

SAINT LUCIA

No. 5 of 2023

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No. 5] *Money Laundering (Prevention) (Amendment) Act* [2023

I Assent

[L.S.]

ERROL CHARLES,
Acting Governor-General.

March 8, 2023.

SAINT LUCIA

No. 5 of 2023

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

[9th 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 Money Laundering (Prevention) (Amendment) Act, 2023.

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 for “beneficial owner” and by substituting the following —

“ “beneficial owner” means a natural person, who —

(a) ultimately owns or controls a legal person or legal arrangement;

(b) exercises control of a legal person or legal arrangement through other means, in a case where —

(i) there is doubt under subsection (a),

(ii) a natural person does not ultimately own or control a legal person or arrangement;

(c) holds the position of a senior managing official, in a case where a natural person is not identified under paragraph (a) or (b);”;

(b) deleting the definition for “ultimately own and control” and by substituting the following —

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

(c) inserting in the correct alphabetical sequence the following new definitions —

“ “close associate” means a natural person, who —

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- (a) is known to hold the ownership or control of a legal person or legal arrangement jointly with a politically exposed person;
- (b) holds the ownership or control of a legal person or legal arrangement which is known to have been established for the benefit of a politically exposed person;
- (c) maintains another type of close business or personal relationship with a politically exposed person;

“virtual asset business” has the meaning assigned under the Virtual Asset Business Act, No. 24 of 2022;”.

Amendment of section 6B

4. Section 6B of the principal Act is amended by deleting subsection (1) and by substituting the following —

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

- (a) to a penalty not exceeding one hundred thousand dollars;
- (b) to a penalty not exceeding one thousand dollars, in the case of a continuous failure to comply, for each day or part of a day that the failure continues, from the date immediately following the period specified under subsection (3)(c).”.

Amendment of section 14H

5. Section 14H of the principal Act is amended by deleting subsection (1) and by substituting the following —

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

- (a) to a penalty not exceeding one hundred thousand dollars; and

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

Amendment of section 15

6. Section 15 of the principal Act is amended —

- (a) under subsection (3)(b) and (c), by deleting the words “eight thousand dollars” and by substituting the words “ten thousand United States Dollars or its equivalent in Eastern Caribbean Dollars”;
- (b) under subsection (11), by deleting the definition for “applicant for business” and by substituting the following —
 - “ “applicant for business” means a person seeking to enter into a transaction, form a business relationship or carry out a one-off transaction with a financial institution or person engaged in other business activity;”.

Amendment of section 16

7. Section 16(1) of the principal Act is amended by inserting immediately after paragraph (k), the following new paragraph (ka) —

- “(ka) immediately, report to the Authority a transaction or an attempted transaction relating to terrorist financing or proliferation financing that is considered to be suspicious;”.

Amendment of section 17

8. Section 17(1) of the principal Act is amended —

- (a) in paragraph (g), by deleting the fullstop and by substituting a semi-colon;
- (b) by inserting immediately after paragraph (g), the following new paragraph (h) —
 - “(h) in the case of a virtual asset business, carrying out financial transactions equal to or exceeding one

thousand United States Dollars or its equivalent in Eastern Caribbean Dollars;”.

Substitution of section 18

9. The principal Act is amended by deleting section 18 and by substituting the following —

“Politically exposed persons

18.—(1) In the case of a foreign politically exposed person and a family member or close associate of a foreign politically exposed person, a financial institution or person engaged in other business activity shall, in addition to the requirements under section 17 and Regulations —

- (a) put in place risk management systems to determine whether a customer or the beneficial owner is a politically exposed person;
- (b) obtain senior management approval before establishing, or continuing for an existing customer, a business relationship;
- (c) take reasonable measures to establish the source of wealth and the source of funds of a customer and the beneficial owner who is identified as a politically exposed person;
- (d) conduct enhanced ongoing monitoring of a business relationship.

(2) In the case of a domestic politically exposed person and an international politically exposed person and a family member or close associate of a domestic politically exposed person or an international politically exposed person, a financial institution or person engaged in other business activity shall, in addition to the requirements under section 17 and Regulations —

- (a) take reasonable measures to determine whether a customer or the beneficial owner is a politically exposed person;

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(b) where there is a high risk business relationship with a person under paragraph (a), adopt the measures under subsection (1)(b) to (d).

(3) Subject to subsections (1) and (2), a customer who ceases to hold a post or position that qualified him or her as a politically exposed person shall not be treated as a politically exposed person, after a period of two years following the date on which he or she ceases to hold that post or position.”.

Amendment of section 28

10. The principal Act is amended by deleting section 28 and by substituting the following —

“Proceeds of criminal conduct

28.—(1) A person shall not, in respect of property which in whole or in part, directly or indirectly, represents his or her proceeds of criminal conduct —

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

(2) A person shall not, in respect of property which in whole or in part directly or indirectly represents the proceeds of criminal conduct —

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

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

(4) For the purposes of subsections (1) and (2), “disguise or conceal” includes disguising or concealing the disposition, location, movement, nature, ownership or a right of the property.

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(5) 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 five hundred thousand dollars and not exceeding five million dollars or to imprisonment for a term of not less than five years and not exceeding ten years or both;
- (b) on conviction on indictment to a fine of not less than one million dollars and not exceeding ten million dollars or to imprisonment for a term of not less than ten years and not exceeding fifteen years or both.”.

Amendment of section 34

11. Section 34 of the principal Act is amended by deleting subsection (2) and by substituting the following —

“(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 money laundering, terrorist financing or proliferation financing.”.

Insertion of new section 41

12. The principal Act is amended by inserting immediately after section 40, the following new section 41 —

“Exemption from duties, taxes and levies

41. Notwithstanding a provision in any law in Saint Lucia, the Authority is exempt from the payment of duties, taxes and levies, including import duties and fees on income, moveable and immoveable property and documents.”.

Amendment of Schedule 2

13. Schedule 2 of the principal Act is amended, under Part A —

(a) by deleting item 7 and substituting the following —

“7. An entity licensed under the Virtual Asset Business Act, No. 24 of 2022.”;

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- (b) in item 11, by deleting the full stop and by substituting a semi-colon;
- (c) by inserting immediately after item 11, the following new items 12, 13 and 14 —
 - “12. An international public mutual fund administrator licensed under the International Mutual Funds Act, Cap. 12.16.
 - 13. A private mutual fund registered under the International Mutual Funds Act, Cap. 12.16.
 - 14. An international public mutual fund licensed under the International Mutual Funds Act, Cap. 12.16.”.

Passed in the House of Assembly this 28th day of February, 2023.

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

Passed in the Senate this 2nd day of March, 2023.

ALVINA REYNOLDS,
President of the Senate.