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National Ordinance containing rules to prevent and combat money laundering and terrorism financing in response to the recommendations of the Financial Action Task Force (National Ordinance combatting money laundering and terrorism financing)

Reaction to the Report

No. 6

Parliament in its meeting of the Central Committee has exchanged views with the Government on the Draft National Ordinance containing rules to prevent and combat money laundering and terrorism financing in response to the 40 recommendations of the Financial Action Task Force (National Ordinance combatting money laundering and terrorism financing).

Parliament considers the present draft to be adequately prepared when the questions below are answered in time for the public meeting so that the draft can be discussed in a public meeting.

The United Democrats-faction has taken note of the draft with interest. The faction would like to know the following. At the time of the signing on by Sint Maarten, were there recommendations that were already met? Currently there are, especially at financial institutions and other institutions as well, already checks taking place. Those checks are on the basis of what? On the basis of what are current checks being performed? Is the current law giving that possibility? Is it internally? Does it have to do with correspondent banks? Can that overview be given? Is it something from the Central Bank? Can we have a complete overview of all of the recommendations and where are these recommendations regulated in our laws, per recommendation? When these recommendations are adjusted, how quick should countries comply with having to change their regulations? Can an overview be given of that particular process?

At the time of signing on to the international standards (the 40 FATF recommendations) Sint Maarten was not in compliance. Of the 16 key and core recommendations, Sint Maarten only complied with two recommendations, being recommendation 1 (assessing risks and applying a risk based approach) and recommendation 4 (financial institutions secrecy laws). Sint Maarten also did not comply with 18 non-key and core recommendations. Sint Maarten at the time of the Mutual Evaluation in 2012 did not comply with at least 32 FATF recommendations.

When a FATF recommendation is amended, the member (country) gets to amend its legislation in the regular legislative procedure.

The financial institutions do their customer due diligence (CDD) based on their regular banking regulations (set by the Central Bank), the current National Ordinance reporting unusual transactions and the National Ordinance identification when rendering financial services. The overview of all the 40 recommendations and where in the present draft law they are included will be submitted next week.

The slides 13 and 14 speaks to a clarification given by the FATF having to do with the sharing of information between branches of institutions. The faction would like a further explanation on that amendment having to do with sharing of information between units of organizations or institutions? Slide 15 speaks to the matter of privacy protection and this was an amendment by the FATF. The faction would like a further elaboration on this amendment. The faction would also like an explanation on slide number 16 as it says the National Ordinance identification when rendering financial services and the National Ordinance reporting unusual transactions mainly saw services provided by financial institutions upon entry into force. The scope of anti-money laundering legislation was thereafter extended to include money remitters etc. etc. Was that our national scope? Or was this the international that thereafter was amended to include? The scope is of which legislation, our legislation in existence until now or was it international and we are now catching up?

Recommendation 18 concerns internal controls and foreign branches and subsidiaries. Under this recommendation financial institutions are required to implement programmes against money laundering and terrorism financing (ML/TF), which have regard to the ML/TF risks and the size of the business, and which include the following internal policies, procedures and controls: (a) compliance management arrangements (including the appointment of a compliance officer at the management level); (b) screening procedures to ensure high standards when hiring employees; (c) an ongoing employee training programme; and (d) an independent audit function to test the system. Financial groups are required to implement group-wide programmes against ML/TF, which are applicable, and appropriate to, all branches and majority-owned subsidiaries of the financial group. These should include the measures set out in abovementioned criteria and also: (a) policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management; (b) the provision, at group-level compliance, audit, and/or anti ML/counter FT (AML/CTF) functions, of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes. This should include information and analysis of transactions or activities which appear unusual (if such analysis was done). Similarly branches and subsidiaries should receive such information from these group-level functions when relevant and appropriate to risk management. Adequate safeguards on the confidentiality and use of information exchanged, should be in place, including to prevent tipping-off.

Slide 15 points out the fact that the recommendations are periodically reviewed by the FATF members. Amongst others, revisions were made to FATF recommendations 18 and 21.

Recommendation 18: Internal controls and foreign branches and subsidiaries

Recommendation 21: Financial institutions and their directors, officers and employees should be protected by law from both criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU. This protection should be available even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred. Furthermore, financial institutions and their directors, officers and employees are prohibited by law from disclosing the fact that a suspicious transaction report (STR) or related information is being filed with the Financial Intelligence Unit. These provisions are not intended to inhibit information sharing under Recommendation 18.

