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## **Director's Message**

The Financial Investigation Agency (FIA) plays a critical role in helping to safeguard the financial services sector. The Agency accomplishes this mandate by supporting the work of domestic and international law enforcement agencies, through the exchange of vital pieces of information in the form of financial intelligence.

During the year in review the Agency received a total of three hundred and eight (308) Suspicious Activity Reports (SARs), which represents a 70% increase in the number of reported SARs when compared to the number of reports filed in 2014. Though the increase posed some resource challenges in the Analysis Unit, the Agency was still able to provide a number of financial intelligence disclosures to our domestic and international partners. These disclosures were connected to British Virgin Islands Business Companies (BVIBCs) which conduct their operations outside our territorial borders.

The intelligence provided by the Agency is a valuable tool for our partners because it supports existing investigations, as well as helps them to identify new targets for investigation. It is important to mention that the crimes perpetrated by individuals who abuse BVIBCs typically occur outside of the BVI, in countries with whom we share most of our financial intelligence.

The year also saw an overall improvement in the number of onsite examinations conducted by our AML/CFT Compliance Enforcement Unit when compared to previous years. However, despite the strides we have made since our supervisory programme was established, we have still not been able to implement key aspects of the programme which includes conducting onsite examinations of members of the legal and accounting profession and imposing administrative penalties for non-compliance.

The year also saw important changes in the legislative framework such as the amendment to the AML/CFT Code of Practice requiring Trust and Company Services Providers to maintain beneficial ownership information which is a welcomed development. Over the years, the lack of beneficial ownership information recorded in the territory made it difficult for the Agency to respond to foreign requests for beneficial ownership information in a timely manner.

The Agency continued its active participation within the CFATF, where it is a member of the Risks, Methods, and Trends Working Group, Accreditation Working Group and the International Cooperation Review Group (ICRG). It also continued to play an active role in the Egmont Group through its active participation in the Membership, Support, and Compliance Working Group (MSCWG).

The Agency also continued its work in support of the National Risk Assessment process which commenced in 2014, and is expected to be completed in 2016.

In conclusion, I would like to take this opportunity to recognise the staff of the FIA for their hard work and dedication throughout the year, the Board for its unwavering support, and our domestic and international partners without whom it would be impossible for the Agency to fulfill its role and obligations.

Errol George  
Director

## Glossary

|                 |   |
|-----------------|---|
| <b>AGC</b>      | Attorney General Chambers                             |
| <b>AML</b>      | Anti-Money Laundering                                 |
| <b>BVIBC</b>    | British Virgin Islands Business Company               |
| <b>CFT</b>      | Counter Financing of Terrorism                        |
| <b>CFATF</b>    | Financial Action Task Force                           |
| <b>DNFBP</b>    | Designated Non-Financial Businesses and Professionals |
| <b>FATF</b>     | Financial Action Task Force                           |
| <b>FIA</b>      | Financial Investigation Agency                        |
| <b>FIU</b>      | Financial Intelligence Unit                           |
| <b>FSC</b>      | Financial Services Commission                         |
| <b>INTERPOL</b> | International Criminal Police Organisation            |
| <b>ICRG</b>     | International Cooperation Review Group                |
| <b>MLAT</b>     | Mutual Legal Assistance Request                       |
| <b>NPO</b>      | Non-profit Organisation                               |
| <b>NRA</b>      | National Risk Assessment                              |
| <b>PCCA</b>     | Proceeds of Criminal Conduct Act                      |
| <b>RFI</b>      | Request for Information                               |
| <b>SAR</b>      | Suspicious Activity Report                            |
| <b>STR</b>      | Suspicious Transaction Report                         |

## **Mission**

To provide an effective professional and transparent international cooperation and financial investigation Service that fosters public confidence and promotes the reputation of the Territory of the Virgin Islands as a centre of financial law enforcement excellence.

## **Vision**

The Financial Investigation Agency acknowledges that it has a vital role to play in helping to maintain a high degree of transparency in the local financial services sector.

To this end the Agency will endeavor to build a closer working relationship with the Financial Services Commission as well as local and foreign law enforcement agencies whose common goal is to implement the strategies aimed at countering money laundering and the financing of terrorism.

The Agency also recognises the importance of working closely with other important stakeholders in the private sector. To this end, the Agency will make it a priority to continue to provide the necessary support to domestic financial Institutions and Company Service Providers.

We recognise that the success of the Agency in effectively performing its core functions depends on the degree of knowledge and competency of our staff. Therefore, a large portion of the Agency's financial resources is allocated to ensure that staff members receive the necessary training to equip them with the skills needed to effectively perform their assigned duties.

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## 2015 Performance Snapshot

### **Information received**

- 308 Suspicious Activity Reports

### **Information analysed and disseminated**

- 41 SARs/STRs disseminated
- 3 Referrals to the RVIPF
- 6 Referrals to FSC
- 32 Referrals to foreign FIUs

### **Cooperation with domestic agencies**

- 62 Regulatory requests received from the FSC
- 6 Requests received from Her Majesty's Customs
- 75 Company check inquiries received from the AGC
- 1 Request received from the VISR
- 5 Request received from the Governor's Office
- 210 RVIPF on behalf of Interpol members worldwide

### **International Cooperation exchange of information**

- 131 Requests received from foreign FIUs and LEAs
- 69 MLA Requests received
- 15 Requests for information sent to foreign FIUs

### **Number of compliance inspections**

- 5 Desk based reviews
- 17 Onsite inspections

## **The Financial Investigation Agency- British Virgin Islands**

Financial Intelligence Units (FIUs) are specialised government agencies created to act as an interface between persons who are legally obligated to file Suspicious Activity Reports/Suspicious Transaction Reports and law enforcement agencies, which are responsible for investigating such reports. The role of FIUs usually involves collecting, analysing and disseminating information contained in those reports. The Financial Investigation Agency is the designated Financial Intelligence Unit of the British Virgin Islands.

### **Governance**

The Agency is a Government Statutory Body governed by a Board which is responsible for creating the policies which guides the Agency in the performance of its functions. The Board is comprised of Senior Civil Servants who occupy key positions within Central Government, including law enforcement agencies.

The Board is chaired by the Deputy Governor. The other board members include the Honourable Attorney General, Deputy Chair; Financial Secretary; Managing Director of the Financial Services Commission; Commissioner of HM Customs; Commissioner of the Royal Virgin Islands Police Force; and the Director of the Agency, as an ex-officio member.

