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Financial Crimes Enforcement Network

FinCEN Advisory

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Transactions Involving St. Kitts & Nevis

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Banks and other financial institutions operating in the United States are advised to give enhanced scrutiny to all financial transactions originating in or routed to or through the Federation of St. Kitts and Nevis, or involving entities organized or domiciled, or persons maintaining accounts, in St. Kitts and Nevis. The need for such enhanced scrutiny is discussed in the remainder of this Advisory.

St. Kitts and Nevis is a federation composed of two islands located in the Caribbean Sea. The population of the islands is approximately 40,000.

Most of the financial activity in the Federation is concentrated in Nevis, whose economy has become increasingly dependent upon the fees generated by the registration of offshore banks. More than 9,000 offshore companies are registered in Nevis alone; there appears to be no bar under St. Kitts and Nevis law to these companies conducting a banking business outside of the Federation.

The counter-money laundering regime embodied in the legal, supervisory, and regulatory systems of St. Kitts and Nevis suffers from serious systemic problems.

- Money laundering is criminalized only to the extent that it involves the proceeds of narcotics trafficking. Moreover, drug money laundering is punishable only by the imposition of fines.
- Individuals with criminal records are not prohibited from holding management positions in offshore banks registered in Nevis.
- Offshore companies (including those that operate as financial institutions) registered in Nevis are not effectively supervised.
- Offshore companies (including those that operate as financial institutions) are not required to verify the identity of their customers or to maintain records relating to the identity of their customers.

- Financial institutions operating in St. Kitts and Nevis are not required to report suspicious transactions.

- The bank secrecy laws of St. Kitts and Nevis effectively prohibit governmental authorities from obtaining any financial information that is collected and maintained by financial institutions about their customers' identities and transactions.

These deficiencies, among others, have caused St. Kitts and Nevis to be identified by the Financial Action Task Force on Money Laundering (the "FATF") as non-cooperative "in the fight against money laundering." The FATF, created at the 1989 G-7 Economic Summit, is a 29 member international group that works to combat money laundering.

St. Kitts and Nevis has indicated an awareness of these deficiencies. The Federation's Prime Minister has indicated his government's intention to take corrective action and to embark upon a legislative program to address and resolve the problems noted by the FATF. St. Kitts and Nevis has also signed a mutual legal assistance treaty with the United States.

Nonetheless, the legal, supervisory, and regulatory systems of St. Kitts and Nevis at present create significant opportunities and tools for the laundering and protection of the proceeds of crime, and allow criminals who make use of those systems to increase significantly their chances to evade effective investigation or punishment. St. Kitts and Nevis' commitment to bank secrecy and the absence of sufficient supervisory and enforcement mechanisms aimed at preventing and detecting money laundering increase the possibility that transactions involving St. Kitts and Nevis offshore entities and accounts will be used for illegal purposes.

Thus, banks and other financial institutions operating in the United States should give enhanced scrutiny to any transaction originating in or routed to or through St. Kitts and Nevis, or involving entities organized or domiciled, or persons maintaining accounts, in St. Kitts and Nevis. A financial institution subject to the suspicious transaction reporting rules contained in 31 C.F.R 103.18 (formerly 31 C.F.R 103.21) (effective April 1, 1996), and in corresponding rules of the federal financial institution supervisory agencies, should carefully examine the available facts relating to any such transaction to determine if such transaction (of $5,000 or more, U.S. dollar equivalent) requires reporting in accordance with those rules. Institutions subject to the Bank Secrecy Act but not yet subject to specific suspicious transaction reporting rules should consider such a transaction with relation to their reporting obligations under other applicable law.

It should be emphasized that the issuance of this Advisory and the need for enhanced scrutiny does not mean that U.S. financial institutions should curtail legitimate business with St. Kitts and Nevis.

To dispel any doubt about application of the "safe harbor" to transactions within the ambit of this Advisory, the Treasury Department will consider any report relating to a transaction described in this Advisory to constitute a report of a suspicious transaction relevant to a possible violation of law or regulation, for purposes of the prohibitions against disclosure and the protection from liability for reporting of suspicious transactions contained in 31 U.S.C. 5318(g)(2) and (g)(3).

United States officials stand ready to provide appropriate technical assistance to St. Kitts and Nevis officials as they work to remedy the deficiencies in St. Kitts and Nevis's counter-money laundering systems that are the subject of this Advisory.

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