In February 2018 aforementioned recommendations 18 and 21 were revised to reflect the November 2017 amendments to the FATF Standards which clarified the requirements on sharing of information related to unusual or suspicious transactions within financial groups, and the interaction of these requirements with tipping-off provisions.

The scope of the National Ordinance reporting unusual transactions and the National Ordinance identification when rendering financial services, being our national anti-money laundering and counter terrorism financing legislation, were extended to include money remitter companies.

What makes the compliance with the draft law on the table so detrimental? In terms of complying with for example, having a law on money laundering, we comply with that currently. Do we or do we not? Why is the bringing together of existing laws, why is it so important right now? It is not as if we do not have money laundering laws in place, it is not as if we do not have our financial intelligence unit in place. This law goes further to propose, because of the urgency we basically skip the part of vetting by the Ombudsman in this case.

Skipping that step is a very very crucial step in the process of the checks and balances as far as legislation is concerned.

Does the fact that we have certain laws already the reason for skipping the vetting by the Ombudsman?

Sint Maarten at this point in time does not comply with at least 32 of the 40 FATF recommendations. This non-compliance may lead to a public statement to be issued in May 2019 by the CFATF plenary meetings. The draft law on the table prevents that public statement from being issued. A public statement places a country on the list of high-risk or non-cooperative jurisdictions because it is not in compliance with the 40 recommendations of the FATF. This means that all 205 members (countries and jurisdictions) of the FATF are instructed and therefore obliged to monitor and if they deem it necessary, stop all financial relations with that country within six months; this to protect their financial systems. This would be devastating for Sint Maarten financial and socio-economic system.

The fact that Sint Maarten is already partially complying with the 40 FATF recommendations through its existing laws and the fact that Sint Maarten signed the MOU with the CFATF in 2011, committing itself to become fully compliant with the 40 recommendations, has given Sint Maarten the time necessary to update its AML/CTF legislation. The CFATF has spoken with the Ombudsman during the CFATF High Level Mission held on August 24th, 2018, during which all relevant stakeholders were informed of the state of affairs of Sint Maarten in the ongoing fourth round Mutual Evaluations. Sint Maarten is the only jurisdiction left to exit the third round Mutual Evaluation rounds.

It was decided that by 2022 all recommendations of the FATF should be implemented. Was that project a tangible project? Can that project be shared with Parliament? What deficiencies are in the current law that will be helped by this draft law and the draft law on the MOT?

The 2022 project was the abovementioned (ongoing) legislation process. Of the project, there are three draft laws at present being discussed. The complete list consists of the following draft laws:

1. Landsverordening tot wijziging van de Landsverordening aanmeldingsplicht grensoverschrijdende geldtransporten (2018-2019-120);
2. Landsverordening Meldpunt Ongebruikelijke Transacties (2018-2019-124);
3. Landsverordening bestrijding witwassen en terrorismefinanciering (2019-2019-125);
4. Landsverordening tot wijziging van het Wetboek van Strafrecht. Het betreft de aanscherping van de bestrijding van terrorisme en enige andere noodzakelijke aanpassingen. The draft law will be submitted to the Council of Advice as soon as possible.
5. Landsverordening tot wijziging van het Wetboek van Strafvordering. This draft law was submitted to the Council of Advice for the third time, and will be submitted to Parliament as soon as possible.
6. Herzieningslandsverordening Boek 2 Burgerlijk Wetboek. This draft will amend the Civil Code, in order to comply also with the OESO-standards to ban bearer shares, limited shares not listed in a register of shareholders. This draft will be submitted to Parliament as soon as possible.

Has the Minister and or the government at any point in the general discussion considered getting the input from our Social Economic Council? This considering mention has been made about the effects on our economy, the effects on our social lives and livelihood.

The AML/CTF legislation is already an integral part of government's overall law and policy programme. Without this AML/CTF legislation, the jurisdiction runs the risk of being isolated from the international financial system, which in turn would have a negative effect on Sint Maarten's socio-economic environment.

It is wrong to automatically assume that because you are in these businesses that were outlined in the presentation, casinos lotteries, that it is criminal. We are seeing this more and more by the banks, especially the banks that have international affiliations. These very organizations, gaming, decriminalization of prostitution, casinos are all legal within our realm. How is it possible that government on one hand can give licenses to operate within their jurisdiction, and on the other hand banks, which receive the same license to operate from government, then basically says no I do not want to deal with your so call kind? That is a dangerous precedent being set. Those companies in turn pay taxes to government, which the same banks accept those monies through government.

