

No. 16] *Money Laundering (Prevention) (Amendment) Act* [ 2021

**SAINT LUCIA**

**No. 16 of 2021**

**ARRANGEMENT OF SECTIONS**

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I Assent

[L.S.]

ERROL CHARLES,  
*Acting Governor-General.*

*December 6, 2021.*

## SAINT LUCIA

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### No. 16 of 2021

**AN ACT** to amend the Money Laundering (Prevention) Act,  
Cap. 12.20.

[ 14th December, 2021 ]

**BE IT ENACTED** by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the House of Assembly and the  
Senate of Saint Lucia, and by the authority of the same, as follows:

No. 16] *Money Laundering (Prevention) (Amendment) Act* [ 2021**Short title**

1. This Act may be cited as the Money Laundering (Prevention) (Amendment) Act, 2021.

**Interpretation**

2. In this Act, “principal Act” means the Money Laundering (Prevention) Act, Cap. 12.20.

**Amendment of section 2**

3. Section 2 of the principal Act is amended —

(a) by deleting the definition for “Central Bank” and by substituting the following —

“ “Central Bank”, in relation to the supervision of a licensed financial institution, means the Eastern Caribbean Central Bank established under Article 3 of the Eastern Caribbean Central Bank Agreement, the text of which is set out in the Schedule to the Eastern Caribbean Central Bank Agreement Act, Cap. 19.07;”;

(b) by deleting the definition for “criminal conduct” and by substituting the following —

“ “criminal conduct” means —

- (a) terrorist financing;
- (b) proliferation financing;
- (c) an indictable or a summary offence; or
- (d) an offence triable summarily or on indictment, committed, in or outside Saint Lucia;” ;

(c) in the definition for —

(i) “Financial Action Task Force”, by deleting the words “and terrorist financing” and by substituting a comma and the words “terrorist financing and proliferation financing”,

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- (ii) “requesting State”, by inserting immediately after the words “for assistance under” the words “letters rogatory,”,
- (iii) “transaction”, in paragraph (a), by inserting immediately after the word “means”, a comma and the words “such as a wire transfer”,
- (iv) “transaction record” —
  - (A) in paragraph (g), by deleting the full stop and by substituting a semicolon;
  - (B) by inserting immediately after paragraph (g) the following new paragraph (h) —
    - “(h) a documented analysis conducted of matters specified under paragraphs (a) to (g).”;
- (d) by inserting the following new definitions in the correct alphabetical sequence —
  - “ “beneficial owner” means a natural person —
    - (a) who ultimately owns or controls a company or legal arrangement;
    - (b) who exercises ultimate effective control over a legal person or a legal arrangement, such as a senior manager or signatory; or
    - (c) on whose behalf a transaction or activity is being conducted;
  - “domestic politically exposed person”, in relation to Saint Lucia, means an individual who is entrusted with a prominent public function in Saint Lucia, such as —
    - (a) the Head of State;
    - (b) the Head of Government;
    - (c) a senior politician;
    - (d) a senior government official;
    - (e) a judicial official;

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- (f) a military official;
- (g) a senior executive of a state-owned corporation;
- (h) an important political party official;

“foreign politically exposed person”, in relation to a country other than Saint Lucia, means an individual who is entrusted with a prominent public function by a country other than Saint Lucia, such as —

- (a) the Head of State;
- (b) the Head of Government;
- (c) a senior politician;
- (d) a senior government official;
- (e) a judicial official;
- (f) a military official;
- (g) a senior executive of a state-owned corporation;
- (h) an important political party official;

“international politically exposed person”, in relation to an international organization, means an individual who is entrusted with prominent functions by an international organization, such as —

- (a) a director;
- (b) a deputy director;
- (c) a member of a board of directors;
- (d) a member of senior management;

“politically exposed person” means —

- (a) a domestic politically exposed person;
- (b) a foreign politically exposed person; or
- (c) an international politically exposed person;

“terrorist financing”, in relation to a financial institution and a person engaged in other business activity, has the meaning assigned under Part 1 of the Schedule

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to the Anti-Terrorism (Guidelines for Financial Institutions) Regulations, Cap. 3.16;

“ultimately own and control” means a direct or an indirect ownership or control of twenty-five per cent or more of the shares, voting rights or ownership interest in a company or a legal arrangement;”.

