



FIA

**SAINT LUCIA
FINANCIAL INTELLIGENCE
AUTHORITY**

**GUIDANCE TO REPORTING ENTITIES
ON SUSPICIOUS
TRANSACTION/ACTIVITIES REPORTING
STANDARDS**

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PART I

INTRODUCTION

These Guidance Notes are intended to assist Financial Institutions and Other Business Activities (OBAs) which are collectively referred to as “Reporting Entities”, in complying with their legislative requirement to file suspicious activity reports (SARs) to the Financial Intelligence Authority (FIA). The requirement to file SARs is provided for under sections 16(1)(c) and 16(1)(k) of the Money Laundering (Prevention) Act (MLPA) of Saint Lucia.

Money launderers use the financial system to launder their illicit proceeds, as such, reporting entities through the reporting of suspicious transactions/activities is of critical importance in the fight against money laundering, terrorism financing and other criminal conduct. It is therefore important that reporting entities submit SARs that are of a high quality.

These guidance notes provide instructions relating to the identification of suspicious activity as well as measures to be taken to complete and submit a SAR in accordance with the reporting entity’s legal obligation under the MLPA.

The Guidance should be read in conjunction with the MLPA, MLPA (Guidance Notes) Regulations and the Anti-Terrorism Act of St. Lucia (ATA).

PART II

WHAT IS A SUSPICIOUS ACTIVITY REPORT

A SAR is a type of report that must be submitted to the FIA by reporting entities if there is **reasonable suspicion** that a transaction has occurred or is attempted in the course of business activity and is related to the commission or attempted commission of an ML/TF/PF offence or other criminal conduct.

Section 16(1)(c) of the MLPA prescribes that a reporting entity shall report to the FIA a transaction where the identity of a person involved in the transaction or the circumstances relating to the transaction gives an employee of the reporting entity **reasonable suspicion** that the transaction involves the proceeds of criminal conduct.

PART III

MEASURES TO IDENTIFY SUSPICIOUS ACTIVITY AND FORMULATE A SAR

To enable the reporting of a SAR the institution must first screen and identify transactions or activities which are deemed to be suspicious. Suspicion of criminal conduct including

ML/TF/PF is likely formulated from your institution's assessment of multiple elements including: **transactions, fact, context** and other information that may or may not be **indicators of criminal conduct**.

1. Transactions

The customer may engage in a number of transactions which would include but are not limited to those listed in section 2 of the MLPA:

- any deposit, withdrawal, exchange or transfer of funds in any currency whether in cash or by cheque, payment order or other instrument or by electronic or other non-physical means;
- any payment made or received in satisfaction in whole or in part of any contractual or legal obligation;
- a matter between the holders of a joint account relating to the joint account;
- entering into a fiduciary relationship;
- an internet transaction;
- opening of a joint account where the purpose of the account is to facilitate a transaction between the holders of the joint account;
- opening of an account; and
- the purchase of anything or service including any service provided by a financial institution or person engaged in other business activity.

2. The Facts

A fact, for the purpose of completing a SAR, is defined as an event, action, occurrence or element that exists or is known to have happened or existed — not an opinion. Examples of facts about transactions could include the date, time, location, amount or type. Facts known to the Reporting Entity could also include account details, particular business lines, the client's financial history or information about the person or entity (for example, that the person has been convicted of a criminal offence or that an individual or entity is being investigated for fraud or any other criminal conduct).

3. Context

Context, for the purpose of completing a SAR, is defined as information that clarifies the circumstances or explains a situation or transaction. This type of information is essential to differentiate between what may be suspicious and what may be reasonable in a given scenario.

You may observe or understand the context of a transaction through:

- a general awareness of the events occurring in a person or entity's business environment or community;
- your knowledge of the typical financial activities found within your business;
- regular know your customer (KYC) activities (for example, verifying the identity of persons and entities, their occupation or business, how they generate their wealth, their typical or expected transactional behaviours, etc.);
- the information obtained through the application of your risk assessment; and

- illustrative client details (for example, the background, behaviour and actions of your customer).

A transaction may not appear suspicious in and of itself. However, an examination of additional contextual elements surrounding the transaction may form suspicion. On the other hand, the context of a particular transaction, which initially may have seemed unusual or suspicious, could lead you to reassess your customer's current and past transactions and conclude that they are reasonable in that circumstance.

