

SAINT LUCIA

No. 8 of 2010

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No. 8] *Money Laundering (Prevention) Act* [2010.

I ASSENT

[L.S.] PEARLETTE LOUISY,
Governor-General.

January 25, 2010.

SAINT LUCIA

No. 8 of 2010

AN ACT to consolidate the law relating to money laundering and for related matters.

[1st February, 2010]

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:

PART 1
PRELIMINARY

Short title

1. This Act may be cited as the Money Laundering (Prevention) Act 2010.

Interpretation

2.—(1) In this Act —

“account” means a facility by which a financial institution or person engaged in other business activity —

- (a) accepts deposits of money;
- (b) allows withdrawals or transfers of money;
- (c) pays or collects cheques or payment orders drawn on a financial institution or person engaged in other business activity by a person or on behalf of a person; or
- (d) supplies a safety deposit box;
- (e) engages in any other activity for and on behalf of an account holder;

“Advisory Council on Misuse of Drugs” means the Advisory Council on the Misuse of Drugs established under the Drugs (Prevention of Misuse) Act, Cap. 3.02 or any enactment replacing it;

“Authority” means the Financial Intelligence Authority continued under section 4;

“Court” means the High Court;

“criminal conduct” means —

- (a) drug trafficking; or
- (b) any relevant offence;

“Director” means the Director of the Financial Intelligence Authority appointed under section 4;

“document” includes –

- (a) a thing on which there is writing, marks, figures, symbols or perforations, having a meaning for a person qualified to interpret the writing, marks, figures, symbols or perforations;
- (b) a thing from which sounds, images or writing may be reproduced; and
- (c) a map, plan, drawing or photograph;

“drug trafficking offence” means –

- (a) possession of a controlled drug for the purpose of supplying contrary to section 8(3) of the Drug (Prevention of Misuse) Act, Cap. 3.02;
- (b) trafficking in a controlled drug contrary to section 16 of the Drug (Prevention of Misuse) Act, Cap. 3.02;
- (c) assisting another to retain the benefit of drug trafficking contrary to section 17 of the Drug (Prevention of Misuse) Act, Cap. 3.02;

“Financial Action Task Force” means the inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing;

“financial institution” means a financial institution listed in Part A of Schedule 2;

“Foreign Financial Intelligence Unit” means a body or bodies outside of Saint Lucia which performs functions similar to the Authority;

“forfeiture” means the permanent deprivation of property by order of a court or other competent authority;

“forfeiture order” means an order made under section 24;

“freeze” means to temporarily prohibit the transfer, conversion, disposition or movement of property or to temporarily assume custody or control of property on the basis of an order by a court or other competent authority;

“freezing order” means an order made under section 23;

“guidance notes” means guidance notes issued by the Authority pursuant to section 6(f);

“identification record” means –

(a) documentary evidence to prove the identity of a person who is a nominee, agent, beneficiary or principal in relation to a transaction; or

(b) in the case where the person is a corporate body –

(i) incorporated in Saint Lucia, the certificate of incorporation of that body;

(ii) incorporated outside of Saint Lucia, the authenticated certificate of incorporation or equivalent document of that body;

(iii) the most recent annual return to the Registrar of the Court in Saint Lucia where the corporate body is incorporated abroad; or

(iv) documentary evidence to prove the identity of an officer of the corporate body;

“joint account” means an account held by 2 or more persons;

“Minister” means the Attorney General;

“other business activity” means the business activities listed in Part B of Schedule 2;

“person” includes a body corporate and an unincorporated body;

“proceeds” means any property that is derived, obtained or realised, directly or indirectly, by any person from the commission of criminal conduct;

“proceeds of criminal conduct” means the property derived from or property mingled with the proceeds of criminal conduct;

“property” includes money, movable or immovable property, corporeal or incorporeal property and an interest in property;

“requesting State” means a State which makes a request to Saint Lucia for assistance under the Mutual Assistance in Criminal Matters Act, Cap. 3.03 or any enactment replacing it;

“relevant offence” means –

- (a) any indictable offence or an offence triable both summarily or on indictment in Saint Lucia;
- (b) an offence listed in Schedule 1;

“transaction” includes –

- (a) opening of a joint account where the purpose of the account is to facilitate a transaction between the holders of the joint account;
- (b) a transaction between the holders of a joint account relating to the joint account;
- (c) the making of a gift;
- (d) the purchase of anything including services;
- (e) wire transfers;
- (f) deposits in an account;
- (g) internet transactions;

“transaction record” includes –

- (a) the identification records of a person who is a party to a transaction;
- (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 the 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.

(2) A reference in this Act to a document includes a reference to –

- (a) part of a document; and
- (b) a copy, reproduction or duplicate of the document, or of part of the document.

Jurisdiction to try offences under this Act

3. – (1) The Court has jurisdiction to try an offence under this Act if the act or omission constituting the offence is committed in Saint Lucia.

(2) For the purposes of subsection (1), an act or omission committed outside Saint Lucia and which would, if committed in Saint Lucia constitute an offence under this Act, is deemed to have been committed in Saint Lucia if –

- (a) the person committing the act or omission is –
 - (i) a citizen of Saint Lucia,
 - (ii) not a citizen of Saint Lucia but is ordinarily resident in Saint Lucia;
- (b) the person committing the act or omission is present in Saint Lucia and cannot be extradited to a foreign State having jurisdiction over the offence constituted by the act or omission;
- (c) the act or omission is committed against a citizen of Saint Lucia;

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- (d) the act or omission is committed against property belonging to the Government of Saint Lucia outside Saint Lucia; or
- (e) the person who commits the act or omission is, after its commission, present in Saint Lucia.

PART 2

CONTINUATION, FUNCTIONS AND POWERS OF AUTHORITY

Continuation of Authority

4. – (1) There continues to be a body to be known as the Financial Intelligence Authority.

(2) The Authority consists of 5 persons appointed for a term of two years by the Minister as follows –

- (a) a Chairperson;
- (b) a representative of the Financial Sector Supervision Unit;
- (c) a representative from the Attorney General's Chambers;
- (d) a person with expertise in the area of law enforcement;
- (e) a person with expertise in the area of accounting.

(3) The Authority must be serviced by a secretariat comprising –

- (a) the Director who is the Chief Executive Officer of the Authority;
- (b) such number of police officers, customs officers, inland revenue officers or persons from the private sector having suitable qualifications and experience to serve as financial investigators;
- (c) such other general support personnel as the Authority considers necessary.

