

Version no: 2.1
Date Prepared: 23/05/2013
Last Date Revised: 25/02/2026



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO



FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND TOBAGO

Ministry of Finance

AML/CFT/ CPF GUIDANCE FOR ACCOUNTANTS

Purpose

This Guidance is intended to provide assistance to Accountants registered with the FIUTT with their AML/CFT/CPF obligations.

FIUTT REFERENCE: GN/001/2024

Version 2.1 updated 25 February, 2026

Version no: 2.1
Date Prepared: 23/05/2013
Last Date Revised: 25/02/2026

VERSION	DATE	AUTHOR	DESCRIPTION	APPROVED BY	STATUS
1.0	23/05/2013	Director FIUTT	First Publication	Director FIUTT	Final
1.1	9/09/2015	Director FIUTT	Revised	Director FIUTT	Final
2.0	11/04/2024	Legal Officer II	Revised structure and updated references to laws and links	Director FIUTT	Final
2.1	24/02/2026	Director Legal Services	Updated references to links and laws in force as at date of current publication.	Director FIUTT	Final

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1. INTRODUCTION

For the purpose of compliance with AML/CFT/CPF domestic legislation, an Accountant is a Listed Business (also referred to as a “Supervised Entity” for the purposes of this Guidance Note) described in the First Schedule of the POCA as “**a person performing the following activities on behalf of a client (hereinafter referred to as “the specified activities”):**

- a) buying and selling of real estate;**
- b) managing of client money, securities and other assets;**
- c) management of banking, savings or securities accounts;**
- d) organisation of contributions for the creation, operation or management of companies;**
- e) creation, operation or management of legal persons or arrangements, and buying and selling of business entities.**

This Guidance is intended to provide assistance to Accountants who are engaged in these activities on behalf of their clients, in complying with their Anti-Money Laundering, Counter Financing of Terrorism and Counter Proliferation Financing (“AML/CFT/CPF”) legal obligations:

In accordance with the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01 and the Proceeds of Crime Act, Chap. 11:27 the Financial Intelligence Unit of Trinidad and Tobago (“FIUTT”) is the Supervisory Authority over all Listed Businesses, including Accountants performing the aforesaid specified activities.

Every Accountant conducting these activities is required to honour his/its AML/CFT/CPF obligations set out in the following Acts and Regulations:

1. The Financial Intelligence Unit of Trinidad and Tobago Act, Chapter 72:01 (“FIUTTA”)
2. The Financial Intelligence Unit of Trinidad and Tobago regulations, 2011 (“FIUTT Regulations”)
3. The Proceeds of Crime Act, Chapter 11:27 (“POCA”)
4. The Financial Obligations Regulations, 2010 (“FORs”)
5. The Anti-Terrorism Act, Chapter 12:07 (“ATA”)
6. The Financial Obligations (Financing of Terrorism) Regulations, 2011
7. Economic Sanctions (Implementation of United Nations Resolutions on the Democratic People’s Republic of Korea) Order, 2018
8. Economic Sanctions (Implementation of United Nations Resolutions on the Islamic Republic of Iran) Order, 2023 (“ESO”)
9. The Counter Proliferation Financing Act, 2025 (“CPFA”)
10. The Counter Proliferation Financing Regulations (“CPFRs”)

*N.B. This Guidance is a general, informative document and is not intended to replace any of the above mentioned AML/CFT/CPF Acts and Regulations. This Guidance should not be construed as legal advice and should be read in conjunction with the said laws. **This Guidance was updated upon the entering into force of the CPFA, the FATF Compliance Act 2024 and the FATF Compliance Act 2025 and replaces all previous guidance issued specific to the Accountant Sector.***

2. WHY SUPERVISE ACCOUNTANTS?

The requirement for Accountants, carrying out the specified activities, to register with the FIUTT and comply with AML/CFT/CPF obligations enables them to effectively mitigate these risks and ultimately avoid such potential misuse.

The Financial Action Task Force (“FATF”) has noted that there are some functions performed by Accountants which are susceptible for misuse by criminals who are looking for avenues to launder the proceeds of crime. Examples of such vulnerable functions include –

