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CHARTERING MODERN COMPLIANCE SINCE 2017

INTRODUCTION TO:
**ANTI-MONEY LAUNDERING /COUNTERING FINANCING OF TERRORISM/COUNTERING
FINANCING PROLIFERATION/SANCTIONS**

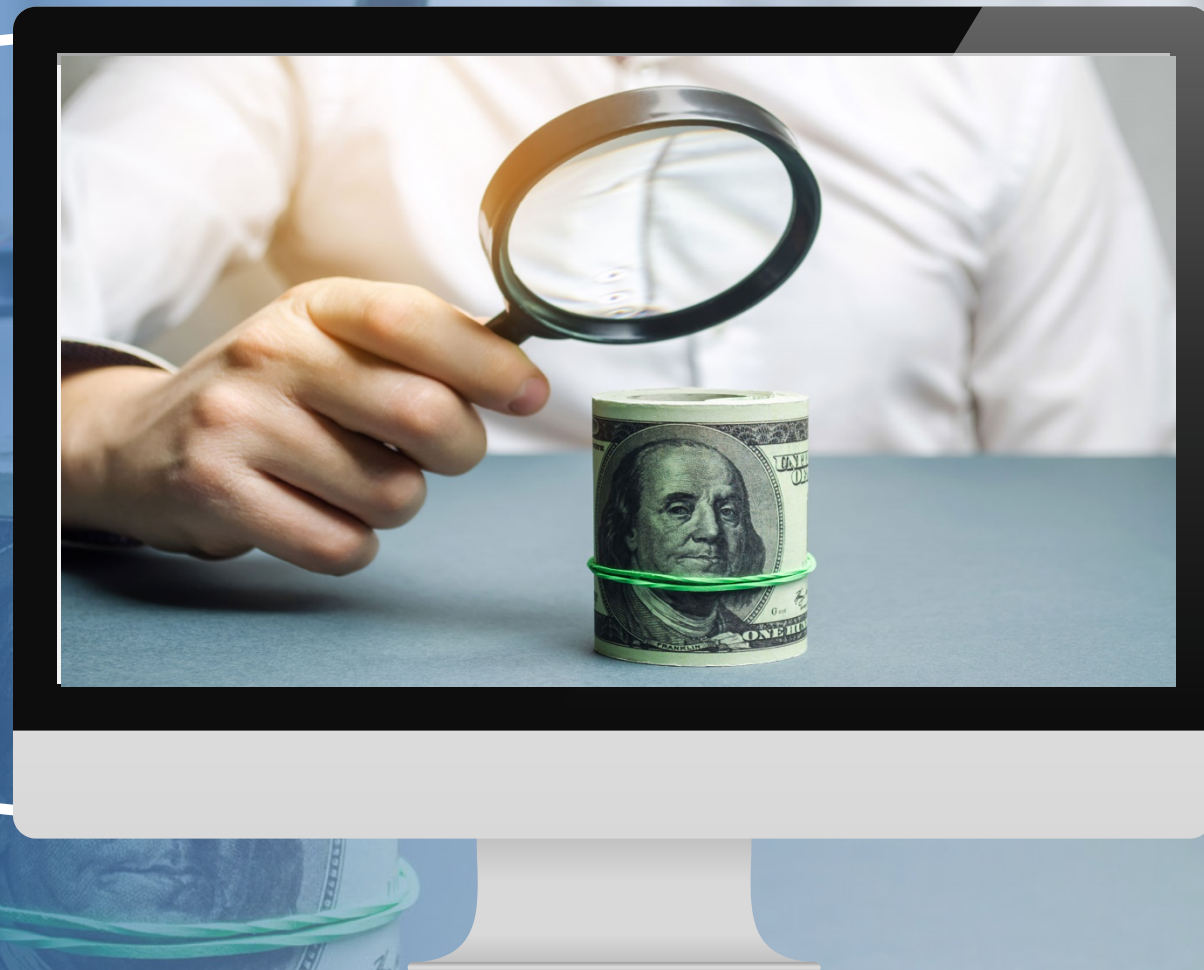
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OBJECTIVES

