

Translation of Liechtenstein Law

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Act
of 14 March 2002
**on the Financial Intelligence Unit (FIU Act;
FIUG)¹**

I hereby grant My Consent to the following resolution adopted by the Liechtenstein Parliament:

I. General Provisions

Art. 1

Purpose

This Act shall govern the role, powers and responsibilities of the Financial Intelligence Unit (FIU).

Art. 2

Designations

Terms used to designate persons or functions in this Act are to be understood as referring to both the male and female genders.

¹ Title amended by LGBI. 2016 no. 32.

Art. 3²*Role*

1) The FIU is the central official agency for acquisition and analysis of information that is required for the detection of money laundering, predicate offences to money laundering, organised crime and the financing of terrorism.

2) The FIU is independent in the performance of its duties in accordance with Art. 4 and 5 a) and b).³

Ia. Function⁴Art. 4⁵*Core responsibilities*

The FIU has the following core responsibilities:

- a) receiving information from public and non-public sources within the remit of its function;
- b) analysis of information referred to in a) including information referred to in Art. 5a (1) a) and b), to determine whether the suspicion of money laundering, predicate offences to money laundering, organised crime or terrorist financing can be confirmed on the basis of such information;
- c) delivery of a report containing the results of the analysis referred to in b), as well as any other additional relevant information, to the Public Prosecution Service in the event of a reasonable suspicion of money laundering, predicate offences to money laundering, organised crime or terrorist financing. This analysis report shall not contain any details about the source of the information or disclosure.

² Art. 3 amended by LGBl. 2009 no. 48.

³ Art. 3 (2) inserted by LGBl. 2016 no. 32.

⁴ Heading before Art. 4 inserted by LGBl. 2016 no. 32.

⁵ Art. 4 amended by LGBl. 2016 no. 32.

Art. 5⁶*Other responsibilities*

The FIU also has the following additional responsibilities:

- a) analysis of general threats from money laundering, predicate offences to money laundering, organised crime and terrorist financing. It may consult other competent official bodies, the FMA or representatives of persons subject to due diligence for that purpose;
- b) analysis of information referred to in Art. 4 a), including information referred to in Art. 5a (1) a) and b), to determine whether such information indicates patterns for the existence of criminal offences of that nature;
- c) preparation of status reports in an anonymous form for the Government, the FMA, other official agencies or professional associations containing assessments of specific threats from money laundering, predicate offences to money laundering, organised crime and terrorist financing;
- d) production of the statistics required in connection with money laundering, predicate offences to money laundering, organised crime and terrorist financing. Art. 14 (3) of the Statistics Act is not applicable to the FIU;
- e) representation in national and international working groups. Membership of international working groups is subject to Government approval;
- f) performance of duties assigned to it under the Act on the implementation of international sanctions, the Nuclear Energy-Goods Control Act, the War Material Act and the implementing orders issued in connection therewith.

Art. 5a⁷*Powers*

1) The FIU has the following powers to enable it to perform its functions:

- a) collection of financial, administrative and law enforcement information from other official agencies and the FMA, insofar as such information is available. These bodies are obliged to provide the FIU

⁶ Art. 5 amended by LGBL 2016 no. 32.

⁷ Art. 5a inserted by LGBL 2016 no. 32.

- with the information requested immediately as far as this is permissible;
- a^{bis}) ordering measures pursuant to Art. 18 (3) of the Due Diligence Act;⁸
 - a^{ter}) ordering a ban on information pursuant to Art. 18b (3) a) of the Due Diligence Act;⁹
 - b) collection of information pursuant to Art. 19a (1) of the Due Diligence Act;
 - c) collection of information pursuant to Art. 19a (2) of the Due Diligence Act;
 - d) operation of appropriate electronic information systems (Art. 8);
 - e) inspection of appropriate registers and files (Art. 9);
 - f) collection of information and other powers under the Act on the implementation of international sanctions, the Nuclear Energy-Goods Control Act, the War Material Act and the implementing orders issued in connection therewith.
- 2) The Government shall provide more specific regulations by ordinance.

