

***Anti-Money-laundering and Countering the Financing of
Terrorism***



A Partnership for National Unity

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APNU

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A Partnership for National Unity and the Anti-Money-Laundering and Countering the Financing of Terrorism Legislation

A Partnership *for* National Unity supports strong Anti-Money-Laundering and Countering Financing Terrorism legislation, institutions and law-enforcement measures. The People's Progressive Party Civic administration's record of the introduction and enforcement of such legislation in Guyana, however, has been one of inconsistency and incompetence. The PPPC's approach has created public confusion and apprehension instead of confidence, certainty and security.

The PPPC administration has been deliberately dilatory and delinquent in enforcing its own anti-money-laundering legislation for over 13 years. It has not been diligent to implement reforms. It has reacted only when faced with a direct threat of sanctions by the Caribbean Financial Action Task Force and the international financial community. The record of major enactments is as follows:

- The *Money Laundering (Prevention) Act of 2000* was introduced by the People's Progressive Party Civic administration fourteen years ago. It was assented to by President Bharrat Jagdeo on 29th March 2000 but was never fully enforced.
- The *Anti-Money Laundering and Countering the Financing of Terrorism Act of 2009* was then enacted under international pressure. It was assented to by President Jagdeo on 14th August 2009. It was never fully enforced.
- The *Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act of 2010 (Act No.15 of 2010)* was assented to by President Jagdeo on 10th August 2010. This Act was intended to strengthen Section 15(10) of the principal act (Act No. 13 of 2009). It was never fully enforced.

The original *Money Laundering (Prevention) Act* established the Guyana Revenue Authority, the Customs Anti-Narcotics, the Attorney General, the Director of Public Prosecutions and the FIU as the authorities responsible for investigating financial crime. The *Act* criminalised money-laundering related to narcotics-trafficking, illicit trafficking of firearms, extortion, corruption, bribery, fraud, counterfeiting and forgery. The *Act* did not specifically cover the financing of terrorism or all serious crimes in its list of offences.

The Government of Guyana had been the subject of severe criticism by the international community and this eventually led to its change of attitude. The US Government, in its *International Narcotics Control Strategy Report (INCSR) 2007* pointed out that the Bank of Guyana lacked the capacity to fully execute its mandate to supervise financial institutions for compliance with anti-money-laundering provisions. The INCSR added: "*There have been no money-laundering prosecutions to date, and it is unclear if a conviction for the predicate offense is necessary to obtain a money-laundering conviction.*"

INCSR described the Financial Intelligence Unit, as "a one-person organisation and is

dependent upon the Ministry for its budget and office space.” It pointed out, further, that although the FIU may request additional information from obligated entities, its analytical capabilities are severely limited by its inability to access law-enforcement data and its lack of authority to exchange information with foreign FIUs.

The US Government reported at that time that “the Guyana Government does not release statistics on the number of suspicious transaction reports received by the FIU, although the requirement to make these statistics available to relevant authorities is mandated by the Financial Action Task Force (FATF).”

A special select committee was established by the National Assembly in June 2007 to examine a new *Anti-Money Laundering and Countering the Finance of Terrorism Bill*. The committee started work a year later under its chairman Dr. Ashni Singh, Minister of Finance. The new *Anti-Money Laundering and Countering the Financing of Terrorism* law was enacted more than two years later in 2009. It was clear, therefore, that the PPPC administration was in no hurry to consider legislative changes even while it had preponderant voting strength in both the Select Committee and the National Assembly during the 9th Parliament.

The Anti-Money Laundering and Countering of Terrorism Act 2009 was hailed as “comprehensive and consistent with international standards.” It was also stated that the *Act* had benefitted from extensive examination and consideration while the Bill was before Special Select Committee in the Parliament.

The *Act* provided that a person who, knowingly or having reasonable grounds to believe that property (money, investments, holdings, possessions, assets and all other property movable or immovable) are the proceeds of crime and engages to conceal or disguise the illicit origin of that property will be guilty of money-laundering. Terrorist financing was defined as ‘willfully providing or collecting funds with the unlawful intention that they should be used to aid the execution of terrorist acts or in support of terrorist organisations or individuals.’

The Governor of the Bank of Guyana, the Commissioner of Insurance, the Guyana Securities Council and a Special Assistance Committee appointed by the Minister of Finance were designated be the supervisory authorities for the purposes of the legislation.

- *The Bank of Guyana* never had the capacity to fully execute its mandate to supervise financial institutions for compliance with anti-money laundering requirements.
- *The Financial Intelligence Unit* has been, for much of its existence, a weak, understaffed, underequipped ‘a one-person organisation.’ It was completely dependent upon the Ministry of Finance for its budget and office space. It never made a single, successful money-laundering prosecution and never reported on its work before November 2013.

- *The Special Organised Crime Unit*, intended to be a branch of the Guyana Police Force and to function as a key-law-enforcement agency, was first heard of only in November 2013.

The Caribbean Financial Action Task Force (CFATF) identified numerous deficiencies and delinquencies in Guyana's performance. It made several recommendations to strengthen the AML-CFT Act, the BoG and the FIU in a series of Mutual Evaluation Reports (MER). The third round of MER, adopted by the CFATF Council of Ministers in May 2011 in Honduras, stated:

“Guyana was placed on a list of jurisdictions with strategic anti-money-laundering and combatting the financing of terrorism (AML-CFT) deficiencies that have not made sufficient progress in addressing the deficiencies and required Guyana to take specific steps to address these deficiencies by November 2013.”

CFATF reported, further, that: “The Anti-Money Laundering and Countering the Financing of Terrorism (AML-CFT) (Amendment) Bill 2013 was presented in Parliament on April 22, 2013, a week before its deadline of April 30, 2013.”

It was only in April 2013, therefore, when Guyana was threatened with being ‘blacklisted’ and deadlines for compliance were set that the Government introduced amendments to the AML-CFT Act in the National Assembly.

APNU is deeply concerned about the patent weakness of the Financial Intelligence Unit (FIU), located within the Ministry of Finance. The FIU is responsible for requesting, receiving, analysing and disseminating of suspicious transaction reports and other information related to money-laundering, terrorist-financing or proceeds of crimes.

APNU is determined that the *Bank of Guyana*, the *Financial Intelligence Unit* and the *Office of the Director of Public Prosecutions* are functionally empowered with the needed autonomy and equipped with the technical and institutional capabilities and capacity to effectively discharge the functions assigned to them by the amended 2009 Act.

APNU has engaged the Government of Guyana, the private sector, civil society, the trade unions and the international community in its campaign to protect the Guyana economy and the Guyanese people by ensuring that the National Assembly passes an Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Bill 2013 (Bill No. 12 of 2013) that is effectively enforceable.

Select documents

Bank of Guyana, *Anti-Money-Laundering and Countering the Financing of Terrorism Supervision Guideline NO. 13*, June, 2013.

Caribbean Financial Action Task Force, *Fifth Follow-Up Report. Guyana*, November, 2013.

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Government of Guyana, *Anti-Money Laundering (Prevention) Act , No. 1 of 2000*.

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United States Department of State, *International Narcotics Control Strategy Report (INCSR), 2013*.