- Demonstrate an understanding of money laundering, financing of terrorism, proliferation financing and sanctions;
- Describe regulatory obligations as they relate to both you and your organisation;
- Understand your reporting obligations as it relates to sanctions and the identification of unusual or suspicious activity;
- Understanding of the consequences for non-compliance; and





Money Laundering (ML)

Money laundering is an attempt to conceal the illegal source of the funds and transform them into legitimate funds through complex transactions typically orchestrated through numerous entities.

Money laundering is motivated by illegal or criminal activity. Once laundered, funds derived from illegal means can more easily be used for other purposes.



There are 3 stages of Money Laundering:

1.Placement: involves physically placing illegally obtained money into the financial system or into the retail economy.

2.Layering: is the process by which illegally obtained money is separated from its source through a series of financial transactions. This involves the creation of complex networks and transactions which attempt to blur the link between the initial stage and the end of the laundering cycle.

- **3.Integration:** where the funds return to the legitimate economy for later extraction. Integration of laundered money into the legitimate economy is accomplished by the money launderer by making it appear to have been legally earned.





Terrorist Financing (TF)

Terrorist financing can be defined as:

- The use of property for terrorism purposes or for supporting a terrorist entity (this can include the provision of educational or day to day living expenses);
- Dealing with terrorist property by way of concealing, removing or transferring;
- Providing illegal or legally obtained funds to support terror-related activities or for purchase of materials, equipment or supplies.





Terrorist Financing Process

- The process of terrorist financing is similar to that of money laundering carried out by criminal organizations but in principle the financing of terrorism is different from criminal organizations' performance of money laundering. The destination of the dirty money owned by money launderers, after being disguised, is the legitimate financial system.
- Terrorist financing involves the funds that come from a legal or illegal source and the destination of the funds is a place where the funds are available to the terrorist organizations whenever they want. In a way, terrorist financing is a branch of money laundering but their destinations are different.
- Terrorist groups must develop sources of funding, a means of laundering those funds and a means to use those funds to obtain materials and logistical items.
- A Terrorist group needs to disguise the links between it and its source of funding. Terrorist financing presents a different challenge in that the funds involved may come from legitimate sources and individuals are generally not motivated by personal gain.



Proliferation Financing (PF)

Proliferation Financing is the act of providing funds or financial services which are used in whole or in part, for the manufacture, acquisition, possession, development, export, transshipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technological and dual-use goods for non-legitimate purposes) in contravention of national laws, or, where applicable, international obligations.

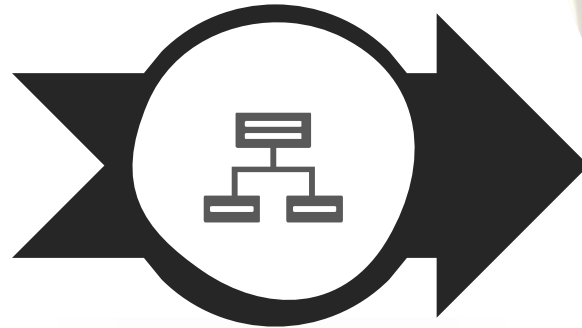


The 3 stages of Proliferation Financing:



Stage 1

RAISE



Stage 2

OBSCURE



Stage 3

**PROCURE
(and ship)**



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SANCTIONS

Sanctions are restrictions imposed by national and international bodies that focus primarily on:

- Preventing terrorism;
- Conflict resolution;
- Non-proliferation of weapons of mass destruction; and
- Protection of civilians from harm (including protecting human right)





SANCTIONS REGIME

As a British Overseas Territory, the Virgin Islands and Cayman Islands is subject to United Kingdom (UK) Orders in Council which are passed by The Privy Council, extending the provisions in European Union (EU), United Nations (UN) and UK Sanctions to the British Overseas Territories.

