



Financial Analysis and Supervision Unit

**Guidance on Supervision and Enforcement Powers of the
Financial Analysis and Supervision Unit under the *Anti-
Money Laundering and Counter Terrorist Financing Act
2015 (No. 3 of 2019)***

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1 Note to reading this Guidance

This Guidance uses the following acronyms:

Act	<i>Anti-Money Laundering and Counter Terrorist Financing Act 2015</i>
AML/CTF	anti-money laundering and counter terrorist financing
DNFBP	A designated non-financial business or profession in PNG, as defined in section 5 of the Act. A DNFBP includes a real estate agent, dealer in precious metals or precious stones, lawyers, notary public or other independent legal professional when undertaking transactions on behalf of a client, a trust or company service provider and a motor vehicle dealer.
FASU	Financial Analysis and Supervision Unit
Financial Institution	A financial institution, as defined in section 5 of the Act. A financial institution includes a commercial bank, micro bank, finance company, savings and loans society, insurance company, insurance agent and broker, brokerage firm, superannuation fund, leasing company, funds management company and money changer.
Guidance	Guidance on Supervision and Enforcement Powers of the Financial Analysis and Supervision Unit under the <i>Anti-Money Laundering and Terrorist Financing Act 2015</i> (No. 3 of 2018)
<i>i</i>	Textbox in this format provides information to assist financial institutions and DNFBPs, including on their obligations and the provisions in the Act to which those obligations relate.
<i>e.g.</i>	Textbox in this format provides appropriate examples.
!	Textbox in this format stresses important information for financial institutions and DNFBPs, including on penalties for non-compliance with obligations under the Act.

All references to section numbering are to sections in the Act, unless stated otherwise.

2 Purpose of this Guidance

This Guidance aims to assist financial institutions and DNFBPs to understand FASU's supervision and enforcement powers. This will promote industry's compliance with its AML/CTF obligations, thereby reducing the need for remedial action to be taken by FASU, regulatory authorities, or law enforcement agencies.

Money laundering and terrorist financing facilitate offending that poses a major risk. These activities undermine the successful economic and human development of Papua New Guinea (PNG) and its stability. To effectively respond, FASU has been empowered with an extensive range of dissuasive supervisory and enforcement powers. These powers are integral to PNG's efforts to reduce corruption, combat tax avoidance, and fight financial criminal activities.



This Guidance is intended to assist you in complying with the AML/CTF Act. It is not legal advice, and as such, is not intended to replace the Act.

3 Supervision and enforcement

The Act sets out the FASU's supervision and enforcement powers in Part VI. Specifically:

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- Division 1 – FASU and its functions (Sections 61 to 78)
- Division 2 – Information gathering powers (Sections 79 to 93)
- Division 3 – Use and disclosure of confidential information (Sections 94 to 98); and
- Division 4 – Enforcement (Sections 99 to 106).

Awareness raising and assisting industry

You must effectively implement your responsibilities under the Act. FASU will assist you by raising awareness of your risk assessment, due diligence, reporting, record keeping and other requirements under the Act. This outreach includes issuing publicly available guidance material to promote and aid compliance.

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For further detail on your obligations under the AML/CTF Act, see:

Guidance for Financial Institutions on their Obligations under the *Anti-Money Laundering and Counter Terrorist Financing Act 2015* (No. 1 of 2018); and

Guidance for Designated Non-Financial Businesses or Professions on their Obligations under the *Anti-Money Laundering and Counter Terrorist Financing Act 2015* (No. 2 of 2018).

In addition, FASU may prepare AML/CTF compliance rules, which are issued by the Governor of the Bank of PNG. If you comply with an AML/CTF compliance rule, you will satisfy the obligations in the Act to which the rule relates. This will assist you in demonstrating to FASU steps you have taken to effectively implement your responsibilities.

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One of FASU's key functions is to carry out financial intelligence and analysis concerning suspected money laundering and associated predicate offences, terrorist financing and proceeds of crime. FASU will identify, assess and document the national and regional risks of money laundering and terrorist financing, and develop typology reports in relation to these risks. This information, if used by financial institutions and DNFBPs, will assist you in conducting your own risk assessment and will effectively meet your obligations under the Act.

