

# FIU COMPLIANCE DIVISION Newsletter

Issue No.3 | December 2021



## Financial Intelligence Unit (FIU)

### Vision Statement

To protect the integrity of our financial system and contribute to the safety of our citizens through deterrence of money laundering and terrorist financing.

### Mission Statement

To be the leader in financial intelligence works in the region and be recognized worldwide as an FIU that adheres to international standards.

### Inside this newsletter:

2021- Challenging & Transcending!	1
Mauritius Exit to Grey & Black Lists	2
Recent Legal Amendments	2
ESAAMLG 4 <sup>th</sup> Follow Up Report	3
The Cryptosphere	3
The Virtual Asset and Initial Token Offering Services Act 2021	4
Targeted Financial Sanctions	4
Suspicious Transaction Reporting	5
Update on Outreach Activities	6
FIU Enforcement Space	6
Enforcement Actions 2021	7
Enforcement – Useful Tips	7

### Disclaimer

The information contained in this document has been produced by the FIU (Mauritius) for educational purposes only. Recipients must only use this resource to enhance their understanding of their obligations and to assist with their compliance under the AML/CFT regulatory framework. The use of this information for any other purpose is not permitted, except with the consent of the FIU. This resource does not represent legal advice. Any reporting person who is unsure about his obligations under the AML/CFT regulatory framework should seek independent legal advice.

## 2021...Challenging and Transcending!

*2021 has been a challenging year for all of us, be it on common or different fronts; adapting to the new normal, fighting covid-19, getting vaccinated, keeping a tab on economic challenges and for the FIU and its regulatees, striving to exit Mauritius from the FATF Grey list and EU Black list.*

*Despite the challenges, Mauritius held firm to its commitment in combatting money laundering, terrorist financing, and proliferation financing. The efforts and commitment, exemplified through the public-private partnership need to be applauded for paving the way to removing Mauritius from the list of 'high risk' countries.*

*Proudly today, the AML & CFT situation in Mauritius has reconstructed itself from what it was a year ago.*

*The FIU, under its new directorship, reinforced its momentum across all its functions to achieve its goals while ensuring sustainability at all levels.*

*From the FIU Compliance's perspective, having as core objective ensuring AML/CFT compliance in supervised sectors, it has been a year which kept us busy with intensive outreach activities, continuous guidance to reporting persons, offsite & on-site risk-based inspections, changing the STR reporting culture as well as taking enforcement actions.*

*With the aim of exiting the FATF Grey list and subsequently the EU Black list, the FIU continuously reported to the FATF on its supervisory strategies and activities, actively participated in the different virtual assessment sessions and ensured that the FATF September 2021 onsite visit met the required standard.*

*The delisting of Mauritius from the FATF Grey list in October 2021, the proof of tremendous work from the dedicated teams at the FIU.*

*We remain humble and confident that 2022 will be a year of continued success in ensuring AML/CFT compliance with the collaboration of all stakeholders.*

*We take this opportunity to thank you for your support.*

*On this note, the FIU team wishes you & your family a Happy New Year 2022!*

## Recent Legal Amendments

The Finance (Miscellaneous Provisions) Act 2021 was gazetted on the 5<sup>th</sup> August 2021.

The following are some of the legal amendments relevant to the different functions of the FIU and to the sectors under its AML/CFT regulatory purview:

- **Section 2 of FIAMLA**  
The definition of "Bank" now includes a licensee under the National Systems Payment Act; and the definition of "financial Institution" now includes an institution or a person, as the case may be, licensed, registered or authorized under the:
  - Securities Act other than an entity registered with that Act as a reporting issuer and which does not conduct any financial activities;
  - Trusts Act as a qualified Trustee.
- The Civil Status Act permits sharing of information with FIU.
- **Section 19FA of FIAMLA**  
The FIU can seek information from any person listed in the first column of Part I of the First Schedule of the FIAMLA.
- **Section 19H of FIAMLA**  
FIU can apply administrative sanctions to Independent Law Practitioners directly without necessarily referring them to the Attorney General.
- **Part II of the First Schedule to FIAMLA**  
Prescribed Activities to include Land Promoters and Property Developers as reporting persons.
- **Section 16 of the Real Estate Agents Authority Act**  
Where a certificate of registration by the Real Estate Agents Authority is issued, the latter need to register with the FIU within 5 working days in accordance with Section 14C of the FIAMLA
- **Section 3 Asset Recovery Act**  
The FIU may not apply for neither a confiscation or recovery orders nor restraining or restriction order may be granted when

## MAURITIUS Exits the FATF List of Jurisdictions Subject to Increased Monitoring ('FATF Grey List') and is on its way to Exit the European Union List of High-Risk Third Countries ('EU Black list')

### The FATF Grey List Exit

At the 21 October 2021 Financial Action Task Force's (FATF) Plenary, the FATF appreciated Mauritius's significant progress in improving and strengthening the effectiveness of its Anti-Money Laundering and Combating the Financing of Terrorism and Proliferation (AML/CFT) regime.

