

# **CHARTER OF THE FRAUD, REGULATORY AND ANTI MONEY LAUNDERING COMPLIANCE- COMMITTEE OF THE ASSOCIATION OF TRINIDAD AND TOBAGO INSURANCE COMPANIES (ATTIC)**

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## **INTRODUCTION**

The Board of Directors of the Association of Trinidad and Tobago Insurance Companies (ATTIC), a company duly incorporated or continued as a non-profit company under the Companies Act 1995, in accordance with Clause 13 of its Articles of Association By-Law hereby appoints a Committee to be known as The Fraud, Regulatory and Anti Money Laundering Compliance Committee of ATTIC (hereinafter referred to as “the Committee”)

## **ROLE AND PURPOSE**

The Role and Purpose of the Committee is to provide support to the Board of Directors of ATTIC in achieving its stated objectives in relation to member companies as outlined in **APPENDIX 1** specifically in the context of anti-fraud, regulatory and anti-money laundering compliance matters to-

- To carry out a survey of existing industry practices employed to address the issues of fraud, money laundering, the financing of terrorism and regulatory compliance.
- To establish principles and guidelines for insurance companies to assist with the formulation and implementation of effective policies and procedures for fraud prevention; to protect businesses from being used to launder money or finance terrorism and to provide quality assurance on regulatory compliance.
- To promote the efficient application of these principles, guidelines, policies and procedures;
- To develop training material and programmes for the insurance sector on
  - Fraud prevention, detection and investigation;
  - The requirements of the Proceeds of Crime Act 2000 and the Anti Terrorism Act 2005 and the obligation of insurance companies under these pieces of legislation;
  - The role of compliance and its importance within the Corporate Governance structure and risks associated with non compliance;
  - The legislative and regulatory framework, guidelines, best practice and conventions that govern the conduct and operations insurance companies.
- To conduct training for the insurance sector on those matters for which material and programmes have been developed.
- To operate as a mechanism through which the industry would discuss and exchange information on matters related to fraud, money laundering and the financing of terrorism and general regulatory compliance matters.

See **APPENDIX 11** for definitions of *fraud, money laundering, financing terrorism, compliance, compliance risks* and examples of actions that may constitute *fraud*.

## **MEMBERSHIP**

The Committee shall comprise of representatives from member companies of ATTIC. Each member company shall nominate a representative and an alternate, each of whom shall be of a sufficiently senior standing in that member company, i.e. a manager or greater.

Representatives of member companies shall be nominated from departments within their respective organizations that perform functions that are relative to the role and purpose of this Committee and should possess skills and be literate in the areas of fraud detection and investigation, knowledge of the anti money laundering framework, compliance framework within which their companies operate and should also possess a working knowledge of-

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- The Proceeds of Crime Act 2000
- The Anti terrorism Act 2005
- The Insurance Act 1980 and/or as amended.

**Chairman**

The Committee shall be chaired by a Chairman who shall be appointed by the Board of Directors of ATTIC and the Chairman shall serve at the pleasure of the Board of ATTIC.

**Secretary**

A Secretary shall be selected by the Chairman from among the representatives of the committee

**QUORUM**

The Quorum for the Committee shall be not less than 8 representatives.

**MEETINGS**

Meetings will be held at least once a month and the Committee will decide how and when these will be scheduled at its first meeting.

All nominated Committee members are expected to attend each meeting, in person.

In instances where a nominated representative are unable to attend a meeting then the alternate shall attend the meeting and the Chairman of the Committee must be so advised within a reasonable period before the commencement of the meeting.

Committee members (including alternates) who are in non attendance for three consecutive meetings with the result that the company being represented by these members has not been represented at these three consecutive meetings shall provide a reasonable explanation for such non representation and the nominating member company shall have an opportunity to nominate a new representative.

Meeting agendas will be prepared by the Chairman in consultation with other Committee members and the BOD of ATTIC and will be circulated to members in advance of each meeting together with appropriate briefing materials.

Minutes of meetings will be taken by the Committee Secretary and circulated to the Chairman and other members of the Committee within 7 days after the date of the meeting for comment before these are finalized by the Chairman.

**REPORTING**

The Committee will report to the BOD of ATTIC at least once in every calendar quarterly on the conduct of its meetings, its activities, issues and ideas that arise out of its mandated role and identified projects, actions to be taken in relation to these and generally on the achievements of its objectives.

The Committee shall also prepare an annual report to be submitted to the BOD of ATTIC within three months after the expiration of each calendar year on the aforementioned matters.

**LIAISON WITH OTHER PROFESSIONAL ASSOCIATIONS**

The Committee will from time to time seek to establish liaison with other professional associations with similar functions.