Information gathering and monitoring powers

FASU may request information in relation to a suspicious matter report you have submitted. You must comply with this request.

To monitor and enforce your compliance with the Act, FASU may request in writing information and records in your possession or subject to your control. This includes information or records to assist FASU in determining whether you are a financial institution or

DNFBP. Failure to comply with a legally-based request to produce records to FASU is an offence.

In addition, FASU may request information and records from relevant regulatory authorities, law enforcement agencies and any other government departments to ensure you are complying with the Act.

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Record means information recorded or retained in any form which can be accessed in or from PNG and which can be read or understood by a person, computer system or other device.

Premises includes a structure, building, vehicle, aircraft or vessel; or a place, whether or not it is enclosed; or built upon or a part of a premises.

These terms are defined in Section 5 of the Act.

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Failing to comply with a request for documents or information under Section 81 or 82 is a crime punishable by up to 3 years imprisonment, and fines of K250,000 for an individual and K500,000 for a body corporate (Section 84).

A key monitoring tool given to FASU is the power to conduct an **on-site inspection** of your premises. FASU may conduct this inspection with any regulatory authority, member of the Police Force or other person. During this inspection, FASU officers and any person(s) assisting can exercise a broad range of powers, including:

- obtaining any information, records or items that are kept at or accessible from the premises that relates to your obligations under the Act; and
- take copies and make videos or audio recordings of any records, activity or matter that relates to your obligations under the Act. In addition, during the on-site inspection FASU officers, or any person assisting can ask you, or the occupier of your premises:
- to provides access to electronic equipment
- to unlock doors, cabinets, drawers any other items
- to produce records and items; and
- to respond to questions about records and items.

In cases of serious non-compliance, or where deemed necessary, FASU may request the Royal PNG Constabulary to apply for a search warrant of your premises. An officer of FASU may be named on the warrant as a person assisting the police in the execution of the warrant. A broad range of powers can be exercised by the policeman and person listed in the warrant, including:

- to enter, using reasonable force if necessary to break into, the premises
- to search the premises for any records or items kept at, or accessible from, the premises
- in relation to the records or items:
 - to search for, and operate, any electronic equipment such as data storage device
 - to unlock any doors, cabinets or doors and other storage facilities
 - to take copies and extracts of records
 - to bring and use necessary equipment to execute the examine and transport etc. the records or items
 - to preserve, and prevent interference with, the records or items
- to take photographs or make videos or audio recordings on the premises; and
- to seize a record or item for investigating or prosecuting an offence under the Act

The policeman and any person named on the warrant may use reasonable force to break into, or open any part of, or anything on, the premises. In addition, the policeman may retain possession of any records or items for an investigation.



For further detail on the execution of a warrant, see Sections 89 to 91.



Obstructing the execution of a warrant and tampering with or destroying records is a crime punishable by up to 3 years imprisonment, and fines of K250,000 for an individual and K500,000 for a body corporate (Section 92).

Failing to comply with a request made pursuant to a warrant to disclose information or produce a record is a crime punishable by up to 3 years imprisonment, and fines of K250,000 for an individual and K500,000 for a body corporate (Section 93).

FASU's enforcement tools

PNG's AML/CTF regime will be far more effective if you voluntarily comply with your obligations under the Act. FASU has a broad range of enforcement tools, which are designed to be facilitative in the first instance, but include a range of options to enforce compliance. All enforceable tools stipulated in Sections 99 to 106 will be exhausted first, prior to penalising reporting entities. These enforceable tools are:

