

Statutory Document No. 2018/0037

*Financial Intelligence Unit Act 2016*

FINANCIAL INTELLIGENCE UNIT (TIPPING OFF) REGULATIONS 2018

*Approved by Tynwald:**Coming into Operation:**1 March 2018*

The Department of Home Affairs, after consulting with the FIU and its Board, makes the following Regulations under section 32 of the Financial Intelligence Unit Act 2016.

1 Title

These Regulations are the Financial Intelligence Unit (Tipping Off) Regulations 2018.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 1 March 2018.¹

3 Tipping off resulting from issue of a request by the FIU

- (1) A person commits an offence if –
- (a) the person knows or suspects that a request has been issued, or is proposed to be issued, under section 18(4) of the Financial Intelligence Unit Act 2016; and
 - (b) the person discloses to any other person any information or other matter which may prejudice –
 - (i) a criminal, civil or regulatory investigation which is being or may be carried out, whether in the Island or elsewhere, which is connected with the issue of the request; or
 - (ii) criminal, civil or regulatory proceedings which have been or may be initiated, whether in the Island or elsewhere, which are connected with the issue of the request.
- (2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

¹ Tynwald approval required under section 32(5) of the Financial Intelligence Unit Act 2016.

- (3) Nothing in paragraph (1) makes it an offence for a professional legal adviser to disclose any information or other matter –
- (a) to a client of the adviser (or to a representative of the client) in connection with the giving of legal advice to the client; or
 - (b) to any person –
 - (i) in contemplation of or in connection with legal proceedings; and
 - (ii) for the purpose of those proceedings.
- (4) Paragraph (3) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.
- (5) In proceedings against a person for an offence under these Regulations, it is a defence to prove that the person did not know or suspect that the disclosure was likely to be prejudicial in the way mentioned in paragraph (1)(b).

4 Revocation

The Financial Intelligence Unit (Tipping Off) Regulations 2017² are revoked.

MADE 22 JANUARY 2018

W M MALARKEY
Minister for Home Affairs

² SD 2017/0365.

EXPLANATORY NOTE***(This note is not part of the Regulations)***

These Regulations define tipping off as relating to the disclosure of information relating to an FIU request (under section 18 of the Financial Intelligence Unit Act 2016) to any person that may prejudice a civil, criminal or regulatory investigation.

The Regulations clarify when a professional legal adviser may, or may not, be tipping off and make tipping off an offence punishable, on summary conviction, with a fine not exceeding level 5 on the standard scale.

These Regulations also provide for a defence against an offence under these Regulations when it can be proven the person did not know or suspect the disclosure would be prejudicial in the way mentioned in regulation 3(1)(b).

The Financial Intelligence Unit (Tipping Off) Regulations 2017 [SD 2017/0365] have not been approved by Tynwald and for the avoidance of doubt those regulations have been revoked by these Regulations.