During the FATF onsite visit conducted in September 2021, the assessors commended and acknowledged the huge amount of work undertaken by the Mauritian authorities including that of the FIU across its functions of Financial Intelligence Analysis, Asset Recovery Investigation and AML/CFT regulator of specific sectors.

The FATF recognized that Mauritius has effectively addressed its AML/CFT regime's technical deficiencies and that it met its commitments made in its action plan regarding the strategic deficiencies that the FATF identified in February 2020. As a result, Mauritius was removed from the FATF's increased monitoring process and exited the FATF Grey list on 21 October 2021.

### The EU Black List Exit

In a press communique issued by the Ministry of Financial Services and Good Governance on 24 December 2021, the European Commission College of Commissioners discussed updating the upcoming European Commission's AML/CFT list, including the delisting of Mauritius from the EU Black List.

Following adoption by the European Commission, the list will be submitted for scrutiny by the European Council and the European Parliament. Once this stage is passed, the delisting of Mauritius will be formalised by the publication of the updated list of High-Risk Third Countries of the European Union.

An update of the FATF Grey List and EU Black list Exits will be provided in our next Newsletter.

there is an Unexplained Wealth Order (UWO) under section 16 of the Good Governance and Integrity Reporting Act.

- **Section 9 Asset Recovery Act**  
The FIU may now restrain any property in which the accused has an interest. The FIU may under Section 9 seek the appointment of a named trustee where it deems this necessary.
- **Section 11 Asset Recovery Act**  
The Trustee may realise property where so directed by the enforcement authority, subject to a Judges' Order. Importantly, the requirement to now seek the consent of all parties known to have an interest is no longer required.

### The Cryptosphere

Over the past years, FinTech activities in particular virtual asset activities have grown exponentially across countries and given the ongoing technological developments, this upward trend is likely to continue.

‘Virtual Asset’ refers to any digital representation of value that can be digitally traded or transferred, and may be used for payment and/or investment purposes. However, it does not include the digital representation of fiat currencies, securities and other financial assets.

Blockchain, bitcoin, crypto assets, virtual currencies...a whole new vocabulary describing an innovative technology which allows us to swiftly transfer value around the world. The fast-evolving blockchain and distributed ledger technologies have the potential to radically change the financial landscape. But, their speed, global reach and above all - anonymity - also attract those who want to escape the authorities’ scrutiny. Blockchain originated just over 10 years ago. Since then, virtual assets have become widely available and have started to be used as a mean of payment.

Virtual assets may make payment process easier, faster, and cheaper; and provide alternative methods for those without access to regular financial products. However, without proper regulation, they risk becoming a safe haven for the financial transactions of criminals and terrorists. The FATF has been closely monitoring the developments in the cryptosphere and in recent years it has witnessed some countries starting to regulate the virtual asset sector, while others have prohibited virtual assets altogether. However, the majority of countries have not taken any action yet. These gaps in the global regulatory system are loopholes for criminals and terrorists to abuse.

The FATF standards ensure that virtual assets are treated fairly, applying the same safeguards as the financial sector. FATF’s rules apply when virtual assets are exchanged for fiat currency, but also when they are transferred from one virtual asset to another.

Countries are required to implement FATF measures to ensure transparency of virtual asset transactions and keep monetary proceeds of crime and terrorism out of the cryptosphere.

Source: FATF

## ESAAMLG 4<sup>th</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating September 2021

Since the adoption in July 2018 of the [Mutual Evaluation Report](#) (MER) issued by the The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) Task force, Mauritius has taken significant measures aimed at addressing the technical compliance deficiencies identified in the MER.

The 2018 MER rated Mauritius’ technical compliance as set out in **Table 1**, below and in the light of these results, Mauritius was placed under the enhanced follow-up process in 2018.