- **Section 100 – Formal warning** - you will receive a formal warning from FASU containing remedial action if FASU believes that you have not complied with a requirement of the AML/CTF Act. FASU can also publish the formal warning issued to you.
- **Section 101 – Infringement notice** - you may be served an infringement notice to pay a penalty of K1,000 for an individual or K5,000 for a body corporate within 30 days if FASU believes that you have not complied with a requirement of the AML/CTF Act. If you do not pay the penalty, FASU can also publish the infringement notice issued to you.
- **Section 102 – Enforceable undertaking** - you will provide a written undertaking to FASU to comply with an activity under the AML/CTF Act. The enforceable undertaking must be lawful.
- **Section 103 – Enforcement of undertaking** – if FASU considers that you have breached one or more of the terms of an undertaking it provided in Section 102, FASU may apply to the court for an order directing you to comply with any of the terms of the undertaking.
- **Section 104 – Performance injunction** - FASU may apply to the court for an injunction requiring you to comply with this Act if you had refused or failed or refusing or failing or proposing to refuse or fail to comply with the AML/CTF Act.
- **Section 105 – Restraining injunction** - FASU may apply to the court restraining you to carry on activities that contradicts the Act.
- **Section 106 – Notice of non-compliance** - if the court grants an injunction under the AML/CTF Act, FASU may publish a notice with your details of non-compliance and any remedial action ordered by the Court.



The above enforcement measures do not affect the enforcement measures set by your regulatory authority regarding the terms and conditions of your licence.

These measures are only for AML/CTF compliances.

FASU's approach to non-compliance with the Act

In dealing with instances of non-compliance with obligations under the Act, and in exercising its enforcement powers to decide upon the appropriate course of action to take, FASU will:

- consider each instance of non-compliance on a case-by-case basis
- consider the severity of each instance of non-compliance, and

- consider the consequences and impact of each instance of non-compliance.



FASU has the power to share information with law enforcement agencies and other regulatory bodies where appropriate. For example, a serious breach of the Act may result in a criminal prosecution and heavy fine under the Act (see the Appendix).

In addition, you may be subject to possible sanctions under your licensing regime.

4 References and contacts

Financial Analysis and Supervision Unit (FASU)

www.bankpng.gov.pg

General queries can be directed to: fasu@bankpng.gov.pg or +675 322 7147

PNG's AML/CTF framework

Information on the Act and PNG's regime can be found at: www.bankpng.gov.pg.

PNG's *Anti-Money Laundering and Counter Terrorist Financing Act 2015*:
<https://www.bankpng.gov.pg/wp-content/uploads/2014/08/1-No-20-of-2015-Anti-Money-LaunderingCounter-Terrorist-Financing-Act-2015.pdf>

PNG's *Criminal Code Act 1974*:

http://www.pacii.org/pg/legis/consol_act/cca1974115/

PNG's *Criminal Code (Money Laundering and Terrorist Financing) (Amendment) Act 2015*:
https://www.bankpng.gov.pg/wp-content/uploads/2016/03/No-21-of-2015-Criminal-Code-Money-Laundering-Terrorism-FinancingAmendment_Act-2015.pdf

PNG's *Mutual Assistance in Criminal Matters (Amendment) Act 2015*:
<https://www.bankpng.gov.pg/wp-content/uploads/2016/03/No-22-of-2015-Mutual-Assistance-in-Criminal-Matters-Amendment-Act-2015.pdf>

PNG's *Proceeds of Crime Act 2005*: http://www.pacii.org/pg/legis/consol_act/poca2005160/

PNG's *Proceeds of Crime Act (Amendment) 2015*: <https://www.bankpng.gov.pg/wp-content/uploads/2014/08/No-23-of-2015-Proceeds-of-Crime-Amendment-Act-20153.pdf>

PNG's *United Nations Financial Sanctions Act 2015*: <https://www.bankpng.gov.pg/wp-content/uploads/2016/03/No-24-of-2015-United-Nations-Financial-Sanctions-Act-20151.pdf>

Asia/Pacific Group on Money Laundering (APG)

<http://www.apgml.org>

Financial Action Task Force (FATF)

