

**ST. VINCENT AND THE GRENADINES
FINANCIAL INTELLIGENCE UNIT**



**GUIDANCE ON
SUSPICIOUS ACTIVITY REPORTING**

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PART I -Introduction

This Guidance Note is intended to provide assistance to Financial Institutions and Service Providers (Reporting Entities) in meeting their obligations to make Suspicious Activity Reports (SAR) to the Financial Intelligence Unit (FIU). These obligations are imposed under section 126 of the Proceeds of Crime Act (POCA) No. 38 of 2013 and section 15 of the Anti-Terrorism Financing and Proliferation Act (ATFPA) No.14 Of 2015. This Guidance includes information on who must file, when to file, how to complete the SAR Form as set out in POCA, and the procedure for submission to the FIU.

SARs play a crucial role in the fight against money laundering and terrorism financing and the FIU is committed to ensuring that Reporting Entities in the Republic of St Vincent and the Grenadines file SARs of the highest quality.

The Guidance should be read together with the POCA, the ATFPA, The Anti-Money Laundering and Terrorist Financing Regulations No. 20 of 2014 and the Anti-Money Laundering and Terrorist Financing Code, No. 24 of 2017.

PART II - Reporting Entities' Obligations under the AML/CFT Law

1. Who is required to report suspicious transactions or activity?

The POCA and the ATFPA require that a SAR be made to the FIU by Reporting Entities when they know or have reasonable grounds for suspicion of Money Laundering or Financing of Terrorism.

Reporting entities are:

(a) Financial Institutions:

- (i)** any institution licensed under the International banks Act or the Banking Act;
- (ii)** any institution licensed under the Mutual Funds Act;
- (iii)** any institution or person registered under the Registered Agent and Trustee Licensing Act;
- (iv)** any institution registered under the International Insurance Act or the Insurance Act;
- (v)** any institution licensed under Part 4 or 9 of the Securities Act;
- (vi)** any institution registered under the Money Services Business Act;
- (vii)** any institution involved in financial leasing or lending services;

(b) **Non-Regulated Service Providers (NSRP)** means a business or professional listed in the First Schedule of the Regulations:

- i. any Car Dealer,
- ii. any Real Estate,
- iii. any Casino/Gaming House
- iv. any Jeweler or Dealer in Precious Metals
- v. any Accountant
- vi. any Attorney-at-law or other Independent Legal Professional

2. Attorney-at-law or other Independent Legal Professional

An Attorney-at-law or other Independent Legal Professional is not required to report any information they receive or obtain from a client in privileged circumstances. Notwithstanding the foregoing, any information or other matter which is communicated to the professional legal advisor with the intention of furthering a criminal purpose shall not be treated as coming to the professional in privileged circumstances.

PART III - Time to Submit a SAR to the FIU

A SAR must be sent to the FIU as soon as possible and in cases where the Money Laundering Reporting Officer is filing the report, within fourteen (14) days of the date on which he/she knew or formed the suspicion that:

- (a) funds being used for the purpose of a transaction are the proceeds of a specified offence (section 126 & 127 of the POCA), or
- (b) funds for a transaction are linked or related to or to be used in whole or in part for the financing or terrorism (section 15 of the ATFPFA); or
- (c) a designated or listed entity is attempting to transact business (Section 71 of the ATFPFA).

Reporting entities should ensure that their internal systems support the timely filing of SARs and avoid unnecessary delay.

PART IV - What is a Suspicious Transaction

1. Suspicion of money laundering or financing of terrorism requires a degree of satisfaction that may not amount to belief, but should extend beyond mere speculation and be based on some foundation that money laundering or terrorist financing has occurred or is about to occur.

Suspicion involves a personal and subjective assessment. Reporting Entities have to assess

whether there are reasonable grounds to suspect that a transaction is related to money laundering offence or a financing of terrorism offence.

