

Guyana Revenue Authority



Anti-Money Laundering and Countering the Financing of Terrorism and Proliferation Financing (AML/CFT /PF)

GUIDANCE DOCUMENT

FOR

REPORTING ENTITIES

This Guidance Document should be read in conjunction with the current laws and regulations of Guyana; and with guidelines issued by the Guyana Revenue Authority and other regulatory competent.

JUNE 2023

LIST OF ACRONYMS AND ABBREVIATIONS

AML/CFT/PF:	Anti-Money Laundering and Countering the Financing of Terrorism and Proliferation Financing
FATF:	Financial Action Task Force
FIU:	Financial Intelligence Unit
GRA:	Guyana Revenue Authority
ML:	Money Laundering
TF:	Terrorist Financing
PF:	Proliferation Financing
RBA:	Risk-Based Approach
RE:	Reporting Entity
SA:	Supervisory Authority

1. BACKGROUND

In accordance with recommendations of FATF, REs are divided into licensed financial institutions; designated non-financial businesses and professions; or others. Under the AML/CFT Act 2009 and its Amendments, the GRA was appointed as the SA for the following sectors:

No.	Reporting Entities/Activities and Businesses	Class of Reporting Entity	Date of Appointment
1	Pawnbrokers	Other activity or business subject to the AML/CFT Act	08/09/2014
2	Used Car Dealers	Other activity or business subject to the AML/CFT Act	
3	Dealers in real estate (when the persons dealing are involved in transactions for their client concerning the buying and selling of real estate.)	Designated Non-Financial Business or Profession	

As such, the GRA currently serves as the SA for:

- ❖ Pawnbrokers
- ❖ Used Car Dealers
- ❖ Dealers in Real Estate

On August 16, 2023, the first schedule of the AML/CFT/PF Act was amended to substitute the words “used car dealers” to ‘auto dealers’.

As the SA for the three sectors, the GRA is responsible for ensuring that these sectors strictly comply with the requirements of the **AML/CFT Act 2009 (specifically, sections 15, 16, 18, 19 and 20) and the provisions of the Regulations made under the Act.**

2. EXISTING LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

- Guyana's AML/CFT legislation and regulation <https://fiu.gov.gy/aml-legislation/>
- FATF Recommendations <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatfrecommendations.html>
- Guidelines published by the FIU <https://fiu.gov.gy/aml-cft-guidelines/>

3. KEY DEFINITIONS:

- (i) **Reporting Entity (RE)** - any person whose regular occupation and/or business is the carrying on of - (a) any activity listed in the First Schedule of the AML/CFT Act 2009; or (b) any other activity defined by the Minister responsible for Finance as such by an order published in the Gazette amending the First Schedule.
- (ii) **Supervisory Authority (SA)** - the designated competent authority with responsibilities aimed at ensuring compliance by reporting entities with requirements to combat money laundering and terrorist financing. **As mentioned above, your SA is the GRA.**
- (iii) **Designated Non-Financial Business or Profession** - **real estate agents**, when they are involved in transactions for their client relating to the buying and selling of real estate; and real estate brokers.
- (iv) **Other Activities and Businesses subject to the AML/CFT Act** - **pawnbrokers**, credit unions, exporters and importers of valuable items, **auto dealers** or car parts dealers, registered charities, cooperatives.

4. KEY RESPONSIBILITIES OF YOUR SA

Section 22 of the AML/CFT Act of 2009, states that the **GRA** shall:

- Examine and supervise the reporting entities, as well as regulate and oversee effective compliance with the obligations outlined in Sections 15, 16, 18, 19 and 20 and any other preventive measures related to combating money laundering and terrorist financing.
- Issue instructions, guidelines, or recommendations, and provide training on their AML/CFT obligations and requirements.
- Conduct on-site compliance visits for reporting entity's business premises during normal working hours to: (i) inspect or take documents, or make copies or extracts of information from such documents; (ii) inspect premises; and (iii) observe the manner in which certain functions are performed, and require any person on the premises to provide an explanation on any such information.
- Cooperate and share information with other agencies, by requesting and providing assistance in investigations, prosecutions or proceedings relating to proceeds of crime, money laundering and terrorist financing.
- Impose sanctions on reporting entities for non-compliance with AML/CFT obligations; and inform the FIU accordingly.