**Amendment of Part 2**

4. Part 2 of the principal Act is amended —

- (a) in section 4(2)(b), by deleting the words “Financial Sector Supervision Unit” and by substituting the words “Financial Services Regulatory Authority”;
- (b) in section 5(2) —
  - (i) under paragraph (b) —
    - (A) immediately after the word “terrorism”, by deleting the word “and” and by substituting a comma;
    - (B) by inserting immediately after the words “terrorist financing”, the words “and proliferation financing”,
  - (ii) under paragraph (g), by inserting immediately after the words “money laundering”, a comma and the words “terrorist financing and proliferation financing”,
  - (iii) under paragraph (h), by inserting immediately after the words “with any” the words “foreign or domestic organization, including a”,
  - (iv) under paragraph (l), by deleting the words “and financing of terrorism” and by substituting a comma and the words “terrorist financing and proliferation financing”,
  - (v) by deleting paragraph (m) and by substituting the following —
    - “(m) shall supervise and monitor financial institutions and persons engaged in other business activity to determine compliance with this Act;”,

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- (vi) by inserting immediately after paragraph (m), the following new paragraphs (n), (o), (p), (q) and (r) —
- “(n) may receive from, and submit to, the Central Bank information in relation to a licensed financial institution under this Act;
  - (o) may receive from, and disseminate to, a Foreign Financial Intelligence Unit or foreign law enforcement agency, information in relation to anti-money laundering, counter-terrorist financing and counter-proliferation financing;
  - (p) may receive from, and disseminate to, a foreign supervisory counterpart, supervisory information for anti-money laundering, counter-terrorist financing and counter-proliferation financing purposes;
  - (q) shall advise a financial institution and a person engaged in other business activity of concerns about weaknesses in the anti-money laundering, counter-terrorism financing and counter-proliferation financing systems of other countries;
  - (r) may carry out any other incidental function.”;
- (c) in section 6 —
- (i) under subsection (1) —
    - (A) in paragraph (g), by inserting immediately after the words “money laundering”, a comma and the words “terrorist financing and proliferation financing”;
    - (B) by deleting paragraph (h) and by substituting —
      - “(h) inspect and conduct audits of a financial institution, subject to section 14C(1), or a person engaged in other business activity to determine compliance with this Act;”;

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(C) by inserting immediately after paragraph (h), the following new paragraph (i) —

“(i) enter into bilateral or multilateral arrangements with Foreign Financial Intelligence Units or foreign law enforcement agencies to enable joint investigations of money laundering, terrorist financing and proliferation financing.”,

(ii) by deleting subsection (5);

(d) by inserting immediately after section 6, the following new sections 6A and 6B —

**“Power to issue directions**

**6A.**—(1) The Authority has, in relation to its supervisory power under section 5(2)(m), the power to issue a direction where a financial institution or person engaged in other business activity fails to comply with this Act.

(2) A direction issued under subsection (1) must specify —

(a) the activity, behaviour or practice that must be remedied or terminated; and

(b) the date by which the activity, behaviour or practice under paragraph (a) must be remedied or terminated.

(3) The Authority may issue directions to a financial institution or person engaged in other business activity before giving a notice under section 6B(2) or prosecution of the failure specified in the direction under subsection (1) or (2).

**Penalty for failure to comply with direction**

**6B.**—(1) Subject to subsection (2), a financial institution or person engaged in other business activity that fails, within the time specified under section 6A(2), to comply with this Act, is liable —

(a) to a penalty not exceeding five thousand dollars;



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(b) in the case of a continuous failure to comply, to a penalty not exceeding five hundred dollars for each day or part of a day that the failure continues.

(2) The Authority shall, give written notice to a financial institution or person engaged in other business activity of its liability to pay a penalty under subsection (1).

(3) A notice under subsection (2) must specify —

(a) the section with which the financial institution or person engaged in other business activity has failed to comply;

(b) the amount of the penalty for which a financial institution or person engaged in other business activity is liable under subsection (1)(a) or (b);

(c) the period within which the penalty under paragraph (b) must be paid;

(d) that the penalty is payable to the Government;

(e) that the financial institution or person engaged in other business activity, may, in writing, accept or decline liability for the payment of the penalty under paragraph (b);

(f) that failure to pay the penalty under paragraph (b) may result in prosecution.

(4) A notice under subsection (2) must be served on the financial institution or person engaged in other business activity.

(5) On being served with a notice under subsection (4) and within the period specified under subsection (3)(c), a financial institution or person engaged in other business activity may, in writing, accept or decline liability for the payment of the penalty under subsection (3)(e).

(6) A financial institution or person engaged in other business activity that accepts liability for the payment of

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a penalty under subsection (5) may pay the amount of the penalty stated in the notice.

(7) If a financial institution or person engaged in other business activity declines liability for the payment of a penalty under subsection (5), proceedings shall be brought against a financial institution or person engaged in other business activity for the failure specified in the notice under subsection (3)(a).

(8) The Authority may, whether or not the penalty has been paid, withdraw a notice under subsection (2).

(9) Where a notice is withdrawn under subsection (8) and the penalty has been paid under subsection (6), the amount of the penalty must be refunded to a financial institution or person engaged in other business activity.