- (a) Where criminals approach accountants under the guise of seeking legitimate financial and tax advice. However, the criminals seek to use the accountant’s knowledge and advice to place assets out of reach in order to avoid future liabilities;
- (b) Where accountants provide assistance with the buying or selling of property, criminals may use these property transfers to either the cover-up the transfer illicit funds (layering stage) or for the final investment of the illicit funds after their having passed through the laundering process (integration stage);
- (c) Criminals may also use accountants to facilitate financial transactions on their behalf. Such transactions would fall within the normal scope of the accountant’s services, such as the management of funds in his client’s account, purchase and sale of securities or making international funds transfers;
- (d) Accountants may also unwittingly introduce criminals to financial institutions or vice versa, where it is the financial institution which unwittingly refers the criminal to the accountant;
- (e) When accountants provide services related to the formation and management of companies and trusts can prove to be a particularly vulnerable service for money laundering and terrorist financing:
 - a. Trust and company formation – criminals see companies and trusts as instruments which can be used to retain control over the proceeds of crime while creating additional layers of ownership to frustrate the attempts of law enforcement to trace the ownership and origin of said proceeds. Shell Companies are a particular conduit for such misuse. Shelf companies are also attractive to criminals as they can be used to create the false impression that the company has been in existence and operation for an extended time;
 - b. Management of companies and trusts – criminals may seek to have accountants involved in the management of companies and trusts, for example as directors or trustees, to lend legitimacy and respectability to the illegitimate company/trust’s activities.
 - c. The provision of general accountancy services for the review or preparation of a company’s financial statements and accounts may be abused by criminals to provide a sense of legitimacy to falsified accounts. Accountants may unwittingly review and sign off on accounts for illegitimate businesses, thus facilitating money laundering.
 - d. In some cases criminals may request that accountants act as a nominee shareholder in order to disguise the true owner of the company’s assets.

(Source - FATF (2019), *Risk-based Approach for the Accounting Profession*, FATF, Paris, www.fatf-gafi.org/publications/documents/rba-accounting-profession.html)

For additional scenarios demonstrating the misuse of Accountants for money laundering, please see [Appendix 1](#)

3. DO THESE OBLIGATIONS APPLY TO YOU?

These obligations apply to you if you are an individual or company, firm or partnership when you perform the specified activities referred to in [Section 1](#). If you are an employee of such individual, company, firm or partnership these obligations are the responsibility of your employer but you as an employee will have obligations to report suspicious transactions to the Compliance Officer of your organisation in accordance with your employer's compliance programme.

Specified Activity explained further:

- a) **Buying and Selling of Real Estate.** This specified activity applies to both residential and commercial purchase and sale, lease and mortgage transactions and transactions which finance a purchase or sale of real estate. "Transaction" includes the receiving or making of a gift so no dollar limits or thresholds apply to this specified activity.
- b) **Managing of client's money, securities or other assets.** Here, as well as under items c) and d) below, the Accountant would be handling the client's funds. AML/CFT/CPF obligations focuses on the potential risk in situations where the Accountant is actually handling client's funds. This specified activity includes situations where you as an Accountant controls the use, application, or disposition of funds or has signatory authority over the client's financial account.
- c) **Management of bank, savings or securities accounts.** In addition to the risks identified in item (b) above, an Accountant must be particularly cognizant of the funds that move through his/its firm's trust account or client's account.

Best practice: Any time you, as an Accountant, "touch the money" you should satisfy yourself as to the bona fides of the sources and ownership of the funds.
- d) **Organisation of contributions for the creation, operation, or management of companies.** This specified activity occurs when an Accountant prepares for or carries out a transaction where investors contribute capital to a legal entity and would conceivably cover financing and refinancing transactions.

Best Practice: Accountants should exercise caution to avoid situations where they are essentially providing banking services for their clients as opposed to merely holding client's money for a legitimate transaction. For example, if you are being asked to make/receive payments to/from persons not party to the transaction but to uninterested persons whose identities are difficult to verify, you should exercise caution and/or treat this as a higher risk situation.
- e) **Creation, operation, or management of legal persons or arrangements, and buying and selling of business entities.** This category of specified activities would include work routinely carried out by Accountants involved in commercial activities and includes mergers and acquisitions.

Funds received or held for professional fees, disbursements or expenses are not included in the specified activities.

Accountants may also provide certain trust and legal services to their clients. Therefore, this guidance should also be followed by any Accountant, Accounting Company, Firm or Partnership which provides the following services:

- a) acting as a formation agent of legal persons;
- b) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership or a similar position in relation to other legal persons;
- c) providing a registered office, business address or accommodation, correspondence or administrative address for a company a partnership or any other legal person or arrangement;
- d) acting as (or arranging for another person to act as) a nominee shareholder for another person;
or
- e) acting as or arranging for another person to act as a trustee of an express trust.

You are subject to the obligations explained in this Guidance if you engage in or give instructions relating to the specified activities or services regardless of whether or not you receive any fees or have a formal letter of engagement. So, even if you carry out these activities on a volunteer basis, you are subject to the AML/CFT/CPF requirements.

You are NOT subject to the AML/CFT/CPF requirements if you:

- a) **only carry out activities or transactions other than those listed above, e.g., financial audits.**
- b) **operate in an advisory only capacity. That is, you make recommendations or suggestions to your clients in contrast to the carrying out of any of the above-mentioned activities by which you would actually direct or handle the movement of funds. Providing advice is not considered to be giving instructions.**

Example of giving instructions: "Based on my client's instructions, I request that you transfer \$15,000 from my client's account, account number XXX, to account number YYY at Bank X in Country Z."

