

Independent Commission Against Corruption



Date: 14th February 2024

Title: Legal Perspective: Money Laundering, Corruption and International Cooperation

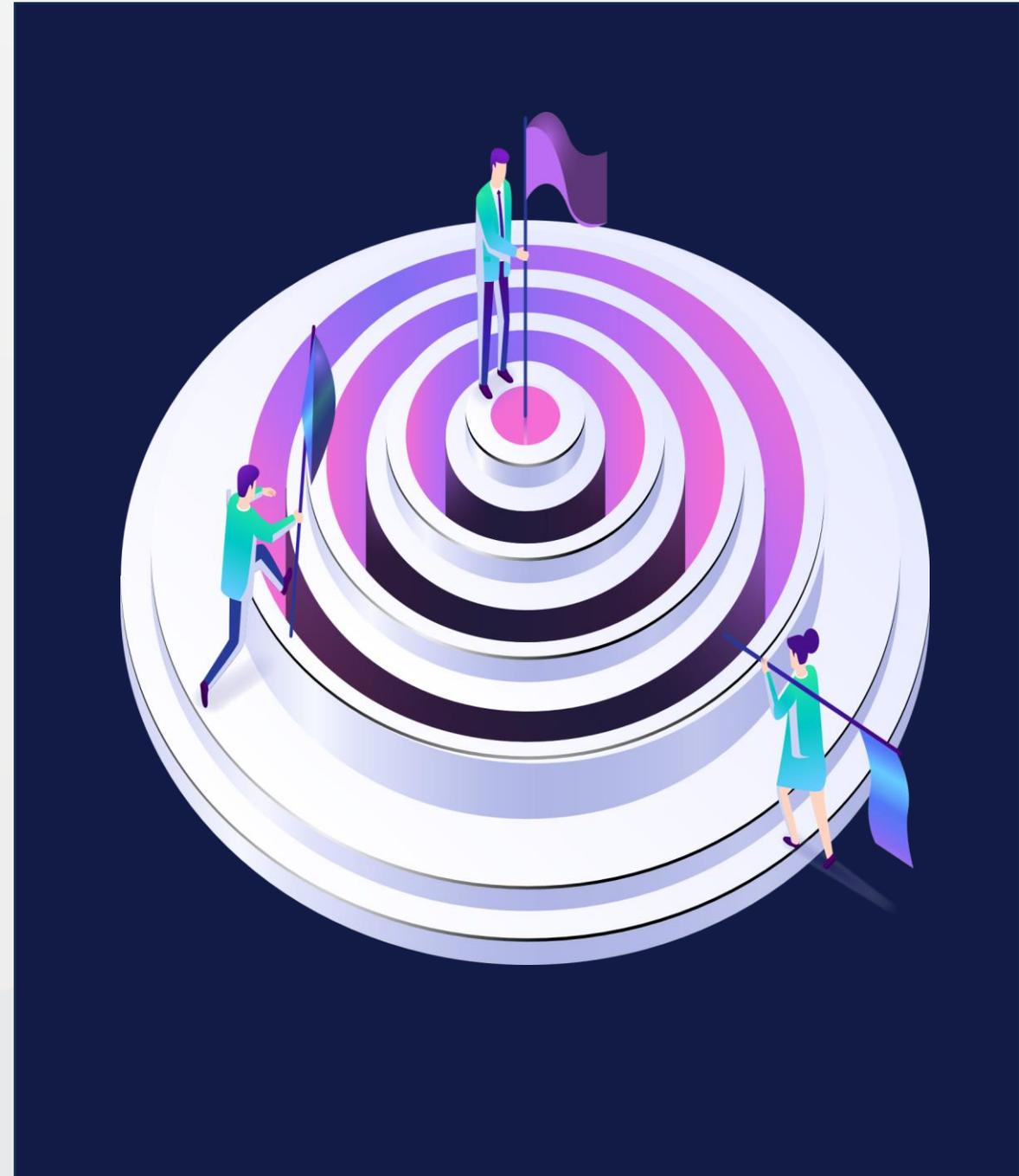
Presenter Name: Sweta Ramsooroop Newaj

Job title: Legal Adviser
ICAC Mauritius



Content

- 01** Part 1: Overview of the Independent Commission against Corruption (“ICAC”)
- 02** Part 2: Legal perspective – Money Laundering
- 03** Part 3: Legal perspective - Corruption
- 04** Part 4: International Cooperation
- 05** Part 5: Financial Crimes Commission Act 2023



Part 1: Overview on ICAC Mauritius

- **About ICAC Mauritius**

ICAC is the Anti-Corruption agency of Mauritius and was established under the Prevention of Corruption Act 2002 (“PoCA 2002”), which is the anti – corruption legislation in Mauritius.