(10) Proceedings shall not be brought against a financial institution or person engaged in other business activity where a financial institution or person engaged in other business activity —

(a) has paid the penalty specified in the notice under subsection (3)(b) in the period specified in subsection (3)(c); or

(b) has been found liable and is penalized by a court for the failure specified in the notice under subsection (2).”;

(e) in section 7 —

(i) under paragraph (a), by deleting the words “Commissioner of Police and”,

(ii) under paragraph (b), by deleting the words “the Commissioner of Police and”;

(f) by inserting immediately after section 7, the following new sections 7A and 7B —

**“Delegation**

**“7A.** The Authority may, for the purpose of carrying out the functions of the Authority under this Act, delegate, to

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the Director, the power to carry out the functions of the Authority.

**Director of the Authority**

**7B.**—(1) The Director —

(a) shall manage the day-to-day affairs of the Authority;

(b) is accountable to the Authority for the performance of his or her duties.

(2) The Director shall not hold another appointment or engage in other employment which the Authority determines is —

(a) likely to interfere with the proper performance of the duties, or the proper exercise of the powers, of the Director; or

(b) prejudicial to the interests of the Authority.”.

**Insertion of new Part 2A**

5. The principal Act is amended by inserting, immediately after Part 2, the following new Part 2A —

**“PART 2A  
SUPERVISION OF A LICENSED FINANCIAL  
INSTITUTION**

**Interpretation of Part 2A**

**14A.** In this Part, “licensed financial institution” means a financial institution licensed to carry on banking business under the Banking Act, Cap. 12.01.

**Central Bank responsible for supervision of a licensed financial institution**

**14B.**—(1) For the purposes of this Act, the Central Bank is, without limiting the functions of the Authority under this Act, responsible for the supervision of a licensed financial institution in relation to money laundering, terrorist financing and proliferation financing.

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(2) In carrying out the supervisory responsibility under subsection (1), the Central Bank —

(a) shall —

(i) consult with the Authority on policy matters relating to money laundering, terrorist financing and proliferation financing for licensed financial institutions,

(ii) create and promote training requirements relating to obligations under sections 15, 16 and 17 for a licensed financial institution,

(iii) conduct an inspection of a licensed financial institution if, in its judgment an inspection is necessary or expedient to determine compliance by a licensed financial institution with the requirements of this Act or directions given by the Central Bank under section 14E, and

(iv) subject to subsection (3), submit to the Authority a report —

(A) derived from an inspection conducted under subparagraph (iii);

(B) at any time,

if the Central Bank has reasonable grounds to believe that an offence, including money laundering or other criminal conduct under this Act has been, is being or is about to be committed;

(b) shall not have access to or examine —

(i) a report of a suspicious transaction, unless that report is a sanitized report of a suspicious transaction,

(ii) an internal unusual transaction report,

(iii) a letter of request for information from the Authority, or

(iv) the register of enquiries.

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(3) The Central Bank may submit to the Authority, a report derived from an inspection under subsection (2)(a)(iii), if the report derived from the inspection does not disclose sensitive information which can —

- (a) cause unauthorized disclosure or tipping off;
- (b) prejudice an investigation or prosecution of an offence under this Act.

(4) A licensed financial institution shall permit an employee of the Central Bank during normal working hours to —

- (a) conduct an inspection under subsection (2)(a)(iii);
- (b) make notes or take a copy of the whole or part of a transaction record;
- (c) answer questions from the Central Bank in relation to an inspection conducted under paragraph (a) or a transaction record obtained under paragraph (b);
- (d) enter its premises to perform its supervisory responsibility under this Act.

(5) Where a licensed financial institution fails to comply with subsection (4), the Central Bank shall submit a written report to the Authority within seven days of the failure to comply.

(6) A licensed financial institution that fails to comply with subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding one million dollars.

**Inspection of a licensed financial institution by the Authority**

**14C.—**(1) In the case of an inspection of a licensed financial institution under section 6(1)(h), the Authority must have reasonable grounds to believe that —

- (a) an offence under this Act has been, is being or is about to be committed;
- (b) the inspection is necessary —
  - (i) in the interest of national security, or
  - (ii) for conducting an investigation;

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- (c) the licensed financial institution, a director, a manager, a senior officer or an individual who manages or controls the licensed financial institution is engaged in or facilitates money laundering or other criminal conduct;
  - (d) a transaction relating to money laundering or other criminal conduct has been, is being or is about to be conducted through the licensed financial institution;
  - (e) it is necessary for the Authority to conduct the inspection in order to avoid disclosure to a person who is referred to under paragraph (c) or who is involved in a transaction under paragraph (d).
- (2) In conducting an inspection under subsection (1)(a) or (b), the Authority shall consult with the Central Bank.
- (3) The Authority may submit to the Central Bank, a report derived from an inspection under subsection (1)(a) or (b), if the report derived from the inspection does not disclose sensitive information which can —
- (a) cause unauthorized disclosure or tipping off;
  - (b) prejudice an investigation or prosecution of an offence under this Act.