These orders are passed on by statutory instrument.





OBJECTIVE OF SANCTIONS

- Change the behavior of a targeted country, region or regime;
- Apply pressure on a targeted country, regime to comply with set objectives;
- Act as an enforcement tool when international peace and security have been threatened and diplomatic efforts failed;
- Restrict the funding of individuals, entities or groups associated with criminal or terrorist activity.





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TYPES OF SANCTIONS

- Financial Sanctions
- Trade Sanctions
- Non-financial Sanctions

In this training module we are concerned with financial sanctions.



TYPES OF FINANCIAL SANCTIONS



- Asset Freeze
- Restrictions On a Designated Person
- Direction to Cease all Business



British Virgin Islands Legislative Framework



- Proceeds of Criminal Conduct Act, 1997, as amended (POCCA);
- Anti-Money Laundering Regulations, 2008, as amended (AMLR);
- Anti-Money Laundering and Terrorist Financing Code of Practice, 2008 (AML Code);
- Financial Investigation Agency Act, 2003, as amended (FIAA);
- Non-Financial Business(Designation) Notice, 2008 (NFB Notice);
- Legal Professional Act, 2015 (LP Act);
- Financial Services Commission Act, 2001, as amended (FSC Act);
- Regulatory Code, 2009 as amended (Reg Code);
- Banks and Trust Companies Act, as amended (BTCA);
- BVI Business Companies Act, 2004, as amended (BC Act);
- Beneficial Ownership Secure Search System Act, 2017, as amended (BOSSs Act);
- Company Management Act, 1990 as amended (CM Act);
- Criminal Code, 1997 as amended (Code);
- Economic Substance (Companies and Limited Partnership) Act, 2018, as amended (ES Act);
- International Tax Authority Act, 2018, as amended (ITA Act);
- Mutual Legal Assistance (Tax Matter) Act, 2003 (MLAT);
- Securities Investment Business Act, as amended (SIBA);
- Proliferation Financing (Prohibition) Act, 2009 (PFPA);
- Anti-Terrorism (Financial and Other Measures) (Overseas Territories) Order, 2002 (ATFOMOTO);
- The Terrorism (United Nations Measures) (Overseas Territories) Order, 2001 (TUNMOTO); and
- Drug Trafficking Offences Act, 1992, as amended (DTOA).



British Virgin Islands Offenses & Penalties

- Acquisition, possession or use of proceeds of criminal conduct: US\$250,000-CI\$500,000 criminal fine. Conviction on indictment: imprisonment for a term of 14 years or to a fine, or to both
- Assisting another to retain benefit of criminal conduct: US\$250,000-CI\$500,000 criminal fine. Conviction on indictment: 5 years imprisonment or a fine, or both
- Concealing or transferring proceeds of criminal conduct: US\$250,000-CI\$500,000 criminal fine. Conviction: liable to a fine and imprisonment for 2 years
- Tipping off: US\$250,000-US\$500,000 criminal fine or 2-14 years maximum imprisonment (PCCA)
- Failure to report a suspicious activity or transaction: US\$150,000-\$500,000 criminal fine or 3-5 years' imprisonment (PCCA)
- Failure of an employee to report a suspicious activity or transaction: US\$70,000 administrative fine (AML & TF Code)
- Failure to comply with internal control systems of an employer or to disclose a suspicion: US\$65,000 administrative fine (AML & TF Code)



