Anti-money laundering and counter-terrorist financing measures

Sint Maarten

Mutual Evaluation Report

July 2025



The Caribbean Financial Action Task Force (CFATF) is an inter-governmental body consisting of twenty-five member states and territories of the Caribbean Basin, Central and South America which have agreed to implement common countermeasures to address money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. For more information about the CFATF, please visit the website: www.cfatf.org

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Executive Summary

This report summarises the anti-money laundering, counter-terrorist financing and counter proliferation financing (AML/CFT/CPF) measures in place in Sint Maarten as at the date of the on-site visit from 16 to 30 September 2024. It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of Sint Maarten's AML/CFT/CPF system and provides recommendations on how Sint Maarten may strengthen its system.

Key Findings

a) Sint Maarten adopted its first National Risk Assessment (NRA) during the on-site visit. While it offers a good starting point in identifying risks, threats and vulnerabilities, the NRA was impacted by quantitative and qualitative data gaps, and some areas were not adequately explored. Overall, authorities demonstrated a fair understanding of money laundering (ML) risks and a developing understanding of terrorist financing (TF) risks. Sint Maarten has yet to develop a national AML/CFT policy, and authority-level objectives and activities could be further aligned with risks identified. There is domestic AML/CFT co-operation and co-ordination on operational matters, but there is a need for domestic exchange to develop and implement AML/CFT policies and activities.

b) The Financial Intelligence Unit of Sint Maarten (FIU) receives and analyses unusual transaction reports (UTRs) and disseminates the findings of its analysis to the relevant competent authorities (CAs). Law enforcement authorities (LEAs) access and use financial intelligence to a fair degree and access, to a greater extent, other relevant information. The scarcity of resources (human and technical) within the FIU has limited its ability to conduct operational analysis and has resulted in no strategic analysis being done. This adversely impacted the extent to which the FIU's analysis supports the operational needs of LEAs and other CAs as well as the FIU's ability to provide supervised entities with typologies on emerging trends or sufficient training and guidance sessions.

c) LEAs and the Public Prosecutor's Office (PPO), including the Public Prosecutor's Office – Central Team (PPO-CT), identify, investigate and prosecute cases through a wide range of mechanisms, some of which were complex ML cases involving third parties and legal persons. LEAs, the PPO and other CAs co-operated and collaborated to a good degree. Sanctions imposed were proportionate, effective and dissuasive within Sint Maarten's context. However, limited financial investigative capacity, staffing constraints and limited specialised training within some LEAs have hindered their ability to identify ML cases through financial intelligence and the conduct of parallel financial investigations. While legislation and a policy exist for confiscation, inadequate human and technological resources across some LEAs have caused the inconsistent application of confiscation as a policy objective. Moreover, CAs are

confiscating the proceeds of crime to some extent and to a lesser extent, instrumentalities and property of equivalent value. Confiscation efforts have focused primarily on corruption cases, with limited action against other high-risk threats identified in the NRA. Confiscation of undeclared or falsely declared cross-border cash or BNIs is negligible relative to Sint Maarten's risk profile, and sanctions in such cases are not considered to be effective, proportionate, or dissuasive. Additionally, cash seizures are not being adequately assessed for potential ML investigations despite the significant cross-border cash risk.

d) Market entry controls for financial institutions (FIs) and trust and company service providers (TCSPs) are generally good. Designated non-financial businesses and professions (DNFBPs), supervised by the FIU, must register but there is a lack of adequate fit and proper checks. The risk-based approach to supervising FIs and TCSPs by the Central Bank of Curaçao and Sint Maarten (CBCS), enhanced in 2022, is maturing. Enforcement actions are mainly follow-ups and warnings, which may not be proportionate to the severity of the breaches. Supervision of DNFBPs by the FIU has been severely hindered by resource constraints with no on-site examinations and limited off-site supervision taking place. Five sectors, (i.e. asset managers, securities intermediaries, payment service providers, electronic money institutions and VASPs), are not yet covered by AML/CFT licensing or supervision, though they are considered low risk and not significant to Sint Maarten's financial sector.

e) The implementation of preventive measures in Sint Maarten varies. Generally, understanding of ML risks for FIs is good, and policies and procedures in place are commensurate to risks. In particular, entities with head offices abroad demonstrated a better application of risk mitigating measures, including the use of automated tools and internal compliance policies that are regularly reviewed. For DNFBPs, understanding of ML risks and obligations vary and is generally more limited. The understanding of TF risks is lower across all FIs and DNFBPs, and the identification of the beneficial owner is largely limited to identifying shareholders. Reporting obligations are generally understood, and most sectors submit reports in line with their risks, but UTRs are primarily based on objective indicators and no UTRs were submitted on the basis of TF red flags.

f) Information on the creation of legal persons and legal arrangements is publicly available. The Chamber of Commerce and Industry (COCI) has recently established a beneficial ownership (BO) register and is currently in the process of recording BO information of legal persons. Systems are in place to enable CAs' access to basic information in a timely manner; however, access to BO information is not always timely. Furthermore, the existence of systematic deficiencies means that the information may not always be adequate, accurate and current.

g) Sint Maarten has criminalised TF and has some mechanisms for the identification of TF; however, issues such as the absence of strategies, limited resources for some CAs and CAs' lack of specialised training could hinder possible TF investigations and prosecutions. The FIU identified a possible TF case and disseminated its analysis to CAs. However, no investigation, disruption or

prosecution of same occurred during the assessment period. The limited number of possible TF cases identified is consistent with the assessment of the TF risk. The absence of national or institutional TF strategies, policies or procedures to respond to a potential TF case remains a significant gap.

h) Sint Maarten has in place a legislative framework for targeted financial sanctions (TFS) for TF and proliferation financing (PF); however, not without delay. Therefore, challenges related to the implementation of TFS-TF and PF remain. The process for domestic implementation of UNSCR 1267/1988 and 1989 listings and UNSCR 1718 requires transposition into domestic regulation, and although the framework has not been tested, this would not occur within 24 hours. Sint Maarten has never proposed designations to the UN or decided on domestic designations, neither did freezing of funds occur. Furthermore, Sint Maarten lacks a mechanism for direct communication to FIs and DNFBPs of updates to the UN Sanctions lists.

i) Sint Maarten has identified the subset of organisations which fall within the FATF definition of a non-profit organisation (NPO); however, the subset of NPOs most vulnerable to TF abuse or the specific TF risks faced by the NPO sector were not identified. There is generally a good understanding and adherence by supervised entities of their obligation to screen clients against the UNSCR1267/1988 and 1989 lists, however there was a lesser understanding of screening against UNSCR 1718 for DPRK-related individuals and entities. There is a need for increased awareness among the supervised entities on TF and PF and their relative TFS obligations.

j) Sint Maarten can cooperate with international parties through legislation, treaties and arrangements for mutual legal assistance (MLA) and extradition requests. Requests are managed by the International Legal Assistance Centre Carib (IRC CARIB) which maintains a case management system for incoming and outgoing MLA and extradition requests. However, the system does not track progress or feedback regarding such requests. Sint Maarten has not demonstrated that it provides and seeks timely and constructive MLA from foreign authorities and insufficient details on the nature of the MLA requests made it difficult to assess timeliness of responses and whether outgoing requests are in line with Sint Maarten's risk profile. No formal mechanisms are in place to ensure constructive and timely co-operation. While the CBCS and FIU shared statistics on other international cooperation efforts, LEAs provided no information on using mechanisms like the ARIN-CARIB, the International Criminal Police Organisation (INTERPOL) or the Caribbean Customs Law Enforcement Council (CCLEC).

Risks and General Situation

1. Sint Maarten is one of four autonomous countries within the Kingdom of the Netherlands. Located in the Leeward Islands, the Caribbean Island (total 87 km²) is divided between the French Collectivité d'Outre-mer: Collectivité de Saint-Martin (northern part: 53 km²) and Country Sint Maarten (southern part: 34 km²). There are no physical borders between the Collectivité de Saint-Martin and Country Sint Maarten; thus, there is free movement between both parts.
2. Sint Maarten has a relatively small economy that is tourism driven and heavily cash based. Sint Maarten's heavy reliance on tourism accounts for a significant portion of its Gross Domestic Product (GDP) and the jobs of approximately one-third of the employed population. Agriculture and local fishing are limited, so most food, energy, and manufactured goods are imported. The financial sector is dominated by seven banks, with five headquartered in Curaçao, and three money transfer companies (MTCs) are crucial due to a large migrant population sending remittances.
3. Sint Maarten's location and porous borders make the country vulnerable to a variety of transnational criminal activities such as drug trafficking, human smuggling and arms smuggling. Within the Kingdom of the Netherlands, the responsibility for inter alia foreign relations, defence and nationality law is vested with the Kingdom government and not with the autonomous country of Sint Maarten.
4. Sint Maarten published its first National Risk Assessment (NRA) in September 2024 (during the Mutual Evaluation on-site visit). According to the NRA, the predicate offences of drug trafficking, migrant smuggling, fraud, tax evasion, theft and robbery are its main money laundering (ML) threats. Though not identified or assessed in the NRA, Sint Maarten was found to be also susceptible to threats and vulnerabilities stemming from corruption, the large informal economy and cross-border activities. Banks, TCSPs, MTCs, notaries, casinos, car dealers, real estate agents, dealers in precious metals and stones (DPMS), accountants and lawyers are assessed as the sectors most vulnerable to ML. The NRA suggests that TF risks are relatively low, albeit there were significant data gaps in the assessment. It is noted though that the FIU identified a possible TF case and disseminated its analysis to CAs. However, no investigation, disruption or prosecution of same occurred during the period under review.

Overall Level of Compliance and Effectiveness

5. Sint Maarten has made progress in strengthening its AML/CFT regime since its previous mutual evaluation in the 3rd Round Mutual Evaluation, with new laws and amendments, as well as strengthening its institutional framework. While some initiatives are starting to show results, others need more time to be effective. Furthermore, the country also faces gaps in implementing TFS on TF and PF without delay, enhancing both domestic and international cooperation, and asset forfeiture.

Assessment of risk, coordination and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)

6. Sint Maarten has a fair understanding of ML risks, but needs a more granular assessment for the NPO, legal persons, and VASP sectors. The country has a fair understanding of existing ML threats and does not distinguish between foreign and domestic threats. The AT concluded that the country has a limited understanding of its TF risks, as it has not fully assessed, inter alia, the

vulnerability of the legal persons and NPO sectors. Sint Maarten identified the predicate offences of fraud, drug trafficking, migrant smuggling, tax evasion as well as theft and robbery as the main sources of proceeds generating crime. Corruption was not identified as a major predicate offence, despite several cases identified by the country on corruption relative mainly to fraud cases involving public officials and the use of legal persons as well as the focused attention given to this offence by the country with the appointment of special investigative teams on corruption.

7. The NRA reflects that there is a large informal sector without access to financial products, which poses greater risk of non-compliance with AML/CFT standards. Adoption of legislation aimed at formalising the economy and thereby reducing AML/CFT risks is pending. Sint Maarten's understanding of its ML and TF risks in the NRA was affected by significant data gaps due to challenges in collecting quantitative and qualitative data from the public and private sectors. Sint Maarten has taken some action to ensure that the private sector is made aware of the NRA results and by the end of the on-site visit, the FIU had disseminated the NRA to some CAs and DNFBPs via e-mail and both the FIU and the CBCS indicated the intention to host information sessions to explain and share the NRA results to their respective supervised entities.

8. Most of the AML/CFT CAs have a general understanding of their roles and responsibilities. However, the recency of the NRA process, together with resource constraints (both human and financial resources) may impact their ability to develop and carry out activities aligned to the risks identified in the NRA.

9. Sint Maarten has not developed and coordinated any holistic national AML/CFT policies informed by identified risks. Domestic AML/CFT co-operation and co-ordination is limited on policy level but better on operational matters. While most authorities worked together for the development of the NRA, through a Steering Group and sub-project groups, and the Intelligence Centre Sint Maarten (ICSM) is used as a coordination mechanism for operational matters, there is no mechanism to enable policy makers, the FIU, LEAs, supervisors and other relevant CAs to cooperate and share information concerning the development and implementation of AML/CFT/CPF policies and activities.

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)

10. Sint Maarten has a legal and institutional framework that enables the use of financial intelligence and other relevant information in the investigation of ML, predicate offences, and TF. The Financial Intelligence Unit (FIU) is an administrative type and is responsible for receiving and analysing unusual transaction reports (UTRs) submitted by FIs and DNFBPs. CAs, including the KPSM-Fraud Unit (KPSM-FU), the National Internal Investigation Department (LR), and the Detective Cooperation Team (RST), are empowered to access financial intelligence and relevant information through the Public Prosecutor's Office (PPO) and Public Prosecutor's Office Central Team (PPO-CT), depending on the complexity and scope of the financial investigation. The FIU can request or directly access various domestic databases and collaborates with, as well as submits disseminations to, other agencies through the ICSM platform. However, the extent to which financial intelligence is accessed and used varies across agencies. While some use is being made of disseminations and other relevant data — particularly to support predicate offence investigations — its use to proactively develop ML cases or trace assets remains limited. Human resource and analytical capacity constraints within the FIU, as well as limited training among some LEAs, hinder the consistent and effective production and use of financial intelligence in line with the country's risk profile.

11. Sint Maarten has established the legal and institutional framework to investigate and prosecute ML offences. The PPO oversees and directs investigations carried out by the KPSM-FU, LR, and RST, with access to a full range of investigative tools under the Code of Criminal Procedure. Prosecutors are assigned to cases from the start and provide legal guidance during investigations. In practice, however, ML is primarily pursued in connection with predicate offences. The PPO, PPO-CT and LEAs have investigated and prosecuted some ML and ML related cases involving both natural and legal persons, and sanctions imposed were considered proportionate and dissuasive. Investigations and prosecutions, however, should be pursued in line with the jurisdiction's higher risk predicate offences, such as drug trafficking to a greater extent. Human and technical resource limitations and insufficient financial investigative expertise by some LEAs limit the extent to which ML cases are identified through parallel financial investigations. The creation of the Steering Group has allowed Sint Maarten to focus its limited resources on its cases which has the most impact on the country, however, this is not based on identified risks. Notwithstanding this, some investigations and prosecutions were in line with the jurisdiction's main ML threats, such as tax fraud and migrant smuggling.

12. Sint Maarten has a comprehensive legal framework for conviction-based confiscation of proceeds of crime, instrumentalities, and property of equivalent value. The PPO, supported by LEAs, is authorised to initiate seizure and confiscation proceedings, and mechanisms are in place to manage seized assets. While confiscation is being pursued to some extent — particularly in domestic corruption-related cases and in relation to cash-based benefits — it is not being done consistently as a policy objective due to limited human and technical resources across some LEAs. There is limited confiscation of instrumentalities or cross-border cash/BNIs, and authorities have not demonstrated effective recovery of proceeds linked to foreign predicate offences or from assets held abroad. Despite claims of cooperation with foreign jurisdictions, no legal basis, case studies, or data were provided to confirm such efforts. Additionally, practical challenges in the management of seized assets, coupled with the absence of a coordinated confiscation strategy or detailed statistics, limit the visibility and impact of the existing framework. Overall, while the legal structure permits effective confiscation, its implementation is limited and not yet aligned with the jurisdiction's ML/TF risk profile.

Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39)

13. TF is criminalised and LEAs have a wide range of powers to investigate TF offences. In its NRA, Sint Maarten rated the risk of TF as low based on the absence of any data indicating the presence of terrorism and TF cases as well as the low risk of terrorism in Sint Maarten. However, there were data gaps and there was no granular assessment of TF risks in the NRA, and in particular on the TF vulnerabilities for NPOs and legal persons. Moreover, the NRA did not report on the existence of any flow of funds from or to high-risk jurisdiction through cross border movement of cash, via MTCs or otherwise. Sint Maarten has not received any request for TF information from other countries. However, the FIU has identified one such case through its analysis of a UTR, and disclosed same to the PPO, VDSM and a foreign FIU. Despite this, CAs have not investigated, disrupted or prosecuted any TF related cases during the period under review. Sint Maarten's legal framework allows for criminal sanctions, including imprisonment and fines, as well as administrative sanction measures to disrupt TF. Although no judgments of conviction have been rendered, in the AT's opinion imprisonment for a maximum period of 18 years or fine of NAf 100,000 (approximately USD 56,000) is sufficiently proportionate and dissuasive.

14. CAs, such as the FIU and the CBCS, are equipped with broad powers to obtain information to identify and investigate TF cases, however domestic co-ordination, and co-operation between all CAs is limited. Further, Sint Maarten does not have a national CFT policy or strategy to address any possible TF threat and to identify the requirements for training of CAs in this regard. CAs have also not developed any internal CFT policies.

15. Sint Maarten has a legal framework to allow for the implementation of TFS-TF pursuant to UNSCRs 1267/1989, 1988 and 1373. However, there are severe deficiencies regarding implementation without delay. While there were no designations or asset freezing over the assessment period to test the implementation, UN sanctions designations are not immediately applicable in Sint Maarten and require transposition into domestic law. The AT was advised that the transposition process may take approximately two weeks, which represents a delay. A mechanism to immediately communicate designations, or other modification to the UN Sanctions list to supervised entities, is also lacking. In Sint Maarten, the system for implementing TFS-PF is largely identical to that for TFS-TF. Therefore, the same issues relating to implementation of TFS-TF without delay apply to TFS-PF.

16. The FIU and CBCS, as the AML/CFT supervisors of the DNFBPs and FIs, respectively, are responsible for supervising compliance with implementing TFS-TF obligations. Although DNFBPs and FIs demonstrated an awareness of TFS-TF and generally understood freezing, reporting and screening obligations, the FIU and the CBCS provide limited supervision of TFS-TF implementation. There is also a need for outreach, training and guidance to supervised entities on their TFS obligations.

17. Whilst Sint Maarten has identified the NPOs which meet the FATF definition, it has not identified the subset of NPOs most vulnerable to misuse for TF and thus, has not developed any risk-based approach to mitigating risks associated with such NPOs. Further, Sint Maarten has not engaged with NPOs by providing CFT outreach which would enable them to develop understanding and knowledge of their TF vulnerabilities and risks.

18. Sint Maarten's legislative framework allows for the deprivation of TF assets and instrumentalities both in relation to TF investigations and TFS through seizure, forfeiture and confiscation of property that are the proceeds of, used in, intended, or allocated for use in the financing of terrorism. The jurisdiction also has several investigative tools to identify TF assets and instrumentalities including undercover operations, intercepting communications, accessing computer systems and controlled delivery. Sint Maarten did not report any deprivations of assets or instrumentalities during the assessment period.

Preventive measures (Chapter 5; IO.4; R.9–23)

19. The banks, insurance companies, MTCs and the credit union met with in Sint Maarten have a good understanding of ML risks and AML/CFT obligations. Within the DNFBPs, notaries (higher-risk sector) had a more mature understanding of ML risks as compared to other sectors. Notably the casinos and real estate agents (both higher-risk sectors) showed a basic understanding of their ML risk exposure and of their AML/CFT obligations (mainly pointing to reporting of UTRs). The TF risk understanding is limited across the FIs and DNFBPs as entities mainly link this to the low exposure to terrorism within Sint Maarten, rather than understanding how their services, products and customer base could be abused for TF purposes.

20. Implementation of mitigating measures is generally good in the FIs met as they explained their processes for risk profiling customers, ongoing monitoring and the use of automated tools for

screening against various lists (including sanctions lists). They have internal AML/CFT policies in place that are regularly reviewed and AML/CFT training for staff. Banks, insurance companies, MTCs and the credit union interviewed demonstrated a positive AML/CFT compliance culture, primarily driven by the existence of a strong internal control environment, head office oversight, oversight by their compliance department as well as internal and external audits.

21. DNFBPs have not adequately applied mitigating measures. There is limited supervision by and guidance from the FIU (as supervisor) which has an impact on the level of implementation of preventive measures across DNFBPs. Most DNFBPs conduct CDD and collect basic information on their clients; however, EDD requirements such as PEP screening and sanctions screening do not form a structural part of their mitigation measures. As a result, DNFBPs do not take focused mitigating measures to address high-risk scenarios as envisaged under a risk-based approach. Among the high-risk sectors, notaries have written policies in place compared to other sectors such as casinos, which do not have written policies, do not take specific measures when dealing with PEPs, nor screen against sanctions lists. FIs and DNFBPs generally struggle with determining the beneficial owner beyond the shareholders. FIs and most DNFBPs are aware of their reporting and tipping-off obligations. In terms of quantity, the submission of UTRs is generally in line with risks across the sectors, except for the real estate agents and DPMS where the numbers are less than ten. Reporting obligations are generally understood, and most sectors submit report in line with their risks, but UTRs are primarily based on objective indicators and no UTRs were submitted on the basis of TF red flags by FIs and DNFBPs.

Supervision (Chapter 6; IO.3; R.14, R.26–28, 34, 35)

22. Market entry controls for FIs and TCSPs, licensed by the CBCS, are good. For DNFBPs, supervised by the FIU, there are no robust controls to prevent criminals and associates from entering the market. Various CAs are involved in the licensing and registration of DNFBPs and as such hold different numbers of entities within the sectors – such as for the higher-risk sector of casinos. Therefore, there might be entities that should be supervised for AML/CFT compliance by the FIU, but they are not. For VASPs, securities intermediaries, asset managers, payment service providers and electronic money institutions, there are currently no requirements; however, legislation is pending to include them in the licensing regime of the CBCS. These sectors are considered low risk given their size and materiality in Sint Maarten.

23. The CBCS and FIU have a varying understanding of ML/TF risks in their respective sectors, both at sectoral and entity level. In 2022, the CBCS enhanced its risk-based supervision; therefore, the full supervisory impact and results of such implementation are not yet fully realised. The alignment of risk ratings of FIs and the extent of supervisory measures, such as intensity, scope and frequency of supervisory actions undertaken by the CBCS require additional fine-tuning, such as more frequent on-site examinations in line with the risk-based approach as outlined in the CBCS policy documentation.

24. DNFBPs in Sint Maarten are currently not supervised by the FIU due to significant resource constraints: off-site supervision has been limited to sending questionnaires to selected sectors (notaries, casinos, and real estate) without further analysis or supervisory action, and no on-site examinations have taken place in the assessment period.

25. The supervisory actions of the CBCS have led to compliance improvements in the banking, MTC, TCSP and insurance sectors. The CBCS heavily relies on remedial actions (warning letters and instructions); however, such measures do not always have a deterrent effect, and,

consequently, identified breaches may go unaddressed longer than if formal measures were applied.

26. The CBCS and the FIU conduct various outreach activities to promote an understanding of AML/CFT obligations and ML/TF risks, with the CBCS interacting more with its supervised entities as compared to the FIU; however, these activities are not always comprehensive and on-site interviews with FIs and DNFBPs demonstrated that there is a varying understanding of AML/CFT obligations and ML/TF risks among entities.

Transparency and beneficial ownership (Chapter 7; IO.5; R.24, 25)

27. Sint Maarten has publicly available information on the creation and types of legal persons and legal arrangements in the jurisdiction. The only legal arrangement in Sint Maarten is one registered express trust. CAs have taken steps to identify ML risks and vulnerabilities of legal persons, through its NRA adopted in September 2024, albeit this was achieved to a limited extent. The NRA identifies legal persons as having a medium ML risk; however, the risk assessment was not comprehensive in the view of the AT. There were significant data gaps in the NRA including, for example, limited information on the specific threats to the different types of legal persons. Moreover, TF risks in relation to legal persons were not assessed.

28. In Sint Maarten, notaries establish legal persons and trusts and are relied upon as gatekeepers to mitigate the misuse of legal persons/legal arrangements for ML/TF by obtaining and verifying beneficial ownership (BO) information on legal persons/legal arrangements as part of CDD information.

29. All legal persons and arrangements are required to register with the COCI, and basic information is available and accessible to all CAs. There is a newly formed BO register, and in March 2024, the COCI commenced the collection of BO information from new registrants and is currently updating records to obtain BO information on existing registrants. Systems are in place to enable CAs' access to basic information in a timely manner, however access to BO information is not always accessible in a timely matter, since a Prosecutor's Order is needed which can take up to several weeks to be executed. While basic and BO information are maintained by FIs and DNFBPs, the information may not always be current. These systematic deficiencies impede CAs access to accurate, adequate and current basic and BO information in a timely manner. Notwithstanding, Sint Maarten has indicated that seven international cooperation requests for BO information were received, but no further details were provided.

30. While there is a range of sanctions available for breach of requirements, no sanctions were imposed against legal persons, nor were efforts made to identify legal persons in violation of their requirements to provide the authorities with basic and BO information, during the period under review.

International cooperation (Chapter 8; IO.2; R.36–40)

31. Sint Maarten has a legal and institutional framework in place to provide and request international cooperation, including MLA, extradition, and other forms of information exchange. The IRC Carib, within the Attorney General's Office, acts as the Central Authority and has internal guidance for handling incoming and outgoing MLA requests and is supported by the KPSM and other CAs in the execution of the requests. Other CAs engage in other forms of international cooperation to varying degrees. The FIU demonstrated moderate engagement through timely responses and spontaneous disclosures to foreign counterparts. However, beyond the FIU and to

some extent, the CBCS, most CAs have not demonstrated that they provide or seek international cooperation in a manner consistent with Sint Maarten's ML risk profile. There is limited evidence of requests being made to trace or confiscate criminal proceeds, and overall cooperation related to ML predicate offences is modest. The absence of written procedures for extradition, lack of feedback mechanisms, and incomplete statistical data significantly limits the ability to assess the quality, timeliness, and extent of cooperation. While basic and BO information was exchanged in some cases, concerns remain about the accuracy, completeness, and timeliness of such information. Overall, the framework is in place, but the use of international cooperation tools is limited in scope, responsiveness, and alignment with risk.

Priority Actions

a) Sint Maarten should use a diverse range of information sources to develop a greater understanding of its ML/TF risks by addressing the gaps identified in the NRA. This would include conducting a comprehensive assessment of risks and vulnerabilities of legal persons, VASPs, NPOs, new technologies and emerging risks. Also, there is need to strengthen the analysis of cross-border ML/TF activities, corruption and the informal sector, as well as thoroughly assess TF risks. Further, Sint Maarten should effectively communicate the results of such assessments to the relevant CAs, FIs, DNFBPs and VASPs to support risk-based implementation of AML/CFT measures.

b) Sint Maarten should establish a national AML/CFT/CPF coordinating authority to, inter alia, develop and implement national AML/CFT/CPF policies and a national AML/CFT/CPF strategy that ensures resources are allocated to CAs based on identified risks to effectively achieve objectives and mitigate risks.

c) Sint Maarten should (i) enhance the legal framework to ensure that all DNFBPs are subjected to market entry controls (that include fit and proper checks and extend to the beneficial owner); (ii) ensure that the FIU understands the risks in the DNFBP sectors; and (iii) implement effective risk-based supervision, including by allocating adequate resources to the FIU.

d) Sint Maarten should identify the subset of NPOs at risk of TF abuse, assess specific TF threats to these NPOs, and implement risk-based monitoring for the sector.

e) The FIU should increase its operational analysis products and undertake strategic analysis to better meet the operational needs of LEAs and other CAs. Also, LEAs should access and use financial intelligence and other relevant information to a greater extent to identify and trace assets.

f) Sint Maarten should strengthen the capacity of LEAs to investigate ML and TF and consistently pursue confiscation as a policy objective by increasing human and technical resources for these investigations. LEAs should focus more on parallel financial investigations to better identify potential ML/TF cases and assets for confiscation. The PPO, PPO-CT and LEAs should prioritise financial investigations into other high-risk ML predicate offences identified in the NRA. CAs should also pursue confiscation related to crimes like drug trafficking and

tax evasion; and better address undeclared or falsely declared cash or BNIs, especially when linked to criminal activity. Additionally, mechanisms should be established to prioritise investigations and prosecutions in line with Sint Maarten's risk profile.

g) Sint Maarten should address the shortcomings identified in R.6 and R.7 and revise its framework to allow for effective implementation of TFS TF and PF without delay (that is, within 24 hours), pursuant to UNSCRs 1267/1989 and 1988, UNSCR 1718 and successor resolutions, respectively, as well as UNSCR 1373. Furthermore, CAs should effectively monitor and ensure compliance by FIs, DNFPS, and VASPS, regarding their TFS-TF and PF obligations.

h) Sint Maarten should expedite the collection of BO information on all legal persons registered with the COCI and implement cross-verification mechanisms with the notaries and the COCI to ensure accuracy of BO information.

i) Sint Maarten should ensure that comprehensive statistics across all CAs, especially the PPO and LEAs, are maintained to, inter alia, improve its ability to monitor and measure performance in respect of international co-operation, UTR indicators and disseminations, ML/TF investigations, prosecutions and convictions as well as confiscations.

j) Sint Maarten should develop and implement a CFT strategy that all CAs are aware of and follow in cases of suspected TF or incidents. Additionally, Sint Maarten should provide training and outreach to supervised entities and the NPO sector to inform them of their obligations, raise awareness of TF trends and typologies, and enhance their understanding of the vulnerabilities of NPOs to TF abuse. This will help mitigate related risks and strengthen institutional preparedness in the event of such incidents.