**Issue of prudential standards**

**14D.**—(1) Without limiting the powers of the Central Bank under section 184(n) of the Banking Act, Cap. 12.01, the Central Bank may, after consultation with the Authority, issue prudential standards to aid in the detection and prevention of money laundering, terrorist financing and other criminal conduct.

(2) The Central Bank shall publish the prudential standards issued under subsection (1) in the *Gazette*, on its website and through any other media.

(3) The Central Bank shall, at intervals determined by the Central Bank, review the prudential standards issued under subsection (1).

**Powers of the Central Bank**

**14E.**—(1) Without limiting the powers of the Central Bank under section 75(2) of the Banking Act, Cap. 12.01, in carrying out the supervisory responsibility under section 14B, the Central Bank has the power to —

- (a) give a direction;
- (b) issue a warning;
- (c) conclude a written agreement; or
- (d) give an order.

(2) The Central Bank may exercise a power under subsection (1) —

- (a) where a licensed financial institution fails to comply with the sections specified in Part A of Schedule 3; or
- (b) where the Central Bank is satisfied that —
  - (i) a director, manager, senior officer or an individual who manages or controls the licensed financial institution is not a fit and proper person for preventing money laundering, terrorist financing or other criminal conduct in a licensed financial institution,
  - (ii) a licensed financial institution has failed to comply with the prudential standards issued under section 14D, or
  - (iii) a licensed financial institution has failed to comply with or is failing to comply with this Act.

(3) A direction, warning, written agreement or an order under subsection (1) must specify the activity, behaviour or practice that must be terminated or remedied and the date by which it must be terminated or remedied.

(4) The Central Bank shall, notify the Authority, in writing within seventy-two hours of exercising a power under subsection (1).

**Supension of activity**

**14F.**—(1) Without limiting the grounds specified under section 76(b) of the Banking Act, Cap. 12.01, the Central Bank may suspend an activity of a licensed financial institution where —

- (a) the licensed financial institution fails to comply with a power exercised under section 14E(1); or
- (b) the Central Bank is satisfied that an event under section 14E(2) has occurred.

(2) The Central Bank may exercise a power under section 14E(1) before suspending an activity under subsection (1).

(3) The Central Bank shall, notify the Authority, in writing, within forty-eight hours of suspending an activity under subsection (1).

**Supension or revocation of licence**

**14G.**—(1) Without limiting the grounds specified under sections 14 and 42 of the Banking Act, Cap. 12.01, the Central Bank may, suspend or revoke a licence of a licensed financial institution where —

- (a) the licensed financial institution fails to comply with a power exercised under section 14E(1); or
- (b) the Central Bank is satisfied that an event under section 14E(2) has occurred.

(2) The Central Bank may exercise a power under section 14E(1) before suspending or revoking a licence under subsection (1).

(3) The Central Bank shall, notify the Authority, in writing, within forty-eight hours of suspending or revoking a licence under subsection (1).

(4) In this section, “licence” means a licence granted under section 8 of the Banking Act, Cap. 12.01.



**Penalty**

**14H.**—(1) Subject to subsection (3), a licensed financial institution that fails to comply with the sections specified in Part B of Schedule 3, is liable —

- (a) to a penalty not exceeding five thousand dollars; and
- (b) to a penalty not exceeding five hundred dollars, in the case of a continuous failure to comply, for each day or part of a day that the failure continues, from the date immediately following the period specified in subsection (4)(c).

(2) A penalty for which a licensed financial institution is liable under subsection (1)(b) must not apply in respect of a period of more than thirty days.

(3) The Central Bank shall serve a written notice to a licensed financial institution.

(4) A notice under subsection (3) must state —

- (a) the section specified under Part B of Schedule 3 with which the licensed financial institution has failed to comply;
- (b) the amount of the penalty for which the licensed financial institution is liable under subsection (1)(a) or (b);
- (c) the period within which the penalty under paragraph (b) must be paid;
- (d) that the penalty is payable to the Government;
- (e) that the licensed financial institution, may, in writing, accept or decline liability for the payment of the penalty under paragraph (b); and
- (f) that failure to pay the penalty under paragraph (b) may result in prosecution.

(5) On being served with a notice under subsection (3) and within the period specified under subsection (4)(c), a licensed

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financial institution may, in writing, accept or decline liability for the payment of the penalty under subsection (4)(e).

(6) A licensed financial institution that accepts liability for the payment of a penalty under subsection (5) may pay the amount of the penalty stated in the notice.