5. NON- COMPLIANCE BY REs

Section 23 of the AML/CFT Act of 2009 states:

“The supervising authority, any regulatory authority, or competent disciplinary authority that discovers a breach of the obligations under sections 15, 16, 18, 19 and 20 by a reporting entity it supervises may impose one or more sanctions...”

Administrative Sanctions

The GRA **can** impose administrative sanctions on a reporting entity (RE) that fails to comply with its obligations under the AML/CFT legislation after repeated efforts by the SA to guide and assist RE's on the trajectory to compliance. Sanctions include:

- Written warnings
- Order to comply with specific instructions
- Order regular reports from the RE on the measures it is taking
- Prohibit a convicted person from employment within the RE
- Suspend, cancel or revoke any permit, registration, licencing or any other authorisation issued or any other administrative penalty.
- Where there are grounds to suspend, cancel or revoke any permit, registration, licencing or any other authorisation issued, a written notice shall be issued to the RE, providing reasons for the decision and may include in notice the obligation to pay:
 - (a) a fine not exceeding **\$3M** for **natural persons** and
 - (b) a fine not exceeding **\$7M** for **body corporate**.
- If an RE commits repeated violation of the Act or the terms of any licence, registration, permit or other authorisation issued, the GRA can recommend to the Commercial Registry in writing, with reasons, that the incorporation or business name of the RE be revoked.
- Removal of defaulting director or senior manager from board as well as a fine of ***five to fifteen million dollars*** shall be imposed.

Criminal Sanctions

A reporting entity or any of its directors, managers, officers or employees that breaches its obligations under the AML/CFT legislation can also be sanctioned criminally.

In the case of a breach by an individual, the penalty is a fine of ***five to fifteen million dollars; and imprisonment for up to three years***, and in the case of a breach by a company/body corporate, the penalty is a fine of ***fifteen to forty million dollars***.

6. KEY RESPONSIBILITIES OF THE RE

Sections 15, 16, 18, 19 and 20 of the AML/CFT Act of 2009, states that **ALL RE shall:**

- (i) Register with the FIU – *Click link below for form.*

[FIU Registration Form](#)

- (ii) Appoint a compliance officer who shall be responsible for ensuring the reporting entity's compliance with the requirements of the AML/CFT Act. *See below for details regarding the specific duties of a compliance officer,*

- (iii) Conduct Customer Due Diligence (CDD) and Enhanced Customer Due Diligence (ECDD) by identifying and verifying the identity of customers.

- (iv) Create a policy manual to ensure that your reporting, record keeping and client identification requirements are being adhered to.

[Policy Manual – Guidance Notes No. 1 of 2017](#)

- (v) Maintain all customer records relevant to transactions for at least seven (7) years.

- (vi) Conduct AML/CFT training with employees (where applicable) on a regular basis to ensure that they are up to date with new AML/CFT requirements and obligations.

- (vii) Submit monthly Threshold Transaction Reports (TTRs), quarterly Terrorist Property Reports (TPRs) and Suspicious Transaction Reports (STRs) to the FIU.

- (viii) Establish and maintain an independent audit function to test its AML/CFT procedures and systems.

7. REGISTERING WITH THE FIU

The FIU is located at Lot 49 Main and Urquhart Streets, Georgetown - in the compound of the Ministry of Finance.

The completed registration form should be submitted to the FIU (manually or by email), with the following supporting documents:

- ✓ Business registration/Articles of Incorporation
- ✓ Licence issued by the GRA (Dealer's, Pawnshop, House Agent)
- ✓ Owner's identification (Passport, National ID)
- ✓ Recent Financial Statements / Cash Flow Projections

Please note that:

- The FIU's registration is a one-off registration, **and free of cost.**
- REs are required to notify the FIU of any changes made to their business registration/ articles of incorporation or compliance officer.

