

I Assent

[L.S.]

PEARLETTE LOUISY,
Governor-General.

December 6, 2016.

SAINT LUCIA

No. 20 of 2016

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

[19th December, 2016]

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. 20] *Money Laundering (Prevention) (Amendment) Act* [2016.

Short title

1. This Act may be cited as the Money Laundering (Prevention) (Amendment) Act, 2016.

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 by—

- (a) deleting the definition of the words "criminal conduct" and substituting the following—

"criminal conduct" means any indictable or summary offence or an offence triable both summarily or on indictment;"

- (b) inserting the definition of the words "money laundering" in the proper alphabetical sequence –

"money laundering" means conduct which constitutes an offence under section 28, 29, or 30;

- (c) deleting the definition of the word "person" and substituting the following –

"person" includes any entity, natural or juridical, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, capable of acquiring rights or entering into obligations;"

- (d) deleting the definition of the word "proceeds";

- (e) deleting the definition of the words "proceeds of criminal conduct" and substituting the following –

"proceeds of criminal conduct" means property –

- (a) derived from or obtained directly or indirectly; or

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- (b) mingled with any property derived from or obtained directly or indirectly;
by any person from the commission of criminal conduct;"
- (f) deleting the definition of the words "relevant offence";
- (g) deleting the definition of the word "transaction" and substituting the following—
"transaction" includes —
 - (a) any deposit, withdrawal, exchange or transfer of funds in any currency whether in cash or by cheque, payment order or other instrument or by electronic or other non-physical means;
 - (b) any payment made or received in satisfaction in whole or in part of any contractual or legal obligation;
 - (c) a matter between the holders of a joint account relating to the joint account;
 - (d) entering into a fiduciary relationship;
 - (e) an internet transaction;
 - (f) opening of a joint account where the purpose of the account is to facilitate a transaction between the holders of the joint account;
 - (g) opening of an account; and
 - (h) the purchase of anything or service including any service provided by a financial institution or person engaged in other business activity;
- (h) deleting the definition of the words "transaction record" and substituting the following —
"transaction record" includes where relevant to a transaction —
 - (a) the identification records of a person who is a party to a transaction;

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- (b) a description of the transaction sufficient to identify the date, purpose and method of execution;
- (c) the details of any account used for a transaction including the name of the financial institution or person engaged in other business activity, address and sort code;
- (d) the total value of die transaction;
- (e) the name and address of the employee in the financial institution or person engaged in other business activity who prepared the transaction record;
- (f) all business correspondence relating to the transaction;
- (g) documents relating to the background and purpose of the transaction. "

Amendment of section 6

4. Section 6(1) of the principal Act is amended by—

- (a) inserting the words "whether or not a suspicious transaction report has been made by the financial institution or person engaged in other business activity" between the word "activity" and the semi-colon in paragraph (a);
- (b) deleting paragraph (h) and substituting the following —
 "(h) conduct an inspection of any financial institution or a person engaged in other business activity whenever in its judgment an inspection is necessary or expedient to determine compliance by the financial institution or person engaged in other business activity with the requirements of this Act or any instructions relating to money laundering given by the Authority;"
- (c) inserting immediately after subsection (2) the following new subsections (3) and (4) —
 "(3) A financial institution or person engaged in other business activity who fails to answer any question under subsection (1)(c) commits an offence and is liable on

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summary conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 10 years.

(4) For the purposes of subsection (1) (d) the expression "take a copy" includes making an electronic, a digital, microfiche copy or photocopy. "

Amendment of section 16

5. Section 16 of the principal Act is amended by —

(a) deleting subsection (1)(c) and substituting the following—

“(c) report to the Authority a transaction where the identity of a person involved in the transaction or the circumstances relating to the transaction gives an employee of the financial institution or person engaged in other business activity reasonable grounds to suspect that the transaction involves the proceeds of criminal conduct.”:

(b) inserting immediately after subsection (7) the following new subsection (7A) —

"(7A) A financial institution or person engaged in other business activity shall pay attention to —

- (a) all complex, unusual or large transactions, whether complicated or not:
- (b) electronic funds transfers that do not contain complete originator information:
- (c) insignificant but periodic transactions that have no apparent or visible economic or lawful purpose: and
- (d) relations and transactions with persons including businesses and other financial institutions from countries that have not adopted comprehensive and effective money laundering systems."

Insertion of new section 16A

6. The principal Act is amended by inserting immediately after section 16 the following new section 16A –

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"Standard for reasonable suspicion

16A. The question whether a reasonable suspicion for the purposes of section 16 has been formed shall be determined objectively having regard to all the facts and surrounding circumstances."