(7) If a licensed financial institution declines liability for the payment of a penalty under subsection (5), proceedings shall be brought against the licensed financial institution for the failure specified in the notice under subsection (4)(a).

(8) The Central Bank may, whether or not the penalty has been paid, withdraw a notice under subsection (3).

(9) Where a notice is withdrawn under subsection (8) and the penalty has been paid under subsection (6), the amount of the penalty must be refunded to the licensed financial institution.

(10) Proceedings shall not be brought against a licensed financial institution where the licensed financial institution —

- (a) has paid the penalty specified in the notice under subsection (4)(b) in the period specified in subsection (4)(c); or
- (b) has been found liable and is penalized by a court for the failure specified in the notice under subsection (3).

**Risk assessment of a licensed financial institution**

**14I.**—(1) A licensed financial institution shall conduct a risk assessment of its operations in relation to money laundering, terrorist financing and proliferation financing by identifying, assessing and understanding the money laundering or other criminal conduct risks posed by —

- (a) existing or potential customers;
- (b) countries or geographic areas;
- (c) products, services or transactions; or
- (d) delivery channels for products, services or transactions.

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(2) Where a licensed financial institution conducts a risk assessment in relation to money laundering or other criminal conduct under subsection (1), that licensed financial institution shall —

- (a) document the risk assessment;
- (b) consider the relevant risk factors, including the risks identified by the country's national risk assessment, before determining the level of overall risk and the appropriate level and type of mitigation to be applied;
- (c) keep the risk assessment up-to-date; and
- (d) develop appropriate mechanisms to provide information on the risk assessment to the Central Bank.

**Customer due diligence measures**

**14J.** A licensed financial institution must undertake customer due diligence measures that are consistent with guidelines issued by the Central Bank.

**Liability of the Central Bank for actions or omissions**

**14K.**—(1) An action shall not be taken against the Central Bank, a director, an officer, personnel, or a person acting under the direction of the Central Bank in respect of anything done or omitted to be done in good faith in the administration or discharge of any functions, duties or powers under this Act.

(2) Notwithstanding any other enactment, an order for the provision of information, documents or evidence shall not be issued in respect of the Central Bank or a director, an officer, personnel, or a person acting under the direction of the Central Bank under this Act.

**Liability of a licensed financial institution for disclosure of information**

**14L.**—(1) A civil or criminal action or professional sanction may not be brought or taken against a person, director or an employee of a licensed financial institution who, in good faith, submits information or a sanitized report of a suspicious transaction or other report to the Central Bank.

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- (2) Subsection (1) does not apply to —
- (a) a non-sanitized report of a suspicious transaction;
  - (b) an internal unusual transaction report;
  - (c) a letter of request for information from the Authority;
  - (d) the register of enquiries.

**Non-disclosure**

**14M.** A person who obtains information under this Act in any form as a result of his or her present or former connection with the Central Bank shall not disclose that information to any person except with the written approval of the Central Bank or as far as it is required or permitted under this Act or other enactment.”.

**Amendment of Part 3**

- 6.** Part 3 of the principal Act is amended —
- (a) in section 15 —
    - (i) by deleting subsection (1) and by substituting the following —
 

“(1) A financial institution or person engaged in other business activity shall take reasonable measures to satisfy the financial institution or person engaged in other business activity as to the true identity of a person, including a person acting on behalf of another person, seeking to enter into a transaction with or to carry out a transaction or series of transactions with the financial institution or person engaged in other business activity.”,
    - (ii) under subsection (2) —
      - (A) in paragraph (b), by deleting the fullstop and by substituting a semicolon;
      - (B) by inserting, immediately after paragraph (b), the following new paragraph (c) —

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“(c) a report to the Authority with respect to a transaction or an attempted transaction where the identity of a person involved in the transaction, attempted transaction or the circumstances relating to the transaction or attempted transaction gives an employee of the financial institution or person engaged in other business activity reasonable grounds to suspect that the transaction or attempted transaction involves funds which are —

(i) the proceeds of, or

(ii) used or intended to be used, directly or indirectly by a person for,

money laundering or other criminal conduct.”,

(iii) by inserting immediately after subsection (2), the following new subsection (2A) —

“(2A) A financial institution or person engaged in other business activity shall not open, accept or maintain accounts for which the name of the holder or controller of the account is unknown or fictitious.”,

(iv) under subsection (3) —

(A) in paragraphs (b) and (c), by deleting the words “\$10,000” and by substituting the words “eight thousand dollars”;

(B) in paragraph (d), by inserting immediately after the words “money laundering”, a comma and the words “or other criminal conduct”,

(v) by deleting subsection (7) and by substituting the following —

“(7) Where it reasonably appears to a financial institution or person engaged in other business activity that a person requesting to enter into a transaction is acting on behalf of another person, the financial institution or person engaged in other business activity shall —

