



# AML / CFT GUIDELINES FOR MONEY SERVICES BUSINESSES



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- **Continuation of the FATF Recommendations and Guidance for the Money Services Business (MSB) Sector.**
- **Upcoming Events**

In this issue, the most relevant FATF Recommendations are highlighted below together with a brief summary of the legal, regulatory or administrative measures that are in place to comply with each recommendation.

#### RECOMMENDATION 11 - RECORD KEEPING



*Financial institutions should be required to maintain, for at least five years, all necessary records on transactions, both domestic and international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved, if any) so as to provide, if necessary, evidence for prosecution of criminal activity.*

*The records financial institutions should maintain include copies or records of official identification documents like passports, identity cards, driving licences or similar documents, account files and business correspondence, including the results of any analysis undertaken, etc.*

The Money Services Business Act, Cap 21:21 ("MSB Act") makes provision for the above recommendation in section 21(1) and (2) where it is stated that, licensees must retain for a period of at least five years from the date of creation of each particular record, all records created and obtained by them, in particular records of each transaction executed by them, records of each outstanding transaction, bank reconciliation records and bank statements received during the course of operation and administration of its money services business. The retention of records may be effected by electronic means.

Further, section 18 of the MSB Act, states that, "A licensee must in accordance with this section, in respect of its money services

business, keep accounting records and establish and maintain systems (i) of internal control and record keeping, and (ii) for inspection and report.

The systems of control, inspection and report shall ensure that the money services business is so conducted and its records so kept that:

- (a) the information necessary to enable the directors and the business to discharge their duties and functions is sufficiently accurate, and is available with sufficient regularity or as needed and with sufficient promptness, for those purposes; and
- (b) the information obtained by or furnished to the Financial Services Regulatory Commission ("FSRC") under or for the purposes of this Act is sufficiently accurate for the purpose for which it is obtained or furnished.

A licensee shall also institute procedures to ensure that its accounting records and systems of business control comply with the requirements of the Anti-Money Laundering Regulations 2011, issued pursuant to the Proceeds of Crime Act, 2000.

#### RECOMMENDATION 14 - MONEY OR VALUE TRANSFER SERVICES



*Countries should take measures to ensure that natural or legal persons that provide money or value transfer services (MVTS) are licensed or registered, and subject to effective systems for monitoring and ensuring compliance with the relevant measures called for in the FATF Recommendations. Countries should take action to identify natural or legal persons that carry out MVTS without a license or registration, and to apply appropriate sanctions.*

*Any natural or legal person working as an agent should also be licensed or registered by a competent authority, or the MVTS provider should maintain a current list of its agents accessible by competent authorities in the countries in which the MVTS provider and its agents operate. Countries should take measures to ensure that MVTS providers that use agents include them in their AML/CFT programmes and monitor them for compliance with these programmes.*

Section 4 of the MSB Act provides that a person shall not carry on money services business in Saint Christopher and Nevis unless that person holds a licence in accordance with the Act. The legislation also allows for a person who, immediately before the date of commencement of the Act, was carrying on money services business, to be deemed to be duly licensed under the Act for a period of four months, or such other period as the FSRC approves and shall require a licence in order to carry on money services business after the expiry of that period. Any person who contravenes section 4 commits an offence and is liable on summary conviction to a fine of \$50,000 or to imprisonment for a term of two years or both.

As part of the licensing process of MSBs, an investigation is carried out by the FSRC to determine whether the applicant is a fit and proper person to be licensed and whether it can fulfill the obligations of a licence under the Act. (section 16 of the MSB Act)

MSBs have been designated as regulated entities under the Financial Services Regulatory Commission Act, Cap 21:10 and are therefore subject to risk-based AML/CFT supervision and regulation. Sanctions are applied to MSBs that breach the provisions set out in the Proceeds of Crime Act, Anti-Money Laundering Regulations, Anti-Terrorism Act and the Financial Services (Implementation of Industry Standards) Regulations.

#### RECOMMENDATION 15 - NEW TECHNOLOGIES

**Countries and financial institutions should identify and assess the money laundering or terrorist financing risks that may arise in relation to (a) the development of new products and new business practices, including new delivery mechanisms, and (b) the use of new or developing technologies for both new and pre-existing products. In the case of financial institutions, such a risk assessment should take place prior to the launch of the new products, business practices or the use of new or developing technologies. They should take appropriate measures to manage and mitigate those risks.**



The FSRC requires applicants that propose new products such as mobile payments and Internet-based payment services to conduct a comprehensive risk assessment to satisfy this recommendation. The results must be submitted as part of the MSB licensing application process. Risk factors that may be taken into account are:

- ◇ non face-to-face relationships and anonymity;
- ◇ geographical reach;
- ◇ methods of funding;
- ◇ access to cash; and
- ◇ segmentation of services.