The suspicion of criminal conduct will likely materialize from an assessment of the **transactions, facts, context, and indicator of criminal conduct**. When these elements are viewed together, they create a picture that will either support or negate your suspicion of the commission of criminal conduct. Listed below are some examples of how suspicion may arise in relation to the above-mentioned elements:

- An individual asks several questions about your reporting obligations to FIA (context)
- A customer wants to know how they can avoid their transaction being reported to FIA (context)
- A customer structures their amounts to avoid client identification or reporting thresholds (fact)
- A customer conducts a transaction while accompanied, overseen or directed by another party (fact)
- Payments made to or from unrelated parties (foreign or domestic) (fact)
- Customer appears to be or states that they are acting on behalf of another party (context)
- A person making a deposit to a personal account, where the person has an income or job that is not consistent with the deposit amounts (fact)
- A person keeps changing their reason for the deposit, and cannot or will not provide a reason (context)
- A person exhibits nervous behaviour (context)
- Deposits to an account are made by numerous parties that are not signing authorities or employees (fact)
- The account activity involves wire transfers in and out of the country (fact), which do not fit the expected pattern for that business (context)

4. ML/TF Indicators

ML/TF or other criminal conduct indicators or red flags can initiate suspicion and signal that a transaction or activity may be unusual in the absence of a reasonable explanation. Red flags typically stem from one or more facts, behaviour, patterns or other factors that identify irregularities related to a customer's transactions. These transactions often present inconsistencies with what is expected or considered normal based on the facts and context you know about your customer and their transactional activities.

Reporting entities should note that Red Flag Indicators for ML may be identical or similar to those for TF since the techniques used may be the same in most instances.

Financing of Terrorism Red Flags

- a) The parties to the transaction (owner, beneficiary, etc.) are from countries known to support terrorist activities and organizations.
- b) Use of false corporations, including shell-companies.
- c) Inclusion of the individual or entity in the United Nations 1267 Sanctions list.
- d) Media reports that the account holder is linked to known terrorist organizations or is engaged in terrorist activities.
- e) Beneficial owner of the account not properly identified.
- f) Use of nominees, trusts, family members or third-party accounts.
- g) Use of false identification.
- h) Abuse of non-profit organization.
- i) The use of funds by a non-profit organization is not consistent with the purpose for which it was established.
- j) The transaction is not economically justified considering the account holder's business or profession.
- k) A series of complicated transfers of funds from one person to another as a means to hide the source and intended use of the funds.
- l) Transactions which are inconsistent with the account's normal activity.
- m) Deposits are structured below the reporting requirements to avoid detection.
- n) Multiple cash deposits and withdrawals with suspicious references.
- o) Frequent domestic and international ATM activity.
- p) No business rationale or economic justification for the transaction.

- q) Unusual cash activity in foreign bank accounts.
- r) Multiple cash deposits in small amounts in an account followed by a large wire transfer to another country.
- s) Use of multiple, foreign bank accounts.

Additional terrorism financing indicators are listed in Part iv of the Anti-Terrorism (Guidance Notes) Regulations

Money Laundering Red Flags

- a) The client cannot provide satisfactory evidence of identity.
- b) Situations where it is very difficult to verify customer information.
- c) Deposits are structured below the reporting requirements to avoid detection.
- d) Situations where the source of funds cannot be easily verified.
- e) Transactions in countries in which the parties are non-residents and their only purpose is a capital investment (they are not interested in living at the property they are buying).
- f) Frequent change of ownership of same property in unusually short time periods with no apparent business, economic or other legitimate reason and between related persons.
- g) Customer wants to re-sell property shortly after purchase at a significantly different purchase price, without corresponding changes in market values in the same area.
- h) Customer wishes to form or purchase a company whose corporate objective is irrelevant to the client's normal profession or activities, without a reasonable explanation.
- i) The customer sets up shell companies with nominee shareholders and/or directors.
- j) Customer repeatedly changes Attorneys within a short period of time without any reasonable explanation.
- k) Customer purchases property in names of other persons or uses different names on offers to purchase, closing documents and deposit receipts.
- l) Customer deposits a large amount of cash with you to make payments which are outside of the client's profile.

- m) Customer negotiates a purchase but wants to record a lower value on documents, paying the difference “under the table”, (inadequate consideration).
- n) Customers documents such as identification, statement of income or employment details are provided by an intermediary who has no apparent reason to be involved, (the intermediary may be the real client).
- o) Transaction involves legal entities and there is no relationship seen between the transaction and the business activity of the buying company, or the company has no business activity.
- p) Divergence from the type, volume or frequency of transactions expected in the course of the business relationship.