2. In this regard Reporting entities are required to pay special attention to:
 - (a) business transactions with individuals, corporate persons and financial institutions in or from other countries which do not or insufficiently comply with the recommendations of the Financial Action Task Force (FATF);
 - (b) a transaction which is complex, unusual or large, whether completed or not;
 - (c) unusual patterns of transactions; and
 - (d) insignificant but periodic transactions which have no apparent or visible lawful purpose.
3. A transaction includes:
 - (a) the receiving or making of a gift. The sum of money involved in the transaction is irrelevant. **There is no monetary threshold for making a report of a suspicious transaction;**
 - (b) a one-off transaction. This means any transaction other than one carried out in the course of an existing business relationship;
 - (c) two or more one-off transactions which appear to be linked;
 - (d) a transaction which is attempted i.e. which is not completed.
4. Reporting Entities may become suspicious because the customer activity deviates from the normal activity for that customer, business or sector. Reporting Entities must therefore understand what the normal activity is for each customer and how this transaction differs from that.
5. When considering making a suspicious transaction report, the Reporting Entities should consider all the circumstances of the transaction. Relevant factors include your knowledge of the customer's business, financial history, background and behaviour. As a general principle, any transaction that causes a reporting entity to have a feeling of apprehension or mistrust about the transaction should be closely examined and the entity should consider filing a SAR.
6. Finally, Reporting Entities should bring together all the relevant factors. Some factors may seem individually insignificant, but taken together may raise the suspicion of money laundering or the financing of terrorism.
7. Distinction between knowledge and suspicion. Having knowledge means actually knowing something to be true and can be inferred from surrounding circumstances. Suspicion of money laundering or financing of terrorism on the other hand, requires a degree of satisfaction that may not amount to belief, but should extend beyond mere speculation and be based on some foundation that money laundering or terrorist financing has occurred or is about to occur.

In the case of either knowledge or suspicion, a SAR shall be filed with the FIU.

PART V - How to Identify a Suspicious Transaction

The **Red Flags** below are some general indicators which may be helpful in identifying a suspicious transaction. *The presence of one or more of these indicators does not necessarily mean that a Money Laundering or Financing of Terrorism is in fact taking place.* **The Reporting Entity, upon the examination of the Transaction, must build its conclusions on an objective basis and consider carefully all related conditions and evidence.**

Red Flags which point to a transaction being related to the Financing of Terrorism are similar to those relating to money laundering. In fact, it is possible that a transaction could be related to both. For example, funds to be used for terrorist activity could be the proceeds of criminal activity as well as from legitimate sources.

1. Red Flags pointing to Financing of Terrorism

Behavioural Indicators:

- (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.

Indicators linked to the financial transactions:

- (a) The use of funds by the non-profit organization is not consistent with the purpose for which it was established.
- (b) The transaction is not economically justified considering the account holder's business or profession.
- (c) 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.
- (d) Transactions which are inconsistent with the account's normal activity.
- (e) Deposits were structured to avoid detection.
- (f) Multiple cash deposits and withdrawals with suspicious references.
- (g) Frequent domestic and international ATM activity.
- (h) No business rationale or economic justification for the transaction.
- (i) Unusual cash activity in foreign bank accounts.
- (j) Multiple cash deposits in small amounts in an account followed by a large wire transfer to

- another country.
- (k) Use of multiple, foreign bank accounts.

2. Red Flags pointing to Money Laundering

- (a) The client cannot provide satisfactory evidence of identity.
- (b) Difficult in verifying customer information.
- (c) Difficulty of verifying source of Funds.
- (d) 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).
- (e) 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.
- (f) Client wants to re-sell Property shortly after purchase at a significantly different purchase price, without corresponding changes in market values in the same area.
- (g) Client wishes to form or purchase a company whose corporate objective is irrelevant to the client's normal profession or activities, without a reasonable explanation.
- (h) The client sets up shell companies with nominee shareholders and/or directors.
- (i) Client repeatedly changes Attorneys within a short period of time without any reasonable explanation.
- (j) Client purchases property in names of other persons or uses different names on offers to purchase, closing documents and deposit receipts.
- (k) Client deposits a large amount of cash to make payments which are outside of the client's profile.
- (l) Client negotiates a purchase but wants to record a lower value on documents, paying the difference "under the table", (inadequate consideration).
- (m) Client's 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).
- (n) Client gives power of attorney to a non-relative to conduct large transactions (same as above).
- (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) Client requests the firm to act as his agent in obtaining high sum bankers' drafts, cashiers' cheques and other cash equivalent or near cash monetary instruments or in making wire transfers to and from other banks or financial institutions, (anonymity).
- (q) Divergence from the type, volume or frequency of transactions expected in the course of the business relationship.