8. KEY RESPONSIBILITIES OF YOUR COMPLIANCE OFFICER

- Designing, implementing, and maintaining the RE's AML/CFT Compliance Program.
- Liaising with the SA, FIU, and any other competent/regulatory body as needed.
- Ensuring that REs comply with AML/CFT legislative requirements and regulations thereto; as well as implemented procedures, policies and controls.
- Preparing and submitting reports to the FIU; and providing updates and/or documents as required or requested by the SA and the FIU.
- Organizing and arranging AML/CFT training and workshops which are held by the SA and the FIU.
- Train and sensitize the RE's staffers, in particular those on key operational functions and those who will be exposed to risks relating to AML / CFT / PF.

9. REPORTING TO THE FIU

The FIU will inform the GRA and the RE accordingly of the RE's successful registration. After which, the FIU will provide training, guidance, and relevant templates for REs to fulfil their reporting responsibilities.

Personalized training sessions will also be held with your compliance officer by the GRA, if such is requested. The GRA will also be part of the FIU's training sessions / workshops to impart the necessary knowledge and acumen needed so that the road to compliance is a smooth and seamless process. The GRA's team will provide the critical support via email or physical interactions to provide any clarity you may need, even subsequent to training sessions and workshops attended.

As an RE you are required to submit three (3) types of reports to the FIU:

Reports	Important Due Dates
<p>(1) Threshold Transaction Reports (TTRs) Reports of transactions conducted by customers of reporting entities that meet pre- determined limits/ thresholds.</p>	<p>The <u>7th day of each month</u> for transactions occurring in the previous month.</p>
<p>(2) Terrorist Property Reports (TPRs) Reports where there is knowledge that funds or other assets in possession of the RE are for a person/entity that is listed on the United Nations Security Council (UNSC) Consolidated List or listed or specified by order of the Minister of Finance in accordance with section 2 (2) of the AMLCFT Act 2009 and UNSCR 1373 (2001).</p>	<ul style="list-style-type: none"> • Immediately - if there is a positive match to the UN Sanctions List; or • Quarterly - to confirm the number of reports submitted or that there were no reports submitted for the previous quarter.
<p>(3) Suspicious Transaction Reports (STRs) Reports whenever there is suspicion or reasonable grounds to suspect that funds or a transaction (whether attempted or completed) is connected to the proceeds of a criminal activity, money laundering, terrorism or terrorist financing activities or offences.</p>	<p>Within three (3) days from forming the suspicion</p>

10. UNITED NATIONS (UN) SANCTION LIST

Periodically, you would have observed that GRA sends advisories issued by the United Nations (UN). The aim of these emails is to alert you on countries and individuals facing economic, trade, or diplomatic limitations due to their criminal or peace-violating activities. As indicated in the table above, you and your staffers need to be fully aware and cognizant of these advisories and **IMMEDIATELY** report to the FIU if there is a positive match when the UN Sanction Listing is perused.

In an effort to ensure that the UN Advisories are widely circulated and accessible, the GRA, apart from disseminating such listing via emails, will be placing same on the GRA's website.

11. HAVING CHALLENGES? - CONTACT THE GRA'S AML/CFT TEAM

- ❖ REs can contact the GRA's AML/CFT Team for any additional information or assistance in relation to AML/CFT matters and their compliance via:
 - Telephone number **227-6060**, Extensions **3400/ 3404/ 3409**
 - Email Address graamlcftteam@gra.gov.gy

- ❖ RE's are also at liberty to visit the GRA's AML/CFT Team at the GRA's Headquarters, 200 – 201 Camp Street, Georgetown, during any working day; Monday – Thursday from 8am – 3:30 pm, and Friday 8am – 2:30 pm.

- ❖ REs can also visit the GRA's website <https://www.gra.gov.gy/amlcft/> for relevant information and guidance regarding their compliance as well as useful links to augment information which would have been already sent via email.

END