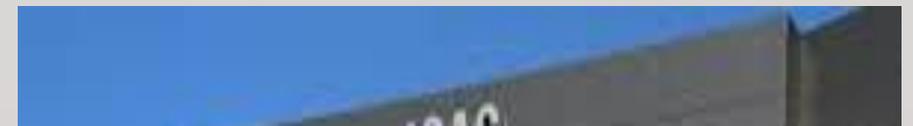
- **Functions of the Commission and Mandate**

The ICAC uses a three-pronged approach for fighting corruption namely through Investigation, Prevention and Education.

- **ICAC’s Mandate**

- Investigate corruption and money laundering offences
- Review systems and procedures in public bodies for the elimination of corruption
- Advise and assist public bodies in the development and application of best practices to prevent corruption
- Educate the public on the dangers of corruption, on the need to report corruption, amongst others
- Sustain the engagement of the private sector and civil society in the fight against corruption, amongst others
- Receive, consider and monitor Declaration of Assets

- **Divisions of the Commission**



Part 2: Legal Perspective - Money Laundering

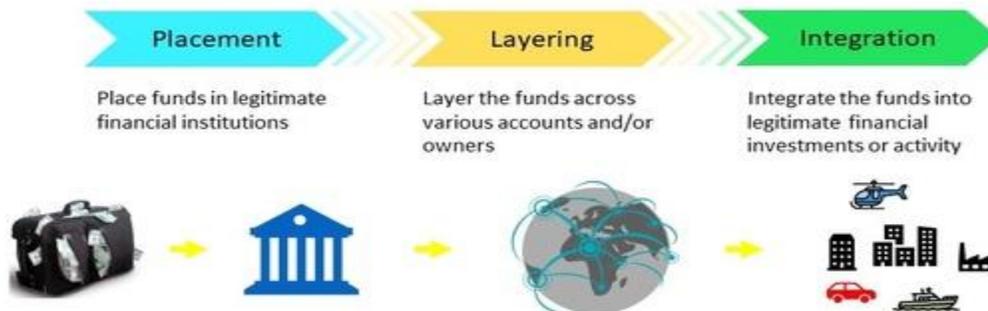
- Definition



- Stages of Money Laundering

Stages of Money Laundering

Money laundering often involves a complex series of transactions that are difficult to separate. However, it is common to think of money laundering as occurring in three stages.



- Main legislations relating to Money Laundering in Mauritius:

- The Financial Intelligence and Anti-Money Laundering Act 2002 (“FIAMLA 2002”)
- The Financial Intelligence and Anti-Money Laundering Regulations 2018

Part 2: Legal Perspective - Money Laundering Cont

Money Laundering and FIAMLA 2002

➤ **The elements to prove a money laundering case are:**

- Predicate Offence
- Proceeds of crime
- Knowledge

➤ **Main sections in FIAMLA 2002:**

- **Section 3: Money Laundering**

- A person engages in transaction involving a property which was derived from a crime and the person suspects or has reasonable grounds to suspect that the property was derived from a crime.
- A person is in possession of, receives or conceals property which was derived from a crime and the person suspects or has reasonable grounds to suspect that the property was derived from a crime.

- **Section 4: conspiracy to commit money laundering.**

- **Section 5: Limitation of payments in cash**



Part 3: Legal Perspective – Corruption



- **Important sections under the PoCA 2002**

- **Bribery by and of public official**

- Any public official who solicits, accepts or obtains a gratification from another person for doing or abstaining from doing an act in the execution/facilitation of his functions or duties commits an offence of corruption.
- Any person who gives or offers a gratification to a public official for doing or abstaining from doing an act in the execution/facilitation of his functions or duties commits an offence of corruption.

- **Public official using his office for gratification**

- Any public official who makes use of his office or position for a gratification for himself or another person commits a corruption offence.
- The public official makes use of his office or position for a gratification where he has taken any decision or action in relation to any matter in which he/his relative/associate has a direct/indirect interest.