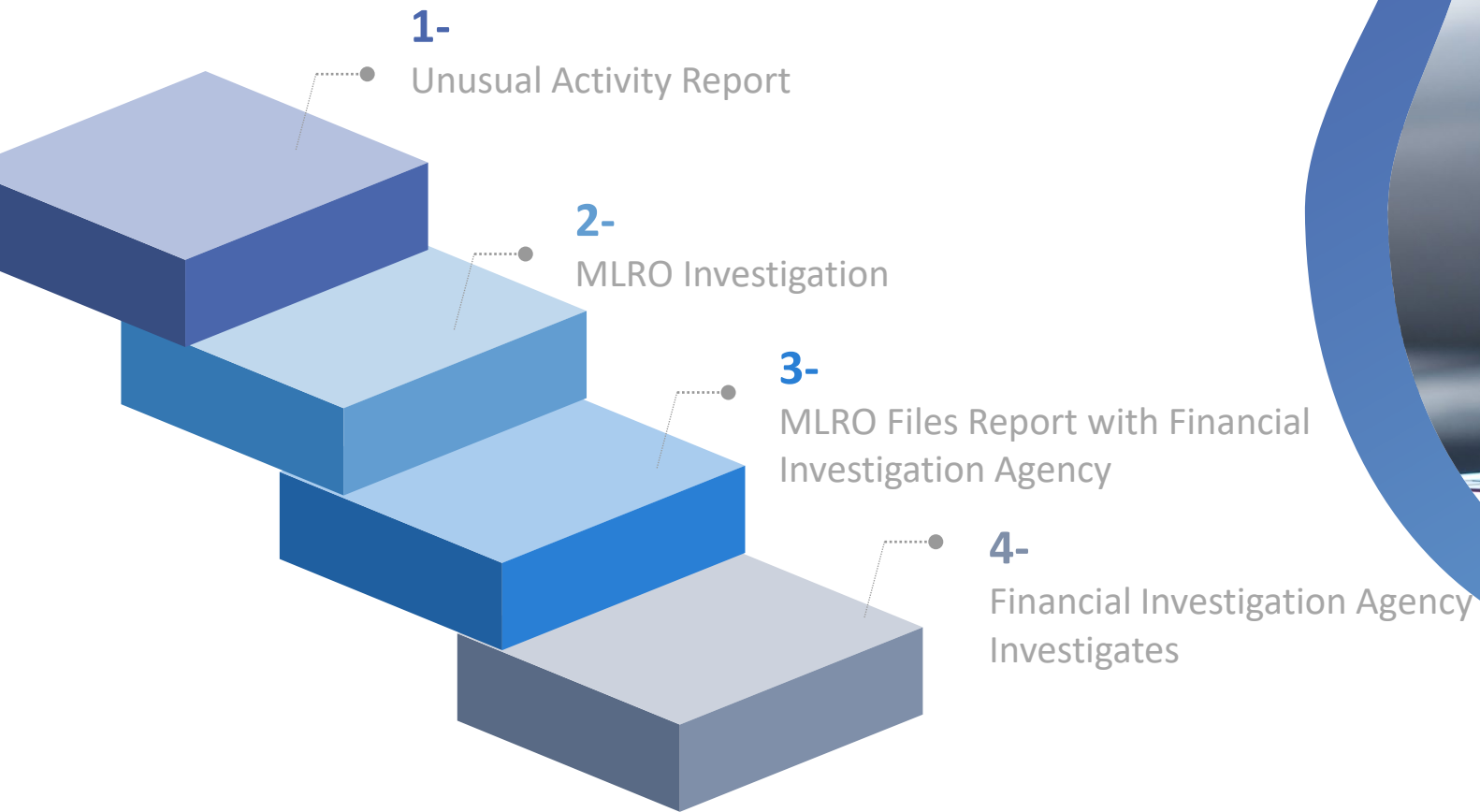
Suspicious Activities Reporting

The entity must adopt written internal procedures so that, in the event of a suspicious activity being discovered, all employees are aware of the reporting chain and the procedures to be followed. Such procedures should be periodically updated to reflect any legislative changes.