Example of providing advice: "Based on the interpretation or application of (an element of tax law), we recommend that you invest in (a certain investment vehicle) to reduce your tax liability."

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4. WHAT ARE YOUR AML/CFT/CPF LEGAL OBLIGATIONS?

The AML/CFT/CPF laws of Trinidad and Tobago impose the following obligations:

- I. [Registration with the FIUTT](#)
- II. [Appoint a Compliance Officer and Alternate Compliance Officer](#)
- III. [Assessing AML/CFT/CPF Risks](#)
- IV. [Develop and implement a Compliance Programme](#)
- V. [Conducting Customer Due Diligence](#)
- VI. [Training](#)
- VII. [Internal and External Audits](#)
- VIII. [Submission of Reports to the FIUTT](#)
- IX. [Keep Records](#)

Please note that this is not an exhaustive list of obligations and each entity is required to consult the AML/CFT/CPF laws referred to at the Introduction of this Guidance to ensure compliance.

I. REGISTRATION WITH THE FIUTT

You **must** register with the FIUTT if you are an Accountant as explained at [section 3](#) herein. Your application for registration must be received within thirty (30) days of commencing this business activity or of your incorporation as a company or registration as a business under the laws of Trinidad and Tobago, whichever is the **earlier** date. (*See Section 18B of the FIUTTA and Regulation 28(1) of the FIUTT Regulations*).

Please note that once you obtain a Certificate of Registration, that Certificate will be valid for a period of five (5) years from the date of the Certificate. Subsequently, you will be required to renew your registration with the FIUTT if you wish to continue conducting Supervised Activities as explained in section 3.

To register with the FIUTT, and learn more about the renewal of registration process, you may visit the FIUTT's website to access the [FIUTT Registration of Supervised Entities Form](#) and [relevant instructions](#).

Please note that pursuant to Regulation 28(2) of the FIUTT Regulations, failure to register with the FIUTT within the time stipulated is an offence for which you will be liable on summary conviction to a fine of \$50,000 and to a further fine of \$5,000 for each day the offence continues. Pursuant to section 27(4) of the FIUTTA, such a contravention can also attract an administrative fine of \$25,000 and \$1000 for each day that the contravention continues.

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- **Change of particulars**

You are required to notify the FIUTT where there is a change of your registered office or principal place of business, business name, company name or trading name, nature of business, Directors, Owners, Partners or Compliance Officer within thirty (30) days of such change. (See Regulations 29(1) and 29A of the FIUTT Regulations)

Accountants supervised by the FIUTT are required to complete the Compliance Officer Fit and Proper Questionnaire, where there is a change of the CO and ACO.

Submissions of such changes can be made manually or electronically.

To make a manual submission, visit the FIUTT at Level 25, Tower D, International Waterfront Complex, 1A Wrightson Road. Electronic submissions can be made via fiucompliance@gov.tt

Failure to notify the FIUTT of a change of particulars within thirty (30) days is an offence and you will be liable on summary conviction to a fine of twenty thousand dollars (\$20,000).

Additionally pursuant to section 27(4) of the FIUTTA, such a contravention can also attract an administrative fine of \$10,000 and \$500 for each day that the contravention continues..

- **De-registration**

In the circumstances where your entity is no longer performing the business activities of an Accountant as described above, it is advised that an application for de-registration be made to the FIUTT (See Section 18BA of the FIUTTA). In order to deregister with the FIUTT, you must first ensure that your business is **not** engaged in **any** business activity listed on the FIUTT's **List of Supervised Sectors**.

To deregister with the FIUTT, you must submit:

- ✓ a completed Deregistration Form to the FIUTT ([click here to access the De-registration of Listed Business Form](#)); and
- ✓ evidence that you are no longer performing the activities which required you to be registered with the FIUTT.

Such evidence may include, in the case of a Company, your letter of request to the Registrar General's Department to be struck off the Companies Registry, or, request for an amendment to the nature of business on your Articles of Incorporation.

In the case of a Registered Business, you are required to submit copy of your Notice of Cessation (Form 9), as the legal presumption is that the business is being carried on, as long as the business name remains on the Register of Business Names¹. Submissions for deregistration can be made manually or electronically. To make a manual submission, visit

¹ See guidance from the Registrar General's Department under the heading "Businesses Registered Under the Registration of Business Names Act Chap. 82:85" at the following link: <http://legalaffairs.gov.tt/faqs.php>.

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the FIUTT at Level 25, Tower D, International Waterfront Complex, 1A Wrightson Road. Electronic submissions can be made via fiucompliance@gov.tt

Once the FIUTT is satisfied that you are no longer performing the activities which requires you to be registered, your application for deregistration will be accepted and you will be issued with a Notice of De-registration. In addition, your entity's name will be removed from the FIUTT's List of Registrants, inserted to the [FIUTT's List of De-Registrants](#), and uploaded on our website. A notice will also be circulated to the Financial Institutions informing them of same. It should be noted that de- registration from the FIUTT will not affect any other form of business activity but only financial transactions pertaining the specified activities which require FIUTT registration.