3. Impact on the Business Relationship/Transaction after Forming a 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 two (2) following circumstances:

- (a) where satisfactory evidence of identity has not been obtained; or
- (b) where a designated person or 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 containment reasons.

However, a decision to terminate the business relationship must also ensure that the customer is not alerted to the filing of the SAR which would constitute the offence of tipping off.

PART VI - How to Make a Suspicious Transaction Report

1. **The prescribed SAR Form** should be used by Reporting Entities. The SAR form is available on the FIU's website <http://www.svgfiu.com> and a Microsoft Word document format can also be made available by emailing the FIU at svgfiu@vincysurf.com. It is essential that Reporting Entities complete all relevant fields in the form with accurate information.

2. Contents of the SAR

The value of an SAR depends on the quality of information it contains. A SAR should set out in a clear manner the basis for knowledge or suspicion of Money Laundering or Financing of Terrorism.

Reporting Entities should include as much relevant information about the customer, transaction or activity that it has available from its records.

In Part IV "Reason for Disclosure", a detailed explanation as to why the Reporting Entity is filing a suspicious transaction report should be given.

The information about the transaction and what led to your suspicion is important in completing the SAR. Provide as many details as possible including anything that made you suspect that it might be related to Money Laundering, Financing of Terrorism, or both. 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 Money Laundering and Financing of Terrorism offences.

3. Supporting documents

You are to describe supporting documentation and retain copies. Where necessary you should also enclose photocopies of documents facilitating the transaction and identifying the party or parties to the transaction.

Note: the SAR is to be completed after the customer leaves. It must not be completed in the presence of the customer. The customer should not be told that a SAR would be made or has been made to the FIU.

SAR Submission to the FIU

SARs must be reported, in order of priority, by the following methods:

- a. Hand delivered in a **SEALED** envelope and stamped “**CONFIDENTIAL**” addressed to:

Director,
Financial Intelligence Unit
P.O. Box 1826
2nd Floor Bonadie Building
Kingstown, St Vincent and the Grenadines;

- b. Registered post addressed to the Director at the above address;
- c. Electronically, by secure reporting system to be advised by the FIU; or
- d. By Facsimile to (784) 457 2014, and contact the FIU by telephone at (784) 451-2070 prior to submission.

The method of delivery of a SAR will depend on the circumstances of the report.

The Reporting Entity may, in limited circumstances, make a SAR via telephone at (784) 451-2070 where the Reporting Entity believes the immediate attention of the FIU is required i.e. urgent cases. Such urgency could arise:

- (a) where a Reporting Entity’s impression of a transaction has gone beyond suspicion and amounts to knowledge or belief that the transaction involves money laundering or financing of terrorism;
- (b) where there is belief of an imminent crime; or
- (c) to avoid dissipation of assets out of St Vincent and the Grenadines which may be irrecoverable.

In each case in which an oral report is made it should be followed as soon as practicable by a written report.

5. FIU Procedures upon the Receipt of a SAR

Upon the receipt of a SAR, the FIU will provide feedback in the form of a written acknowledgement letter to the Reporting Entity’s Compliance Officer within two (2) days from the day received. The FIU may also require a Reporting Entity to produce specific information that the FIU may reasonably require to conduct its analysis. Reporting Entities should be cooperative in this regard.

The FIU will also provide further written feedback on the SAR that:

- a. A SAR was closed
- b. A SAR is under investigation

PART VII - How to Complete a SAR Form

This guidance is provided to assist Reporting Entities in preparing the SAR reporting form. The form consist of four (4) Parts:

- Disclosure Report Details: Institution information
- Particulars of subject/Legal Entity Details
- Transaction Details
- Reason for suspicion

1. General Guidelines

All fields on the SAR form should be filled out. No field is to be left blank. Insert the letters “N/A” (not applicable) where information requested does not relate to your reporting.

The space marked “*Institution SARS Ref No.*” on the Cover page sheet is for the Reporting Entity’s unique identifier given to each SAR submitted to the FIU. All reports to the FIU should be sequentially numbered and that number written in this space.

