

Module 2

Legislation concerned with Money Laundering and Terrorist Financing

(August 2007)

Legislation concerned ML/TF

- ❖ Drug Trafficking (Recovery of Proceeds) Ordinance (“DTROP”)
- ❖ Organised and Serious Crimes Ordinance (“OSCO”)
- ❖ United Nations (Anti-Terrorism Measures) Ordinance (“UNATMO”)



Drug Trafficking (Recovery of Proceeds) Ordinance

❖ Section 25(1) of DTROP

- ❖ It is an offence if a person deals (receives/ conceals/ disposes/ converts/ mortgages) with any property knowing or having reasonable grounds to believe it to represent the proceeds of drug trafficking.
- ❖ The highest penalty for the offence upon conviction is imprisonment for 14 years and a fine of \$5 million.

Drug Trafficking (Recovery of Proceeds) Ordinance

- ❖ Section 25A of DTROP
 - ❖ A person who knows or suspects that any property represents proceeds of/ in connection with drug trafficking shall disclose this to an authorized officer as soon as it is reasonable.
 - ❖ “Authorised officer” includes any police officer, any member of the Customs and Excise Department, and the Joint Financial Intelligence Unit (“JFIU”).
 - ❖ Failure to make a disclosure - maximum penalty upon conviction is a fine of \$50,000 and imprisonment for 3 months.

Drug Trafficking (Recovery of Proceeds) Ordinance

❖ Section 25A(5) of DTROP

- ❖ It is an offence if a person who knows or suspects that a disclosure has been made under the DTROP discloses to any other person any matter which is likely to prejudice any investigation which might be conducted following the disclosure.
- ❖ The maximum penalty for the offence upon conviction is a fine of \$500,000 and imprisonment for 3 years.



Organized and Serious Crimes Ordinance

❖ Section 25(1) of OSCO

- ❖ It is an offence if a person deals (receives/ conceals/ disposes/ converts/ mortgages) with any property knowing or having reasonable grounds to believe it to represent the proceeds of an indictable offence.
- ❖ The highest penalty for the offence upon conviction is imprisonment for 14 years and a fine of \$5 million.

❖ Section 25A of OSCO

- ❖ A person who knows or suspects that any property represents proceeds of / in connection with an indictable offence shall disclose this to an authorized officer as soon as it is reasonable.
- ❖ Failure to make a disclosure - maximum penalty upon conviction is a fine of \$50,000 and imprisonment for 3 months

Organized and Serious Crimes Ordinance

- ❖ Section 25A(5) of OSCO
 - ❖ It is an offence if a person who knows or suspects that a disclosure has been made under the OSCO discloses to any other person any matter which is likely to prejudice any investigation which might be conducted following the disclosure.
 - ❖ The maximum penalty for the offence upon conviction is a fine of \$500,000 and imprisonment for 3 years.

United Nations (Anti-Terrorism Measures) Ordinance

- ❖ Section 7 of UNATMO:
 - ❖ It is an offence to provide or collect funds to commit terrorist acts.
- ❖ Section 8 of UNATMO:
 - ❖ It is an offence to make any funds or financial services available, directly or indirectly, to whom a person knows or reasonably believes is a terrorist or terrorist associate.
- ❖ Maximum penalty for financing of terrorism (sections 7 and 8 on conviction on indictment) – Fine and imprisonment for 14 years

United Nations (Anti-Terrorism Measures) Ordinance

- ❖ Section 12 of UNATMO:
 - ❖ If a person knows or has reasonable grounds to believe that property is terrorist property, disclosure must be made to an authorised officer.
 - ❖ “Authorised officer” includes a police officer, a member of the Customs and Excise Service/ Immigration Service and an officer of the ICAC.
- ❖ Failure to make disclosure - maximum penalty upon conviction is a fine of \$50,000 and imprisonment for 3 months.