The FIUTT may also deregister your entity if it becomes aware that it, its legal or beneficial owners, directors or senior officers is a listed entity under the ATA or the ESOs; or are found to no-longer be fit and proper under sections 18BB(2) or (3) of the FIUTTA.

If the FIUTT becomes so aware, it will serve your entity with a Notice of Intention to Deregister and give your entity an opportunity to make written representations to the FIUTT if you are not in agreement with the reasons for deregistration.

II. APPOINT A COMPLIANCE OFFICER AND ALTERNATE COMPLIANCE OFFICER

Regulation 3(5) of the FORs requires you to designate a Compliance Officer for the purpose of securing compliance with AML/CFT/CPF obligations. Regulation 3(8) of the FORs requires you to also appoint an alternate compliance officer who will be required to undertake the functions of the Compliance Officer should the Compliance Officer be absent from duty for both short and extended periods of time.

In accordance with Regulations 3 (6) of the FORs, the Compliance Officer and alternate Compliance Officer of the business shall be a senior employee of the business or such other competent professional.

Please note that Regulations 3(8) and 3(10) of the FORS mandate that you seek the written approval of the FIUTT after designating persons as the business' Compliance Officer and Alternate Compliance Officer, respectively.

For guidance on designating a Compliance Officer and Alternate Compliance Officer, and receiving approval from the FIUTT, please [click here](#).

III. ASSESSING RISK

Regulation 7 of the FORs requires you to adopt a risk-based approach to monitoring financial activities within your business. Essentially, you are required to take steps to identify, assess, understand and document the ML/TF/PF risks of your business to determine those clients/transactions that are of low, medium or high risk.

FATF advises in its Guidance for a Risk Based Approach for the Accounting Profession, dated June 2019², that *“identification of the ML/TF risks associated with certain clients or categories of clients, and certain types of work will allow accountants to determine and implement reasonable and proportionate measures and controls to mitigate such risks.”*

This risk assessment should be documented and should include current and emerging ML/TF/PF trends while considering how such issues may impact the business.

Your risk assessment ought to follow an approach that considers, amongst other things, your particular client base, the size of your business, the financial value of transactions involving your business and the nature of such transactions. Note, however, that circumstances can vary widely depending on the nature of your role and involvement in the services you provide to each client.

When identifying potential risks to your business, the primary risk categories may include:

1. **Geographical factors**- this includes noting the country/jurisdiction where your clients, parties to the transactions and/or the property involved, are from. You must consider the effectiveness of that country’s AML/CFT/CPF regime, identified deficiencies and whether the country is subject to sanctions by international organisations. This can be done through conducting checks on the FATF’s list of High Risk Jurisdictions subject to a Call for Action and jurisdictions under increased monitoring. The FIUTT regularly publishes FATF public statements of jurisdictions who have been added to and removed from these lists [here](#).

Geographical risk should also be considered when the funds to be used in the transaction have been generated from abroad and the transaction is conducted without face-to face contact.

2. **Client risk**- this includes considering the degree of ML/TF/PF risk posed by your client and the parties involved in the transaction including any beneficial owners.

Higher risk circumstances for clients include, but are not limited to, whether the firm’s client base includes sectors which are vulnerable to ML/TF/PF; the firm’s clients include PEPs and their associates who are considered to be higher risk; or for clients which are companies and other legal persons – where there is unusual complexity in the control or ownership structure.

3. **Transaction risk/Service risk**- This type of risk considers the services provided by Accountants which may be misused by criminals. Circumstances which may indicate higher

² FATF (2019), Risk-based Approach for the Accounting Profession, FATF, Paris, www.fatfgafi.org/publications/documents/rba-accounting-profession.html.

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transaction risk includes, but are not limited to, the use of pooled client accounts or safe custody of client money or assets without justification; situations where advice is sought on setting up legal arrangements in a manner which may be misused to obscure ownership or real economic purpose; or the use of virtual assets and other anonymous means of payment and wealth transfer without apparent legitimate reason.

Please see the FIUTT's [Guidance to Supervised Entities on a Risk Based Approach to AML/CFT/CPF](#) and [Guidance to a Risk Based Approach to Counter Proliferation Financing for Reporting Entities](#) for comprehensive guidance on conducting your Risk Assessment and implementing a Risk Based Approach.

You can also consider the [FATF \(2019\), Risk-based Approach for the Accounting Profession](#) for more information on risk factors for Accountants; and

See [Appendix II](#) for a list of red flags and suspicious indicators of which you should be cognizant.