There is no assumption in the introduction of the amended AML/CTF legislation that certain service providers are criminal. The aim of the AML/CTF legislation is to protect a category of service providers from being misused for money laundering.

The rules must be clear. What does compliance do for Sint Maarten and its industry? What is done in the Netherlands?

The state of affairs at this moment is that if Sint Maarten fails to approve the draft laws to be in compliance with the 40 FATF recommendations, then the CFATF plenary meeting to be held in May 2019, will issue a public statement on Sint Maarten. A public statement places a country on the list of high-risk or non-cooperative jurisdictions, because it is not in compliance with the 40 recommendations of the FATF. This means that all 205 members (countries and jurisdictions) of the FATF are instructed and therefore obliged to monitor and if they deem it necessary, stop all financial relations with that country within six months; this to protect their financial systems. The Netherlands as a member also strive to be in compliance with the 40 FATF recommendations.

Are the banks refusing funding from the Red Light district? For years marijuana has been decriminalized, as a matter of fact legalized, in the Netherlands, what happens with the monies that will be generated or is being generated by the marijuana industry. The faction understands that that is one of the problems that they are facing as well. Banks are not accepting the monies. If these lotteries, casinos, houses of ill repute decide to keep their monies at home in cash, that too is an offense. People and businesses are being put in a corner where it is impossible to do business. Is government prepared to say since Casinos cannot bank at banks, is government going to close all casinos? What will the repercussions be of that? What does the cruise ships do with their money after they receive it from their clients?

The banks as service providers that fall under the scope of the Central Bank of Curaçao and Sint Maarten's supervisory legislation that is aimed at promoting the stability, integrity, efficiency, safety, and soundness of the financial system of these countries. The banks fall under the scope of the National Ordinance reporting unusual transactions and the National Ordinance identification when rendering financial services in which it is stipulated amongst other things that they are expected to carry out a CDD on a regular basis into the profile of their clients and the transactions that being executed by these clients, and report them when unusual or suspicious. The service providers that fall under the scope of the National Ordinance reporting unusual transactions, amongst others casino's, lotteries, etc. must make sure to carry out their obligations as is stipulated in the mentioned law, so that they cannot be misused for money laundering or terrorism financing. Government has no intention to close down any service provider who abides by the laws.

One of the types of businesses mentioned were stocks. People who are involved in stocks and even foreign exchange, if it is listed as one of the companies collecting this money here would be flagged as money laundering, how would people continue to do business without having to worry about being considered one of those involved in money laundering?

When the service providers conduct their business in agreement with (in this case) the AML/CTF legislation, then there is no need to worry about being flagged as a money launderer. Furthermore, the supervisory authorities, the Central Bank of Curaçao and Sint Maarten and the MOT are there to answer questions and to guide the service providers in the implementation of the AML/CTF laws.

As far as collecting the funds from these types of businesses, activities happening abroad and collected here, is this considered money laundering? With the amount of jobs not available and banks not doing business anymore with people who have certain businesses. How do those people make money without being accused of money laundering? Collecting funds from AirBnB, is this considered money laundering?

The business activities of for example AirBnB, an international business that expects Sint Maarten to abide by the 40 FATF recommendations, and other international and national businesses, can take place through the service providers who fall within the scope of the mentioned laws and are aware of the stipulations of the AML/CTF laws. It is of the utmost importance that the integrity of Sint Maarten's financial system is protected at all times and under any circumstances.

Businesses such as SZV that invest in stocks, where do they put their money when they collect their earnings from this? Do you have any suggestion where these people should store their money when the banks are not taking it anymore? The monies collected from PayPal, is that money laundering?

Government does not have information about SZV not being able to store its collected funds at local banks.

And PayPal money or any other company's money is expected to go through the same AML/CTF regime of a service provider to establish that there is no misuse of the service provider for money laundering or terrorism financing and to safeguard the financial system of Sint Maarten.

Where are the boundaries and at what point do you find yourself crossing into money laundering? The prepaid credit cards that are completely virtual, there are no laws for them, is this crossing into money laundering as well?

The international credit card companies also adhere to the 40 FATF recommendations and monitor and screen the transactions for misuse of money laundering and terrorism financing. The FATF recommendation 15 has been reviewed to ensure that virtual assets providers are regulated for

AML/CTF purposes, and licensed or registered and become subject to effective systems for monitoring and ensuring compliance with the relevant measures called for in the FATF recommendations.

