

ANTI-MONEY LAUNDERING/COUNTER FINANCING OF TERRORISM /COUNTER PROLIFERATION FINANCING IN FOCUS

Part Twenty-Three:

An In-depth Look at the Financial Action Task Force (FATF) Forty Recommendations- FATF Recommendations: Glossary of Terms

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The Financial Action Task Force (FATF) Recommendations, titled '*International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation*' seek to provide very clear guidelines to countries. This is aided by a glossary within the document which captures the important terms. This article will highlight five of the main terms within this glossary.

Many of the Recommendations speak to countries having a **competent authority**. This is defined as "all public authorities with designated responsibilities for combating money laundering and/or terrorist financing. In particular, this includes the FIU; the authorities that have the function of investigating and/or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing/freezing and confiscating criminal assets; authorities receiving reports on cross-border transportation of currency and bearer negotiable instruments, and authorities that have AML/CFT supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and designated non-financial businesses and professions. Self-regulatory bodies are not regarded as competent authorities". Within Saint Lucia there are several competent authorities including, the Attorney General's Chambers and the Financial Intelligence Authority (FIA) which is a Financial Intelligence Unit (FIU).

There are several key terms within the definition of competent authority which will be examined, these are: financial institutions, designated non-financial businesses and professions (DNFBPs), self-regulatory bodies (SRB) and terrorist financing.

A **financial institution** as defined by the FATF is "any natural or legal person who conducts as a business with one or more of the following activities or operations for or on behalf of a customer: (i) acceptance of deposits and other repayable funds from the public, (ii) lending, (iii) financial leasing, (iv) money or value transfer services, (v) issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money), (vi) financial guarantees and commitments, (vii) trading in: (a) money market instruments (cheques, bills, certificates of deposit, derivatives etc.); (b) foreign exchange; (c) exchange, interest rate and index instruments; commodity futures trading, (viii) participation in securities issues and the provision of financial services related to such issues, (ix) individual and collective portfolio management, (x) safekeeping and administration of cash or liquid securities on behalf of other persons, (xi) otherwise investing, administering or managing funds or money on behalf of other persons. (xii) underwriting and placement of life insurance and other investment related insurance, money and currency trading". To this end within Saint Lucia, commercial banks, credit unions and insurance companies are examples of financial institutions.

Designated non-financial businesses and professions under the purview of Saint Lucia's Money Laundering (Prevention) Act, Cap 12:20 are referred to as 'other business activities'. FATF

classifies as DNFBPs “casinos, real estate agents, dealers in precious metals, dealers in precious stones, lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to AML/CFT measures. Trust and Company Service Providers...that provide any of the following services to third parties: acting as a formation agent of legal persons; acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons; providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement; acting as (or arranging for another person to act as) a nominee shareholder for another person”.

The FATF considers a **self-regulatory body** to be “a body that represents a profession (e.g. lawyers, notaries, other independent legal professionals or accountants), and which is made up of members from the profession, has a role in regulating the persons that are qualified to enter and who practise in the profession, and also performs certain supervisory or monitoring type functions. Such bodies should enforce rules to ensure that high ethical and moral standards are maintained by those practising the profession”.

Finally, reference is often made to **terrorist financing** which is defined as “the financing of terrorist acts, and of terrorists and terrorist organizations”. It should be noted that any amount even a single dollar can constitute terrorist financing.

It is recommended that public and private sector entities familiarize themselves with these and other terms for the onsite visit by the Caribbean Financial Action Task Force (CFATF) assessors from September 16-27, 2019. Additional terms are defined within the FATF Recommendations, which can be sourced from the CFATF website at <https://www.cfatf-gafic.org>.