Effectiveness & Technical Compliance Ratings

Table 1. Effectiveness Ratings

IO.1	IO.2	IO.3	IO.4	IO.5	IO.6	IO.7	IO.8	IO.9	IO.10	IO.11
LE	**LE**	**LE**	**ME**	**LE**	**LE**	**ME**	**LE**	**LE**	**LE**	**LE**

Note: Effectiveness ratings can be either a High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

Table 2. Technical Compliance Ratings

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
PC	**PC**	**C**	**C**	**C**	**PC**	**PC**	**PC**	**LC**	**PC**
R.11	R.12	R.13	R.14	R.15	R.16	R.17	R.18	R.19	R.20
C	**LC**	**C**	**PC**	**NC**	**PC**	**LC**	**PC**	**PC**	**C**
R.21	R.22	R.23	R.24	R.25	R.26	R.27	R.28	R.29	R.30
C	**LC**	**PC**	**PC**	**LC**	**LC**	**LC**	**PC**	**LC**	**C**
R.31	R.32	R.33	R.34	R.35	R.36	R.37	R.38	R.39	R.40
C	**LC**	**PC**	**PC**	**LC**	**PC**	**LC**	**PC**	**LC**	**LC**

Note: Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – non compliant.

MUTUAL EVALUATION REPORT

Preface

This report summarises the AML/CFT/CPF measures in place in Sint Maarten at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT/CPF system and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from September 16-30, 2024.

The evaluation was conducted by an Assessment Team comprising:

- Ms. Fiona Forbes: International Relations Counsel, Attorney General's Chambers, Virgin Islands (British) (Legal Expert);
- Mr. Renaldo Harding: Senior Manager of On-site Regulatory Examinations, Securities Commission of The Bahamas, The Bahamas (Financial Expert);
- Mr. Akeem Shaw: Manager, Financial Compliance Unit, Office of National Drug and Money Laundering Control Policy, Antigua and Barbuda (Law Enforcement Expert); and
- Ms. Addis Waterberg: Director, Gaming Control Board, Suriname (Financial Expert)

The Assessment Team received support from Ms. Franka Primus, Legal Advisor, CFATF Secretariat (Mission Leader), Ms. Camille Renie, Legal Advisor, CFATF Secretariat (Co-Mission Leader) and Ms. Nusrut Bahadur, Policy Analyst, FATF Secretariat (Co-Mission Leader).

The report was reviewed by Ms. Keri-Ann Kemble, Head of Enforcement, Bank of Jamaica, Jamaica; Ms. LaTeisha A.R. Sandy, Director, Financial Intelligence Unit, St. Vincent and the Grenadines; Ms. Elise Luovula, Senior Specialist, Unit for the Prevention of Money Laundering and Terrorist Financing, Finland; Mr. Benjamin Rankin, Senior Advisor, Financial Crimes and Security Division, Canada; and the FATF Secretariat.

Sint Maarten previously underwent a FATF Mutual Evaluation in 2012 which was conducted according to the 2004 FATF Methodology. The published 2013 3rd Round Mutual Evaluation Report is available on the CFATF website.

The 2013 Mutual Evaluation Report concluded that the country was compliant with six Recommendations, largely compliant with nine Recommendations, partially compliant with 19 Recommendations and non-compliant with six Recommendations. Sint Maarten was rated partially compliant or non-compliant with all nine Special Recommendations. Sint Maarten was rated partially compliant and non-compliant for 14 of the 16 Key and Core Recommendations.

Sint Maarten was placed in expedited follow-up following the adoption of its 2013 Mutal Evaluation Report, given the ratings achieved for the Key and Core Recommendations and was therefore required to report at every CFATF Plenary. Sint Maarten first reported back to the CFATF Plenary in May, 2013, when it presented its First Follow-up Report and finally in May, 2021 when it presented

its Twelfth Follow-up Report and exited the follow-up process having addressed the deficiencies in all the Key and Core Recommendations to a level comparable to at least an LC. Sint Maarten's follow-up reports are published and available on the CFATF website.

Chapter 1. ML/TF RISKS AND CONTEXT

32. Sint Maarten is one of four autonomous countries within the Kingdom of the Netherlands. The other three constituents are Aruba, Curaçao and the Netherlands. Located in the Leeward Islands, the Caribbean Island (total 87 km²) is divided between the French Collectivité d'Outre-mer: Collectivité de Saint-Martin (northern part: 53 km²) and Country Sint Maarten (southern part 34 km²). There are no physical borders between the Collectivité de Saint-Martin and Country Sint Maarten, and as such, there is free movement between both sides of the islands. To the north of Sint Maarten lies Anguilla, a British overseas territory, and to the south, Sint Eustatius and Saba, two special municipalities of the Netherlands in the Caribbean. The island is east of the United States Virgin Islands and the Virgin Islands (British), and west of Saint Kitts and Nevis.

33. Sint Maarten has a population of approximately 43,309 (as of July 2024) and is characterised by a diverse cultural blend reflecting its colonial history and a strong influx of immigrants. The official languages are Dutch and English, with English being widely spoken and serves as the primary language of communication. The official currency during the evaluation period was the Netherlands Antillean Guilder (NAf) or ANG; (hereafter to be referred to as NAf), legally pegged to the US Dollar (USD) at an exchange rate of USD 1=1.79 NAf[1].The USD is also commonly accepted. In 2023, Sint Maarten's GDP was an estimated USD 1.62 billion.

34. In 2010, Sint Maarten became an autonomous country within the Kingdom of the Netherlands, transitioning from its former status as part of the Netherlands Antilles which was dissolved. The Charter for the Kingdom of the Netherlands grants Sint Maarten a high degree of autonomy in managing its internal affairs while defence, foreign policy and certain judicial matters are still managed by the Kingdom of the Netherlands. Sint Maarten operates under a parliamentary democracy, with its own Prime Minister, a unicameral parliament (15 members), national legislative authority and its own High Councils of State. However, it remains bound to Kingdom law, including its jurisprudence, and retains a close relationship with the government of the Netherlands. Accordingly, there is a Governor, who is appointed by the King of the Netherlands for a period of six years, with the possibility of reappointment for the same period, whose responsibilities include representing the Kingdom's interests and ensuring the proper functioning of Sint Maarten's government. The Governor, as the representative of the King, together with the Council of Ministers, forms the Government of Sint Maarten.

35. Sint Maarten has a civil law judicial system which is influenced by Dutch legal principles but are adapted to the national context. There is a Court of First Instance, which is the primary court for handling civil, criminal, administrative and family law cases. Appeals from the decisions of the Court of First Instance are determined by the Joint Court of Justice of Aruba, Curaçao and Sint Maarten and Bonaire, Sint Eustatius and Saba. The ultimate appellate court for Sint Maarten is the Supreme Court of the Netherlands, which is located in the Netherlands. Unique within the Kingdom of the Netherlands is the Constitutional Court of Sint Maarten. This Court evaluates the constitutionality of the provisions of legislation approved by the Parliament of Sint Maarten and signed into law, but which have not entered into force.

[1] As of 31 March 2025, after the end of the ME on-site visit, the Caribbean Guilder (Cg.) is the official legal tender of the Monetary Union of Sint Maarten and Curaçao. Like the NAf, which it replaced, the Caribbean Guilder is pegged to the US dollar at a fixed rate of USD 1 = Cg. 1.79.

1.1 ML/TF Risks and Scoping of Higher Risk Issues

1.1.1 Overview of ML/TF Risks

36. Sint Maarten is largely a cash-based economy and has a low crime rate. Sint Maarten's characteristics such as geographic location, tourism, relatively easy logistical accessibility and high mobility of goods and services, pose threats of illegal activities. Situated in the northern part of the Caribbean islands, the island sits on shipping routes linking the Americas, Europe and Africa, thereby making it attractive for global organised crime, for instance, illicit drug trafficking, arms smuggling, and migrant smuggling, which are in line with Sint Maarten's National Risk Assessment (NRA) findings. Sint Maarten adopted its first NRA in September 2024 (during the Mutual Evaluation on-site visit). In the NRA, the country identified the predicate offences of drug trafficking, migrant smuggling, fraud, tax evasion as well as theft and robbery as its main money laundering (ML) threats. Banks, trust and company service providers (TCSPs), money transfer companies (MTCs), notaries, casinos, car dealers, real estate agents, dealers in precious metals and stones (DPMS), accountants and lawyers are assessed most vulnerable to ML in the NRA due to various factors such as high cash activity, involvement in high-value transactions, and the potential for abuse by criminals to disguise the origin of illicit funds.

37. Based on credible and reliable open-source information such as international reports on transparency, and credible newspaper articles, corruption was also found by the assessment team (AT) to be a predicate offence of higher threat in Sint Maarten; however, it was not identified as a pronounced predicate offence related to ML in the NRA. Notably, the United Nations Convention Against Corruption (UNCAC) is not extended to Sint Maarten by the Netherlands.

38. Sint Maarten's informal economy was recognised as being relatively large in the NRA although the exact size remains undetermined. The NRA noted that AML/CFT policies create significant barriers for informal sector workers trying to access formal banking services, largely due to stringent onboarding requirements tied to immigration and residency status. Sint Maarten has however developed legislation to address this risk and adoption of same is pending.

39. Sint Maarten assesses the threats of terrorism and terrorist financing (TF) as low, with the rationale being it has not experienced any threats or incidents of domestic or self-funded terrorism or related financing activities. Within Sint Maarten, there are no known lone wolves, terrorists or terrorist organisations or requests for TF information from other countries during the assessment period. However, there was a spontaneous disclosure on TF to a foreign FIU. The TF risk assessment however did not identify cross-border risks or the subset of non-profit organisations (NPOs) at risk of terrorist abuse.

1.1.2 Country's Risk Assessment & Scoping of Higher Risk Issues

40. Sint Maarten identified and assessed its ML/TF risks through its NRA which was based on the risk assessment tool developed by the World Bank. The NRA was overseen and guided by a Steering Group, consisting of the Financial Intelligence Unit (FIU) as the lead organisation and Chair of the Steering Group, the Central Bank of Curaçao and Sint Maarten (CBCS), along with Secretaries General of relevant ministries. On behalf of the Chair of the Steering Group, a national coordinator, who is an external consultant, worked closely with the following three project groups throughout the process:

- **Public Sector**: This project group, led by the Ministry of Justice and comprising relevant LEAs and other ministries, focused on the national ML Threat, Vulnerability, and TF Risk;
- **CBCS:** This supervisor led a project group which covered the banking, MTC, TCSP, credit union and insurance sectors, amongst other FIs; and
- **FIU:** This supervisor led a project group specific to the DNFBPs, risks for NPOs as well as legal persons and legal arrangements.

41. Public and private sector representatives participated in the NRA, primarily through the completion of questionnaires. The private sector entities included, amongst others, banks, the insurance sector, MTCs, the credit union, TCSPs, casinos, DPMS, notaries, real estate agents, accountants and lawyers.

42. Sint Maarten's NRA, which commenced in June 2022 and covered the period 2017-2021, was adopted during the on-site visit in September 2024. Notably, two significant disasters devastated the country during the period covered by the NRA, namely Hurricane Irma in 2017 and the COVID-19 pandemic. In 2017, government buildings, including the Parliament House and the Government Administration Building, sustained heavy damage from Hurricane Irma which disrupted public administration. According to the NRA, these disasters have had a huge impact on the country and its inhabitants and have skewed trends in available relevant data and statistics, including overviews on crime figures during the years 2020 and 2021.

43. The NRA provides a fair understanding of the ML risks faced within the jurisdiction. The NRA utilised both qualitative and quantitative data in outlining key risk areas, identifies sectors vulnerable to ML activities, and reflects a general awareness of the threat landscape, which would be helpful in informing policy and decision-making. However, certain limitations were evident in the assessment, particularly regarding TF risks. The template for the TF risk assessment methodology was comprehensive, however the NRA did not disclose the results of the various elements assessed, indicating significant data gaps that impacted the overall analysis. In particular, the data provided lacked consistency and accuracy, which hindered the ability to draw clear and reasonable conclusions about the extent of TF risks in Sint Maarten. These gaps highlight the need for more robust data collection and analysis to gain a deeper understanding of the TF threat.

44. Additionally, the NRA did not fully address cross-border risks, which is a critical element in an increasingly interconnected global environment. A more thorough consideration of international elements, such as data on international financial flows, cross-border financial flows, international terrorist funding, and the involvement of foreign actors, would provide a more holistic view of the risks. This is particularly concerning given the transnational nature of both ML and TF activities, where domestic focused assessments alone may not capture the full scope of the threats. Furthermore, the threats from the French Collectivité d'Outre-mer: Collectivité de Saint-Martin should have been considered as there is an open border between the French and Dutch sides.

45. Another key issue was the failure to identify corruption as a significant predicate offence for ML, despite the considerable number of cases involving corruption within the jurisdiction and the significant resources allocated to combat that offence. Corruption is often a central driver of illicit financial flows, and its omission from the NRA's list of most pronounced predicate offences related to ML, suggests a gap in Sint Maarten's full recognition of the complex linkages between ML, TF, and corruption-related offences. Further, the NRA does not include critical insights that could help in targeting preventive measures and enforcement actions more effectively. Additionally, the risk and vulnerabilities of NPOs were not comprehensive as they did not

consider inter alia the subset of NPOs that is likely to be at risk of TF abuse. Further, the NRA did not properly identify or assess the specific ML/TF vulnerabilities/risks to which legal persons are exposed. Additionally, regarding VASPs, the sector was not fully assessed due to the sector not providing all the necessary qualitative and quantitative information.

46. Overall, the AT concluded that the NRA presents a fair, but incomplete picture of the main ML/TF risks in Sint Maarten. Greater analysis is required in the areas identified above regarding both the ML and TF risks. In order to prioritise its focus for the mutual evaluation, the AT relied on the materials provided by the jurisdiction (including the then draft NRA dated August 16, 2024) and materials accessible, through reliable open sources (e.g. reports of other international organisations) as well as information provided by the jurisdiction's international partners through the global community international cooperation feedback mechanism. The AT's Scoping Note, which was developed prior to the on-site visit, focused on the following priority issues:

    a. ***Proceeds laundered through illicit drug and arms trafficking; human trafficking; migrant smuggling; corruption and fraud; robbery; and PEPs***: The AT focused on the effectiveness of preventive and combative measures employed by law enforcement authorities (LEAs) in relation to these and other predicate offences such as tax evasion. The AT also considered the measures in place for politically exposed persons (PEPs) and evaluated the extent of identification, investigation, prosecution and confiscation related to proceeds generated from such offences, as well as the extent and effectiveness of domestic and international cooperation mechanisms in addressing same.

    b. ***Vulnerabilities and threats in the FI and DNFBP sectors:*** The AT focused on how well the FI and DNFBP sectors considered as higher risk for ML (banks, MTCs, TCSPs, notaries, lawyers, accountants, DPMS, casinos and real estate agents) are complying with AML/CFT and TFS obligations and the extent to which authorities effectively monitor compliance on a risk-basis. The AT also focused on how the banking sector could be abused by non-resident criminals to launder proceeds**.**

    c. ***Legal persons and legal arrangements***: There has been no granular ML/TF risk assessment of legal persons and legal arrangements in Sint Maarten. Nonetheless, legal persons in Sint Maarten have been linked to financial crimes such as fraud, tax evasion and ML, according to the NRA. The AT therefore gave scrutiny to how legal persons and legal arrangements are formed as well as Sint Maarten's actions to prevent the misuse of legal persons and arrangements, including obtaining and providing adequate, accurate and up-to-date basic and beneficial ownership (BO) information.

47. Through the scoping exercise, consideration was given to emerging risks associated with VASPs as there is no regulatory framework in place for them. Lesser focus was given, in the Scoping Note, on the activities of the securities intermediaries and asset managers, based on analysed materials and their low-risk ratings in the NRA. TF, which was rated low risk in the draft NRA, was initially given lesser focus in the Scoping Note, however, increased attention was given to this area during the on-site visit.

48. Additionally, the AT gave focus to the extent and effectiveness of domestic and international cooperation mechanisms in addressing domestic and international predicate offences, given the cross-border ML/TF risks posed to the jurisdiction. Furthermore, in relation to the international banking sector, the AT focused on assessing threats and the application of preventive measures to mitigate ML/TF risks in the sector and how the sector may be abused by non-resident criminals to launder proceeds.

49. While the on-site agenda was initially informed by the Scoping Note, the AT recognised that there was need to adjust its focus based on information gleaned during the interviews and to take into account that the NRA was still being finalized during this period. Further, the AT appropriately focused its attention where other areas of interest (for instance, financial inclusion) came to light prior to, and/or during the on-site, in addition to the issues set out in the Scoping Note.

1.2 Materiality

50. Sint Maarten has a relatively small economy with tourism as its primary economic source. The economy is also largely cash-based. With Sint Maarten relying heavily on tourism, this accounts for a significant portion of its Gross Domestic Product (GDP) which was USD 1.62 billion in 2023. Restaurants, hotels, and other tourism-related sectors account for about 45% of the GDP. Tourism accounts for 73% of foreign exchange income (i.e., U.S. dollars earned from the performance of services and the sale of goods to tourists by locals), and the jobs of approximately one-third of the employed population. Limited agriculture and local fishing means that almost all food must be imported as well as energy resources and manufactured goods. The challenges that Sint Maarten faces in the area of economic development, are inherent to Small Island Developing States (SIDS). This category of countries, recognized by the United Nations, is characterized by structural limitations such as small scale, limited institutional capacity, dependence on external factors, fragile and open economies and high costs for connectivity.

51. Whilst Sint Maarten is not considered an offshore financial centre, there are offshore companies.[2] Up until 2001, the tax regime in Sint Maarten granted tax benefits (preferential tax rates from 2.4% to 3%) to such entities. However, in 2001, the former Netherlands Antilles (now Curaçao and Sint Maarten) abolished its offshore tax regime. Grandfathering rules in the context of the tax laws applied until 2019 for qualifying offshore companies incorporated before 1 January 2000, provided certain conditions were met. Sint Maarten had attracted foreign investment under the old offshore tax regime which has been abolished (with the application of grandfathering rules until the end of 2019).

52. As of April 2024, there were a total of 36 offshore or international entities in Sint Maarten. After the discontinuation of the offshore tax regime, such offshore entities have the same tax obligations as applicable to domestic entities, i.e. registration with the tax authorities, filing profit tax returns and payment of taxes on their worldwide income[3].

53. Furthermore, the authorities have indicated that there are no international banks catering solely to non-resident clients and banks in Sint Maarten no longer offer the opening of bank accounts for non-resident clients. The CBCS provided data from 2023 on the customers profile of all the banks operating in Sint Maarten: of the total number of existing clients, 82% are resident and 18% are non-resident; such non-resident percentage of which includes residents from the French territory, Saint Martin.

[2] An offshore company is defined as "a public limited liability company or a private limited liability company established in the country of Curaçao or the country of Sint Maarten, whose statutory object is pursued upon orders and for the benefit of one or more non-residents or the company itself, by means belonging to one or more non-residents or the company itself and whose issued shares are owned by one or more non-residents or as such by virtue of these Regulations by a limited or private company considered as non-resident" (Art. 1(12), Foreign Exchange Transactions Regulations for Curaçao and Sint Maarten).

[3] OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, Peer Review Report on the Exchange of Information on Request, Sint Maarten, 2024.

54. The financial sector is dominated by seven banks of which five have their head office in Curaçao. The banking sector comprises two-thirds of the financial sector, in terms of asset size. As for the MTC sector, there are three MTCs operating in Sint Maarten, all of which are branches of MTCs established in Curaçao. Moreover, these three MTCs play an important role in Sint Maarten's economy, which has a large migrant population sending remittances abroad. The rest of the financial sector consists of four life insurance companies (including three branches of insurance companies established in Curaçao), eight general insurance companies, 19 insurance brokers, one credit union, one state pension fund, two micro-lenders, one payment service provider, one securities intermediary and one asset manager.

55. The VASPs sector is not regulated (legislation is pending to include VASPs in Sint Maarten's AML/CFT framework). The sector is materially minimal with six VASPs operating in and from Sint Maarten viz. two VASPs established in Sint Maarten (one is inactive), and four foreign VASPs. The VASP established in Sint Maarten is an ATM with an average volume of 15 transactions per month of approximately NAf 10,816 (USD 6,000) and a daily withdrawal cap of USD 500. As for the other four VASPs that are operating in Sint Maarten from abroad, they offer services such as a cryptocurrency exchange, decentralized finance investment services, peer-to-peer (P2P) trading, digital asset custody services, a fiat-to-crypto gateway and stablecoin issuance and exchange. Other than the type of services provided, Sint Maarten does not have further information on the operations and level of transactional flows of the four foreign VASPs.

56. The DNFBP sector has varying levels of relevance in Sint Maarten. Casinos are material in Sint Maarten since there are 15 land-based and four online casinos. As a tourism-based economy, especially with cruise ship tourists from North America, DPMS handle large volumes of transactions, including cash transactions. Other DNFBP sectors include notaries, lawyers, TCSPs, real estate agents and accountants.

1.3 Structural Elements

57. Sint Maarten is challenged by government turnover, coalition dynamics and governance concerns. Further, there is limited national coordination for the development of AML/CFT policies and there are resource constraints within core entities such as the KPSM-FU and the FIU. Nonetheless there is governmental accountability, adherence to the rule of law, and an independent judiciary. Further, subsequent to the adoption of Sint Maarten's 3rd Round MER, the jurisdiction addressed several core and key deficiencies throughout the 3rd Round Follow-Up Process.

1.4 Background and Other Contextual Factors

58. The NRA reflects that there is an informal sector within Sint Maarten, and a research report of the CBCS in September 2022 indicates that 23% of respondents surveyed do not have a current account at a local commercial bank or credit union, and are therefore without access to financial products, which poses greater risks for non-compliance with AML/CFT standards. Sint Maarten is planning on enhancing financial inclusion through the adoption of new legislation: the National Ordinance Basic Payment Account which aims to create the legal right for residents to have access to the formal financial system.

59. Cases of the involvement of public officials and civil servants in corruption significantly contribute to the ML threat in Sint Maarten although the NRA does not identify corruption as a predicate offence with any ML risk. Nevertheless, there are dedicated entities to investigate and prosecute corruption, with the NRA detailing specific high-profile cases and recommending measures to strengthen the fight against corruption and improve the overall AML/CFT

framework. There is one Prison and House of Detention in Sint Maarten, which is currently at capacity, resulting in times to the deferral of prison sentences.

60. The Kingdom Charter allows for cooperation and intervention in justice-related matters to ensure the rule of law within the constituent countries. To facilitate this goal, the Kingdom's Public Prosecution Service assigns specialist prosecutors to Sint Maarten for a fixed term.

61. Most CAs do not maintain comprehensive statistics, and the AT was therefore provided with limited case studies and data to demonstrate effectiveness and efficiency of the jurisdiction's AML/CFT systems. This deficiency was recognized in Sint Maarten's 3rd Round MER but has not been addressed.

1.4.1 AML/CFT strategy

62. Sint Maarten is the beneficiary of a Country Package from the Netherlands which facilitates the implementation of several national measures, including support in the efforts to comply with AML requirements as well as the development and execution of a plan of approach. This arrangement enabled the conduct of the jurisdiction's first ML/TF NRA and demonstrates the political will of not just Sint Maarten, but the Netherlands, to support Sint Maarten's adoption of measures to combat ML/TF. There is the legal mandate for the formulation of national AML/CFT policies, however, none have been formulated in line with the recommendations in the recently adopted NRA. Sint Maarten's aim is to develop Action Plans based on the findings, recommendations and action points set out in the NRA. Further, Sint Maarten underscored that there are policy objectives to address financial inclusion as well as VA issues. To that end, the action points reflect the need to adopt the National Ordinance Basic Payment Account (financial inclusion products) and enact legislation to govern VASPs.

1.4.2 Legal & institutional framework

Legal framework

63. In Sint Maarten, the hierarchy of laws is structured similarly to other Dutch Caribbean and civil law systems but has a unique framework due to its status as an autonomous country within the Kingdom of the Netherlands. The hierarchy of laws in Sint Maarten is as follows:

    a. **Kingdom Charter:** The Charter of the Kingdom of the Netherlands governs relations among the four countries of the Kingdom (the Netherlands, Aruba, Curaçao, and Sint Maarten). It establishes overarching principles, rights, and responsibilities for each country, particularly in areas like defence, foreign relations, and citizenship.

    b. **Constitution of Sint Maarten:** The Constitution of Sint Maarten provides the fundamental legal framework for governance, human rights, and the structure of government. All other laws and regulations in Sint Maarten must comply with the Constitution. The Constitution is subordinate to the Charter for the Kingdom of the Netherlands, which regulates the constitutional relationship among the different states constituting the Kingdom Sint Maarten is classified as an Overseas Country and Territory (OCT) in Annex II of the Treaty on the Functioning of the European Union (TFEU). This classification means that while Sint Maarten benefits from economic and developmental cooperation with the EU, it does not participate in EU institutions or policies as do full EU Member States.

c. **National Ordinances:** National Ordinances are the primary and formal legislative instruments on a national (country) level that are issued by the Government and the Parliament jointly and enacted by the Governor. Proposals for National Ordinances can be made by either the Government or the Parliament. They are usually proposed by the Government because they serve, among other things, as a basis and framework for policy and, related to this, as an instrument to regulate behaviour. A National Ordinance can delegate the legal authority to further regulate a subject to Government.

d. **National Decrees of Sint Maarten:** These are laws passed by Sint Maarten's Parliament or approved by the Government, respectively. They hold authority over the island's governance in areas such as public order, social welfare, and local governance. National laws must comply with both the Kingdom Charter and the Constitution of Sint Maarten. National Decrees are classified as either National decrees, containing general measures, or National Decrees (sec) which are directed to specific purposes/persons. The National decrees, containing general measures regulate subjects mentioned in the National Ordinances. The purpose of a National Decree is often to discipline/regulate/detail an enacted law. These decrees can be issued or amended easily by the Government without the approval of Parliament.

e. **Ministerial and Administrative Regulations:** These are binding rules and regulations issued by the Government to implement or clarify national laws and must be in alignment with higher laws passed by the Parliament, and consistent with the Constitution.

f. **Court Rulings:** While Sint Maarten follows a civil law tradition, judicial precedent still holds persuasive authority. Courts in Sint Maarten often consider past decisions, especially those of higher courts like the Joint Court of Justice of Aruba, Curaçao, Sint Maarten, and of Bonaire, Sint Eustatius, and Saba. This hierarchy ensures a structured legal system, where the foundational principles of the Kingdom Charter and the Constitution of Sint Maarten provide stability, and lower-level norms must align with these higher laws.

g. **Provisions and Guidelines (P&Gs):** These are guidance documents for supervised entities (FIs and DNFBPs) issued by the FIU (as supervisor) and the CBCS. These are binding on entities supervised by the FIU. From the information provided by the authorities, the AT could not ascertain that the P&Gs issued by the CBCS in 2013 (other than for MTCs) form enforceable provisions as they are based on repealed legislation (NOIS and NORUT) and the NOCMLTF only authorizes the FIU to issue guidance to FIs and DNFBPs.

64. The 2019 National Ordinance Combatting Money Laundering and the Financing of Terrorism (NOCMLTF) is a key enactment in Sint Maarten's AML/CFT legislative framework. Other relevant enactments include:

- The Criminal Code, Civil Code and Code of Criminal Procedures: these respectively provide the legal framework for defining conduct that constitutes criminal offences and establishing corresponding penalties; the governing of civil and commercial activities; and the conduct of criminal proceedings including investigations.
- The National Ordinance Financial Intelligence Unit: this legislation provides for the establishment of the Financial Intelligence Unit, its management, funding and functions.

- The National Ordinances on the supervision of banking and credit institutions, insurance industry, MTCs, investment institutions and administrators, and TCSPs: these lay down the rules on the supervision of these sectors.

65. Since the last mutual evaluation, Sint Maarten has made some changes to its legal/ institutional AML/CFT framework. Key updates include the enactment of the National Ordinance Combating ML/TF (2019: an amendment to the Criminal Code (AB 2019), which sets out a new TF offence; the issuance of a Ministerial Decree in 2016 to ensure that service providers consider tax crimes when analysing transactions and they identify suspicions of ML, TF, and predicate offences; the strengthening of the legal and institutional framework of the FIU to include, inter alia, establishment of the autonomy of the FIU; amendment of several ordinances to ensure that foreign supervisors can conduct supervisions in Sint Maarten under the instruction of the CBCS; and legislative enhancements to establish a declaration system for cross-border transportation of currency and bearer negotiable instruments, restrain currency where there is a suspicion of ML or TF and keep relevant statistics.

Institutional framework

66. The Minister of Justice shares responsibility with the Ministers of General Affairs and Finance regarding AML/CFT requirements.

67. The primary CAs responsible for implementing AML/CFT measures are outlined hereunder:

AML/CFT Supervisors:

- **The Financial Intelligence Unit (FIU):** The FIU serves as the central national agency responsible for, inter alia, collecting, registering, processing, and analysing UTRs submitted and transmitting disseminations on UTRs that are found suspicious by the FIs and DNFBPs. The FIU is also the supervisory authority for DNFBPs (except TCSPs, which are supervised by the CBCS). Further, the FIU is responsible for monitoring compliance with the provisions laid down in or pursuant to the National Sanctions Ordinance.
- **The Central Bank of Curaçao and Sint Maarten (CBCS):** The CBCS is the AML/CFT supervisor and licensing authority for FIs and TCSPs in Sint Maarten.