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- (a) take reasonable measures to establish the true identity of the other person on whose behalf or for whose benefit the person may be acting in the proposed transaction, whether as a trustee, nominee, agent or otherwise;
- (b) request evidence that the person is authorized to act on behalf of the other person in the transaction.”,
- (vi) under subsection (9)(a), by inserting immediately after the words “money laundering”, a comma and the words “terrorist financing or proliferation financing”,
- (vii) by inserting immediately after subsection (9), the following new subsection (9A) —
  - “(9A) A financial institution or person engaged in other business activity shall, on request, submit to the Authority, any information relating to the identity of a person that holds or controls an account, immediately, or in any event, within twenty-four hours of a request for that information, including on a Saturday, Sunday or holiday.”;
- (b) in section 16 —
  - (i) under subsection (1) —
    - (A) by deleting paragraph (g) and by substituting the following —
      - “(g) develop and apply internal policies, procedures or controls relevant to the size of the business, which are approved by senior management or the board of directors, to combat money laundering, terrorist financing and proliferation financing which enables the control and mitigation of the risks identified, including —
        - (i) monitoring the implementation of the controls and enhancing the controls, if necessary,

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- (ii) developing audit functions to test the policies, procedures or controls and, where a high risk is identified, enhance the policies, procedures or controls to manage and mitigate the risk;”;
- (B) in paragraph (i), by inserting immediately after the word “Authority”, the words “or the Central Bank”;
- (C) by deleting paragraph (k) and by substituting the following —
  - “(k) report to the Authority any suspicious transaction or attempted transaction relating to money laundering or other criminal conduct as soon as reasonably practicable, and in any event, within seven days of the date the transaction or attempted transaction is deemed to be suspicious;”;
- (D) by deleting paragraph (o) and by substituting the following —
  - “(o) develop, as part of internal policies, procedures and controls, appropriate compliance management arrangements and adequate screening procedures to ensure high standards when hiring employees, including, an ongoing employee training programme.”;
- (ii) by inserting immediately after subsection (1), the following new subsection (1A) —
  - “(1A) A financial institution or a person engaged in other business activity who fails to report a suspicious transaction under section 15(2)(c), 16(1)(d), 16(1)(k) or 17(6A) commits an offence and is liable on conviction on indictment, to a fine not exceeding five hundred thousand dollars.”;
- (iii) under subsection (7)(c), by inserting immediately after the words “other case,” the words “including occasional transactions,”;

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- (iv) under subsection (8), by inserting immediately after the words “money laundering offence”, a comma and the words “or other criminal conduct”;
- (c) by inserting, immediately after section 16A, the following new section 16B —

**“Risk assessment**

**16B.**—(1) A financial institution or person engaged in other business activity shall conduct a risk assessment of its operations in relation to money laundering, terrorist financing and proliferation financing by identifying, assessing and understanding the money laundering or other criminal conduct risks posed by —

- (a) existing or potential customers;
- (b) countries or geographic areas;
- (c) products, services or transactions; or
- (d) delivery channels for products, services or transactions.

(2) Where a financial institution or person engaged in other business activity conducts a risk assessment in relation to money laundering or other criminal conduct under subsection (1), that financial institution or person engaged in other business activity shall —

- (a) document the risk assessment;
- (b) consider the relevant risk factors, including the risks identified by the country’s national risk assessment, before determining the level of overall risk and the appropriate level and type of mitigation to be applied;
- (c) keep the risk assessment up-to-date;
- (d) develop appropriate mechanisms to provide risk assessment information to the Authority.”;
- (d) in section 17 —
  - (i) by deleting subsection (1) and by substituting the following —



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“(1) A financial institution or person engaged in other business activity shall undertake customer due diligence measures that involves identifying and verifying the identity of a customer when —

- (a) establishing business relations with a customer;
- (b) carrying out occasional transactions equal to or exceeding Ten Thousand United States Dollars or its equivalent in Eastern Caribbean Dollars or wire transfers;
- (c) funds transfers are conducted and related messages are sent;
- (d) transferring funds which do not contain complete originator information;
- (e) there is a suspicion of money laundering or other criminal conduct;
- (f) there is doubt about the veracity or adequacy of previously obtained customer identification data;
- (g) in the case of a gaming operator, carrying out financial transactions equal to or exceeding eight thousand dollars.”;

(ii) by deleting subsection (3) and by substituting the following —

“(3) A financial institution or person engaged in other business activity shall —

- (a) perform enhanced customer due diligence, proportionate to the high risks identified, including —
  - (i) high risk categories of customers, business relationships or transactions in respect of countries that have not implemented the recommendations of the Financial Action Task Force,
  - (ii) business relationships or transactions with natural or legal persons, including financial

