

THE MONEY LAUNDERING PREVENTION ACT 2000

What is Money Laundering?

The Act defines "money laundering" as engaging whether directly or indirectly in any transaction that involves property which is the proceeds of crime or having reasonable grounds for believing the property represents proceeds of crime. "Proceeds of crime" mean proceeds of unlawful activity which is defined as any activity that is a crime anywhere in the world and is punishable by imprisonment for a maximum period of not less than five (5) years. Fiscal Crimes relating to the imposition, collection or enforcement of taxes or exchange control regulations are specifically excluded. The penalties for a person guilty of money laundering include imprisonment for a maximum period of seven (7) years and/or a fine not exceeding SAT\$1,000,000 (approximately USD\$300,000)

Who is covered by the Act?

The Act covers all "financial institutions" as defined in the Act to include not only banks and trust companies, but money transmission services, insurance companies, trust business providers, lawyers, accountants and investment business.

Point of Contact on Money Laundering Issues:-

The Money Laundering Authority (and currently the Governor of the Central Bank of Samoa) is charged with obligations including the receipt of suspicious transaction reports from financial institutions which, if warranted, are referred to the Competent Authority (comprising the Attorney General and Commissioner of Police). The Money Laundering Authority is also responsible for compiling statistics, issuing guidelines or giving advice to the Minister and Attorney General.

Obligations of Financial Institutions include the following:-

1. To keep relevant records for seven (7) years of any new business transaction exceeding SAT\$30,000. Key information for records include value, purpose and method of transaction and identification records of all parties.
2. To properly identify customers by requiring proof that the person they are dealing with is who he says he is. For example, a notarised Certificate of Incorporation is required where a customer (which is a corporate body) is incorporated outside of Samoa.
3. To report any suspicious transaction to the Money Laundering Authority. NB: Secrecy provisions in the offshore laws or any other enactment are overridden and wilful failure to make a report is now an offence under the Act. Disclosures in compliance with the Act where made in good faith are protected and exempted from criminal, civil and or administrative liability.
4. To permit access by the Money Laundering Authority to records and answer any questions from the Authority on such records.
5. To develop and apply internal policies, procedures and controls to combat money laundering and develop audit functions to evaluate such policies, procedures and control.

Mutual Assistance in relation to Money Laundering:-

Cross border investigations into money laundering can be facilitated under Mutual Assistance provisions of the Act. Our Competent Authority is able to assist a foreign state with whom Samoa has mutual assistance arrangements by obtaining search warrants or freezing and forfeiture orders. Conversely, our competent authority can make a request sanctioned by Court order to a non resident person to deliver himself or any document to the Courts jurisdiction.

Currency Reporting at the border

Any person who leaves Samoa with more than SAT\$10,000 (approximately USD\$3,000) in cash or negotiable instruments must first declare the fact to the Money Laundering Authority. Failure to do so constitutes an offence punishable on conviction by imprisonment for a maximum term of five (5) years and/or a fine not exceeding SAT\$10,000. Further information on the Money Laundering Prevention Act 2000, are contained in Guidance Notes issued by the Money Laundering Authority to the financial sector.