(4) A police officer, customs officer or inland revenue officer that services the secretariat under subsection (3) retains the powers provided –

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- (a) in the case of a police officer, under the Police Act, Cap. 14.01 and the Criminal Code, Cap. 3.01;
- (b) in the case of a customs officer, under the Customs (Control and Management) Act, Cap. 15.05;
- (c) in the case of an inland revenue officer, under the Income Tax Act, Cap. 15.02.

(5) The Authority shall appoint a Director on such terms and conditions as the Authority may determine.

(6) The Authority may, with the approval of the Minister, in writing, appoint consultants having suitable qualifications and experience to provide services to the Authority.

Functions of the Authority

5. – (1) In the exercise of its functions under subsection (2), the Authority shall act as the agency responsible for receiving, analyzing, obtaining, investigating and disseminating information which relates to or may relate to the proceeds of criminal conduct under this Act and offences under the Proceeds of Crime Act, Cap. 3.04 or any enactment replacing it.

(2) Without limiting the provisions of subsection (1) and despite any other law to the contrary, the Authority –

- (a) shall collect, receive and analyze reports and information submitted to the Authority by a financial institution and a person engaged in other business activity under this Act and the Proceeds of Crime Act, 3.04 from the Customs and Excise Department, Inland Revenue Department, from the Royal Saint Lucia Police Force and from a Foreign Financial Intelligence Unit;
- (b) shall advise the Minister in relation to the detection and prevention of money laundering, terrorism and terrorist financing in Saint Lucia;

- (c) shall advise the Minister of the work of the Authority and in particular on matters that could affect public policy or the priorities of the Authority;
- (d) prepare and submit interim reports every 3 months reviewing the work of the Authority.
- (e) may disseminate information to the Commissioner of Police or the Director of Public Prosecutions;
- (f) shall retain the record of all information that it receives for a minimum period of 5 years;
- (g) may provide information relating to suspected money laundering or information relating to a suspicious activity report to any Foreign Financial Intelligence Unit subject to the conditions the Authority may consider appropriate;
- (h) may enter into any agreement or arrangement, in writing, with any Foreign Financial Intelligence Unit which is considered by the Authority to be necessary or desirable for the discharge or performance of its functions;
- (i) shall compile statistics or records;
- (j) may consult with any person, institution or organization for the purpose of performing its functions or exercising its powers under this Act;
- (k) shall advise a financial institution and a person engaged in other business activity of the obligations under measures that have been or might be taken to detect, prevent and deter the commission of offences under the Proceeds of Crime Act, 3.04 or any enactment replacing it;
- (l) shall advise the Minister as to the participation of Saint Lucia in the international effort against money laundering and financing of terrorism;
- (m) may do any other matter incidental to its functions under this section.

Powers of the Authority

6. – (1) For purposes of carrying out its function under section 5, the Authority has the power to –

- (a) enter into the premises of a financial institution or person engaged in other business activity during normal working hours and inspect a transaction record kept by the financial institution or person engaged in other business activity;
- (b) require from any person, institution or organization the production of any information that the Authority considers relevant to the fulfillment of its functions;
- (c) ask questions relevant to a transaction record inspected under paragraph (a);
- (d) make notes or take a copy of part or all of the transaction record inspected under paragraph (a);
- (e) instruct a financial institution or person engaged in other business activity to take steps as may be appropriate to facilitate an investigation by the Authority;
- (f) issue from time to time guidelines to financial institutions or persons engaged in business activity as to compliance with this Act and Regulations made under this Act;
- (g) interview and take statements from any person in relation to a money laundering offence;
- (h) inspect and conduct audits of a financial institution or a person engaged in other business activity to ensure compliance with this Act.

(2) Any person failing or refusing to provide the information as is required under subsection (1)(b) commits an offence and is liable on summary conviction, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 10 years or both.

Additional functions

7. In addition to its functions under section 5, the Authority shall –

- (a) report to the Commissioner of Police and Director of Public Prosecutions information derived from an inspection carried out under section 6 if, on the basis of the information the Authority has reasonable grounds to suspect that a transaction involves the proceeds of criminal conduct;
- (b) within 5 years after an inspection, destroy a note or copy of a note made under section 6 except where the note or copy has been sent to the Commissioner of Police and the Director of Public Prosecutions;
- (c) receive any report issued by a financial institution or a person engaged in other business activity under section 6;
- (d) create training requirements and facilitate, with the co-operation of a financial institution or person engaged in other business activity, the training for a financial institution or person engaged in other business activity in respect of transaction record keeping or reporting obligations required by this Act.

Investigation

8.—(1) The Authority shall not conduct an investigation into a financial institution or a person engaged in other business activity other than for the purpose of ensuring compliance by the financial institution or the person engaged in other business activity with this Act.

(2) The Authority may conduct an investigation into a financial institution or a person engaged in other business activity if the Authority has reasonable grounds to suspect that a transaction involves the proceeds of criminal conduct or attempted transaction involves the proceeds of criminal conduct regardless of the amount of the transaction whether or not a suspicious transaction report is made by the financial institution or person engaged in other business activity.

Revenue of Authority

9. The revenue of the Authority consists of –
- (a) revenues allocated from the Consolidated Fund;
 - (b) grants from international funding or financial agencies; and
 - (c) any other money lawfully contributed, donated, or bequeathed to the Authority from any legitimate source.

Expenses of Authority

10. The expenses of the Authority, including the remuneration of members and staff must be paid out of the revenue of the Authority.

Financial year

11. The financial year of the Authority is the twelve months ending on 31 March in any year.

Annual Report

12. – (1) The Authority shall prepare and submit to the Minister on or before 1 June in each year or such other later time as the Minister directs, an annual report reviewing the work of the Authority;

(2) The Minister shall lay or cause to be laid a copy of every annual report in Parliament.

Annual Budget

13. The Authority shall prepare for each financial year an annual budget of revenue and expenditure which the Authority shall submit to the Minister at least 3 months prior to the commencement of the financial year.

Accounts and audit

14. – (1) The Authority shall keep proper accounts and other records in relation to the Authority in accordance with generally

accepted international standards, and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts of the Authority for each financial year shall be audited by an auditor to be appointed by the Director with the approval of the Minister.