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institutions, from countries for which enhanced customer due diligence is required by the Financial Action Task Force;

- (b) perform reduced or simplified customer due diligence —
  - (i) where there are low risks of money laundering, terrorist financing or proliferation financing, consistent with a country’s assessment of its money laundering, terrorist financing and proliferation financing risks,
  - (ii) where adequate checks and controls exist in a country’s national anti-money laundering, counter-terrorist financing or counter-proliferation financing system,
  - (iii) on customers resident in another country, where the country is in compliance with and has implemented the recommendations of the Financial Action Task Force;
- (c) not perform reduced or simplified customer due diligence where there is a suspicion of money laundering or other criminal conduct;”,
- (iii) under subsection (4), by deleting paragraph (c) and by substituting the following —
  - “(c) obtaining information on, examining and understanding as far as possible, the background, purpose and intended nature of the business relationship;”,
- (iv) by inserting immediately after subsection (6), the following new subsection (6A) —
  - “(6A) If a financial institution or person engaged in other business activity has a suspicion of money laundering or other criminal conduct and reasonably believes that performing customer due diligence under subsection (1) tips-off a customer, that financial institution or person engaged in other business activity

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shall not perform customer due diligence and shall make a suspicious transaction report in relation to that customer.”,

(v) under subsection (8) —

(A) in paragraph (b), by inserting immediately after the words “customer due diligence”, the words “and record-keeping”;

(B) by deleting paragraph (c) and by substituting the following —

“(c) a financial institution or person engaged in other business activity shall be satisfied that the intermediary or third party is regulated and supervised for, and has measures in place to comply with, the customer due diligence and record-keeping requirements under this Act;”;

(C) by inserting immediately after paragraph (c), the following new paragraph (d) —

“(d) a financial institution or person engaged in other business activity shall consider information available on the level of risk of the country in which an intermediary or a third party is located.”,

(vi) under subsection (12), by inserting immediately after the words “money laundering”, a comma and the words “terrorist financing and proliferation financing”,

(vii) under subsection (14), by deleting the word “may” and by substituting the word “shall”;

(e) in section 18(f), by —

(i) deleting the word “enhance” and by substituting the words “perform enhanced”, and

(ii) deleting the words “that must be performed”;

(f) in section 19(a), by inserting immediately after the words “money laundering”, a comma and the words “other criminal conduct”;

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- (g) in section 20, by inserting immediately after the words “money laundering”, a comma and the words “or other criminal conduct”;
- (h) by deleting section 21 and by substituting the following —
  - “**Source of funds declaration**
  - 21.** Subject to section 17(3)(b) and (4)(d), a person who enters into a transaction with a financial institution or person engaged in other business activity shall fill out a source of funds declaration in the prescribed form if the value of the transaction —
    - (a) is equal to or exceeds Ten Thousand United States Dollars or its equivalent in Eastern Caribbean Dollars;
    - (b) is less than Ten Thousand United States Dollars or its equivalent in Eastern Caribbean Dollars and the financial institution or person engaged in other business activity requests that a person fills out the source of funds declaration when performing customer due diligence.”;
  - (i) in section 22, by deleting the words “A magistrate may, in accordance with the Criminal Code, or any enactment replacing it, issue to a police officer a warrant” and by substituting the words “A magistrate may issue, to a police officer, a warrant”.

**Amendment of Part 5**

7. Part 5 of the principal Act is amended —

- (a) in section 28(4) —
  - (i) under paragraph (a), by deleting the words “\$1million” and by substituting the words “five million dollars”,
  - (ii) under paragraph (b), by deleting the words “\$2million” and by substituting the words “ten million dollars”;
- (b) in section 29(6) —

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- (i) under paragraph (a), by deleting the words “\$1million” and by substituting the words “five million dollars”,
- (ii) under paragraph (b), by deleting the words “\$2million” and by substituting the words “ten million dollars”;
- (c) in section 30(10) —
  - (i) under paragraph (a), by deleting the words “\$1million” and by substituting the words “five million dollars”,
  - (ii) under paragraph (b), by deleting the words “\$2million” and by substituting the words “ten million dollars”;
- (d) in section 31 —
  - (i) under paragraph (a), by deleting the words “\$1million” and by substituting the words “five million dollars”,
  - (ii) under paragraph (b), by deleting the words “\$2million” and by substituting the words “ten million dollars”.