Can Parliament receive a complete overview of the treaties that involve this particular subject to which Sint Maarten is party?

The complete overview of the recommendations and treaties will be provided next week.

What is the English translation of gedogenbeleid and when is it applied in Holland in the marijuana industry?

Gedooogbeleid is tolerance policy. A tolerance policy is being applied in the Netherlands for soft drugs and coffeeshops. The Dutch government considered soft drugs to be less harmful to health than hard drugs, therefore other rules sometimes apply. Coffee shops can sell weed and hashish under strict conditions. They are not prosecuted for this. This is the essence of the tolerance policy. The Dutch Public Prosecution Service also does not prosecute people if they have small amounts of soft drugs.

The National Alliance-faction has taken note of the draft. The faction would like to know what the role is of the Central Bank and do they also report fraudulent activities to the MOT? If so, how many unusual transactions have been reported for 2016, 2017 and 2018?

The Central Bank of Curaçao and Sint Maarten reports unusual transactions to the MOT as is stipulated in the National Ordinance reporting unusual transactions. Over the years 2016, 2017 and 2108, the Central Bank reported respectively one (1), zero (0), and zero (0).

How does the Central Bank deal with the handling of complaints? The faction indicates that on the website of the Central Bank it states that the Central Bank considers it important to receive complaints, tips and signals from the public regarding supervised institutions, however the Central Bank cannot mediate on your behalf or determine whether your complaint is well founded. Any report or complaint will be taken seriously and properly reviewed. It goes on to state that the Central Bank cannot provide a direct personal solution for your situation. Since the Central Bank is bound by confidentiality, the Central Bank cannot give feedback or signals on complaints that are filed. So, you can make a complaint, but the Central Bank is not obliged to answer. The faction would like some more clarity on that.

What laws are binding the Central Bank or preventing them from giving feedback on these things?

The Central Bank of Curaçao and Sint Maarten does handle complaints within the allotted timeframe, but cannot give feedback due to the confidentiality rule. Most probably the complaining party will notice that the complaint has been handled successfully when the financial institution offers a different or improved service.

Is there some sort of grace period or understanding for companies who have been doing business for years, and now with new legislation and policies coming in, all of a sudden they can't be doing business with banks no longer? What do they do now? What is their recourse? Where do they turn to? How do they settle this? What is the assistance that they get?

The introduction of new laws does not lead to relationships being severed with businesses. A service provider decides who it takes on as a client. To safeguard the integrity of the financial system of Sint Maarten, the AML/CTF laws have been amended and updated, and are submitted for approval to Parliament. A business that is not in agreement with the handling of its business by one of the service providers can take its case to court and let the impartial court decide if the service provider is within its rights to sever relations with the business.

If you are talking about 13 billion dollars the MOT reports, then the question is, in that reporting does this money come from the gambling sector, which is the casinos? Does this money come from the insurance sector? Does this money come from the gaming sector? Where is this money that is being reported, that 13 billion coming from? Are these institutions part of that 13 billion that is being reported by the MOT?

report to the MOT. In the example, the Real Estate agent, the Notary office, the commercial bank, and if a trust company or a lawyer are involved, each submit an unusual transaction report to the MOT. The MOT then receives the unusual transaction report up to four (4) times. Therefore the amount of 13 billion is an accumulative amount.

That stream of money that the MOT reports, where is it coming from? How do we classify the difference between the gambling money on one account for the business and the gambling money on another account for government? The faction would like an explanation on this. Is job loss being taken into account with adopting these legislations?

As explained above in the example, up to four or five service providers that fall under the scan With the information submitted to the MOT, it then proceeds to analyze the transaction, reported by these up to four service providers. The MOT further enhances the report by collecting additional data to analyze the transaction and reach a conclusion: is there a suspicion of money laundering or terrorism financing or not? If not, then the analysis is finalized and closed off. If a suspicion of money laundering or terrorism financing arises, then a report on the unusual transaction is sent to the public prosecutor's office for further investigation.

How is this going to affect PayPal? How is it going to affect AirBnB, in what way? How will it affect our economy?

See answer provided above.

How is this going to help these type of businesses? What is it going to do for Sint Maarten cash business?

See answer provided above.

Banking in general will become a lot more difficult in the future. We are way behind. The faction would like to see more innovative laws coming to Parliament. The faction would also like to know if the Minister was a Member of Parliament, if he would be comfortable enough with the law at the moment approving this law?