(3) An auditor appointed pursuant to subsection (2) shall conduct the audit in accordance with generally accepted international auditing standards and principles.

(4) The Board, the Director and staff of the Authority shall grant to the auditor appointed pursuant to subsection (2) access to all books, deeds, contracts, accounts, vouchers, or other documents which the auditor may deem necessary and the auditor may require the person holding or accountable for such document to appear, make a signed statement or provide such information in relation to the document as the auditor deems necessary.

(5) A person required to appear, make a signed statement or to provide information under subsection (4) and who fails to comply commits an offence and upon summary conviction is liable to a fine not exceeding \$3,000.00 or to imprisonment for a term not exceeding 6 months or to both and to revocation of his or her appointment as a member of the Board, the Director or staff of the Authority in accordance with this Act.

(6) As soon as the accounts have been audited the Authority shall submit a copy to the Minister and a copy of any report made by the auditor.

(7) The Minister shall lay or cause to be laid a copy of the audited accounts in Parliament.

PART 3
PREVENTION MEASURES

Customer identity

15.—(1) A financial institution or a 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 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.

(2) A financial institution or a person engaged in other business activity shall establish and maintain identification procedures that require –

- (a) an applicant for a type of business mentioned in subsection (3) to produce satisfactory evidence of his or her identity, in accordance with the guidance notes, as soon as practicable after first making contact with the financial institution or person engaged in other business activity;
- (b) if satisfactory evidence is not obtained, that the business in question must not proceed any further or, in relation to a type of business mentioned in subsection (3)(d) shall only proceed in accordance with any direction, by the Authority.

(3) This section applies to the following types of business –

- (a) the forming of a business relationship;
- (b) a one-off transaction where payment is to be made by or to the applicant of \$10,000 or more;
- (c) two or more one-off transactions that –
 - (i) appear to a person handling the transaction on behalf of the regulated institution to be linked; and
 - (ii) in respect of which, the total amount payable by or to the applicant is \$10,000 or more;

(d) where in respect of a one-off transaction a person handling the transaction on behalf of the financial institution or person engaged in other business activity knows or suspects -

- (i) that the applicant is engaged in money laundering;
or
- (ii) that the transaction is carried out on behalf of another person engaged in money laundering.

(4) If an applicant for business is introduced to a financial institution or person engaged in other business activity by another financial institution or person engaged in other business activity; a written assurance from the introducing financial institution or person engaged in other business activity to the effect that evidence of the identity of the applicant has been obtained and recorded under procedures maintained by the introducing financial institution or person engaged in other business activity is satisfactory evidence of identity for the purpose of subsection (2).

(5) Where an applicant for business is introduced to a financial institution or person engaged in other business activity by another financial institution or person engaged in other business activity a written assurance must be given that information as to identity will be exchanged in the event that the Authority requests that information to assist in a criminal investigation.

(6) Where a person requests a financial institution or a person engaged in other business activity to enter into a transaction, the financial institution or person engaged in other business activity shall take reasonable measures to establish whether the person is acting on behalf of another person.

(7) Where it reasonably appears to a financial institution or a 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 a person engaged in other

business activity shall 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.

(8) If an applicant for business in a case mentioned in subsection (4) is another financial institution or person engaged in other business activity or a foreign regulated institution, it is reasonable for the financial institution or person engaged in other business activity to accept a written assurance from the applicant for business to the effect that evidence of the identity of the principal has been obtained and recorded under procedures maintained by the applicant for business.

(9) In determining what constitutes reasonable measures for the purposes of this section, a financial institution or a person engaged in other business activity shall have regard to the guidance notes and all the circumstances of the case and in particular –

- (a) as to whether the person is resident or is a corporate body incorporated in a country in which there are in force provisions applicable to it to prevent the use of a financial institution or a person engaged in other business activity for the purpose of money laundering; or
- (b) to custom or practice current to the relevant business.

(10) Nothing in this section requires the production of identity records where –

- (a) the applicant is a financial institution to which this Act applies; or
- (b) there is a transaction or series of transactions taking place in the course of an established business relationship, in respect of which the applicant has already produced satisfactory evidence of identity.

(11) In this section –

“applicant for business” means a person seeking to enter into a transaction, from a business relationship or carry out a one-off transaction, with a financial institution or person engaged in other business activity;

“business relationship” means an arrangement between any person, a financial institution or person engaged in other business activity, the purpose of which is to facilitate the carrying out of financial and other related transactions on a regular basis;

“established business relationship” means a business relationship in relation to which the financial institution or person engaged in other business activity has obtained evidence of identity of the applicant for business regarded by this section;

“one-off transactions” means a transaction carried out other than in the course of an established business relationship.

Responsibility of financial institution or person engaged in other business activity

16.—(1) A financial institution or a person engaged in other business activity shall –

- (a) establish and maintain transaction records for both domestic and international transactions for a period of seven years after the completion of the transaction recorded;
- (b) where evidence of a person’s identity is obtained in accordance with section 15, establish and maintain a record that indicates the nature of the evidence obtained and which comprises either a copy of the evidence or information as would enable a copy of it to be maintained;
- (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 or an attempted transaction involves the proceeds of criminal conduct regardless of the amount of the transaction;

- (d) report to the Authority where accounts and business relationships are terminated or closed because the financial institution or person engaged in other business activity is unable to satisfy itself as to the background and purpose of the transaction;
- (e) comply with an instruction issued to it by the Authority under section 6(e);
- (f) permit a member of the Authority to enter into any premises of the financial institution or a person engaged in other business activity during normal working hours; and –
 - (i) inspect the transaction records kept under paragraph (a),
 - (ii) make notes or take a copy of the whole or part of the transaction record,
 - (iii) answer any questions from the Authority in relation to the transaction record;
- (g) develop and apply internal policies, procedures or controls to combat money laundering and terrorist financing, and develop audit functions to evaluate the internal policies, procedures or controls;
- (h) develop and apply policies and procedures to address specific risks associated with non-face-to-face business relationships or countries that do not apply the Financial Action Task Force Recommendations;
- (i) comply with the guidelines or training requirements issued by the Authority in accordance with this Act;
- (j) develop a procedure to audit compliance with this section;

- (k) 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;
- (l) upon the request of the Authority, report to the Authority all currency transactions in excess of \$25,000.00;
- (m) report to the Authority complex transactions or unusual transactions;
- (n) appoint a Compliance Officer at the management level who must be a fit and proper person approved by the financial institution or person engaged in other business activity;
- (o) develop programmes against money laundering and terrorist financing and the programme must include:
 - (i) the development of internal policies, procedures and controls, including appropriate compliance management arrangements, and adequate screening procedures to ensure high standards when hiring employees;
 - (ii) an ongoing employee training programme;
 - (iii) an audit function to test the system.