**Table 1 - Technical compliance Ratings, July 2018**

Recommendations and Corresponding Ratings													
1	2	3	4	5	6	7	8	9	10	11	12	13	14
NC	PC	LC	LC	PC	NC	NC	NC	PC	NC	LC	PC	NC	PC
15	16	17	18	19	20	21	22	23	24	25	26	27	28
NC	NC	NC	PC	PC	C	PC	NC	NC	NC	PC	PC	LC	NC
29	30	31	32	33	34	35	36	37	38	39	40		
LC	C	C	PC	PC	LC	PC	LC	LC	LC	LC	LC		

In line with the ESAAMLG’s Procedures for Mutual Evaluations and Follow up Process, Mauritius continuously reported to the ESAAMLG on the actions it has taken since its 2018 MER.

The last [4<sup>th</sup> Follow up Report](#) (FUR) of September 2021 sets out the steps that Mauritius has taken to improve its technical compliance in regards to Recommendations 8, 24 and 33. Following this progress, Mauritius has been re-rated Compliant to Recommendation 33 and Largely Compliant to Recommendations 8 and 24.

Mauritius’s progress in strengthening its AML/CFT measures and its technical compliance with the FATF Recommendations have been revised in 4<sup>th</sup> FUR as shown in the **Table 2** below.

**Table 2 - Technical compliance re-ratings, September 2021**

Recommendations and Corresponding Ratings													
1	2	3	4	5	6	7	8	9	10	11	12	13	14
C	C	C	C	C	C	C	LC	C	C	LC	C	C	C
15	16	17	18	19	20	21	22	23	24	25	26	27	28
PC	C	C	C	C	C	C	C	C	LC	LC	LC	C	LC
29	30	31	32	33	34	35	36	37	38	39	40		
C	C	C	LC	C	LC	C	LC	LC	LC	LC	LC		

Mauritius is now compliant to 26 of the 40 FATF recommendations and largely compliant on 13 of them. It remains partially compliant to 1 Recommendation.

Mauritius currently remains in the ESAAMLG enhanced follow-up process and continues to inform the ESAAMLG of the progress made in improving the implementation of its AML/CFT measures.

## The Virtual Asset and Initial Token Offering Services Act 2021

Proudly, Mauritius is the first country of the Eastern and Southern African Region to adopt a comprehensive legislation on Virtual Asset and Initial Token Offering Services in the form of The Virtual Asset and Initial Token Offering Services Act 2021 ('the Act') in order to protect the rights of its citizens dealing with virtual asset and virtual tokens and ensure the safeguard of their interest against the risks of ML/TF that are involved.

Some of the salient features of the Act are highlighted below:

- The Financial Services Commission (FSC) has been empowered to licence, regulate and supervise the VASPs and issuers of token offerings. Functions and Powers of the FSC amongst others, are to license VASPs, register issuers of initial token offerings, monitor and oversee business activities of VASPs and initial token offerings.
- Provisions for VASPs and issuers of initial token offerings carrying out their business activities were made in the Act. The Act provides that VASPs shall be carried out only by companies holding VASP license issued by the FSC.
- Any person already carrying out business activities of VASPs or issuer of token offerings are required to make an application for license not later than 3 months after commencement of the Act.
- Contravening provisions of the Act carries liability of maximum fine of Rs 5 million and a term of imprisonment not exceeding 10 years.

The need for this legislation was triggered with the FATF setting out new standards for Recommendation 15 concerning New Technologies and the ESSAMLG in November 2020, identified that Mauritius had neither any legal framework in place to regulate and supervise Virtual Assets and Virtual Asset Service Providers (VA/VASPs) for AML/CFT purposes nor did Mauritius assessed and identified ML/TF risks arising from business activities associated to VA/VASPs.

In order to address these shortcomings, the Ministry of Financial Services & Good Governance together with the technical assistance of the World Bank and ESSAMLG Secretariat and through Working Groups composed of different AML/CFT related stakeholders, including the FIU across all its functions, assisted in the National Risk Assessment exercise on VA/VASPs to identify, assess

## Targeted Financial Sanctions (TFS)

Pursuant to Guidelines on the Implementation of Targeted Financial Sanctions Under The United Nations (Financial Prohibitions, Arms Embargo And Travel Ban) Sanctions Act 2019, issued by the National Sanctions Secretariat (NSS), **reporting persons should familiarise themselves with evasion techniques of proliferators** to effectively implement TFS related to proliferation, and ensure that no funds, assets or economic resources are made available to designated persons and entities, as well as anyone acting on behalf of or upon the direction of designated persons and entities, or owned or controlled by them

