



## THE COMMISSION ANNOUNCES THE FOLLOWING LEGISLATION THAT CAME INTO FORCE IN AUGUST 2021



The BVI Financial Services Commission (the 'Commission') wishes to advise Industry Practitioners of the following relevant legislation which came into force on the 11<sup>th</sup> and 13<sup>th</sup> of August, 2021. All legislation can be found in the [Legislation Library](#) of the Commission's website.

### 11<sup>th</sup> August 2021

#### [Limited Partnership \(Restricted Limited Partnership Names\) Notice, 2021](#)

Issued by the Commission pursuant to section 13(3) of the Limited Partnership Act, 2017, this Notice specifies the words, phrases and abbreviations thereof that are restricted from being contained in the name of any Limited Partnership, without the Commission's prior consent.

### 13<sup>th</sup> August 2021

#### [Counter-Terrorism Act, 2021](#)

This Act creates a domestic legislative framework that criminalises terrorism and the financing of terrorism and provides the detection, prevention, prosecution, conviction of terrorist activities within the Virgin Islands. The Act also gives effect to the several International Conventions and Resolutions for the countering of terrorism and terrorist financing. Some other key features of this legislation include:

- Establishment of a range of terrorism and terrorist financing related offences including:
  - dealing with property of, or derived or generated from property of, designated terrorist entity;
  - making property, or financial or related services available to designated terrorist entity;
  - soliciting or giving support for the commission of terrorist acts;
  - arranging for property to be used for terrorist purposes;
  - use and movement of unmarked plastic explosives, nuclear material or facilities;
  - importation, use, making, possession of radioactive material and radioactive devices;
- Requirement to disclose known information relating to acts of terrorism to a police officer;
- Mandatory suspicious activity and suspicions reporting related to terrorist financing, terrorist acts or property owned or controlled by designated terrorist entities to the FIA;
- Governor's powers in making interim and final terrorist designations;
- Requirements and obligations to freeze funds of a designated terrorist entity;
- Responsibilities of Supervisory Authorities in communicating listing and de-listing of designated terrorist entities to supervised entities; and
- Reporting requirements of supervised entities to the Governor in relation to customers that are designated terrorist entities or committed certain offences under this Act.

#### [Criminal Justice \(International Cooperation\) \(Amendment\) Act, 2021](#)

This Amendment Act legislatively establishes the Council of Competent Authorities (CCA) as a coordinative body with responsibilities related to international cooperation on law enforcement, regulatory and tax matters. The functions and powers of the CCA are outlined in the legislation, which also specifies that its membership comprises the Managing Director of the Commission, the Attorney General, the Director of the Financial Investigation Agency, the Director of the International Tax Authority, and a representative of the Governor's Office.

#### [Financial Investigation Agency \(Amendment\) Act, 2021](#)

The functions and efficacy of the Financial Investigation Agency (FIA) are strengthened via the provisions of this Amendment Act, which updates and streamlines the provisions of the Financial Investigation Agency Act, 2003. Prominent provisions include:

- introduction of new definitions relating to money laundering, terrorism, terrorist financing and proliferation financing;
- redefining the roles and functions of the FIA, to fully accord with those of a financial intelligence unit;
- establishment of the FIA's supervisory powers with respect to Designated Non-Financial Businesses and Professions (DNFBPs), as well as Non-Profit Organisations (NPOs) that pose ML/TF risks; and
- imposition of FIA powers to request information from Financial Institutions, DNFBPs and NPOs, as well as powers to take enforcement action.



## **ML AND TF RISK ASSESSMENT FINDINGS - BANKING SECTOR**

### **Banking Sector ML and TF Risk Assessment Findings**

The Virgin Islands money laundering (ML) and terrorist financing risk (TF) assessments were recently conducted to identify ML and TF risks within each financial services sector and provide recommendations on how to mitigate the identified risks. This article aims to highlight Banking Sector findings of these risk assessments to assist banks and other financial institutions in understanding their ML and TF risks and making the public better aware of the ML and TF threats facing the Territory.

### **ML Risk Findings: Threats, Vulnerabilities, Risks Factors and Overall Ratings**

The ML risk assessment found the banking sector to be at medium-low risk of ML and identified several risk factors within the banking sector, including:

- large transaction sizes and values;
- large volumes of cross-border transactions, and;
- exposure to high-risk customers and jurisdictions.

Based on findings in the ML risk assessment, the most significant threats identified within the banking sector were ML and fraud-related activities. Vulnerabilities identified included Suspicious activity reports (SARs), which mainly involved large cash transactions, unusual deposits, and comingling of accounts, not being filed on time based on when transactions occurred and deficiencies relating to verification procedures, updating of CDD information (particularly in relation to high-risk clients), employee training and SARs analysis. Deficiencies were also identified regarding the lack of access to the Board by compliance officers and senior management.

### **TF Risk Findings: Threats, Vulnerabilities, Risks Factors and Overall Ratings**

The TF risk assessment also identified several risk factors within the banking sector, including large transaction sizes and values, large volumes of cross-border transactions, and exposure to high-risk customers and jurisdictions. The TF risk assessment found the banking sector to be Low risk for TF.

Within the TF risk assessment, the threats identified included potential exposure to high-risk jurisdictions and exposure to criminality based on the universal nature of the business. Vulnerabilities identified included highly localised exposure to high-risk customers and PEPs, as well as a small volume of activity within the sector involving high risk jurisdictions. It was also found that a vast majority of business is still being conducted face-to-face based on the products and services being offered which are generally standard and non-complex.

## What Should Be Done Going Forward

The assessment made recommendations geared towards mitigating the risk by banks, to banks and to all financial institutions. These include that banks and all financial institutions should ensure the recommendations are fully implemented into their own risk assessments and be mindful of the results of other sectors' risk assessments as entities within those sectors may be their clients. Banks and all financial institutions should also take account of all identified national threats and vulnerabilities.

The Commission as supervisor of all financial institutions within the Virgin Islands encourages all banks and financial institutions to incorporate the findings of these risk assessments into their day-to-day operations. The Commission will undertake assessment of such implementation through its onsite and desk-based supervision on an ongoing basis.

All recommendations can be found in the Virgin Islands Financial Services Sector [Money Laundering Risk Assessment Report](#) and [Terrorist Financing Risk Assessment Report](#).

For any questions about the ML or TF risk assessment please email [aml@bvifsc.vg](mailto:aml@bvifsc.vg).

# **BVI FINANCIAL SERVICES COMMISSION RELEASES ITS 2020/2021 INVESTMENT BUSINESS SECTOR REPORT**



The Commission carried out inspections of eleven (11) SIBA Licensees from September 2020 through 31<sup>st</sup> March 2021 to determine their level of compliance in the AML areas, Risk Assessment, Enhanced Customer Due Diligence and Updating of Customer Due Diligence. This Sector Report has collated the findings and outcomes from these thematic reviews conducted on the licensed Investment Business entities.

Key findings are highlighted throughout the report, including noted deficiencies amongst the sector and the remedial and enforcement action that have been taken thus far.

The sector report also includes possible recommendations for the sector and any other industry participant so as to strengthen the relevant components of its Anti-Money Laundering Regime. Entities are encouraged to review the [report](#) consider the key findings, and whether the recommendations outlined are applicable.



Our Hong Kong office will close at noon on 21<sup>st</sup> September in observance of the Mid Autumn Festival holiday.