Law Enforcement Authorities:

- **The Police Force of Sint Maarten (KPSM):** The KPSM is in charge of investigating crime in general.
- **National Internal Investigation Department in Dutch Landsrecherche (LR):** The LR works under the responsibility of the Attorney General and is charged with investigating civil servants and politically exposed persons who are suspected of fraud, corruption, and other serious offences involving abuse of office.
- **Detective Cooperation Team (RST):** The RST plays an important role in tackling financial crime in Sint Maarten by providing specialised support in investigations and intelligence gathering. Their responsibilities include assisting local authorities with complex financial crime cases, such as ML and fraud, while promoting regional and international collaboration.
- **The Joint Operations Unit:** This Alpha Team consists of officers from the KPSM, Customs and Immigration, and has the primary function to facilitate criminal investigations at the borders of Sint Maarten.

- **Customs:** The Customs Department is a law enforcement agency responsible for collecting and safeguarding import duties and for monitoring and controlling the flow of goods including animals, flora and fauna, personal effects and hazardous items in and out of Sint Maarten.
- **The Immigration and Border Protection Services (IBPS)**: The IBPS is a Department within the Ministry of Justice and is a binary organization comprising the Administrative Department, and the Investigative Arm. The Investigative Arm is tasked with the enforcement of the National Ordinance on Admissions and Expulsions at the border, the controlling of persons/passengers/documents at and around all border control posts, the refusal of entry to persons who do not meet the requirements to enter the country, the controlling of the legal status of persons within the country and deportation of illegal immigrants.
- **The Caribbean Coast Guard (KWCARIB):** The KWCARIB ensures safety on the waters around Aruba, Curaçao, Sint Maarten and the Caribbean Netherlands. The KWCARIB is managed by the Dutch Ministry of Defense and uses Defense' resources. The Coast Guard is intensively involved in detecting drugs, weapons, illegal immigration and environmental pollution in the territorial waters around Aruba, Bonaire, Curaçao, Saba, Sint Eustatius and Sint Maarten. The KWCARIB carries out investigative tasks in good cooperation with other LEAs such as Customs and KPSM.

Judicial Authorities:

- **The Public Prosecutor's Office (PPO):** The PPO is responsible for prosecuting criminal cases, including investigating and bringing charges for crimes like theft, fraud, and drug offences. It oversees police investigations, ensuring legal procedures are followed and can order actions such as arrests and search warrants. As Sint Maarten is part of the Kingdom of the Netherlands, the PPO may collaborate with law enforcement and judicial authorities in the Kingdom, including those from the Netherlands and other Caribbean countries, for cross-border investigations and prosecutions, especially in cases related to international crime like drug trafficking, human trafficking, or money laundering.

- **The Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba (Joint Court of Justice):** The Joint Court of Justice provides jurisdiction at both first instance and on appeal on the islands. The Joint Court of Justice is formed by a president and the other members as well as alternate members. The members handle civil cases, criminal cases and administrative law cases (including tax cases), both at first instance and on appeal. The Joint Court of Justice is also responsible for appointing lawyers and notaries**.**

- **The Supreme Court of the Netherlands:** The Supreme Court is the highest court in the Kingdom of the Netherlands in the field of civil law, criminal law and tax law. ("Rijkswet rechtsmacht Hoge Raad voor Aruba, Curaçao, Sint Maarten en voor Bonaire, Sint Eustatius en Saba"). The Supreme Court is a court of cassation. This means that the Supreme Court assesses whether a lower court (court of appeal) has applied the law correctly in a ruling and whether the procedure has been followed correctly.

Commercial Licensing and Registration:

- **The Sint Maarten Chamber of Commerce and Industry (COCI):** The COCI's main role is to ensure that all businesses and legal entities in Sint Maarten are registered in its Trade Register and that basic and BO information are appropriately collected.
- **Department of Economic Licenses (DEL):** DEL falls under the Ministry of TEATT and is primarily tasked with offering support in the execution of economic regulations, ensuring that license applications and requests for permission are issued without delay, and to ensure that the economic laws and regulations are correctly applied. To establish a business in Sint Maarten a business licence is required from the DEL.
- **The Land Registry:** Cadastre is the official registrar of the ownership of immovable properties in Sint Maarten. Individuals and establishments such as notaries, real estate companies, banks, and law firms, as well as the judiciary system utilise the information from Cadastre as the official registrar of properties. Based on its tasks as established by law, the Cadastre plays a crucial role in the overall economic development of Sint Maarten.

Mutual Legal Assistance:

- **The Office of the Attorney General:** The head office is based in Curaçao and has oversight for, inter alia, the PPO and LR.. The International Legal Assistance Centre (IRC Carib) is the department within the Attorney General's Office through which mutual legal assistance (MLA) and extradition requests are channelled.

Intelligence*:*

- **The Security Service Sint Maarten (VDSM):** The VDSM is tasked with conducting security investigations, promoting security measures and conducting investigations to protect the country against persons or organisations that pose a threat to the survival of the democratic legal order, the integrity of public administration, or to other important interests, including that of the Kingdom of the Netherlands.

Other Entities*:*

- **The Sint Maarten Receivers and Inspectorate of Taxes (Tax Authority):** The Tax Authority implements the laws and regulations for the levying, collection and auditing of taxes, and is the competent authority (CA) for international cooperation for the exchange of tax information. The Tax Authority has a law enforcement unit which is charged with investigating tax crimes and also makes use of intelligence reports from the FIU which are obtained through the PPO.
- **The Law Enforcement Council:** This is a public, independent legal entity for Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba and was established by Kingdom Act of July 7, 2010. The Council is charged with the general inspection of the organizations within the judicial system – apart from the Common Court of Justice – in Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba. The Council inspects and reports on the effectiveness, the quality of the performance of duties and management. In addition, the Council is charged with the overall inspection of the quality and effectiveness of judicial cooperation between the countries. This Council also publishes annual reports on its assessment of the approach of the judicial authorities in combating ML and TF.
- **Intelligence Center Sint Maarten (ICSM):** This is a partnership which comprises representatives of the KPSM, VDSM, FIU, PPO, Customs, LR, Royal Netherlands

Military Police (KMAR), Coast Guard Support Point Sint Maarten (KW) and the RST. One of the primary goals is to strengthen the country's information position on local, cross-border and subversive crime.

1.4.3 Financial sector, DNFBPs and VASPs

68. Sint Maarten's financial sector consists of banks, one credit union, insurance companies and brokers, MTCs, micro-lenders, one state pension fund[4], one securities intermediary, one asset manager[5] and one payment service provider. There are also VASPs in Sint Maarten. Securities intermediaries and asset managers are obliged to comply with AML/CFT obligations; however, they do not fall under a licensing regime (legislation is pending). Payment service providers, electronic money institutions (zero entities in the country) and VASPs are currently not regulated nor supervised (legislation is pending). While Sint Maarten also supervises investment institutions and administrative offices, there are no entities operating in the country.

69. All DNFBPs, as defined by the FATF Standards, are obliged entities. The Trade Register (COCI), the FIU as supervisor of DNFBPs (except TCSPs which are supervised by the CBCS) and the Ministry of TEATT (responsible for issuing business licenses) hold different numbers of entities belonging to the DNFBP sectors (see Table 1.1) - as such there is no clear picture of the DNFBP landscape:

Table 1.1. Total DNFBPs (except TCSPs) registered with COCI, FIU and licensed by the Ministry of TEATT

DNFBPs	COCI	FIU	Ministry of TEATT
Accountants	44	36	64
Lawyers[6]	40 law firms	30 law firms	38
Notaries	3	3	3
Real estate agents	104	58	76
DPMS	38	83[7]	156
Casinos (land-based)	22	9	13
Online Gaming Establishments	0[8]	0[9]	3

[4] The pension fund in Sint Maarten (APS), established in October 2010, serves 2,700 active pensioners, 700 former participants and 1,100 pensioners (all 4,500 being civil servants). Its primary role in the country is to provide a national pension fund for civil servants in Sint Maarten. Pension contributions into the fund are in the form of deductions from the civil servants' salary, and the APS does not provide private pension fund services/products. In terms of the supervision of the Fund, as per Arts. 17-19 of the "Landsverordening Algemeen Pensioenfonds" (AB 2015, no.9), the Minister of Finance is responsible for the Fund, and he approves the budget, presents the approved budget to Parliament, and formalizes additional supervisory rules based on the advice of the CBCS. APS also has an independent BOD, which on 31 December 2023 comprised 5 member seats, one of which was vacant. The BOD of APS is responsible for the management and administration of the Fund.

[5] The one active asset manager and one securities intermediary in Sint Maarten are licensed under the National Ordinance Supervision Asset Managers and Securities Intermediaries Curaçao.

[6] The Bar Association provided that 30 law firms and 63 lawyers are registered in Sint Maarten.

[7] This number will be less as the FIU is currently updating its administration. Several jewellers became inactive after the major hurricanes Irma and Maria in 2017 and the COVID-19 pandemic in 2020/2021.

[8] Amounts are included in the amounts for casinos (land-based).

[9] The FIU is in the process of registering the remaining casinos and updating the casinos that are already registered.

70. This section provides general information about the size and composition of the FI and DNFBP sectors in Sint Maarten. FIs and DNFBPs are not of equal importance given their role and size, and their different levels of exposure to ML and TF risks. The level of risk also varies greatly between individual FIs and DNFBPs within the same sector. The AT ranked the sectors based on the relative importance, materiality and level of risk to inform their conclusions, by assigning a stronger weighting to positive and negative points in the implementation of the AML/CFT regime for sectors most important weighted than for sectors of lesser importance weight. This approach has been used throughout the report, but it is more apparent in Chapter 6 on IO.3 and Chapter 5 on IO.4.

71. The banking sector, casinos, notaries and real estate agents are weighted ***most important***:

    a. **Banking sector:** The banking sector is materially the most significant sector in Sint Maarten, with total assets amounting to NAf 5.36 billion (approximately USD 2.99 billion) and representing 67% of assets for the financial system. Sint Maarten has seven retail banks comprising branches and subsidiaries of local and foreign banks, including five banks having their head office in Curaçao. Banks in Sint Maarten mainly provide personal banking, small business and corporate banking services, and can have both resident and non-resident clients. The main customer bases are self-employed natural persons, small and medium enterprises and local corporations. The main outbound and inbound flows are to the US (in 2022: 50% outbound flows to the US, and 66% inbounds flows from the US). The banking sector was considered to be of medium-high ML risk in the NRA.

    b. **Casinos:** Sint Maarten has 15 land-based casinos and four online casinos currently active; however, there are 22 casinos registered with COCI of which 14 are licensed by the Ministry of TEATT and nine registered with the FIU. Therefore, only nine casinos are supervised for AML/CFT purposes by the FIU. The casino sector is highly cash intensive and contributes to about 1.3% of the GDP turnover. While the FIU is currently the supervisor, Sint Maarten is in the process of establishing a license issuing body, the Sint Maarten Gaming Authority (SMGA). Casinos were considered high-risk for ML in Sint Maarten's NRA.

    c. **Notaries:** Notaries play a key role as gatekeepers to the financial system. There are three notaries in Sint Maarten, all of whom are registered with and supervised by the FIU. While the sector is small and notaries are only appointed by National Decree, notaries in Sint Maarten are responsible for the transfer of real estate and the incorporation of legal persons and legal arrangements through notarial deed. Half of their clients are foreign natural or legal persons, with services provided to foreign clients mostly being title acquisitions and real estate transfers occurring from abroad. The NRA rated the sector as high risk for ML.

    d. **Real estate agents**: Real estate agents represent the biggest sector in terms of size, with 104 agents registered with the Ministry of TEATT. Nearly half are not registered with the FIU and are thus unsupervised for AML/CFT purposes. While a business license is required to operate, there are unlicensed real estate agents operating in the sector. Furthermore, the sector hardly submits UTRs, and the AML/CFT knowledge of staff is found to be a weakness. This sector was considered to be of medium-high ML risk in the NRA based on threats associated with financial flows from Europe, North America, and Asia sinking funds into the Sint Maarten economy under the banner of legitimately contributing foreign direct investment.

72. The insurance sector (companies and brokers) and lawyers are weighted ***important***:

    a. **Insurance sector:** There are four life insurance companies, including three branches from insurance companies established in Curaçao, eight general insurance companies and 19 insurance brokers. The sector has a total asset size of NAf 1.4 billion (approximately USD 780 million; as of December 2022 – including assets from life insurance companies in Curaçao) and while it is supervised by the CBCS, there have been limited on-site examinations during the evaluation period (only one life insurance company in 2023 and four brokers in 2019; see Chapter 6; IO.3, Table 6.2). The insurance sector is rated medium risk for ML in the NRA.

    b. **Lawyers:** According to the COCI, there are 63 lawyers and 30 law firms in Sint Maarten who are appointed by the Joint Court. They provide a range of services, including the acquisition of property, managing money, operating bank accounts, acting as intermediary in forming trusts and companies, providing TCSP services, assisting in selling and purchasing businesses. About 46% of the clients are foreign natural or legal persons. The NRA rated lawyers at medium-high risk for ML.

73. MTCs, TCSPs and DPMS are weighted ***moderately important***:

    a. **MTCs:** There are three MTCs operating in Sint Maarten, all of which are part of international groups and subject to group/head office policy. The sector is materially small in terms of total asset size (NAf 2.89 million = USD 1.6 million) and in relation to the overall financial sector in Sint Maarten. The outbound cash flows amount to USD 31 million (based on 2023 financial data) mainly to the US (19%), Jamaica (18%) and Dominican Republic (14%), while inbound cash flows amount to USD 12 million (based on 2023 financial data) mainly from the US (57%), US Virgin Islands (4%) and Dominican Republic (3%). Despite the significant cash flow, there is a high integration with the banking sector and the CBCS conducted five on-site examinations during the period 2019-2023. MTCs are considered medium-high risk for ML in the NRA.

    b. **TCSPs:** Sint Maarten has four TCSPs with total assets amounting to NAf 0.82 million (USD 0.45 million) representing 0.01% of assets for the financial system. The sector is represented by four operators with a low materiality level. TCSPs are involved in the collection of CDD information from clients and the preparation of legal documents for the initial steps in the establishment of legal persons and legal arrangements, working together with accountants and primarily with lawyers and notaries. TCSPs have been supervised during the evaluation period through off-site supervision activities by the CBCS and one on-site examination in 2019 (see Chapter 6; IO.3, Table 6.2). TCSPs are obliged to submit their certified annual questionnaire, including a report of factual findings. The sector was rated medium-high risk for ML risk in the NRA.

    c. **DPMS:** DPMS in Sint Maarten buy and sell high-value jewellery and luxury-brand watches. The asset and volume size of the sector is unknown to authorities. Within the sector there is limited knowledge of AML/CFT obligations and not all DPMS are registered with the FIU. The sector was rated at medium-high ML risk in the NRA.

74. Securities intermediaries and the asset management sector, payment service providers, credit unions, micro-lenders, accountants and VASPs are weighted ***less important***:

    a. **Securities intermediaries and the asset management sector:** Noting that legislation is pending to bring them in the AML/CFT supervisory framework, the AT considered that

this sector is small in size (two entities) and materiality (USD 4,963 in asset size for the year 2023). All financial transactions by securities intermediaries and asset managers are channelled through local banks. This sector was assigned a medium-low ML risk score in the NRA.

b. **Payment service providers**: There is one payment service provider operating in Sint Maarten with its head office in Curaçao. The sector is not yet subject to AML/CFT supervision as legislation is pending. The NRA considered this sector along with VASPs and rated the residual ML risk as medium based on the small number of entities operating in the Fintech space in Sint Maarten and the limited scale of their operations. The AT also considered that this sole entity primarily provides services consisting of gateway and event services which are mainly offered to the banking sector in Sint Maarten.

c. **Credit unions:** There is one credit union in Sint Maarten, which is a branch from Curaçao. The credit union provides services to a closed group of members (natural persons who are working or retired from government institutions and those who have a relationship with a member) and only offers funeral insurance, deposit accounts and consumer loan products. Cash transactions are not accepted. Deposits, withdrawals, loan disbursements and payments are only conducted through local commercial banks. The NRA assigned a medium-low ML risk score to this sector.

d. **Micro-lenders:** There are two micro lending institutions with a total approximate asset size of USD 24.9 million (as of July 2024). They offer consumer loan issuances on a small scale and repayment of the same by borrowers. The core transactions susceptible to ML are conducted at local banks and involve little to no cash transactions. The NRA assigned a medium-low ML risk score to this sector.

e. **Accountants:** Accountants play an important role in safeguarding the integrity of the financial system. There are 44 accountants in the Trade Register (COCI), but 36 are registered with the FIU for supervision and of these 36 accountants, the FIU indicates 20 perform the functions and activities as outlined in Recommendation 22 and the General Glossary to FATF Methodology. Most clients consist of domestic natural persons and legal persons, and the majority of accountants have compliance policies and compliance officers in place. While the accountant sector was considered medium-high for ML risk in the NRA, the AT considered that this sector also consists of entities and persons who mainly provide traditional accounting services (such as recordkeeping, bookkeeping and preparation of historical financial statements and audits) which do not fall within the scope of Recommendation 22.

f. **VASPs:** This sector includes six VASPs operating in and from Sint Maarten: two VASPs established in Sint Maarten (one is inactive), and four foreign VASPs (see para. 55). The sector is currently not supervised as legislation is pending; once entered into force, the CBCS will assume its role as the licensing authority and AML/CFT supervisor. The one operational VASP from Sint Maarten is an ATM with an average volume of 15 transactions per month (of approximately USD 6,000) and a daily withdrawal cap of USD 500. As regards the four foreign VASPs, they provide services such as a cryptocurrency exchange, decentralized finance services, a platform for peer-to-peer trading and stablecoin issuances and exchange. Financial information in relation to these four foreign VASPs was unavailable from the CBCS when requested. The CBCS did indicate that these foreign VASPs do not actively promote their services and transaction volumes are expected to be low. Additionally, crypto is not widely accepted as a payment method in

Sint Maarten with banks remaining reluctant to facilitate crypto transactions. The sector was given a low ML threat level in the NRA due to the limited operations and a CBCS market research did not identify material presence of these entities. Against this backdrop and based on open-source research, the AT weighted this sector as less important.

1.4.4 Preventive measures

75. Sint Maarten's AML/CFT preventive measures for obliged entities are set out in the 2019 NOCMLTF. This law covers all FIs and DNFBPs. For VASPs, electronic money institutions and payment service providers, a separate draft law is pending, which will include VASPs, electronic money institutions and payment service providers in the national AML/CFT framework with the CBCS as the supervisor and licensing authority. No specific sectors and activities are exempted by Sint Maarten from the FATF requirements. While not required under the FATF Standards, Sint Maarten also covers car dealers in line with the significance and risks identified.

76. In addition to the NOCMLTF, the CBCS and FIU have issued dedicated P&Gs for most FI and DNFBP sectors. The CBCS has issued sectoral P&Gs for sectors under its supervision in 2013 and, at the time of the on-site visit, was updating these. From the information provided by the authorities, the AT could not ascertain that the P&Gs issued by the CBCS (other than for MTCs) form enforceable provisions as they are based on repealed legislation and the NOCMLTF authorises the FIU to issue guidance to FIs and DNFBPs.

1.4.5 Legal persons and arrangements

77. Legal persons in Sint Maarten are formed in accordance with the Civil Code, Book 2. Legal persons registered in Sint Maarten are public limited liability companies, private limited liability companies, private foundations, foundations, co-operative societies, mutual insurance companies, associations and foreign legal entities. The majority of legal persons registered in Sint Maarten are public limited liability companies and private limited liability companies with 4307 and 2650 being active, respectively. The number of legal persons in existence is shown in Table 1.2. Trusts are the only form of legal arrangement operating in Sint Maarten and are created pursuant to the Civil Code, Book 3. There is one express trust registered in Sint Maarten.

Table 1.2. Type and number of active legal persons per year 2019-2023

Types of Legal Persons	Registered and Active as of 2023	Description
Public limited liability company (NV)	4307	An N.V. is a legal entity with one or more registered transferable shares. From a company law perspective there is no minimum share capital. Based on regulatory requirements there are, however, minimum capital requirements for finance companies issuing publicly traded debt bonds, investment institutions, insurance companies and banks. Shares of an N.V. can only be issued in registered form. Since the new corporate law of 2019, it is no longer possible to issue or convert into bearer shares, and it is possible to issue a share certificate.
Private Limited liability company (BV)	2650	The B.V. is a flexible form of company. The B.V. can be organized in such a manner that it is "managed by shareholders"; in that case there is no distinction made between shareholders and managing directors as corporate bodies. The B.V. is a company similar to the N.V. The main differences as compared to the N.V. are: -The articles of association of the B.V. may contain a provision providing for a different manner for dissolution of the company -There is no distinctive financial regime such as for the "large" N.V.;

Types of Legal Persons	Registered and Active as of 2023	Description
		-On the initiative of an individual shareholder, general shareholders' meetings for the B.V. can be convened
Foundation	873	The legal concept of the foundation developed ages ago from capital being set aside for a special nonprofit or charitable purpose and was originally used by religious and welfare groups. A foundation has neither members, nor shareholders, nor a capital divided into shares.
Private Fund Foundation	655	The Private Fund Foundation is a foundation, but a specific form thereof. The Private Fund Foundation has no shareholders, members or the like. Beneficiaries do not have to be appointed if such appointment is not desired.
Association	337	An association is a common legal form utilized for organizations made up of members having equal contribution in and rights to participation, responsibility, and liability. This legal form is often used for sports and cultural organizations, in which an elected board by the general meeting of members, works in the interest of the membership. Associations are mostly non-profit entities.
Mutual Insurance companies	0	This company is a special association and is very similar to the cooperation. In principle, the rules that apply to the association apply to this legal entity in addition to the specific rules for the cooperation and the mutual guarantee company. The mutual insurance company may only be an insurance company and must have the purpose of concluding insurance contracts with its members.
Cooperative societies	5	A cooperation is a special association in which at least 2 people work together, whereby one benefits from the benefits of a collective. For example, through joint purchasing or marketing.
Foreign legal Entities	329	Legal persons incorporated under foreign law with branches seeking registration to do business in Sint Maarten are registered as foreign legal entities.

78. In Sint Maarten, notaries are responsible for the creation of legal persons and arrangements, through notarial deeds, and they play a key role as the gatekeepers for the existence of these entities. The COCI is responsible for the registration and maintenance of records on the same. The COCI maintains both basic and BO information, however COCI only started to collect BO information from new registrants in March 2024 and is currently updating records to obtain BO information on existing registrants. Amendments to the Civil Code 2019 introduced the prohibition of bearer shares in the jurisdiction.

79. Prior to 2001 Sint Maarten hosted offshore companies and banks and provided fertile ground for investors – especially high net worth individuals who purchased or developed large-scale real estate projects, including hotels and casinos. In 2001, Sint Maarten abolished its offshore tax regime which granted preferential tax rates to offshore companies registered in Sint Maarten and this resulted in a significant decline in offshore companies in Sint Maarten. According to the 2024 Global Forum Report on Transparency and Exchange of Information for Tax Purposes, as of April 2024, there were a total of 36 offshore companies registered in Sint Maarten. Information gleaned from the authorities suggests that in Sint Maarten, offshore companies are no longer incorporated in the jurisdiction.

80. Sint Maarten indicated that there were 329 foreign legal entities registered in the jurisdiction. These entities do not have a non-resident clientele, but are legal entities incorporated under foreign law with branches registered to do business in Sint Maarten.

1.4.6 Supervisory arrangements

81. There are two AML/CFT supervisors for FIs and DNFBPs in Sint Maarten. The CBCS supervises FIs and TCSPs in Sint Maarten, while the FIU supervises DNFBPs (except for TCSPs). The

legislation to give licensing powers to the CBCS for securities intermediaries, asset managers, electronic money institutions, payment service providers and VASPs is not yet enacted in the jurisdiction. Furthermore, legislation is pending to bring payment service providers, electronic money institutions and VASPs into the AML/CFT supervisory regime of the CBCS. The below table summarises the authorities' respective responsibilities for AML/CFT supervision and the number of entities they supervise.

Table 1.3. Supervisory authorities for FIs and DNFBPs in Sint Maarten

Type of entity	Supervisor	Number of entities (as of 30 September 2024)
FIs:		
Banks	CBCS	7
General insurance companies	CBCS	8
Life insurance companies	CBCS	4
Insurance brokers	CBCS	19
MTCs	CBCS	3
Credit Union	CBCS	1
Mirco-lenders	CBCS	2
Pension fund	CBCS	1
Investment institutions	CBCS	0
Administrative offices	CBCS	0
Securities intermediaries	CBCS	1
Asset managers	CBCS	1
Electronic money providers	Pending legislation – once in force, the CBCS will be the AML/CFT supervisor	0
Payment service providers		1
VASPs		6
DNFBPs:		
TCSPs[10]	CBCS	4
Casinos	FIU	14
DPMS	FIU	38
Notaries	FIU	3
Lawyers	FIU	31
Accountants	FIU	44
Car dealers	FIU	6
Real estate agents	FIU	104

82. The CBCS has approximately 93 supervisory staff covering all entities and sectors in both Sint Maarten and Curaçao (i.e., a total of 305 supervised entities, with 49 of the 305 being supervised entities in Sint Maarten). The FIU has two supervisors and one administrative staff dedicated to AML/CFT supervision.

[10] In Sint Maarten, TCSPs are considered FIs and therefore are supervised by the CBCS.

1.4.7 International cooperation

83. As an autonomous country within the Kingdom of the Netherlands, the responsibility for inter alia foreign relations, defence, nationality law, the admission and expulsion of Dutch people and foreigners, and extradition is vested in the Kingdom Government ("Kingdom affairs"), as stipulated in the Charter for the Kingdom of the Netherlands. Each autonomous country of the Kingdom may however be granted its own status within international or regional organisations, provided that the organisation agrees. Additionally, autonomous countries within the Kingdom are empowered to establish Memoranda of Understanding (MoUs) in areas under their jurisdiction, however subject to parameters.

84. Sint Maarten's geographic location and its porous borders make the country vulnerable to a variety of criminal activities and transnational risks such as drug trafficking, human smuggling and fraud. The jurisdiction therefore recognises the need for enhanced international cooperation and information sharing to address these risks effectively and in this regard, Sint Maarten leverages its unique status as an autonomous country within the Kingdom of the Netherlands and obtains value from agreements such as the Treaty between the Kingdom of the Netherlands and the United States of America on Mutual Assistance in Criminal Matters which also applies to Aruba, Bonaire, Curaçao, Saba, St. Eustatius and St. Maarten. Additionally, on 2 June 2016, a MoU was entered into between the Kingdom and the United States on enhancing cooperation and strengthening law enforcement in the Caribbean areas of the Kingdom of the Netherlands.

85. The IRC Carib is the designated central authority for receiving and reviewing as well as sending MLA requests, gathering the relevant information and submitting same to the foreign CA. Legally the Governor is the CA for extradition, however in practice the IRC Carib is responsible for executing extradition requests.

86. In addition to MLA, the jurisdiction relies on strategic partnerships with entities such as the EGMONT Group, INTERPOL, ARIN-CARIB and CCLEC. Sint Maarten's FIU has executed 32 agreements with the EGMONT Group and non-EGMONT Group member jurisdictions to facilitate intelligence sharing. Additionally, the CBCS seeks and provides international cooperation through the Group of International Financial Centre Supervisors (GIFCS) and has entered into MoUs with international counterparts. The National Ordinance on General Taxes empowers the Tax Authority to share tax information with other jurisdictions and in this regard, the Netherlands, France and the United States were Sint Maarten's key Exchange of Information partners. Regarding law enforcement, there is a French and Dutch Cooperation Agreement which aims to strengthen cross-border cooperation between the French and Dutch sides of Saint Martin/Sint Maarten, particularly in the areas of law enforcement, criminal investigations and information sharing.

Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key findings

a) Sint Maarten identified its ML and TF risks through the conduct of a National Risk Assessment (NRA) which was adopted in September 2024, during the on-site visit. Overall, Sint Maarten has a fair understanding of its ML risks and a developing TF risk understanding.

b) Sint Maarten's NRA is a good starting point for the identification of ML/TF risks but some sectors were assessed to a limited extent (i.e. NPOs, VAs/VASPs, legal persons and legal arrangements) and threats and vulnerabilities regarding, for example, cross-border and foreign threats, and corruption were not sufficiently explored. Furthermore, there were significant data gaps across the public and private sectors inputs, which limited the risk understanding by authorities.

c) Sint Maarten has not yet taken any measures to develop and implement national AML/CFT policies and activities, on account of the recency of the adopted NRA. Furthermore, the novelty of the NRA process, together with resource constraints (both human and financial resources) has impacted the jurisdiction's ability to develop and carry out activities aligned to the risks identified in the NRA during the period under review. Whilst there are no national AML/CFT policies or strategies, Sint Maarten has introduced initiatives aimed at mitigating the high-risk predicate offences of human trafficking and migrant smuggling through the establishment of a Trafficking Unit within the KPSM.

d) Sint Maarten does not allow for exemptions for lower risk scenarios. The National Ordinance for Combatting ML and TF (NOCMLTF) provides for simplified and enhanced due diligence measures in certain circumstances. However, these were not informed by any risk assessment.

e) Due to the recency of the adoption of the NRA, competent authorities (CAs) have not yet used the NRA results to inform agency-based policies and activities and the extent to which objectives and activities of CAs are aligned with ML/TF risks and national policies varies.

f) CAs work together at an operational level to a good degree, but there are no national co-ordination and co-operation mechanisms concerning the development and implementation of AML/CFT/CPF policies and activities.

g) Sint Maarten has commenced the dissemination of the NRA results. The FIU has disseminated the NRA report among some CAs, some of its supervised entities and some of the FIs. At the time of the on-site visit, Sint Maarten was still in the

process of determining an approach to reach all other public sector entities and the private sector.