<http://www.fatf-gafi.org>

Appendix: Offences and penalties under the Act 2015

Ref.	Offences	Penalty	Section number	Explanation
Part II. Obligations on financial institutions				
a.	Failure to comply with risk assessment, AML/CTF program, appointment of AML/CTF compliance officer and appointment of external auditor obligation	14 (1)	<i>Natural Person</i> - a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both <i>Body Corporate</i> – a fine not exceeding K1,000,000.00	Under Division 1 of Part II, a Financial Institution must: Conduct a risk assessment under s6; Establish, implement and maintain an AML/CTF program under s7;
		14 (2)	<i>Natural Person</i> - a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both <i>Body Corporate</i> – a fine not exceeding K500,000.00	Appoint an AML/CTF compliance officer to administer and maintain its AML/CTF program under s8, and Review and audit its risk assessment and AML/CTF program, including by an external auditor, under s9. It is an offence under s14 (1) for a person to intentionally fail to comply with these requirements. It is an offence under s14 (2) for a person to recklessly fail to comply with these requirements.
		14 (3)	<i>Natural Person</i> - a fine not exceeding K100,000.00 <i>Body Corporate</i> – a fine not exceeding K200,000.00	Under s10, FASU may by written notice require a Financial Institution to appoint an external auditor to conduct an independent audit of its AM/CTF program. It is an offence under s14 (3) for a person to intentionally fail to

				comply with FASU's written notice.
	14 (4)	<p><i>Natural Person</i>- a fine not exceeding K50,000.00</p> <p><i>Body Corporate</i> – a fine not exceeding K100,000.00</p>		It is an offence under s14 (4) for a person to recklessly fail to comply with FASU's written notice.
b.	Failure to comply with due diligence requirements	36(1)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>Under Division 2 of Part II, a Financial Institution must comply with a number of due diligence requirements, namely:</p> <p>General due diligence requirements in Subdivision 1;</p> <p>Simplified, standard and enhanced customer due diligence requirements in Subdivision 2;</p>
		36(3)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	<p>Customer due diligence requirements for electronic funds transfer in Subdivision 3, and</p> <p>Due diligence requirement for correspondent banking relationships in Subdivision 4.</p> <p>It is an offence under s36 (1) for a person to intentionally fail to comply with these due diligence requirements.</p> <p>It is an offence under s36 (3) for a person to recklessly fail to</p>

				comply with these due diligence requirements.
c.	Opening or operating anonymous accounts and accounts in false names	37(1)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>It is an offence under s37 (1) for a person to intentionally open or operate an anonymous account or an account in a false name.</p> <p>It is an offence under s37 (3) for a person to recklessly open or operate an anonymous account or an account in a false name.</p>
		37(3)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	
d.	Establishing or continuing a business relationship involving a shell bank	38(1)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>It is an offence under s38 (1) for a person to intentionally :</p> <p>Establish or take steps to establish a shell bank in Papua New Guinea;</p> <p>Enter into or continue a business relationship with a shell bank or a correspondent financial institution in a foreign country that permits its accounts to be used by a shell bank; or</p> <p>Allow an occasional transaction to be conducted through it by a shell bank or a financial institution in a foreign country that permits its accounts to be used by a shell bank.</p> <p>It is an offence under s38 (3) for a person to recklessly do any of</p>
		38(3)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	

				the above.
e.	Failure to comply with threshold reporting obligations	39(6)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>Under s39 (1) a financial institution must report to FASU a transaction of an amount in physical currency, or in the form of a bearer negotiable instrument, equal to or greater than K20,000.00. The transaction may be carried out a single transaction or two or more transactions that appear to be linked.</p>
		39(8)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	<p>Under s39(2) a financial institution must report to FASU an international electronic funds transfer of an amount in currency equal to or greater that K20,000.00. The transaction maybe carried out as single transaction or two or more transactions that appear to be linked.</p> <p>It is an offence under s39 (6) for a person to intentionally fail to make a report under s39 (1) or (2).</p> <p>It is an offence under s39 (8) for a person to recklessly fail to make a report under s39 (1) or (2).</p>
f.	Failure to report assets of a designated person or	40(4)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>Under s40(1) a financial institution must report to FASU any assets of a designated person or entity which it holds, as soon as is reasonably practicable and in any event within 10 working days from the date it receives notification of a designation under s13(f) of the <i>United Nations Financial Sanctions Act 2015</i>.</p>

