

No.        of 2020.        Miscellaneous Amendments (Financial Action Task Force) Bill, 2020        Saint Christopher and Nevis.

SAINT CHRISTOPHER AND NEVIS

No.        of 2020

**A BILL** to provide for various amendments to facilitate the comprehensive implementation of measures to boost national security, strengthen investigative techniques, and to foster greater coherence within the financial services sector in keeping with the requirements of the financial Action Task Force and for related matters

**BE IT ENACTED** by the Queen’s Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:

1.        **Short Title.**

This Act may be cited as the Miscellaneous Amendments (Financial Action Task Force) Act, 2020.

2.        **Interpretation.**

In this Act, unless the context otherwise requires:

“FIU” means the Financial Intelligence Unit as established pursuant to section 3 of the Financial Intelligence Unit Act, Cap. 21.09

“FSRC” means the Financial Services Regulatory Commission established pursuant to section

3 of the Financial Services Regulatory  
Commission Act”;

“OFAC” means Office of Foreign Assets Control United States  
Treasury Department

3. **Amendment of the Police Act.**

The Police Act Cap. 19:07 is amended in section 6 by inserting  
immediately after subsection (1) a new subsection (2) as follows:

“ (2) Notwithstanding the generality of subsection  
(1) a police officer may, in the pursuit of crime detection or to  
discover the proceeds of crime, utilise the following investigative  
techniques:

- (a) postponing of arrest and waiving  
surrender;
- (b) controlled delivery;
- (c) undercover operations.”.

4. **Amendment of Customs Act.**

The Customs Act, No. 19 of 2014 is amended as follows:

(a) in section 2 as follows:

- (i) by inserting in the correct chronological order the following  
new definition, as follows,

“bearer negotiable instruments” includes monetary  
instruments in bearer form including traveller’s  
cheques, negotiable instruments such as cheques,  
promissory notes and money orders, whether in  
bearer form, endorsed without restriction, made out  
to a fictitious payee, or otherwise in such form that  
title thereto passes upon delivery and incomplete  
signed instruments with the payee’s name omitted;”

- (ii) in the definition of “goods”, by inserting immediately after  
the expression, “currency”, the expression, “, bearer  
negotiable instruments”;

- (b) by inserting immediately after section 31 a new section 31 A as follows:

“ 31A. **Suspicious Transaction Reporting.**

Subject to the provisions of sections 28, 29, 30 and 31, where a customs officer becomes aware of any suspicious activity or transaction that may be linked to money laundering, the proceeds of crime, terrorist financing, proliferation of weapons of mass destruction or any related activity, the customs officer shall report such suspicious activity to the Financial Intelligence Unit.

5. **Amendment of Trusts Act.**

The Trusts Act, Cap. 5.19 is amended as follows:

- (a) In section 5 subsection (2) by

- (i) replacing paragraph (c) as follows:

“ (c) the full name, address, contact information and any identifying particulars of the trustee, settlor, protector and beneficiary and any other natural person exercising ultimate, effective control over the trust; and

- (ii) by inserting a new paragraph (d) as follows:

(d) in the case where the trustee is a body corporate, its full name, the place where it is incorporated and the address of its registered or principal office, as well as the identifying particulars of its beneficial owners, shareholders, Directors and any person with a controlling interest.

“ 6. **Amendment of Interception of Communications Act.**

The Interception of Communications Act is amended by inserting in the Schedule, immediately after paragraph 18, the following new paragraphs, 19 and 20:

“19. Human Trafficking

20. Tax Offences.”

**6. Amendment to the Anti-Terrorism Act.**

The Anti-Terrorism Act is amended by inserting immediately after Part VIII thereof a new Part IX as follows:

“ **PART IX. TARGETED FINANCIAL SANCTIONS**

**114. Attorney General as Competent Authority.**

(1) The Attorney General is hereby designated as the Competent Authority having responsibility for identifying and initiating proposals of persons or entities to the United Nations Security Council and its relevant Committees pursuant to the obligations set out in the following United Nations Security Council Resolutions:

(a) 1267/1999 and its successor resolutions;

(b) 1373 (2001) and its successor resolutions;  
and

(c) 1988 (2011) and its successor resolutions

**115. Sanctions Lists.**

(1) The Financial Services Regulatory Commission, the Financial Intelligence Unit, the Customs and Excise Department, the Inland Revenue Department, the Ministry of Finance, the White Collar Crime Unit, the Immigration Department as well as regulated entities shall be responsible for scrutinising the UN Sanctions Lists, the OFAC lists and any other relevant sanctions lists where individuals, groups, undertakings and entities may be identified.

(2) Where pursuant to subsection (1), an

individual, group, undertaking or entity is identified on any of the relevant lists, then

- (a) the relevant authority shall notify the Attorney General's Chambers without delay and in any case within twenty four hours of the identification; or
- (b) a regulated entity shall file a suspicious transaction report with the Financial Intelligence Unit without delay and in any case within twenty four hours of the identification.

(3) Where the Attorney General receives notification of an identification pursuant to subsection (2), he or she shall make a determination, on a reasonable basis based on the sufficiency of evidence as to whether the individual, group, undertaking or entity

- (a) should be proposed to the 1267 Committee, for designation as appropriate, based on the specific criteria for designation, as set forth in Security Council resolution 1989 (2011) on Al-Quaida and related resolutions ; or
- (b) should be proposed to the 1988 Committee, for designation as appropriate, as set forth in Security Council Resolution 1988 ( 2011) concerning the Taliban and those associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan and related resolutions, if that authority decides to do so and believes that it has sufficient evidence to support the designation criteria;
- (c) should be designated as persons or entities that meet the specific criteria for designation, as set forth in resolution 1373 (2001), as put forward either on the country's own motion or if appropriate, the request of another country on such terms as may be prescribed by the Minister.

- (d) should be identified as targets for designation based on the designation criteria set out in Resolution 1988 (2011), Resolution 1989 (2011) and related resolutions and resolution 1373 (2001) and having regard to the giving effect to actions initiated under the freezing mechanisms of other countries.

(4) The Attorney General shall ensure that when receiving a request that prompt determination is made on reasonable grounds as to whether the proposed designee meets the requisite criteria for designation.

(5) The Attorney General shall employ such procedures or mechanisms to collect or solicit as much information as possible to identify persons and entities that would meet the relevant criteria for designation pursuant to the relevant Security Council resolutions.

**116. Without Delay.**

Where pursuant to section 114, an individual group, undertaking or entity is designated by the 1267 committee, 1988 Committee, 1373 (2001) or any other relevant Security Resolution Committee, all natural and legal persons within Saint Christopher and Nevis, shall be required to freeze without delay the funds or other assets of those designated persons or entities.

**117. Procedural Requirements.**

- (1) Subject to section 114, the Minister may prescribe in Regulations
  - (a) the criteria for designation pursuant to the relevant Security Council Resolutions;
  - (b) the procedures and standard forms for listing, providing for statements of case on the basis for listing;
  - (c) procedures for particulars and sufficiency of identifying information; and

- (d) any other relevant information that may be pertinent to a case for identification or proposal to the particular Sanctions Committee.
- (2) The Minister may prescribe in Regulations for the procedural requirements of freezing and prohibiting of dealing without delay in funds or other assets of designated persons and entities.”.

7. **Amendment of Financial Services Regulatory Commission Act.**

The Financial Services Regulatory Commission Act is amended as follows:

- (a) in section 2 in the definition of designated non-financial businesses and professions, by deleting paragraph (e) thereof;
- (b) in section 51 subsection 2 paragraph (b), by replacing the expression, “related business” with the expression, “related products”

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**A. MICHAEL PERKINS**  
*Speaker*

Passed by the National Assembly this                      day of                      , 2020.

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**SONIA BODDIE-THOMPSON**  
*Clerk of the National Assembly*