Amendment of section 17

7. Section 17 of the principal Act is amended by —

- (a) deleting the word "when" in subsection (1)(d);
- (b) deleting subsection (4)(c) and substituting the following

"(c) obtaining information on and examining as far as possible the background, purpose and intended nature of the business relationship;"

Amendment of section 21

8. Section 21 of the principal Act is amended by—

- (a) inserting the designation "(1)" before the word "Subject";
- (b) inserting immediately after subsection (1) the following new subsection (2) —

"(2) A person who makes a false declaration in a source of funds declaration commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 5 years."

Amendment of section 22

9. Section 22 of the principal Act is amended by —

- (a) deleting the word "or" which appears at the end of paragraph (b)(ii):
- (b) substituting the full stop at the end of paragraph (b)(iii) with a semi-colon;
- (c) inserting immediately after paragraph (b)(iii) the following new paragraph (b)(iv) and (v) —

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- "(iv) a financial institution or person engaged in other business activity has failed without reasonable excuse to file a report as provided by sections 16(1) (d) or (k), or
- (v) a financial institution or person engaged in other business activity has failed without reasonable excuse to comply with any instruction or written warning."

Amendment of section 23

10. Section 23(3) of the principal Act is amended by deleting the words "72 hours" wherever it appears and substituting the words "7 days".

Amendment of section 28

11. Section 28 of the principal Act is amended by—

- (a) deleting subsection (1) and substituting the following—

"(1) A person shall not—

- (a) bring into or remove from Saint Lucia;
- (b) disguise, conceal, invest, manage or engage in any transaction in Saint Lucia of; or
- (c) convert or transfer,

any property which in whole or in part directly or indirectly represents the proceeds of criminal conduct."

- (b) deleting subsection (2) and substituting the following —

"(2) In proceedings against a person for an offence under subsection (1), it is a defence to prove that the person was carrying out a function relating to the enforcement of any provision of this Act.":

- (c) inserting immediately after subsection (2) the following new subsection (3)—

"(3) For the purposes of subsection (1), "disguise or conceal" includes disguising or concealing the disposition, location, movement, nature, ownership or any right of the property."

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Amendment of section 29

12. Section 29 of the principal Act is amended by deleting subsection (1I) and substituting the following –

"(1) Subject to subsections (3) and (4) a person commits an offence where he or she enters into or becomes concerned in an arrangement which he or she knows or suspects facilitates the acquisition, control, retention or use of the proceeds of criminal conduct on behalf of another person."

Insertion of new sections 33A and 33B

13. The principal Act is amended by inserting immediately after section 33 the following new sections 33A and 33B —

"Restrictions on conviction for money laundering offence

33A A person who has been convicted of a money laundering offence, whether in Saint Lucia or elsewhere is not eligible to be licensed to carry out the business of a financial institution or other business activity or in any manner whatsoever participate in the ownership, management or control of a financial institution or other business activity.

Suspension or revocation of licence by order of the court

33B (1) Where a financial institution or a person engaged in other business activity is convicted of an offence under this Act, the Court may in addition to any other penalty order the suspension or revocation of the licence to operate.

(2) In this section "licence" means a licence, registration, recognition or entitlement to practice or operate issued or granted under any law governing the financial institution or other business activity."

Insertion of new section 40A

14. The principal Act is amended by inserting immediately after section 40 the following new section 40A —

"Prosecution of summary offences

40A. Notwithstanding any other law, subject to the fiat of the Director of Public Prosecutions, the prosecution of a

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summary offence under this Act may be commenced at any time within 6 years of the commission of the offence."

Repeal of Schedule 1

15. Schedule 1 of the principal Act is repealed.

Amendment of Schedule 2

16. Schedule 2 of the principal Act is amended by—

(a) adding at the end of Part A the following—

"The Saint Lucia Development Bank established under the Saint Lucia Development Bank Act, Cap. 12.02;

(b) deleting paragraphs 32 and 33 in Part B and substituting the following —

"32. 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;
and
- (e) raising contributions for the creation, operation or management of companies.

33. 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;
and
- (e) raising contributions for the creation, operation or management of companies."

No. 20] *Money Laundering (Prevention) (Amendment) Act* [2016.

Passed in the House of Assembly this 8th day of November, 2016.

LEONNE THEODORE-JOHN,
Speaker of the House of Assembly.

Passed in the Senate this 15th day of November, 2016.

ANDY G. DANIEL,
President of the Senate.