- Some common sanctions evasion techniques used by proliferators include:
  - The use of aliases and falsified documentation to hide involvement of listed party.
  - Bank accounts owned by nationals not from a proliferating country, who act as financial representatives on behalf of listed parties from the proliferating country.
  - Offshore, front and shell companies to hide beneficial ownership information, and the involvement of listed parties.
  - Listed parties entering joint ventures with non-listed companies.
  - Use of diplomatic staff bank accounts, on behalf of listed parties and proliferating countries.
  - Use of virtual currencies by listed parties to circumvent the formal financial system and evade sanctions.
  - Conduct cyber-attacks against financial institutions and crypto currency exchanges to raise funds and evade sanctions.
- Some situations that may indicate sanctions evasion include:
  - Customers linked to high-risk countries or business sectors.
  - Customers who have unnecessarily complex or opaque beneficial ownership structures, or have frequent changes in directors, beneficial owners, or signatories (especially within short time from account opening).
  - Customers who have previously had dealings with individuals or entities designated for proliferation by the UNSC.
  - Customers who have entered into joint venture or cooperation agreements with listed parties.
  - Transactions that are unusual, lack an obvious economic or lawful purpose, are complex or large or might lend themselves to anonymity.

*Source: NSS Guidelines*

and understand the relevant ML/TF risks faced by Mauritius.

Following the findings of the aforesaid risk assessment, The Virtual Asset and Initial Token Offering Services bill was proposed during the parliamentary debates of 10<sup>th</sup> December 2021 and given its elevated purpose, it was unanimously approved as an act and gazetted as The Virtual Asset and Initial Token Offering Services Act 2021 on 16<sup>th</sup> December 2021.

## Suspicious Transaction Reporting (STR)

### STR-Reporting persons are expected to:

- Exercise **sound judgement** and due diligence to identify/detect suspicious transactions.
- **Document** their policies, controls and procedures on the detection and reporting of suspicious transactions
- Conduct **ongoing monitoring** of a business relationship so as to identify suspicious transactions and CDD information collected are updated and relevant.
- Ensure at all times that the MLRO has an activated **goAML account**.
- Have adequate **AML/CFT training** on detection of suspicious transactions and on how to fulfil their obligations for reporting suspicions.
- **Scrutinise**, as far as possible, the purpose of transactions which are complex, unusually large in nature and no apparent economic/lawful purpose.
- **File a report** to FIU **not later than 5 working days** of becoming aware of any suspicious transaction in accordance with S14 of the FIAMLA
- Treat STR reporting as highly confidential and **not disclose (Tip Off)** such information to any other person than the FIU.

The FIU as AML/CFT regulator for the real estate sector, dealers in precious metals and stones (DPMS) and individual legal practitioners (ILPs), has seen a **drastic positive shift in the STR reporting culture of the supervised sectors** in the last 24 months. These improvements have not only been in terms of increased numbers of STRs from these sectors but also in terms of lower rejection rate to file successful STRs compared to financial institutions.

This shows that the sectors are effectively assessing & mitigating their risks to Money Laundering (ML), Terrorism & Proliferation Financing (TF) and through the public-private partnership, concrete steps are being taken to counter ML & TF.



The FIU has published an **Illustrative Scenario on Suspicious Transaction for the DPMS sector** in its December 2021 supplement to the Quarterly Information Bulletin No.9 on the goAML platform.

The Illustrative Scenario highlights the importance of the following:

- Being alert to the potential risks of ML and TF;
- Understanding client risk and conducting customer due diligence (CDD);
- Identifying red flags (i.e ML TF indicators);
- Having policies, controls and procedures for internal and the external reporting of suspicions transactions;
- Dealing with a suspicious situation without tipping off; and
- Filing STR for an attempted transaction within the 5 days' timeline.

### **Remember:**

- ✓ There are **other gatekeepers** who are **filing STRs**, which may indicate that STRs were not filed by certain reporting persons who were stakeholders to a suspicious transaction.
- ✓ The definition of a Transaction is important. Pursuant to FIAMLA, a Transaction also includes a proposed transaction or an **attempted transaction**.
- ✓ When there is a suspicion and STR has been filed, any information about the suspicion or any information from which it could be reasonably inferred that a STR (internal or external) has been submitted **must not be disclosed** in order not to 'tip off' the suspect.
- ✓ Reporting persons should report to the FIU a suspicious transaction **not later than 5 working days** after the suspicion arose through the goAML platform
- ✓ **Failure to report to FIU and Tipping Off are criminal offences** and on conviction Reporting persons are liable to a fine not exceeding 5 million rupees and to imprisonment for a term not exceeding 10 years.