II. Co-operation with domestic and foreign authorities¹⁰

Art. 6¹¹

Co-operation with domestic authorities

- 1) The FIU may exchange financial, administrative and law enforcement information and relevant documents required for the prevention of money laundering, predicate offences to money laundering, organised crime and terrorist financing with other domestic authorities, in particular the courts, the Public Prosecution Service, the National Police, the Office of Justice, the Tax Authority and the FMA.
- 2) The FIU may refuse to pass on information and documents pursuant to (1), if:

⁸ Art. 5a (1) abis) inserted by LGBL 2017 no. 163.

⁹ Art. 5a (1) ater) inserted by LGBL 2017 no. 163.

¹⁰ Heading before Art. 6 amended by LGBL 2016 no. 32.

¹¹ Art. 6 amended by LGBL 2016 no. 32.

- a) the disclosure of the information would have a negative effect on ongoing investigations or analyses;
- b) the disclosure of the information would be disproportionate to the legitimate interests of private individuals or legal entities;
- c) the information is not relevant to the purposes for which it was requested; or
- d) the protection of sources in accordance with Art. 11b would be compromised.

3) Requesting authorities are obliged to give the FIU feedback on the use of the information and documents passed to them and on the outcome of the investigations or proceedings conducted on the basis of such information and documents.

4) After consulting the competent member of the Government the FIU may conclude agreements with other domestic authorities on the arrangements for the cooperation.

Art. 7¹²

Cooperation with foreign authorities

1) The FIU may in the performance of its duties request foreign FIUs to provide information or pass on documents if required for the purposes of this Act.

2) The FIU is permitted to pass official information that is not accessible to the public to foreign FIUs, if:

- a) this does not compromise sovereignty, security, public order or other essential national interest;
- b) it is guaranteed that the requesting FIU would comply with a similar request from Liechtenstein;
- c) it is guaranteed that the information passed on will be used exclusively for analysis purposes in the prevention of money laundering, predicate offences to money laundering, organised crime and terrorist financing;
- d) it is guaranteed that the information passed on will only be communicated to third parties with the consent of the FIU;
- e) the requesting FIU is subject to official secrecy;

¹² Art. 7 amended by LGBL 2016 no. 32.

- f) it is guaranteed that the information will be passed on using secure means of communication; and
- g) the Judicial Assistance Act is not circumvented.

3) Information shall be provided in accordance with (2) in the form of a report.

4) After consulting the competent member of the Government the FIU may conclude agreements with foreign FIUs on the arrangements for the cooperation referred to in (1) and (2).

5) In order to safeguard cross-border payment transactions with EEA Member States or Switzerland, the FIU may exchange information about the party issuing instructions for a payment with the competent foreign authorities.

III. Data protection and protection of sources¹³

Art. 8¹⁴

Processing of personal data

1) The FIU is authorised to process personal data, including particular categories of personal data and personal data concerning criminal convictions and offences, and to create profiles, insofar as this is necessary for the performance of its statutory function.

2) The data referred to in (1) may only be processed for the purpose for which it was collected. Further processing for other purposes is however permitted, provided that the FIU is also allowed to collect this data for this purpose.

3) The data referred to in (1) must be obtained in a way that is transparent for the person concerned, except in cases where this would:

- a) obstruct the proper performance of the duties falling within the remit of the FIU;
- b) be a threat to public safety or order or otherwise be detrimental to the well-being of the nation.

¹³ Heading before Art. 8 amended by LGBl. 2016 no. 32.

¹⁴ Art. 8 amended by LGBl. 2018 no. 292.

4) The Government may establish more specific regulations on data processing by ordinance, in particular concerning:

- a) measures to guarantee the secure communication of data;
- b) access to the data, processing authorisation, storage of the data, archiving and deletion of data, as well as data security.

Art. 8a¹⁵

Information systems

1) In order to perform its function, the FIU may operate electronic information systems that may contain the data referred to in Art. 8 (1).

2) The information systems referred to in (1) are used for the following purposes:

- a) generating reports;
- b) documenting the activities of the FIU;
- c) analysis, research and profiling;
- d) exchange of data with domestic supervisory authorities and agencies as well as foreign partner authorities;
- e) records and data management;
- f) creation and evaluation of statistics.