In addition to the Board, the Agency also has a Steering Committee which is a sub-committee of the Board. The Steering Committee is made up of the Attorney General as Chairman, the Managing Director of the Financial Services Commission and the Director of the Agency. The Steering Committee was established to ensure that the Agency discharges its responsibilities with regards to SAR/STR regime.

### **What is a Financial Intelligence Unit?**

The Egmont Group definition of a Financial Intelligence Unit (FIU) was adopted from the Financial Action Task Force (FATF) Recommendation 29 and Interpretative Note on Financial Intelligence Units which states that-

“Countries should establish a financial intelligence unit (FIU) that serves as a national centre for the receipt and analysis of: (a) suspicious transaction reports; and (b) other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis. The FIU should be able to obtain additional information from reporting entities, and should have access on a timely basis to financial, administrative and law enforcement information that is needed to undertake its functions properly”.

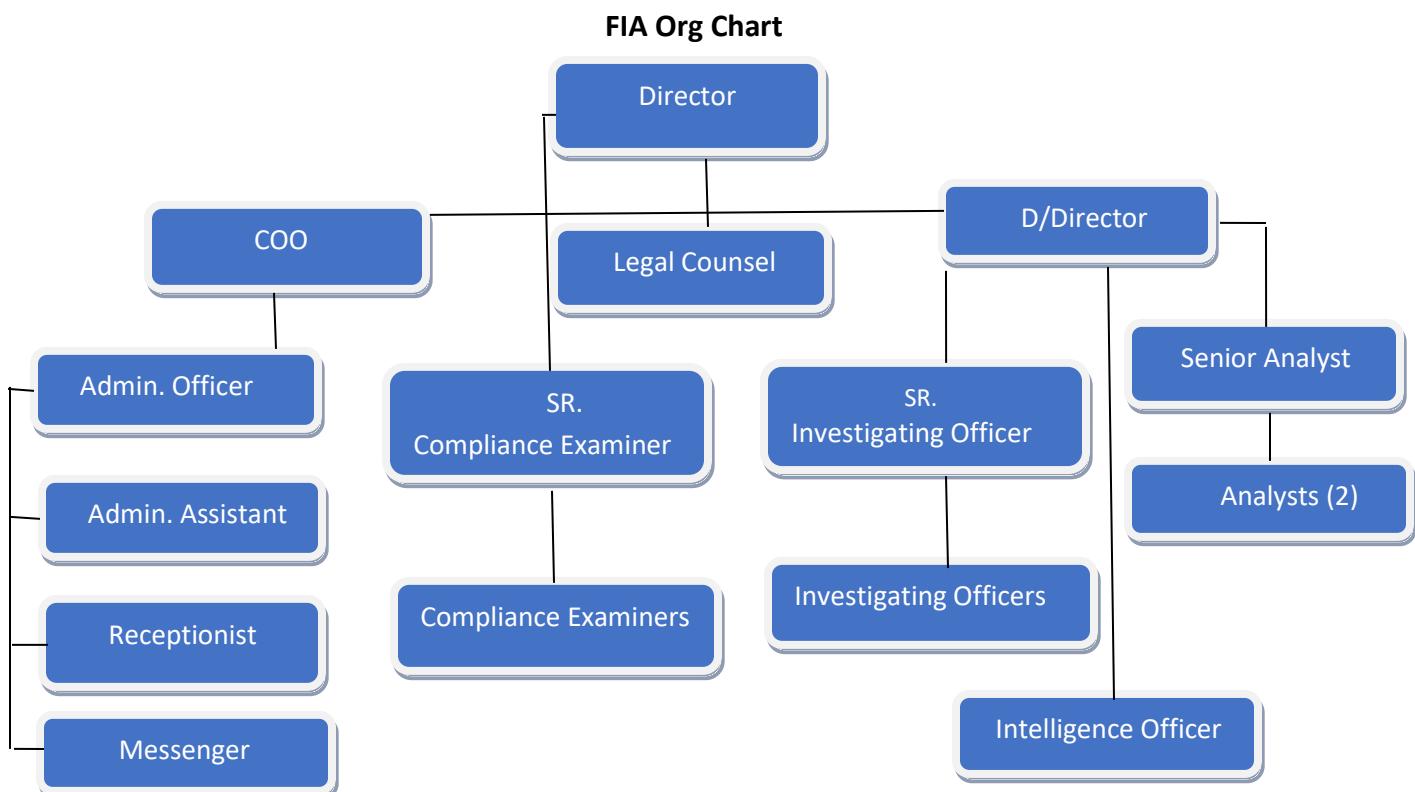
Further, Article 7.1.b of the United Nations Convention against Transnational Organized Crime (Palermo Convention) requires member states to consider the establishment of a financial

intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money laundering.

Recommendation 29 of the FATF also requires countries to establish a FIU to serve as a national centre for receipt and analysis of Suspicious Transaction Reports (STRs) and other information relevant to money laundering, associated predicate offence and terrorist financing and for the dissemination of the results of that analysis. The Financial Investigation Agency was established by the BVI Government in accordance with Act No. 19 of 2003.

The Agency was established as a Hybrid FIU which is headed by a Director who is appointed by the Board. However, investigations conducted by the Agency is limited to mutual legal assistance requests. The current Director is a Police Inspector seconded from the Royal Virgin Islands Police Force. The Agency's staff comprises of persons from several disciplines including a former Senior Customs Officers who is Deputy Director, a former Police Officer and a seconded Customs Officer as well as others, including civilian support staff.

During the period covered by this report, the Agency had a staff compliment of eighteen (17) including the Director, Deputy Director, Chief Operating Officer, Legal Counsel, two (2) Investigating Officers, two (2) Analysts, an Intelligence Officer, four (4) Compliance Examiners, an Administrative Officer, an Administrative Assistant, a Messenger, and a Receptionist.