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**GUIDELINES**

The Committee will, once constituted, establish a framework and guidelines within which it will conduct its activities.

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**MR. DOUGLAS CAMACHO**  
**PRESIDENT, BOARD OF DIRECTORS-ATTIC**

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**DATE**

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**APPENDIX 1-ASSOCIATION OF TRINIDAD AND TOBAGO INSURANCE COMPANIES-  
OBJECTIVES**

- To promote and encourage the development in Trinidad and Tobago of an insurance industry suitable to the needs of the community and capable of making genuine contributions to the economic welfare and development of the country.
- To consult together as to problems affecting insurance companies incorporated in Trinidad and Tobago and to take such action from time to time as may be thought proper and expedient.
- To collect and disseminate statistical or other information relating to the insurance industry in Trinidad and Tobago and elsewhere and all or any other matters that may be thought to be in the interest of the Association
- To encourage and assist insurers in Trinidad and Tobago in the maintenance of proper standards of insurance practice, in public relations and advertising
- To promote uniformity among member companies in matters of general administration
- To make such representation to Governments in the Caribbean or elsewhere (central, municipal or local) and to promote, support or oppose such legislation or other measures as may be thought fit
- To advance the propagation of learning in matters relating to insurance among its members and the public by way of research, meeting conferences, seminars, symposiums, lectures and the dissemination of educational material on insurance on an ongoing basis to improve communicable knowledge in the field of insurance.

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**APPENDIX 11- definitions of fraud, money laundering, financing terrorism, compliance, compliance risks and examples of actions that may constitute fraud.**

**1. FRAUD**

**1.1 What is Fraud?**

1.1.1 The term is used to describe acts such as deception, bribery, forgery, extortion, corruption, theft, conspiracy, aiding and abetting, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

1.1.2 For practical purposes, fraud may be defined as the use of deception, with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party. The criminal act is the attempt to deceive and attempted fraud is therefore treated as seriously as accomplished fraud.

1.1.3 Fraud is not restricted to monetary or material benefits but can include intangibles such as status and information.

**1.2 Actions Constituting Fraud**

1.2.1 Types of fraud include false accounting, theft, third party or investment fraud, employee collusion, and computer fraud.

1.2.2 Examples of fraud include but are not limited to the following:

- Any dishonest or fraudulent act;
- Manipulation of accounts, documents, computer records;
- Misappropriation of funds, securities, suppliers, inventory or any other assets;
- Theft of any kind, including stealing from policyholders' accounts, fictitious payments, stealing of equipment, non-payment of premiums collected from policyholders.
- Destruction, removal, theft or inappropriate use of records, furniture, fixtures, equipment or other assets;
- Undertaking or assisting in illegal activity (including money laundering, which is covered in the *GHL Group Anti Money Laundering Policy*);
- Cheque kiting;
- Embezzlement or other financial irregularities;
- Forgery, falsification or alteration of documents (cheques, time sheets, policy or other contracts and related documents, purchase orders, bank drafts, promissory notes, securities, expenses, invoices, receipts, vendor agreements, other financial documents, electronic files etc);
- Improprieties in the handling or reporting of money or financial transactions;
- Unauthorized disclosure of confidential and proprietary information to outside parties, including "securities" activities engaged in or contemplated by the Group;
- Profiteering as a result of insider knowledge of Group's activities;
- Any violation of laws related to fraud or dishonest activities.

1.2.3 Computer fraud is where information technology equipment has been used to manipulate programs or data dishonestly (for example, by altering, substituting or destroying records, or creating spurious records), or where the use of an IT system was a material factor in the perpetration of fraud. Theft or fraudulent use of computer time and resources, including unauthorized person browsing on the internet, is included in this definition.

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1.2.4 Identity theft and identity fraud are terms used to refer to all types of crime in which someone wrongfully obtains and uses another person's personal data in some way that involves fraud or deception, typically for economic gain.

1.2.5 Fraud may be perpetrated not only by Company directors, officers and employees, but by agents and third parties as well. All such situations require specific action by the Company.

## **11. MONEY LAUNDERING AND THE FINANCING OF TERRORISM**

### **11.1 What is money laundering?**

Money laundering is generally defined as engaging in acts designed to conceal or disguise the true origins of criminally derived proceeds so that the unlawful proceeds appear to have been derived from legitimate origins or constitute legitimate assets.

#### **11.1.1 Stages of Money Laundering**

**Placement**-this is where cash generated from criminal activities enters the financial system and is converted into monetary instruments, such as money orders, travellers cheques, deposited into accounts at financial institutions or used to purchase insurance products/

**Layering** – this is the second stage where the monies initially placed in the financial institutions are transferred or moved into other accounts at other financial institutions or used to purchase other assets in order to further separate it from its criminal origins.