3) Information systems referred to in (1) may contain the following data in particular:

- a) personal data, such as:
 1. master data concerning the identity of natural and legal persons;
 2. procedures, in particular concerning administrative and criminal prosecutions or sanctions;
 3. investigation data;
 4. custody data;
- b) case data, such as:
 1. case facts;
 2. analysis reports;
- c) image and sound recordings;
- d) data for records management and corporate oversight.

¹⁵ Art. 8a inserted by LGBL 2018 no. 292.

4) The data from the information systems referred to in (1) may be made accessible on the basis of persons, objects and events and may be interconnected. If data is interconnected, this data will be subject to the relevant data processing regulations and access restrictions.

5) Data may be interconnected pursuant to (4) in such a way that enables the employees of the FIU, within the scope of their access rights, to check whether certain persons or organisations are listed in one or more systems, using separate inquiry models in one single request. Relevant data from other information systems of the national government may be included for this purpose, insofar as it is accessible under a law via an FIU retrieval system.

6) The Government may establish more specific regulations concerning the operation of information systems and data processing by ordinance, in particular concerning measures to guarantee the secure communication of data.

Art. 8b¹⁶

Data processing for specific purposes

1) Processing of personal data, including particular categories of personal data and personal data concerning criminal convictions and offences is only permitted for scientific and statistical purposes, insofar as it is impossible to identify the persons concerned.

2) The FIU may use data it has processed in accordance with (1) for training and development purposes in an anonymised form.

Art. 8c¹⁷

Data communication

1) The FIU may disclose or communicate personal data, including particular categories of personal data and personal data concerning criminal convictions and offences, as well as data from profiling, to offices of the national government, administrative authorities and courts, as well as foreign FIUs, insofar as this is necessary for the performance of its statutory duties or the duties of the recipients of the data.

¹⁶ Art. 8b inserted by LGBl. 2018 no. 292.

¹⁷ Art. 8c inserted by LGBl. 2018 no. 292.

2) The FIU may communicate the data referred to in (1) to other offices or persons, insofar as this is provided for by law or is essential for:

- a) the avoidance of a risk to public safety and order on the part of the recipient;
- b) the prevention or elimination of significant disadvantages to the general wellbeing of the community; or
- c) the protection of the legitimate interests of individuals where such interests warrant protection.

Art. 8d¹⁸

Storage, anonymisation and destruction of data

1) Data referred to in Art. 8 (1) may be processed as long as it is required for the performance of duties, but for no longer than ten years, after which it is to be deleted.

2) The destruction of data at the end of the storage period referred to in (1) shall be carried out in accordance with one of the following procedures:

- a) a single entry is deleted as soon as the relevant storage period has expired;
- b) interconnected data is anonymised as a data block or destroyed as soon as the storage period for the last recorded instance has expired.

3) If the procedure as described in (2) b) is applicable the FIU shall conduct a general review of the data at regular intervals, when each data block shall be reviewed to ensure it has been processed in accordance with the provisions. Data that is no longer required shall be anonymised or destroyed.

Art. 9¹⁹

Inspection of registers and files

1) In order to perform its duties, the FIU has the right to inspect the following registers using online retrieval facilities in accordance with the relevant specific legislation:

- a) Central Register of Persons (ZPR);

¹⁸ Art. 8d inserted by LGBl. 2018 no. 292.

¹⁹ Art. 9 amended by LGBl. 2016 no. 32.

- b) Commercial Register, including data that is displayed and stored;
- c) Land Register.

2) The FIU may consult the document concerned with the permission of the competent official body.

*Right of access*²⁰

Art. 10²¹

a) Basic principle

1) Subject to Art. 11 any person may ask the Data Protection Office to examine whether data concerning them is being legitimately processed at the FIU in connection with the prevention of money laundering, predicate offences to money laundering, organised crime or terrorist financing. The Data Protection Office shall inform the enquiring party in a standard response, stating either that no data concerning them is being unlawfully processed pursuant to Art. 8 (1) or that in the event of any errors in the data processing it has arranged for them to be rectified.²²

2) No appeal against this notification is permitted. The person concerned may ask the Administrative Court to review the notification from the Data Protection Office or the enforcement of the correction it has ordered. The Administrative Court shall inform the person in a response with standard wording that the review has been conducted as requested.