## **Functions of the Agency**

### **Legal framework**

The Agency's functions are carried out under the following pieces of legislation:

1. The Financial Investigation Agency Act, 2003, (as amended)
2. The Proceeds of Criminal Conduct Act 1997, (as amended)
3. Criminal Justice (International Cooperation) Act 1993, (as amended)
4. Anti Money Laundering Regulations 2008
5. Anti Money Laundering and Terrorist Financing Code of Practice 2008
6. Proliferation Financing (Prohibition) Act, 2009
7. Non-Profit Organisations Act, 2012

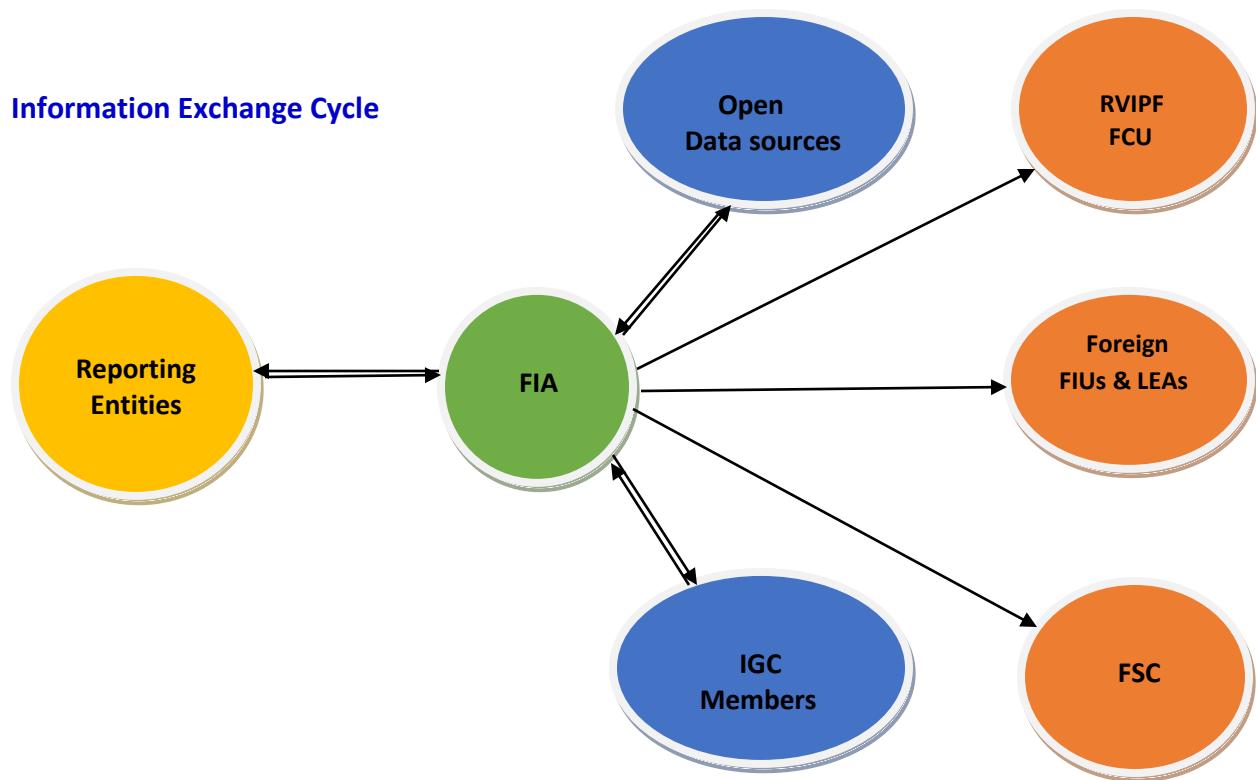
The Proceeds of Criminal Conduct Act, 1997 (as amended) prescribed for the reporting or disclosure of any suspicion or belief that any funds or investments are derived from or used in connection with criminal conduct. Reports are forwarded to the FIA as the Reporting Authority.

### **Analysis**

The Agency's functions as it relates to the receipt, analysis and dissemination of SARs/STRs are defined under Section 4 of the FIA Act and Section 7 (1) of the AML/CFT Code of Practice. During the year under review the analysis unit had two (2) Analysts who analyse SARs/STRs. A third Analyst will be recruited in 2016 to improve the Analysis Unit's ability to respond to the growing number of SARs/STRs.

### **Information Processing SARs/STRs**

Information coming into the Agency by way of SARs/STRs is received both electronically and in hard copy format. New information is checked against existing data to identify possible linkages between new and previous filings. Unique identifiers are then added to each new piece of information and uploaded into the Agency's database. Reports are prioritised using several key indicators. Analysis is then conducted which often includes requesting additional information from reporting entities as well as from open and close sources. Following analysis, analysts can make the decision to disseminate or not to disseminate based on a number of determining factors.



## Investigations

The investigative functions of the Agency are defined under the Proceeds of Criminal Conduct Act, 1997 (as amended), Financial Investigation Agency Act 2003 (as amended), Anti-Money Laundering Regulations 2008, Criminal Justice (International Cooperation) Act 1993, Anti-Money Laundering and Terrorist Financing Code of Practice 2008, and the Proliferation Financing (Prohibition) Act 2012.

Investigations conducted by the Agency in relation to SARs/STRs is in aid of its analysis functions. Investigations are conducted prior to the dissemination of information and intelligence to domestic and foreign law enforcement agencies and Financial Intelligence Units (FIUs).

Section 4 of the FIA Act also empowers the Agency to process requests for information, including conducting investigations into Mutual Legal Assistance Requests (MLARs). MLARs are sent by the requesting states to the Attorney General Chambers, which is the Central Authority for such matters. The requests are reviewed within the Chambers and are subsequently forwarded to the FIA for processing once they are found to be in order.

Additionally, the Agency is authorised to process requests for information and disclosures from foreign law enforcement agencies and financial intelligence units. Request for Information are usually sent to the Agency by secure means including the Egmont Secure Web (ESW). There are strict rules governing the way any information exchanged between financial intelligence units

and law enforcement agencies is to be used. Such information is to be used for intelligence purposes only.

## **Supervisory functions**

Section 9 (2) of the Virgin Islands Anti- Money Laundering and Terrorist Financing Code of Practice, 2008 (the Code of Practice) and section 18 of the NPO Act, 2012 places a statutory obligation on the Financial Investigation Agency to supervise, for Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) purposes, all entities that are not regulated by the Financial Services Commission such as DNFBPs and NPOs. This essentially involves a review of individual entity's risk assessment on money laundering and terrorist financing through its policies, processes, procedures and internal control systems. The information gathered from these reviews is then used by the Agency to make an informed and objective assessment of their risk profile, the adequacy or otherwise of its mitigation measures and its compliance with the legislative requirements.

