

MOTOR VEHICLE DEALERS

1. DO THESE REQUIREMENTS APPLY TO YOU?

The Financial Intelligence Unit of Trinidad and Tobago (the “FIU”) provides the following summary of the legislative requirements under the Anti-Money Laundering /Counter Financing of Terrorism (AML/CFT) laws. These laws apply to you if you are an individual or company, partnership or firm carrying on the business of buying, selling or leasing new or used motor vehicles as defined under the Motor Vehicles and Road Traffic Act.

If you are an employee of such individual, company, partnership or firm, these obligations are the responsibility of your employer.

If you are an entity that is a company, you are subject to the obligations in this guideline whether you buy, sell or lease new or used motor vehicles on your own behalf or on behalf of a subsidiary or affiliate.

2. YOUR OBLIGATIONS

The AML/CFT laws of Trinidad and Tobago impose obligations on you to:

- I. Register with the FIU;*
- II. Submit Reports to the FIU;*
- III. Not “Tip-off”;*
- IV. Keep Records;*
- V. Ascertain client identity and whether the client is acting for a Third Party;*
- VI. Appoint a Compliance Officer;*
- VII. Develop a written effective Compliance Programme and submit to the FIU; and*
- VIII. Implement your Compliance Programme and conduct periodic reviews.*

I. REGISTRATION WITH THE FIU

You must register with the FIU for the purpose of identifying yourself as an entity which is supervised by the FIU. Existing businesses were required to register within three (3) months from the coming into effect of the FIU Regulations, i.e. by May 9, 2011.

If you commence business after May 9, 2011 you must register as soon as you commence operations or as soon as you register under the Registration of Business Names Act or incorporate or register under the Companies Act, whichever is the earlier date.

(1) How to Register

Register on the **FIU Registration Form** which you may access by [clicking here](#)

(2) Offences

Failure to register within the time stipulated is an offence and you are liable on summary conviction to a fine of \$50, 000 and to a further fine of \$5,000 for each day the offence continues.

Failure to notify the FIU of a change of address of your registered office or principal place of business is an offence and you are liable on summary conviction to a fine of \$20, 000.

II. SUBMITTING REPORTS TO THE FIU

(1) Suspicious Transactions/Activities

- a. You **must submit a suspicious transaction or activity report (STR/SAR)** to the FIU where you know or have reasonable grounds to suspect:
 - i. that funds being used for the purpose of a transaction are the proceeds of a specified offence; or
 - ii. a transaction or an attempted transaction is related to the commission or attempted commission of a money laundering offence; or
 - iii. that funds are linked or related to, or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism.

The STR/SAR must be submitted within fourteen (14) days of the date the transaction was deemed to be suspicious.

- b. You **must** submit a STR/SAR to the FIU **immediately** if a designated entity* attempts to enter into a transaction or continue a business relationship. *You **must not** enter into or continue a business transaction or business relationship with such entity.*

***A designated entity means any individual or entity and their associates designated as terrorist entities by the Security Council of the United Nations.**

Report on **the STR/SAR Form** which you may access by [clicking here](#)

You may access the **Security Council of the United Nations List (“the UN list”)** by [clicking here](#) [Click Here](#) for **STR Reporting Standard No 1 of 2011** to guide you in completing the STR/SAR form.

❖ *Identifying a Suspicious Transaction/Activity*

You must determine whether a transaction or activity is suspicious based on your knowledge of the customer and of the industry. You are better positioned to have a sense of particular transactions which appear to lack justification or cannot be rationalized as falling within the usual methods of legitimate business. 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 buy, sell or lease motor vehicles:

- Customer attempts to purchase vehicle with a significant amount of cash.
- Customer is reluctant or refuses to produce personal identification documents for the transaction to be completed.
- Customer pays substantial down payment in cash and balance is financed by an unusual source for example a third party or private lender.
- Purchases carried out on behalf of persons who appear to lack the economic capacity to make such purchases.
- Last minute cancellation of order, which means that funds would have to be reimbursed to the customer via a business cheque.
- Customer purchases vehicle without inspecting it.
- Customer purchases multiple vehicles in a short time period, and seems to have few concerns about the type, cost, condition, etc.
- Customer purchases vehicles and registers them in “Rental”.
- Customer is known to have a criminal background.
- Customer uses or produces identification documents with different names.
- Customer does not want to put his/her name on any document that would connect him/her with the purchase of the vehicle.
- Purchase appears to be beyond the means of the Customer based on his/her stated or known occupation or income.

(2) Terrorist Property

- a. You **must report immediately** to the FIU the existence of funds within your business where you know or have reasonable grounds to suspect that the funds belong to an individual or legal entity who:
 - i. commits terrorist acts or participates in or facilitates the commission of terrorist acts or the financing of terrorism; or
 - ii. is a designated entity.
- b. You **must report immediately** to the FIU where you know or have reasonable grounds to believe that a person or entity named on the UN list or the list circulated by the FIU has funds in Trinidad and Tobago.

Report the existence or suspicion of terrorist funds on the **Terrorist Funds Report - FIU TFR Form** which you may access by [clicking here](#)

III. NO TIPPING-OFF

When you have made a suspicious transaction report to the FIU, you or any member of your staff **must not** disclose the fact or content of such report to any person. It is an offence to deliberately tell any person, including the customer, that you have or your business has filed a suspicious transaction report about the customer's transactions.