Upon completion of your risk assessment, your [compliance programme](#) should be tailored to provide for the specific policies, procedures and controls to mitigate against the risks identified. These include documenting the appropriate Customer Due Diligence measures which ought to be applied for large transactions (TT\$50,000.00 or higher) and in higher and lower risk circumstances. Entities are required to make available its documented risk assessment to the Supervisory Authority upon request in accordance with Regulation 7(2)(c) of the FORs.

Please also visit our website for further guidance on [adopting a risk based approach](#).

IV. DEVELOP AND IMPLEMENT A COMPLIANCE PROGRAMME

Regulation 7 of the FORs requires you to develop a written Compliance Programme ("CP") to include specific policies, procedures and controls necessary for meeting the entity's AML/CFT/CPF obligations.

The CP is a written document which should include the risk assessment that you have conducted for your particular business, as well as your system of internal policies, procedures, and controls which are intended to mitigate the vulnerabilities and inherent risks identified in your risk assessment, which can be exploited by money launderers, terrorism financiers and financiers of the proliferation of weapons of mass destruction.

After development of your CP, you must ensure that the CP is approved by senior management, effectively implemented and that the appropriate procedures are followed in a timely manner. As the AML/CFT/CPF Supervisory Authority, the FIUTT is empowered to examine the effectiveness of the implementation of the measures outlined in your Compliance Program.

Please click here for the FIUTT's guidance on [Compliance Programme](#).

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V. CONDUCTING CUSTOMER DUE DILIGENCE

Your CP should contain policies and procedures for conducting Customer Due Diligence (“CDD”) in the appropriate circumstances. This includes setting out the specific procedures which must be followed when conducting transactions with higher and lower risk customers.

Accountants should aim to ensure they conduct business solely with customers they can reasonably confirm are engaging in legitimate business. In meeting such obligation, Accountants should implement adequate and reasonable measures to establish the identity of their customers and ensure the funds utilized to conduct their transaction are provided by the client and not by a third party.

Part III of the FORs sets out the necessary approach to conducting CDD which supervised entities must follow when entering into a business relationship with a customer or when conducting transactions with customers.

Additionally, the FIUTT has issued detailed guidance on measures which should be taken when conducting CDD. This guidance can be found [here](#).

Please note that in addition to the general ML/TF/PF risk factors contained in the CDD guidance, risk factors specific to the business of Accountants carrying out the specified activities should be considered when risk rating clients for the purposes of CDD.

VI. TRAINING

Training is an essential component in combatting of money laundering, the financing of terrorism and financing of proliferation of weapons of mass destruction.

Regulation 6 of the FORS mandate that arrangements be made for training and ongoing training of the Directors and all members of staff to equip them to:

- (a) perform their AML/CFT/CPF obligations;
- (b) understand the techniques for identifying any suspicious transactions of suspicious activities; and
- (c) Understand the money laundering threats posed by new and developing technologies.

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It is the responsibility of the Accountant to develop on-going training programmes for the Compliance Officer, alternate Compliance Officer, owners/Directors and members of staff at the appropriate levels of the business.

Please [click here](#) to visit the FIUTT's website for further information on training.

VII. INDEPENDENT REVIEWS

Regulation 10 of the FORs requires you to conduct an independent review of your compliance with the AML/CFT/CPF legislation and FIUTT's Guidance, and the reliability, integrity and completeness of the design and effectiveness of your compliance risk management function and your internal controls framework. This review is required to be conducted on a risk basis, at a minimum of every 3 years, or at such intervals as the FIUTT may require.

This independent review replaces the previous External and Internal Audit requirement by merging the functions of both the external and internal auditors for listed businesses. The Independent Review must be undertaken by a qualified professional who is sufficiently independent from all your entity's business lines. This independence allows for an unbiased review of all systems. It is recommended that a suitably qualified AML/CFT/CPF audit professional be retained to fulfill this function. In conducting the Independent Review, the independent professional is required to evaluate your business' compliance with relevant AML/CFT/CPF legislation and guidelines; and submit reports and recommendations generated to the FIUTT at least every 3 years or at the frequency required by the FIUTT. The Independent professional must ensure that your policies, procedures and systems are functioning in keeping with the AML/CFT/CPF laws and the risk profiles of your customers.

VIII. SUBMISSION OF REPORTS TO THE FIUTT

As a supervised entity, you are required to submit three (3) types of reports to the FIUTT:

- **Suspicious Transactions or Activity Reports (STRs/SARs);**
- **reports of Terrorist Funds in your possession (TFR); and**
- **reports of Funds for Proliferation Financing in your possession (ESR)**

The relationship between reporting entities and the FIUTT is a key one given that the FIUTT can only perform its analytical function to produce financial intelligence if the various reporting entities report critical information they may have.