Dates – Dates should be entered using the format “dd/mm/yy,” where “dd” is the day, “mm” is the month and “yy” is the year. Zero (0) should precede any single digit number. If the month or day is not available or unknown, enter zeros in the space for “mm” and “dd.” For example, 00/01/11 indicates an unknown day in January 2011.

Numbers - Monetary amounts should be entered using the format “\$0,000,000”. (Round **UP**, to the nearest whole dollar.) All amounts should be reported in currency in which the transaction was conducted in (EC, USD, £, €, ¥, etc.).

2. Specific Guidelines

Form Part I-- Reporting Financial Institution Information or Relevant Business

- (a) **Initial Report** – If you are filing a report on the subject for the first time, check the box marked “New” under the heading Type.
- (b) **Corrected Report** - If you are correcting or updating a previously filed report, check the box marked “Update” under the heading Type. Complete the report in its entirety and include the corrected information in the applicable boxes.

- (c) Supplemental Report – If you have previously filed an initial report and the subject has conducted another suspicious transaction that requires a report being filed, check the “Update” box also and complete the report in its entirety.
- (d) - Name of Reporting Institution or person or company - You should enter the full legal [Trade] name of the financial institution (FI) or NSRP.
- (e) Address of Financial Institution or person or company - Enter the Street address of the FI or NRSP shown in Item 2
A Street address is required; a Post Office (P.O.) Box number must not be used.
- (f) - Address of Branch Office(s) where activity occurred - If the location of the suspicious activity is different from that provided in Item 3, enter the Street address of the branch or office **where the activity occurred**. Otherwise, enter “same as Item 3 above.” If the suspicious activity occurred at more than one branch, include this information in Part VII, “Suspicious Activity Information/ Explanation/Description”.
- (g) Disclosure Date - Enter the date the SAR was prepared.

Form Part 2—Particulars of Subject/Legal Entity Sheet

If no information about the Suspect is available, indicate at the top of this Part on the form. This will alert the FIU that this information has not been inadvertently omitted.

Items 1, 2, 3 and 4 - Name of Individual or Entity

- If the suspicious activity involves an individual, enter his or her title in item 1, last name in Item 2, first name in Item 3 and middle initial in Item 4. If there is no middle initial, enter “N/A” in Item 4.
- If both formal and alias names are established, enter the full legal name in Items 1, 2, 3 and 4 and the alias name(s) in Part IV, the Reason for Disclosure.
- If the suspicious activity involves an organization (entity), utilized the Legal Entity Details Sheet and enter its name, business address, business registration number and Vat Registration number in Item 1, 2, 3 and 4.
- If the FI or NRSP has knowledge of a separate “trading as” name, in Part IV, in the Reason For Disclosure, also enter the individual or organization’s name, followed by the phrase “T/A.” and the name of the business. For example, *John R. Smith T/A Smith Auto Sales or Johnson Enterprises T/A PJ’s Pizzeria.*
- If there is more than one suspect you need to complete a “Part II” for each suspect. Attach additional copies of page 1 to report the additional suspects.

Item 5 - Date of Birth - If an individual is named in Items 1-4, enter his or her date of birth by using the method for entering dates described at paragraph 6.1. [dd/mm/yy]. If an organization, enter either in (a) the company or business registration number; (b) its VAT registration number or (c) Inland Revenue Department (IRD) number.

Item 7 - Address - Enter the permanent Street address, include any apartment or suite numbers of the person identified in Items 1, 2, 3 and 4. If the individual or organization is from a foreign country, enter the foreign country address as well as the local address.

Item 9 and 10 - Telephone Number - Enter the home telephone number, including the area code for the individual entered in Items 1 – 4. In Item 10 enter the cellular number, including the area code for the individual entered in Items 1 - 4.

Item 12 - Forms of Identification for Suspect - Check appropriate box for the form of identification provided by the suspect and use the lines provided to give specific data such as driver's license or passport number and issuing authority. For box d, "other," provide a brief explanation in the space provided. If more space is required, enter the information in Part IV

Item 13- Relationship to Financial Institution - Check each box that identifies the suspect relationship with the FI or LB. More than one box may be checked. If the "other" box is checked, provide a brief explanation on the adjacent blank space. If more space is required, enter the information in Part VII.