Recommended Actions

a) Sint Maarten should address the identified shortcomings in the NRA, by for instance, conducting sectoral risk assessments, to strengthen risk understanding especially in relation to legal persons, VAs/VASPs, cross-border risks and foreign threats (including trade-based ML). Sint Maarten should also enhance all CAs' ML/TF risk understanding in relation to all higher risk predicate crimes; such as corruption, the impact of the informal economy and emerging risks.

b) Sint Maarten should enhance all CAs' TF risk understanding by conducting a comprehensive assessment of TF risk. This should include an assessment of the sub-set of NPOs that may be abused for TF support or are likely to be at risk of TF abuse.

c) Sint Maarten should establish a mechanism to enable policymakers, the FIU, AML/CFT supervisors, LEAs and other relevant CAs to co-operate, coordinate and exchange information with each other concerning the development and implementation of national AML/CFT/CPF policies and activities.

d) Sint Maarten should increase private sector awareness, particularly for DNFBP sectors, on specific ML, and especially, TF risk exposures to their respective sectors.

e) Sint Maarten should develop and implement national AML/CFT policies and strategies and undertake activities to address its ML/TF risks.

f) The objectives and activities of the CAs should be aligned with national AML/CFT policies by incorporating the results of the NRA into their roles and priorities and gearing their internal policies to the risks identified.

g) Sint Maarten should ensure that simplified and enhanced measures outlined in the NOCMLTF are informed by risk assessments.

87. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R.2, R. 33 and R. 34, and elements of R.15.

2.2. Immediate Outcome 1 (Risk, Policy and Coordination)

2.2.1. Country's understanding of its ML/TF risks

88. Sint Maarten has a fair understanding of its ML risks and a developing understanding of its TF risks. The assessment team (AT) based this conclusion on a review of the National Risk Assessment (NRA), meetings with competent authorities (CAs), on-site interviews with private sector representatives, case studies and other information provided by Sint Maarten.

89. Sint Maarten completed its first NRA in 2024 (during the on-site visit).[11] The NRA covered the period 2017-2021 and was based on the World Bank Methodology. The NRA process was spearheaded by an AML/CFT Steering Group consisting of the FIU, CBCS and the Secretaries-General of relevant ministries. Sint Maarten engaged an external consultant to coordinate the exercise and guide the various project teams.

90. The overall ML risk is rated by Sint Maarten as medium-high with fraud, drug trafficking, migrant smuggling, tax evasion, theft and robbery being identified as the main predicate offences. The NRA also identified and assessed the vulnerabilities within the financial and DNFBP sectors. Sectors most vulnerable to ML were found to be the banking, TCSP, casino and notary sectors. Casinos were rated as high-risk for ML primarily due to the volume of cash within the sector. Notaries were also regarded as high-risk; this is due to their sole involvement in incorporating legal persons and legal arrangements via notarial deed in Sint Maarten. The banking sector was found to be medium-high due to the movement of money through the banking system via wire transfers, in and out of the country. Likewise, MTCs were regarded as medium-high risk for ML due to the provision of international money transmission but on a lower scale than that of the banking sector. The AT agrees with the assigned ratings given to these sectors for the reasons set out in the NRA and based on credible open-source material.

91. Sint Maarten's risk assessment incorporates both quantitative and qualitative sources. Some relevant public and private sector stakeholders were not involved in the initial stages of the NRA process and only became involved late in the process, thus depriving the NRA from relevant inputs from AML/CFT stakeholders, which had an impact on its conclusions. Participation of CAs like the COCI, Tax Authority, National Internal Investigation Department (LR) and Directorate of Foreign Affairs was limited to receiving and responding to questionnaires. Equally, FIs and DNFBPs were asked to respond to questionnaires. All contacted FIs responded and for the banking and MTC sectors workshops were held on the draft NRA (see section 2.2.6). For DNFBPs, not all entities, including from some high-risk sectors such as casinos, responded.

92. Authorities experienced challenges in collecting sufficient and quality data from the public and private sectors, resulting in significant data gaps, and the absence of data from some CAs was a key impediment in the development of the NRA. Due to these challenges as well as the recent adoption and circulation of the NRA among some CAs and some supervised entities, this resulted in a limited risk understanding. Furthermore, the AT noted that some areas were not fully assessed in the NRA. The identification and assessment for ML risks regarding legal persons and

[11]Subsequent to the ME on-site visit, the NRA was published in the National Gazette and uploaded to the FIU's website. The FIU started disseminating the NRA to DNFBPs, and the CBCS also started to send the NRA to banks after the publication in the National Gazette (on 11 October 2024).

arrangements presented significant gaps and TF risks were not identified and assessed (see Chapter 7; IO.5). Although the VASP sector was not fully assessed due to limited available information, the sector is not material to the overall financial sector (comprising two local VASPs, one of which is inactive, and four international – see Chapter 1; section 1.4.3). The NRA also did not identify any risks associated with new technologies and these areas were not covered in any other risk assessments. Furthermore, trade-based ML and other cross-border risks were not comprehensively assessed. The ML/TF risks from the French Collectivité d' Outre-mer: Collectivité de Saint-Martin, with which Sint Maarten shares an open border, were also not assessed. Interviews conducted with CAs indicated that they were generally in agreement with the risks identified in the NRA. Some CAs noted, however, that corruption should have been identified in the list of the most pronounced predicate offences for ML within the NRA.

93. The NRA was largely focused on vulnerabilities and the associated mitigating measures that have been put in place and the extent to which sectors are supervised. The NRA did not distinguish between domestic and foreign threats, and the associated foreign risks. Based on the case studies and information provided by Sint Maarten, this may result in inaccurate assessments of the overall risk environment of Sint Maarten, thus leading to ineffective resource allocation (not on a Risk-based approach (RBA)) and mitigating measures to address such foreign threats.

94. The FIU, PPO, KPSM and RST demonstrated a fair understanding of the ML threats and vulnerabilities which Sint Maarten faces, such as drug trafficking and human smuggling. Understanding amongst other CAs, such as the COCI, Customs and the Tax Authority varies. The AT noted that owing to the lack of an in-depth assessment of the risks associated with legal persons, most CA's understanding of the specific threats and vulnerabilities of the different types of corporate structures most misused, the role of enablers, the reliance placed on notaries as gatekeepers to verify BO information, the geographic regions or corridors most exposed to ML schemes, was limited. During interviews with CAs, it was mostly indicated that non-traditional DNFBPs (e.g. groceries) and casinos pose the highest threats due to the cash intensive nature of these businesses.

95. The AML/CFT supervisors (CBCS and FIU) have a better understanding of the ML risks at the entity level for most of their supervised sectors, namely the banking, insurance, MTC and TCSP sectors in the case of the CBCS; and the casino, real estate and notary sectors in the case of the FIU. The level of agreement amongst FIs with the NRA was varied.

96. Regarding TF, Sint Maarten demonstrated a developing risk understanding due to the limited data presented on its assessment of its exposure to TF risks. In its NRA, Sint Maarten determined that the TF threat and risk is low on the basis that Sint Maarten does not have any terrorist groups or organisations or any incidents of terrorism. The AT reviewed the TF NRA methodology, which required the country to assess, among other things, persons travelling to geographical locations with an active terrorist threat and the degree of outward or incoming remittances to geographical locations with an active terrorist threat. However, the NRA did not feature the results of the analysis of these elements. Regarding the NPO sector, the NRA provided limited analysis of the data collected within the NPO sector in relation to TF and there was no identification of the features and types of NPOs that are likely to be at risk of TF abuse. Furthermore, the AT's review of the questionnaires used for the NRA revealed that limited data related to TF was requested from stakeholders. By way of an example, the AT anticipated that data on travel patterns of Sint Maarten's nationals and the financial flows (if any) to conflict areas would have formed part of

the quantitative research. However, no such data was presented in the NRA. To determine its TF risk understanding of the DNFBPs and FIs, Sint Maarten relied on data collected from public authorities such as the PPO and LEAs, information collected during previous off-site supervision efforts and data collected through questionnaires within the private sector.

2.2.2. National policies to address identified ML/TF risks

97. Sint Maarten is yet to develop national AML/CFT policies or strategies to address ML/TF risks identified in the recently adopted NRA.

98. Notably though, as a response to the increasing risks relating to human trafficking and smuggling, in 2017, Sint Maarten created a unit within the Ministry of Justice and a multi-disciplinary team (of police, customs, coast guard, immigration) tasked with combatting these crimes, which is well within Sint Maarten's current risk profile. Additionally, although corruption was not identified in the NRA as a predicate offence which poses a high ML risk to Sint Maarten, the jurisdiction has teams dedicated to investigate this offence.

99. As part of the NRA, the CBCS and the Sub-Project Group (SPG) concluded that the informal economy in Sint Maarten is relatively large, employing and paying many on a cash basis. Sint Maarten is planning on enhancing financial inclusion through the adoption of new legislation which aims to create the legal right for residents to have access to the formal system.

2.2.3. Exemptions, enhanced and simplified measures

100. Sint Maarten's legislative framework does not exempt FIs or DNFBPs from implementation of AML/CFT requirements and therefore no such exemptions were made in the past. The NOCMLTF requires FIs and DNFBPs to conduct enhanced due diligence (EDD) where they identify higher risks to manage and mitigate those risks. It also allows for the application of simplified measures when ML/TF risks are lower. However, this is not dependent on ML/TF risks identified by the country (see R.1).

101. Car dealers are entities supervised for AML/CFT purposes in Sint Maarten. While this sector is not part of the FATF Standards, the inclusion demonstrates that Sint Maarten is proactively including sectors it identifies as medium-high risk in the NRA. The AT did not meet representatives or assess the level of AML/CFT effectiveness in the sectors that are not covered by the FATF Standards.

2.2.4. Objectives and activities of competent authorities

102. Given the recent adoption of the NRA, most CAs have not yet used the results to inform agency-based policies and activities. Furthermore, as of the on-site visit, the extent to which objectives and activities of CAs are aligned with ML/TF risks varied. The AT also noted that resource constraints may have impacted some CAs' ability to ensure that objectives and activities are achieved to a larger degree.

103. National action points, set out in the NRA, aim to address identified deficiencies by implementing key actions, such as the allocation of additional human and technical resources for the judiciary, LEAs and intelligence agencies; establishing a national AML/CFT/CFP committee; establishing

MoUs[12] between the CBCS, FIU, LEA and the ministerial departments; strengthening the confiscation regime through implementing comprehensive policies and regulations and the developing development of a comprehensive framework for managing or overseeing the management of frozen, seized and confiscated property; updating the Provision and Guidelines (P&Gs) for FIs and DNFBPs; and, increasing on-site examinations by the FIU, particularly for real estate agents and lawyers.

FIU

104. Based on the interviews conducted, the FIU displayed awareness of the predicate offences which pose the highest risk to Sint Maarten. However, the FIU does not have an agency-based policy which determines which UTRs will be given priority based on the risk, nor did the FIU demonstrate that it applies a RBA in practice. Moreover, the nature of the FIU's ML disseminations is not in keeping with the main risks in the jurisdiction.

PPO and LEAs

105. Notwithstanding that the PPO and LEAs have not yet developed agency-based policies in line with the risks identified in the NRA, they investigated and prosecuted fraud and migrant smuggling (main predicates identified in the NRA) and corruption. Within the period of review and prior to the conclusion of the NRA, authorities demonstrated that they prioritised the combatting of human trafficking and migrant smuggling through the establishment of a dedicated unit in the KPSM

Supervisors – CBCS and FIU

106. On FI supervisory actions, the CBCS enhanced its risk-based supervision in 2022 by moving towards a more data-driven approach based on annual questionnaires that are mandatory for all FIs. The information supervisory gathered from these questionnaires is fed into a risk scoring tool enabling the CBCS to effectively allocate resources based on risks. The impact of the new approach on the scope and frequency of supervisory activities and the assignment of resources based on entity risk ratings was at the time of the on-site visit in a premature stage to demonstrate conclusive results. Before the finalization of the NRA, based on the preliminary NRA findings and wanting to take a uniformed approach with Curaçao, the CBCS commenced updating the P&Gs (dating from 2013 and based on repealed legislation) for the respective FIs and TCSPs in Sint Maarten.

107. Regarding DNFBP supervision (other than TCSPs as they are supervised by the CBCS), there is a need for significant resources to be deployed. The FIU, in its capacity as supervisor, has carried out limited off-site supervision for some higher-risk sectors (casinos, notaries, real estate) but has not conducted any on-site examinations during the period under review. At the time of the on-site visit, the FIU was in the process of updating the P&Gs for the higher-risk DNFBPs, such as casinos.[13]

[12] An MoU between the CBCS and FIU was established in February 2025, after the end of the ME on-site visit.

[13] In December 2024, after the end of the ME on-site visit, dedicated P&Gs for casinos were published by the FIU.

2.2.5. National coordination and cooperation

108. Authorities work together at an operational level on a needs basis via the Intelligence Centre Sint Maarten (ICSM). While the FIU is the designated authority to develop AML/CFT policies, there is no formal national co-ordination and co-operation mechanism to enable policy makers, the FIU, LEAs, supervisors and other relevant CAs to co-operate and co-ordinate concerning the development and implementation of AML/CFT/CPF policies and activities. This adversely affects the ability of CAs to effectively combat financial crimes through, inter alia, cohesive communication and collaboration; strategising to continuously identify and mitigate evolving risks; ensuring that policies are developed and remain effective and relevant; and prioritisation of resource allocation.

109. At a policy level, Sint Maarten intends to establish a national AML/CFT/CPF Committee tasked with drafting and updating AML/CFT/CPF policies and strategies. Despite the absence of a national coordination mechanism, authorities in Sint Maarten co-operated and co-ordinated in the context of the NRA process. A Steering Group and sub-project groups were established which were tasked to assess the country's ML/TF/PF risks and draft national action points. Representatives from the FIU, CBCS in addition to the Ministries of Justice (covering relevant LEAs), Finance, TEATT and General Affairs were part of the NRA Steering Group and sub-project groups.

110. At an operational level, there is a fair degree of information sharing and collaboration among some authorities. The FIU regularly works together with the PPO, KPSM, LR, RST, Customs, Tax Authority, Land Registry and COCI. LEAs and the FIU share information with each other through the ICSM (see Chapter 3; IO.7). This is done by uploading its analytical products to the ICSM database and through regular meetings (every six weeks) with the various authorities which make up the ICSM (FIU, Customs Department SM, Police Force (KPSM), Coast Guard (KW), National Internal Investigations Department (LR), Public Prosecutor's Office (PPO), Security Service (VDSM) and the Royal Military Police (KMAR). The AT was provided with case samples demonstrating that such inter-agency co-ordination and co-operation are facilitated without impediments (see Chapter 3; IO.7). The CBCS and LEAs share information and collaborate with each other when requested. The CBCS and FIU share information with each other to further improve the cooperation, albeit to a minimal extent.

2.2.6. Private sector's awareness of risks

111. Sint Maarten has taken some actions to make the private sector aware of the NRA results.[14] Both the FIU and the CBCS indicated that they will host information sessions to explain and share the NRA results with their supervised entities. During the on-site visit, several FIs and most DNFBPs interviewed were not aware of the NRA findings, such as the high-risk sector of casinos (see Chapter 5; IO.4).

112. During the development of the NRA, there was limited involvement by the private sector. Some FIs and DNFBPs were asked to complete an AML/CFT questionnaire; however, not all returned the questionnaire. Among DNFBPs, the response rate was less than half; and for FIs, all banks,

[14] The NRA was adopted in September 2024 and published in the National Gazette on 11 October 2024. After publication, the CBCS disseminated the outcomes via e-mail to some FIs (such as banks) and placed the NRA on its website. Subsequent to the on-site visit, the NRA was also uploaded to the FIU's website.

MTCs, the credit union and life insurance companies reached out to, responded. For those banks and MTCs that had received the NRA questionnaire, the CBCS hosted workshops for each sector to explain the process and discuss the draft NRA sections relevant to these sectors, including threats, vulnerabilities and the overall ML risk level for each sector. Based on feedback from these workshops, adjustments were made to the NRA.

Overall Conclusion on IO.1

113. Overall, Sint Maarten has a fair understanding of its ML risks and a developing understanding of its TF risks. The NRA was not comprehensive since there were significant data gaps. The threats posed by the informal sector as well as corruption were not assessed. The NRA also did not adequately assess the ML/TF risks and vulnerabilities of legal persons and arrangements, the VASPs sector and cross border risks, including the open border between the French side (Saint Martin) and the Dutch side (Sint Maarten). Furthermore, the lack of understanding of risks may have also been impacted by the recency of the adoption and publication of the NRA. Sint Maarten is yet to develop national AML/CFT policies or strategies to address ML/TF risks identified in the NRA. However, a multi-disciplinary law enforcement team tasked with combatting human trafficking and smuggling was established prior to the assessment period and addressed the continued risk identified in relation to such offences.

114. CAs have not yet used the NRA results to inform agency-based policies and activities. Additionally, the extent to which objectives and activities of CAs are aligned with ML/TF risks and national policies varies.

115. Furthermore, the jurisdiction is yet to develop formal mechanisms related to cooperation and coordination on the development and implementation of policies and activities to combat ML/TF/PF at a policy-making level. At the operational level, CAs co-operate to a good degree. This is facilitated through the ICSM which has a centralised database to which the various member agencies have access. The ICSM also has regular meetings (every 6 weeks) where member agencies share intelligence and information. Some CAs experience resource constraints which may have also impeded these outputs. Consequently, the AT concludes that these issues adversely affect the ability of CAs to stay abreast with emerging risks and trends and implement mitigating measures.

116. **Sint Maarten is rated as having a low level of effectiveness for IO.1.**

Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

a) The FIU receives UTRs from FIs and DNFBPs, with banks submitting the majority, which is consistent with sectoral risk, and it also receives cross-border cash reports from Customs. However, due to limited human and technical resources and lack of training, the FIU conducts operational analysis to a limited extent and has not produced any strategic analysis. As a result, the FIU's ability to fully support the operational needs of competent authorities (CAs) is constrained. Some operational analysis products have resulted in investigations, while another product identified a possible link to TF.

b) LEAs such as the KPSM, LR and RST access disseminations from the FIU either directly via the ICSM or through the PPO or PPO-CT. While financial intelligence supports investigations to a fair extent, it is used more often to prove predicate offences than to proactively detect ML or trace assets. The use of corporate, tax, and real estate data occurs more frequently than financial intelligence.

c) Although UTRs are informally prioritised through monthly coordination meetings with the PPO and Kingdom FIUs, the absence of written procedures and insufficient documentation of outcomes limit the ability to assess whether the FIU's analytical process is risk-based. Further, disseminations largely concerned tax-related offences, with fewer relating to high-risk predicate offences, such as drug trafficking and human smuggling. This misalignment reflects weaknesses in risk-based prioritisation and financial intelligence development.

d) LEAs have made limited requests for financial intelligence, in part due to a lack of parallel financial investigations and limited financial crime training. Most investigators in the KPSM and LR have not received adequate training on how to use financial intelligence effectively in their work.

e) Cooperation is facilitated through legislation (e.g. NOFIU), operational partnerships, and participation in the ICSM, which allow for real-time access and exchange of financial intelligence among the FIU, LEAs, PPO, and other agencies.

f) The FIU does not maintain comprehensive statistics on the number of requests received or disseminations made. While the KPSM and RST maintain some data on requests to the FIU and other authorities but not to FIs and DNFBPs, the absence of consolidated and disaggregated data from the FIU limits monitoring and evaluation of effectiveness.

Immediate Outcome 7

a) Sint Maarten has a legal framework and institutional arrangements in place to investigate ML. The KPSM-Fraud Unit is the primary LEA responsible for conducting ML investigations in Sint Maarten. Investigations involving public officials and civil servants, particularly in cases of corruption, ML, and other predicate offences, are conducted by the LR, while more serious and similar complex cases may be assigned to the RST. Despite the division of responsibilities, the KPSM-Fraud Unit and the LR face limitations in human and technical resources as well as a lack of specialised training in financial investigation. In contrast, the RST investigators have benefited from training received in the Netherlands.

b) LEAs identify potential ML cases through various means, including crime reporting, intelligence sources (such as financial intelligence), proactive investigations and parallel financial investigations to a limited extent. However, potential ML cases are insufficiently identified and investigated through parallel financial investigations and financial intelligence due to resource constraints and limited financial investigative capacity. This is further impacted by the fact that investigators of the KPSM-Fraud Unit also carry out other non-financial investigative duties, reducing the jurisdiction's ability to identify and investigate potential ML cases to a greater extent.

c) LEAs have, to some extent, pursued cases in line with ML threats identified in the NRA such as fraud, migrant smuggling and tax evasion. However, parallel financial investigations conducted were mainly in relation to corruption and rarely in relation to the other high ML risk predicate offences identified in the NRA, such as drug trafficking.

d) Sint Maarten has established a Steering Group comprising various CAs, including the Commissioner of Police and the PPO, to oversee the prioritisation of ML cases for investigation and to decide which LEAs are best suited to conduct the investigation. Due to the nascency of the adopted NRA, the Steering Group has not yet developed a formal mechanism to prioritise matters to be investigated against Sint Maarten's risk profile detailed in the NRA.

e) Sint Maarten's CAs have investigated and prosecuted complex ML related cases of self-laundering and applied alternative criminal justice measures in a stand-alone

ML case. Nevertheless, CAs have not demonstrated that they are prosecuting other forms of ML cases, including third-party cases though being investigated. Further, while some complex ML cases have been prosecuted, there were no ML investigations involving foreign predicate offences.

f) Investigations carried out involved natural and legal persons and based on the case studies reviewed, the sanctions imposed were effective, proportionate and dissuasive.

g) LEAs and the PPO do not maintain comprehensive statistics on ML investigations, including how each case is identified (e.g. through intelligence, parallel investigations or reporting), prosecutions and convictions. The absence of complete statistical data made it challenging for authorities to fully illustrate the breadth and impact of their efforts. Similarly, the Steering Group does not track statistics related to the number of cases reviewed, those prioritised for investigations or how they were allocated among LEAs. As a result, the extent to which effectiveness is being achieved by this mechanism could not be demonstrated.

Immediate Outcome 8

a) Sint Maarten has a comprehensive legislative framework that enables conviction-based confiscation of proceeds of crime, instrumentalities and property of equivalent value. In 2017, prior to the September 2024 adoption of Sint Maarten's NRA, the PPO issued a Confiscation Instruction to guide the confiscation of unlawfully obtained benefits. Also in 2017, Sint Maarten established an Asset Recovery Team (ART) to support the national confiscation efforts. The ART was however disbanded in 2021 due to financial constraints.

b) The PPO has demonstrated that confiscation of illicit proceeds is pursued to some extent however instrumentalities used in the commission of an offence were pursued to a lesser extent. There is no evidence of confiscation of proceeds from foreign predicate offences, nor of domestic proceeds located abroad. Financial investigative capacity and resource constraints, specifically within the KPSM-FU and LR, have adversely impacted the consistent application of confiscation measures and therefore, confiscation is not being pursued effectively or systematically as a policy objective.

c) CAs pursued confiscation in relation to corruption to some extent, although this was not listed as one of the most pronounced predicate offences related to ML, according to Sint Maarten's NRA. Notably, confiscation linked to other high risk ML predicate offences identified in the NRA, such as human trafficking and drug trafficking, is

being pursued to a limited extent. There was no confiscation in relation to TF, which is in line with the low TF risk rating assessed by the country.

d) Sint Maarten has legislation in place requiring the written cross-border declaration of cash and BNI valued over USD 14,000. However, Sint Maarten applies a disclosure system in practice. Furthermore, CAs are making insufficient efforts to confiscate the proceeds relating to undeclared or falsely declared currency or BNIs relating to cross-border movements. Sanctions are imposed for failing to declare or making a false declaration, however these are typically administrative fines of approximately 10% of the undeclared value and are not considered effective, proportionate and dissuasive.

e) Sint Maarten has legislation for the management of seized and confiscated assets, however the value of these assets is often not preserved in practice. Resource constraints and inadequate storage facilities have resulted in assets becoming damaged or deteriorated during the judicial process.

f) Sint Maarten does not maintain comprehensive statistics on property/assets that have been restrained, seized or confiscated. The lack of reliable and disaggregated data limits the ability of the authorities to assess trends, measure effectiveness or demonstrate results in line with national ML/TF risks and policy objectives.

Recommended Actions

Immediate Outcome 6

a) The FIU should be provided with sufficient human, technical, and financial resources to fully perform its core functions. This includes improving its capacity for operational analysis and initiating the regular production of strategic analysis products, which should inform risk understanding and decision-making by CAs, FIs, DNFBPs, and policymakers.

b) LEAs and the PPO should increase their use of financial intelligence and other relevant information to proactively identify ML and predicate offences and to trace criminal proceeds. The FIU should also expand its access to and analysis of financial and other relevant information to strengthen its intelligence outputs. Tailored training should be delivered to LEAs and the PPO, and other CAs responsible for investigating and prosecuting ML and key predicate offences, to

improve their capacity to use financial intelligence effectively in investigations and prosecutions.

c) The FIU should develop and implement a formal, risk-based system to guide the prioritisation and analysis of UTRs and incoming requests from domestic and foreign authorities. This mechanism should be documented, regularly reviewed, and shared with relevant staff to ensure consistent and effective application.

d) Sint Maarten should ensure that all CAs involved in the collection, use, and dissemination of financial intelligence maintain comprehensive, disaggregated, and retrievable statistics.

Immediate Outcome 7

a) Sint Maarten should allocate additional human and technical resources to the KPSM-FU and the LR to ensure that there is a dedicated cadre of financial investigators. Additionally, continuous financial investigative training should be provided for investigators and prosecutors to enhance their ability to identify, investigate and prosecute all types of ML cases.

b) Sint Maarten should ensure that financial investigations are prioritised and conducted systematically alongside all major predicate offence investigations. Further, there should be enhanced use of financial intelligence.

c) Sint Maarten should establish and implement a clear strategy to prioritise ML investigations and prosecutions in line with the country's threats and risk profile to ensure that ML/TF cases are effectively assessed and assigned.

d) LEAs and the PPO should establish a formal case tracking and statistical recording mechanism which would allow them to maintain comprehensive statistics related to, inter alia the number of ML investigations identified through the various mechanisms, the types of ML activity and cases being investigated and prosecuted, imposition of sanctions and the nature of the offences, to demonstrate effectiveness. Furthermore, CAs responsible for prioritising cases for investigation and prosecution should also track and document, inter alia, the number and type of ML cases reviewed, types of ML cases decisions made, cases prioritised, cases investigated, and LEAs assigned.

Immediate Outcome 8

a) The PPO should review and update the Confiscation Instruction to take into consideration, *inter alia*, the results of the NRA, TF specific confiscation

procedures and clear internal guidance on prioritising asset recovery actions in line with the country's risk profile.

b) Sint Maarten should consistently and effectively pursue confiscation as a policy objective.

c) Sint Maarten should strengthen the operational capacity of the KPSM-FU and the LR by increasing financial investigative resources, including staffing and technology. The PPO and LEAs should pursue confiscation into other high-risk crimes as identified by the NRA and crimes which generate proceeds, such as drug trafficking and tax evasion. Additionally, confiscation of instrumentalities should be pursued to a greater extent.

d) Sint Maarten should implement its legal declaration regime for cross-border currency; ensure that declaration forms are provided to all passengers; and ensure that signs requiring passengers to declare cash or BNI are strategically placed within the airport (arrivals and departures). Sint Maarten should also review and revise its penalty structure related to falsely declared or undeclared cross-border movement of currency or BNIs to ensure that administrative sanctions imposed by the PPO are effective, proportionate and dissuasive.

e) CAs should conduct comprehensive financial investigations into the source and intended use of falsely declared cash or BNI, specifically those where there is a suspicion of ML with a view to charging the person for ML and confiscation of the cash/BNI.

f) Sint Maarten should make the necessary resources (financial, human and technical) available to the CAs responsible for managing seized or confiscated assets which would enable them to effectively preserve the assets and its value.

g) Sint Maarten should establish a confiscation database which allows it to maintain comprehensive statistics on seized and confiscated property/assets.

117. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

3.2. Immediate Outcome 6 (Financial Intelligence ML/TF)

118. Within Sint Maarten's framework, the FIU is responsible for receiving, analysing and disseminating financial intelligence to domestic competent authorities (CAs) and foreign FIUs, spontaneously or upon request. UTRs received from supervised entities are entered into the FIU's database and subsequently analysed. During the analysis, information received is enhanced with other information, such as the data within the FIU's database, and that gathered from public or private sector entities, resulting in an intelligence report. Such reports are disseminated to the

Public Prosecutor's Office (PPO) and the Intelligence Centre Sint Maarten (ICSM) when there is a suspicion of ML, TF or associated predicate offences.

3.2.1. Use of financial intelligence and other information

119. Investigative authorities in Sint Maarten have access to a wide range of financial intelligence and other relevant data with no legal or operational impediments. However, the assessment team (AT) observed a varied level of understanding regarding the use of financial intelligence and relevant information among different law enforcement authorities (LEAs). Accordingly, Sint Maarten has demonstrated that LEAs, in the conduct of their core functions, are accessing and using financial intelligence, including FIU disseminations, to a fair extent, while making greater use of other relevant information such as data from corporate and real estate registries as well as tax and licensing information. The AT based its findings on qualitative and quantitative data provided and interviews conducted on-site.