- **Traffic d'influence**

- Any person who gives a gratification to another person to cause a public official to use his influence, real or fictitious, to obtain any work, employment, contract or other benefit from a public body.
- Any person who solicits/accepts/obtains a gratification from another person to make use of his influence, real or fictitious, to obtain any work, employment, contract or other benefit from a public body.

- **Conflict of interest**

Part 3: Legal Perspective – Corruption Cont

➤ Challenges with respect to the PoCA 2002

- **Sanctions**

- Sanctions too lenient for Natural and Legal persons.
- For the offence of ‘Bribery by, or of, foreign public official’, there was only penal servitude and no financial penalty.
- No penalty per se for a body corporate.
- No civil and administrative sanctions.

- **Special Investigative Techniques**

- PoCA 2002 only provides for specific investigative powers and tools and Mauritius does not have a dedicated law on the use of special investigative techniques.

Part 4: International Cooperation

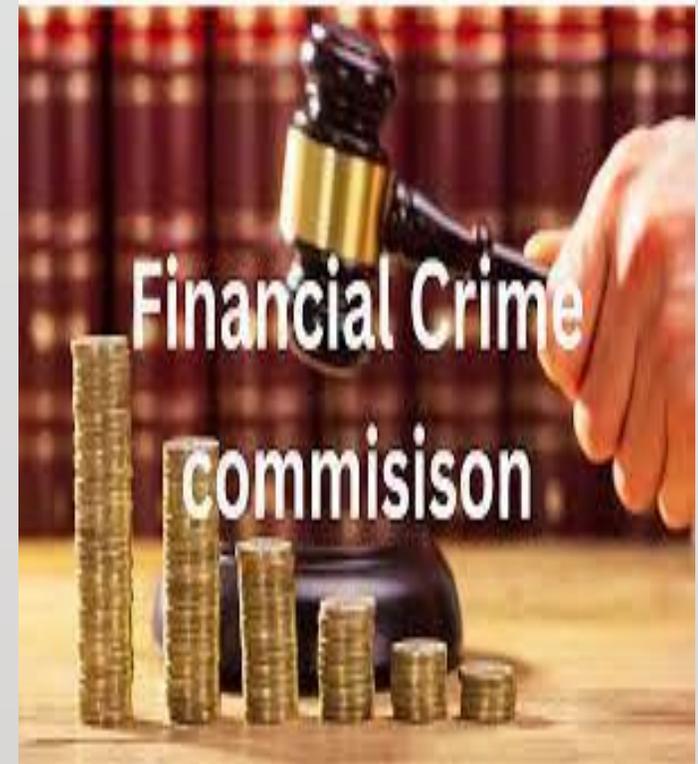


- International cooperation plays an important role in the fight against cross-border crimes.
- The parameters and procedures are set out in two main Acts namely the Mutual Assistance in Criminal and Related Matters Act 2003 and the Extradition Act 1970.
- The Mutual Assistance in Criminal and Related Matters Act 2003 has been enacted to enable the widest possible measure of international co-operation to be given and received by Mauritius promptly and to the fullest extent possible, in investigations, prosecutions or proceedings concerning serious offences and related civil matter.
- The Extradition Act provides, subject to specific conditions, for suspects arrested in Mauritius to be extradited for offences committed in a foreign country where they could be required to face justice.
- Mauritius is a member of:
 - Judicial Regional Platform of the Indian Ocean Commission (IOC) countries
 - Commonwealth Network of Contact Persons
 - EGMONT Group



New legislation: Financial Crimes Commission Act 2023 (“FCC Act 2023”)

- The FCC Act was enacted on 21st December 2023 and is to be proclaimed.
- The passing of the FCC Act marks a significant milestone in the country’s ongoing effort to combat financial crimes.
- The Act provides a robust legal framework for combating financial crimes. The following Acts are being repealed and replaced by the FCC Act to create a new legal framework: The PoCA 2002, Part II FIMALA 2002, the Asset Recovery Act, the Good Governance and Integrity Reporting Act.
- A transition from existing agencies to the new Commission.
- The Act will address the challenges which were being faced in the PoCA 2002, as discussed above.



Thank you

 icacoffice@icac.mu

 www.icac.mu