Businesses and Professionals currently subject to the Agency's AML/CFT supervision include Car Dealers, and dealers in other high value goods, Yacht Brokers, Real Estate Agents who engage in the buying and selling of properties, Jewelers, Lawyers, Notaries and Accountants who engage in certain types of business transactions as outlined in FATF Recommendation 22.

## **SARs/STRs Reporting**

As previously mentioned, one of the Agency's main function is to process SARs/STRs. During the Year under review the Agency received a total of three hundred and eight (308) SARs/STRs when compared to two hundred and eighteen (218) received in 2014. This represents a 70% increase in the number of reports submitted by reporting entities.

Money laundering is a crime which help buttress criminal activities because it provides a means by which criminals could use and enjoy their ill-gotten gains. It affects society in many ways, from an individual level, where other criminal activities such as murders and kidnapping is often tied, as well as its effect on the stability of a country's financial system.

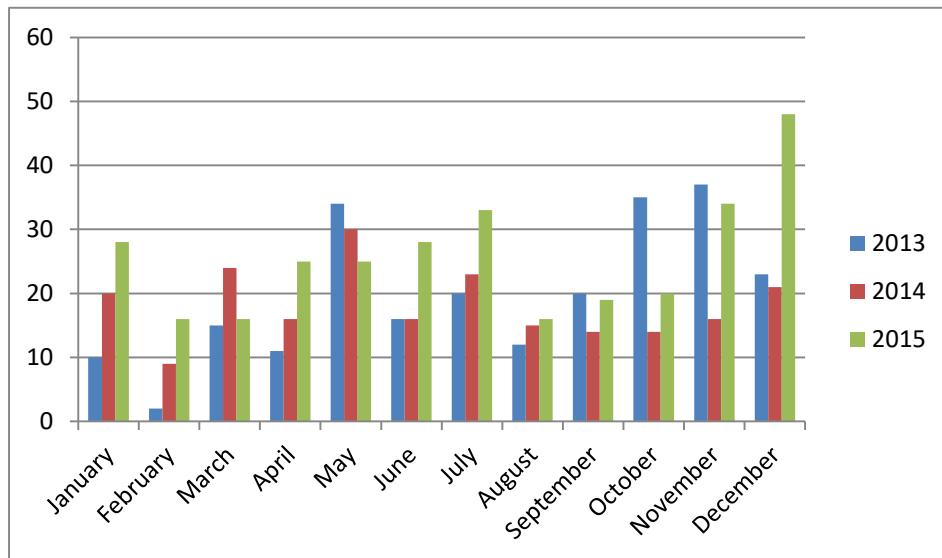
Reporting suspicious financial transactions or other related activities is a key part of a financial intelligence network, which helps law enforcement agencies and financial intelligence units to collaborate to detect, deter and prevent money laundering and terrorist financing activity. Information contained in SARs/STRs helps the FIA to produce financial intelligence reports which assist our domestic and international law enforcement partners in conducting investigations into money laundering, terrorist financing and regulatory issues that could pose a threat to the territory's security and financial stability. Good intelligence obtained from various sources reveal trends and patterns in money laundering and terrorist financing, which is useful for law enforcement agencies, reporting entities and the public.

**The following table represents a numerical breakdown of SARs/STRs received in 2015**

| <b>Entity Type</b>                     | <b>Number of reports</b> |
|--|--------------------------|
| Trust and Corporate Services Providers | 223                      |
| Banks                                  | 55                       |
| Money Service Businesses               | 8                        |
| Lawyers                                | 5                        |
| Accountants                            | 2                        |
| Investment Managers                    | 3                        |
| Real Estate Agents                     | 1                        |
| Others                                 | 11                       |
| <b>Total</b>                           | <b>308</b>               |

As is customary, filings by Trusts and Corporate Services Providers accounted for the majority of reports, which is due to the fact that they make up the largest part of the regulated sector and generally poses a higher risk than other entities within both the traditionally regulated, as well as non-regulated sectors, including Designated Non-Financial Businesses and Professionals and Non-Profit Organisations.

**The following graph shows a monthly breakdown of SARs/STRs submitted by reporting entities for the years 2013, 2014 and 2015**



The SARs/STRs reported during the current reporting year were linked to a variety of offences. However, the majority of the reports were linked to fraudulent activities, which has been the case for a number of years. This suggests that fraud is the main criminal activity perpetrated by criminals using BVI Business companies.

**The following diagram shows a breakdown of the types of offences reported in SARs/STRs**

|                                   |    |                          |    |
|-----------------------------------|----|--------------------------|----|
| Breach of Int'l Sanctions         | 1  | Insider Trading          | 4  |
| Failure to maintain proper CDD    | 22 | Money Laundering         | 54 |
| Bribery                           | 15 | Organised Crime          | 2  |
| Conspiracy                        | 1  | Sanctions Listing        | 3  |
| Corruption                        | 16 | Tax Evasion              | 18 |
| Failure to obtain UBO information | 22 | Theft                    | 7  |
| Embezzlement                      | 5  | Unusual Account Activity | 35 |
|                                   |    |                          |    |

| Activity  | 2014 | 2015 |
|---|------|------|
| Number of SARs/STRs received  | 217  | 308  |
| Number of SARs/STRs analysed  | 158  | 109  |
| Number of SARs/STRs disseminated/referred for intelligence purposes | 63   | 35   |
| Number of SARs/STRs referred to the RVIPFFCU                        | 3    | 3    |
| Number of SARs/STRs referred to foreign FIUs                        | 60   | 32   |

## Information Exchange

As part of its main functions, the Agency exchanges information with a number of domestic and foreign partners including the BVI financial services regulator, body enforcement agencies and foreign financial intelligence units. Information is shared for intelligence purposes and the exchange generally takes place on the basis of reciprocity. Information is also shared under the cover of Memoranda of Understandings. While no new MOUs were signed by the Agency during the year under review, the Agency is a signatory of several MOUs which were signed with both domestic and international partners over the years. These MOUs facilitate the exchange of information in relation to financial offences including money laundering and the financing of terrorism.

Additionally, the Agency is a member of the Egmont Group of Financial Intelligence Units which comprises of over one hundred and fifty (150) countries. The organisation promotes collaboration and exchange of information among its members. During the year under review, the Agency received a total of four hundred and ninety (490) requests for information. These requests included requests from the Financial Services Commission, Royal Virgin Islands Police Force, Interpol, HM Customs, the Governor's Office, the Attorney General's Chambers, foreign financial intelligence units and foreign law enforcement agencies.