120. LEAs, particularly the Sint Maarten Police Force Fraud Unit (KPSM-FU), National Internal Investigation Department/Landsrecherche (LR) and the Detective Cooperation Team (RST) have accessed and used financial intelligence and other relevant information from various sources to investigate ML and predicate offences. The databases maintained by other CAs, FIs and DNFBPs are indirectly accessed by LEAs and the PPO through the issuance of a Prosecutor's Order to obtain information. The AT also noted that the Customs Department did not request information from the FIU during the period under review. However, this deficiency was moderately weighted given that the Customs Department is not identified as an agency responsible for conducting financial investigations under R.30.

121. Sint Maarten has an administrative FIU which is the national centre for receiving and analysing unusual transaction reports (UTRs) submitted by supervised entities (FIs and DNFBPs). UTRs are based on objective and subjective indicators, for example, wire transfers over the threshold sum of NAf 500,000 (approximately USD 279,329) automatically trigger a UTR filing (objective indicators), while transactions suspected to be related to ML/TF or their predicates are filed based on subjective indicators. The FIU analyses these reports and where the suspicion of ML or TF arises, the UTRs are converted to STRs and disseminated to the PPO and the ICSM, where LEAs have access to it.

122. Due to its core functions, coupled with its powers to obtain financial intelligence and other relevant information from CAs and supervised entities, the FIU is well-positioned to be a good source for information. The FIU has both direct and indirect access to open and closed source information, which it uses to carry out its functions. Requests for information from CAs such as the Chamber of Commerce and Industry (COCI), Ministry of Tourism, Economic Affairs, Transport and Telecommunications (TEATT), Tax Authority, KPSM and Central Bank of Curaçao and Sint Maarten (CBCS) are made via letter using password-protected e-mails. The FIU can remotely access the databases of some CAs such as the Cadastre/Land Registry and has direct access to the database of the ICSM through a dedicated computer at the KPSM.

123. The FIU's database contains useful information such as UTRs and information exchange with domestic and foreign counterparts, including spontaneous disseminations as well as cash and bearer negotiable instrument (BNI) declarations. As such, LEAs, via the PPO, can access financial intelligence and relevant information from the FIU. The FIU has access to several databases, which allows it to obtain financial and other relevant information necessary for performing its

functions. Table 3.1. below outlines some of the databases to which the FIU has access, and Table 3.2 reflects the frequency of the FIU's access to financial intelligence and other relevant information from CAs. In 2023, the number of requests to the Cadastre by the KPSM increased significantly due to an investigation into a property developer who defrauded over 190 victims.

Table 3.1. Examples of Databases to which the FIU has access and the types of information that can be accessed

Entity's Database	Type of Information	Type of Access
FIU	Financial Intelligence	Direct
COCI	Business, Company, NPO etc. Registration Information	Indirect[15]
CBCS	Licensing Information for FIs	Indirect
Cadastre/Land Registry	Property Ownership Information	Direct
Tax Authority Inspectorate	Tax Information	Indirect
TEATT	Licensing Information for Businesses etc.	Indirect
FIs and DNFBPs	UBO/Financial Statements/Transactions	Indirect
KPSM	Criminal Records	Indirect
ICSM	Intelligence	Direct

Table 3.2. FIU's Requests to Other CAs

Competent Authorities	2019	2020	2021	2022	2023
Cadastre/Land Registry	4	4	1	0	0
Census Office	5	2	2	0	2
CBCS	1	0	0	0	0
VDSM	1	0	0	0	1
TEAAT	0	1	0	0	0
Immigration Department	1	1	0	1	0
KPSM	7	0	3	2	1
Tax Inspectorate	6	11	9	2	2
Receiver's Office	2	0	2	0	0
Government Archive	2	1	0	0	0
COCI	8	8	5	3	4
Total	**37**	**28**	**22**	**8**	**10**

[15] Subsequent to the ME on-site visit, direct access to the COCI's database was provided by the COCI to the FIU.

124. The FIU is also empowered to request information from supervised entities - even in the absence of any UTR filing - to support its analysis (see R.29). The types of information that may be requested from these entities include but are not limited to basic and beneficial ownership (BO) information, business license information, tax data, land ownership, leasing information and financial statements or transactions. Table 3.3 below shows the frequency with which the FIU has been accessing financial intelligence and other relevant information from supervised entities.

Table 3.3. FIU's Requests for (additional) Information from Supervised Entities

Reporting Entities	2019	2020	2021	2022	2023
General Banks	4	17	11	3	7
Notaries	3	4	8	1	0
Lawyers	0	0	1	0	1
Casinos	0	0	0	1	0
Total	**7**	**21**	**20**	**5**	**8**

125. Given the number of UTRs submitted to the FIU during the period under review as seen in Table 5.1. (Chapter 5; IO.4), the AT found that the FIU was accessing financial intelligence and other relevant information to a limited extent. This deficiency was heavily weighted, given the FIU's core functions and its role in combatting ML.

126. LEAs, through the PPO, are also empowered to obtain financial intelligence and other relevant information from CAs, and supervised entities. Tables 3.4. and 3.5. represent the number of requests made by KPSM and the LR, respectively, over the assessment period to the CAs. However, no information was presented by Sint Maarten on requests made by the KPSM and LR to supervised entities, nor was any information submitted on the number of requests made by the RST for financial intelligence and other relevant information. Although several requests were made for financial intelligence and other relevant information, on-site interviews conducted and case examples provided revealed that LEAs demonstrated their use of accessed information to a limited extent to identify and trace assets. Conversely, the requested information was being used, to a greater extent, to establish proof of the predicate offence.

Table 3.4. KPSM's Requests for Financial Intelligence and Other Relevant Data

Competent Authority	2019	2020	2021	2022	2023
FIU	3	6	3	4	5
TEATT	2	0	0	0	0
COCI	16	29	18	9	13
Cadastre/Land Registry	5	6	4	5	184

Competent Authority	2019	2020	2021	2022	2023
Tax Office	2	4	2	0	2
LR	0	0	0	0	0
RST	0	0	0	0	0
ICSM / Info Unit KPSM	16	25	18	34	24
Total	**44**	**70**	**45**	**52**	**228**

Table 3.5. LR's Requests for Financial Intelligence and Other Relevant Data

Competent Authority	2019	2020	2021	2022	2023
FIU	8	1	1	3	0
TEATT	0	0	0	0	0
COCI	9	1	4	0	0
Land Registry	2	0	0	0	0
Tax Office	9	4	1	0	1
KPSM	11	11	5	4	7
RST	1	0	1	1	0
Total	**40**	**17**	**12**	**8**	**8**

127. During an investigation, LEAs, through the PPO, can request information directly from the FIU or they can access the FIU's disseminations via the ICSM, which is the partnership arrangement responsible for collecting and exchanging information from and amongst LEAs, Customs, Coast Guard, KMAR, FIU, VDSM and the PPO. Additionally, LEAs can and do consult the databases of CAs, such as the COCI, TEATT, Tax Office or the Cadastre/Land Registry to obtain relevant information during ML investigations.

128. Financial intelligence and relevant information are also obtained by the FIU from foreign counterparts to support its own functions as well as those of the LEAs. This was demonstrated through qualitative data presented in Boxes 3.1 and 3.2. The FIU made a total of 89 requests to countries such as Anguilla, BVI, Canada, Curaçao, Dominica, Dominican Republic, France, the Netherlands, St. Lucia, USA, Cayman Islands, Egypt, France, Haïti, Panama, Switzerland, Trinidad & Tobago, Cook Islands, France, Hong Kong, Isle of Man, Israël, Jamaica, Monaco, St. Kitts & Nevis, Belgium, and Guernsey during the period under review. These requests were made in connection with ongoing investigations by LEAs and analysis being conducted by the FIU (see Box 3.2) with the main underlying predicate offences being ML, corruption, and fraud. However, the FIU does not maintain statistical records on the number of requests per country, the specific/underlying offence or the agency on whose behalf the request was made.

129. CAs in Sint Maarten, through the provision of qualitative and quantitative data, demonstrated some level of effectiveness in the use of financial intelligence and relevant information. The case study "EMERALD" in Box 3.1 below illustrates how, through the use of financial intelligence, investigators were able to identify assets eligible for confiscation and obtain information on cross-border money flows and payments.

Use of Financial Intelligence by PPO-CT and RST

Box 3.1. EMERALD

Case Summary:

Following reports in the newspapers, coupled with discussions in Parliament about a lucrative contract signed between a security company beneficially owned by one of the suspects and the Port Authority of St. Maarten, the PPO-CT launched a criminal investigation, with a parallel financial investigation conducted by the RST.

The investigation revealed that millions of dollars were illegally withdrawn from the Port Authority through fake invoices of various construction companies. The CEO of the Port Authority personally signed for approval of the invoices. Furthermore, a Member of Parliament (MP) was bribed by the owner of the security company in exchange for awarding a contract concerning infrastructural maintenance to one of the third parties. The MP laundered the proceeds of this criminal act through other jurisdictions and real estate investments.

The investigation was carried out in close cooperation with the FIU and judicial authorities of the United States, Curaçao, Anguilla, Aruba, Barbados, Bonaire, Canada, Cayman Islands, France, the Netherlands, Switzerland, Romania and Trinidad and Tobago. Eventually sufficient evidence was gathered to secure a successful prosecution in the first instance. Financial intelligence received from the FIU, assisted investigators to identify assets eligible for confiscation as well as obtain information on cross border money flows and payments.

Outcome:
In January 2020, the Court of First Instance found the entrepreneur guilty of bribing the MP. He was also found guilty of firearm possession, defrauding the Port Authority and tax fraud. He was eventually sentenced to 40 months' imprisonment. A confiscation procedure for USD 3,000,000 is still pending on appeal.

The MP was found guilty of accepting bribes amounting to USD 370,000, money laundering and tax fraud and sentenced to 20 months' imprisonment and was banned from holding public office for a period of five years. A confiscation procedure is still pending on appeal.

The convictions were upheld by the Court of Appeal and the Supreme Court, except for the former CEO, who, due to a technical mistake in the criminal summons, was fully acquitted in appeal.

3.2.2. STRs received and requested by competent authorities

130. The FIU receives UTRs based on both objective and subjective indicators. These UTRs are intended to contain relevant information that support the conduct of financial analysis and the advancement of investigations (see R. 29). Additionally, the FIU receives cross-border cash transport reports from the Customs Department and Terrorist Property Reports from supervised entities. The AT was informed that UTRs represent the primary source of financial intelligence for the FIU.

131. The FIU has several mechanisms in place for receiving UTRs, including via some banks' secure portals, password protected e-mails and the physical hand-delivery. The AT found that the physical and cybersecurity measures implemented and demonstrated by the FIU provide adequate safeguards to protect sensitive information.

132. During the period under review, the FIU reported receiving a total of 109,075 UTRs - an average of 21,815 UTRs per year - all of which were manually analysed. As seen in Table 5.1. (Chapter 5; IO.4), the majority of these UTRs were submitted by commercial banks, money transfer companies (MTCs), casinos and notaries, which is consistent with the vulnerability of those sectors. Conversely, accountants, jewellers and realtors - assessed as posing a medium-high ML risk - filed relatively few UTRs. As for the Tax Advisors, there are no UTRs recorded, which is consistent with the NRA's findings that classified them as low- risk for ML.

133. The AT observed a significant reduction in the number of UTRs filed by commercial banks over the period under review. This decline was reportedly attributed to the phased discontinuance of cheques by all banks which began in 2018 and was completed in 2022. That is, supervised entities were previously required to submit a UTR on cheques payable of NAf 5,000 (approximately USD 2,793) and this has been discontinued. Given the lack of comprehensive data on whether UTRs were filed based on subjective or objective indicators, the AT could not determine the extent to which supervised entities are effectively identifying and reporting suspicious activity.

134. In general, the FIU reported that the quality of the submitted UTRs, particularly those based on the subjective indicators, was good and that the objective data provided was sufficient to support analysis. However, the AT could not verify the assertions made by the FIU, as redacted UTRs were not provided. The AT was informed that upon receipt of a UTR, the FIU's Analysis Department reviews it for completeness. If the UTR form is incomplete or improperly filled out, the Analysis Department will contact the supervised entity to provide feedback. This feedback serves to guide the supervised entities on the completeness of UTR filings and acknowledge reports. While this process provides some feedback to supervised entities, the AT believes that this action does not suffice as adequate guidance on reporting and unlikely to contribute to the submission of improved quality UTRs. Moreover, some supervised entities indicated that they would appreciate feedback and general status updates from the FIU in relation to UTRs submitted.

135. The FIU also indicated that given its human and technical resource constraints, UTRs received during the assessment period were analysed to a limited extent. The AT is of the view that this has impacted the jurisdiction's ability to identify the main types of predicate offences occurring within its borders (see Chapter 2; IO.1). The AT is also of the view that the resource limitations also impair the jurisdiction's effective implementation of IO.7 & IO.9 as it relates to deficiencies in identifying and pursuing ML/TF cases. Notwithstanding the deficiencies, the FIU has analysed some UTRs and disseminated its findings to LEAs as shown in Boxes 3.2, 3.6 and 3.7. The

authorities also provided a case example whereby the FIU received a UTR from a bank based on inconsistent activity (cash deposits and wire transfers) within a customer's account. The analysis of the FIU linked the subsequent transfers to possible TF activities and spontaneously disclosed same to a foreign FIU, LEAs and the VDSM (see Box 8.1, IO.2). In the said case example, the customer (domiciled resident of Collectivité d'Outre-mer Saint Martin) sent funds to a subject in the foreign jurisdiction who has a relative that was found guilty of committing 11 terrorist crimes in 2014 and sentenced to life in prison without the possibility of parole in 2015.

136. Additionally, the FIU does not have a formal policy for the prioritisation of UTRs. Nevertheless, the AT was informed that UTR prioritisation decisions are generally guided by intelligence/information shared during monthly meetings between the FIU and the PPO as well as separate monthly meetings between the FIU and other FIUs within the Kingdom of the Netherlands. However, documentation provided to the AT on the results of one of the meetings with the PPO was limited and insufficient. This, coupled with the lack of quantitative and qualitative information on the number of UTRs analysed and the underlying predicate offences, hindered the FIU's ability to demonstrate that it is applying a risk-based approach to prioritisation.

137. Regarding cross-border declarations of currency and BNI reports from the Customs Department, the FIU reported that it received 1,474 reports during the period 2019-2023 (see Table 3.6. below); however, due to the lack of personnel, attention is only given to those reports involving false declarations. No broader analysis of the other cross-border declarations of currency and BNI reports was conducted to identify trends and develop typologies. The AT considered this to be a major deficiency, given the risk and context of the jurisdiction and the high ML risk associated with the cross-border movement of cash. This deficiency also impacts IO.1 regarding the adequate assessment and understanding of the TF risk associated with this type of activity.

Table 3.6. No. of Cross border cash reports submitted by the Customs Department to the FIU

Year	2019	2020	2021	2022	2023	Total
No. of Reports	489	262	331	98	294	1,474

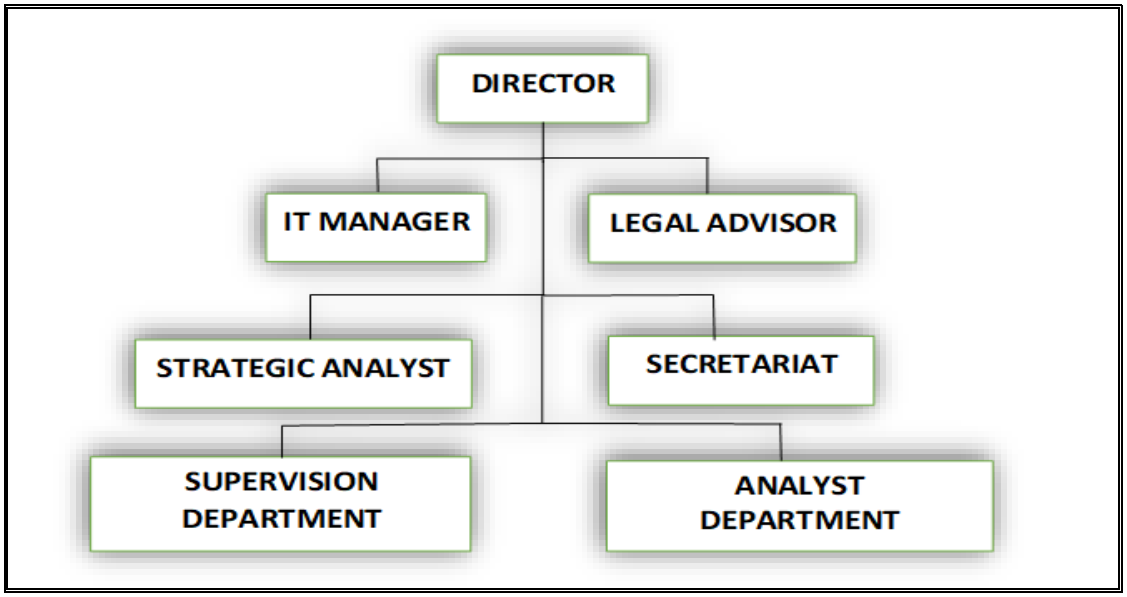
138. LEAs request intelligence and information from the FIU and other CAs and statistical information in this regard is highlighted under section 3.2.2.

3.2.3. Operational needs supported by FIU analysis and dissemination

139. The FIU receives, analyses and disseminates financial intelligence and relevant information to the PPO and LEAs, including but not limited to the KPSM-FU, RST and LR. While the FIU has legislative authority to conduct both strategic and operational analyses, human and technical resource constraints faced by the FIU have limited its ability to conduct strategic analysis. As a result, only operational analysis has been undertaken during the period under review. The FIU's operational analysis and dissemination supported the initiation of new criminal investigations and contributed to ongoing cases, thus demonstrating some level of effectiveness.

140. In addition to its core FIU functions (see R. 29) which are carried out by the Analyst Department, the FIU also exercises a supervisory function over DNFBPs, managed by the Supervision Department. Figure 3.1 represents the FIU's organizational structure and at the time of the on-site visit. There was a staff complement of eight: the director, two analysts responsible for operational analysis, two supervision staff, one legal advisor, one IT specialist and one administrative staff member. The AT found that the FIU was not adequately staffed across key functional areas, including its analytical function, to address its workload. This has resulted in UTRs being analysed to a limited extent and no analysis of cross-border cash reports being conducted. Further, staff had received only limited AML analytical training and had received no TF analytical training during the assessment period due to financial constraints.

Figure 3.1. Organizational Structure of Sint Maarten's FIU



141. During the period under review, the FIU had a staff decrease from 14 to eight persons, most of whom were from the supervision department. Information presented to the AT indicated that the decrease in staff was due to retirements and resignations. The AT was also informed by the FIU that the optimal staffing level should be 41 persons, however, the AT was not provided with the relevant documentation to support how these positions would be allocated.

142. While the FIU does not maintain statistics on the number of requests received from CAs or on the number of reports it disseminated in response, interviews with CAs indicated that the information shared by the FIU was useful. Additionally, case examples demonstrated that the FIU's financial intelligence had contributed to the identification of assets as shown in Box 3.1 and had supported successful investigations and prosecutions as shown in Boxes 3.6 and 3.7 in IO 7. As shown in Table 3.7, the FIU spontaneously disseminated 18 reports to the PPO during the review period, with the majority relating to tax evasion, followed by ML. The highest number of disseminations were in 2019 and declined in the subsequent years. The AT noted that there were no

disseminations for other revenue generating and high-risk predicate offences such as drug trafficking and migrant smuggling. The AT also noted that the nature of the FIU's ML disseminations is not in keeping with the main risks in the jurisdiction. The underlying predicate offences for the ML cases were identified by the jurisdiction as gambling in one or more casinos (2020 and 2021), undeclared or falsely declared cross-border money transports (2019 and 2020), operating an illegal lottery (2019) and operating an illegal money remittance office (2019).

Table 3.7: FIU's Spontaneous Disseminations to the PPO

Suspected Offence	2019	2020	2021	2022	2023	Total
Fraud	-	-	-	1	1	2
Tax Evasion	4	2	2	1	1	10
Money Laundering	3	2	1	-	-	6
Total	**7**	**4**	**3**	**2**	**2**	**18**

143. Compared to the volume of UTRs received during the assessment period as seen in Table 5.1 (Chapter 5; IO.4), the number of disseminations is low. The AT attributed this to human and technical resource constraints, which have restricted the FIU's capacity for operational analysis. Given that analysis and disseminations are core functions of an FIU, this deficiency was heavily weighted by the AT.

144. During the on-site visit, LEAs and the PPO confirmed that they co-operate with the FIU and that the information provided generally validated information which the PPO already possessed and was therefore useful. Some LEAs, specifically the KPSM and the LR, provided statistical information on the number of requests they made of the FIU and other CAs during the period under review. However, considering the risk and context of the jurisdiction, coupled with the large number of cases into ML and the predicate offences (see Table 3.9 in Chapter 3; IO.7), the AT concluded that the number of requests, particularly to the FIU, is low. The AT attributed this to the lack of training provided to investigators (primarily the KPSM and LR) on the use of financial intelligence and the low number of parallel financial investigations being conducted. Furthermore, neither the PPO nor the LEAs elaborated on the usefulness or quality of the information they received from the FIU. As previously noted, human and technological resource constraints have hampered the FIU's ability to fulfil its core functions under R.29. Consequently, the FIU has not produced any strategic analysis products to better support the operational needs of LEAs and other CAs. It also has not informed supervised entities with guidance on ML/TF typologies relevant to Sint Maarten, nor has it conducted analysis to understand the ML/TF risks associated with the cross-border movement of cash and BNIs. Given that strategic analysis forms a core function of an FIU, this deficiency was heavily weighted by the AT.

145. During the on-site visit, both the PPO and the FIU stated that they have regular meetings where ongoing criminal cases and trends were discussed. According to both CAs, the predicate offences addressed in these meetings included corruption, human smuggling and tax evasion, while trend discussions included online fraud and drug trafficking. However, the AT was unable to assess the effectiveness of these meetings as case studies and statistics were not provided and only one meeting minutes was shared with the AT.

3.2.4. Cooperation and exchange of information/financial intelligence

146. CAs in Sint Maarten cooperate and exchange information and financial intelligence to a good degree, which is demonstrated through the case example of "D&B" in Box 3.7. In this case, CAs collaborated during the investigation of an illegal MTC. There are no legal or operational impediments which hinder the domestic and international exchange of information. Tables 3.2 and 3.3 show the number of requests made by some LEAs to the FIU and other CAs for financial intelligence and other relevant information during the review period.

147. In 2019, Sint Maarten established a mechanism to facilitate cooperation and the exchange of information and financial intelligence between the FIU and LEAs through the ICSM. This mechanism allows the FIU to work closely with the different LEAs and the PPO and it provides them with real-time access to FIU disseminations. The FIU also co-operates and exchanges information with other CAs, including the COCI, to gather information which will add value to its intelligence product. Additionally, the FIU reported that it co-operates and exchanges information with the PPO concerning cases and possible projects such as identifying and prosecuting the DNFBPs which fail to register. Based on on-site interviews, case studies and statistics provided to the AT, there is a good degree of cooperation and there are mechanisms in place to ensure the effective exchange of information and financial intelligence.

148. Due to the sensitive nature of the information being shared, especially from the FIU, suitable arrangements are in place within domestic and foreign counterparts to ensure that the information shared is not compromised. Such measures include appointing designated persons in each CA to receive and respond to requests for information and having a designated email address only accessible by the authorised person to do the same. The FIU also utilises the EGMONT Secure Web to request or share information with foreign counterparts.

149. The storage of UTRs and other sensitive information is handled using dedicated servers and cabinets within the appropriate department. The servers are not connected to the internet, which reduces the likelihood of unauthorised access; and the secured physical files can only be accessed by authorized personnel.

150. Access to digital files is restricted by department: only staff members of the FIU's Analysis Department may access files stored on its the assigned server and the same applies to the Supervision Department and its assigned server. All files within the FIU have been digitised, however, printed copies of some documents still exist and those are stored in cabinets within the appropriate department. The AT found that the security arrangements within the FIU and those described by other CAs were adequate and appropriate for maintaining the confidentiality of sensitive information. The AT further acknowledged that personnel across the CAs are subject to statutory confidentiality obligations, reinforcing the secure handling of sensitive information.

151. The FIU has demonstrated that it has spontaneously disseminated findings of its analysis as shown in Box 3.2 below and Boxes 3.6 and 3.7 in Chapter 3; IO.7. In the below case example, the FIU received and analysed a UTR related to suspected fraud involving high value art. As part of its analysis, the FIU consulted the databases of other FIUs. The case study also corresponds with one of the findings of the NRA, that is, the lack of prosecutorial and financial investigative capacity to investigate and confiscate criminal proceeds.

Box 3.2. Case Study: The Chinese Connection

In 2022, the subject received three wire transfers totalling USD 102,525.00 for 'family support' and for the sale of art. The bank requested the subject to provide additional information, but the subject provided conflicting information and information that appeared not to be authentic. The information on the art, a Picasso painting, could not be established to be genuine. Further, the transactions were not in accordance with the account profile of the subject. As a result, the bank placed the transactions on hold and submitted a UTR to the FIU.

During its analysis The FIU requested information from three foreign FIUs:

IU requested information from three foreign FIUs:

- The FIU in the country of the subject's nationality.

The FIU disclosed that the subject is known for reported suspicious cash transactions via money remittance companies to the amount of € 158.900 and USD 29,340. The subject held 10 bank accounts at three banks there and was also involved in a scam in that country in 2011. The subject was a shareholder in three property investment companies. The FIU also had provided information that the intended purchaser had taken out a life insurance at a company that was credited with funds of which the source was unknown and debited by partial surrenders. The intended purchaser was also involved in three property investment companies in that country.

- The FIU in the country where the intended purchaser resides.

The FIU provided information that the intended purchaser and his/her marriage partner purchased a property for an amount of USD 1,605,000. The intended purchaser also had a company that was liquidated in June 2020 and dissolved in 2021.

- The FIU in the country where wire transfers were also conducted.

The request of the FIU of the country where wire transfers were also conducted into the account of the subject by the intended purchaser, via the ordering company with a bank in this third FIU's country yielded no information. A query of open sources did not reveal information on the subjects. The Picasso painting that the subject intended to sell was not found in the series that were found on Google image.

Outcome

The intelligence report was submitted to the PPO, but there was no follow up as the PPO stated that there was insufficient financial investigative capacity. This corresponds with one of the findings of the NRA, i.e., the lack of prosecutorial and financial investigative capacity to confiscate criminal proceeds.

Overall Conclusion on IO.6

152. Sint Maarten has a legal and institutional framework that enables the use of financial intelligence in the detection and investigation of money laundering, associated predicate offences, and terrorist financing. The FIU receives and analyses UTRs submitted by FIs and DNFBPs and disseminates information to the PPO and LEAs. Competent authorities have access to a wide range of information, including corporate and real estate registers and tax data, and the ICSM platform facilitates operational cooperation and information exchange.

153. Financial intelligence is used to a fair extent and primarily to support predicate offence investigations rather than proactively identify or pursue ML cases or trace assets. While the FIU's operational analysis has supported some successful investigations, it is constrained by limited human and technical resources, resulting in few disseminations relative to the number of UTRs received. No strategic analysis has been produced and there are gaps in training for both FIU staff and investigators on using financial intelligence for ML/TF purposes.

154. Cooperation among competent authorities is generally sound, and confidentiality safeguards are well established. However, there is limited documentation and follow-up on the impact and usefulness of shared financial intelligence. Overall, the framework exists and is used to some degree, but the extent of use and effectiveness is limited by capacity constraints and uneven integration of financial intelligence into operational decision-making.

155. **Sint Maarten is rated as having a low level of effectiveness for IO. 6.**

3.3. Immediate Outcome 7 (ML investigation and prosecution)

3.3.1. ML identification and investigation

156. Sint Maarten has a small population (approximately 43,000 persons) and a relatively low crime rate. The jurisdiction is not a company formation centre or international financial centre. While Sint Maarten is a small island jurisdiction, it operates within a broader constitutional framework as a constituent country of the Kingdom of the Netherlands. This arrangement provides access to prosecutorial and judicial experience from the wider Kingdom, including the Netherlands' ability to appoint, to Sint Maarten, specialised prosecutors with advanced skills in financial crimes. Judges from the Kingdom are also assigned to adjudicate cases in Sint Maarten which require expertise in specialised areas.

157. LEAs in Sint Maarten have demonstrated that they are identifying, investigating and prosecuting ML cases. The AT arrived at its conclusion based on interviews conducted with LEAs and prosecutors and the information provided by the authorities, inclusive of qualitative and quantitative data (despite the data not being comprehensive).

