ADDRESS TO BANKERS ASSOCIATION

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INSURANCE REGULATION FOR COMMERCIAL BANKS IN SAINT LUCIA

Delivered by

EXECUTIVE DIRECTOR, FINANCIAL SERVICES REGULATORY AUTHORITY

April, 12, 2016 at

President of the Bankers Association, Mr. Andy Delmar

Members of the Association

Invited Guest, Ladies and Gentlemen

A very pleasant afternoon to you! Thanks for the invitation to address you on two topical issues in the field; the Foreign Account Tax Compliance Act (FATCA) and the regulation of Insurance by Banks. I am indeed pleased to do so.

Let me hasten to add though that any reference to regulation of Banks does not relate to your core business of Commercial Banking as this is the Preserve of the Central Bank.

On March 18, 2010, the US Government enacted the Foreign Account Tax Compliance Act (FATCA) to fight tax evasion by US persons holding

investments in accounts outside of the United States of America. Subjected to this law are any person with US indicia but excluding a corporation and any member of the same affiliated group, a real estate investment trust, the United States of America or any wholly owned agency, and a US tax exempt organisation.

By the new law, Foreign Financial Institutions (FFIs) must report to the US Internal Revenue Service, information on assets exceeding US $50, 000 being held by US Tax payers, on cash value insurance (that is long-term insurance) and annuity contracts held by individual account holders in excess of US $250,000, or by foreign entities in which US tax payers hold more than 10 percent ownership interest. If the FFI fails to submit this information it could result in:

- a 30 percent withholding tax levied on certain payments; and
- Loss of correspondent banking relationships with US Banks.

To avoid a direct reporting arrangement between the US Internal Revenue Service and financial institutions operating in Saint Lucia, Prime Minister and Minister for Finance, Economic Affairs, Planning and Social Security, Dr. Kenny Anthony on November 19, 2015 signed an Inter-Governmental Agreement (The Agreement) with the United States of America, represented by Dr. Larry Palmer, then Ambassador of the United States of America to Saint Lucia and the Eastern Caribbean, for facilitating this information exchange. Saint Lucia qualified to sign a Model IA (a reciprocal) Agreement due to:

- An in force Tax Information Exchange Agreement with the US which was premised on spontaneous / automatic exchange; and
- The application of Income Tax domestically.

Having signed a Model IA Agreement (the only ECCU Territory to do so) the US authorities will also be obligated to exchange such information about

Saint Lucia persons directly to our Competent Authority, the Inland Revenue Department.

Government will introduce shortly in Parliament a Bill giving legal force to the provisions of the Agreement and the first exchange of reportable information by the foreign financial institutions in respect of 2014 and 2015 will be submitted by September 30, 2016.

INSURANCE REGULATION

The participation of Commercial banks in the sale of insurance products – Bancassurance – remains a heavily debated issue in financial circles. Proponents and opponents of this debate have squared off with financial service regulators mediating in this long-standing debate. In most developed and developing financial markets, banks have penetrated insurance sales business to varying degrees and there have been a myriad of regulatory frameworks developed to overs these entities.

In Saint Lucia two (2) commercial banks are licensed to conduct insurance business as Insurance agents, and one has been registered as an insurance broker. Several others offer group insurance products; a service which currently does not require registration. Generally these products offered by the banks are closely tied / linked to commercial offerings by the banks to loan applicants; property and motor classes of insurance dominate banks assurance sales.

Both the insurance and banking sectors are highly specialized with intricate structures and operations. Integrating these two industries can have several implications on the financial market with the most cited criticism against bancassurance relating to coerced tied selling of bank and insurance products. Innovative products, packaged by banks, "package" assurance products with other banking products. These packages offer the benefit of customer convenience which banks have tended to market as one-stop shopping. However, and often so, customers:

- are not aware of the option of obtaining insurance risk coverage from other insurers which may offer greater benefits; and
- might perceive a loan may not be approved / granted should the offered risk coverage not be accepted from the lending bank.

This leverage by banks, perceived or otherwise, is unacceptable and disturbs the likelihood of a harmonious business relationship between fully operational insurers and banks. The Financial Services Regulatory Authority (FSRA) is mandated to protect the policyholder and as such involves ensuring that they are not (unfairly) coerced into insurance contracts in this manner. In consequence, registered entities are issued guidelines by the FSRA emphasizing the importance of informing clients of their options for insurance coverage.

Commercial Banks engaged in insurance business have tended to classify their engagement as a secondary line of business. As such, staff are generally not qualified nor experienced in insurance. This practice does not comply with the Insurance Act of Saint Lucia which requires insurance practitioners to meet a minimum level of insurance related qualification to be registered in the space. This need for qualified insurance professionals cannot be understated as in the absence of such several compliance related infractions are committed. Therefore, commercial banks engaging in insurance have the responsibility of ensuring that staff participating in the sale of these products are adequately trained and knowledgeable to protect the integrity of the insurance sector.

DISCLOSURE REQUIREMENTS

In the presentation of the financial strength of commercial banks insurance business is often treated as a secondary line of business with

little detail provided in that regard. However, banks registered to conduct insurance business are required to submit supplementary financial information, duly audited, in the same format as all other registered insurance entities. In the mandate to protect policyholders, the FSRA is charged with the responsibility of ensuring the financial viability of all market participants. Full disclosure of insurance related business is imperative for the comprehensive analysis of the banks insurance portfolio. While the income generated from the insurance portfolio could be qualified as immaterial, full disclosure as stated earlier is required since insurance business is by nature material.

For purposes of protecting policyholders, varying degrees of separation of physical and operational structures of commercial banking and insurance business are enforced by regulators. This is necessary as the use of commercial banking staff to conduct the sale of insurance can increase the risk of coerced tied selling. Therefore in the ideal operational structure the contemplation is for a distinct:

- Insurance team comprising qualified practitioners; and
- Separation of the insurance function from the commercial banking function.

The FSRA will continue its effort, through guidance and instruction, to ensure a progressive movement to this ideal.

As our market continues to evolve, regulation must remain dynamic to address new features and ensuing issues. In the regulation of banks engaging in the sale of insurance products, the FSRA is committed to ensuring the protection of the interest of policyholders. In the ongoing dialogue with industry practitioners, policyholders and our research on the way forward with regard to commercial bank participation in the industry several recommendations are emerging. It is anticipated

these will help shape changes to the legislative arrangements for regulation in Saint Lucia. Though not explicitly legislated, the FSRA is exploring the requirement for banks to provide a separate document to potential clients authenticating the awareness of alternative options for the required risk coverage. Effectively this document would state that the client has the option of purchasing insurance from an insurer of his choice and that the clients' choice of insurer has no bearing on the loan approval process. Moreover, the signed document must be kept together with the clients' policy documents or the schedule to the banks' group policy. Additionally, ***the FSRA intends to make it a requirement that upon the banks' receipt of premium for a group policy, the insurer would be deemed to have been paid***.

It is worthy of emphasis here and I wish to repeat: **The FSRA has every intention of making it a requirement that upon receipt of premium for a group policy by the bank, the insurer would be deemed to have been paid.**