- Reporting Suspicious Transactions and Activities

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You **MUST** submit a Suspicious Transaction Report or Suspicious Activity Report (STR/SAR) to the FIUTT where ***you know or have reasonable grounds to suspect that:***

- i. funds being used for the purpose of a transaction are the proceeds of a criminal conduct (*See S55A of the POCA*);
- ii. a transaction or an attempted transaction is related to the commission or attempted commission of a Money Laundering offence;
- iii. an attempted transaction is related to a Terrorist Financing (*see Section 22C(2) of ATA*) or Proliferation offence (*see Clause 9 (2) of ESOs*); or
- iv. funds within the entity are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organisations or those who finance terrorism (*See S22C (3) of the ATA*).

The STR/SAR must be submitted to the FIUTT within fourteen (14) days of the date the transaction was **deemed** to be suspicious (*See S55A (3) of the POCA and S 22C (6) of the ATA*)

Other circumstances where a report must be made to the Compliance Officer for consideration to file an STR/SAR:

- Pursuant to regulation 4(2) of the CPFA, upon receipt of such report from the independent review of any suspicion or knowledge of a suspicious transaction or attempted suspicious transaction, the Compliance Officer shall consider whether he should submit a suspicious activity or suspicious transaction report to the FIUTT. In accordance with regulation 4(3) of the CPFA, where the Compliance Officer determines that the report should be submitted to the FIUTT, he shall do so immediately.
- Pursuant to Regulation 11(6) of the FORS, where the Accountant is unable to apply customer due diligence in accordance with regulation 11(5), the matter shall be reported to the Compliance Officer who shall consider whether a suspicious transaction or suspicious activity report should be filed with the FIUTT.
- Further, regulation 5(1) of the CPFA gives guidance on undertaking due diligence as it relates to PF (i.e. the screening of customers against the list of listed entities) and identifies the circumstance in which a suspicious transaction or activity report should be filed with the FIUTT.

It should be noted that it is a very serious contravention where a customer attempts to enter into a transaction, or continue a business relationship and the Accountant fails to cease continuation of the attempted transaction or business relationship or file a suspicious transaction or activity report

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with the FIUTT. You may be susceptible to an Administrative fine or summary conviction for such a contravention.

- Reporting Terrorist Property/Funds

A Reporting Entity is required to screen its customers/clients against the following lists:

- (a) [United Nations Security Council Resolution \(UNSCR\) 1267/1989/2253 Sanctions List](#) and [United Nations 1988 Sanctions Committee List](#) (together referred to as the “List of Designated Entities” in accordance with section 2(1) of the ATA³); and
- (b) [Trinidad and Tobago Consolidated List of Court Orders](#);

Screening of your clients should occur at the following two (2) stages:

- (a) At the on-boarding stage; **and**
- (b) *Immediately and without delay* upon receipt of a notification from the FIUTT that the List of Designated Entities and/or Consolidated List of High Court Orders has been updated.

If you identify that your client’s name appears on either of the above-mentioned lists, you are required to submit a TFR **immediately** to the FIUTT.

For Guidance on reporting Terrorist Property or Funds as it relates to the relevant form and procedure please click [here](#).

- Reporting Property/Funds for the Proliferation Financing of weapons of mass destruction.

The **Economic Sanctions** (Implementation of United Nations Resolution on the Democratic Republic of Korea) **Order, 2018** and the **Economic Sanctions** (Implementation of United Nations Resolution on the Islamic Republic of

³ Please note that both the ISIL (Da'esh) & Al-Qaida Sanctions Committee List - UNSCR 1267/1989/2253, and the UN Security Council Sanctions Committee Established Pursuant to Resolution 1988 (Taliban) List are contained in the [United Nations Security Council Consolidated List](#). If you have consulted the United Nations Security Council Consolidated List, you would have consulted both the ISIL (Da'esh) & Al-Qaida Sanctions Committee List - UNSCR 1267/1989/2253, and the UN Security Council Sanctions Committee Established Pursuant to Resolution 1988 (Taliban) Lists, together with all other lists maintained by the UN Security Council.

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Iran) **Order, 2018** aim to prevent and disrupt the financing of the proliferation of weapons of mass destruction which constitutes a substantial threat to both domestic and international peace and security. The CPFA and CPFs further outline the measures which must be taken by all Supervised Entities, including Accountants, to ensure they identify and understand their PF risks and that they implement mitigating measures commensurate with the risks identified.

Click here for [Guidance On A Risk Based Approach To Counter-Proliferation Financing For Reporting Entities](#)

The up-to-date list of entities listed in accordance with the DPRK and Iran Orders can be found on the website of the [Anti-Terrorism Unit, Office of the Attorney General](#).

Pursuant to these Orders and the CPFs, you are required to **IMMEDIATELY** inform the FIUTT, when the Attorney General circulates the list of entities which have been the subject of a freezing Order by the Supreme Court of Judicature of Trinidad and Tobago, of the following circumstances:

1. Where you have knowledge or reasonably suspect that any entity named in the Court Order has property or funds within your business;
2. Where a transaction is being conducted by a person involving property or funds owned or controlled, whether directly or indirectly, by an entity named in the Court Order

These reports are to be submitted to the FIUTT using an [Economic Sanctions Reporting Form](#) (ESR).