**Amendment of Part 6****8. Part 6 of the principal Act is amended —**

- (a) in section 34, by inserting immediately after subsection (3), the following new subsections (4), (5), (6), (7) and (8) —
  - “(4) A court or other competent authority of a requesting State, in making a court order or request, may specify that the Authority must keep confidential the fact or substance of the court order or request.
  - (5) The Authority shall inform the court or other competent authority of the requesting State if it is unable to comply with the requirement of confidentiality under subsection (4).
  - (6) Subject to subsection (7), where a court or other competent authority makes a court order or request under subsection (4) and a person is —
    - (a) notified of the court order or request;

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- (b) required to take any action, produce any documents or supply any information in response to or in relation to the court order or request,

the person shall not disclose the fact of the receipt of that court order or request or any particulars required or documents produced pursuant to the court order or request.

(7) A person referred to under subsection (6) may make a disclosure to —

- (a) the attorney-at-law of that person;
- (b) a person authorized by the Authority, for a period of ninety days from the date of the receipt of the request or such further period determined by the Authority.

(8) The Authority and a person to whom a disclosure is made under subsection (7) must keep the information confidential.”;

- (b) in section 38, by deleting subsection (1) and by substituting the following —

“(1) A person who obtains information in any form as a result of his or her present or former connection with the Authority shall not disclose that information to any person except with the written approval of the Authority or as far as it is required or permitted under this Act or other enactment.”;

- (c) by repealing section 41;
- (d) in section 43(3), by inserting immediately after the words “may prescribe” a comma and the words “in respect of an offence under the Regulations,”.

### **Substitution of Schedule 2**

**9.** The principal Act is amended by deleting Schedule 2 and by substituting the following —

**“SCHEDULE 2**

(Section 2)

**PART A****Financial Institutions**

1. A licensed financial institution under the Banking Act, Cap. 12.01.
2. A building society registered under the Building Societies Act, Cap. 12.04.
3. A credit union registered under the Co-operative Societies Act, Cap. 12.06.
4. An entity licensed under the Insurance Act, Cap. 12.08 or other enactment for underwriting and placement of long-term insurance and other investment related insurance.
5. An entity licensed under the International Banks Act, Cap. 12.17.
6. An entity licensed under the International Insurance Act, Cap. 12.15.
7. An entity licensed under the International Mutual Funds Act, Cap. 12.16.
8. An entity licensed under the Money Services Business Act, Cap. 12.22.
9. The Saint Lucia Development Bank established under the Saint Lucia Development Bank Act, Cap. 12.02.
10. An entity licensed under the Securities Act, Cap. 12.18.
11. An entity that engages in the sale of money orders.

**PART B****Other Business Activity**

1. Registered agents and trustees licensed under the Registered Agent and Trustee Licensing Act, Cap. 12.12.
2. Motor Dealer licensed under the Motor Vehicles and Road Traffic Act, Cap. 8.01.
3. A Gaming Operator licenced under the Gaming, Racing and Betting Act, Cap. 13.13, when engaging in transactions equal to or exceeding \$8,000.

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4. A person involved in transactions for a client concerning the buying and selling of real estate.
5. A dealer in precious metals or stones, when engaging in any transactions equal to or exceeding \$25,000.
6. A person that engages in internet gaming and wagering services.
7. Attorneys-at-law when they carry out transactions for a client in relation to the following activities —
  - (a) buying and selling real estate;
  - (b) creating, operating or managing companies;
  - (c) managing bank, savings or securities accounts;
  - (d) managing client’s money, securities or other assets; or
  - (e) raising contributions for the creation, operation or management of companies.
8. Accountants when they carry out transactions for a client in relation to the following activities —
  - (a) buying and selling real estate;
  - (b) creating, operating or managing companies;
  - (c) managing bank, savings or securities accounts;
  - (d) managing client’s money, securities and other assets; or
  - (e) raising contributions for the creation, operation or management of companies.”.

**Insertion of new Schedule 3**

**10.** The principal Act is amended by inserting immediately after Schedule 2, the following new Schedule 3 —

**“SCHEDULE 3**

(Sections 14E(2) and 14H)

**PART A**

**List of sections for which directions, warnings, written agreements or order may be given to a licensed financial institution**

1. Section 15(1), 15(4), 15(6), 15(7) and 15(8).
2. Section 16(7A) and 16(8).



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3. Section 17(1)(a), 17(c), 17(d), 17(4), 17(8), 17(10), 17(11), 17(12), 17(13), 17(14) and 17(15).
4. Section 20.

**PART B**

**List of sections for which a penalty may be applied to  
a licensed financial institution**

1. Section 15(2).
2. Section 16(1)(a), (b), (g), (h), (i), (j), (n), (o), 16(5) and 16(7).
3. Section 17(2), 17(3), 17(6) and 17(9).
4. Section 18.
5. Section 19.”.

Passed in the House of Assembly this 16<sup>th</sup> day of November, 2021.

CLAUDIUS J. FRANCIS,  
*Speaker of the House of Assembly.*

Passed in the Senate this 18<sup>th</sup> day of November, 2021.

STANLEY FELIX,  
*President of the Senate.*