Additional money laundering indicators are listed in Part V of the MLPA (Guidance Notes) Regulations.

PART IV

ESTABLISHING REASONABLE SUSPICION

Reporting Entities must remain vigilant for criminal conduct indicators or Red Flags as a first step towards developing reasonable suspicion. A red flag on its own may not necessarily amount to reasonable suspicion. The institution, upon further examination of the facts and surrounding circumstances may have reasonable suspicion that the transaction or activity relates directly or indirectly to ML/TF or other criminal conduct.

Section 16A of the MLPA provides a standard for reasonable suspicion. The section states that the question whether a **reasonable suspicion** for the purposes of section 16 has been formed shall be determined objectively having regard to all the facts and surrounding circumstances.

Being cognizant of the threshold to establish reasonable suspicion is pivotal to you making a decision to filing a SAR.

i. Simple Suspicion

Simple suspicion is a lower threshold than reasonable suspicion and it is merely a "gut feeling". This feeling may stem from seeing a red flag without any other facts, contexts or other indicators of ML/TF or other criminal conduct. In other words, simple suspicion means that you have a feeling that something is unusual or suspicious, but do not have any of the supporting element to assist you in coming to a reasonable conclusion that an ML/TF or other offence has occurred. Simple suspicion could prompt you to assess related transactions to see if there is any additional information that would support or confirm your suspicion.

ii. Reasonable Suspicion

Reasonable suspicion or reasonable grounds to suspect is the required threshold to submit an SAR to the FIA and is a step above simple suspicion. This would mean there is a high probability that an ML/TF offence or other criminal conduct has occurred. You **do not** have to verify the facts, context or ML/TF indicators that led to your suspicion, nor do you have to prove that an ML/TF offence or other criminal conduct has occurred in order to reach reasonable suspicion. Your suspicion must be reasonable and therefore, not biased or prejudiced.

Arriving at reasonable suspicion means that you considered the **facts, context and ML/TF indicators** related to a financial transaction or activity and, after having examined this information, you came to the conclusion that there is reasonable suspicion that this particular financial transaction is related to the commission of an ML/TF offence or other criminal conduct. You must be able to demonstrate and articulate your suspicion of ML/TF or other criminal conduct in such a way that another individual reviewing the same material with similar knowledge, experience and training would likely reach the same conclusion.

The explanation of your analysis should be included in the narrative portion on the SAR form. Many factors will support your assessment and conclusion that an ML/TF or other criminal offence has possibly occurred; they should all be included in SAR form.

iii. Reasonable Grounds to Believe

Reasonable grounds to believe is a higher threshold than reasonable suspicion and is **beyond** what is required by you to submit a SAR. Reasonable grounds to believe means that there are verified facts that support the **probability** that an ML/TF offence or other criminal conduct has occurred. In other words, there is enough evidence to support a reasonable and trained person to **believe, not just suspect**, that criminal conduct has occurred. **Law enforcement** must reach reasonable grounds to believe that criminal activity has occurred before they can obtain judicial authorizations, such as a **production and restraint orders**.

PART V

TIME TO SUBMIT A SAR TO THE FIA

Having formulated reasonable suspicion after your examination of the transaction or attempted transactions, facts, context and criminal conduct indicators, the institution must then report that suspicion to the FIA with seven (7) days of forming that suspicion.

As prescribed by section 16(1)(k) of the MLPA, reporting entities shall “report to the Authority any suspicious transaction or attempted transaction relating to money laundering or other criminal conduct as soon as reasonably practicable, and in any event,

within seven days of the date the transaction or attempted transaction is deemed to be suspicious”.

PART VI

IMPACT ON THE BUSINESS RELATIONSHIP/TRANSACTION AFTER FORMING THE SUSPICION

The law does not require a reporting entity who has filed a SAR to end or terminate their financial relationships with the reported individual or entity except in the three (3) following circumstances:

- a) where satisfactory evidence of identity has not been obtained; or
- b) where the institution is unable to obtaining information on as far as possible the background, purpose and intended nature of the business relationship;
- c) in keeping with the requirements of the ATA, where a Specified Entity attempts to enter into a transaction or continue the business relationship.

In all other cases reporting entities should be aware that the decision to continue the business relationship after filing a SAR should be based on commercial or risk mitigation reasons.

PART VII

HOW TO COMPLETE A SAR

The prescribed format of the SAR form in Part V Appendix F of the MLPA (Guidance Notes) Regulations should be used by reporting entities. The SAR form is also available on the FIA’s website, www.slufia.com.