## Update on Outreach Activities

### Understanding FIU Enforcement Space

- The FIU is empowered to impose administrative sanctions and initiate criminal proceedings on reporting persons falling under its purview pursuant to section 19H and 19P of the FIAMLA.
- The approach of the FIU is driven by its mandate to ensure and achieve compliance and promote high standards of business conduct within the supervised sectors. In discharge of its functions, an array of sanctions is set out in the Mauritian legislation to deal with reporting persons who are found to be in breach of the law and who fail to take corrective measures to remediate deficiencies identified.
- The application of these sanctions varies according to the proportionality of the offence and the type of offence.
- A Reporting Person (RP) will be referred (normally by the Supervision Unit) to the Enforcement Unit of the FIU in instances where the RP is in breach of the law or has not complied with its legal obligations or has failed to take corrective actions to remedy the deficiencies identified in its AM/CFT systems and controls.
- After internal review of the case, the Enforcement Unit will proceed to issue a show cause notice to a RP pursuant to Section 19N (2) of the FIAMLA 2002 requesting the RP to make representation with regards to the breaches identified and show cause why appropriate regulatory action, including sanctions such as imposition of a monetary penalty, public censure or warning should not be taken against the RP by the FIU.
- For instance, the Enforcement Unit may issue a direction to the RP pursuant to Section 19L of the FIAMLA 2002 to direct the RP to take all the required steps to remedy the breaches within a specified timeline or issue a warning or refer to Attorney General in case of Independent Law Practitioners for disciplinary actions as well as impose monetary penalties.

The FIU monitors its outreach activities and tailors them by taking into consideration feedback received from industry associations, from reporting persons and from FIU supervisory & enforcement activities.

To assist RPs better understand and implement their AML/CFT obligations in the fight against ML & TF, throughout the year 2021, the FIU carried out various regular outreach activities across the supervised sectors mainly in the form of webinars and website uploads covering in depth the AML/CFT obligations under the UN Sanctions Act 2019 ('UNSA'), the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA) and FIAMLA Regulations 2018.

RPs have also benefitted from monthly outreach sessions under the aegis of the Interagency Coordination Committee ('ICC') sub-committee and the staff of the FIU have been thoroughly engaged as resource persons covering legal obligations under the UNSA and Suspicious Transaction Reporting, including Red Flags and sanitized case studies on STRs.

Continuous education and training is crucial against criminals who remain alert and come up with new ways of evading the AML/CFT safeguards. FIU's Tip of the Month (Oct 2021) on [Employee Screening and Training](#) will give you an overview of the importance and requirement of AML/CFT Training.

The FIU will continue collaborating with different stakeholders such as other AML/CFT supervisors, the ICC, the Institute of Judicial and Legal Studies, amongst others, in promoting & sustaining a culture of compliance. Amongst these is also the [Financial Services Institute](#) (FSI), the training arm of the Ministry of Financial Services and Good Governance. RPs are encouraged to keep track of the FSI's Calendar of courses and make the most of the in-depth AML/CFT trainings conducted in collaboration with the FIU.

As a brief update on outreach activities over the last 6 months:

- The FIU developed and uploaded several resources on its website. These were also disseminated to RPs through emails and included:
  - Monthly Tip of the Month on specific obligations;
  - Presentation on 'How to conduct Sanctions screening'; and
  - Guidance on the Prescribed Activities for Independent Law Practitioners.
- 497 participants attended 10 AML/CFT webinars across the supervised sectors; and
- Dedicated assistance was continuously provided on phone and emails.

Amongst other indicators, the effectiveness of the outreach activities has been tangible with the increased level of understanding and compliance observed further to follow up inspections as well as responses received further to enforcement actions.

## Enforcement Actions 2021

In 2021, the FIU conducted 246 risk based onsite inspections and a number of follow up inspections as well as risk based offsite inspections. Several enforcement actions under the administrative regime and compounding regime with consent of Office of Director of Public Prosecution, depending on the severity of the matter and representations of the reporting persons. These included warning letters, directions as well as imposition of monetary penalties.