(2) Where a financial institution or a person engaged in other business activity discloses information to the Authority in accordance with this Act, but in breach of another enactment or a contract, the financial institution or a person engaged in other business activity, the director or employees of the financial institution or person engaged in other business activity are not liable for the breach.

(3) Where a financial institution or a person engaged in other business activity makes any report pursuant to subsection (1) the financial institution or a person engaged in other business activity and the employees, staff, directors, owners or other representatives of the financial institution or person engaged in

other business activity shall not disclose to the person who is the subject of the report or to anyone else –

- (a) that the financial institution or person engaged in other business activity has formed a suspicion;
- (b) that information has been communicated to the Authority; or
- (c) any other information from which the person to whom the information is disclosed could reasonably be expected to infer that the suspicion had been formed or that a report had been made under subsection (1).

(4) Where a financial institution or a person engaged in other business activity acts in contravention of subsection (3), a person who, at the time of the commission of the offence, acted or purported to act in an official capacity for or on behalf of the financial institution or person engaged in other business activity, commits an offence and is liable on summary conviction to a fine of not less than \$100,000 and not exceeding \$500,000 or to imprisonment for a term of not less than 7 years and not exceeding 15 years or both.

(5) A financial institution or a person engaged in other business activity shall keep a record in the true name of the account holder.

(6) In any case where the Authority has notified a financial institution or a person engaged in other business activity in writing that particular records are or may be relevant to an investigation that is being carried out, records must be retained pending the outcome of the investigation.

(7) A financial institution or person engaged in other business activity shall keep a record –

- (a) if the record relates to the opening of an account with the financial institution for a period of 7 years after the day on which the account is closed;

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- (b) if the record relates to the renting by a person of a deposit box held by the financial institution, for a period of 7 years after the day on which the deposit box ceases to be used by the person; or
- (c) in any other case, for a period of 7 years after the day on which the transaction recorded takes place.

(8) A financial institution or a person engaged in other business activity shall keep all records or copies of records in a form that will allow retrieval in legible form of the records within a reasonable period of time in order to reconstruct the transaction for the purpose of assisting the investigation and prosecution of a suspected money laundering offence.

(9) A financial institution or a person engaged in other business activity that contravenes subsection (8) commits an offence and is liable on summary conviction to a fine of not less than \$100,000 and not exceeding \$500,000 or to imprisonment for a term of not less than 7 years and not exceeding 15 years or both.

Customer due diligence

17.—(1) A financial institution or a person engaged in other business activity shall undertake customer due diligence measures —

- (a) when there is doubt about veracity or adequacy of previously obtained customer identification data;
- (b) including identifying and verifying the identity of customers, when —
 - (i) establishing business relations;
 - (ii) carrying out occasional transactions above \$25,000.00 or that are wire transfers;
 - (iii) on funds transfers and related messages that are sent;
 - (iv) suspicious activity funds transfers which do not contain complete originator information;

- (v) there is a suspicion of money laundering or terrorist financing.

(2) A financial institution or a person engaged in other business activity shall ensure that any document, data or information collected under the customer due diligence process is kept up-to-date and relevant by undertaking routine reviews of existing records particularly for high risk categories of customers or business relationships.

(3) A financial institution or person engaged in other business activity shall provide for –

- (a) performing enhanced due diligence for higher risk categories of customer, business relationship or transaction;
- (b) applying reduced or simplified measures where there are low risks of money laundering, where there are risks of money laundering or terrorist financing or where adequate checks and controls exist in national system respectively;
- (c) applying simplified or reduced customer due diligence to customers resident in another country which is in compliance and have effectively implemented the Financial Action Task Force recommendations.

(4) The customer due diligence measures to be taken under this section are as follows:

- (a) subject to subsection (11), identifying a customer and verifying a customer's identity using reliable, independent source documents, data or information;
- (b) subject to subsection (11), identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that the financial institution is satisfied that it knows who the beneficial owner is and for legal persons and arrangements this should include financial institutions taking reasonable measures to understand the ownership and control structure of the customer;

- (c) obtaining information on the purpose and intended nature of the business relationship;
- (d) conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the financial institution's knowledge of the customer, their business and risk profile, including, where necessary, the source of funds.

(5) A financial institution or person engaged in other business activity shall apply each of the customer due diligence measures under subsection (4)(a) to (d), but may determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship or transaction.

(6) Where the financial institution or person engaged in other business activity is unable to comply with paragraphs (a) to (c) of subsection (4), the financial institution or person engaged in other business activity shall not open the account, commence business relations or perform the transaction; or shall terminate the business relationship; and shall consider making a suspicious transaction report in relation to the customer.

(7) A financial institution or person engaged in other business activity may rely on intermediaries or other third parties to perform paragraphs (a) - (c) of subsection (4) of the customer due diligence process or to introduce business, provided that the criteria set out in subsection (8) are met.

(8) The criteria that should be met for the purposes of subsection (7) are as follows:

- (a) a financial institution or a person engaged in other business activity relying upon an intermediary or third party shall immediately obtain the necessary information in paragraphs (a) - (c) of subsection (4) of the customer due diligence process;

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- (b) a financial institution or a person engaged in other business activity shall take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to the customer due diligence requirements will be made available from the intermediary or third party upon request without delay;
- (c) a financial institution or a person engaged in other business activity shall satisfy itself that the intermediary or third party is regulated and supervised for, and has measures in place to comply with the customer due diligence requirements.

(9) For higher risk categories, a financial institution or person engaged in other business activity shall perform enhanced due diligence.

(10) Where there are low risks, a financial institution or person engaged in other business activity may apply reduced or simplified measures.

(11) A financial institution or person engaged in other business activity shall verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers.

(12) A financial institution or person engaged in other business activity shall complete the verification as soon as reasonably practicable following the establishment of the relationship, where the money laundering risks are effectively managed and where this is essential not to interrupt the normal conduct of business.