3) Before action can be taken as set out in (1) the FIU shall examine whether there is an overriding interest in maintaining confidentiality and whether existing data is still required. If there is no overriding interest in maintaining confidentiality, the information shall be disclosed immediately in accordance with Art. 57 of the Data Protection Act.²³

4) The FIU is entitled to appeal to the Administrative Court against decisions of the Data Protection Office in connection with the review referred to in (1) that may also involve the disclosure of data as referred to in (1) in the absence of an overriding interest in maintaining confidentiality.²⁴

²⁰ Heading before Art. 10 inserted by LGBL 2016 no. 32.

²¹ Art. 10 amended by LGBL 2016 no. 32.

²² Art. 10 (1) amended by LGBL 2018 no. 292.

²³ Art. 10 (3) amended by LGBL 2018 no. 292.

²⁴ Art. 10 (4) amended by LGBL 2018 no. 292.

5) Both the Data Protection Office and the Administrative Court shall safeguard protected public interests in the course of their proceedings.

6) Enquiring parties, who have not already received information in accordance with Art. 57 of the Data Protection Act and about whom no data has been processed in accordance with (1) as at the time of the review, shall be given information in accordance with Art. 57 of the Data Protection Act within twelve months from submission of the request, all other persons who have made a request for information and have been recorded as such at the Data Protection Office shall be given information in accordance with Art. 57 of the Data Protection Act when the relevant interest in maintaining confidentiality ceases to apply, but by the time it is established that the data is no longer required at the latest.²⁵

7) The Data Protection Office may also without occasion check the data processing conducted by the FIU in connection with the prevention of money laundering, predicate offences to money laundering, organised crime or terrorist financing to ensure it complies with the law.²⁶

Art. 11²⁷

b) In particular areas

Under Art. 57 of the Data Protection Act any person may request information concerning themselves from the FIU concerning data in respect of the enforcement of the Act on the implementation of international sanctions, the Nuclear Energy-Goods Control Act, the War Material Act and the implementing orders issued in connection therewith.

Art. 11a²⁸

Inspection of files

1) While still protecting sources (Art. 11b) the FIU shall allow the parties to inspect the files or sections of files concerning their case. The parties may take copies themselves on the premises or have copies made at their expense depending on the technical equipment available.

²⁵ Art. 10 (6) amended by LGBI. 2018 no. 292.

²⁶ Art. 10 (7) amended by LGBI. 2018 no. 292.

²⁷ Art. 11 amended by LGBI. 2018 no. 292.

²⁸ Art. 11a inserted by LGBI. 2016 no. 32.

2) Those sections of files, which if inspected would cause damage to the legitimate interests of a party, source or third party or compromise the performance of the FIU's duties or frustrate the purpose of the procedure shall be excluded from the inspection of files.

3) If FIU files have been passed to another administrative authority or a court, the inspection of files shall be conducted in accordance with the regulations governing these entities.

4) Art. 29 of the Information Act shall not apply.

Art. 11b²⁹

Protection of sources

The FIU shall guarantee the protection of its sources and preserve their anonymity, in particular the anonymity of persons subject to due diligence who have disclosed information under Art. 17 (1) of the Due Diligence Act or who have complied with a request for information from the FIU under Art. 5a of this Act or Art. 19a of the Due Diligence Act.

IV. Final provisions

Art. 12³⁰

Implementing ordinances

The Government shall issue the ordinances required for the implementation of this Act.

Art. 13

Repeal of existing law

The Ordinance of 22 February 2001 on the Financial Intelligence Unit (FIU Ordinance), LGBl. 2001 no. 43 is repealed.

²⁹ Art. 11b inserted by LGBl. 2016 no. 32.

³⁰ Art. 12 amended by LGBl. 2016 no. 32.

Art. 14

Entry into force

This Act shall enter into force on the date of its promulgation.

signed *Hans-Adam*

signed *Otmar Hasler*
Head of the Princely Government