These enforcement actions related for specific breaches of the FIAMLA, FIAMLR 2018 and UN Sanctions Act 2019 such as:

- failure to register as reporting person with the FIU;
- failure to implement internal controls required under the UN Sanctions Act 2019;
- failure to keep accurate beneficial owner information;
- failure to report Suspicious Transaction Report;
- failure to provide report on corrective measures;
- non-compliance from follow-up inspection; and
- outsourcing of Money Laundering Reporting Officer and Compliance Officer.

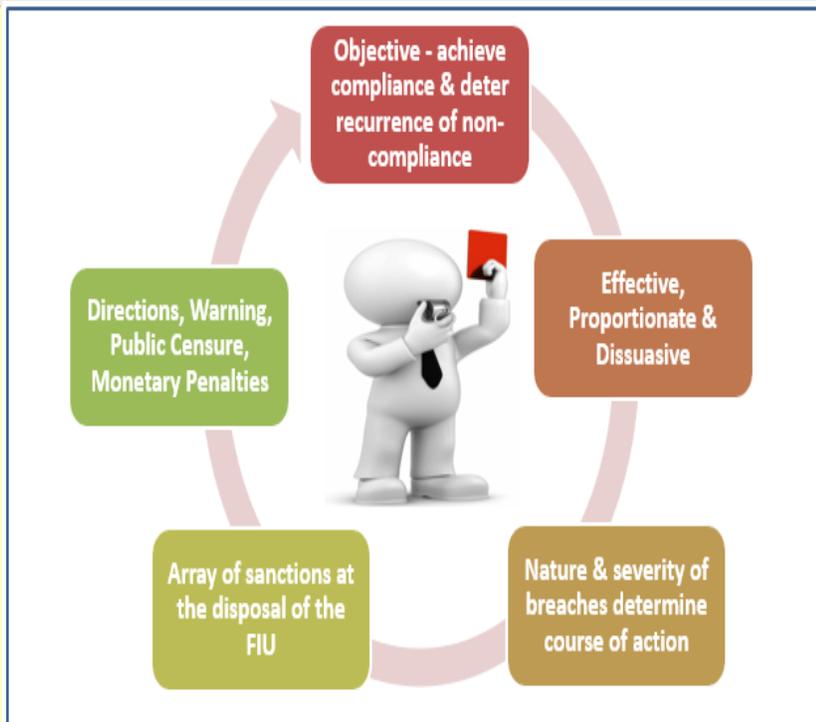
Monetary penalties were imposed to those who neither responded to the show cause letters within the specified deadline or in cases where their response was not conclusive.

In all, 52 Monetary penalties ranging from MUR 5,000 to MUR 150,000 were imposed in 2021 and these mainly related to cases for failure to register on goAML (44), failure to provide remedial action plan (3) and failure to implement internal controls in line with the UN Sanctions Act (5).

Effective enforcement measures are meant to be dissuasive and proportionate to the severity of the breach but also encourage reporting persons to fix the breach. Cases referred to the Review Panel upheld the enforcement actions taken in specific cases by FIU.

The FIU has noted that in most cases, reporting persons have constructively complied with the enforcement action and have effectively demonstrated the remedial action taken.

While enforcement remains an effective tool to achieve compliance, the FIU continues to promote a collaborative approach with its supervised sectors in ensuring AML/CFT compliance.



## *Landed in Enforcement Space - Useful Tips*

- ✓ Do not panic. Ensure that all points in the enforcement letter have been understood.
- ✓ Do not hesitate to ask for clarifications in case of any doubt on the requirements of the enforcement letter.
- ✓ Ensure the response is validated by your Board of Directors, where applicable, and submit your written response by post and email.
- ✓ Each letter of the FIU should be responded separately and within their respective deadlines.
- ✓ A response to one letter does not nullify the need to respond another letter received from the FIU.
- ✓ Any representation made to the FIU should be supported by documentary evidence, where relevant.
- ✓ Adhere to deadlines for submission of information and documents requested. Request for extension if required.
- ✓ Remember, we are here to assist you and can be contacted on 454 1423 or at [enforcementcompliance@fiumauritius.org](mailto:enforcementcompliance@fiumauritius.org)

**Financial Intelligence Unit  
Compliance Division  
10<sup>th</sup> Floor  
Wall Street,  
SICOM Tower  
Ebene Cybercity**

**Tel - (230) 454 1423  
Fax - (230) 466 2431**

**Email: [relationscompliance@fiumauritius.org](mailto:relationscompliance@fiumauritius.org)**