All staff at all levels must be made aware of the identity of the Money Laundering Report Officer (MLRO) Deputy Money Laundering Report Officer and (DMLRO) , and the procedures to follow when making a suspicious activity report



Suspicious Activities Reporting Chain



TIPPING OFF

- Tipping off is committed when a person reveals to a client, directly or indirectly, information gained through work, that a disclosure has been considered or made to an official, and where that information is likely to prejudice an investigation resulting from that disclosure.



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To mitigate the risk of Tipping Off:

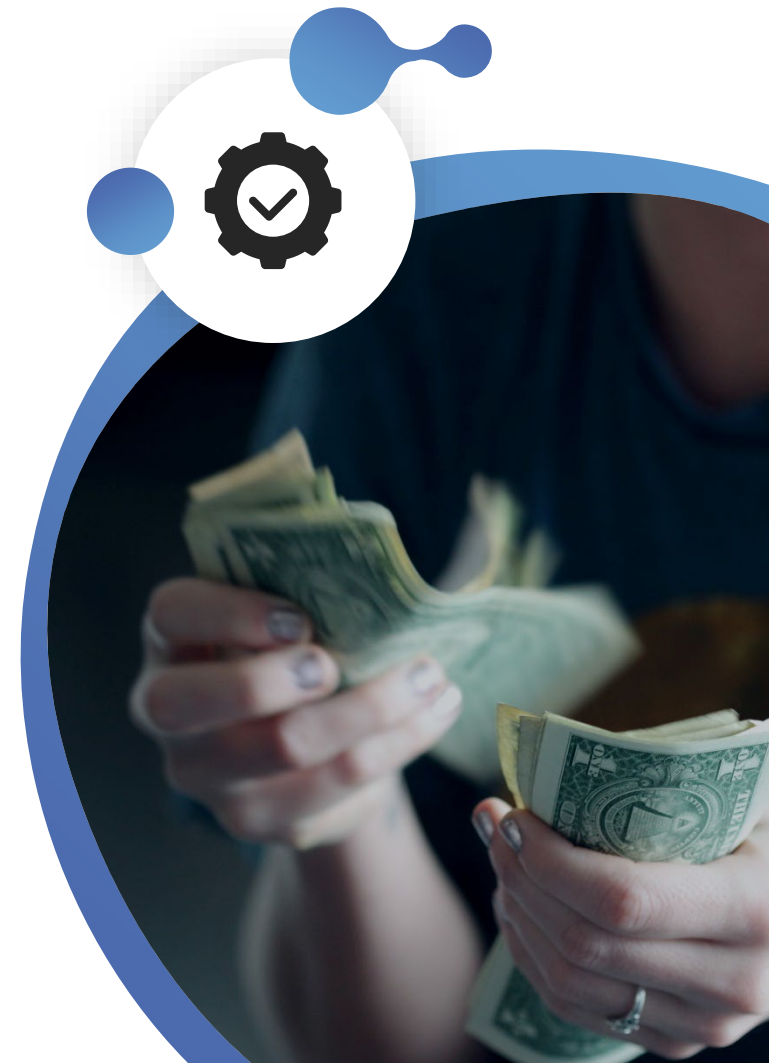
- Any suspicious activity should be reported directly to the MLRO (or DMLRO)
- Suspicious activity reports and all supporting documentation are confidential
- All staff are prohibited from disclosing to anyone aside from MLRO, they must not tip off the person being reported. Otherwise an offence may be committed by making a disclosure likely to prejudice an investigation
- Be alert to the risk of unintentional tipping off (e.g. making the relevant client aware of possible investigation and SAR when obtaining additional information during the KYC/CDD process)



Key Points

If you encounter any of these Red Flags when dealing with a client, please contact your Money Laundering Reporting Officer.

- **Urgency**
- **Cutting corners**
- **Secrecy**
- **Smell test**
- **Source of wealth**
- **Perfect documentation**
- **Lack of independent information**



Who is Liable



Individual Liability



Corporate Liability



For the Greater Good





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QUESTIONS ?