

POSITION STATEMENT

ERROL GEORGE

DIRECTOR OF THE FINANCIAL INVESTIGATION AGENCY

This Position Statement is in response to a request received from the Office of the British Virgin Islands Commission of Inquiry.

My name is Errol George, Director of the Financial Investigation Agency. I have been the director since 2009.

(1) How is law enforcement in relation to financial crime organised in the BVI?

Specific to the Financial Investigation Agency (FIA), financial crimes are tackled via analysis and investigating of Suspicious Transactions Reports (STRs), which are filed with the FIA. The STRs filed with the FIA involve financial crimes, such as fraud and money laundering.

By way of background, the Financial Investigation Agency (FIA), which was established by the Financial Investigation Agency Act, 2003 (FIA Act) is one of five Competent Authorities in the Territory of the Virgin Islands. The others being the Financial Services Commission, International Tax Authority, the Governor's Office, and Attorney General Chambers. The FIA is also the designated Financial Intelligence Unit (FIU) of the Territory. Its main functions include receiving, obtaining, investigating, analysing and disseminating information which relates to or may relate to a financial crime or the proceeds of a financial crime. The information received is typically from STRs that are filed with the FIA under the Proceeds of Criminal Conduct Act, 1997, as amended.

The FIA's processes and procedures for handling STRs requires STRs to be submitted to the FIA in confidence. Once received, the reports are analysed and where it is determined that a particular STR involves a financial crime or crimes occurring in the Territory of the Virgin Islands, such STRs are forwarded to the Royal Virgin Islands Police Force Financial Crime Unit to be investigated.

Where STRs relate to financial crimes which may have taken place or may be taking place outside the Territory of the Virgin Islands, the FIA shares intelligence related to those STRs with its foreign counterparts in the jurisdictions where the financial crime or crimes occurred or may be occurring.

The FIA is also the Supervisory Authority for Non-Profit Organisations (NPOs) and Designated Financial Businesses and Professions (DNFBPs) operating in the Territory. As the Supervisory Authority, it is responsible for ensuring that its supervised entities (*real estate agents who engage in buying and selling property on behalf of clients, automobile dealers, jewelers, yacht brokers, accountants and legal practitioners who manages clients' money*) adopt policies and procedures to combat financial crimes, including money laundering and terrorist financing, as required by the Financial Action Task Force Standards for combatting money laundering, terrorist financing, and proliferation financing.

(2) What processes and systems are in place to monitor the effectiveness of law enforcement in relation to financial crime in the BVI?

The FIA is subject to the oversight of a Board which sets the policies of the FIA in accordance with the relevant section of the FIA Act. The Board comprises the Deputy Governor as Chairman, the Honourable Attorney General, Commissioner of Customs, Commissioner of Police, Managing Director of the Financial Services Commission, Financial Secretary, and the Director as an ex officio member. The Board is required to meet quarterly during which it is updated by the Director on the ongoing activities of the FIA. The Board is also required to meet with Cabinet annually to discuss the work of the Agency and bring any pertinent issues to the Cabinet's attention. Additionally, there is a National Anti-money laundering Coordinating Committee (NAMLAC) which is chaired by the Premier and Minister of Finance. There is also a Council of Competent Authorities of which the FIA is a member. The Council seeks to hold its members accountable by ensuring they each fulfill their mandate.

(3) What particular responsibilities do you have, as the Acting Director of the FIA, in

the BVI?

As Director, I am responsible for the day-to-day management of the FIA assisted by my senior management team, which includes the Deputy Director, Human Resources Manager, and the Legal Counsel. I am also responsible for bringing matters to the attention of the Board, relating not only to matters of policy, but also to matters that could negatively affect the FIA and the Territory's financial services sector. As Director, I am also responsible for setting the strategic priorities of the FIA and ensuring those priorities are met. I am also responsible for ensuring that those employed by the FIA carry out their duties according to the code of conduct and the general policies set out in the FIA Employee Handbook as well as do so within the confines of the FIA Act and other applicable laws of the Virgin Islands.

(4) What do you, as the Acting Director of the FIA, consider to be the strengths and weaknesses of law enforcement in relation to financial crime in the BVI?