It is important that Reporting Entities complete all relevant fields in the form with accurate information.

i) Content of the SAR

The SAR is one of the most valuable elements in a country’s AML/CFT efforts, therefore completing all fields on the SAR form with the required and accurate information is of utmost importance.

A SAR form allows for an expansion on the descriptive details surrounding a transaction that is derived from your assessment of what you are seeing through your business interactions and activities. Additional information, such as nicknames, secondary names, beneficial ownership information, IP addresses, additional account numbers, email addresses, details of purchases or e-transfers, locations, relationships, and background information are all additional details that the FIA uses in its analysis and production of financial intelligence.

The first segment of the form, should be completed with information about the reporting institution to include, the date on which the report was completed and a unique and sequential reference number.

In the second segment of the SAR form labelled, “**Subject Details**”, reporting entities should include as much relevant information about the customer, transaction or activity that it has available from its records.

In the third segment of the SAR labelled, “**Reason for Suspicion and Details of Transaction(s)**”, the information about the transaction and what led to the suspicion is important in completing the SAR. Provide as many details as possible including anything that made you suspect that might be related to ML, TF or other criminal conduct. It is not critical for the reporting entity to determine whether the offence is one or the other, it is the information about your suspicion that is important, not the distinction between ML, TF or other criminal conduct.

ii) Supporting documents

Copies of all necessary supporting documents should be enclosed with the SAR form. Supporting documents should include identification documents, documents relating to the transaction or activity, any other document that would have assisted you in forming your suspicion.

iii) SAR Submission to the FIA

SARs must be reported as a matter of priority, by using the following method:

1. Hand delivered in a **SEALED** envelope and stamped “**CONFIDENTIAL**” addressed to:
The Director
Financial Intelligence Authority
PO Box GM 959,
Unit 5 Chakiro Court
Vide Bouteille
Castries
Tel 451 7126 / Fax 453 6199

PART VIII

REPORTING ENTITIES UNDER THE MLPA

Financial Institutions

1. A licensed financial institution under the Banking Act, Cap. 12.01.
2. A building society registered under the Building Societies Act, Cap. 12.04.
3. A credit union registered under the Co-operative Societies Act, Cap. 12.06.

4. An entity licensed under the Insurance Act, Cap. 12.08 or other enactment for underwriting and placement of long-term insurance and other investment related insurance.
5. An entity licensed under the International Banks Act, Cap.12.17.
6. An entity licensed under the International Insurance Act, Cap.12.15.
7. An entity licensed under the Virtual Asset Business Act, No. 24 of 2022.”;
8. An entity licensed under the Money Services Business Act, Cap. 12.22.
9. The Saint Lucia Development Bank established under the Saint Lucia Development Bank Act, Cap. 12.02.
10. An entity licensed under the Securities Act, Cap. 12.18.
11. An entity that engages in the sale of money orders.
12. An international public mutual fund administrator licensed under the International Mutual Funds Act, Cap. 12.16.
13. A private mutual fund registered under the International Mutual Funds Act, Cap. 12.16.
14. An international public mutual fund licensed under the International Mutual Funds Act, Cap. 12.16.”

Other Business Activity

1. Registered agents and trustees licensed under the Registered Agent and Trustee Licensing Act, Cap. 12.12.
2. Motor Dealer licensed under the Motor Vehicles and Road Traffic Act, Cap. 8.01.
3. A Gaming Operator licensed under the Gaming, Racing and Betting Act, Cap. 13.13, when engaging in transactions equal to or exceeding \$8,000.
4. A person involved in transactions for a client concerning the buying and selling of real estate.
5. A dealer in precious metals or stones, when engaging in any transactions equal to or exceeding \$25,000.
6. A person that engages in internet gaming and wagering services.
7. Attorneys-at-law when they carry out transactions for a client in relation to the following activities —
 - (a) buying and selling real estate;
 - (b) creating, operating or managing companies;
 - (c) managing bank, savings or securities accounts;
 - (d) managing client’s money, securities or other assets; or
 - (e) raising contributions for the creation, operation or
 - (f) management of companies.
8. Accountants when they carry out transactions for a client in relation to the following activities —
 - (a) buying and selling real estate;
 - (b) creating, operating or managing companies;
 - (c) managing bank, savings or securities accounts;

- (d) managing client's money, securities and other assets; or
- (e) raising contributions for the creation, operation or
- (f) management of companies.”.