

NATIONAL RISK ASSESSMENT INDUSTRY BRIEFING
Hosted by - The Office of The Attorney General
Melia, Nassau Beach Resort, Nassau, Bahamas
31st January, 2018

THE COMPLIANCE COMMISSION OF THE BAHAMAS

PART 1

**KEY RISKS & VULNERABILITIES IDENTIFIED IN THE NRA 2015/2016
FOR LAWYERS, ACCOUNTANTS & REAL ESTATE BROKERS *:**

1. LAWYERS – RATED HIGH RISK

- USE OF THE CLIENT ACCOUNTS TO DISGUISE THE BENEFICIAL OWNER OF FUNDS OR TO CONDUCT FALSE TRANSACTIONS THAT ARE CANCELLED AND REQUIRE THE RETURN OF FUNDS TO THE CLIENT.
- PURCHASE AND SALE OF REAL PROPERTY – THESE HIGH VALUE TRANSACTIONS ARE OFTEN USED IN THE LAYERING AND INTEGRATION STAGES OF MONEY LAUNDERING TO DISGUISE THE SOURCE OF FUNDS AND LEGITIMIZE LARGE AMOUNTS OF CRIMINAL PROCEEDS. IN THE BAHAMAS, LAWYERS ARE THE KEY PLAYERS IN THE PURCHASE AND SALE OF REAL ESTATE.
- CREATION AND MANAGEMENT OF COMPANIES AND TRUSTS - CREATE COMPLEX VEHICLES THAT MAY DISGUISE THE BENEFICIAL OWNER AND DISGUISE CRIMINAL PROCEEDS.
- MANAGING CLIENT AFFAIRS AND MAKING INTRODUCTIONS TO FINANCIAL INSTITUTIONS – GIVE THE APPEARANCE OF LEGITIMACY OR RESPECTABILITY TO THE AFFAIRS OF THE CLIENT.
- TERRORIST FINANCING RISK IS HIGH DUE TO LEGAL PROFESSIONS CORE BUSINESS OFFERING.

2. ACCOUNTANTS – RATED LOW RISK

- CREATION OF CORPORATE VEHICLES OR OTHER COMPLEX LEGAL ARRANGEMENTS, (E.G. TRUSTS) – SUCH STRUCTURES MAY SERVE TO CONFUSE OR DISGUISE THE LINKS BETWEEN THE PROCEEDS OF A CRIME AND THE PERPETRATOR.
- BUYING OR SELLING OF PROPERTY – PROPERTY TRANSFERS SERVE AS EITHER THE COVER FOR TRANSFERS OF ILLEGAL FUNDS (LAYERING STAGE) OR ELSE THEY REPRESENT THE FINAL INVESTMENT OF THESE PROCEEDS AFTER THEIR HAVING PASSED THROUGH THE LAUNDERING PROCESS (INTEGRATION STAGE).
- PERFORMING FINANCIAL TRANSACTIONS – SOMETIMES ACCOUNTANTS MAY CARRY OUT VARIOUS FINANCIAL OPERATIONS ON BEHALF OF THE CLIENT, (E.G. CASH DEPOSITS OR WITHDRAWALS ON ACCOUNTS, RETAIL FOREIGN EXCHANGE OPERATIONS, ISSUING AND CASHING CHEQUES, PURCHASE AND SALE OF STOCK, SENDING AND RECEIVING INTERNATIONAL FUNDS TRANSFERS, ETC.).
- MISUSE OF POOLED CLIENT ACCOUNTS, SAFE CUSTODY OF CLIENT MONEY OR ASSETS AND INTRODUCTORY SERVICES, (E.G. FINANCIAL INSTITUTIONS).
- ADVICE ON THE SETTING UP OF LEGAL ARRANGEMENTS, WHICH MAY BE USED TO OBSCURE OWNERSHIP OR REAL ECONOMIC PURPOSE (INCLUDING SETTING UP OF TRUSTS, COMPANIES OR CHANGE OF NAME OR OTHER COMPLEX GROUP STRUCTURES).
- TERRORIST FINANCING RISK IS LOW AS SERVICES PROVIDED IN THE BAHAMAS ARE MAINLY AUDIT, MANAGING LIQUIDATIONS AND FORENSIC ACCOUNTING.