For Guidance on reporting Property or funds for Proliferation Financing as it relates to the relevant form and procedure please click [here](#).

o *Defining Knowledge and Suspicion*

The first criterion above provides that, before you become obliged to report, you must **know** or **have reasonable grounds for suspecting**, that some other person is engaged in ML/TF/PF.

If you actually 'know' that your client is engaged in such a criminal activity, then your situation is quite straightforward – the first criterion is met.

Reasonable grounds to suspect

Having 'reasonable grounds to suspect' requires you to have more than mere suspicion, meaning that there is a possibility that a ML/TF/PF offence has occurred.

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To have 'reasonable grounds to suspect', you are expected to have considered the facts, context and ML/TF/PF indicators related to a financial transaction and, having reviewed this information, you concluded that there are in fact reasonable grounds to suspect that the particular financial transaction is related to the commission of an ML/TF/PF offence. You need not verify the facts, context or ML/TF/PF indicators that led to your suspicion.

You do not need to prove that an ML/TF/PF offence has actually occurred. Your suspicion however must be reasonable and not biased or prejudiced.

Attempted Transactions

If a client attempts to conduct a transaction, but for whatever reason that transaction is not completed, and you think that the attempted transaction is suspicious, you must report it to the FIUTT, and you must discontinue the business transaction or relationship with the entity.

An attempt only occurs when concrete action has been taken to proceed with the transaction.

o How to identify a Suspicious Transaction or Activity

Determining whether a transaction or activity is suspicious is based on your knowledge of the customer and of the industry. You and your employees, if any, are better positioned to identify transactions which lack justification or do not fall within the usual methods of legitimate business. While there may be general indicators of suspicious transactions, there are also indicators specific to Accountants which would help you and your employees to better identify suspicious transactions whether completed or attempted.

For examples of Suspicious Indicators as it relates to Accountants, see [APPENDIX 2](#).

For further guidance on Reporting STRs/SARs as it relates to procedure and associated offences, [click here](#).

IX. RECORD KEEPING

As a supervised entity you are required to retain records, including those related to transactions and client identification, for a period of six (6) years in electronic or written form. Retention of these records and the exercise of proper record keeping practices enable you to comply with lawful requests for information from auditors, other competent authorities and law enforcement authorities that request these records for the purposes of criminal investigations or prosecutions (*See Regulation 31 of the FORS*).

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For further information on your record keeping obligations please see the FIUTT's [Guidance to Supervised Entities on Record Keeping](#).

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5. GENERAL OFFENCE FOR FAILURE TO COMPLY WITH REGS AND FORS

Non-compliance with your obligations under the AML/CFT/CPF laws and regulations may result in criminal and or administrative sanctions.

Contravention of the POCA

A FI or LB which does not comply with Sections 55, 55A and 55C or any regulations made under Section 56 of the POCA, commits an offence and is liable (a) on summary conviction to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or (b) on conviction on indictment to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years (*See Section 57 of the POCA*)

Contravention of the FORS

A FI or LB which does not comply with the FORs, commits an offence and is liable (a) on summary conviction to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or (b) on conviction on indictment to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years. (*See Section 57 of the POCA and Regulation 42 of the FORs*)

Contravention of the FIUTT Regulations

Where a FI or LB commits an offence under the FIUTT Regulations where no penalty is specified, it shall be liable on summary conviction, to a fine of twenty-five hundred thousand dollars and to a further fine of twenty-five thousand dollars for each day that the offence continues; and on conviction on indictment, to a fine of one million dollars and to a further fine of fifty thousand dollars

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for each day that the offence continues. *(See section 27 of the FIUTTA and Regulations 36 and 37 of the FIUTT Regulations)*

Contravention of the ATA

A FI or LB which fails to comply with Section 22AB or Section 22C (1), (2) or (3) of the ATA commits an offence and is liable a) on summary conviction to a fine not exceeding two million dollars and imprisonment for a term not exceeding two years; or (b) on conviction on indictment to a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years. *(See Section 42(1) of the ATA)*

Where a company commits an offence under Section 22AB or Section 22C (1), (2) or (3) of the ATA, any officer director or agent of the company who directed, authorised, assented to, or acquiesced in the commission of the offence or to whom any omission is attributable, is a party to the offence and is liable in summary conviction or conviction on indictment in the same manner as the above paragraph. *(See Section 42(2) of the ATA).*

Contravention of the ATA Regulations

A FI or LB which does not comply with the ATA Regulations commits an offence and is liable on summary conviction to a fine of five hundred thousand dollars and to imprisonment of two years. *(See Section 42(1) of the ATA and Regulation 7 of the ATA Regulations).*

Contravention of the CPFA

An FI or LB which fails to comply with Section 5 or Section 9 of the CPFA commits an offence and is liable on summary conviction to a fine not exceeding two million dollars and to imprisonment for a term not exceeding two years and on conviction on indictment, a fine not exceeding five million dollars and imprisonment for a term not exceeding seven years. *(See Section 12 of the CPFA)*

Where a company commits an offence under the CPFA, any officer director or agent of the company who directed, authorised, assented to, acquiesced in or participated in the commission of the offence is a party to, and commits the offence and is liable on conviction to the punishment provided for the offence.