Item 14 - Occupation - Fully identify the occupation, profession or business of the person on whose behalf the transaction(s) was conducted. *For example, secretary, shoe salesman, carpenter, attorney, housewife, restaurant owner, liquor store clerk, etc.* **Do not use non-specific terms such as merchant, self-employed, businessman, etc.**

Form Part III -- Transaction Sheet

This section describes the account with which the subject or suspicious activity is connected

Item 1 and 2 – Name on Account- The primary name(s) and any other names on the account that is affected by the suspicious transaction should be listed here.

Item 3 and 4 Type of Account- The account type from which the suspicious activity was executed (e.g. savings, fixed, cheques etc.) and the account number assigned must be specified in these boxes.

Item 5 and 6- Business Relationship- The date that the business relationship commenced with the customer should be provided in this box and in cases where the business relationship or account was terminated the date the business relationship finished should also be provided.

Item 6 and 7- The balance on the account should be recorded and the date which the said balance was recorded. This allows the FIU to get a picture of the account as at a particular date.

Item 8- Turnover Credit- the Total Credit (Deposits) for the period the activity was recorded.

Item 9- Turnover Debit- the Total Debit (Withdrawals) for the period the activity was recorded

Item 10- Turnover Period- The period from which the total debit and credit was recorded

Form Part IV – Reason for Disclosure and Preparer Information.

Items 1-Main Subject Name- The subject of the SAR should be inserted here for cross referencing purposes.

Item 2- Reason for Disclosure- This item of the SAR is **critical**. The care with which it is written may determine whether or not the described conduct and its possible criminal nature are clearly understood.

Provide a complete chronological account of what is unusual, irregular or suspicious about the transaction. The narrative should include the material indicated in the Form but you should also include any other information that you believe is necessary to better enable the FIU to understand the transaction you are reporting. If necessary, continue the narrative on a copy of this page of the SAR.

Remember that any supporting documentation such as spreadsheets, photocopies of cancelled checks or other documents, surveillance photos, etc., must be retained at the financial institution for a period of 7 years. Please indicate in Part IV what documentation is being retained.

Item 3 - Title - Enter the name of the person holding the position of Money Laundering Reporting Officer at the FI or LB.

Items 4 - Enter the name of the person who prepared the information. It would be extremely helpful if the individual identified in this section has specific knowledge of the underlying facts.

Item 25 - Phone Number & Fax number- Enter a phone and Fax number, including area code, where the preparer can be reached.

PART VII - Additional Information Relating to SAR Submitted to the FIU

1. Request for further information

The Director may, having regard to the intricacy of a case make a request for additional information from the Reporting Entity or from any other FI or NRSP in order to facilitate the exercise of its powers under the Act.

2. Tipping Off/ Confidentiality

As a Reporting Entity, you are not allowed to inform anyone, including the client/customer, about the contents of a SAR or even that you have made such a report. It is an offence under section 129 of POCA and section 7 of the FIU Act. Additionally, it is suggested that you should be wary of requesting any information that you would not normally request during a normal transaction which may alert your client that you are making a suspicious transaction report.

3. Immunity

No criminal or civil proceedings can be brought against the financial institutions or NRSP and your employees, staff, directors, owners or other representatives as authorized by law; for making a report in good faith concerning a suspicious transaction. This protection also extends to information provided voluntarily to FIU because of your suspicions of money laundering or financing of terrorism activity.

4. Penalties

Penalties apply for failure to comply with the suspicious transaction/activity reporting obligations. Failure to report a suspicious transaction could lead to, on summary conviction, to a fine of ECD\$500,000 and up to 5 years imprisonment, and on indictment, to a fine without limit and up to 10 years imprisonment. Failure to provide further information upon request by the FIU

is an offence which could lead to, on summary conviction to a fine of ECD\$50,000 and up to 2 years imprisonment.

5. For feedback on or clarification about this Guidance contact:-

The Director,
Financial Intelligence Unit
P.O. Box 1826
2nd Floor Bonadie Building
Kingstown, St Vincent and the Grenadines;
Tel: 784-451-2070
Fax: 784-457-2014
Email: svgfiu@vincysurf.com
Web: www.svgfiu.com