**The following table is a breakdown of countries that submitted requests for information to the Agency in 2015**

|                   |    |             |    |                              |    |
|-------------------|----|-------------|----|------------------------------|----|
| Anguilla          | 1  | Greece      | 2  | Peru                         | 1  |
| Antigua & Barbuda | 1  | Guatemala   | 2  | Poland                       | 3  |
| Argentina         | 2  | Guernsey    | 1  | Portugal                     | 2  |
| Armenia           | 2  | Hong Kong   | 3  | Philippines                  | 2  |
| Australia         | 3  | Hungary     | 4  | Romania                      | 17 |
| Austria           | 2  | India       | 16 | Russian Federation           | 19 |
| Bahrain           | 1  | Isle of Man | 1  | San Marino                   | 1  |
| Belarus           | 3  | Israel      | 4  | Serbia                       | 5  |
| Belgium           | 12 | Italy       | 5  | Seychelles                   | 5  |
| Bermuda           | 1  | Japan       | 4  | Spain                        | 1  |
| Brazil            | 3  | Kazakhstan  | 4  | St. Lucia                    | 1  |
| Bulgaria          | 6  | Lithuania   | 2  | St. Vincent & the Grenadines | 1  |
| Cayman Islands    | 1  | Luxembourg  | 1  | Switzerland                  | 6  |
| Chile             | 24 | Malaysia    | 4  | Taiwan                       | 1  |
| Croatia           | 2  | Malta       | 3  | Tajikistan                   | 1  |
| Cyprus            | 3  | Mauritius   | 3  | Thailand                     | 1  |
| Czech Republic    | 2  | Moldova     | 2  | Trinidad & Tobago            | 1  |
| Dominica          | 1  | Mongolia    | 1  | Turkey                       | 1  |
| Egypt             | 2  | Montenegro  | 11 | Turkmenistan                 | 1  |
| Finland           | 4  | Montserrat  | 1  | Ukraine                      | 15 |
| France            | 15 | New Zealand | 3  | United Kingdom               | 22 |
| Georgia           | 2  | Nigeria     | 1  | United States of America     | 29 |
| Germany           | 1  | Panama      | 1  | Venezuela                    | 1  |

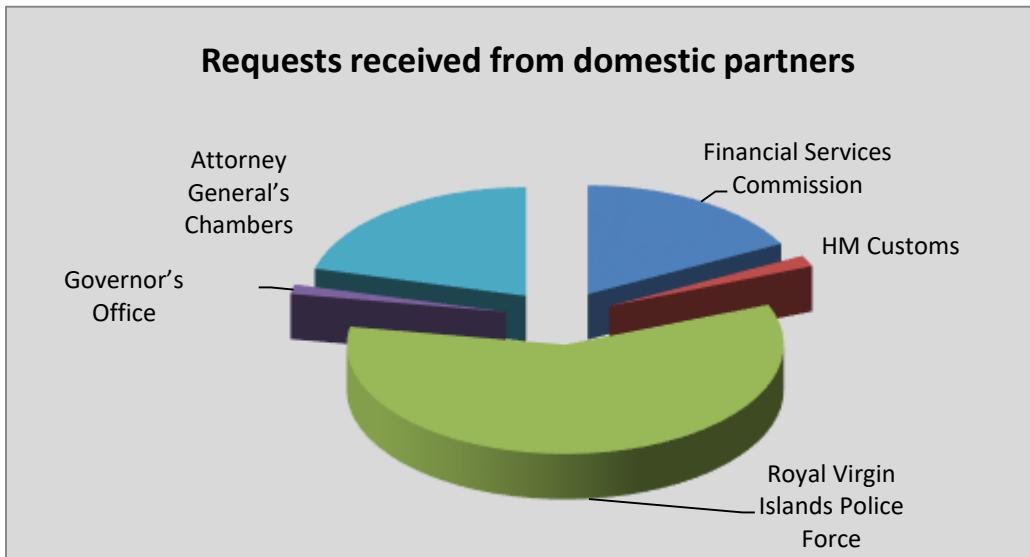
**The following table shows the three countries that submitted the most requests**

| Requesting countries     | Number of requests |
|--------------------------|--------------------|
| United States of America | 29                 |
| Chile                    | 24                 |
| United Kingdom           | 22                 |

In addition to requests received from foreign jurisdiction, the Agency also processed several requests received from a number of domestic partners which are represented in the following table.

**The following table shows a breakdown of the number of requests received from domestic agencies in 2015**

| Domestic Agencies   | Number of requests |
|---|--------------------|
| Financial Services Commission   | 62                 |
| HM Customs  | 6                  |
| Royal Virgin Islands Police Force on behalf of INTERPOL members worldwide | 210                |
| Governor's Office   | 5                  |
| Attorney General's Chambers   | 75                 |



### Processing of MLA Requests

As previously indicated, the Agency is also involved in the processing of Mutual Legal Assistance Requests which are forwarded by the Attorney General's Chambers. MLARs are processed in accordance with the Criminal Justice (International Cooperation) Act 1993 (as amended) or the Mutual Legal Assistance (United States of America) Act, 1990. The processing of such requests is usually completed within fourteen (14) to twenty-one (21) days of receipt by the Agency. However, the time it usually takes to process these requests is often determined by the depth or nature of the enquiries to be conducted. During the year under review, the Agency processed a total of sixty-nine (69) Mutual Legal Assistance Requests on behalf of various requesting jurisdictions up from sixty-three (63) which was received the previous year.