The AML/CTF legislation is in the process of being amended and updated and will be submitted to Parliament for decision-making in the near future. The Minister is comfortable with the present AML/CTF law, as it has serious intention to safeguard the integrity of Sint Maarten's financial system.

If someone has stocks and get pay dividends and they pay their 50% tax on their dividends in the USA and they payout on their local account. Between the MOT and the Central Bank, will they also now be reporting on my capital gains to the finance ministry to the tax department? Or is there a line drawn between there?

The service providers that fall under the scope of the AML/CTF laws are expected to monitor transactions to and from Sint Maarten, whether it concerns stocks or purchase or sale of high value goods. The tax laws are separate from this present law and focus on national and international tax compliance.



Parliament of Sint Maarten

Staten van Sint Maarten

Aan de Minister van Justitie
De heer V.H.C. de Weever
p/a Ministerraad
Philipsburg

UV/247/2018-2019

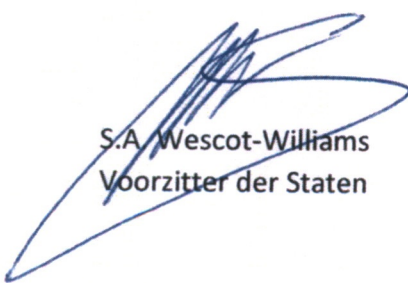
Philipsburg, 14 maart 2019

Betreft: Aanbieding afschrift verslag Olv
houdende regels ter voorkoming van en
bestrijding witwassen en terrorismefinanciering
naar aanleiding van de aanbevelingen van de
Financial Action Task Force

Excellentie,

Middels deze doe ik u toekomen afschrift van het verslag van het Ontwerp van de Landsverordening houdende regels ter voorkoming van en bestrijding witwassen en terrorismefinanciering naar aanleiding van de aanbevelingen van de Financial Action Task Force (Zittingsjaar 2018-2019-125).

Ik verwijs u korthedshalve naar de inhoud ervan.



S.A. Wescot-Williams
Voorzitter der Staten



Parliament of Sint Maarten

Staten van Sint Maarten

Zittingsjaar 2018-2019-125

Landsverordening houdende regels ter voorkoming van en bestrijding witwassen en terrorismefinanciering naar aanleiding van de aanbevelingen van de Financial Action Task Force (Landsverordening bestrijding witwassen en terrorismefinanciering)

Verslag
No. 5

De Staten hebben in hun vergadering van de Centrale Commissie van gedachten gewisseld over het Ontwerp van Landsverordening houdende regels ter voorkoming van en bestrijding witwassen en terrorismefinanciering naar aanleiding van de aanbevelingen van de Financial Action Task Force (Landsverordening bestrijding witwassen en terrorismefinanciering).

De Staten beschouwen het onderhavig ontwerp voldoende voorbereid te zijn indien de hierna gestelde vragen tijdig, voor de openbare behandeling, zijn beantwoord opdat het ontwerp in een openbare vergadering kan worden behandeld.

De **United Democrats-fractie** heeft met belangstelling kennis genomen van het ontwerp. De fractie zou graag het volgende willen weten. Op het moment van de ondertekening door Sint Maarten, waren er aanbevelingen die al werden gehaald? Momenteel zijn er, vooral bij financiële instellingen en andere instellingen, al controles die plaatsvinden. Die controles zijn op basis van wat? Op basis van wat zijn de huidige controles die worden uitgevoerd? Geeft de huidige wet die mogelijkheid? Is het intern? Heeft het te maken met correspondentbanken? Kan dat overzicht worden gegeven? Is het iets van de Centrale Bank? Kunnen we een volledig overzicht krijgen van alle aanbevelingen en waar deze aanbevelingen in onze wetgeving worden geregeld, per aanbeveling? Wanneer deze aanbevelingen worden aangepast, hoe snel moeten landen dan voldoen aan het feit

dat zij hun regelgeving moeten wijzigen? Kan een overzicht van dat specifieke proces worden gegeven?

