



## **WRITTEN SUBMISSION**

### **OF THE FINANCIAL INTELLIGENCE UNIT TO THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS ON:**

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- 1. Electoral (Registration of Voters) (Amendment) Bill 2020 (Bill No.51 of 2020)**
  - 2. Political Parties (Registration, Conduct, Funding and Disclosures) Bill 2020**
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## **Introduction**

The Financial Intelligence Unit (FIU) is a centralised, independent, administrative and a statutory agency of the Fijian Government that was established in 2006 under the FTR Act. The powers, duties and functions of the FIU are clearly defined in the FTR Act.

The core role of the FIU as an intelligence agency is to receive, analyse and disseminate financial intelligence to relevant law enforcement agencies.

The FIU is also Fiji's anti-money laundering (AML) and combating the financing of terrorism (CFT) regulator and the lead agency on AML/CFT policy formulation, compliance and enforcement.

The FIU would like to make submissions on the above-mentioned Bills that are currently before the Parliament Standing Committee on Justice, Law and Human Rights. These Bills have an indirect impact on the mandate of the FIU and its vision of "*protecting Fiji from money laundering*".

## **Electoral (Registration of Voters) Amendment Bill 2020**

Sections 8 and 9 of the Electoral (Registration of Voters) Act 2012 establishes the National Register of Voters and provides the voter's details to be included in the Register.

The Bill amends this provision and further includes additional detail to be included in the Register. The Register of Voters will provide details of a voters, such as:

- a) full name;
- b) closest and alternative polling venues;
- c) residential address;
- d) occupation, if any;
- e) date of birth;
- f) gender;
- g) facial photograph of the voter; and
- h) voter number.

### **Publication and Access to Voter Information in the Register:**

Information about a voter in the Register is accessible as follows:

- a. Information is made available to that voter only under section 11 of the Electoral (Registration of Voters) Act to enable that person to verify any information about him or her in the Register;
- b. Information is published in the form and manner approved by the Electoral Commission as proposed under section 11A(1) of the Bill; and
- c. A political party may also obtain a copy of Register upon payment of an approved fees as proposed under section 11A(2) of the Bill.

In relation to the proposed new section 11A(1) of Bill, and in light of the proposed new section 16 of the Bill, it is our understanding that the voters' information that would be published will contain at least the following information about the "registered voter concerned":

- a. The full name as it appears on the Register;
- b. Residential address;
- c. Occupation (if any);
- d. Gender; and
- e. Voter number.

The information in the National Register of Voters is useful to a number of government agencies that rely on data of citizens for their statutory functions under their relevant laws. Some of these agencies include the FIU, Fiji Police Force, FICAC, Immigration Department and FRCS.

The Electoral (Registration of Voters) Act does not explicitly allow the Register to be made available to other government agencies.

However, other government agencies (together with the members of the public) would have access to the Register when it is published.

Furthermore, section 138 of the Electoral Act limits the use of this information for elections purposes only, as follows:

S.138(2): “Any person who uses any information contained in the Register of Voters, Register of Postal Voters or voter list for a commercial purpose or other purpose unrelated to an election commits an offence and shall be liable upon conviction to a term of imprisonment not exceeding 5 years.

This provision of the Electoral Act may not allow other government agencies to access information in the Register of Voters and use it for their respective statutory functions under other laws.

#### Access to Other Government Databases

Inter-government agency cooperation and real-time sharing of information is critical for intelligence and investigation purposes. The increasing complexity of crime means that criminal investigation is intelligence driven.

The FTR Act provides the FIU to enter into MOAs with other agencies. The MOAs allow the FIU to exchange information and enhance networking and cooperation with domestic partner agencies.

In 2020, the FIU signed a MOA for the exchange of information with Post Fiji Pte Limited. The MOA will strengthen FIU’s profiling capabilities, by providing access to additional information, such as money order transactions and postal services data when conducting intelligence analysis. The FIU is currently engaging with other agencies to enter into MOAs in 2021, including Interpol, Fiji National Provident Fund, iTaukei Land Trust Board and the Ministry of Lands.

The FIU has signed MOAs with 13 local partner agencies to date. The FIU continued to engage with these partner agencies during 2020. As part of these MOA arrangements, authorised officers from the FPF, FRCS, FICAC and RBF continued to have direct access to the FIU’s central database.

In 2020, there were 26 officers who had this direct access to the FIU database. The officers used this arrangement to obtain intelligence on persons or entities of interest who are subject to their investigations and profiling.

While the FIU has signed MOU with the Fijian Elections Office in August 2016, the FEO is unable to share voter information with the FIU to carry out its statutory functions under the FTR Act particularly due to the limitation set out in section 138(2) of the Electoral Act.

**The FIU would like to recommend that the Electoral (Registration of Voters) Act and the Electoral Act are further amended to allow sharing of voter information in the Register with the FIU and other relevant government agencies.**

**It is further recommended that the voter information is restricted for use only in accordance with legislative functions under their relevant laws.**

## **Political Parties (Registration, Conduct, Funding and Disclosures) Amendment Bill**

### **2020**

Under the FTR Act, any individual who is or has been entrusted with any prominent public function in Fiji or in a foreign country is referred to as a “politically exposed person” and should be subject to enhanced due diligence by financial institutions in Fiji.

A ‘domestic PEP’ is a person who is or has been entrusted domestically with a prominent public function, for example, government ministers, politicians, senior government, judicial or military officials, senior executives of statutory bodies and state owned corporations, important political party officials, including the following:

- a) President;
- b) Prime Minister;
- c) Government Minister (including Assistance Minister and Acting Minister);
- d) Member of Parliament;
- e) Permanent Secretary and Deputy Permanent Secretary of a Government Ministry ;
- f) Ambassador or principal representative of Fiji to another country;
- g) Head (including Deputy or Assistant) of a government department, agency and statutory authority;
- h) Chief Executive Office (or equivalent) of a state owned company;
- i) Judicial officers such as magistrates, judges and the chief registrar;
- j) Leader and senior officials of a political party.

Family members or close associates of any such person are also subject to enhanced due diligence.

Due to their position and influence, it is recognised that many PEPs are in positions that potentially can be abused for the purpose of committing ML offences, corruption and bribery. This has been confirmed by analysis and case studies.

Therefore preventive measures must be applied with respect to business relationships with PEPs to prevent the misuse of the financial system by PEPs, and to detect such potential abuse if and when it occurs.

### **Register of Political Parties**

Section 3 of the Political Parties (Registration, Conduct, Funding and Disclosure) Act 2013 provides for the establishment and maintenance of a Register of Political Parties which contains details of all registered political parties. This Register is available to the public, including the FIU.

Section 3 of the Bill requires that further details on a registered political parties be included in the Register of Political Parties. These details include:

- a) Name, terms of office and contact details of the office holders
- b) Bank account details of each political party
- c) Names and contact details of the auditor and legal advisor of each political party.

Section 3 also requires that this register be updated annually by the Registrar.

Section 5 of the Bill proposes a new requirement for political parties to provide the Registrar with details of its bank accounts. These details will then be included in the Register of Political Parties.

**The FIU supports this proposed provision as it provides further details on registered political parties in particular their bank details.**

**This information can be used by the FIU and other law enforcement agencies for intelligence purposes. Financial institutions can also use information on the Register of Political Parties for onboarding of customers who are office holders of Political Parties; to monitor these accounts appropriately and to report to the FIU any suspected breaches of the Act.**

**END**