**The following table show breakdown of MLARs received and processed by the Agency in 2015**

|                |   |                    |    |
|----------------|---|--------------------|----|
| Armenia        | 1 | Latvia             | 1  |
| Australia      | 1 | Lithuania          | 2  |
| Bulgaria       | 3 | Mexico             | 1  |
| Cayman Islands | 1 | Norway             | 1  |
| Cyprus         | 2 | Panama             | 1  |
| Czech Republic | 1 | Poland             | 1  |
| Ecuador        | 1 | Russian Federation | 25 |
| France         | 1 | Spain              | 2  |
| Greece         | 2 | Ukraine            | 5  |
| India          | 3 | United Kingdom     | 4  |
| Isle of Man    | 1 | United States      | 5  |
| Kazakhstan     | 3 | Uzbekistan         | 1  |

**Number of Search Warrants executed to support the processing of MLARs  
(2014-2015)**

| Activity                 | 2014 | 2015 |
|--------------------------|------|------|
| Search Warrants executed | 64   | 74   |

## **Supervisory Framework**

The Agency's AML/CFT supervisory framework was officially launched in 2014 to ensure the entities it supervises comply with their obligations under domestic AML/CFT laws. The Agency's supervisory process utilises a risk-based approach. During the year, the Agency engaged in a number of outreach and supervisory activities which included pre-inspection meetings, answering telephone enquiries from supervised entities regarding their obligations, in-house sensitisation training, desk-based reviews of AML/CFT policies and procedures and onsite examinations. However, the majority of the Compliance and Enforcement Unit's time and efforts were focused on the review of compliance procedural manuals and conducting onsite examinations. The outcomes of our efforts, particularly as it relates to onsite examinations, and the results of our review revealed that there is a need for ongoing AML/CFT sensitisation training for entities and individuals linked to both the NPO and DNFBP sectors. This is also evidenced by the fact that there are very few SAR/STR reports filed by entities operating in both sectors.

**Comparative breakdown of pre-inspection, sensitization training, desk based reviews and onsite inspections conducted between the past year**

| Entities                      | 2013 | 2014 | 2015 |
|-------------------------------|------|------|------|
| <b>Pre-inspections</b>        | 70   | 126  | 1    |
| <b>Sensitisation training</b> | Nil  | Nil  | 2    |
| <b>Desk based reviews</b>     | Nil  | Nil  | 5    |
| <b>Onsite examinations</b>    | Nil  | 1    | 17   |

In addition to the activities listed in the above table the Compliance and Enforcement Unit also received and reviewed a number of AML/CFT compliance procedural manuals submitted by NPOs, DNFBPs and regulated entities. The unit received a total of ninety-two (92) manuals during the year.

**Sectoral breakdown of the number of AML/CFT compliance procedures manuals submitted to the Agency**

| Sectors            | 2015 |
|--------------------|------|
| NPOs               | 22   |
| DNFBPs             | 1    |
| Regulated entities | 69   |

|              |           |
|--------------|-----------|
| <b>Total</b> | <b>92</b> |
|--------------|-----------|

## **Enforcing compliance**

The Agency uses a range of compliance activities to ensure supervised entities fulfill their AML/CFT obligations, including feedback letters, AML/CFT compliance procedural manual review and approvals, compliance pre-inspection meetings, compliance examinations, compliance assessment reports and follow-up onsite examinations. Unfortunately, there are gaps in the legislation which temporarily affects the Agency's ability to administer monetary penalties for non-compliance.

## **Domestic cooperation**

The Agency is a member of the Joint Anti-Money Laundering and Terrorist Financing Advisory Committee (JALTFAC) and the Inter-Governmental Committee on AML/CFT matters (IGC). Both bodies were created by statute. The role of JALTFAC is to advise the Financial Services Commission on matters relative to AML/CFT while the role of the IGC is to promote and facilitate cooperation amongst its members where AML/CFT matters are concerned.

The Agency also cooperates with other members of the Inter-Governmental Committee on AML/CFT matters such as the Financial Services Commission (FSC), Her Majesty's Customs (HMC), the Royal Virgin Islands Police Force (RVIPF), the Virgin Islands Shipping Registry, and the Attorney General's Chambers which are signatories of a multi-lateral MOU signed in April 2014. The MOU facilitates information exchange among the members of the committee on matters relating to financial offences including money laundering and financing of terrorism. Apart from the multi-lateral MOU, the Agency is also party to bilateral MOUs signed with FSC, RVIPF and HMC under which the Agency agreed to carry out certain functions on behalf of the three (3) agencies.

## **International Cooperation**

Organised crime knows no borders. There are various trans-national crimes being committed under the influence of criminal organisations. Drug trafficking, money laundering, trafficking of human beings, (especially women and children for sexual exploitation), illicit manufacturing and trafficking of fire arms, acts of corruption, use of violence and extortion and illegal trafficking and transportation of migrants are the main transnational crimes with which countries are confronted.

Interpretative note 7 of the FATF Recommendation 40 which deals with international cooperation states that "FIUs should exchange information with foreign FIUs, regardless of their respective status; be it of an administrative, law enforcement, judicial or other nature. To this end FIUs should have an adequate legal basis for providing cooperation on money laundering, associated predicate offences and terrorist financing".

The Agency's cooperation with regional and international counterparts goes far beyond the exchange of financial intelligence. It also works closely with counterparts to take forward initiatives aimed at combatting money laundering and the financing of terrorism. This is done mainly through cooperation, collaboration, coordination and sharing of experiences which helps to foster growth and development within financial intelligence units.

The Agency also provides support to financial Intelligence units in the region by acting as co-sponsor together with FIU Bahamas to assist FIUs which are not yet members of the Egmont Group to become members. This is done by guiding them through the Egmont Group membership application process. This usually involves keeping Egmont Group informed of any issues and challenges hindering potential candidate FIUs from submitting letters of intent or membership applications for consideration by the working group responsible for reviewing and considering membership applications. Issues could range from operational independence of candidate FIUs to deficiencies in the laws that governs the FIUs operations.

### **The Egmont Group**

The Agency is a member of the Egmont Group of Financial Intelligence Units and has been a member since 1999. The goal of the Egmont Group is to provide a forum for FIUs around the world to improve cooperation in the fight against money laundering and the financing of terrorism and to foster the implementation of domestic programs in this field. This support includes:

- Expanding and systematising international cooperation in the reciprocal exchange of information;
- Increasing the effectiveness of FIUs by offering training and promoting personnel exchanges to improve the expertise and capabilities of personnel employed by FIUs;
- Fostering better and secure communication among FIUs through the application of technology, such as the Egmont Secure Web (ESW);
- Fostering increased coordination and support among the operational divisions of member FIUs;
- Promoting the operational autonomy of FIUs; and
- Promoting the establishment of FIUs in conjunction with jurisdictions with an AML/CFT program in place, or in areas with a program in the early stages of development.