De dia's 13 en 14 spreken tot een verduidelijking gegeven door de FATF met betrekking tot het delen van informatie tussen branches van instellingen. De fractie zou graag een nadere toelichting op dat amendement hebben met betrekking tot het delen van informatie tussen eenheden van organisaties of instellingen? Dia 15 spreekt over de kwestie van privacybescherming en dit was een amendement van de FATF. De fractie zou graag zien dat dit amendement verder wordt uitgewerkt. De fractie zou ook graag een toelichting op dia 16 hebben, aangezien de identificatie van de Landsverordening bij het verlenen van financiële diensten en de Landsverordening die ongebruikelijke transacties meldt, voornamelijk diensten van financiële instellingen bij de inwerkingtreding zag. De reikwijdte van de anti-witwassenwetgeving werd daarna uitgebreid met geldtransactiekantoren enz. enz. Was dat onze nationale reikwijdte? Of was dit de internationale die daarna werd geamendeerd om op te nemen? De reikwijdte is van welke wetgeving, onze wetgeving dat tot nu toe bestaat of was het internationaal en we zijn nu een inhaalslag aan het maken?

Wat maakt de naleving van het wetsvoorstel op tafel zo schadelijk? Als het gaat om het naleven van bijvoorbeeld een wet op het witwassen van geld, houden wij ons daar nu aan. Doen we of niet? Waarom is het samenbrengen van bestaande wetten, waarom is het nu zo belangrijk? Het is niet zo dat we geen wetgeving voor het witwassen van geld hebben, het is niet zo dat we onze financiële inlichtingeneenheid niet hebben. Deze landsverordening gaat verder met voorstellen; vanwege de urgentie slaan we in feite de controle over van de Ombudsman in dit geval. Het overslaan van die stap is een zeer cruciale stap in het proces van de checks and balances voor zover het wetgeving betreft. Is de reden waarom bij de controle door de Ombudsman over slaan het feit dat we bepaalde regelgeving al hebben?

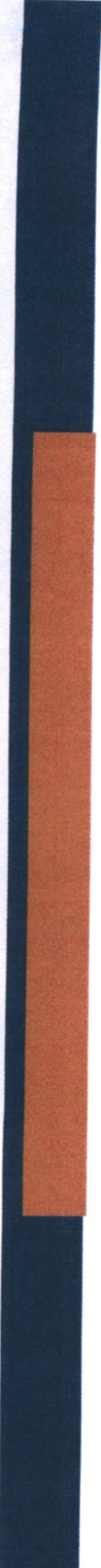
Het is in 2022 is besloten dat alle aanbevelingen van de FATF zouden moeten zijn uitgevoerd. Was dat project een tastbaar iets? Kan dat project met de Staten worden gedeeld?

Welke tekortkomingen zijn er in de huidige wet die zal worden geholpen door dit ontwerp en het ontwerp inzake de MOT?

Heeft de minister en / of de regering op enig moment in de algemene discussie overwogen om de inbreng van onze Sociaal Economische Raad te vragen? Dit nadenken is gedaan over de effecten op onze economie, de effecten op ons sociale leven en levensonderhoud.

Het is verkeerd om automatisch aan te nemen dat omdat je actief bent in dergelijke ondernemingen die in de presentatie zijn beschreven, casino-loterijen, dat het crimineel is. We zien dit steeds vaker door de banken, vooral de banken met internationale banden. Deze organisaties, gaming, decriminalisering van prostitutie, casino's zijn allemaal legaal binnen ons land. Hoe is het mogelijk dat de overheid enerzijds vergunning kan verlenen om binnen hun rechtsgebied te opereren, en anderzijds banken, die dezelfde vergunning krijgen van de overheid om te opereren, dan zegt in principe nee, ik wil niet omgaan met uw soort? Dat is een gevaarlijk precedent dat wordt vastgesteld. Die bedrijven betalen op hun beurt belastingen aan de overheid, die dezelfde banken via de overheid accepteren. De regels moeten duidelijk zijn. Wat doet compliance met Sint Maarten en haar industrie? Wat gebeurt er in Nederland? Weren de banken het geld van de Wallen? Jarenlang is marihuana in Nederland gedecriminaliseerd, feitelijk gelegaliseerd, wat gebeurt er met de gelden die wordt gegenereerd of worden gegenereerd door de marihuana-industrie. De fractie begrijpt dat dit ook een van de problemen is waarmee ze worden geconfronteerd. Banken accepteren de gelden niet. Als deze loterijen, casino's, *houses of ill repute* beslissen om hun geld thuis contant te houden, is ook dat een overtreding? Mensen en bedrijven worden in een hoek geplaatst waar het onmogelijk is om zaken te doen. Is de overheid bereid om te zeggen dat casino's niet bij banken kunnen bankieren, gaat de overheid alle casino's sluiten? Wat zullen de gevolgen daarvan zijn? Wat doet het cruise schepen met hun geld nadat ze het van hun klanten hebben ontvangen?

