



Agenda

- FIA powers under the Act
 - *Issuing of directions*
 - *Issuing of licences or exemptions*
 - *Issuing of notice to produce information/documents*
 - *Powers to search*
- General requirements imposed on relevant persons captured under the Act
- Suspicious Activity/Suspicious Transaction reporting



FIA Powers under the Act

- Section 3 of the Act empowers the Agency to give a direction to any relevant person mentioned under section 4 of the Act providing the conditions under section 5 are met



Conditions under section 5

- Where the UN or FATF advises that certain measures should be taken in relation to a country because of the possible risk of ML, TF or proliferation activities taking place within that country
- Either by the government of the country or by
- Persons residing in or incorporated in the country



Conditions under section 5 contd.

Under section 5 (1) (b), where the Agency reasonably believes that the risk of ML, TF activities are being carried on:

- in the country
- by the government of the country, or by person resident in that country and the Agency under
- section 5 (1) (c), where the Agency reasonably believes that the development or production of nuclear, radiological, biological or chemical weapons in the country or systems for their delivery; or
- any activity taking place within that country that facilitates the development or production of such weapons and that same poses a significant risk either to the VI or the UK



Scope of directions

- Conducting enhanced CDD either at specified periods or generally over the course of an established business relationship
- Ongoing monitoring of that business relationship to include maintaining current or up-to-date information for the purpose of enhanced CDD
- Scrutinising transactions undertaken during the course of that business relationship, to ascertain source of funds for those transactions, to ascertain whether the funds are consistent with the relevant person's knowledge of the designated person and their business
- Systematic reporting of information and documents relating to transactions and business relationships with designated persons



Scope of directions contd.

- Directing a relevant person not to enter into or continue to participate in a specific transaction or business relationship with a designated person or a specified description of transactions or business relationships with a designated person or any transaction with a designated person (**section 10**)



Requirements for issuing orders

- Section 11 (2) requires a copy of an order giving directions mentioned under section 10 be laid before the House of Assembly
- Notice must be given to the particular person to whom the direction applies
- Direction given shall be valid for a period of one year from the day the direction is first given
- variations to a direction, including revocation shall be published in the same manner as specified under section 11 of the Act



Power to issue licences

- The Agency may issue licenses exempting persons from requirements listed under section 10 of the Act.
- Such licences may be granted for a specified or indefinite period
- Such licences may be revoked or varied at anytime
- In cases where a licence is given and it is subsequently revoked or varied, the Agency must not only give notice to the particular person to whom the license is granted but it must also take appropriate steps to have these actions publicised



Power to request information

- Power to request information, including documents from relevant persons through a notice (in writing)
- Power is only to be exercised so far as the information or documents are needed to allow the Agency to carry out its functions under the Act
- Power to enter without a warrant
- Search warrants to be issued by either a Magistrate or Justice of the Peace



Power to impose civil penalties

- The Agency can impose a penalty of up to USD 40,000.00 on its own volition for failure of a specified person to comply with information requirements
- Notice must be given prior to any penalty being imposed
- There is a right of appeal for person subject to such penalties. First to the Agency's Board and then to the High Court if not satisfied with the Board's decision



Enforcement offences

- Covered under section 23 in respect of offences relating to failure to comply with directions given under the relevant provisions of the Act
- Section 24 speaks to offences associated with granting of licences under section 14 of the Act
- Section 25 speaks to the application of extra-territorial offences
- Section 26 speaks to the statute of limitation regarding offences that are to be tried summarily
- Section 27 speaks to liability of officers of bodies corporate ect



Enforcement offences contd.

- Section 28 speaks to proceedings against a partnership or unincorporated association
- Section 39 imposes a statutory obligation on the Agency to prepare and submit a report about the exercise of its functions under the Act within a period of six months after the end of each year
- Report to be forwarded to the Attorney General who would then cause the report to be laid in the House of Assembly



Reporting Obligation

- There is still a requirement to file reports with the FIA Steering Committee
- Reports should be made as soon as you become suspicious of a possible proliferation financing transaction
- An acknowledgement receipt will be given in much the same way as it is with reports filed under POCCA
- You are advised not to tell your customers that you have received a notification
- The information you should include in your letter would be similar to what you would normally include in a report filed under POCCA



Reporting requirements contd.

- Complete details of main subjects
- Transaction details, where possible, and if appropriate
- Who is involved
- The activity
- Stage of the activity
- Source of beneficiary information
- Company registration number
- Names of directors or officers
- Names of subsidiaries and parent company ,if any
- The types of goods or activities being financed
- Countries where goods are currently located