



Financial Intelligence Unit,
Anguilla

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FIU ADVISORY

AML/CFT RED FLAGS IN RELATION TO LEGAL PROFESSIONALS

The Financial Intelligence Unit (“FIU”) provides the below Anti-Money Laundering and Countering the Financing of Terrorism (“AML/CFT”) red flags in relation to legal professionals in Anguilla. “Legal professionals operate within a wide range of business structures - from sole practitioners to large, multi-national firms and provide a variety of services in different jurisdictions. Given their diversity in scale, activities, and risk profile, there is, therefore, no one-size-fits-all approach”¹ that can be adopted to fulfill their AML/CFT obligations and general functions.

Upon on-boarding clients, a legal professional should seek to conduct a risk based assessment of the type of client, business or originated or operating jurisdiction to determine the level of risk being imposed in comparison to their risk appetite. A risk based approach which allows for the identification, assessment and understanding of the Money Laundering/Terrorist Financing (“ML/TF”) risk that the sector (legal professionals) is exposed to and what measures or mechanisms can be implemented to mitigate and manage such risks as they arise considering the resources that are readily available.

The identified red flags are categorized in the form of client risk factors, country/territory risk factors and business relationship with the client. The red flags provided herein can be considered on their own or in combination(s) as an indication of potential ML/TF activity. Legal professionals should undertake analysis of the expected financial activity, business profile and transactional patterns in addition to consideration of the red flags listed below to determine the level of risk a potential ML / TF activity that a client and or its transactions will pose to their business.

Client risk factors relates to the type of client on-boarded by the legal professional. Legal professionals should consider the following in relation to potential and existing clients:

- Where a non-resident client or resident client does not have an address or provides multiple addresses.
- When a client or beneficial owner is an international or domestic Politically Exposed Person (“PEP”) or close associate of any such individual.
- Where a legal person or in a legal arrangement holds personal assets such as property, motor vehicles, etc.

- When dealing with companies with nominee shareholders or bearer shares.
- When dealing with a business that is cash intensive.
- Where a client has previous criminal convictions involving fraud or dishonesty, especially for high-risk predicate offences.
- When a client who requests short-cuts and unexplained speed in the completion of a transaction(s).
- Where a client is overly secretive or evasive in providing requested information such as beneficial ownership, source of funds or source of wealth.
- Where a client is actively avoiding personal contact without good reason.
- Where a client is willing to pay fees without requirement for legal work to be undertaken (other than deposits as requested by you in advance of the work to be undertaken)

Country/territory risk factors as it relates to the type of client onboarded by the legal professional. Legal professionals should consider the following in relation to potential and existing client:

- Where a client is from or in any country or jurisdiction that the Financial Action Task Force (“FATF”) has listed as requiring AML/CFT countermeasures, monitoring or enhanced client due diligence measures.
- Where a client is from or in any country or jurisdiction known to have inadequate measures to prevent money laundering and the financing of terrorism.

The following risk factors related to aspects of a legal professional business relationship should be considered as identifiable red flags:

- The potential use of client account without underlying legal services provided.
- Where disputes are settled too easily without or with little involvement by the legal practitioner or law practice. This may be indicative of what is a *sham litigation*².
- Where a transfer of real estate between parties is pushed to be completed in an unusually short time period.
- There is an unexplained delegation of authority by the client using powers of attorney, mixed boards and representative offices.

- Accepting payments from client in actual cash (in the form of notes and coins) particularly if the amount is over the declaration threshold of ten thousand dollars United States currency (US\$10,000.00).
- Where a transaction relates to a country or jurisdiction that the FATF has listed as requiring AML/CFT countermeasures, monitoring or enhanced client due diligence measures.
- Where there is a request by the client for payments to third parties without a substantiating reason or corresponding transaction.
- Where a client has given instructions for the creation of complicated ownership structures without any reasonable legitimate or economic grounds.
- When a disproportionate amount of private funding is observed for the purchase of real estate/property which is inconsistent with the socio-economic profile of the client.
- If there is an absence of documentation to support the client's story, previous transactions or company activities.
- Where a client has abandoned transactions with no concern for the payment of the cancellation fee.
- Where the client is pushing through a loss-making transaction where the loss is avoidable.
- Unusually high levels of assets or unusually large transactions in relation to what might reasonably be expected of clients with a similar profile.
- Large cash payments made for purchase of interest in land whose value is far less, or the method of funding is unusual such as funding from a third party who is not a relative or known to the buyer, or there is an absence of any logical explanation from the parties why the property is owned by multiple owners or by nominee companies.

Dated: 25th August 2023

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