Members of the organisation meet twice a year to discuss issues relative to the organisation and its work. Discussions would normally include updates on ongoing projects, working group projects, issues effecting membership as well as matters affecting the organisation's role in the global fight against ML/TF which is often done through close cooperation with other international organisations such as the FATF, World Bank, IMF and the UNDCP. The Agency's active participation in the Egmont Group started in 1999 when the then Royal Virgin Islands Police Force Financial Investigation Unit, which later became the FIA, became a member of the organisation. The Agency participates in the Outreach Working Group (OWG). The mandate of the OWG is to sponsor and recommend applicants for membership. During the year under review the Agency was represented at both the working group meetings held in Berlin, Germany, as well as the annual Plenary and working group meetings which were held in Barbados.

The Agency continues to act as a sponsor for the Financial Intelligence Unit of Montserrat, and the UCREF of Haiti during the year.

### **Caribbean Financial Action Task Force (CFATF)**

The Virgin Islands is a member of the Caribbean Financial Action Task Force (CFATF) which is a Financial Action Task Force style regional body or FSRB and associate member of the Financial Action Task Force(FATF). The Agency represents the territory at CFATF meetings, which are held two(2) times a year, by its participation in various working groups including the Heads of FIU forums, International Cooperation Review Group, Accreditation Working Group and the Risk, Methods, and Trends Working Group.

The Agency also provides an assessor to the CFATF International Cooperation Review Working Group (CFATF ICRG). The role of the assessor is to monitor the timelines of an agreed action plan regarding the resolution of outstanding deficiencies identified during the Mutual Evaluation Process. Countries that have not sufficiently achieved a Largely Compliant or higher rating with the Core and Key Recommendations are considered non-compliant and are referred to the CFATF ICRG). The CFATF ICRG's assessors are to complete timely reports on the assessed country's progress and report to the CFATF ICRG at every CFATF plenary. Failure to adhere to the CFATF ICRG's processes, including a failure to address vulnerabilities identified, may result in the country being referred to the Financial Action Task Force.

### **Professional development**

During the year, the Agency allocated and expended a great deal of financial resources to aid in the professional development of members of staff. Most of the resources spent were used to pay for professional AML/CFT certifications such as CAMS and CFE. In addition, the Agency also

paid for staff members to attend various AML/CFT related and unrelated workshops, seminars and conferences, most of which were held outside the territory.

#### **Break down of number of entities subject to Onsite examinations in 2015**

| Supervised entities | No. of Onsite Examinations |
|---------------------|----------------------------|
| NPOs                | <b>7</b>                   |
| Automobile Dealers  | <b>2</b>                   |
| Jewelers            | <b>3</b>                   |
| Real Estate Agents  | <b>3</b>                   |
| Yacht Brokers       | <b>2</b>                   |
| <b>Total</b>        | <b>17</b>                  |

#### **Training activities attended by staff in 2015**

| Period    | Type of Training   |
|-----------|--|
| February  | One employee attended a “From Staff to Supervisor” workshop hosted by the Government Training Division   |
| March     | Two employees attended the BVIFSC Joint Compliance Conference with the FS Industry 2015  |
| April     | One employee completed an HR Generalist Certificate in San Diego, California<br><br>One employee attended the IBM Analyst Notebook IBase Training, in Canada<br><br>Two employees attended the Association of Certified Financial Crime Specialists (ACFCS) Conference in New York |
| May       | One employee attended the AMA Business Grammar Seminar in Atlanta  |
| September | One employee attended the 14 <sup>th</sup> Annual Financial Crime Conference in Las Vegas, Nevada<br><br>One employee attended Human Resource Manager Training in Las Vegas, Nevada<br><br>One employee completed the ACAMS Certification online                                   |

#### **Challenges**

There were several challenges faced by the Agency during the reporting year. These included:

#### **Reactive SARs/STRs Reporting**

Suspicious Activity/Suspicious Transaction Reporting in the case of financial transactions that may give rise to money laundering and the financing of terrorism goes back to legislation in 1997 with the introduction of the Proceeds of Criminal Conduct Act, 1997 (as amended), Drugs Trafficking Offences Act, 1992 (as amended) and the Anti-Terrorism (Financial and other Measures) (Overseas Territories) Order, 2002 though the FATF was established to co-ordinate AML efforts in 1989. The Creation of the FATF subsequently led to the publication of the forty “Recommendations” to member countries concerning AML arrangements followed by the nine “Special Recommendations” on CTF strategies and more recently in 2012 the revised recommendations titled “International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation.

The organisation usually reviews international compliance with its various “Recommendations” through a process of “mutual evaluation”. The Virgin Islands was subject to this process in 2008 during the third round and will be again in 2018 during the current fourth round.

The FATF Recommendation 29 states that “countries should establish a financial intelligence unit (FIU) that serves as a national centre for the receipt and analysis of: (a) suspicious transaction reports; and (b) other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis. The FIU should be able to obtain additional information from reporting entities, and should have access on a timely basis to financial, administrative and law enforcement information that is needed to undertake its functions properly”.

Most of the SARs/STRs reported to the FIA are received in hard copy format though the number of institutions are beginning to file reports electronically. Most SARs/STRs are being filed by Trusts and Corporate Services Providers followed by Banks, followed by money services businesses.

The importance of SARs/STRs reporting is fundamental to countering ML and TF and to ensure that the AML/CFT regime is an effective deterrent for criminal activities. This is because SARs/STRs usually provide vital information about transactions which are suspected of being linked to criminal activity which allows law enforcement agencies to investigate these activities including money laundering and terrorist financing.

In order for the FIA to conduct a proper analysis of SARs/STRs filed by reporting institution those reports must contain all the relevant details to enable the Agency to make a proper assessment and pass on meaningful information to end users in the form of intelligence.

A review of SARs/STRs being filed by reporting institutions during the reporting years reveals that poor-quality SARs/STRs is hampering the FIA ability to provide meaningful intelligence to

end users both domestic and foreign. The deficiencies noted in the SARs/STRs being filed include:

- Most reports are reactive, meaning they are being filed after the activity or transactions have already taken place. This is especially common with TCSPs due to the fact that they have no control over the transactions undertaken by BVI Business Companies, due to the fact that these entities conduct business activities outside the VI.
- It is sometimes difficult to obtain updated KYC/CDD information
- UBO information is not always readily available
- Delayed responses to FIA section 4 (2) (d) requests for information

In an effort to address this situation, the FIA will be embarking on drafting and publishing Guidance Notes on SAR/STR reporting. In the meantime, it will work closely with reporting entities to have these issues addressed.