**Integration** – at this stage the funds are re-introduced into the economy as legitimate income generating assets or businesses.

### **11.2 What is Terrorist Financing?**

Terrorist Financing is defined as the provision or collection of funds either directly or indirectly , with the intention that they should be used or are to be used, to carry out unlawful use of force against persons or property to intimidate or coerce a government to do or abstain from doing any act".

It is an attempt to conceal the origin or intended use of funds, which may or may not have been derived from a criminal source.

### **11.3 Legislative Framework, Guidelines and International Best Practice**

- The Proceeds of Crime Act 2000
- The Financial Obligations Regulations 2001 (DRAFT)
- The Anti-Terrorism Act 2005
- Guidelines on Combating Money laundering and terrorist Financing for Financial Institutions Act 2008 or regulated by the Central Bank of Trinidad and Tobago (CBTT).
- The Financial Action Task Force (FATF) 40 recommendations on money laundering and 9 special recommendations on terrorist financing.

### **11.4 Requirements of Proceeds of Crime Act 2000 affecting the Insurance Sector**

#### ***Section 2- Interpretation***

"Financial Institutions" means -.....

- (e) An insurance company registered under the insurance Act Chap. 84:01

#### ***Section 55-Record keeping and retention duties***

- (1) Every financial institution shall keep and retain records relating to financial activities in accordance with a period to be stipulated by the Regulations;

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- (2) Every financial institution shall pay special attention to all complex, unusual or large transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.
- (3) Upon suspicion that a transaction could constitute or be related to illicit activities, a financial institution shall report such transactions to the Designated Authority \* appointed by the Minister in accordance with the Act, in the form prescribed for that purpose, within 14 days from the date on which the transaction was deemed to be suspicious
- (4) Where the reports made pursuant to (3) above are made in good faith, financial institutions, their employees, staff, directors, owners or other representatives are granted an immunity from criminal, civil or administrative liability that may arise from a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision.
- (5) Every financial institution shall develop and implement a written compliance programme, reasonably designed to ensure and monitor compliance with Regulations made under the Act. Such compliance programme shall include-
  - A system of internal controls to ensure ongoing compliance;
  - Internal and external independent testing of compliance;
  - Training of personnel in the identification of suspicious transactions;
  - Appointment of staff member responsible for continual compliance with the Act and the Regulations.

***Section 57- Offences and Punishment for failure to comply with Section 55***

- (1) Everyone who knowingly contravenes or fails to comply with the provisions of Section 55 is guilty of an offence and liable -
  - (a) On summary conviction to a fine of \$500,000 and to imprisonment for 2 years; or
  - (b) On conviction on indictment, to a fine of \$3 million and to imprisonment for a term of 7 years.
- (2) Where a company commits an offence under this Act, any officer, director or agent of the company who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to, and guilty of, the offence and liable on conviction to the punishment provided for the offence, whether or not the company has been prosecuted or convicted.

**111. REGULATORY COMPLIANCE**

**111.1 What is Compliance?**

Compliance is meeting obligations under laws, regulations and guidelines issued by legislative and regulatory agencies.

A “Compliance Function” is defined as an *“An independent function that identifies, assesses, advises and monitors and reports on the (financial institution’s) risk, that is the risk of legal or regulatory sanctions, financial loss or loss to reputation a financial institution may suffer as a result of its failure to comply with all applicable laws, regulations, codes of conduct and standards of good practice.”*

**111.3 Risks associated with Non-Compliance**

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Financial institutions face a number of risks associated with non-compliance with legal and regulatory requirements. These are collectively referred to as *Compliance Risks* or sometimes *Integrity Risk*.

*Compliance Risk* can be defined as the risk of legal or regulatory sanctions, financial loss or loss to reputation a financial institution may suffer as a result of its failure to comply with all applicable laws, regulations, and also codes of conduct and standards of good practice.

*Legal Risk* is the possibility that lawsuits, adverse judgements or contracts that turn out to be unenforceable can disrupt or adversely affect the operations of a company engaged in the provision of financial services.

*Reputational Risk* is defined as the potential that adverse publicity regarding a company's business practices and associations, whether accurate or not, will cause a loss of confidence in the integrity of the institution, and ultimately regulatory interference and loss of business.

*Operational Risk* can be defined as the risk of direct or indirect loss resulting from inadequate or failed internal processes, people or systems or from external events.

#### 111.4 **Consequences of Non-Compliance**

The consequences of non compliance are many and in particular-

- Management time
- Adverse publicity
- Loss to business
- Criminal Prosecution
- Fines and penalties for entities as well as individuals
- Payment of legal costs, not only the entity's but also for third parties
- Payment of the cost of investigation
- Personal liability of Directors and Senior Management