

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

### **Part Twenty-Eight:**

#### **An In-depth Look at the Financial Action Task Force (FATF) Forty Recommendations- Recommendation 25: Transparency and Beneficial Ownership of Legal Arrangements**

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In this week's article the focus is on the transparency and beneficial ownership of legal arrangements which is covered in Recommendation 25, of the Financial Action Task Force (FATF) Forty Recommendations. This is a continuation from last week's article which covered the transparency of legal persons.

This recommendation requires a country to implement measures which will prevent the misuse of legal arrangements specifically trusts, for money laundering and terrorist financing. It is mandated that accurate and adequate information on the beneficial ownership of a trust should be accessible to competent authorities in a timely manner. A trust is a legal relationship which is created whilst someone is living or upon death, in which property is held by one party, called a trustee, for the benefit of another party, referred to as the beneficiary. Trusts may be created in wills and define how property is to be handled by the beneficiary(ies). A trustee may be a professional, such as a lawyer, or a trust company.

Competent authorities should be able to access information on the settlor (the actual person who transfers the ownership of their assets), the trustee and the beneficiaries. Additionally, when transactions are to be carried out by lawyers or trust companies on behalf of their clients, financial institutions and designated non-financial businesses and professions (DNFBPs) are required to conduct customer due diligence, as such they should have access to beneficial ownership and control information, in order to have a clear understanding of the ownership and control structure before establishing a business relationship.

It is therefore incumbent upon professional trustees to maintain information on the identity of the settlors, beneficiaries or class of beneficiaries and trustees for a minimum of five years, even after their involvement with the trust ends. This information should be current and updated within a reasonable time after any changes have been made.

For other legal arrangements other than trusts, countries are mandated to take similar measures to achieve similar levels of transparency.

This recommendation will be assessed by the five (5) assessors from the Caribbean Financial Action Task Force (CFATF), who will seek to determine the effectiveness of the legislative framework which Saint Lucia has in place to cover legal arrangements. From their assessment, they will assign a rating to the recommendation. One of five (5) ratings can be achieved, namely: not-applicable (NA), non-compliant (NC), partially compliant (PC), largely compliant (LC) or complaint (C).

The FATF Forty Recommendations are available on the Caribbean Financial Action Task Force's website at <https://www.cfatf-gafic.org>.