(13) The measures that are taken by the financial institution or person engaged in other business activity must be consistent with any guidelines issued by the Authority.

(14) This section applies to all new customers and existing customers on the basis of materiality and risk, and a financial

institution or person engaged in other business activity may conduct customer due diligence on existing relationships at appropriate times.

(15) Where a financial institution or person engaged in other business activity relies on intermediaries or other third parties pursuant to subsection (14), the ultimate responsibility for customer identification and verification remains with the financial institution or person engaged in other business activity relying on the third party.

Politically exposed persons

18. A financial institution or a person engaged in other business activity shall –

- (a) document money laundering and terrorist financing policies and procedures and appropriate risk management systems;
- (b) create policies and procedures that deal with politically exposed persons;
- (c) configure information technology systems to identify politically exposed persons;
- (d) ensure that transactions relating to politically exposed persons are authorized by senior management;
- (e) ensure that source of funds and source of wealth are determined for politically exposed persons;
- (f) enhance customer due diligence that must be performed on an on-going basis on all accounts held by politically exposed persons.

Internal reporting procedures

19. A financial institution or a person engaged in other business activity shall establish and maintain internal reporting procedures to –

- (a) identify persons at the management level to whom an employee is to report information which comes to the

employee's attention in the course of employment that a person may be engaged in money laundering;

- (b) enable a person identified in accordance with paragraph (a) to have reasonable access to all information that may be relevant to determining whether sufficient basis exists to report the matter under section 16(1)(c);
- (c) require the person referred to in paragraph (b) to report the matter under section 16(1)(c) in the event that the person determines that sufficient basis exists.

Further precautionary measures

20. A financial institution or a person engaged in other business activity shall –

- (a) take appropriate measures for the purpose of making its employees aware of the law in force in Saint Lucia relating to money laundering and the procedures or policies established and maintained by the institution or business under this Part;
- (b) provide its employees with appropriate training in the recognition and handling of money laundering transactions.

Transactions exceeding \$25,000

21. – (1) A person who enters into a transaction with a financial institution or a person engaged in other business activity exceeding \$25,000.00 shall fill out a source of fund declaration in the prescribed form.

(2) A person who knowingly makes a false declaration as to the source of funds commits an offence and is liable on conviction to a fine not exceeding \$50,000.00 or imprisonment for a term not exceeding 5 years or to both.

Warrants to search or seize

22. A magistrate may, in accordance with the Criminal Code, or any enactment replacing it, issue to a police officer a warrant –

- (a) to enter premises belonging to or in the possession or control of a financial institution or a person engaged in other business activity or an employee of a financial institution or a person engaged in other business activity;
- (b) to search the premises and remove any document, material or other thing on the premises if the magistrate is satisfied by evidence on oath that there are reasonable grounds to believe that—
 - (i) a financial institution or a person engaged in other business activity has failed to keep a transaction record as required by section 16(1)(a),
 - (ii) a financial institution or a person engaged in other business activity has failed to comply with section 16(1)(b), or
 - (iii) an employee of a financial institution or a person engaged in other business activity is committing, has committed or is about to commit an offence under this Act.

PART 4

FREEZING AND FORFEITURE OF PROPERTY

Freezing of property

23.—(1) The Court may, upon an *ex parte* application by the Director of Public Prosecutions, where the Court is satisfied that a person charged or who is about to be charged with an offence under this Act or for whom an arrest warrant for an offence under this Act has been issued, grant an order freezing the property of, or in the possession or under the control of that person or from whom an arrest warrant for an offence under this Act has been issued.

(2) The Court may, in making a freezing order give directions with regard to—

- (a) the duration of the freezing order; or
- (b) the disposal of the property for the purpose of—

- (i) determining a dispute relating to the ownership of or other interest in the property or a part of the property,
- (ii) the proper administration of the property during the period of freezing,
- (iii) the payment of debts incurred in good faith prior to the making of the freezing order,
- (iv) the payment of money to a person referred to in subsection (1) for the reasonable subsistence of that person and that person's family, or
- (v) the payment of the costs of a person referred to in subsection (1) to defend criminal proceedings against that person.

(3) A freezing order ceases to have effect after 72 hours of the freezing order being made if the person against whom the freezing order was made has not been charged with an offence under this Act within the 72 hours.

(4) The Government is not liable for damages or costs arising directly or indirectly from the making of a freezing order under subsection (1) unless it is proved on a balance of probability that the application for the freezing order was made in bad faith.

(5) Where under subsection (2) a court gives a direction for the administration of frozen property, the person upon whom the duty to administer the property is imposed is not liable –

- (a) for any loss or damage to the property;
- (b) for the costs of proceedings taken to establish a claim to the property; or
- (c) to a person having an interest in the property, unless the court in which the claim is made is of the opinion that the person has been negligent in respect of taking of custody or control of the property.

Forfeiture of property and Forfeiture Fund

24.—(1) The Director of Public Prosecutions shall apply to the Court for an order for the forfeiture of any property owned by, or in the possession or control of, a person who is convicted of an offence under this Act.

(2) Where an application is made under subsection (1) and the Court is satisfied that a person convicted of an offence under this Act owns or is in possession or control of property that is derived from the offence of money laundering, the Court shall grant the forfeiture order applied for.

(3) In determining whether or not property is derived from money laundering, the standard of proof required for the purposes of subsections (4) or (5) is on a balance of probabilities.

(4) Where it is proved that property which is the subject of a forfeiture order made under subsection (1) is not derived from money laundering, the Court shall return the property to the person.

(5) For the purposes of subsection (4), the burden of proof lies on the person who owns or is in possession or control of the property.

(6) In making a forfeiture order, the Court may give directions—

- (a) for the purpose of determining a dispute as to the ownership of or other interest in the property or a part of the property; and
- (b) as to the disposal of the property.

(7) Upon application to the Court by a person against whom a forfeiture order has been made under this section, the Court may require that a sum deemed by the Court to be the value of the property ordered to be forfeited, be paid by that person to the Court and upon satisfactory payment of that sum by that person, the property ordered to be forfeited shall be returned to that person.

(8) A fund to be known as the Forfeiture Fund must be established under the administration and control of the Accountant General.

(9) Forty percent of the proceeds from the sale of all property forfeited under this section must be deposited in the Forfeiture Fund.