3. REAL ESTATE BROKERS – RATED HIGH RISK

- FOREIGN BROKERS SELLING WITHOUT OVERSIGHT OF THE BAHAMAS REAL ESTATE ASSOCIATION (BREA).
- TRUST OR ESCROW ACCOUNTS HELD BY DEVELOPERS CAN ALSO POSE SOME MONEY LAUNDERING (ML) RISK. THESE ACCOUNTS CAN CONCEAL THE IDENTITY

OF THE TRUE BENEFICIARY IN ADDITION TO THE SOURCE AND/OR DESTINATION OF THE FUNDS. FINANCIAL ACTION TASK FORCE (FATF) STUDIES HAVE SHOWN THAT THE REAL ESTATE SECTOR PRESENTS A COMMON VEHICLE FOR MONEY LAUNDERING DUE TO THE LARGE SCOPE OF MONETARY TRANSACTIONS AND THE INTERNATIONAL NATURE OF THE REAL ESTATE MARKET. ML TRANSACTIONS CAN BE EASILY CAMOUFLAGED IN GENUINE COMMERCIAL TRANSACTIONS AMOUNT THE HUGE NUMBER OF REAL ESTATE TRANSACTIONS TAKING PLACE.

- TERRORIST FINANCING RISK IS CONSIDERED LOW BASED ON THE LAG TIME IN SELLING BAHAMIAN REAL ESTATE COUPLED WITH THE PROHIBITIVE CUSTOMER DUE DILIGENCE FOR OCCASIONAL OR REGULAR BANK TRANSACTIONS.

PART 2

THE COMPLIANCE COMMISSION ACTION PLAN FOR 2018:

- ROLL OUT OF THE ENHANCED TRAINING AND AWARENESS PROGRAM IN 2018.
- IMPLEMENTATION OF RISK-BASED SUPERVISION CONSISTENT WITH FINANCIAL ACTION TASK FORCE (FATF) STANDARDS AND REFRESH THE SECTORS RISK ASSESSMENT IN 2018.
- CONSULTATIVE MEETINGS WITH INDUSTRY GROUPS, (E.G. BICA, BBA & BREA).
- INCREASE AND MORE EFFECTIVELY ALLOCATE RESOURCES TO FACILITATE THE SUPERVISION OF THE COMPLIANCE COMMISSION SECTORS.
- UPDATE THE COMPLIANCE COMMISSION REGISTRATION STATISTICS AND INSTITUTE AN ANNUAL AFFIRMATION INITIATIVE FOR ACTIVE REGISTRANTS TO ENSURE THERE ARE NO GAPS IN REGULATING FIRMS.
- IMPLEMENT AN ENFORCEMENT PROGRAM AND APPLY APPLICABLE SANCTIONS. ESTABLISH AN ADMINISTRATIVE PENALTY REGIME FOR AML/CFT BREACHES.

- UPDATING THE COMPLIANCE COMMISSION CODES OF PRACTICE CONSISTENT WITH THE FATF GUIDELINES AND AMENDED LAWS.
- RECOMMEND THE AMENDMENT OF EXISTING LEGISLATION TO REQUIRE MANDATORY REGISTRATION FOR ENTITIES DESIGNATED AS FINANCIAL INSTITUTIONS, WITH PENALTY FOR NON-COMPLIANCE. IN ADDITION, REQUIRE FIRMS REGISTERED TO NOTIFY THE COMPLIANCE COMMISSION OF A CHANGE OF ADDRESS OF THE REGISTERED OFFICE OR PRINCIPAL PLACE OF BUSINESS OR CHANGE OF BENEFICIAL OWNERS, DIRECTOR, PARTNER, COMPLIANCE OFFICER OR MONEY LAUNDERING REPORTING OFFICER, WITH PENALTY FOR NON-COMPLIANCE.
- REBRANDING OF THE COMPLIANCE COMMISSION WEBSITE - THE WEBSITE WILL REFLECT THE NEW STRATEGIC VISION OF THE COMMISSION. THE SITE WILL ALLOW FOR THE REGISTRATION OF ALL ACTIVE CONSTITUENTS, SERVE AS A TRAINING AND EDUCATIONAL TOOL AND PUBLIC AWARENESS TO NAME A FEW FEATURES.

NOTE: * DESIGNATED GOVERNMENT AGENCIES ARE ASSESSED IN THE FINAL NRA REPORT.

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