	entity	40(6)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	<p>It is an offence under s40 (4) for a person to intentionally fail to make a report.</p> <p>It is an offence under s40 (6) for a person to recklessly fail to make a report.</p>
g.	Failure to comply with suspicious matter reporting obligations	41(8)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>Under s41(4) read with s4(1), a financial institution must make a suspicious matter report to FASU as soon as is reasonably practicable, and in any event within 5 working days, from the date it has reasonable grounds to suspect that information known to it may:</p> <p>be relevant to the detection, investigation or prosecution of a person for money laundering, terrorist financing, an offence under s14 or 15 of the <i>United Nations Financial Sanctions Act 2015</i> or any other indictable offence;</p> <p>be relevant to the detection, investigation or prosecution of a person for a foreign indictable offence; or</p> <p>Concern criminal property.</p> <p>It is an offence under s41 (8) for a person to intentionally fail to make a suspicious matter report under s41 (4).</p> <p>It is an offence under s41 (10) for a person to recklessly fail to make a suspicious matter report under s41 (4).</p>
		41(10)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	

h.	Providing false or misleading report or information	42(1)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>It is an offence under s42(1) for a person to furnish information which he knows to be false or misleading in any material way for the purpose of, or in connection with, making any report or providing any information required by Division 3 of Part II.</p>
		42(3)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	<p>It is an offence under s42(3) for a person to furnish information reckless as to whether it is false or misleading in any material way for the purpose of, or in connection with, making any report or providing any information required by Division 3 of Part II.</p>
i.	Obligation not to disclose a report etc.	43(4)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>Section 43(1) requires that where a financial institution has made or makes a report to FASU under ss39(10), 39(2), 40(1) or 41(4), it must not disclose to anyone else:</p> <p>the report;</p> <p>that a report has been or maybe made to FASU; or</p> <p>any other information from which a person could reasonably infer that a report has been or maybe made to FASU.</p> <p>This is subject to certain exceptions listed in s43 (2) and (3).</p> <p>The above also does not apply if a financial institution is required to disclose information under the act.</p>
		43(6)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	

				<p>It is an offence under s43 (4) for a person to intentionally disclose information in contravention of s43 (1).</p> <p>It is an offence under s43 (6) for a person to recklessly disclose information in contravention of s43 (1).</p>
j.	Obligation not to disclose information or suspicion	44(4)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>Section 44(1) requires that where a financial institution forms a suspicion under s41(1), it must not disclose to anyone else (unless otherwise required under the Act):</p> <p>that it has formed the suspicion under s44(1);</p> <p>that a suspicion has been or may be communicated to FASU under s41(11); or</p> <p>any other information from which a person could reasonably infer any of the above.</p> <p>This is subject to certain exceptions listed in s44 (2) and (3).</p> <p>It is an offence under s44 (4) for a person to intentionally disclose information in contravention of s44 (1).</p> <p>It is an offence under s44 (6) for a person to recklessly disclose information in contravention of s44 (1).</p>
		44(6)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	
k.	Disclosure or identify in relation to	45(1)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p>	<p>It is an offence under s45 (1) for a person to intentionally disclose any transaction, communication, report or information that will identify, or is likely to identify, the person who prepared</p>

	suspicious matter reports or information		<i>Body Corporate</i> – a fine not exceeding K1,000,000.00	or made a report or provided information under s41.
		45(3)	<i>Natural Person</i> - a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both <i>Body Corporate</i> – a fine not exceeding K500,000.00	It is an offence under s45 (3) for a person to recklessly disclose any transaction, communication, report or information that will identify, or is likely to identify, the person who prepared or made a report or provided information under s41.
l.	Structuring Offence	46(1)	<i>Natural Person</i> - a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both <i>Body Corporate</i> – a fine not exceeding K1,000,000.00	Under s46(1) a person commits a crime if he: conducts two or more transactions by whatever means that are equivalent to K20,000.00 or more, and conducts the transactions for the dominant purpose of ensuring, or attempting to ensure, that no report in relation to the transactions would need to be made under s39.
m.	Failure to comply with record keeping requirements	51(1)	<i>Natural Person</i> - a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both <i>Body Corporate</i> – a fine not exceeding K1,000,000.00	Under Division 4 of Part II, a financial institution must comply with certain record keeping requirements. These include: Keeping transaction records under s47; Keeping identity and verification records under s48, and
		51(3)	<i>Natural Person</i> - a fine not exceeding K250,000.00 or imprisonment for a term not	Keeping other records under s49 such as those relating to: a risk assessment, AML/CTF program and audit; records relevant to