(10) Fifty percent of all proceeds deposited in the Forfeiture Fund under subsection (9) must be allocated to the Authority to be used for the advancement of its work.

(11) Fifty percent of all proceeds deposited in the Forfeiture Fund under subsection (9) must be allocated to the Advisory Council on the Misuse of Drugs to be used for the advancement of its work.

Third party rights

25. – (1) An order referred to in section 23 or 24 applies without prejudice to the rights of a third party.

(2) The Registrar of the Court shall notify a third party who has a legitimate legal interest in property which is the subject of an order made under section 23 or 24 by publication of the order in the Gazette and at least one weekly newspaper published in Saint Lucia within 14 days of the order being made.

(3) A third party who has been notified under subsection (2), may make a claim to the Court against property which is the subject of an order made under section 23 or 24.

(4) The Court shall return the property or proceeds of the property to a third party, when it has been demonstrated to the satisfaction of the Court that –

(a) the third party has a legitimate legal interest in the property or proceeds of the property;

- (b) no participation, collusion or involvement with respect to a money laundering offence which is the subject of the proceedings can be imputed to the claimant;
- (c) the third party lacked knowledge and was not intentionally ignorant of the illegal use of the property or proceeds of the property;
- (d) the third party did not acquire any right in the property from a person proceeded against under circumstances that give rise to a reasonable inference that any right was transferred for the purpose of evading the forfeiture of the property or the proceeds of the property; and
- (e) the third party did all that could reasonably be expected to prevent the illegal use of the property, or proceeds of the property.

Application of sections 23 and 24

26. Sections 23 and 24 applies to property coming into the possession or under the control of a person on or after 26 January 2000.

PART 5
OFFENCES AND PENALTIES

Rules for establishing *actus reus*

27.—(1) For the purposes of this Act, conduct engaged in on behalf of a body corporate—

- (a) by a director, servant or agent of that body corporate within the scope of the director, servant or agent's authority; or
- (b) by a person at the direction or with the consent or agreement whether express or implied of a director, servant or agent of that body corporate where the giving of the direction, consent or agreement is within the scope of the authority of the director, servant or agent,

is deemed to have been engaged in by the body corporate.

(2) For the purposes of this Act, conduct engaged in on behalf of a person other than a body corporate—

- (a) by a servant or agent of that person reasonably within the scope of that person's authority; or
- (b) another person at the direction or within the consent or agreement whether express or implied of a servant or agent of that person, where the giving of the direction, consent or agreement is reasonably within the scope of the authority,

is deemed, for the purpose of this Act, to be engaged in by that person.

Concealing or transferring proceeds of criminal conduct

28.—(1) A person shall not -

- (a) conceal or disguise any property which is, or in whole or in part directly or indirectly represents, his or her proceeds of criminal conduct; or
- (b) convert or transfer that property, bring the property into or remove the property from Saint Lucia;

for the purpose of avoiding prosecution for a drug trafficking offence or relevant offence or the making or enforcement in his or her case of a confiscation order.

(2) A person shall not, knowing or having reasonable grounds to suspect that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of criminal conduct, he or she -

- (a) conceal or disguise that property; or
- (b) convert or transfer that property, bring the property into or remove the property from Saint Lucia;

for the purpose of assisting any person to avoid prosecution for a drug trafficking offence or relevant offence or the making or enforcement of a confiscation order.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable -

- (a) on summary conviction to a fine of not less than \$0.5 million and not exceeding \$1million or to imprisonment for a term of not less than 5 years and not exceeding 10 years or both;
- (b) on conviction on indictment to a fine of not less than \$1million and not exceeding \$2million or to imprisonment for a term of not less than 10 years and not exceeding 15 years or both.

Arranging with another to retain the proceeds of criminal conduct

29.—(1) Subject to subsection (3), a person shall not enter into or otherwise be concerned in an arrangement whereby -

- (a) the retention or control by or on behalf of another person (“A”) of A’s proceeds of criminal conduct is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or
- (b) A’s proceeds of criminal conduct -
 - (i) are used to secure that funds are placed at A’s disposal; or
 - (iii) are used for A’s benefit to acquire property.

(2) In this section, references to any person’s proceeds of criminal conduct include a reference to any property which in whole or in part directly or indirectly represented in his or her hands his or her proceeds of criminal conduct.

(3) Where a person discloses in good faith to a police officer a suspicion or belief that any funds or investments are derived from or used in connection with criminal conduct, or any matter on which such a suspicion or behalf is based -

- (a) the disclosure is not treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise and does not give rise to any civil liability; and

- (b) if he or she does any act in contravention of subsection (1) and the disclosure relates to the arrangement concerned, he or she does not commit an offence under this section if –
- (i) the disclosure is made before he or she does the act concerned and the act is done with the consent of a police officer; or
 - (ii) the disclosure is made after he or she does the act, but is made on his or her initiative and as soon as it is reasonable for him or her to make the disclosure.

(4) In proceedings against a person for an offence under this section, it is a defence to prove –

- (a) that he or she did not know or suspect that the arrangement related to any person's proceeds of criminal conduct;
- (b) that he or she did not know or suspect that by the arrangement the retention or control by or on behalf of A of any property was facilitated or, as the case may be, that by the arrangement any property was used as mentioned in subsection (1)(b); or
- (c) that –
 - (i) he or she intended to disclose to a police officer such a suspicion, belief or matter as is mentioned in subsection (3) in relation to the arrangement, but
 - (iii) there is reasonable excuse for his or her failure to make any such disclosure in the manner mentioned in subsection (3)(b).

(5) In the case of a person who was in employment at the time in question, subsections (3) and (4) have effect in relation to disclosures and intended disclosures to the appropriate person in accordance with any procedure established by his or her employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a police officer.

(6) A person who contravenes subsection (1) commits an offence and is liable –

- (a) on summary conviction to a fine of not less than \$0.5 million and not exceeding \$1million or to imprisonment for a term of not less than 5 years and not exceeding 10 years or both;
- (b) on conviction on indictment to a fine of not less than \$1million and not exceeding \$2million or to imprisonment for a term of not less than 10 years and not exceeding 15 years or both.

Acquisition, possession or use of proceeds of criminal conduct

30.—(1) A person shall not, knowing that any property is, or in whole or in part directly or indirectly represents, another person's proceeds of criminal conduct, acquire or use that property or have possession of the property.