158. LEAs are able to identify potential ML cases from a range of different sources which include parallel financial investigations, FIU disseminations, intelligence reports, crime reporting, spontaneous investigations and cross-border cash movements reports. A total of 30 ML cases were identified during the period as shown in Table 3.8. The authorities indicated that some of the cases are stand-alone ML cases as well as cases identified through parallel financial investigations into drug trafficking and human trafficking cases. Statistics demonstrating this however are not maintained and was not provided to the AT. The number of investigations into ML and the related predicate offences remained consistent throughout the reporting period except for a 50% decline in 2021 from the previous year before rebounding in 2022. The AT noted that investigations into fraud far exceeded that of any of the other predicate offences. The AT also noted that the number of investigations into corruption exceeds those for drug trafficking, human trafficking and tax fraud despite corruption not being identified in the NRA as a major proceeds-generating predicate offence. Furthermore, there were no investigations into theft and robberies which were identified in the NRA as predicate offences that posed the highest ML threat. Notwithstanding, the nature of the investigations conducted by LEAs were for the most part in line with the main risks identified in the NRA.

159. Based on interviews conducted, the AT was informed that crime reporting is the leading source for identifying potential ML cases for the KPSM-Fraud Unit (KPSM-FU) and the LR. Conversely, the RST identified most of its cases from FIU disseminations, newspaper articles and its own intelligence unit.

Table 3.8. No. of investigations conducted by all LEAs

Offence	2019	2020	2021	2022	2023	Total
Fraud	26	36	21	30	38	151
Corruption	6	6	3	13	6	34
ML	10	9	1	2	8	30
Human Trafficking	5	2	1	1	2	11
Drug Trafficking	4	1	1	2	2	10
(tax)Fraud + Forgery	5	-	-	5	-	10
Integrity breaches	1	-	-	1	-	2
Total	**57**	**54**	**27**	**54**	**56**	**248**

160. The challenges around the FIU's limited resources to analyse UTRs and cross-border reports received, as highlighted in Chapter 3; IO.6, have a cascading effect on this IO as it relates to the identification of potential ML cases from UTRs. Additionally, during the interviews, CAs highlighted that it was difficult to initiate parallel financial investigations with a view to identifying potential cases of ML due to the lack of financial investigative training and resources within the various agencies. These shortcomings have impacted Sint Maarten's ability to extensively identify, investigate and prosecute potential ML cases.

161. The PPO is the CA responsible for the supervision of smaller and less complex ML investigations and is also tasked with ML prosecutions, while the identification and investigation of ML and associated predicate offences are primarily undertaken by the KPSM-FU. Other agencies such as the LR and the RST also conduct investigations into ML and associated predicate offences. Under the instruction of the Attorney General the LR is responsible for investigating cases of corruption involving civil servants and ML associated with those offences. The PPO Central Team (PPO-CT) which operates out of Curaçao, is responsible for the supervision of larger and more complex ML cases and prosecutions of same on Curacao, Sint Maarten, Bonaire, Saba and St. Eustatius. The RST is the LEA responsible for conducting investigations under the authority of the PPO-CT.

KPSM-Fraud Unit

162. While different LEAs are responsible for conducting investigations into predicate offences and ML, the KPSM-FU is the main agency charged with, amongst other things, conducting financial investigations with the aim of identifying ML cases and assets for confiscation. During the on-site, the AT was informed that whenever there is an investigation into a predicate offence by a unit within the KPSM in situations where potential ML activities are identified, the matter is reported to the KPSM-FU to conduct a parallel financial investigation. However, the KPSM does not have a policy document detailing the implementation of such and the AT was not provided with statistics demonstrating the transfer of cases.

163. Additionally, the work of the KPSM-FU is severely impacted by the financial investigative capacity and resources available, coupled with the additional non-financial investigative duties assigned to the investigators in this unit. As at the completion of the on-site visit, two investigators were assigned to the KPSM-FU, one of whom was relatively new. Further, during the reporting period, the investigators did not receive training in conducting financial investigations.

164. Data provided by the KPSM-FU indicates that the predicate offences of fraud, human trafficking and drug trafficking are collectively investigated more than ML as detailed in Table 3.9. below. This is consistent with the high risks identified in the NRA.

Table 3.9. No. of investigations conducted by the KPSM under the authority of the PPO

Offence	2019	2020	2021	2022	2023
ML	2	5	1	1	1
Other Offences (Fraud, Human Trafficking and Drug Trafficking)	34	37	23	31	39
Total	**36**	**42**	**24**	**32**	**40**

Detective Cooperation Team (RST)

165. The most complex ML investigations and the associated predicate offences may be assigned to the RST, as it is staffed with experienced financial investigators specialised in financial investigations, prosecution and confiscation from the Netherlands who are seconded for 3-5 years before returning to the Netherlands. These investigations stem from all countries of the former

Netherlands Antilles with the exception of Aruba. As previously stated, the RST investigations are assigned by the PPO-CT. At the time of the on-site visit, the RST had 20 investigators on staff and have investigated several corruption, ML and fraud cases in Sint Maarten, which is in line with the risk profile of the jurisdiction. The number of investigations conducted are detailed in Table 3.10 below.

Table 3.10. No. of investigations conducted by the RST under the authority of PPO-CT

Offence	2019	2020	2021	2022	2023
ML	8	4	0	1	6
Other Offences (Tax Fraud, Forgery, Integrity Breaches)	10	4	0	18	5
Total	**18**	**8**	**0**	**19**	**11**

National Investigations Department (LR) (Corruption based investigations)

166. The investigation of corruption offences by government officials and civil servants as well as ML activities associated with those types of offences are carried out by the LR under the instruction of the Attorney General. While not being identified in the NRA as a crime that poses significant risk to Sint Maarten, the AT found that corruption is high priority for the LEAs and the PPO. The LR receives support from the RST during its investigations into major corruption cases. The information provided to the AT shows that the LR has identified and investigated complex cases of corruption, including those involving PEPs; for example, Case "SEABASS" which resulted in prosecutions (see Box 3.3. below).

Box 3.3. Case Study - SEABASS

Case Summary:

Based on a report by the Tax Authority to the LR in 2018, an investigation was launched into two civil servants whose work included reviewing bids for the purchase of equipment by the government of Sint Maarten. Using relatives as the documented owners or directors, the defendants created companies in Sint Maarten and the United States and tendered bids to the department.

Subsequently, in their official capacities, the defendants discussed the bids received, including those from their own companies and advised the Council of Ministers, or the Minister. Several tenders were awarded to the defendants' companies and substantial amounts were transferred by the government to the bank accounts of these companies as payment for the awarded projects.

From the bank accounts of the companies, funds were transferred to the accounts of the U.S. companies and were then withdrawn or used for private purchases.

Although the companies of the defendants did supply equipment, there was a reasonable chance for the government not to get the lowest price or right quality. Sint Maarten was disadvantaged as a result, while the defendants enriched themselves at the expense of public funds over a considerable period. The defendants were also convicted of money laundering. One of the defendants received a 4-year prison sentence in December, 2024 (subsequent to the on-site visit) and the other two defendants appealed the conviction.

167. During the period 2019-2023, the LR team conducted investigations into corruption (see Table 3.11 below). However, the work of the LR to conduct parallel financial investigations is severely impacted by its financial investigative capacity and available resources. At the completion of the on-site visit, the LR had 11 staff members, namely, the director, two administrative staff, three tactical detectives, two criminal investigations detectives, one IT personnel and one financial detective who is a Certified Fraud Examiner and a Certified Financial Crimes Specialist.

Table 3.11. No. of investigations conducted by the LR

Offence	2019	2020	2021	2022	2023
ML	0	0	0	0	1
Other Offences (Corruption, Fraud, Human Trafficking and Drug Trafficking)	3	4	3	3	4
Total	3	4	3	3	5

168. LEAs can utilise investigative tools such as surveillance, intercepting communication and search warrants during an ML investigation (see Rec. 31). Although data was not provided by the LEAs on the extent to which investigative tools are used, the PPO indicated that warrants are obtained, and communications are routinely intercepted as part of an investigation. Moreover, some case studies were provided to demonstrate the LEAs' use of investigative tools. For the cases "KEA" summarised hereunder, and "D&B" in Box 3.7, the PPO obtained warrants for the interception of communication and search warrants, respectively.

Box 3.4. Case Study - KEA

Case Summary:

Based on intelligence received, the PPO and the KPSM launched an investigation into human smuggling ring operating in Sint Maarten. The defendants (X, Y and Z) were suspected of committing multiple counts of human smuggling during the period May 2023, through July 2023. During the course of the investigation the authorities obtained orders for the interception of communication which allowed them to obtain key evidence. The evidence also

consisted of conversations (from the seized mobile phone of Y) and information received from foreign authorities.

Subsequently, the homes of X and Y were searched where the authorities' seized sums of money and a taxi van believed to have been used as an instrumentality in the commission of the offence for which they were changed. The defendants were charged and convicted for count 1 (smuggling charges over a period, repeatedly committed, and completed smuggling operations). For count 2 (committed during the same period), the charges related to an attempt and preparatory actions, however the Court acquitted the defendants (as requested during the hearing): since the smuggling operations were completed, this charge was not applicable.

The Court has ruled that suspect X and Y played a "major role" in three completed smuggling operations over a period of approximately two months. As a result, X was sentenced to 5 years imprisonment with credit for pre-trial detention, Y was sentenced to 5 years imprisonment with credit for pre-trial detention and Z was acquitted. The seized money (approximately USD 40,000) and the taxi van were also forfeited.

The PPO also initiated confiscation proceeding against X and Y and was successful in that regard. The court ruled that X and Y benefitted from their illicit activity and shall each pay the state USD 227,500.

3.3.2. Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

169. The AT found that ML investigations in Sint Maarten are fairly consistent with the jurisdiction's ML risk profile as identified in the NRA. This conclusion is based on a combination of qualitative inputs (see Boxes 3.3 and 3.4), interviews with CAs and quantitative information as shown in Tables 3.6 - 3.8. Investigations and prosecutions into corruption are relatively high in number compared to other predicate offences. However, ML investigations linked to drug trafficking, theft and robbery – offences that the NRA assessed as posing high ML risks – are notably lacking. By contrast, investigations into fraud appear more consistent with the ML risk as identified by the NRA.

170. The NRA, finalised and adopted during the on-site visit, identified Sint Maarten's overall national ML risk level as medium-high, with fraud, drug trafficking, migrant smuggling, tax evasion, theft and robbery listed as the predicate offences with the highest associated ML risk. Given the timing of the NRA's adoption, national AML/CFT policies and departmental strategies have not yet been developed or aligned to reflect the risk profile. As such, there is currently no structured framework guiding risk-based prioritisation or resource allocation across CAs. However, the creation of the human trafficking/migrant smuggling unit within the KPSM was an implicit policy response to such high-risk crimes posed to the jurisdiction.

171. At the operational level, the prioritisation of criminal investigations is coordinated by a Steering Group (SG) consisting of the Chief Prosecutor, the Commissioner of Police, Investigative Prosecutors from the Dutch Caribbean and the Chief of Detectives. Case selection is based primarily on crime complexity and societal impact. The SG determines which criminal investigations will be pursued and by which LEA. However, the AT was not presented with

records (e.g. statistics, meeting minutes or documented criteria) to assess the SG's effectiveness or the extent to which its prioritisation decisions are in line with the risks identified in the NRA.

172. LEAs have pursued investigations into certain high-risk offences such as fraud, migrant smuggling and tax evasion, to a fair degree. However, the ML investigations linked to other high-risk threats – particularly drug trafficking and robbery/theft - remain limited. This inconsistency is in part due to capacity constraints within some LEAs, including inadequate staffing and insufficient specialised training in conducting financial investigations. As a result, investigations aimed at determining whether ML offences occurred in conjunction with predicate offences are not pursued systematically.

173. The NRA also identifies Sint Maarten's geographic vulnerability to being exploited as a transshipment hub for the smuggling of drugs, contraband, money and persons, given its proximity to major drug-trading and producing countries. Despite this, the jurisdiction has not demonstrated a commensurate level of ML investigations or prosecutions targeting drug trafficking. Sint Maarten has also not demonstrated that it is conducting ML investigations into other high-risk offences (e.g. robbery and theft) identified in the NRA.

174. The PPO plays a central role in overseeing all criminal investigations from initiation to prosecution. The PPO is staffed with experienced financial crimes prosecutors who are from the Netherlands and received their training there. The PPO has provided case examples of prosecutions (see Boxes 3.3 and 3.4) that reflect some consistency with the NRA's risk profile, particularly in fraud and human smuggling cases. However, its prosecutorial focus remains predominantly on the predicate offences and conventional crimes such as robberies and murders, rather than ML offences. The PPO reported that it did not have a backlog of cases and that it is adequately staffed to carry out its functions, yet there is limited demonstration that its strategic priorities have shifted in response to the newly identified risks in the NRA.

175. Overall, Sint Maarten has demonstrated that some ML investigations and prosecutions correspond to the risks identified in the NRA; operational structures are in place for case prioritisation; there is experienced staff within the PPO; and some outcomes are illustrated. Nonetheless, broader consistency is hindered by the absence of national AML/CFT policies, limited investigative capacity within some of the LEAs, and inconsistent pursuit of high-risk predicate offences.

3.3.3. Types of ML cases pursued

176. The PPO and LEAs do not maintain systemic statistics on the different types of ML investigations and prosecutions undertaken during the period under review, which limited the ability to perform a comprehensive analysis of ML typologies. However, based on case examples provided, the AT identified that the PPO and LEAs pursued ML investigations into several cases of self-laundering (see Boxes 3.3. 3.5. and 3.6) and one case of stand-alone ML (see Box 3.8).

177. Some of the investigations pursued were complex cases involving third parties, local and foreign legal persons and foreign authorities. Investigations conducted by the LEAs were based on domestic predicate offences such as corruption and fraud. These complexities indicate a level of investigative capability in handling more sophisticated ML schemes. No evidence was however presented of LEAs and prosecutors pursuing ML investigations that involved the commission of foreign predicates, nor were there examples of other ML typologies such as trade-based ML. This may reflect limitations in investigative focus or capability. Nevertheless, the results were

somewhat consistent with Sint Maarten's risk profile. The available information on cases provides some insight into the types of ML cases pursued, with a need for classification or typology tracking by the CAs.

3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions

178. Sanctions for ML are similar to other serious offences in Sint Maarten. The jurisdiction has demonstrated that sanctions were applied against natural and legal persons for ML offences during the period under review. Based on the case studies provided, the AT found that the sanctions imposed were proportionate and dissuasive. Box 3.5 below and Box 3.8 (in Chapter 3; IO.8) are case examples where sanctions were imposed against natural and legal persons for corruption and bribery and ML.

Box 3.5. Case Study - RUBY

This investigation which commenced in July 2018, was conducted by the RST under the authority of the PPO-CT. The investigation probed the phenomenon of bid rigging in relation to government contracts around waste processing. A Member of Parliament (MP), who was at that time civil servant, was suspected of taking bribes, abuse of position, forgery, and the misuse of government funds for personal purposes.

Through close cooperation with the judicial authorities of the United States, sufficient evidence was gathered to secure a successful prosecution. Various requests regarding financial intelligence were made to the FIU. The case was typically built on financial investigation into money flows and payments, the utilisation of financial intelligence but also on the statements of witnesses and other suspects.

In December 2021, the MP was found guilty of requesting and accepting bribes of over NAf 600.000. These bribes included lucrative contracts for family members. He was also convicted for forging invoices resulting in the government paying for personal expenses for his family and a charity organization. The MP was sentenced to 32 months' imprisonment, suspended and banned from holding public office for a period of 7 years. This conviction was upheld by the Court of Appeals.

The two individuals who bribed the MP each received a 12-month conditional prison sentence and 210 hours of community service. The corporate entity they used in the tender procedure was convicted to a conditional fine of NAf 100,000 (approximately USD 56,000). The Court took into consideration that although their acts were severely undermining to society, they do not deserve an unconditional prison sentence as they cooperated with the investigation and offered, to a certain extent, insight into the facts even though they incriminated themselves with their openness in the matter. It was also taken into account that the MP had a significantly more active role in staging the corrupt microsystem than them.

Confiscation proceedings are ongoing.

179. The penalties applicable for ML convictions are detailed in Arts. 2:404-2:406. A natural person who intentionally engages in ML is liable to imprisonment of eight years or a fine of NAf 100,000 (approximately USD 56,000) on conviction. A natural person who habitually engages in ML is liable to imprisonment of a maximum of nine years or a fine of NAf 100,000 (approximately USD 56,000) on conviction and a natural person who negligently engages in ML is liable to imprisonment of a maximum of four years or a fine of NAf 25,000 (approximately USD 14,000) on conviction. A corporate body convicted of ML can be a fined NAf 1,000,000 (approximately USD 560,000) (see c.3.9).

180. During the on-site visit some authorities suggested that the penalties imposed for someone convicted for ML were not severe enough, whilst others felt they were proportionate and dissuasive. The AT extracted data from case examples (Boxes 3.3; 3.5; 3.6. and 3.8), where, in one instance, a former MP was convicted for bribery and ML of approximately USD 4,000,000 and was sentenced to five years imprisonment. The fine imposed was within the legally prescribed limits and was considered by the AT to be proportionate and dissuasive.

3.3.5. Use of alternative measures

181. The PPO, pursuant to Art. 1:149, CrC, can apply alternative criminal justice measures such as settling a conviction for the predicate offence where a ML conviction is not possible. The PPO decides on how matters are to be prosecuted, and the use of alternative measures. The PPO's decision not to prosecute for ML offences is predicated on factors such as prosecuting for the predicate offence, asset forfeiture, the defendant waiving his rights and assets or the defendants accepting a fine. Although no statistics were provided on the extent to which alternative measures are being used, for the assessment period, the PPO demonstrated that it utilised civil enforcement action as an alternative measure (see cases AMOER and D&B – Box 3.6. and Box 3.7. respectively).

Box 3.6. Case Study – AMOER

Based on reports from the FIU, an investigation was launched into several car rental companies operating in Sint Maarten between 2016 and 2020. The said companies frequently transferred money to an Anguillan legal entity from where further distribution took place. This happened beyond the reach of the authorities in Sint Maarten, as such, the jurisdiction enlisted the assistance from the judicial authorities of Canada, Germany, and the United States of America.

The entities used an Anguillan entity and foreign bank accounts, to channel money through several jurisdictions without a clear economic purpose. Part of the money flows were accounted for by a web of intercompany loans but also by money loans between the Anguillan entity and the various Sint Maarten car rental operating companies. Investigations revealed that this accounting showed irregularities. In addition, the alleged money laundering cycle revealed frequent cash exchanges (without clear economic purpose). These exchanges were made through cheques issued on behalf of various companies and subsequent withdrawals and deposits into the private accounts of the

entrepreneurs. This was followed by cross-border transfers which ended in some events in the purchase of real estate in Germany and the United States of America but also in private spending through credit card transactions.

Subsequently, the PPO CT seized domestic real estate owned by suspects which was in anticipation of a possible confiscation proceedings. Also, the suspects were granted the opportunity to show that the money flows came from a legitimate source. In the opinion of the PPO CT, the suspects could not adequately support their claim that the sources were legitimate.

Since the suspects were a legal entity and an elderly couple, it was not likely that the criminal court would impose a punishment other than a financial penalty if they were convicted. For this reason, the PPO CT offered the three suspects an out-of-court settlement: payment of a fine of USD 200,000 to the country of Sint Maarten. An extensive press release on this investigation by PPO CT was part of the settlement agreement. The suspects accepted the proposal.

Box 3.7. Case Study - D&B

Case Summary:

Pursuant to several signals from the FIU in 2019, the RST conducted an investigation into two money transfer services (MTS) operators, under the authority of the PPO-CT.

It became clear that both money remitters provided financial services without the required authorisation from the Central Bank of Curaçao and Sint Maarten (CBCS). Moreover, on several occasions, one of the money remitters did not report unusual transactions to the FIU, which is mandatory.

The financial services consisted of accepting cash in Sint Maarten and subsequently making that money payable in cash, after deduction of commissions, to beneficiaries in the Dominican Republic. During the searches carried out in December 2019, one MTS had already stopped providing financial services. The other MTS was still operational at the time of the search but ceased its business activities immediately after.

The PPO CT offered both suspects an out-of-court settlement: payment of a fine by both suspects of NAf 75,000 and NAf 50,000, respectively. A press release on this investigation by the PPO-CT was part of the settlement agreement. The suspects accepted the proposal.

Overall conclusion on IO.7

182. Sint Maarten has the legal and institutional framework to investigate and prosecute ML cases. ML investigations in Sint Maarten are conducted by the KPSM-FU, LR and RST. The PPO is responsible for supervising ML investigations conducted by the KPSM-FU and LR, while the PPO-CT supervises ML investigations conducted by the RST. The PPO, PPO-CT and LEAs have appropriate powers and access to information and investigative tools.

183. ML cases are identified through disseminations from the FIU, other intelligence reports, crime reporting, proactive investigations and parallel financial investigations. Investigations, however, are being identified to a limited extent, specifically through FIU disseminations and parallel financial investigations- due to lack of training, coupled with human and technical resource constraints at the intelligence and investigative levels. Further, the lack of financial investigative capacity and additional duties assigned to some financial investigators have adversely impacted the extent to which parallel financial investigations are being conducted. Notwithstanding the shortage of financial investigative capacity and resources at the KPSM and the LR, the PPO-CT and RST - being financed by the Netherlands and having trained and experienced financial investigators- support law enforcement's efforts and have demonstrated that they have the capacity to investigate and prosecute complex ML cases.

184. Sint Maarten has a Steering Group comprising various CAs, including the Commissioner of Police and the PPO, to prioritise ML cases for investigation and to decide which LEA is best suited to conduct the investigation. However, there is no formal or risk-based mechanism which the Steering Group uses during the prioritisation process, resulting in investigations primarily into the predicate offences. Additionally, the AT could not assess the effectiveness of the Steering Group as relevant information, statistics or case studies were not provided.

185. CAs demonstrated they have investigated and prosecuted complex ML related cases against natural and legal persons and involved third-parties. However, parallel financial investigations into major revenue generating crimes are being pursued to a limited extent and ML investigations and prosecutions are not fully commensurate with the ML risk profile of the jurisdiction. Sanctions imposed on natural and legal persons convicted of ML related offences are effective, proportionate and dissuasive. The PPO-CT also demonstrated that it applies alternative criminal justice measures.

186. Based on the aforementioned information, the AT concluded that IO.7 is achieved to some extent with major improvements needed to the regime.

187. **Sint Maarten is rated as having a moderate level of effectiveness for IO.7.**

3.4. Immediate Outcome 8 (Confiscation)

188. Sint Maarten has a conviction-based legal framework supported by operational measures that permit the confiscation and management of criminal proceeds, instrumentalities and property of equivalent value. The Criminal Code provides the necessary legal authority and contains robust provisions that enable the relevant CAs, including the PPO and LEAs, to trace, identify, seize and confiscate proceeds, instrumentalities and property of equivalent value derived from or intended for use in illicit activities and property of corresponding value (see R.4). Based on quantitative and qualitative data provided, the AT concluded that the authorities are pursuing confiscation in relation to undeclared cash/BNI and instrumentalities to a limited extent and to a greater extent, proceeds of crime in the form of imposing sums (benefits) to be paid to the State.

3.4.1. Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

189. During the on-site visit, the PPO and LEAs expressed that confiscation is considered an important tool to deprive criminals of assets obtained through illegal means. While this reflects a commitment in principle, the AT found that confiscation efforts are inconsistently implemented. The PPO is the CA responsible for the supervision of criminal investigations and confiscation. In July 2017, the PPO issued a "Confiscation Instruction" which explicitly requires all LEAs to conduct a financial investigation into criminal assets and money-flows as a standard procedure in criminal investigations which generate proceeds, with a view of identifying assets that may be liable to confiscation. Additionally, it stipulates that the PPO can settle a criminal case involving a transaction by imposing a condition on the person concerned to pay a sum of money or to transfer ownership of seized objects to the country for the full or partial confiscation of the unlawfully obtained objects. The case example in Box 3.8 below demonstrates the PPO's ability to settle a confiscation case.

Box 3.8. Case Study - LARIMAR

The LARIMAR case concerns an investigation into corruption encircling the construction of several major infrastructural projects, amongst others a bridge, and the subsequent laundering of substantial amounts of money.

A Member of Parliament (MP) took bribes from several construction companies in exchange for government procurement approvals. The MP used a consultant as an intermediary. The bribes made the projects unnecessarily expensive – and were therefore for the account of the taxpayer. Parallel to the criminal investigation, a financial investigation was launched. This investigation identified various assets eligible for confiscation and revealed that the MP enriched himself by committing the offences for which he was convicted.

Through close cooperation with the FIU and foreign judicial authorities of the Netherlands, Spain, France, Anguilla, Luxemburg, Isle of Man, St. Kitts & Nevis, Panama and the United States of America, sufficient evidence was gathered to secure a successful prosecution. The

case was primarily built on statements from the consultant coupled with financial intelligence and investigating the money flow. On 15 May 2020, the MP and his accomplice, the consultant, were convicted for accepting nearly USD 4,000,000 in bribes and money laundering. The MP was sentenced to five years imprisonment. In 2023, the PPO-CT settled his confiscation procedure: he agreed to pay USD 5,000,000 to the Crime Prevention Fund.

The consultant was sentenced to a reduced sentence – due to serving as a crown witness – of 3 years' imprisonment and settled the confiscation case for an undisclosed amount. The managing director of the construction company was convicted for bribery, embezzlement and forgery and received a sentence of 1 year imprisonment. The criminal procedure in relation to the construction company was settled by a USD 2,000,000 fine in the form of realizing an infrastructural project directly benefitting the community of Sint Maarten.

190. Given Sint Maarten's all-crimes approach regarding predicates offences to ML, a decision to pursue confiscation is considered for crimes of an acquisitive nature, taking into consideration additional factors, but the decision to pursue confiscation ultimately rests with the PPO. When considering a case for confiscation, the PPO along with the relevant LEA considers the benefit derived from the criminal conduct and whether there are assets linked to the criminality.

191. To operationalise its Confiscation Instruction, the PPO also led the establishment of the Asset Recovery Team (ART) in 2017. This multi-agency team, comprising the KPSM, Tax Authority, Customs, the Caribbean Coast Guard, and the PPO aims to enhance efforts to deprive criminals of illicit gains, particularly in cases involving organised crime. According to the authorities interviewed during the on-site visit, the ART made progress in seizing criminal assets, including vehicles and two boats; and initiated three new investigations in 2020. However, due to the re-allocation of resources, including law enforcement officers who needed to enforce the COVID-19 measures and restrictions, the ART had to scale back ongoing and new investigations for the second part of 2020. In December 2021, the ART was disbanded due to financial constraints. The authorities further indicated that it was not possible to disaggregate or track the types of cases/investigations specifically handled by the ART, further limiting insights over its outcomes. No information was provided regarding any intention to revive or replace the ART.

192. The KEA case example in Box 3.4 demonstrates that the PPO has confiscated an instrumentality of crime. However, this is being done to a limited extent and no information was provided regarding confiscation of property of equivalent value. Despite the existence of the Confiscation Instruction and the temporary operation of the ART from 2017-2020, the AT found limited evidence that confiscation is being actively and systematically pursued as a policy objective in practice. Furthermore, as parallel financial investigations are not routinely conducted and there are capacity constraints within the KPSM, Sint Maarten was unable to demonstrate that confiscation is integrated into broader AML/CFT efforts.

193. The AT also recognised that the PPO's Confiscation Instruction pre-dates the adoption of the jurisdiction's assessment of its ML/TF risks (NRA) and therefore, there is no targeted focus on assets linked to high-risk ML threats, such as drug trafficking, which are identified in the NRA. The Confiscation Instruction also does not include TF specific confiscation procedures.

194. The AT has therefore concluded that confiscation is not consistently pursued as a national policy objective.

3.4.2. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad

195. Based on interviews with CAs and limited supporting data, the AT found that Sint Maarten is pursuing the confiscation of criminal benefits to a greater extent than the confiscation of instrumentalities or assets related to cross-border cash movements, which occurs only to a limited extent. However, broader deficiencies—particularly limited financial investigative capacity and insufficient resources—continue to hinder proactive and effective confiscation efforts. The absence of comprehensive statistics or case studies further limits the ability to assess the consistency and impact of confiscation outcomes. Moreover, while authorities indicated some cooperation in confiscating and sharing assets on behalf of foreign jurisdictions, no legal basis, statistics, or case examples were provided to support this, nor was any evidence submitted to demonstrate the repatriation of assets or the pursuit of proceeds located abroad, significantly impairing the AT's ability to assess Sint Maarten's effectiveness in these areas.

196. From the case studies in Box 3.8 and Box 3.4., confiscation orders valued at USD 5,455,000 were granted following convictions for one ML case and one human trafficking case. In the ML case the confiscation order valued USD 5,000,000 and was imposed against one person. In the human trafficking case, there were two confiscation orders valued USD 227,500 and was imposed on two persons, each having to pay the full sum imposed. Further, in the same case, the vehicle of one of the two persons was confiscated. Further, in Box 3.1, the confiscation proceeding for USD 3,000,000 against one person convicted of ML is pending on appeal.

Confiscation of proceeds from domestic predicates located abroad:

197. Case examples provided by the jurisdiction indicated that there were several instances whereby foreign banks were used to receive and funnel the proceeds of crime committed in the jurisdiction. However, despite specific requests from the AT, no information was provided to demonstrate that confiscation was pursued for these proceeds located abroad. The absence of such information limited the AT's ability to assess whether the CAs were actively and effectively pursing the confiscation of proceeds from domestic predicates located in foreign jurisdictions.

Confiscation of proceeds from foreign predicates:

198. Sint Maarten has not identified, investigated or prosecuted ML associated with foreign predicate offences during the period under review (see Chapter 3; IO.7). Similarly, there were no cases identified where the proceeds of foreign predicate offences were detected or confiscated during the assessment period.