### **Delayed responses to FIA Act Section 4 (2) (d) Requests for Information**

Lack of information held in the territory often contributed to delays in obtaining requested Ultimate Beneficial Ownership information from TCSPs in a timely manner. This slowed the response time for requests for information received from foreign financial intelligence units and law enforcement agencies. It also slowed the analysis process for SARs/STRs.

### **Delayed implementation of key aspects of AML/CFT Supervisory Framework**

Lack of sufficient resources in the Compliance and Enforcement Unit when compared to the number of supervised entities prevented the Compliance and Enforcement Unit from being able to conduct more outreach activities, as well as undertake more onsite examinations during the year. It also slowed down the process of reviewing and approving AML/CFT compliance procedural manuals.

### **Lack of sufficient Human Resources**

The lack of sufficient office space prevented the Agency from taking steps to address its human resource needs, the including hiring of an additional Analyst, an additional Compliance Examiner, a Data Entry Clerk and a Human Resources Manager.

### **New developments**

During the year, the Agency implemented a new electronic database to enhance its information storage capabilities. The database mainly supports the work of the Investigations and Analysis Units. Besides data storage, and datamining capabilities IBase, as the database is called, is also expected to enhance the Agency's analytical and investigative functions due to its i2 functionality.

Additionally, the Compliance and Enforcement Unit also implemented a new database called the Customer Relationship Management Software (CRMS), which is an electronic database used to store data on supervised entities.

### **Performance based budgeting**

The Agency introduced its first performance based budget in December of the reporting year when it presented its estimates on projected income and expenditure for the year 2016. It was one of the first Government Statutory Bodies to implement a performance based budget to guide its operations. This was a water shed event because it made the Agency even more accountable to Central Government, from which most of its funding is derived. Performance based budgeting will be a normal part of the Agency's budgetary process going forward.

### **Looking ahead**

The year 2016 is likely to be another challenging year as the National Risk Assessment (NRA) draws to a close, and the Agency commences the process of addressing any weaknesses that may exist in its operational procedures coming out of the NRA process. As a result, the following steps will be taken as a matter of priority.

### **New office space**

As the new year begins, the Agency will focus on identifying new office accommodations which would allow it to expand and take on additional resources. The Agency will focus on implementing new IT security features aimed at protecting the valuable data stored within the Agency.

### **Recruitment**

In 2016, the Agency will conduct a staffing needs analysis which will be used as a primary tool to guide the recruitment process. This is expected to commence in the first quarter of the year and continue throughout the year until all vital positions are filled.

### **Compliance priorities**

Going forward into 2016, the Agency will continue to focus its compliance efforts on higher risk entities and businesses in both the NPO and DNFBP sectors. This will include an increase in

outreach activities and onsite examinations. The Agency will also focus on developing written guidance for the benefit of both sectors to cover Customer Due Diligence and other elements of the AML/CFT legal framework. The Agency will seek to review its international policies and procedures to ensure that international standards are being met. Finally, the Agency will also seek to forge closer ties with its domestic partners both within the remit of JALTFAC and the IGC, in order to strengthen the local AML/CFT framework as the territory prepares for its 4<sup>th</sup> Round AML/CFT Assessment, which is expected to take place in 2018.

## APPENDIX

### Money Laundering Typologies based on SAR/STRs received and processed by the FIA

#### Case 1

**Mr. X** is the founder and owner of an international private-equity firm, **Company A** located in County B. **Mr. X** had claimed that she had invested in a company in its early stages that brought her good fortune. Over a number of years **Company A** went global, opening offices in several different jurisdictions, including within the Caribbean region. His company is said to be worth several million dollars. **Mr. X** who is described as being unconventional and sophisticated, enticed the citizen of country A to invest millions into the company's fund, (Fund C) by offering them a 15% annual return which was substantially above market rates. Investors became nervous as the news came out that information about the company and the funds had some inconsistencies. Rumors began to surface through the financial community that the fund was a pyramid scheme established to defraud investors. Investors became suspicious and inquired about their investments. In a classic Ponzi scheme, **Mr. X** spent millions of the investors funds to gain the trust of new clients. **Mr. X** spent millions in expensive watches, modern art and luxury pens and cars. He purchased properties in the Caribbean, the United States and in several other countries. A criminal investigation was initiated by the authorities in his home country which subsequently led to his arrest and he was charged for fraud and money laundering. The matter currently pending before the court.

#### Case 2

The Financial Investigation Agency (FIA) received a Suspicious Activity Report (SAR) from a BVI Registered Agent/Company Formation Agent in relation to a BVI Registered Company (**Company G**). The SAR disclosed that **Mr. C** who is the shareholder and beneficial owner of Company G was arrested and charged in **Country Y** for Fraud and Money Laundering related offences.

The analysis of this report indicated that **Mr. C** is an Iranian national who lives and works as a Real Estate Professional in Country Y. Mr. C through an introducer was able to incorporate the company G, to which he was the sole shareholder and beneficial owner. **Company G** holds a bank account in a foreign bank and assets with approximate value of \$500 million United States Currency which includes (real estate property and cash). It also indicated that **Company G** is linked to ten other companies in other jurisdictions.

The FIA has made disclosure to Country Y of **Mr. X** business interest in the Territory and also his assets holding through **Company G**. Information was also disclosed about the links of **Company G** to the ten other companies.

As a result of the disclosure, **Country Y** has further their investigation in relation to **Mr. C** assets (proceeds of crime) and has forwarded a Mutual Legal Assistance request through the relevant Competent Authority.

### [Case 3](#)

The Agency received a SAR in relation to **Company A**. Then Registered Agent of the company discovered that both Beneficial Owners and a Director of the company was sentenced, in a European court, to 14 months' imprisonment for committing tax crimes. The crimes were found to have been related to activities in **Company A**.

**Company A** is a BVI registered entity operating in **Country A**. It provided long term insurance products to clients in the offshore insurance market. The company was cooperating with insurance intermediaries in **Country A** that marketed and sold endowment policies from **Company A** in **Country A**, but did not have the authorization to do so. The respective authoritative organization in **Country A** reported that **Company A** did not receive their authorization and therefore was not entitled to conduct insurance business nor provide other financial services in **Country A**.

Resulting from **Company A's** regulatory breaches and the prosecution of two of its officers, the BVI Financial Services Commission (FSC) sought an order to liquidate the company. The Registered Agent of the company resigned as its agent in same year the BVI High Court acquiesced to the order by the FSC. **Company A** is currently struck from the register of companies while the process of its liquidation is ongoing.