

# Annual 'Financial Services Commission' Meeting

October 28<sup>TH</sup>, 2011

## **FIU/MLRA PRESENTATION**

Let me start by saying, how very quick the months and years go by. As they say, TIME waits for no one!

It's now more than two full years since the Government of Anguilla legislated into being the Proceeds of Crime Act, in July of 2009. This means, that we can now honestly say, the honeymoon period is officially over for all financial service businesses and enterprises in Anguilla who have failed to implement effective Anti-Money Laundering and Counter Terrorist Financing compliance measures as part of their risk management profile.

Those businesses, of which I speak, can no longer say they haven't had time to implement effective AML/CFT measures. Nor can they say they haven't had ample time to learn, understand and address their legal obligation to report any/all suspicious financial activities to the Financial Intelligence Unit/Money Laundering Reporting Authority (FIU/MLRA) in Anguilla.

With this in mind, I've thought it important to give a quick reminder to everyone of what it is the FIU/MLRA is responsible for and what we do when we receive a suspicious activity report (SAR).

First, as the nations FIU/MLRA, we first of all are the legislated body who receive all SARs from across the entire spectrum of Anguilla businesses, particularly from

Financial Service businesses, as well as from foreign intelligence agencies. Upon receiving a SAR, we first and foremost respond to the sender acknowledging that we have received their SAR. Following this, we next begin a preliminary analysis of the information contained in the SAR and then open a file which is placed on our secure data base which is password protected and only accessible to the four (4) members of the FIU. No other persons, not the MLRA Committee members or even the Commissioner of Police has access to our SAR files or data base.

From there, the FIU analyst strategically plans what information to search for, where to locate the information and then how to recover the information which may be relevant or which may help to shed light on the alleged suspicious financial activities being reported to the FIU/MLRA. Then the FIU/MLRA may choose to utilize a Form 118, as provided for in the Proceeds of Crime Act, 2009, which is a written notice requiring the recipient to provide the FIU with information for the purpose of clarifying or amplifying information disclosed to the FIU/MLRA. The Form 118 may be delivered to any person in Anguilla whom the FIU/MLRA believes may have relevant information concerning the SAR.

Anguilla's FIU is a member of the international network of FIUs known as the Egmont Group and through the Egmont communication platform all member FIU's are able to readily communicate with one another. It's surprising how often we have to rely on our international FIU partners to gather and supply us with information concerning our files. Also, we are often the recipient of Egmont requests from foreign FIU's who wish our assistance in gathering and reporting information back to them.

Once the FIU analyst is satisfied that they have recovered all the information that is available to us, they will then analyze it and decide whether, based on all the information, there is sufficient grounds and suspicion upon which a potential money laundering investigation could go forward. Assuming there is, the FIU will forward a full report to the Financial Crime Investigation Unit (FCIU) for their

review and consideration as to whether a money laundering investigation should proceed. Once the referral has taken place, then the FIU's file is closed. In the cases where there is insufficient information or suspicion upon which to base a referral to the police, then the matter is either closed outright and filed or is filed pending receipt of further intelligence.

Statistically, the FIU has received thirty nine (39) SARs so far in 2011. This is an increase of thirteen (13) over all of 2010. Of these, several have already been referred to the Financial Crime Investigation Unit (FCIU) for a potential money laundering investigation.

Although we are definitely progressing in the right direction, in terms of the numbers of SARs being remitted, we still have a long ways to go. The vast majority of financial services business on Anguilla still haven't addressed their legal requirement to report SARs. This is certainly not a sensible or professional approach in a business where getting caught looking the other way can have dire economic and personal consequences if/when caught.

Notwithstanding, the quality of SARs that are reported, those who actively practice AML compliance as a risk management tool have become very familiar with the process and their reports to the FIU have improved substantially in terms of their ability to understand and describe in detail the nature of the suspicious activity. Those that do practice AML compliance routinely have seen their business improve and better still, they're much less fearful of the future as they've taken the necessary steps to protect their business from misuse and abuse by would be criminals and organized crime groups.

As I've said earlier, we still have a long way to go on Anguilla, as the vast majority of financial service businesses, particularly those who specialize in company management services on Anguilla, simply do not submit SARS and the small

number that do, usually only do after they've learned that one of their client's has been indicted, charged or their company is under investigation, usually in a foreign country. The FIU refer to these as CYA SARs, as they are being submitted only to protect their company from potential prosecution in Anguilla under the POCA.

Turning a blind eye or practicing willful blindness will not protect local companies from prosecution under the POCA, if we learn that they knew of or ought to have known of their clients suspicious or irregular financial activities and failed to report it. In fact, this is one of our strategic goals this year is to identify, investigate and if the evidence is sufficient, then charge the individual(s) and companies for failing to report suspicious financial activities. Pretending to be an ostrich and hoping the FIU or police will not learn of your company's bad risk management practices is simply unrealistic. After all, Anguilla is a very small nation and risking your personal and corporate reputation for the sake of profit can have far reaching adverse consequences.

Here are the money laundering crime statistics on Anguilla for the past three (3) years:

<u>Year</u>	<u>ML Charges</u>	<u>Convictions</u>	<u>Withdrawn</u>	<u>Pending Trial</u>
<b>2009</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>
<b>2010</b>	<b>12</b>	<b>0</b>	<b>2</b>	<b>12</b>
<b>2011</b>	<b>17</b>	<b>3</b>	<b>1</b>	<b>25</b>

As you can readily see, our ability to raise prosecutions under the POCA is rapidly improving and so we strongly urge all companies and business persons on Anguilla to consider the consequences of failing to report suspicious financial activities within their purview. Over the course of time, the FIU and law enforcement resources on Anguilla are more likely than not to hear or learn of these suspicious activities, just by virtue of the small community we live in and strong rumor

culture that exists. Allowing yourself to believe we won't learn of or can't deal with what's going on is naïve and simply bad for your business. I look forward to hearing from those businesses who wish the FIU to assist them in providing their human resources with AML/CFT training in the hope that together we can continue to build a culture of AML/CFT compliance.

**REMEMBER: Money laundering is done by criminals. But, when they are allowed to use your business to launder their dirty money or illegal profits, you become a money launderer too.**

Andy Arsenault, Detective Inspector

Head of the FIU/MLRA, Anguilla