Confiscation of proceeds from domestic predicates:

199. CAs have demonstrated to some extent that they are confiscating proceeds in the form of cash (see Table 3.9), instrumentalities and illegally obtained benefits from domestic predicates (see Boxes 3.4 and 3.8. respectively). Additionally, as shown in Box 3.5 the authorities indicated in the case study that confiscation proceedings were pending; however, no further information was provided on the value of the confiscation or assets identified for confiscation.

Management of seized and confiscated assets:

200. Sint Maarten has a comprehensive framework in place for the management of seized or confiscated assets (see analysis in R.4). However, during the on-site visit, the AT was informed

that the actual management of these assets, faces practical challenges. Due to resource constraints and inadequate storage facility, seized assets were not being adequately managed, often resulting in damage, deterioration or loss of value by the time judicial proceedings concluded. This undermines the effectiveness and deterrent value of the confiscation regime.

201. There is a lack of statistics or consistent data on confiscation outcomes, and the AT has concluded that implementation of confiscation measures is limited in scope. While there were domestic predicate-related cases involving confiscation, Sint Maarten has not demonstrated that confiscation of proceeds from foreign predicates or proceeds located abroad has taken place. Sint Maarten has not provided examples of international confiscation cooperation, repatriation or asset sharing. Finally, asset management systems are not robust.

3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNI

202. Sint Maarten has a legal declaration system which requires passengers entering or exiting the jurisdiction with cash or BNIs valued NAf 25,000 (USD 14,000) or more to submit a declaration form to Police or Customs Officials working at the airport. Failure to declare or making a false declaration, are criminal offences that may lead to arrest, prosecution, and upon confiscation, confiscation of the cash or BNI (see analysis on R.32). However, in practice authorities appear to implement a disclosure system whereby passengers are expected to proactively inform officials of any cash or BNIs above the threshold. During the on-site visit, the AT observed that no declaration forms were available upon arrival at the airport and CAs confirmed during the interviews that it was incumbent on passengers to disclose to the Police or Customs official that they were carrying cash or BNI valued USD 12,000 or more. This procedure, while operationally used, is not grounded in law, creating a disconnect between the legal framework and actual implementation which can undermine legal certainty and may compromise the enforceability of penalties or confiscation.

203. During the assessment period, the Customs Department recorded several cash seizures related to suspicions of criminal conduct. In such instances, the PPO imposed administrative fines (approximately 10% of the undeclared value) against persons who either failed to declare or made a false declaration (see Table 3.12. below). However, the AT concludes that the administrative fines imposed are not effective, proportionate or dissuasive.

Table 3.12. Cash Seizures by Customs

Year	No. of Cash Seizures	Value	No. of Administrative Sanctions	Value	No. of Confiscation Orders
2019	7	$424,596.79	0	0	0
2020	1	$140,154.00	0	0	0
2021	5	$92,115.79	4	$10,147.00	0
2022	5	$60,951.00	1	$400.00	0
2023	5	$72,286.00	4	$8,509.00	0

204. Sint Maarten's NRA stated that in a few cash seizure cases, there were suspicions that these funds were linked to ML, but no further financial investigations were conducted to make conclusive determinations, which represents a significant gap in the AML/CFT framework. Customs reported that most seizures involved arrivals from regional jurisdictions (e.g. St. Kitts, Guadeloupe, Jamaica, Cayman Islands, Sint Eustatius, Saba, Venezuela, Curaçao, Trinidad and Tobago, Panama, Dominican Republic, Haiti, Dominica, Puerto Rico, Antigua and Barbuda, and Guyana). There were also instances of other international arrivals such as: Brazil, France, Colombia, USA, Taiwan, and Canada. Considering that some of the interceptions involved persons from drug producing countries, coupled with the risk and vulnerabilities related to drug trafficking identified in the NRA, the AT found the lack of financial investigation into the cross-border movement of cash and BNI to be a serious deficiency in Sint Maarten's AML/CFT framework, which could expose the country as a conduit for laundering proceeds of crime.

205. While Sint Maarten has a legal framework permitting the declaration and confiscation of cross-border cash and BNIs, the practical reliance on a non-statutory disclosure system, use of minimal fines and failure to pursue financial investigations following seizures, limit the effectiveness of the regime. These weaknesses reduce the deterrent value of sanctions and create vulnerabilities for ML through the physical cross-border movement of funds.

3.4.4. Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities

206. At the time of the assessment, Sint Maarten had not yet developed national AML/CFT policies that reflect or operationalise the findings of its NRA which was only adopted during the on-site. As a result, the PPO's Confiscation Instruction did not represent a formal strategic framework to guide confiscation efforts in line with identified ML/TF risks or to integrate asset recovery into broader AML/CFT policy priorities.

207. Despite the absence of national policies, the AT found that the confiscation results in Box 3.4 and Box 3.8 are in line with the major predicate offences of fraud and human trafficking as identified in the NRA to a limited extent. These examples show some responsiveness to national risk, albeit in an ad hoc manner. However, the overall confiscation efforts do not consistently reflect the range of major ML threats identified in the NRA, including drug trafficking and tax offences.

Overall conclusion on IO.8

208. Sint Maarten has a sound legal framework for freezing and confiscation of criminal property, the PPO has issued a Confiscation Instruction, and the jurisdiction previously benefited from an Asset Recovery Team which has since been disbanded in 2021. Sint Maarten does not however maintain comprehensive confiscation data.

209. While some confiscation outcomes have been achieved, particularly as it pertains to the proceeds of crime, confiscation of instrumentalities is pursued to a limited extent and not in line with Sint Maarten's ML risk profile. This is due to financial investigative capacity

and resources constraints as mentioned in IO.7. The latter also hampers authorities' ability to identify, trace and confiscate assets that may have been moved abroad.

210. Confiscation is consistent with the risk profile of the country as it relates to fraud and migrant smuggling, but it does not address other high risks or threats like drug trafficking and tax evasion. Further, confiscation of undeclared cash or BNIs is being done to a negligible extent and administrative sanctions imposed on persons who failed to declare or made a false declaration are not considered to be proportionate, dissuasive or effective.

211. Sint Maarten has a robust legislative framework in place for the management of seized or confiscated assets. However, due to human and financial resource constraints, assets are not being adequately managed, causing them to become damaged or dilapidated and of no value by the time the case is heard.

212. The AT considered the deficiencies identified in the confiscation regime, weighted same and deemed that fundamental improvements are needed to the confiscation regime, especially in the areas of the identification, seizure and confiscation of undeclared and falsely declared cash and BNIs, and instrumentalities.

213. **Sint Maarten is rated as having a low level of effectiveness for IO 8.**

Chapter 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

a) TF is criminalised and while a legal framework exists, the laws have not been tested in practice. Sint Maarten has rated its risk for TF as low, which may be due in part to its demographic, geographic and cultural context as well as other circumstances of the country. Nevertheless, the NRA did not assess the threat of TF related fund flows from or to high-risk jurisdictions, nor was any strategic analysis conducted on cross-border cash movements.

b) Sint Maarten has mechanisms in place for the identification of TF, including intelligence sources. At the time of the on-site visit, one TF case was identified by the FIU through its analysis of a UTR received. Conversely, no TF cases has been identified through the VDSM intelligence networks, which is also in line with the low level of TF risk identified in the NRA. Deficiencies identified in IO.6 regarding the FIU's limitation in analysing UTRs and lack of resource capacity to conduct strategic analysis on the cross-border movement of cash and BNI have a cascading effect on this IO.

c) LEAs have a wide range of powers to investigate TF offences. However, they have not demonstrated that they are investigating or disrupting TF despite a possible case was identified.

d) Notwithstanding the low TF risk, Sint Maarten does not have clear mechanisms, action plan or operational guidance to deal with TF cases should they arise. Furthermore, there are no existing guidelines for prioritising and conducting TF investigations and prosecutions, and there are no alternative measures for the disruption of TF activities where it is not practical to secure a TF conviction. There is limited CFT capacity within the FIU and KPSM regarding trained resources.

e) Sint Maarten's process for prioritising TF cases is protracted and can adversely impact the timeliness of conducting a TF investigation, should one arise.

f) Sint Maarten does not have a national counter terrorism strategy. However, at the Kingdom level, a Security Strategy exists and encompasses countering terrorism measures but same does not extend to TF. Therefore, the investigation of TF is not integrated with or used to support a national counter terrorism strategy or investigation.

g) Since there were no TF investigations or prosecutions, no TF convictions occurred over the assessment period which is in line with the jurisdiction's risk. From a technical compliance standpoint, the legislative penalties for natural and legal persons convicted of TF are sufficiently proportionate and dissuasive, though effectiveness could not be assessed. Sint Maarten also has in place mechanisms to disrupt TF.

Immediate Outcome 10

a) Sint Maarten has a legal framework for implementation of TFS-TF pursuant to UNSCRs 1267/1989, 1988, and 1373. However, currently, there is no mechanism in force to give effect to UN and domestic designations without delay. Sint Maarten has not implemented UN designations, nor were there frozen assets of persons or entities designated by the UN to date.

b) Sint Maarten lacks a proactive mechanism to communicate new designations to supervised entities. The FIU and CBCS encourage their supervised entities to stay abreast of the UN consolidated sanctions lists and changes thereto, but without a notification system, this would hamper the implementation of TFS-TF without delay should a designation occur.

c) While Sint Maarten has identified the subset of NPOs which falls within the FATF definition of an NPO, the country has not identified the subset of NPOs most vulnerable to TF abuse or the specific TF risks faced by the NPO sector.

d) There are legislative mechanisms to ensure that terrorist and terrorist organisations can be deprived of assets and instrumentalities related to TF. Sint Maarten has a confiscation policy; however, this policy does not include provision for the implementation of confiscation regarding TF property.

e) FIs and DNFBPs demonstrated a fair understanding of their TFS-TF obligations, and the actions required where they identify assets or funds of designated persons and entities. However, in practice there is a lack of supervision for meeting these obligations, and given the limited supervision, it is difficult to ascertain whether these entities would effectively be implementing TFS-TF if the need arises.

Immediate Outcome 11

a) Sint Maarten has a legal framework to implement TFS-PF, which is identical to the one for TFS-TF. Nevertheless, key technical deficiencies highlighted in R.7 have a cascading effect on this IO, which impacts the requirement to implement TFS without delay. Sint Maarten also lacks a proactive mechanism to directly notify or communicate new designations to supervised entities. Sint Maarten has not implemented UN 1718 designations, nor were there frozen assets of persons or entities designated by the UN which is in the context of Sint Maarten.

b) Supervisors vary in the extent to which they monitor compliance with such TFS -PF obligations. The FIU has not commenced its supervisory oversight of sanctions compliance by DNFBPs, whilst the CBCS has integrated examination of sanctions handling in its supervision of FIs and TCSPs.

c) Supervisors have provided limited outreach and guidance to FIs and DNFBPs on TFS-PF. While supervised entities, generally implement screening mechanisms when onboarding new clients, there is limited understanding of wider PF obligations among supervised entities.

d) VASPs in Sint Maarten are not supervised for AML/CFT/CPF purposes, including adherence to PF obligations, and thus there is also a lack of outreach and guidance to VASPs regarding such PF obligations, as well as typologies related to PF.

Recommended Actions

Immediate Outcome 9

a) Sint Maarten should take steps to develop a comprehensive understanding of its TF risk.

b) Sint Maarten should establish and implement a clear and coordinated CFT Strategy, with supporting documents, such as SOPs, detailing, inter alia, defined roles, procedures, response mechanisms, alternative measures, disruption measures, international cooperation and a prioritisation process for TF cases which would allow for timely investigation, disruption and prosecution.

c) Sint Maarten should strengthen institutional preparedness, provide TF specific training to the FIU, VDSM, PPO, LEAs and other relevant CAs in order to build analytical and operational capacity to identify, investigate, disrupt and prosecute TF-related activities.

d) The FIU should provide TF specific guidance to FIs and DNFPBs.

Immediate Outcome 10

a) Sint Maarten should establish a framework for effective implementation of TFS-TF by:

i. establishing mechanisms to enforce timely implementation of UNSCRs 1267/1989 and 1988 and successor resolutions as well as UNSCR 1373 without delay (that is, within 24 hours);

ii. establishing mechanisms to identify and propose targets to the Kingdom of the Netherlands for submission to the UNSCRs 1267/1989 and 1988 Committee for designation; and communicating the request for designations by foreign countries pursuant to UNSCR 1373;

iii. establishing a clear and consistent process for immediately communicating new designations, delisting and modifications to UN Sanctions Lists to supervised entities pursuant to UNSCRs 1267/1989 and 1988 and UNSCR 1373;

iv. enhancing guidance to supervised entities on their TFS-TF obligations including freezing obligations and due diligence practices that help to determine whether funds or other assets are owned or controlled by designated persons or entities; and

v. addressing the shortcomings identified in R.6.

b) Sint Maarten should identify the subset or types of NPOs that are at risk of TF abuse and identify the specific TF threats faced by the NPO sector. Subsequently, Sint Maarten should develop and implement risk-based monitoring for such subset of at-risk NPOs.

c) Sint Maarten should provide guidance, training and outreach sessions to the at-risk NPOs to enhance their knowledge of their potential vulnerabilities to TF abuse, and related risks as well as the measures to mitigate the same.

d) Sint Maarten should improve supervision of supervised entities regarding TFS-TF obligations, including by providing feedback on sanctions implementation and testing the effectiveness of screening systems.

e) Sint Maarten should further develop the PPO's Confiscation Instruction to include strategies for deprivation of TF assets and instrumentalities through seizure, forfeiture and confiscation mechanisms.

Immediate Outcome 11

a) Sint Maarten should address the technical deficiencies that exist in R.7 regarding the lack of implementation of TFS-PF without delay, and the absence of mechanisms for communicating delistings and unfreezings to FIs and DNFBPs which have cascading effects on this IO.

b) Sint Maarten should develop and implement a formal mechanism for immediately and directly communicating listings and delistings to supervised entities.

c) Sint Maarten should effectively monitor the implementation of TFS-PF by supervised entities, including by integrating examination of sanctions handling regularly in inspections and testing the effectiveness of screening systems.

d) Sint Maarten should provide training and/or guidance to all supervised entities to inform them of their obligations and educate them of TFS-PF trends and typologies.

e) Sint Marten should introduce a supervisory regime for VASPs regarding their TFS-PF obligations, which should include undertaking outreach and providing guidance to the VASP sector on sanctions evasion, typologies related to PF and their legal obligations where assets are identified.

214. The relevant Immediate Outcomes considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, R. 4, R. 5–8, R. 30, 31 and R. 39, and elements of R.2, R. 14, R. 15, R. 16, R. 32, R. 37, R. 38 and R. 40.

4.2. Immediate Outcome 9 (TF investigation and prosecution)

215. As detailed in Chapter 2; IO.1, the NRA provides a limited assessment of TF in Sint Maarten, with terrorism and TF risk rating being low. The NRA's conclusion may, in part, be due to Sint Maarten's size, culture as well as demographic and geographical factors which pose a low risk of domestic terrorism. There is no information which would indicate that any terrorist organisation operates in or has links to Sint Maarten. There has been no formal international cooperation related to TF during the assessment period, that is, no MLA or extradition requests whether incoming or outgoing. The FIU however, through its analysis of a UTR filed by a bank, based on the activity not being consistent with the customer's profile, identified and spontaneously disseminated information on a possible TF case (see IO.6). The AT did not receive further information in relation to this case example and as such, the authorities have not demonstrated the effective investigation and prosecution of TF or the use of alternative measures.

4.2.1. Prosecution/conviction of types of TF activity consistent with the country's risk-profile

216. TF is criminalised in Sint Maarten under the provisions of Art. 2:408, CrC. The jurisdiction, through the conduct of the NRA, has assessed its TF risk with input from various competent authorities (CAs). It concluded that the threat of terrorist individuals, organisations and TF at a national or sectoral level is low, resulting in the overall risk of TF being low. Interviews during the on-site visit with both public and private stakeholders also reflect the jurisdiction's position that the TF risk is low. CAs reported that over the assessment period, there were no prosecutions or convictions for TF. Accordingly, the judiciary did not issue any judgments for TF.

217. Notwithstanding this assessment by the jurisdiction, the NRA did not report on, inter alia, the threat of funds that may be flowing into/from Sint Maarten from/to high-risk jurisdictions or from/to countries that are close to high-risk jurisdictions. Furthermore, the FIU has not conducted any strategic analysis of the cross-border movement of cash and therefore there is no full picture

of the flow of funds. As a result, the assessment team (AT) concluded that the country has a limited understanding of its TF risk (see Chapter 2; IO.1).

218. The Public Prosecutors' Office Central Team (PPO-CT) is the CA responsible for the prosecution of more complex and serious criminal matters which would include TF. There were no TF investigations and consequently no TF prosecutions during the period under review, which is in line with Sint Maarten's risk profile. The Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Saint Eustatius and Saba is responsible for the administration of justice in first instance and on appeal on the islands. In Sint Maarten, two of the five judges of the Joint Court are involved in the adjudication of criminal cases. In more intricate cases such as ML, TF and confiscation, specialised judges are appointed to deal with such cases. Additionally, judges from the other Dutch Caribbean islands are flown in to deal with cases, including the complex ones, as needed. During the period under review, the judiciary did not receive specific TF training, however, TF formed part of topics covered in general trainings.

219. The jurisdiction did not provide information on any policy or other measure that will facilitate the prioritisation of TF cases, or a policy outlining the responsibility and process each CA should follow if a case arises. In fact, CAs indicated that TF cases would undergo the same prioritisation process as ML cases or cases related to any other major offence, that is, it is first assessed by the PPO. Once the PPO concludes that there is enough suspicion for an investigation to be conducted, the prosecutor then forwards the case to the Steering Group for determination on whether an investigation will be initiated and by which LEA. The case is thereafter sent to the RST where it is scored using a matrix before going back to the Steering Group for final determination. As the Steering Group meetings are held once per month, the AT concluded that this process would adversely impact the need for urgent conduct of a TF investigation, should one arise. Consequently, Sint Maarten did not demonstrate its preparedness for handling a TF case, should one arise.

4.2.2. TF identification and investigation

220. Sint Maarten's authorities reported that they have not received a UTR concerning TF and have neither identified TF nor conducted a TF investigation during the period under review. However, the case example in Box 8.1, IO.2 shows that the FIU's analysis identified possible TF activity (see IO.6).

221. Sint Maarten has not received any MLA or other form of international cooperation request for information or spontaneous disclosures from other countries pertaining to TF. The deficiency highlighted in Chapter 3; IO.6 in relation to the FIU's inability to conduct strategic analysis of cross border cash and BNI reports, coupled with the limited extent to which UTRs are being analysed impacts the FIU's ability to identify possible TF cases to a greater extent. Sint Maarten has indicated that the FIU, through the filing of UTRs by supervised entities, and the VDSM, as the entity responsible for intelligence gathering, are the two agencies responsible for identifying TF. No information was provided to determine the CFT expertise of the VDSM staff and the FIU has not evidenced - through appropriate training for its staff - that it has the analytical capabilities to identify TF-related UTRs. There is also a lack of resources (human and technical) at the FIU (see Chapter 3; IO.6), thus reducing its analytical capacity and ability to do the same.

222. During the on-site visit, supervised entities demonstrated a limited understanding of their obligation to report TF UTRs to the FIU. The AT attributed this to the lack of TF related

guidance/outreach by the FIU. In this regard, the FIU, has experienced resource constraints which may account for one of the main reasons why the FIU has not provided TF related training as well as guidance to FIs and DNFBPs regarding their TF obligations over the assessment period.

223. LEAs have the powers and responsibilities to effectively identify and investigate TF (see R.30 and R. 31). However, the absence of protocols, policies, manuals or guidelines, coupled with resource constraints and lack of investigative capacity, could inhibit law enforcement's ability to adequately conduct a TF investigation. During the on-site visit, the AT was informed that the RST is the agency which would be responsible for conducting TF investigations, based on its current remit. RST officers received TF related training in the Netherlands as part of their basic police course. The RST, during a TF investigation, can exercise its investigative powers (as necessary) and can use a wide range of investigative techniques during its investigation (see R. 31). However, LEAs have not demonstrated that they investigated a TF case during the period under review, having identified a possible case.

224. Additionally, there is no policy or directive in place which specifically designated the RST as the agency responsible for investigating TF. Furthermore, the RST does not have policies or processes in place to set out how it would respond to the identification of possible TF activity or how it would conduct TF investigations. Moreover, at the time of the on-site visit, CAs did not demonstrate that there was an effective plan in place to investigate TF. During the interviews, emphasis was placed on support from the Netherlands in the event of such an occurrence.

4.2.3. TF investigation integrated with –and supportive of- national strategies

225. Sint Maarten does not have a national counter terrorism strategy or policy and has not established policies, procedures or mechanisms for identifying TF offences and managing TF cases.

226. In addition to the Netherlands, the Kingdom of the Netherlands includes a Caribbean grouping consisting of four countries: Curaçao, Aruba, Sint Maarten as well as the "3 special municipalities" of the Netherlands: Bonaire, Eustatius and Saba. The countries are autonomous and responsible for their national security. The exceptions to this are the areas identified as Kingdom affairs, i.e. preservation of the independence and defence of the Kingdom, Dutch citizenship and foreign policy. Acts of terrorism are therefore deemed Kingdom affairs, and in such instances, the Kingdom is responsible for combatting such acts and not the separate countries themselves. At the Kingdom level, there exists a Security Strategy which, inter alia, sets the strategic course for national security, including countering terrorism for 2023 – 2029. The Security Strategy does not, however, extend to countering TF.

227. At the domestic level there are no national or departmental strategies/policies to counter terrorism or TF and the AT considers that the lack of such strategic approaches has an adverse impact on Sint Maarten's preparedness to handle a TF case. Sint Maarten has however, in 2017 enacted a Ministerial Decree which allows for the creation of a Counterterrorism Working Group with responsibility for preventing and limiting terrorist attacks. This working group has not yet been constituted, as such, its effectiveness could not be measured.

228. As previously stated, there were no TF investigations during the period under review and most CAs have not received CFT training. Additionally, further analysis is required to better understand TF risks, so that appropriate and mitigating measures could be developed to counter any potential

risk. Strategies at the Kingdom level do not extend to TF and the absence of strategies at the local level does not lend for TF investigations to be integrated with and/or supportive of same.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

229. Sint Maarten has criminalised TF in line with the Terrorist Financing Convention. As Sint Maarten had no opportunity to prosecute or convict for TF, which is consistent with Sint Maarten's low TF risk, the effectiveness, proportionality and dissuasiveness of the sanctions and measures have not yet been tested in the courts of Sint Maarten. A natural person convicted of a TF offence can be imprisoned for a maximum of 18 years or fined NAf 100,000 (approximately USD 56,000.) (Art 2:408 CrC). Additionally, forfeiture proceedings can be pursued related to property connected to the activity and the individual can be disqualified from holding public office or specific offices, practicing specific professions and the right to be elected as a member of general representative bodies. A legal person convicted of a TF offence can be fined up to NAf 1,000,000 (approximately USD 560,000).

230. Notwithstanding that the effectiveness of the afore-mentioned sanctions could not be determined, from a technical compliance standpoint, the combination of the measures against a natural and legal person convicted of TF is considered proportionate and dissuasive (see R. 5).

4.2.5. Alternative measures used where TF conviction is not possible (e.g. disruption)

231. During the period under review, there have been no TF investigations in Sint Maarten and the authorities have not applied alternative measures in lieu of proceedings with TF charges. This is generally consistent with Sint Maarten's TF risk profile, but as a result, the AT cannot determine the extent to which alternative measures are employed to disrupt TF activities where it is not practicable to secure a TF conviction.

232. TF is designated a ML predicate offence under Sint Maarten's all crimes approach (see R.3). As such, funds suspected of being used for TF can be seized and frozen as a means of disruption, however, Sint Maarten's legislation only provides for criminal confiscation of proceeds, which can only be done upon conviction. The PPO however can apply alternative criminal justice measures such as settling a conviction for the predicate offence and impose fines where a conviction for TF is not possible.

Overall conclusion on IO.9

233. Sint Maarten has criminalised TF in line with international standards. Sint Maarten's NRA concluded that the terrorism and terrorist financing risks are low, however, there were limitations to that assessment, for instance, the assessment of TF did not take into consideration any possible cross border flows, and the country presumed that the low terrorism risk inherently indicated a low TF risk. Further, the FIU has not conducted targeted outreach to the supervised entities due to resource limitation. Accordingly, the country has a limited understanding of its TF risks.

234. RST officers, public prosecutors and the judiciary received some level of TF training, however the FIU did not benefit from any TF training during the assessment period. One TF case was identified by the FIU during the review period; however, the AT was not provided with information related to the investigation, prosecution, or disruption of same. The limited number of cases identified however, is consistent with the country's low level of TF risk. Limited analysis of UTRs coupled with the lack of analysis on cross border cash flows and BNI reports impacted CAs ability to adequately identify possible TF cases. Furthermore, the prioritisation mechanism outlined by the jurisdiction adversely impacts the timeliness of conducting a TF investigation, should one arise.

235. There exists a Security Strategy at the Kingdom level, however this does not extend to TF. At the local level, Sint Maarten does not have any national strategies in place to co-ordinate the investigation and prosecution of TF offences and although there is the legal authority for the establishment of a Counterterrorism Working Group, same has not been implemented. CAs also do not have policies or processes to guide their response to the identification of possible TF activity or on how to go about conducting TF investigations. This adversely impacts Sint Maarten's ability to respond to a TF case should one arise.

236. Sint Maarten has in place dissuasive and proportionate sanctions and mechanisms to disrupt TF, however the effectiveness of the sanctions has not yet been tested in the courts of Sint Maarten. Furthermore, as there has been no investigations or prosecutions conducted, alternative measures for TF disruption were not applied.

237. Sint Marten has not demonstrated that it is adequately equipped to identify, investigate or prosecution TF should a case arise.

238. **Sint Maarten is rated as having a low level of effectiveness for IO.9.**

4.3. Immediate Outcome 10 (TF preventive measures and financial sanctions)

4.3.1. Implementation of targeted financial sanctions for TF without delay

239. Sint Maarten has legal provisions to allow for the implementation of TFS-TF pursuant to UNSCRs 1267/1989,1988 and 1373 to the extent described in R.6, under the National Sanction Ordinance (NSO) and National Sanction Regulations (NSR). However, there is no mechanism to give effect to UN and domestic designations without delay. Sint Maarten did not identify or consider any potential targets for designation, implement UN designations, and thereby there were no frozen assets of persons or entities designated by the UN during the period under review.

Implementation of UNSCR 1267

240. Sint Maarten, as a constituent of the Kingdom of the Netherlands, cannot propose designations directly to the UN Sanctions Regime. Matters pertaining to Sint Maarten's foreign policy, including designation to the UN, is the responsibility of the Kingdom of the Netherlands. The Ministry of Foreign Affairs of the Netherlands is the CA responsible for proposing persons or entities to the 1267/1989 Committee and to the 1988 Committee for designation on behalf of Sint Maarten (see R.6).

241. UN sanctions designations are not immediately applicable in Sint Maarten and Sint Maarten does not receive 1267/1989 and 1988 designations directly from the UN. The Foreign Relations Department of the Ministry of General Affairs (DBB) would be notified via email from the Ministry of Foreign Affairs in the Netherlands in such a case. The time period for receipt of the email correspondence was not specified. The FIU would be responsible for drafting the Ministerial Regulation for implementation of the UN sanctions designation which would be reviewed by the DBB. Once the draft is approved it would be sent by the FIU to the Secretary General of the Ministry of General Affairs for approval. Upon such approval the Regulation would be sent to the Minister of General Affairs for signing. Once the Ministerial Regulation is signed, it would be published in the official Gazette and enters into force the day after publication. Any change to the UN sanctions lists would be similarly communicated to the DBB and the same procedure would follow. The AT was advised that the transposition of a UNSCR designation can take up to two weeks if it were to occur, which would significantly impact on the ability of Sint Maarten to effectively implement UNSCRs 1267/1989 and 1988 designations without delay.

242. There are no written procedures for Sint Maarten to propose designations to the Kingdom of the Netherlands for submission to the UN 1267/1989 or 1988 Committee. Furthermore, Sint Maarten has not demonstrated that there are mechanisms in place for de-listing persons and entities. Over the assessment period, there were no proposals for designations pursuant to the UNSCRs 1267/1989 and 1988 in Sint Maarten.

Implementation of UNSCR 1373

243. The Minister of General Affairs, in conjunction with the council of other ministers, is the CA responsible for designating persons or entities for targeted financial sanction in accordance with the criteria for designation outlined in UNSCR 1373 (see R.6). As mentioned above, in the case where a listing request were to be presented to the UN, this would be done by the Ministry of Foreign Affairs in the Netherlands via the DBB after consultation with the FIU of any listing request. The DBB would also advise the Minister of General Affairs of the basis for the proposed

designation. The draft Sanctions Manual, 2024[16] briefly indicates that the Prime Minister can list persons and organisations of whom financial assets will be frozen via the National Gazette. However, further guidance on implementation was not provided. There were no written mechanisms for making the listing request or to give effect to the request of another country for designation of persons or entities pursuant to UNSCR 1373.