			<p>exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	<p>establishing a business relationship with a customer, and customer records such as account files and business correspondence.</p> <p>A financial institution is required to retain these records for a certain period of time, as set out in the Act.</p> <p>It is an offence under s51 (1) for a person to intentionally fail to comply with these record keeping requirements.</p> <p>It is an offence under s51 (3) for a person to recklessly fail to comply with these record keeping requirements.</p>
Part III. Obligations on designated non-financial businesses and professions				
n.	Offences	53	<p>When a DNFBP is required to comply with an obligation under Part II and fails to do so, any penalty provision applicable to a financial institution is also applicable to a DNFBP.</p>	<p>Further to s52, a DNFBP is required to comply with the obligations set out in Part II, as if the reference in that Part to a financial institution were a reference to a DNFBP. This is subject to two qualifications:</p> <p>The obligation only applies to a DNFBP in the circumstances listed in s52(1)(a)-(f), and</p> <p>A DNFBP is not required to comply with the due diligence requirements regarding electronic funds transfers and correspondent banking relationships.</p> <p>Further to s53, where a DNFBP is required to comply with an obligation under Part II, and the DNFBP fails to do so, any offence provision relating to the obligation that is applicable to a</p>

financial institution is also applicable to a DNFBP.

Part IV. Additional obligations applying to financial institutions and designated non-financial businesses and professions

o	Failure to comply with requirements relating to foreign branches and majority-owned foreign subsidiaries	55(1)	<p><i>Natural Person</i>- a fine not exceeding K5000,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>Under s54(1) and ((2) a financial institution must ensure that its foreign branches and majority owned foreign subsidiaries located outside Papua New Guinea apply to the extent permitted by the law of that foreign country, measures broadly equivalent to those set out in Part II. If it does not, a financial institution must inform FASU and take additional measures to implement those requirements.</p> <p>Under s54(3)a DNFBP of Papua New Guinea must ensure that its foreign branches and majority- owned foreign subsidiaries located outside Papua New Guinea apply to the extent permitted by the law of that foreign country, measures broadly equivalent to those set out in Part III. If it does not, a DNFBP must inform FASU and take additional measures to implement those requirements.</p> <p>It is an offence under s55(1) for a person to intentionally engage in conduct that contravenes the requirement of s54</p> <p>It is an offence under s55(3) for a person to recklessly engage in conduct that contravenes the requirement of s54</p>
		55(3)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	
p	Failure to register with FASU	58	<p><i>Natural Person</i>- a fine not exceeding K25,000.00</p> <p><i>Body Corporate</i> – a fine not exceeding</p>	Under s57 a financial institution and DNFBP must register with FASU for the purpose of this Act. A person who fails to register with FASU is guilty of a crime under s58

			K50,000.00	
Part V. Beneficial ownership information and fit and proper controls				
q	Failure of financial institutions and DNFBPs to disclose beneficial ownership information	59(4)	<p><i>Natural Person</i>- a fine not exceeding K500,000.00 or imprisonment for a term not exceeding 5 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K1,000,000.00</p>	<p>Section 59(1) and (2) requires a financial institution and DNFBP to provide information to its regulatory authority on the beneficial ownership and control, and the sources of funds used to pay the capital of, the financial institution of DNFBP.</p> <p>This may occur either before or after the financial institution or DNFBP applies for licence, practising certificate, registration or other equivalent permission or (where the licence etc. has already been granted) upon the Act coming into operation.</p>
		59(6)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	<p>It is an offence under s59 (4) for a person to intentionally fail to provide this information.</p> <p>It is an offence under s59(6) for a person to recklessly fail to provide this information</p>
r.	Failure to comply with a request for documents or information	84(1)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not exceeding K500,000.00</p>	<p>Under its new information gathering and monitoring powers, FASU can request information and records from a financial institution or DNFBPs to monitor and enforce compliance with the Act (s81) or to determine if a person is a financial institution or DNFBP (S82). Further to s83, a person requested to disclose any information or produce any record must comply with that</p>