The strengths of the FIA are many. Its Board consists of high-level civil servants rather than political appointees which protects it from political interference. This governance structure also gives the Director a high degree of independence where the day-to-day management of the FIA is concerned. Officers of the FIA are hardworking and honest individuals with a very high degree of integrity who want to do their part in tackling financial crime in the Territory. To date, there is no evidence to suggest that any of its officers engage in or have engaged in corrupt practices. Majority of the FIA staff are highly skilled and perform their individual duties at a high level. The FIA enjoys a very good working relationship with other local law enforcement agencies.

The weaknesses identified stems from domestic cooperation between the various law enforcement agencies. For example, some law enforcement agencies take an unreasonable amount of time to respond to FIA requests for pertinent information to assist the FIA in carrying out its functions particularly as it relates to STRs. There is also some level of distrust where access to sensitive information is concerned. Specifically, sensitive information pertaining to individuals suspected of being involved in financial crimes including domestic money laundering.

The inability to compete with the private sector regarding salary packages is also a challenge/weakness. The FIA occasionally loses some of its highly skilled staff to local firms involved in the financial services industry due to the pay gap that exists between the FIA and these private sector entities.

Another challenge faced by law enforcement agencies is that of funding. Most, if not all law enforcement agencies in the Territory of the Virgin Islands including the FIA are underfunded. For example, for the financial year 2016 the FIA requested \$2,062,500.00 but was allocated only \$1,662,500.00. For the financial year 2017, the FIA requested \$2,400,000.00 but was allocated only \$1,472,500.00, which was expected given the devastation caused by Hurricane Irma. For the financial year 2018, \$2,400,000.00 was requested but was only allocated \$1,672,000.00. For the financial year 2019, \$2,400,000.00 was requested but was only allocated \$1,672,000.00. For financial year 2020, \$2,400,000.00 was requested but received \$1,672,800.00. Lastly, for the financial year 2021, \$2,172,800.00 was requested but was only allocated \$1,672,800.00.

The funding the FIA currently receives is considered inadequate as it prevents it from providing the type of specialist training necessary for its employees to enable them to carry out their duties effectively. It also prevents the FIA from investing in the type of resources such as IT equipment, analysis and investigative tools necessary to be able to carry out its functions in order to make it more effective as a Financial Intelligence Unit. The FIA plays a crucial role where the investigation of financial crime, both locally and internationally is concerned. Without adequate funding, the FIA will be unable to completely fulfill its mandate. This is even more important as the Territory is due to be assessed against the international standards of the Financial Action Task Force during the upcoming year, 2022.

For information purposes, the FIA's funds and resources are appropriated by the local House of Assembly as required by section 12 of the FIA Act 2003. Such funds are allocated through the Government's budgetary process and are disbursed to the FIA on a quarterly basis through the Office of the Deputy Governor, which is part of the Governor's Group. The FIA currently employs

twenty (20) members of staff which are split between its financial Intelligence functions and its supervisory and enforcement functions.

Another weakness that was identified was the current legislation that governs the FIA. There were some gaps in the laws where investigation of financial crime was concerned, however, steps are currently being taken to strengthen the legislation. For example, the FIA Act, was recently amended in order to streamline its processes, which will allow the FIA to be more effective and efficient in carrying out its mandate.

(5) What steps do you, as the Acting Director of the FIA, consider should be taken to ensure that the strengths and weaknesses you have identified can be maintained or remedied respectively?

Given the importance of the FIA's mandate and taking into consideration that the FIA is tasked with tackling financial crime, both locally and internationally, the first step that I believe should be taken to remedy the weaknesses identified, save for domestic cooperation, is adequate funding. This will enable it to carry out its mandate effectively as one of the more important Competent Authorities in the Territory.

To address the weakness regarding domestic cooperation, it is my view that law enforcement agencies must adhere to the Memorandums of Understanding signed amongst us and seek to exchange information in a manner that is expeditious so that we can be effective in our various mandates and portray the Territory in a positive light regarding law enforcement. I also believe that continued collaboration will build trust and comradery amongst the various law enforcement agencies.