

## New Regulations & Amendments

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### Legislative Updates

This month's edition provides the Regulated Entities and the general public with an overview of several legislative amendments that were made to the laws and regulations governing the Regulated Entities and the supervisory powers of the Financial Services Regulatory Commission (FSRC). The new legislation and amendments are as follows:

- ◆ *Anti-Money Laundering National Committee Act, No. 2 of 2020;*
- ◆ *Anti-Proliferation (Financing of Weapons of Mass Destruction) Act, No. 10 of 2020;*
- ◆ *Money Services Business (Amendment) Act, No. 12 of 2020*
- ◆ *Miscellaneous Amendments (Financial Action Task Force) Act, No. 11 of 2020;*
- ◆ *Non-Government Organizations (Amendment) Act, No. 4 of 2020; and*
- ◆ *Financial Services (Implementation of Industry Standards) (Amendment) Regulations, No. 41 of 2020.*

This newsletter will highlight some of the major legislative developments, improvements and changes. All legislation highlighted in the newsletter can be viewed in its entirety on the FSRC's website, [www.fsrc.kn](http://www.fsrc.kn) in the **Law Library**.

### **Anti-Money Laundering National Committee Act**

The Anti- Money Laundering National Committee Act, No. 2 of 2020, was passed on 23 January 2020, to establish an Anti-Money Laundering National Committee, as the Authority responsible for National Anti-Money Laundering Countering Financing of Terrorism (AML/CFT) policies.

The Committee comprise various agencies critical to the fight against financial crime within the Federation of St. Kitts and Nevis; such as: Ministry of Justice and Legal Affairs, Ministry of Finance, the Royal St. Christopher and Nevis Police Force, Customs Department, FSRC St. Kitts and Nevis Branches, Financial Intelligence Unit (FIU), White Collar Crime Unit, Inland Revenue Department, Immigration Department, Office of the Director of Public Prosecutions and the Legal Department -Nevis Island Administration (NIA).

The Committee is tasked with the mandate to perform the following functions:

- a) To issue operational and informative guidelines on the Mutual Evaluation to all relevant agencies as necessary;
- b) To engage public and private stakeholders and conduct focus group discussions meetings and workshops in preparation for the Mutual Evaluation of St. Kitts and Nevis;
- c) To conduct risk-based outreach for sectors requiring enhanced focus, especially those agencies deemed to be high risk with respect to money laundering and terrorist financing;
- d) To set timelines for deliverables and to monitor the progress of submissions made by the relevant government agencies and private stakeholders;
- e) To submit or approve the submission of documents, report statistics and case studies to the Mutual Evaluation Assessment Team as evidence of compliance;
- f) To coordinate actions to assess the national money laundering and terrorist financing risks;

g) To coordinate with supervisory authorities and other government agencies for the issuance and implementation of the necessary policies and regulations addressing the gaps identified in the anti-money laundering and counter terrorist financing framework to ensure full compliance with FATF recommendations; and

h) To provide periodic updates of the National Risk Assessment and to coordinate the resultant actions to implement same.

### **Anti-Proliferation (Financing of Weapons of Mass Destruction) Act**

The Anti-Proliferation (Financing of Weapons of Mass Destruction) Act, No. 10 of 2020 was passed on 13 August 2020. The Act makes provision to prevent, disrupt and criminalise the financing of the proliferation of weapons of mass destruction.

### **Money Services Business (Amendment) Act**

The Money Services Business (Amendment) Act, No. 12 of 2020 was passed on 23 January 2020, to improve the measures necessary to enhance the supervisory framework of the licensed Regulated Entities under this Act.

Section 2 was amended to replace the expression “Pay day advances” with “micro financing and lending” and the increase of business or personal lending amount from \$5,000 to \$50,000.

