

By email to: [fulegislation-consultation@fiubahamas.bs](mailto:fulegislation-consultation@fiubahamas.bs)

Dear Sir or Madam,

## Public Consultation on Financial Intelligence Bill, 2022, Financial Intelligence (Transactions Reporting) Regulations, 2022 and Suspicious Transaction Guidelines 2022

1. This submission is made by Risk Cay Consultancy is an independent, specialty business advisory firm in The Bahamas providing multidisciplinary solutions to financial service firms, non-profit organizations and government agencies.

2. Our practical experience and deep understanding of financial services firms and their current approach to financial crime risk management comes from a wide range of assignments, work experiences and specialty training. These include supporting many organizations in designing and implementing all aspects of their internal control and AML compliance framework, including governance, policies and procedures, training and risk assessment exercises. Our response to the FIU's consultation papers is our own and may not reflect the views of our clients.

### Comments & Recommendations | Financial Intelligence Bill, 2022

**SECTION 5.** The positions of Deputy Director and Counsel and Attorney may be considered a bottleneck or opportunity for political interference or impediment to organizational continuity more than necessary if subjected to minister appointment.

**We recommend the FIU consideration on the removing the role of Counsel and Attorney as a minister appointed role to strengthen independence of the FIU and allow greater latitude in staff composition decision making.**

**Benefits:** Greater workplace agility in hiring and termination decisions for key roles. Improved governance by separating operational decision making for operational oversight by the Minister. Minimizing potential political interference.

**SECTION 14.** Annual reports of statutory agencies are not always released to the public domain in a timely and accessible manner.

**We recommend the FIUB mandating the publication of the annual report for public consumption via the FIU's website by a defined period.**

**Benefits:** Improved awareness of FIU activities to promote industry/public trust. Readily accessible data and statistics of supranational observers and organizations.

**SECTION 20/21.** There are instances when execution of a compliance notice may present difficulty or be considered infeasible to execute. Should a notice not be adhered to in these instances, appeals will naturally ensue. The use of the Supreme Court to handle these appeals could be considered both inefficient (time to wait for hearing and rulings) and costly (legal professional engagement).

**We recommend the appeals be heard by a non-bias body with subject matter expertise that can render decisions in a timely manner. The judiciary should be a last resort escalation point for adjudications.**

**It is further recommended that a collaborative group of cross sector AML experts that meet regularly such as the Identified Risk Framework Steering Committee or the GFSR AML External Working Group be used as the appeal body.**

**Benefits: Less workload on the already burdened judiciary system. Timely deliberations by a team of non-bias experts.**

**FIRST SCHEDULE.** There are no stipulated standards for appointment of the Director.

**We recommend the FIU consider using the same fit and proper standards to determine termination of Director also as requirements for appointment.**

**Benefits: Consistent approach to execution of Director term of employment standards. Reduced possibility of poor fit individual appointed to lead FIU.**

**Comments & Recommendations | Financial Intelligence (Transactions Reporting) Regulations, 2022**

1. No comments relating amendments to this legislation. The simplification of the regulation is welcomed.

**Comments & Recommendations | Suspicious Transaction Guidelines 2022**

**SUSPICIOUS TRANSACTIONS INDICATORS.** There are no indicators for the Real Estate Sector.

**We recommend the FIU consider adding suspicious transaction indicators for the Real Estate Sector as it is a major AML risk activity in The Bahamas.**

**Benefits: Improved industry reference regarding a material business activity in The Bahamas.**

**ANNUAL AML TRAINING.** There are limited details on the annual AML training requirement.

**We recommend the FIU consider explicitly noting the legislatively annual AML training requirement as an expectation of the FIU. Details should also be provided on the timing of training (at employee onboarding, change of business, etc.), the minimum required training elements (KYC, UTR submission, etc.), modality delivery expectations, differences in content for staff, management and directors and training records retention.**

**Benefits: Additional clarity surrounding the annual AML training requirement.**

### **Closing remarks**

We applaud the Financial Intelligence Unit for improving their legislative framework and continuing to support the overall national suppression and detection of the proceeds of crime. We hope that our comments prove useful to you. We would be happy to discuss any of our observations or any other aspect of the consultation paper with you further. We can be contacted at [insights@riskcay.com](mailto:insights@riskcay.com).

**Yours sincerely**

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