				request.
	84(3)	<p><i>Natural Person</i>- a fine not exceeding K100,000.00 or imprisonment for a term not exceeding 1 year or both</p> <p><i>Body Corporate</i> – a fine not 2exceeding K200,000.00</p>	<p>It is an offence under s84 (1) for a person to:</p> <p>Refuse to comply with a request for information or record under s81 or s82;</p> <p>Produce any record, or give any information, knowing it is false in any material way in response to a request under s81 or s82;</p> <p>With intent to evade the provisions of s81 or s82, destroys mutilates, deface, conceal or remove any record.</p> <p>3It is an offence under s84 (1) for a person to:</p> <p>Fail to comply with a request for information or record under s81 or s82 within the specified time and manner;</p> <p>Produce any record, or give any information, reckless as to whether it is false in any material way in response to a request under s81 or s82;</p>	
s.	Obstructing the execution of a warrant and tampering with or destroying	92(1)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not 2exceeding K500,000.00</p>	<p>Further to Section 87 – 90, a policeman may apply for a search warrant of the premises of or used by a financial institution or DNFBP under the <i>Search Act 1977</i> in order to monitor compliance. FASU may be named as a person assisting the policeman in the execution of the warrant.</p> <p>A broad range of powers can be exercised under that warrant including taking copies of documents, asking questions and</p>

	records			<p>seeking production of records.</p> <p>It is an offence under s92 (1) for a person to intentionally prevent, hinder or obstruct the execution of a warrant, including by tampering with or destroying records.</p>
t.	Failure to respond to questions and produce records.	93(5)	<p><i>Natural Person</i>- a fine not exceeding K250,000.00 or imprisonment for a term not exceeding 3 years or both</p> <p><i>Body Corporate</i> – a fine not 2exceeding K500,000.00</p>	<p>Further to s93 (1), where an officer of FASU enters the premises of a financial institution or DNFBP pursuant to a warrant, that officer may ask the occupier questions, seek production of records and ask for an explanation of those records. A person requested to disclose any information or produce any record must comply with that request under s93 (3).</p>
		93(6)	<p><i>Natural Person</i>- a fine not exceeding K100,000.00 or imprisonment for a term not exceeding 1 year or both.</p>	<p>It is an offense under s93 (5) for a person to:</p> <p>Refuse to comply with a request under s93 (1) to disclose information or produce records;</p> <p>Produce any record or information knowing it to be false in any material way in response to request under s93(1); or</p> <p>With intent to evade s93 (3), destroys, mutilates, defaces, conceals or removes any record.</p> <p>It is an offence under s93 (6) for a person to produce any record or give any information recklessly as to whether it is false in any material way.</p>

u.	Offence of disclosing confidential information	95 (2)	<i>Natural Person-</i> a fine not exceeding K100,000.00 or imprisonment for a term not exceeding 1 year or both.	Further to s94, information which is supplied to or obtained by FASU under the Act is considered confidential' information. This excludes information which is factually the same as the confidential information and is already in the public domain, or which is presented so that it does not enable the identification of the particular person.
		95 (4)	<i>Natural Person-</i> a fine not exceeding K50,000.00	<p>An officer of FASU may not disclose confidential information, unless certain circumstances apply.</p> <p>It is an under s95 (2) for a person to intentionally disclose confidential information in contravention of Division 3 of Part VI.</p> <p>It is an offence under s95 (4) for a person to recklessly disclose confidential information in contravention of Division 3 of Part VI</p>