IV. RECORD KEEPING

You must keep the following records in electronic or written format for at least six (6) years:

- (1) All domestic and international transaction records;
- (2) Source of funds declarations;
- (3) Client identification records;
- (4) Client information records;
- (5) Copies of official corporate record;
- (6) Copies of suspicious transaction reports submitted by your staff to your Compliance Officer;
- (7) A register of copies of suspicious transaction reports submitted to the FIU;
- (8) A register of all enquiries made by any Law Enforcement Authority or other competent authority;
- (9) The names, addresses, position titles and other official information pertaining to your staff ;
- (10) All Wire transfers records (originator and recipient identification data); and

(11) Other relevant records.

V. ASCERTAINING IDENTITY

(1) You must take specific measures to identify the following individuals or entities:

- a. Any individual or entity for whom you have to keep a client information record or a source of funds record e.g. an individual conducting a transaction of \$90,000 and over or a wire transfer of \$6,000 and over.
- b. Any individual or entity who conducts business transactions with persons and financial institutions in or from other countries which do not or insufficiently comply with the recommendations of the Financial Action Task Force (the “FATF”).
[Click here](#) for **FATF High Risk and Non-Cooperative Jurisdictions**.
Any individual or entity who conducts complex, unusual, or large transactions, (whether completed or not), unusual patterns of transaction and insignificant but periodic transactions which have no apparent economic or visible lawful purpose.
- c. Domestic and Foreign Politically Exposed Persons (PEPs).
- d. Any individual or entity for whom you have to send a suspicious transaction report to the FIU (reasonable measures and exceptions apply e.g. to avoid **tipping-off**).

(2) *Third Party Determination*

- a. You must take reasonable measures to determine whether the customer is acting on behalf of a third party:
 - i. where a large cash transaction record is required; and
 - ii. when a client information record is required.
- b. In cases where a third party is involved, you must obtain specific information about the third party and their relationship with the individual providing the funds or the customer.

[Click here](#) for **Customer Due Diligence Guide No. 1 of 2011**

VI. APPOINT A COMPLIANCE OFFICER

You must appoint a senior employee at managerial level as Compliance Officer (CO). The individual you appoint will be responsible for the implementation of your compliance regime. The identity of the CO must be treated with the strictest confidence by you and your staff.

Your CO should have the authority and the resources necessary to discharge his or her responsibilities effectively. Depending on your type of business, your CO should report, on a regular basis, to the board of directors or senior management, or to the owner or chief operator.

If you are a small business, employing five (5) persons or less, the CO must be the person in the most senior position.

If you are the owner or operator of the business and do not employ anyone, you can appoint yourself as CO.

If you are a business employing over five [5] persons, the CO should be from senior management level and have direct access to senior management and the board of directors. Further, as a good governance practice, the appointed CO in a large business should not be directly involved in the receipt, transfer or payment of funds.

For consistency and ongoing attention to the compliance regime, your appointed CO may choose to delegate certain duties to other employees. For example, the officer may delegate an individual in a local office or branch to ensure that compliance procedures are properly implemented at that location. However, where such a delegation is made, the CO retains full responsibility for the implementation of the compliance regime.

VII. DEVELOP AND SUBMIT TO THE FIU A WRITTEN COMPLIANCE PROGRAMME

After you have registered with the FIU as a reporting entity, you must develop a written Compliance Programme (“CP”) which you must submit to the FIU for approval. If you are an organization the CP also has to be approved by senior management.

The CP is your system of internal procedures and controls which are intended to ensure that you comply with your reporting, record keeping, client identification, employee training, and other AML/CFT obligations.

You must review the CP every two (2) years and resubmit same to the FIU.

The FIU will examine your CP and approve or recommend amendments if deficiencies are identified.

A well-designed, applied and monitored regime will provide a solid foundation for compliance with the AML/CFT laws. As not all individuals and entities operate under the same circumstances, your compliance regime will have to be tailored to fit your individual needs. It

should reflect the nature, size and complexity of your operations as well as the vulnerability of your business to money laundering and terrorism financing activities.

The following five elements must be included in your compliance regime:

- (1) The appointment of a staff member as CO;
- (2) Internal compliance policies and procedures;
- (3) Your assessment of your risks to money laundering and terrorism financing, and measures to mitigate high risks;
- (4) Ongoing compliance training for staff ; and
- (5) Periodic documented review of the effectiveness of implementation of your policies and procedures, training and risk assessment.

[Click here](#) to access the **Guide to Structuring an AML/CFT Compliance Programme**

VIII. COMPLIANCE TESTING

Your obligations include implementing your written CP. The FIU may conduct an onsite examination to determine the effectiveness of implementation of the measures outlined in your CP.

In addition, you must conduct internal testing and external independent testing to evaluate the effectiveness of your systems and controls and implementation of same. Such reviews must be documented.

3. OFFENCES & PENALTIES FOR NON-COMPLIANCE

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

[Click here](#) to access a **summary of the Offences and Penalties under the AML/CFT laws and regulations of Trinidad and Tobago**

This summary is intended to guide you in fulfilling your legal obligations under the AML/CFT laws. You may access the laws on the FIU's website, www.fiu.gov.tt under **“Legal Framework”**. [Click here](#) to access the laws.