Contravention of the CPF Regulations

An FI or LB which does not comply with the ATA Regulations commits an offence and is liable on summary conviction to a fine not exceeding two million dollars and to imprisonment for a term not exceeding two years, or on conviction on indictment to a fine not exceeding five million dollars and to imprisonment for a term not exceeding seven years *(See Section 12 of the CPFA).*

ADMINISTRATIVE FINES

Contraventions of the FORs, FO(FT)Rs, FIUTTRs or CPFs can result in the imposition of an Administrative Fine (see section 57 of the POCA, section 42 of the ATA, section 27 of the FIUTTA and section 12 of the CPFA). Notwithstanding the above, the FIUTT recognises that it is the general

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nature of its Supervised Entities to cooperate and comply once contraventions are identified. In this vein, it is expected that an Administrative Fine will only be pursued in exceptional circumstances short of circumstances warranting criminal action or where multiple attempts at bringing the entity into compliance have proved futile.

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APPENDIX 1 - CASE STUDIES

Case 1 - Accountant and lawyers assist in a money laundering scheme

Suspicious flows of more than USD 2 million were identified being sent in small amounts by different individuals who ordered wire transfers and bank drafts on behalf of a drug trafficking syndicate who was importing 24 kg of heroin concealed in cargo into Country Z. Bank drafts purchased from different financial institutions in Country Y (the drug source country) were then used to purchase real estate in Country Z. An Accountant was used by the syndicate to open bank accounts and register companies.

The Accountant also offered investment advice to the principals.

A firm of solicitors was also used by the syndicate to purchase the property using the bank drafts that had been purchased overseas after they had first been processed through the solicitor's trust account. Family trusts and companies were also set up by the solicitor.

Case 2 - An Accountant provides specialist financial advice to organised crime

A law enforcement operation identified an Accountant, Mr. J, who was believed to be part of the criminal organisation involved in money laundering and re-investment of illicit proceeds derived from drug trafficking led by Mr. X.

Mr. J's role was mainly that of a "legal and financial consultant". His task was to analyse the technical and legal aspects of the investments planned by the organisation and identify the most appropriate financial techniques to make these investments appear legitimate from a fiscal stance. He was also to try to make these investments profitable. Mr. J was an expert in banking procedures and most sophisticated international financial instruments. He was the actual financial "mind" of the network involved in the re-investment of proceeds available to Mr. X.

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Mr. J operated by sub-dividing the financial transactions among different geographical areas through triangle transactions among companies and foreign credit institutions, by electronic transfers and stand- by credit letters as a warrant for commercial contracts which were later invested in other commercial activities.

Source: FATF Report on money laundering typologies 2003-2004

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APPENDIX 2 - AML/CFT/CPF SUSPICIOUS INDICATORS FOR ACCOUNTANTS

While general indicators may point to a suspicious transaction, industry-specific indicators would also help you and your employees to better identify suspicious transactions whether completed or attempted.

Consider the following red flags when you act on behalf of a client:

- Client appears to be living beyond his or her means.
- Client has cheques inconsistent with sales (i.e., unusual payments from unlikely sources).
- Client has a history of changing book-keepers or Accountants yearly.
- Client is uncertain about location of company's records.
- Company carries non-existent or satisfied debt that is continually shown as current on financial statements.
- Company has no employees, which is unusual for the type of business. Company is paying unusual consultant fees to offshore companies.
- Company's records consistently reflect sales at less than cost, thus putting the company into a loss position, but the company continues without reasonable explanation of the continued loss.
- Company shareholder loans are not consistent with business activity.
- Examination of source documents shows misstatements of business activity that cannot be readily traced through the company's books.
- Company makes large payments to subsidiaries or similarly controlled companies that are not within the normal course of business.
- Company acquires large personal and consumer assets (i.e., boats, luxury automobiles, personal residences and cottages) when this type of transaction is inconsistent

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with the ordinary business practice of the client or the practice of that particular industry.

- Company is invoiced by organisations located in a country that does not have adequate money laundering laws and is known as a highly secretive banking and corporate tax haven.
- Client has business activity inconsistent with industry averages or financial ratios.
- Examination of source documents shows misstatements of business activity that cannot be readily traced through the company books.

Source: <http://www.fintrac-canafe.gc.ca/publications/guide/guide-eng.asp>

Please note that this is not an exhaustive list of suspicious indicators.

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