The Act is amended with the inclusion of Schedule 5, which is depicted below:

<b>Schedule 5</b>		
<b>Capital and Statutory Deposit Requirement</b>		
<b>Class of License Payable</b>	<b>Capital Required</b>	<b>Statutory Deposit</b>
Class A	\$50,000	30% of the capital
Class B	\$50,000	Not Applicable
Class D	\$50,000	Not Applicable
Class E	\$50,000	Not Applicable

### **Miscellaneous Amendments (FATF) Act**

The Miscellaneous Amendments (FATF) Act, No. 11 of 2020 was passed in 13 August 2020. This Act provides for amendments to several laws including :

- ◆ The Police Act, Cap. 19.07;
- ◆ The Customs Act, Cap. 20.04;
- ◆ The Trust Act, Cap. 5.19;
- ◆ The Interception of Communications Act, Cap. 16.06;
- ◆ The Anti-Terrorism Act, Cap. 4.02;
- ◆ The Financial Services Regulatory Commission Act, Cap 21.10;
- ◆ The Tax Administration and Procedures Act, Cap 20.52; and
- ◆ The FIU Act, Cap 21.10.

The amendments to the aforementioned Acts are deemed necessary to ensure that St. Kitts and Nevis is compliant with the requirements of the FATF Recommendations.

### **Non-Government Organizations (NGOs) (Amendment) Act**

The Non-Government Organizations (Amendment) Act, No.4 of 2020 was passed on 23 January 2020.

The Act includes amendments to several sections including inter alia:

- ◆ Section 6—This stipulates that every NGO shall be registered pursuant to the provisions of the Act; and
- ◆ Section 17 - This section was revised to outline the role of the FSRC. NGOs shall be subjected to the supervisory powers of the FSRC and shall make available its premises and relevant records to the inspection of the FSRC.

### **Financial Services (Implementation of Industry Standards) (Amendment) Regulations No. 41 of 2020**

The Financial Services (Implementation of Industry Standards) Regulations, No. 41 of 2020, amendments were gazetted on 3 September 2020. The Regulations were amended to revise paragraphs to include as follows:

- ◆ Paragraph 10 - The implementation of a Group-wide AML/CFT program for regulated businesses that have branches or majority owned subsidiaries or agents anywhere in St. Kitts and Nevis or outside of St. Kitts and Nevis; and
- ◆ Paragraph 34 - Improvements to Customer Risk Assessment procedures where regulated entities must conduct a Customer Risk Assessment on all new and existing customers, prior to the establishment of a new business relationship.

The following amendments made new provisions for the inclusion to the Regulations:

- ◆ Paragraph 18 stipulates that all Regulated Entities should implement the Risk-Based Approach (RBA) to combat Money Laundering, Terrorist Financing and Proliferation Financing, it also provides guidance on how to carry out an enterprise-wide risk assessment of the business;
- ◆ Paragraph 28 addresses the requirement for Regulated Entities to implement an Independent Audit Function within their operations and outlines guidance for conducting an Independent Audit.



**Financial Services (Implementation of Industry Standards) (Amendment) Regulations No. 41 of 2020 (cont'd)**

The Regulations were amended to revise Paragraph 76 to state ‘current permanent address including postal code. This should be verified by one of the following documents listed below. The documents should not exceed the valid period specified at the time of establishing the business relationship or any time during an existing business relationship.’

Proof of Address	Valid Period	Proof of Address	Valid Period
Utility Bill	3 months	Lease Agreement	Current
Bank Statement	3 months	Rental Agreement Property	Current
Hire Purchase Statement	3 months		
Letter from University School	3 months		
Inland Revenue Property Tax Receipt	6 months		

Kindly refer to FSRC’s prior Newsletter Editions on the following related topics:

- January 2020, Issue No. 69 - “The National Risk Assessment for St. Kitts and Nevis 2019”
- February 2020, Issue No70 - “Terrorist Financing Risk Assessment”
- June 2020, Issue No. 74 - “Proliferation Financing”
- July 2020, Issue No. 75 - “Effective Elements of a Successful AML/CFT CPF System”
- October 2020, Issue No. 78 - “Tax Crimes”

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Amendment	Monitoring
Beneficiary	Procedures
Compliance	Recommendation
Financing	Risk
Inherent	Suspicious
Laundering	Audit
Probity	Commission
Proliferation	Enterprise
Requirements	Independent
Supervision	Jurisdiction
Assessment	Policies
Combating	Professional
Customers	Regulatory
Framework	Services
Institutions	Transactions

**Did You Know?**

Regulated Entities should have an independent audit charter that articulates the purpose, standing and authority of the independent audit function!