

SAINT LUCIA**No. 12 of 2023****ARRANGEMENT OF SECTIONS***Section*

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I Assent

[L.S.]

ERROL CHARLES,
Acting Governor-General.

March 29, 2023.

SAINT LUCIA

No. 12 of 2023

AN ACT to provide for the registration of specified persons engaged in other business activity which pose a risk in relation to money laundering and other criminal conduct and for related matters.

[30th March, 2023]

BE IT ENACTED by the King'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:

Short title

1. This Act may be cited as the Registration of Supervised Entities Act, 2023.

Interpretation**2. In this Act —**

“applicant” means a person engaged in other business activity who applies under section 5(1) to be registered as a supervised entity;

“application” means an application submitted under section 5 for registration or section 8 for renewal of registration;

“Authority” means the Financial Intelligence Authority continued under section 4 of the Money Laundering (Prevention) Act, Cap. 12.20;

“beneficial owner” has the meaning assigned under section 2 of the Money Laundering (Prevention) Act, Cap. 12.20;

“Certificate of Registration” means the certificate issued by the Authority on the grant of an application for registration under section 7;

“Certificate of Renewal” means the certificate issued by the Authority on approval of an application for renewal of registration under section 8;

“close associate” means a person known to maintain an unusually close relationship with the applicant;

“criminal conduct” has the meaning assigned under section 2 of the Money Laundering (Prevention) Act, Cap. 12.20;

“other business activity” means a business activity specified under paragraphs 2, 4, 5, 7 and 8 of Part B of Schedule 2 of the Money Laundering (Prevention) Act, Cap. 12.20;

“Register” means the Register of Supervised Entities under section 12;

“supervised entity” means a person engaged in other business activity registered under section 7(2)(a);

“ultimately own and control” has the meaning assigned under section 2 of the Money Laundering (Prevention) Act, Cap. 12.20.

Administration of this Act

3.—(1) The Authority is responsible for administering this Act.

(2) For the purposes of administering this Act, the Authority has the functions and powers assigned under sections 5 and 6 of the Money Laundering (Prevention) Act, Cap. 12.20.

Requirement for registration

4.—(1) A person engaged in other business activity shall register with the Authority for the purpose of complying with the laws in relation to anti-money laundering and other criminal conduct.

(2) A person engaged in other business activity prior to the commencement of this Act shall, within six months of the commencement of this Act, register with the Authority.

(3) A person engaged in other business activity who fails to register with the Authority under this section commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars and to an additional fine of three hundred dollars for each day the offence continues.

Application for registration

5.—(1) A person engaged in other business activity shall make an application to the Authority to be registered as a supervised entity.

(2) An application for registration under subsection (1) must —

- (a) be in the prescribed form;
- (b) be signed by the person engaged in other business activity or by a person acting on behalf of the person engaged in other business activity;
- (c) be accompanied by a prescribed document or information.

(3) The Authority may require a person engaged in other business activity to —

- (a) submit a document or information, in addition to the documents or information specified under subsection (2) (c);
- (b) verify a document or information submitted under paragraph (a) and subsection (2)(c) in support of an application, in a manner specified by the Authority.

(4) An applicant shall, as soon as is reasonably practicable, give the Authority written particulars of a change, of an incomplete, inaccurate or misleading document or information where prior to the registration of the applicant —

- (a) there is a material change in the document or information submitted by or on behalf of the applicant to the Authority in connection with the application; or
- (b) the applicant discovers that the document or information submitted is incomplete, inaccurate or misleading.

Grant and refusal of application for registration

6.—(1) The Authority shall, on receipt of an application, review the application and may grant or refuse an application.

(2) A grant of an application for registration by the Authority under subsection (1) may be subject to conditions or restrictions as the Authority determines.

(3) The Authority shall refuse an application if the applicant does not fall within the category of persons required to be registered under this Act.

(4) The Authority may refuse an application if —

- (a) an application does not comply with section 5(2);
- (b) a director, senior manager, beneficial owner or close associate of the applicant has engaged in criminal conduct within a period of ten years preceding the application;
- (c) the applicant, having previously been registered under this Act, has been deregistered under section 11;

(d) it is contrary to the public interest for the applicant to be registered.

(5) The Authority shall notify the applicant in writing —

(a) of the grant of the application; or

(b) of the refusal of the application and provide the reason for the refusal.

(6) Notwithstanding subsection 5(b), the Authority shall, prior to refusing an application, afford the applicant a reasonable opportunity to be heard in support of the application and to make representations to the Authority, whether orally or in writing.