Een van de soort genoemde bedrijven waren aandelen c.q. stocks. Mensen die betrokken zijn bij aandelen en zelfs



buitenlandse valuta, als het wordt vermeld als een van de bedrijven die dit geld hier verzamelen, worden gemarkeerd als witwassen van geld, hoe zouden mensen zaken blijven doen zonder zich zorgen te hoeven maken dat ze worden beschouwd als een van degenen die betrokken zijn bij het witwassen van geld? Wat betreft het verzamelen van de middelen van dit soort bedrijven, activiteiten die in het buitenland plaatsvinden en hier worden verzameld, wordt dit beschouwd als het witwassen van geld? Met het aantal banen dat niet beschikbaar is en banken die geen zaken meer doen met mensen die bepaalde bedrijven hebben. Hoe verdienen die mensen geld zonder te worden beschuldigd van witwassen? Geld verdienen bij AirBnB, wordt dit beschouwd als het witwassen van geld? Bedrijven zoals SZV die in aandelen beleggen, waar zetten ze hun geld als ze hun inkomsten hieruit verzamelen? Heeft u een suggestie waar deze mensen hun geld zouden moeten bewaren als de banken het niet meer opnemen? Het geld dat via PayPal wordt opgehaald, is dat het witwassen van geld? Waar zijn de grenzen en op welk punt kom je terecht bij het witwassen van geld? De prepaid-credit cards die volledig virtueel zijn, er zijn geen wetten hiervoor, gaat dit ook over op het witwassen van geld?

Kan de Staten een volledig overzicht krijgen van de verdragen die betrekking hebben op dit specifieke onderwerp waaraan Sint Maarten deelneemt?

Wat is de Engelse vertaling van gedogenbeleid en wanneer wordt dit in Nederland toegepast in de marihuana-industrie?

De National Alliance-fractie heeft kennis genomen van het ontwerp. De fractie zou graag willen weten wat de rol van de Centrale Bank is en of ze ook frauduleuze activiteiten aan de MOT rapporteren? Zo ja, hoeveel ongebruikelijke transacties zijn er gerapporteerd voor 2016, 2017 en 2018? Hoe gaat de Centrale Bank om met de behandeling van klachten? De fractie geeft aan dat op de website van de Centrale Bank staat dat de Centrale Bank het belangrijk vindt om klachten, tips en signalen van het publiek te ontvangen over de onder toezicht staande instellingen, maar de Centrale

Bank kan niet namens u bemiddelen of bepalen of uw klacht goed is onderbouwd. Elk rapport of elke klacht zal serieus worden genomen en goed worden beoordeeld. Vervolgens wordt gesteld dat de Centrale Bank geen directe persoonlijke oplossing voor uw situatie kan bieden. Omdat de Centrale Bank gebonden is aan vertrouwelijkheid, kan de Centrale Bank geen feedback of signalen geven over klachten die zijn ingediend. U kunt dus een klacht indienen, maar de Centrale Bank is niet verplicht daarop te antwoorden. De fractie wil graag wat meer duidelijkheid hierover. Welke wetten binden de Centrale Bank of voorkomen dat ze feedback geven op deze zaken?

Is er een soort *grace period* of begrip voor bedrijven die al jarenlang zakendoen, en nu er nieuwe wetgeving en beleidsmaatregelen komen, kunnen ze opeens geen zaken meer doen met banken? Wat doen ze nu? Wat is hun verhaal? Waar komen ze terecht? Hoe regelen ze dit? Wat is de hulp die ze krijgen? Als je het over 13 miljard dollar hebt, meldt de MOT, dan is de vraag, is in die rapportage dit geld afkomstig van de goksector, namelijk de casino's? Komt dit geld uit de verzekeringssector? Komt dit geld uit de kansspelsector? Waar is dit geld dat wordt gemeld, waarvan 13 miljard afkomstig is? Maken deze instellingen deel uit van die 13 miljard die door de MOT wordt gemeld?

Die stroom geld die de MOT meldt, waar komt het vandaan? Hoe classificeren we het verschil tussen het gokgeld op één account voor het bedrijf en het gokgeld op een ander account voor de overheid? De fracties willen hier graag een verklaring voor. Wordt banenverlies in aanmerking genomen bij het aannemen van deze ontwerp-landsverordening?

