

Good morning, everyone, and thank you for taking time out from your busy schedules to be with us today for a series of presentations on the recently enacted EXTERNALLY and NON-REGULATED SERVICE PROVIDERS REGULATIONS (inelegantly termed “ENRSP Regs”).

First, to set the context. In 2009, AXA was assessed in the Caribbean Financial Action Task Force’s third mutual evaluation report. Although AXA did not fare too, too badly -- we received nine (9) Largely Compliant and two (2) Compliant ratings out of sixteen (16) core and key recommendations -- there were several recommendations for our improvement.

In particular, those were Recommendation 12 and Recommendation 16 regarding Designated Non-Financial Businesses and Professions (more inelegance – the “DNFBPs”) in which AXA was rated a rather mediocre “Partially Compliant”. In order for AXA to exit the next round of mutual evaluation successfully it has to prove that it has eliminated deficiencies and reached “Compliant” status.

That’s of critical importance for AXA, as it: (a) helps promote the financial services industry, and (b) avoids AXA being placed on a list of so-called “High Risk and Non-Co-operative Jurisdictions” listed on the FATF website under the FATF’s “name and shame” policy. We have no wish to join the two Caribbean countries that made the list following the C-FATF Plenary held in The Bahamas last month.

For our purposes, the Designated Non-Financial Businesses and Professions (“DNFBPs”) of FATF terminology have been re-named “NON-REGULATED SERVICE PROVIDERS” and made subject to the secondary legislation enacted by the Government of Anguilla on 25 September 2013 and named the “Externally and Non-Regulated Service Providers Regulations, 2013”. This brings both the externally regulated and the non-regulated service providers under AXA’s anti-money laundering and combatting the financing of terrorism regime.

To take each category identified separately:

(1) An “externally regulated service provider” includes:

- A person who holds a license issued under the Banking Act;
- A person who holds a license issued under either Part 4 or Part 9 of the Securities Act.

Those persons are primarily regulated by the Eastern Caribbean Central Bank and the Eastern Caribbean Securities Regulatory Commission, respectively, (hence the term “externally-regulated”) and supervised by the Financial Services Commission for AML/CFT purpose only.

(2) A non-regulated service provider” includes certain professions and businesses that are not generally not regulated by the Financial Services Commission, namely:

- Independent Legal professionals – lawyers, notaries and other independent professionals;
- Accountants and auditors;
- High Value Dealers – persons who, by way of business, trade in goods – including precious metals and stones – and receive , in respect of any transaction – **a payment or payment in cash of at least EC\$35,000, or the equivalent in a currency other than Eastern Caribbean dollars**, whether the transaction is executed in a single operation or in several linked operations; and
- Real Estate Agents – whenever such an agent is involved in a transaction for a client involving the buying or selling of real estate.

The first draft of the legislation – called at the time the NON-REGULATED SERVICE PROVIDERS REGULATIONS (i.e. Externally Regulated Service Providers were not then included) – was circulated to members of the Anguillian Bar in 2011 and received the benefit of many comments.

In 2012, the FSC was accorded the privilege of supervising – solely for AML/CFT purposes, I hasten to emphasize - both the domestic banks and licensees under the Securities Act and, as a consequence, the draft legislation was re-cast as the EXTERNALLY AND NON-REGULATED SERVICE PROVIDERS REGULATIONS. This draft was again circulated to the Bar Association on 15 January this year and to the Real Estate Agents, Accountants, Jewelers and Car Dealers on 19 March. No further comments were received on those drafts.

Service providers subject to the legislation must register with the Financial Services Commission on or before 31 January 2014 – that is, fifty-one (51) days away – or a little over seven (7) weeks' time. You can find the application form and the list of supporting documentation to be filed on the Commission's website.

That gets this morning's activities under way and I'll now hand over to Detective Inspector Ian McDonald of the Financial Intelligence Unit.

Keith Bell
Director
Anguilla Financial Services Commission

11 December 2013