

Financial Intelligence & Investigation Unit

Overview of the Financial Intelligence Unit

The Government of Anguilla joined the global fight against international and domestic money laundering in 2000 by becoming a member country of the Caribbean Financial Action Task Force. Anguilla then implemented its first Anti-Money Laundering measures with the passing of the Proceeds of Criminal Conduct Act, 2000. This act was amended in 2004 and then in 2009, a more comprehensive act was enacted to address the deficiencies that were being experienced with the previous act. The new Proceed of Crime Act, 2009 (POCA, 2009) ensured that all of the global FATF 40 + 9 recommendations were covered and that the Proceeds of Criminal Conduct Act, 2000 was repealed.

Under POCA, 2009 the Money Laundering Reporting Authority (MLRA) was established and with authorization from the Governor of Anguilla, the MLRA delegated all its daily functions and responsibilities to a specialized unit within the Royal Anguilla Police Force (RAPF) called the Financial Intelligence Unit (FIU), with reporting responsibilities back to the MLRA Board of Directors only.

From a broad based perspective, FIUs offer law enforcement agencies around the world an important avenue for intelligence sharing. An FIU, quite simply, is a central office that receives financial reports concerning suspicious financial activities within a particular jurisdiction, then sets out to gather additional information from available sources, analyzes the information and then discloses it as intelligence to the appropriate government authority or law enforcement agency in support of a national anti-money laundering initiative. In cases where the analysis of the financial information does not support or warrant a money laundering or terrorist financing investigation, the matter is closed and filed.

FIUs have attracted increasing attention with their ever more important role in anti-money laundering and terrorist financing programs. They are able to provide a rapid exchange of information (between financial institutions and law enforcement/prosecutorial authorities, as well as between jurisdictions), while at

the same time protecting the interests of the innocent individuals contained in their data.

Anguilla's FIU is also a member of the international intelligence network known as the Egmont Group through which the FIU is able to communicate directly with other FIUs around the world for the purpose of sharing intelligence. Through the Egmont Group network, the FIU receives international requests for intelligence from foreign jurisdictions who are seeking information concerning ML or TF investigations that may have a nexus or connection to Anguilla. Conversely, the FIU also uses the Egmont Group network when requiring information and/or intelligence from foreign jurisdictions in furtherance of its own ML/TF investigations.

During 2010 the FIU has received, on average, three (3) new suspicious activity reports per month from across the financial services industry. This is down considerably from 2009 which was the year that Anguilla underwent its third round of mutual evaluation by the CFATF Mutual Evaluation team. During 2009 there was a lot of attention focused on the reporting of SARs and institutions responded knowing that it was important for the CFATF mutual evaluation team to see that Anguilla was receptive to the new legislation. However, beginning in 2010, the financial services industry appears to have become complacent and has slowed down considerably the numbers of SARs being reported to the FIU.

The SARs that are reported are coming from across the entire financial services sector as a whole with banks leading the way. Notwithstanding, there remains large gaps within the financial services industry concerning the reporting of SARs, in particular the company formation agencies, IBC management companies, law firms and the insurance industry.

As for the coming year 2011, the FSC in concert with the FIU personnel, will begin rolling out the new guidelines and regulations as it affects Designated Non-Financial Businesses and Professions across Anguilla. Most DNFBPs will discover, if they're not already aware, that they have a legal duty and responsibility to report all suspicious financial transactions to the FIU, otherwise they could be in breach of the POCA, 2009. The last thing the FIU wishes to do is bring criminal charges against any of our DNFBPs or financial institutions. The POCA, 2009

provides severe penalties for those institutions or DNFBPs who practice willful blindness or fail to have ML/TF compliance as the cornerstone of their business.

Overview of the Financial Investigation Unit

The Financial Investigation Unit in Anguilla is comprised of the same four (4) police officers who also perform the role of financial analysts on the Financial Intelligence Unit. Notwithstanding our very busy schedule we were still able to bring forward fourteen (14) money laundering charges during 2010 and continue to investigate several others along with several large financial crime investigations in Anguilla.

I should remind everyone here that the POCA, 2009 allows the police to bring money laundering charges in all cases where a person has benefitted from criminal conduct. POCA, 2009 states that “A person is guilty of an offence if he (a) conceals criminal property (b) disguises criminal property (c) converts criminal property (d) transfers criminal property or (e) removes criminal property from Anguilla.

Recently the High Court of Anguilla and Denmark ordered confiscated and forfeited US\$550,000 to each country’s National Forfeiture Fund, as a result of a successful money laundering case jointly investigated by Anguilla’s FIU and the legal authorities in Denmark during 2008/09.

During the coming months, the MLRA Board of Directors will consider a new proposal to revamp the current FIU model by adding additional trained resources to the FIU. Hopefully this will greatly enhance our overall capacity to investigate more money laundering cases in Anguilla and thus take more profits of crime out of the hands of the criminals.

Detective Inspector Andy Arsenault