Registration fee and issue of Certificate of Registration

7.—(1) Where the Authority grants an application for registration under section 6, the person engaged in other business activity shall pay the prescribed registration fee.

(2) The Authority shall, on payment of the registration fee under subsection (1) —

(a) register the applicant as a supervised entity; and

(b) issue a Certificate of Registration in the prescribed form.

(3) A Certificate of Registration issued under subsection (2)(b) —

(a) is valid for one year from the date it is issued until the date specified in the Certificate of Registration;

(b) must contain the conditions and restrictions subject to which the Certificate of Registration is issued;

(c) is conclusive proof of the registration of a supervised entity.

(4) A supervised entity, as a condition of its registration, may be required to —

(a) submit a document or information required by the Authority under section 5(3) within a period specified by the Authority;

- (b) take the necessary steps and measures specified by the Authority to comply with the laws in relation to anti-money laundering and other criminal conduct;
- (c) identify, mitigate and manage the risks in relation to money laundering or other criminal conduct to which it is exposed.

(5) A supervised entity shall comply with the conditions or restrictions specified in the Certificate of Registration.

Renewal of registration

8.—(1) A supervised entity shall renew its registration, on or before the date specified in the Certificate of Registration, by making an application for renewal of registration to the Authority.

(2) An application under subsection (1) must —

- (a) be in the prescribed form;
- (b) be accompanied by —
 - (i) a Declaration of Compliance or Non-Compliance in the prescribed form,
 - (ii) the prescribed registration fee under section 7(1).

(3) The Authority may grant approval of an application if the applicant satisfies the requirements under subsection (2).

(4) The Authority may refuse an application if —

- (a) an application does not comply with subsection (2);
- (b) a director, senior manager, beneficial owner or close associate of the applicant has engaged in criminal conduct within a period of ten years preceding the application;
- (c) the applicant, having previously been registered under this Act, has been deregistered under section 11;
- (d) it is contrary to the public interest for the applicant to be registered.

(5) The Authority shall notify the applicant in writing —

- (a) of the grant of the application; or
- (b) of the refusal of the application and provide the reason for the refusal.

(6) Notwithstanding subsection 5(b), the Authority shall, prior to refusing an application, afford the applicant a reasonable opportunity to be heard in support of the application and to make representations to the Authority, whether orally or in writing.

(7) The Authority shall, on approval of the application, issue a Certificate of Renewal in the prescribed form to the supervised entity.

(8) Subject to section 11(1)(a)(i), a supervised entity which fails to renew its registration under this section commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars and to an additional fine of three hundred dollars for each day the offence continues.

Suspension of registration

9.—(1) The Authority may suspend the registration of a supervised entity if the supervised entity —

- (a) fails to comply with a condition of registration within the period specified by the Authority;
- (b) does not comply with this Act.

(2) Where the Authority proposes to suspend the registration of a supervised entity under subsection (1), the Authority shall give written notice to the supervised entity which —

- (a) specifies the proposed date on which the suspension takes effect;
- (b) sets out the reasons for the suspension;
- (c) includes a statement that the suspension may be reviewed if the Authority becomes aware of material information relevant to the reasons specified under paragraph (b);
- (d) specifies the period of the suspension;
- (e) specifies the date on which the suspension ceases;

(f) informs the supervised entity of its right to make representations to the Authority within a specified time to review its decision.

(3) After considering any representations made under subsection (2)(f) the Authority shall —

(a) within thirty days of receiving representations from the supervised entity, determine whether to suspend the registration of the supervised entity; and

(b) convey its decision in writing to the supervised entity.

Revocation of registration

10.—(1) The Authority may revoke the registration of a supervised entity if —

(a) the supervised entity —

(i) fails to comply with an obligation imposed under this Act,

(ii) no longer exists or engages in other business activity;

(b) the Attorney General is of the opinion that it is in the public interest for the supervised entity to be deregistered.

(2) The Authority shall, before revoking the registration of a supervised entity under subsection (1)(a) and (b) —

(a) give written notice to the supervised entity stating the grounds on which it intends to revoke the registration of the supervised entity;

(b) in the case of subsection (1)(a), inform the supervised entity of its right to make representations to the Authority within fourteen days of receipt of the notice of revocation under paragraph (a).

(3) After considering any representations made under subsection (2)(b), the Authority shall —

(a) within thirty days of receiving representations from the supervised entity, determine whether to revoke the registration of the supervised entity; and

(b) convey its decision in writing to the supervised entity.

(4) Where the Authority revokes the registration of a supervised entity, the Authority shall cause a notice of revocation to be published in the *Gazette*, a weekly newspaper circulating in Saint Lucia and posted on the Authority's website.