(2) Subject to subsection (4) it is a defence to a charge of committing an offence under this section that the person charged acquired or used the property or had possession of the property for adequate consideration.

- (3) For the purposes of subsection (2) –
 - (a) a person does not acquire property for adequate consideration if the value of the consideration is significantly less than the value of the property; and
 - (b) a person does not use or have possession of property for adequate consideration if the value of the consideration is significantly less than the value of his or her use or possession of the property.

(4) The provision for any person of services or goods which are of assistance to him or her in criminal conduct is not treated as consideration for the purposes of subsection (2).

(5) Where a person discloses in good faith to a police officer a belief that any property is, or in whole or in part directly or

indirectly represents, another person's proceeds of criminal conduct, or any matter on which such a belief is based -

- (a) the disclosure is not treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise and does not give rise to any criminal, civil or administrative liability; and
- (b) if he or she does any act in relation to the property in contravention of subsection (1), he or she does not commit an offence under this section if -
 - (i) the disclosure is made before he or she does the act in question and the act is done with the consent of the police officer; or
 - (ii) the disclosure is made after he or she does the act, but is made on his or her initiative and as soon as it is reasonable for him or her to make the disclosure.

(6) For the purposes of this section, having possession of any property is taken to be doing an act in relation to the property.

(7) In proceedings against a person for an offence under this section, it is a defence to prove that -

- (a) he or she intended to disclose to a police officer such a belief or matter as is mentioned in subsection (5), but
- (b) there is reasonable excuse for his or her failure to make any such disclosure in the manner mentioned in subsection (5)(b).

(8) In the case of a person who was in employment at the time in question, subsections (5) and (7) have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with any procedure established by his or her employer as they have effect in relation to disclosures, and intended disclosures, to a police officer.

(9) A police officer or other person does not commit an offence under this section in respect of anything done by him or her in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other statutory provision relating to drug trafficking or relevant offences or the proceeds of criminal conduct.

(10) A person who contravenes subsection (1) commits an offence and is liable –

- (a) on summary conviction to a fine of not less than \$0.5 million and not exceeding \$1million or to imprisonment for a term of not less than 5 years and not exceeding 10 years or both;
- (b) on conviction on indictment to a fine of not less than \$1million and not exceeding \$2million or to imprisonment for a term of not less than 10 years and not exceeding 15 years or both.

Attempts, aiding, abetting, counselling, procuring and conspiracy

31. A person who attempts, aids, abets, counsels, or procures the commission of, or who conspires to engage in any offence under sections 28, 29 and 30 commits an offence and is liable –

- (a) on summary conviction to a fine not exceeding \$1million or to imprisonment for 5 years or both;
- (b) on conviction on indictment to a fine not exceeding \$2million or to imprisonment for 15 years or both.

Offence committed by a body of persons

32. Where an offence under sections 28, 29 and 30 is committed by a body of persons, whether corporate or incorporate, a person who, at the time of the commission of the offence, acted or purported to act in an official capacity for or on behalf of the body of persons, is regarded as having committed the offence and must be tried and punished accordingly.

Other offences

33.—(1) A person who has reasonable grounds to believe that an investigation into money laundering has been, is being, or is about to be made shall not prejudice the investigation by divulging that fact to another person.

(2) A person shall not, if that person is the subject of an order made under section 23, disclose the existence or operation of the order to any person except —

- (a) to a police officer named in the order;
- (b) to an officer or agent to the financial institution named in the order, for the purposes of ensuring that the order is complied with; or
- (c) for the purpose of obtaining legal advice or representation in relation to the order.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than \$50,000 and not exceeding \$250,000 or to imprisonment for a term not less than 5 years and not exceeding 10 years.

(4) A person who has reasonable grounds to believe that an investigation into money laundering has been or is being or is about to be made shall not prejudice the investigation by falsifying, concealing, destroying or otherwise disposing of or causing or permitting the falsification, concealment, destruction or disposal of a matter or thing that is or is likely to be material to the investigation.

(5) A person shall not falsify, conceal, destroy or otherwise dispose of or cause the falsification, concealment, destruction or disposal of a thing that is likely to be material to the execution of an order made under section 23 or 24.

(6) A person who contravenes subsection (4) or (5) commits an offence and is liable on summary conviction to a fine of not less than \$100,000 and not exceeding \$500,000 or to

imprisonment for a term of not less than 7 years and not exceeding 15 years or both.

(7) A financial institution or a person engaged in other business activity which fails to report a suspicious transaction as required by section 16(1)(i) commits an offence and is liable on indictment to a fine of \$500,000.

PART 6
MISCELLANEOUS

Mutual assistance

34.—(1) In this section—

“assistance” includes—

- (a) the providing of original or certified copies of relevant documents and records, including those financial institutions and government agencies obtaining testimony, in a requesting State of persons, including those in custody; to
- (b) the giving of testimony locating or identifying persons;
- (c) service of documents;
- (d) examining of objects or places;
- (e) the executing of searches and seizure; and
- (f) the providing of information and evidentiary items.

(2) The Authority shall co-operate with a court or other competent authority of a requesting State by taking the appropriate measures under this Act and within the limits of the requesting State’s legal system to provide assistance in matters concerning a money laundering offence.

(3) The Authority on receiving a request from a court or competent authority from a requesting State to freeze, seize or forfeit under this Act, property or a thing connected to a money laundering offence shall take appropriate measures.

Secrecy obligations overridden

35. Subject to the provisions of the Constitution the provisions of this Act shall have effect despite any obligation as to secrecy or other restriction upon disclosure or information imposed by law or otherwise.

Liability

36.—(1) An action must not be taken against the Authority, Minister, Director, officers or personnel of the Authority or any person acting under the direction of the Director for anything done or omitted to be done in good faith and in the administration or discharge of any functions, duties or powers under this Act.

(2) Notwithstanding the provisions of any Act an order for the provision of information, documents or evidence may not be issued in respect of the Authority or against the Minister, Director, officers or personnel of the Authority or any person engaged pursuant to this Act.

Criminal or civil liability for information

37.—(1) Proceedings for breach of banking or professional confidentiality may not be instituted against any person or against directors or employees of a financial institution or person engaged in other business activity who, in good faith, submit reports on suspicious activities to the Authority in accordance with this Act.

