIU Directives and issued Policy Advisories or Enforceable Guidelines.
- 12.4 The AMLCO must have sufficient authority to:
- access all necessary records in a timely manner; and
 - act independently and report to senior management.
- 12.5 The real estate agent or business should ensure that there is continuity in the reporting process in the absence of the AMLCO. This could be addressed by appointing another staff to assist the AMLCO.
- 12.6 The FIU must be informed if the AMLCO changes.

13 OTHER REQUIREMENTS

- 13.1 Staff Recruitment - Real estate agents or businesses must put in place screening procedures to ensure high standards when hiring staff or sales agents and to prevent the employment of persons convicted of offences involving fraud and dishonesty.
- 13.2 FIU Requests - The real estate agents or businesses should promptly and accurately respond to any request for information from the FIU.
- 13.3 Review of the internal procedures, policies, systems and controls - The real estate agent and business should periodically review its internal procedures, policies, systems and controls.

14 OVERSIGHT AND IMPLEMENTATION

- 14.1 The FIU and/or the relevant supervisory authority, in the course of its supervision, may assess the compliance of financial institutions with the requirements of this Guideline.
- 14.2 Non-compliance may result in sanctions as specified in section 43(2) of the FTR Act and regulation 42(2) and 42(3) of the FTR Regulations.
- 14.3 This Guideline is effective from 1 October 2019.

Financial Intelligence Unit
30 September 2019

Attached:

Appendix 1 AMLCO Nomination Form (Form 5)

Reference:

FIU Policy Advisory 5/2007 dated 22/06/2007
FIU Policy Advisory 7/2007 dated 11/07/2007
FIU Policy Advisory 1/2019 dated 20/09/2019
FIU Enforceable Guideline 1 dated 26/10/2007
FIU Enforceable Guideline 2 dated 26/10/2007
FIU Enforceable Guideline 3 dated 22/05/2009
FIU Enforceable Guideline 4 dated 20/08/2009
FIU Enforceable Guideline 7 dated 27/03/2018