Deregistration and refusal to deregister

11.—(1) The Authority may —

(a) deregister a supervised entity if —

(i) subject to paragraph (b), the supervised entity notifies the Authority that it has ceased to carry on other business activity and requests to be deregistered, or

(ii) the registration of the supervised entity is revoked under section 10; or

(b) refuse to deregister a supervised entity under paragraph (a)(i) if the Authority is of the opinion that the deregistration of the supervised entity hinders the Authority in the exercise of its functions.

(2) Where the Authority deregisters a supervised entity, the Authority shall cause a notice of the deregistration to be published in the *Gazette*, a weekly newspaper circulating in Saint Lucia and posted on the Authority's website.

(3) Subject to sections 4 and 5, a supervised entity that is deregistered under this section shall re-apply for registration as a supervised entity.

Register of supervised entities

12.—(1) The Authority shall maintain a register known as the Register of Supervised Entities.

(2) The Register contains the following information in respect of a supervised entity —

(a) in the case of a supervised entity that is a body corporate

—

(i) the name,

- (ii) the country of incorporation,
 - (iii) the date of incorporation, and
 - (iv) the principal business address;
- (b) in the case of a supervised entity that is not a body corporate —
- (i) the name, and
 - (ii) the address;
- (c) the telephone number and email address;
- (d) the date of registration;
- (e) the date of deregistration, if applicable;
- (f) the nature of the business;
- (g) any other information the Authority considers appropriate.

(3) The Register and the information contained in a document submitted to the Authority may be kept in the manner the Authority considers appropriate, including wholly or partly, by means of a device or facility that —

- (a) records or stores information magnetically, electronically or by other means; and
- (b) permits the information recorded or stored to be inspected and reproduced in a legible and usable form.

Notice of change of a director or senior manager

13.—(1) A supervised entity shall provide the Authority with a written notice of a change of a director or senior manager if —

- (a) a director or senior manager ceases to hold office; or
- (b) a new director or senior manager is appointed.

(2) A written notice under subsection (1) shall —

- (a) specify the date of the change;
- (b) include the full name of the director or senior manager who has ceased to hold office or has been appointed as a director or senior manager; and

- (c) be provided to the Authority within fourteen days —
 - (i) in the case of the appointment or resignation of a director or senior manager, of the change occurring, or
 - (ii) in the case of the death of a director or senior manager, of the supervised entity becoming aware of the change.

(3) A supervised entity that fails to provide a written notice of a change in its directors or senior managers under this section commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars and an additional fine not exceeding three hundred dollars for each day the offence continues.

Notice of change of a beneficial owner

14.—(1) A supervised entity shall provide the Authority with a written notice of a change of its beneficial owner as a result of a person —

- (a) becoming a beneficial owner; or
- (b) ceasing to be a beneficial owner.

(2) A written notice under subsection (1) must —

- (a) specify the date of the change;
- (b) provide details of —
 - (i) the identity of the new and previous beneficial owner,
 - (ii) the nature of the beneficial owner’s interest in, or control of, the supervised entity;
- (c) be provided to the Authority within fourteen days of the supervised entity first becoming aware of the change.

(3) A supervised entity that fails to provide a written notice of a change of its beneficial owner under this section commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars and an additional fine of three hundred dollars for each day the offence continues.

Notice of a material change in information required for registration

15.—(1) A supervised entity shall provide the Authority with a written notice of a material change in the information required for registration.

- (2) A written notice under subsection (1) must —
- (a) specify the date of the change;
 - (b) set out the details of the change;
 - (c) be provided to the Authority within fourteen days of the supervised entity becoming aware of the change.

(3) A supervised entity that fails to provide a written notice of a material change under this section commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars and an additional fine not exceeding three hundred dollars for each day the offence continues.

False and misleading information

16.—(1) A person shall not make a false or misleading representation or submit false or misleading information or documents to the Authority.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding one year or to both.

Appeals

17.—(1) Where a supervised entity is aggrieved by a decision of the Authority under section 9(3) or section 10(3) the supervised entity may, within fourteen days of the decision, appeal the decision to the High Court, setting out the grounds of appeal.

(2) The High Court may confirm or revoke a decision of the Authority under section 9(3) or section 10(3).

Regulations

18. The Attorney General may, after consultation with the Authority, make Regulations to give effect to this Act.

Passed in the House of Assembly this 14th day of March, 2023.

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

Passed in the Senate this 23rd day of March, 2023.

ALVINA REYNOLDS,
President of the Senate.