(2) Civil or criminal action may not be brought nor may any professional sanction be taken against any person or against directors or employees of a financial institution or a person engaged in other business activity who in good faith transmit information or submit reports to the Authority.

Confidentiality

38.—(1) A person who obtains information in any form as a result of his or her connection with the Authority shall not

disclose that information to any person except as far as it is required or permitted under this Act or other enactment.

(2) Any person who wilfully discloses information to any person in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 10 years or both.

Mandatory injunction

39.—(1) The employees of a financial institution or person engaged in other business activity shall take all reasonable steps to ensure the compliance by that financial institution or person engaged in other business activity with its obligations under this Act.

(2) The Court may, where it is satisfied upon application by the Director or the Director of Public Prosecutions that a financial institution or person engaged in other business activity has failed without reasonable cause to comply in whole or in part with an obligation imposed on the financial institution or person engaged in other business activity by section 16(1) issue a mandatory injunction against the financial institution or person engaged in other business activity in such terms as the Court considers necessary to enforce compliance with the obligation.

Compensation

40.—(1) Where upon the making of an application for a forfeiture order or a confiscation order the Court declines to make such an order, the Court shall on the application of a person who held realisable property order compensation to be paid to him or her if the requirements of subsection (2) are fulfilled.

(2) The Court shall order compensation to be paid if the Court is satisfied—

(a) that there has been some serious default in the investigation or conduct of the matter and that, but for

that default, the application would not have been instituted or continued; and

- (b) that the applicant has suffered substantial loss in consequence of anything done in relation to the property by or under an order of the Court under section 31.

(3) The amount of compensation to be paid under this section is such amount as the Court thinks just in all the circumstances.

(4) Compensation payable under this section must be paid out of the Consolidated Fund.

Application of Proceeds of Crime Act

41.—(1) The following provisions of the Proceeds of Crime Act, apply to this Act with modifications or adaptations as the circumstance require –

- (a) section 47 (relating to monitoring orders);
- (b) section 48 (relating to non-disclosure of monitoring orders);
- (c) sections 54-58 (relating to disclosure of income tax information); and
- (d) section 59 (relating to access to specified information and documents held by government departments or statutory boards).

(2) A reference in section 47 or 48 of the Proceeds of Crime Act to “financial institution” must be construed as a reference to “financial institution or person engaged in other business activity” in accordance with this Act.

Power to amend Schedules

42. The Minister may, by Order in the *Gazette*, amend Schedule 1 or Schedule 2.

Regulations

43.—(1) The Minister may make Regulations prescribing all matters –

No. 8] *Money Laundering (Prevention) Act* [2010.

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations prescribing the qualifications of the Director.

(3) Regulations made under subsection (1) may prescribe a penalty not exceeding \$1million or to imprisonment for a term not exceeding 15 years or both.

(4) Where a penalty is imposed for the same offence under this Act and the Regulations, the penalty specified under this Act prevails.

(5) Regulations made under subsection (1) are subject to negative resolution of the House of Assembly and the Senate.

Repeal

44. The Money Laundering (Prevention) Act, Cap. 12.20 is repealed.

Savings

45. Any regulations or orders made under the Money Laundering (Prevention) Act, Cap. 12.20 remain in force until such time that they are revoked under this Act.

No. 8] *Money Laundering (Prevention) Act* [2010.

SCHEDULE 1

(Section 2)

CRIMINAL CONDUCT

An offence under the –

Anti-Terrorism Act 2003, No. 36

Copyright Act, Cap. 13.07

Counter-Trafficking Act

Criminal Code, Cap. 3.01

Customs (Control and Management) Act, Cap. 15.05

Drugs (Prevention of Misuse) Act, Cap. 3.02

Fisheries Act, Cap. 7.15.

Income Tax Act, Cap. 15.02

Physical Planning and Development Act, Cap. 5.12.

Public Health Act, Cap. 11.01

Registered Agents and Trustee Licensing Act, Cap. 12.12

Securities Act, Cap. 12.18

SCHEDULE 2

(Section 2)

Part A**Financial Institutions**

A bank licensed under the Banking Act or any enactment replacing it;

A building society registered under the Building Societies Act or any enactment replacing it;

A credit union registered under the Co-operative Societies Act or any enactment replacing it;

An insurance company registered under the Insurance Act or any enactment replacing it;

A company that performs international financial services under the international financial services legislation in force in Saint Lucia;

A trust company, finance company or deposit taking company declared by the Minister by order published in the Gazette to be a financial institution;

Registered agents and trustees licensed under the Registered Agent and Trustee Licensing Act;

A trust licensed under the International Trusts Act;

A person licensed to operate an exchange bureau;

A person licensed as a dealer or investment adviser;

A person who carries on cash remitting services;

A person who carries on postal courier services.

Part B

Other business activity

1. Real estate business;
2. Car dealerships;
3. Casinos (gaming houses);
4. Courier services;
5. Jewellery business;
6. Internet gaming and wagering services;

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7. Management Companies;
8. Asset management and advice-custodial services;
9. Nominee services;
10. Registered agents;
11. Any business transaction conducted at a post office involving money order;
12. Lending including personal credits, factoring with or without recourse, financial or commercial transaction including forfeiting cheque cashing services;
13. Finance leasing;
14. Venture risk capital;
15. Money transmission services;
16. Issuing and administering means of payment (e.g. credit cards, travellers' cheques and bankers' drafts);
17. Guarantees and commitments;
18. Trading for own account of customers in –
 - (a) money marked instruments (cheques, bills, certificates of deposit etc.);
 - (b) foreign exchange;
 - (c) financial futures and options;
 - (d) exchange and interest rate instruments; and
 - (e) transferable instruments;
19. Underwriting share issues and the participation in such issues;
20. Money broking;
21. Investment business;
22. Deposit taking;
23. Bullion dealing;
24. Financial intermediaries;
25. Custody services;
26. Securities broking and underwriting;

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- 27. Investment and merchant banking;
- 28. Asset management services;
- 29. Trusts and other fiduciary services;
- 30. Company formation and management services;
- 31. Collective investment schemes and mutual funds;
- 32. Attorneys-at-law;
- 33. Accountants.

Passed in the House of Assembly this 8th day of December, 2009.

ROSEMARIE HUSBANDS-MATHURIN,
Speaker of the House.

Passed in the Senate this 15th day of December, 2009.

GAIL V. PHILIP,
President of the Senate.