Wat voor invloed zal dit hebben op PayPal? Hoe gaat het AirBnB beïnvloeden, op welke manier? Hoe zal dit onze economie beïnvloeden? Hoe gaat dit type bedrijven helpen? Wat gaat het doen voor de cash-business in Sint Maarten?

Bankieren in het algemeen zal in de toekomst een stuk moeilijker worden. We lopen ver achter. De fractie zou graag zien dat er meer innovatieve ontwerp-landsverordeningen naar de Staten komen. De fractie zou ook graag willen weten

als de minister een Statenlid was, of hij comfortabel zou zijn met het goedkeuren van dit ontwerp?

Als iemand aandelen heeft en uitkeringen ontvangt en zij 50% belasting betalen op hun uitkeringen in de VS en zij vervolgens uitbetalen op hun lokale rekening. Tussen de MOT en de Centrale Bank, zullen zij nu ook verslag uitbrengen over mijn meerwaarden aan het ministerie van Financiën bij de belastingdienst? Of bestaat er een duidelijke lijn hiertussen?

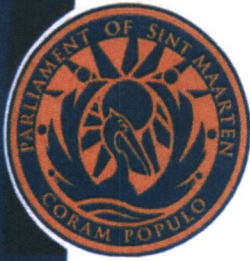
Dit verslag geldt als Eindverslag.

Aldus vastgesteld in de vergadering van de Centrale Commissie van de 27^{ste} februari 2019.

De Rapporteur,

S.A. Wescot-Williams





Parliament of Sint Maarten

Staten van Sint Maarten

Parliamentary Year 2018-2019-125

National Ordinance containing rules to prevent and combat money laundering and terrorism financing in response to the recommendations of the Financial Action Task Force (National Ordinance combatting money laundering and terrorism financing)

Report

No. 5

Parliament in its meeting of the Central Committee has exchanged views with the Government on the Draft National Ordinance containing rules to prevent and combat money laundering and terrorism financing in response to the recommendations of the Financial Action Task Force (National Ordinance combatting money laundering and terrorism financing).

Parliament considers the present draft to be adequately prepared when the questions below are answered in time for the public meeting so that the draft can be discussed in a public meeting.

The **United Democrats-faction** has taken note of the draft with interest. The faction would like to know the following. At the time of the signing on by Sint Maarten, were there recommendations that were already met? Currently there are, especially at financial institutions and other institutions as well, already checks taking place. Those checks are on the basis of what? On the basis of what are current checks being performed? Is the current law giving that possibility? Is it internally? Does it have to do with correspondent banks? Can that overview be given? Is it something from the Central Bank? Can we have a complete overview of all of the recommendations and where are these recommendations regulated in our laws, per

recommendation? When these recommendations are adjusted, how quick should countries comply with having to change their regulations? Can an overview be given of that particular process?

The slides 13 and 14 speaks to a clarification given by the FATF having to do with the sharing of information between branches of institutions. The faction would like a further explanation on that amendment having to do with sharing of information between units of organizations or institutions? Slide 15 speaks to the matter of privacy protection and this was an amendment by the FATF. The faction would like a further elaboration on this amendment. The faction would also like an explanation on slide number 16 as it says the National Ordinance identification when rendering financial services and the National Ordinance reporting unusual transactions mainly saw services provided by financial institutions upon entry into force. The scope of anti-money laundering legislation was thereafter extended to include money remitters etc. etc. Was that our national scope? Or was this the international that thereafter was amended to include? The scope is of which legislation, our legislation in existence until now or was it international and we are now catching up ?

What makes the compliance with the draft law on the table so detrimental? In terms of complying with for example, having a law on money laundering, we comply with that currently. Do we or do we not? Why is the bringing together of existing laws, why is it so important right now? It is not as if we do not have money laundering laws in place, it is not as if we do not have our financial intelligence unit in place. This law goes further to propose, because of the urgency we basically skip the part of vetting by the Ombudsman in this case. Skipping that step is a very very crucial step in the process of the checks and balances as far as legislation is concerned. Does the fact that we have certain laws already the reason for skipping the vetting by the Ombudsman?

It was decided that by 2022 all recommendations of the FATF should be implemented. Was that project a tangible project? Can that project be shared with Parliament? What deficiencies are in the current law that will be helped by this draft law and the draft law on the MOT?

Has the Minister and or the government at any point in the general discussion considered getting the input from our