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

Part Twenty-Six:

An In-depth Look at the Financial Action Task Force (FATF) Forty Recommendations-Recommendation 23: DNFBPs-Other Measures

By: The Attorney General's Chambers
and the National Anti-Money Laundering Oversight Committee (NAMLOC)

The Financial Action Task Force (FATF) in its Forty Recommendations gives very clear guidelines to designated non-financial businesses and professions (DNFBPs). These entities are referred to in the Money Laundering (Prevention) Act, Cap12.20 (MLPA) of Saint Lucia as 'other business activities' and include but are not limited to Lawyers, Real Estate Agents, Jewellers, Accountants and Registered Agents. In Recommendation 23, DNFBPs are required to abide by the guidelines addressed in Recommendations 18 to 21.

Developing group wide policies for anti-money laundering and combating the financing of terrorism (AML/CFT) are required in keeping with Recommendation 18. Further, procedures are to be established relating to how these AML/CFT policies are to be shared with the group.

In Recommendation 19, DNFBPs are required to apply enhanced customer due diligence measures to business relationships and transactions from countries which are deemed by the FATF to have higher risks of money laundering or terrorist financing. DNFBPs are encouraged to use the risk based approach when conducting enhanced customer due diligence. In that regard, the techniques applied should be proportionate to the risks identified.

The foundation of Recommendation 20 is the reporting of suspicious transactions. DNFBPs are required to report to the Financial Intelligence Authority any suspicious transaction that they may encounter during the course of their business. For example, Jewellers would be required to report "when they engage in any cash transaction equal to or above the acceptable designated threshold". The applicable threshold as indicated in the Money Laundering (Prevention) Act, Cap 12.20, section 16(1)(L) is twenty-five thousand dollars (XCD25,000). The MLPA in section 16(1)(k) mandates DNFBPs to "report to the Authority any suspicious transaction relating to money laundering as soon as reasonably practicable, and in any event, within 7 days of the date the transaction was deemed to be suspicious".

Tipping off and confidentiality are dealt with in Recommendation 21. This recommendation requires the directors, officers and employees of DNFBPs to be protected from any criminal or civil liabilities, if they breach contract disclosure restrictions by filing suspicious transaction reports (STRs) with the Financial Intelligence Authority. This protection must be embedded in legislation.

During the on-site assessment from September 16-27, 2019, assessors from the Caribbean Financial Task Force (CFATF) will conduct interviews with persons from various DNFBPs to determine their compliance with the requirements of this recommendation

For further details on Recommendation 23, members of the public are encouraged to visit the website of the CFATF at https://www.cfatf-gafic.org.