#### RECOMMENDATION 16 - WIRE TRANSFERS

**Countries should ensure that financial institutions include required and accurate originator information, and required beneficiary information, on wire transfers and related messages, and that the information remains with the wire transfer or related message throughout the payment chain.**

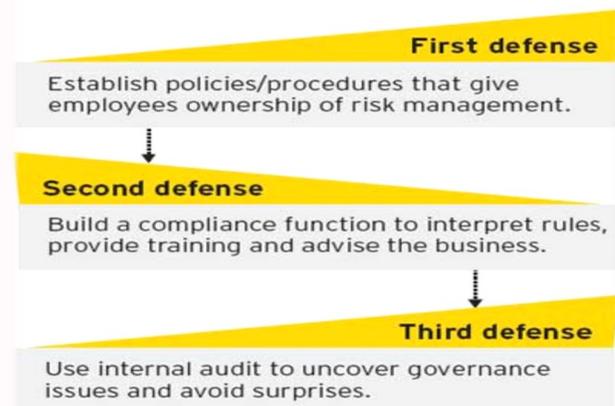
**Countries should ensure that financial institutions monitor wire transfers for the purpose of detecting those which lack required originator and/or beneficiary information, and take appropriate measures.**



In relation to wire or electronic transfers, regulated businesses must include accurate and meaningful originator information on funds transfers and related messages that are sent. This information must remain with the transfer or related message throughout the payment chain. Paragraph 122 of the Financial Services (Implementation of Industry Standards) Regulations mandates that regulated entities shall retain full records of payments made with sufficient details to enable them to establish i) the identity of the remitting customer and ii) as far as possible, the identity of the ultimate recipient.

Although regulatory oversight is tightening, it is believed that the money services business industry can continue to function if these guidelines are followed and sound KYC procedures and internal controls are adopted. These will help MSBs to create a line of defense for their businesses against money laundering and terrorist financing as depicted below in this simple line of defense model.

Banking institutions may then continue to serve MSBs without comprising their obligations to detect and report illicit financial activity and without exposing themselves to excessive regulatory risk, resulting in an improved relationship between the banking and MSB sectors.



# UPCOMING EVENTS

Financial Information Month - ECCU Business Opportunity Workshop for Financial Practitioners  
**October 20, 2016** at the UWI Open Campus, Pinneys

The workshop will provide a forum to exchange ideas on:

- ◆ How to better assess the viability of new business ventures. (*Facilitator: Dr. Jürgen Engel, Savings Banks Foundation for International Cooperation, Germany*)
- ◆ SMEs as business opportunities and strategies to leverage these business opportunities. (*Daniel Arthurton, Adviser, ECCB*)
- ◆ Digital currency and the Financial System (*Telly Valerie Onu, Quintessence Consulting*).
- ◆ Crowd Financing - Does this financing model hold lessons and opportunities to be exploited by financial institutions? (*Telly Valerie Onu, Quintessence Consulting*).



FINANCIAL INFORMATION MONTH  
OCTOBER 2016

Public Consultation on the Eastern Caribbean Currency Union Single Insurance and Pension Market Project – St. Paul's Anglican Church Hall, Charlestown, Nevis on **August 30, 2016**.

**PUBLIC CONSULTATION**

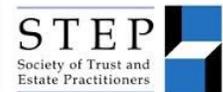
**ACAMS** 15<sup>th</sup> Annual AML & Financial Crime Conference, Las Vegas, Nevada, USA

**September 26-28, 2016**



**STEP LATAM** Conference, Panama

**September 28-30, 2016**



**meeting**

Ministry of Finance will meet with Service Providers at the St. Paul's Anglican Church Hall, Charlestown on **September 08, 2016**

**CRCA CONFERENCE**

Caribbean Regional Compliance Association Conference at Santa Barbara Beach & Golf Resort, Curacao - **November 10 & 11, 2016**

**meeting**

CFATF Council of Ministers Meeting in Miami, Florida, USA on **September 08, 2016**

## Sources

- \* *The Money Services Business Act, Cap 21:21*
- \* *The FATF Recommendations (Updated October 2015) - [http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF\\_Recommendations.pdf](http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf)*
- \* *FATF Guidance for a Risk-Based Approach For Money or Value Transfer Services*