244. The NSO provides that the Minister of General Affairs by Ministerial Regulation may provide that natural and legal persons are obliged to freeze, without delay and without prior notice, the funds or other assets of persons and entities designated in the said Ministerial Regulation. Sint Maarten lacks a definition or interpretation of the phrase "without delay" relevant to UNSCR 1373 (see R.6).

245. The Minister of General Affairs has the power to grant full or partial exemptions to a designated person to access frozen funds. Such exemption may be granted with or without restrictions in accordance with the relevant UNSCR (see c.6.7). However, Sint Maarten does not maintain a domestic list since there have been no domestic designations, nor were there funds/assets frozen by the authorities during the period under review. Furthermore, Sint Maarten has not demonstrated that there are mechanisms in place for un-freezing frozen funds and assets.

246. Sint Maarten lacks a proactive mechanism to communicate new designations to supervised entities. The FIU encourages DNFBPs to stay abreast of the UN consolidated sanctions lists and changes to such lists in their P&Gs. A link to the UN website and information regarding the UN sanctions lists can be found on the CBCS and FIU websites.

247. The CBCS also encourages FIs via published P&Gs to continuously screen their client database against the UN sanctions lists. A link to the UN website is included in the P&Gs. However, neither the FIU or the CBCS maintains a notification system to alert supervised entities of any modifications or changes to the UN lists, and the absence of such a mechanism would hamper the implementation of TFS-TF "without delay" should a designation occur.

Implementation of TFS-TF by FIs and DNFBPs

248. The NSO provides that the FIU and CBCS, as the AML/CFT supervisors of the DNFBPs and FIs, respectively, are responsible for supervising their compliance with implementing TFS-TF obligations. During on-site interviews, FIs and DNFBPs generally demonstrated a good understanding of TFS-TF implementation, including the obligation to freeze and screen for the detection of names of individuals and entities on the sanctions lists. FIs, and some larger TCSPs indicated that they perform daily electronic screening of clients against the UNSCRs sanctions list using commercial screening software or via outsource sanctions screening to a third party. Most FIs and TCSPs rely on commercial databases and automated screening procedures for sanctions screening. Smaller TCSPs indicated manual screening on a monthly basis. Some supervised entities, specifically the FIs and DNFBPs such as real estate agents, law firms and notaries indicated that they engage in sanction screening prior to onboarding new clients. Banks that are part of an international group adopt the head office's internal controls, which flow down to the branch level. Banks which are not part of an international group check the CBCS website for published sanction notices on an on-going basis which provides guidance. Moreover, all banks

[16] The draft Sanctions Manual 2024 was published in February 2025, after the ME on-site visit.

are part of the Sint Maarten Bankers Association and information on sanctions screening obligations is shared via this group amongst the banks in Sint Maarten (see Chapter 5; IO.4).

249. Although the CBCS and the FIU are required to supervise for TFS-TF implementation, the CBCS's supervision is limited to checking how FIs screen against TFS-TF lists. The supervisors do not deliver training sessions to supervised entities on how they should deal with false positives, address issues such as tipping off or the practical steps required to implement freezing and reporting measures without delay. The FIU does not monitor how DNFBPs approach sanctions screening against TFS-TF lists. Neither the FIU nor the CBCS reported any assets belonging to designated persons or entities being identified or frozen during the period under review.

4.3.2. Targeted approach, outreach and oversight of at-risk non-profit organisations

250. Sint Maarten has a large NPO sector composed of small organizations, registered as foundations and associations, operating domestically. According to the NRA, there were approximately 2,692 foundations and associations in total. The majority of NPOs in Sint Maarten are private foundations and associations. NPOs which are legal persons are required to be established by notarial deed and registered at the COCI. All NPOs are also required to register with the Tax Authority. The owners and controllers of NPOs are also subject to CDD measures as the FIs and DNFBPs. The NPOs interviewed during the on-site visit received grants or subsidies from the Government of Sint Maarten. Furthermore, the NPO sector in Sint Maarten only disburses charitable funds locally.

251. While Sint Maarten has identified a subset of 500 NPOs which falls within the FATF definition of an NPO, the jurisdiction is yet to identify which of those NPOs are likely to be misused by terrorists and terrorist organisations. According to the NRA, the TF threat level for the NPO sector was low on the basis that Sint Maarten has not had any incidents of terrorism, nor had LEAs received intelligence to indicate that the NPO sector in Sint Maarten was being misused for TF. However, the AT is of the view that there were gaps in the NRA, including limited analysis of the data collected within the NPO sector in relation to TF and no characteristics of NPOs were identified as creating a vulnerability for TF (see Chapter 2; IO.1).

252. The NPO sector was not subjected to targeted risk-based supervision or monitoring during the assessment period. Moreover, Sint Maarten has not implemented national initiatives targeted at reducing the risk of TF abuse within the sector nor demonstrated a proactive approach in engaging at-risk NPOs in any CFT outreach and awareness-raising workshops to enhance their understanding and knowledge of potential vulnerabilities to TF abuse, as well as the measures to mitigate such abuse and risks. Additionally, Sint Maarten has not conducted any outreach to the NPO sector concerning best practices to address TF risks and vulnerabilities over the assessed period. The absence of targeted risk based NPO supervision coupled with lack of outreach and awareness highlights a significant gap in the regime for the purpose of combating TF risks in the NPO sector.

253. NPOs interviewed demonstrated a limited understanding of their vulnerabilities or how NPOs could be misused for TF, while there was some awareness of some elements of TF, including the use of illicit and legal funds by perpetrators for TF purposes. Given that they were subsidised or received grants from the Government of Sint Maarten, these NPOs assessed their TF risks as low. This understanding was not derived from the results of the NRA or any NPO TF risk assessment.

The NPOs interviewed indicated that their participation in the NRA was limited to the completion and submission of questionnaires. Some NPOs had internal controls to receive donations, for example, the use of audited financial statements, refusal of cash donations in any amount or above a thousand dollars. However, such internal controls were not aimed primarily at mitigating TF risks. The NPOs interviewed did not perform screening on staff, donors, beneficiaries, and partners against the relevant UN sanctions lists over the assessment period. Moreover, NPOs interviewed stated that they lacked discussion with the FIU regarding TFS-TF obligations.

254. The AT notes that Sint Maarten has included action points in its NRA to mitigate the risks of ML/TF in the NPO sector in the future. These include measures to encourage self-regulation of the NPO sector and participation in annual NPO congresses to provide comprehensive AML/CFT/CPF information. Though, there was no indication of when these actions would take place.

4.3.3. Deprivation of TF assets and instrumentalities

255. Sint Maarten's legislative framework allows for the deprivation of TF assets and instrumentalities both in relation to TF investigations and TFS through seizure, forfeiture and confiscation of property that are the proceeds of or used in or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisation (R. 4). Further, the authorities can use investigative techniques to identify TF assets and instrumentalities including undercover operations, intercepting communications, accessing computer systems and controlled delivery (see R. 31). Therefore, should TF assets and instrumentalities be identified, there are mechanisms to ensure that terrorist and terrorist organisations can be deprived of such assets. Nevertheless, the PPO did not have any policies regarding confiscation of TF property. During the period under review, Sint Maarten did not report any TF investigations, prosecutions, confiscations, or deprivations of assets.

4.3.4. Consistency of measures with overall TF risk profile

256. The absence of designations, freezing actions, investigations, prosecutions and confiscations was consistent with Sint Maarten's low TF risk profile as presented in the NRA. However, the AT could not determine whether the lack of these actions is reflective of the TF risk in Sint Maarten or due to gaps in the NRA which may suggest the jurisdiction's limited assessment and/or understanding of its TF risk (see Chapter 2; IO.1). According to the NRA, TF risk at a national and sectoral level is low based on the conclusion that the risk of terrorism in Sint Maarten is low, and therefore a distinction between terrorism risk and terrorist financing risk was not drawn. This issue was also observed by the AT during on-site interviews, whereby CAs and supervised entities constantly correlated low terrorism risk to low TF risk.

257. As stated above, Sint Maarten has not identified the subset of NPOs at risk of being abused for TF, taken any action to address the abuse of NPOs for TF purposes or implemented any outreach initiatives in relation to the NPOs most vulnerable to TF abuse. Moreover, Sint Maarten has not assessed the specific external TF threats faced by the NPO sector and the impact on Sint Maarten Nonetheless, the AT did not give much weight to this deficiency given the low TF risk profile of the jurisdiction.

258. CAs in Sint Maarten have not developed any CFT policy or strategy to prevent and disrupt any potential or suspected act of TF, which would be a crucial aspect of the country's demonstration

of its preparedness to deal with these occurrences. Thus, Sint Maarten should develop such policies.

Overall conclusion on IO.10

259. Sint Maarten did not identify or propose any targets for designations during the assessment period, which is consistent with the low TF risk profile of the jurisdiction. Sint Maarten's legal framework requires all natural and legal persons, including all FIs and DNFBPs to implement TFS-TF, however, Sint Maarten lacks mechanisms for such implementation without delay. Moreover, Sint Maarten, has not demonstrated that CAs and supervised entities are sufficiently prepared to implement TF-TFS without delay. Although FIs and DNFBPs are encouraged to check the UN lists for designations, there is no formal effective mechanism to notify supervised entities of the designations or changes to designations pursuant to UNSCRs 1267/1989/1988 or 1373.

260. Sint Maarten has not identified the subset of NPOs most vulnerable to TF abuse. There was no comprehensive TF risk assessment of the NPO sector and thus no development of any risk-based monitoring of NPOs. Furthermore, NPOs interviewed demonstrated a limited understanding of TF risks and do not apply any TF specific mitigating measures to protect against TF risks.

261. Nonetheless, supervised entities generally demonstrated a good understanding of TFS-TF obligations and generally screen against relevant lists to ensure that they are not doing business with designated individuals or entities. While the CBCS checks how FIs screen against TFS-TF lists, supervision and training on the other TFS obligations are limited; and the FIU's supervision of obligations by DNFBPs is deficient. Thus, improved supervision and outreach to supervised entities are needed.

262. All deficiencies were considered and weighted by the AT who concluded that fundamental improvements are required.

263. **Sint Maarten is rated as having a low level of effectiveness for IO.10.**

4.4. Immediate Outcome 11 (PF financial sanctions)

4.4.1. Implementation of targeted financial sanctions related to proliferation financing without delay

264. Sint Maarten did not identify or consider any potential targets for designation to the UNSCR 1718; implemented UN designations, nor has the jurisdiction identified, or frozen assets of persons or entities designated by the UN during the assessment period.

265. In Sint Maarten the framework for implementing TFS-PF is largely identical to that for TF. The NSO and the NSR provide the legal framework for implementing TFS-PF but not without delay. The NSO gives the Minister of General Affairs power to implement TFS-PF to provide that

natural and legal persons are obliged to freeze, without delay and without prior notice, the funds or other assets of persons and entities designated in the Ministerial Regulation (see R.7). However, Sint Maarten lacks a definition or interpretation of the phrase "without delay" in the NSO or NSR.

266. According to the DBB, the presentation of a listing request to the UN is performed by the Ministry of Foreign Affairs in the Netherlands in consultation with the DBB. The DBB acts as liaison between the UN and Sint Maarten for sanctions related matters and will advise the Minister of General Affairs on any listing request in consultation with the FIU. However, there are no formal mechanisms for making such designation requests. Neither the Manual on Sanctions, 2016 nor the draft Sanctions Manual, 2024[17] outline the process for listings.

267. Should Sint Maarten submit a designation for UNSCR 1718 listing, this would be done through the Ministry of Foreign Affairs in the Netherlands, informed by the DBB and the FIU. Once the draft is approved it is to be sent by the FIU to the Secretary General of the Ministry of General Affairs for approval. Upon such approval the Regulation is to be sent to the Minister of General Affairs for signing. Once the Ministerial Regulation is signed, it is to be published in the official Gazette and enters into force the day after publication. Any change to the UN sanctions lists is to be similarly communicated to the DBB and the same procedure will follow. During on-site interviews, the DBB indicated that should a designation occur, the transposition could take on average two weeks. This period does not allow for the effective implementation of sanctions in Sint Maarten without delay.

268. Sint Maarten has conducted a PF risk assessment under its NRA, however as this is not presently required under the FATF Standards, the AT did not analyse the methodology applied by Sint Maarten for this assessment. Notwithstanding this, according to the NRA, Sint Maarten considers that the greatest exposure to PF risk is in relation to the misuse of international companies to mask ownership of businesses and assets, the registration on the Sint Maarten shipping registry of vessels that may be used to transport weapons of mass destruction by designated entities. There was no information provided on companies registered in Sint Maarten being created for the purposes of cross-border business and their susceptibility to being misused for PF. Moreover, no further assessment was made regarding the Sint Maarten's shipping registry of vessels. At the national level there is no counter proliferation policy or strategy.

269. Limitations outlined under Chapter 4; IO.10, in relation to the communication of TFS-TF designations, are identical for TFS-PF. DNFBPs and FIs are encouraged to refer to the UN consolidated sanctions list and changes to such list. A link to the UNSCR 1718 list is provided on the FIU's website. Supervised entities are required to keep abreast of updates to the lists, but a mechanism to alert supervised entities of new designations or other changes to the sanctions list is lacking. The absence of proactive communication and measures would significantly hinder the implementation of TFS-PF "without delay", should a designation occur. Furthermore, Sint Maarten has not demonstrated that there are mechanisms in place for the delisting and un-freezing of frozen funds and assets associated with UNSCR 1718 designations.

270. In respect of screening measures, most FIs particularly banks and larger DNFBPs use screening software to identify persons or entities on the PF sanctions lists daily. However, there was less frequent screening for PF among smaller TCSPs and other DNFBPs.

[17] The draft Sanctions Manual 2024 was published in February 2025, after the ME on-site visit.

271. Sint Maarten has not identified any funds or other assets belonging to persons or entities designated as a result of their connection to PF-related activities associated with DPRK. Based on on-site interviews, CAs are broadly aware of general sanctions obligations.

4.4.2. Identification of assets and funds held by designated persons/entities and prohibitions

272. Sint Maarten has not identified any funds or other assets belonging to persons or entities designated as a result of their connection to PF-related activities associated with DPRK. Based on on-site interviews, CAs are broadly aware of general sanctions obligations. The identification of assets and funds held by designated persons and entities is potentially hindered by the limited ability to obtain accurate and up to date beneficial ownership (BO) information. As discussed in Chapter 7; IO.5, the COCI recently started collecting BO information on existing registrants in May 2024 and the process remains ongoing. Additionally, verification of the BO information by the COCI has not yet commenced. These limitations may affect the capacity of CAs and LEAs to identify designated persons who may be hiding behind legal persons and arrangements to evade TFS-PF as well as the ability to identify assets held by designated persons. LEAs have not identified any evidence that assets owned, held or controlled by designated persons and individuals were in Sint Maarten during the assessment period, nor were illustrations of any typologies for TFS-PF sanctions evasion in Sint Maarten presented to the AT. No effective measures were in place to prevent sanctioned persons from establishing or acquiring companies in Sint Maarten. The jurisdiction did not demonstrate that the COCI, FIU or the Shipping Registry screen registers against TFS-PF sanctions list.

4.4.3. FIs, DNFBPs and VASPs' understanding of and compliance with obligations

273. FIs, DNFBs as well as natural and legal persons are required to immediately freeze the assets or property of designated/sanctioned persons or entities and report the same within 48 hours to the relevant supervisors and to the FIU, on all frozen assets and other actions taken to comply with the provisions of the NSO, and the NSR, including attempted transactions. While FIs and DNFBPs must keep abreast of any designations and changes to the designations, as part of their AML/CFT/CPF obligations, such obligations do not apply to VASPs which remain unsupervised for AML/CFT/CPF obligations in Sint Maarten (see Chapter 6; IO.3). During the on-site visit, the CBCS indicated that there are six VASPs operating within Sint Maarten. Since VASPS are not regulated, the AT could not determine the extent to which VASPs comply with and understand TFS-PF obligations in line with the FATF Standards.

274. FIs and DNFBPs generally understand their screening obligations and such screening mechanisms have been utilised by them. FIs and larger DNFBPs screen daily against the UN 1718 sanctions list. Some supervised entities, for example FIs, larger TCSPs, notaries and lawyers indicated sanction screening prior to onboarding new clients. Some FIs and larger DNFBPs use commercial screening software or outsource sanctions screening to third parties. Most FIs rely on commercial databases and automated screening procedures for sanctions screening which automatically incorporate any changes to the UN list. Smaller TCSPs and other DNFBPs do not screen against PF related sanctions lists in practice. Moreover, none of the supervised entities interviewed reported any positive hits against any PF sanctions lists. The AT noted that there

appeared to be little awareness of the wider risks of sanctions evasions or additional steps to mitigate such risks.

4.4.4. Competent authorities ensuring and monitoring compliance

275. The CBCS monitor compliance in relation to TFS-PF to a limited extent. CBCS's supervision is limited to checking how FIs screen against TFS-PF lists and not in relation to wider obligations such as the implementation of policies, procedures and other systems of internal controls to facilitate the effective compliance with TFS-PF. The FIU does not monitor DNFBPs for compliance regarding screening against UN lists including those designated in accordance with UNSCR1718 or the implementation of policies, procedures and other systems of internal controls to facilitate the effective compliance with TFS-PF.

276. The limited supervision for the implementation of TFS-PF obligations by FIs and the lack of supervision of DNFBPs and VASPs negatively impact on the ability for these entities to understand the level of implementation and understanding of TFS-PF obligations. Furthermore, Sint Maarten has not demonstrated that any outreach efforts and guidance for implementation of TFS-PF occurred over the assessment period. The CBCS's and FIU's P&Gs do not address PF or TFS-PF obligations. During the on-site interviews, the general view among the CAs was that PF was not a threat for the jurisdiction and as such no emphasis was placed on TFS-PF training, guidance and outreach. Accordingly, there is a critical need for TFS-PF training and guidance among supervised entities.

277. The CBCS and the FIU are responsible for implementing and enforcing compliance with the various financial sanctions' regimes; for assessing suspected breaches; and have the power to refer cases to law enforcement agencies for investigation and potential prosecution. However, no sanctions or enforcement measures were applied for non-compliance by supervised entities. The last on-site examination on FIs by the CBCS was conducted in 2023 and prior to then, in 2022. The FIU conducted no on-site examinations during the assessment period.

Overall conclusion on IO.11

278. Sint Marten has a legal framework for TFS-PF. However, although the system has not been tested, it does not allow for implementation without delay. Also, there is no mechanism to directly and immediately communicate UNSCR 1718 listings to supervised entities. Major deficiencies outlined in R.7 would also have a cascading impact on the effectiveness of the regime.

279. FIs and DNFBPs demonstrated a good understanding of freezing obligations relative to the assets of designated persons. Notwithstanding, supervision on compliance with TFS-PF obligations by the CBCS is limited to monitoring how FIs screen against the list and not in relation to wider obligations such as the implementation of policies, procedures and other systems of internal controls to facilitate the effective compliance with TFS-PF. Furthermore, there is limited supervision of compliance with TFS-PF

obligations by the FIU. Thus, there is a need for enhanced supervision, outreach and training to supervised entities to ensure they have deepened understanding on PF and TFS-PF implementation.

280. **Sint Maarten is rated as having a low level of effectiveness for IO.11.**

Chapter 5. PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

a) FIs and DNFBPs have a better understanding of ML risks than TF risks which was limited across all sectors as it was largely based on the notion of Sint Maarten's low terrorism exposure. Banks, insurance companies, MTCs and the credit union showed a good understanding of ML risks. In the DNFBP sectors, notaries and TCSPs had a reasonable ML risk understanding with other DNFBPs, in particular the higher-risk sectors of casinos and real estate agents, showing a basic understanding of ML risks.

b) The application of risk-based mitigating measures is generally good in the FI sectors, with integrated automated monitoring systems, internal compliance policies and provision of training to staff. FIs apply enhanced due diligence (EDD) measures regarding PEPs and screen against TF-TFS and higher-risk countries lists. Among the DNFBPs, notaries and TCSPs are more advanced in screening PEPs and against sanctions lists. However, for most DNFBP sectors – such as casinos, DPMS and lawyers – knowledge of preventive measures is limited and results in an insufficient application of CDD and EDD, in particular when it comes to handling PEPs.

c) For both FIs and DNFBPs, the measures for identification and verification of the beneficial owner are not entirely clear as they are overly focussed on the (majority) shareholder and due consideration of situations of indirect control is not given.

d) Reporting obligations are generally understood across FIs and DNFBPs; although most reporting is done on objective indicators (monetary threshold) rather than subjective indicators. The number of UTRs submitted is in line with risks for FIs and some higher-risk DNFBPs (casinos and notaries), but not for real estate agents, lawyers and DPMS. FIs and DNFBPs did not submit UTRs based on TF suspicion during the assessment period, which could be attributed to the limited TF risk understanding and thus the ability to effectively detect TF red flags.

Recommended Actions

a) Sint Maarten should improve the TF risk understanding of FIs and DNFBPs, including through the provision of guidance and training on TF-related red flag indicators and typologies.
b) Sint Maarten should ensure that DNFBPs (particularly casinos, real estate agents and DPMS) improve their understanding of ML risks and AML/CFT obligations and implement risk-based mitigating measures, such as when dealing with PEPs.
c) Sint Maarten should improve UTR reporting practices by providing comprehensive sector specific guidance, feedback and training to FIs and DNFBPs on their reporting obligations, specifically to raise the level of reporting based on subjective indicators and TF, as appropriate.
d) Supervisory authorities should work with FIs and DNFBPs to ensure improvements in their CDD processes, in particular to enhance the identification, collection and verification of beneficial ownership (BO) information.
e) Sint Maarten should conduct more training and outreach on the ML/TF risks and AML/CFT obligations.

281. The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, R. 6, R. 15 and R. 29.

5.2. Immediate Outcome 4 (Preventive Measures)

282. The assessment team (AT) considered the relative materiality and risk in Sint Maarten and weighted the implementation of preventive measures: most important for banks, casinos, notaries and real estate agents; important for insurance companies, insurance brokers and lawyers; moderately important for MTCs, TCSPs and DPMS; and less important for securities intermediaries, asset managers, payment service providers, credit unions, micro-lenders, accountants and VASPs (see Chapter 1).[18]

283. The conclusions in this chapter are based on statistics and examples provided by Sint Maarten; the NRA; meetings with the supervisors (CBCS and FIU) and other relevant authorities; interviews with representatives of a broad sample of large, medium and small FIs (banks, MTCs, credit union, pension fund, insurance companies) and DNFBPs (casinos, lawyers, notaries, DPMS, TCSPs, accountants and real estate agents). The banks, insurance companies and MTCs met by the AT represented the majority of the market share in Sint Maarten in each of the

[18] Sint Maarten's AML/CFT framework includes car dealers, which are assigned a medium-high ML risk rating in Sint Maarten's NRA. However, car dealers do not fall within the scope of the FATF Standards and therefore were not considered as part of the mutual evaluation of Sint Maarten.

respective sectors. Accountants interviewed on-site proved to be firms whose businesses did not fall within the scope of the DNFBP activities covered by the FATF Standards.

284. The AT considered the supervisory findings by the CBCS for the banking, insurance, MTC and TCSP sectors. As explained in Chapter 6 (IO.3), statistics provided relate to breaches detected during supervisory on-site examinations. Not all sectors have been inspected in each year in the assessment period[19] and it was not always possible to draw conclusions as not all breaches were consistently categorised across the sectors. The more comprehensive statistics were provided for the banking sector, which is the most material sector in Sint Maarten. In relation to DNFBPs supervised by the FIU (i.e., casinos, DPMS, real estate agents, notaries, lawyers and accountants), authorities could not demonstrate how well entities within these sectors are implementing preventive measures since limited off-site monitoring and no on-site examinations were conducted within the assessment period (see Chapter 6; IO.3). This chapter does not assess VASPs, securities intermediaries, asset managers, payment service providers and electronic money institutions (zero entities in Sint Maarten) since at the time of the on-site visit the licensing (and, for some, AML/CFT supervisory) legislation with respect to these sectors remained unenacted by Sint Maarten. Accordingly, the AT did not interview any VASPs, securities intermediaries, asset managers and payment service providers during the on-site visit.

5.2.1. Understanding of ML/TF risks and AML/CFT obligations

FIs

285. Banks, insurance companies, MTCs and the credit union interviewed displayed a good understanding of ML risks and knowledge of their AML/CFT obligations. They were able to explain risks related to their business profile, types of clients and sectors considered as high-risk (e.g., PEPs; real estate sector; and clients from high-risk countries using internal screening mechanisms as well as FATF and CBCS lists on high-risk countries). Overall, they demonstrated a limited understanding of TF risks as they did not consider TF risks and vulnerabilities stemming from services, products and clients. Rather, they linked the low TF risk to low terrorism in the country (i.e., no past occurrences of terrorist incidents) and no presence of terrorist individuals, groups and other activities in Sint Maarten (as far as they are aware).

286. While FIs were involved in Sint Maarten's NRA process (see Chapter 2; IO.1), it was not demonstrated during the interviews that it enhanced their understanding of ML/TF risks, as a number of entities interviewed advised that they had not seen a draft or the final NRA. Since the NRA was only completed during the on-site visit, one bank (with a head office in Curaçao) explained that it implemented measures based on the findings for the NRA of Curaçao. FIs noted that guidance provided by the CBCS is used to improve the risk understanding, with some entities pointing out that further outreach and information sharing on common typologies at sectoral level would be beneficial (see Chapter 6; IO.3).

287. Banks, insurance companies, MTCs and the credit union with a head office explained that branch-level risk assessments are aligned with group-wide risk assessments and include a focus on the

[19] For banks, there were eight on-site examinations in 2019 and three in 2022. For the insurance sector, there was one examination of an insurance company in 2023 and four examinations of insurance brokers in 2019. For the MTCs, there were two examinations in 2019, two in 2022 and one in 2023. For the credit union, there were no examinations during the assessment period. For TCSPs, there was one examination in 2019.

specific risks present in Sint Maarten. This linkage between branch-level and group-wide risk assessments provides a good understanding of local risks to which they are exposed. Since 2022, FIs are obliged to annually complete a Systematic AML Risk Assessment (SARA) which covers both AML and CFT aspects. These questionnaires look into geographic risks (i.e., countries subject to sanctions and embargos); customer risks (e.g., complex or opaque ownership structures and cash intensive businesses); transaction, product and service risks (i.e., one-off transactions, gaming transactions, transactions in precious metals and stones, digital assets, cross-border transactions, etc.); and delivery channel risks (i.e., online and mobile banking and non-face-to-face customer relationships). At the time of the on-site visit, these questionnaires had been circulated and completed for one full year within the assessment period (2023) and did not yet cover all FIs. (see Chapter 6; IO.3).

288. Overall, the banking sector's compliance with AML/CFT obligations and risk assessments appears to have improved over the assessment period: with 77 breaches detected in 2019 (across 8 examinations) and 27 in 2022 (across 3 examinations); all of which have been remediated. In the insurance sector, supervisory findings show that deficiencies varied from light to moderate (e.g., no-risk based approach to assessing risks; no framework to identify and monitor PEPs; and missing documentation in client files). Within the MTC sector, breaches ranged from serious (e.g., source of funds declaration was not proportionate to the transactions) to light, with the majority of breaches now closed.

DNFBPs

289. The understanding of ML/TF risks and AML/CFT obligations in the DNFBP sectors varies. Overall, most DNFBPs demonstrated a better understanding of ML risks than TF risks. DNFBPs (except TCSPs) mainly referred to the use of cash as the key vulnerability. ML threats as identified in the NRA (e.g., fraud) are recognised to a much lesser extent. While a small portion of DNFBPs took part in the NRA process, it was limited to the provision of information through AML/CFT questionnaires (see Chapter 2; IO.1). The NRA was only finalized during the on-site visit, and the FIU had started disseminating the outcomes via e-mail to DNFBPs. In the AT's view, the NRA process and report had not (yet) assisted DNFBPs in enhancing their understanding of ML/TF risks. Furthermore, DNFBPs did not conduct formal entity-level risk assessments; therefore, they were not fully aware of their ML/TF risk exposure. Knowledge of reporting obligations was generally stronger than the understanding of identifying and verifying the beneficial owner (BO) and PEPs, and TF-TFS screening.

290. Among the higher-risk sectors, notaries clearly articulated the different risks faced as it relates to real estate transactions, the use of escrow accounts and to some extent also recognised the risk of misuse of legal persons and arrangements. Casinos have a basic understanding of ML/TF risks and focused mainly on the risks associated with large cash transactions and the management of large sums of money on behalf of clients. Equally, is the understanding of AML/CFT obligations which was limited to reporting obligations and the obligation to obtain CDD information. Real estate agents and lawyers demonstrated similar levels of understanding of ML/TF risks and AML/CFT obligations as casinos. The limited to absent appropriate guidance, training and supervisory engagement for these sectors impacted their level of understanding of risks and AML/CFT obligations.

291. One DPMS interviewed had a more mature understanding of ML risks and its AML/CFT obligations due to it being part of an international group and obligations to implement mitigating

measures constitute a requirement of the head office. The same cannot be said of the other smaller, DPMS entities who could not articulate what their higher risks are. TCSPs have a fair understanding of ML risks and AML/CFT obligations, and a limited understanding of TF risks similar to that of the FIs interviewed. They clearly understand their reporting requirements in the event of a suspicious client or transaction. They expressed an understanding of the importance of performing CDD checks on new business relationships, including the use of open sources to perform background searches and to gather information. However, they explained that the extent of their involvement in the onboarding process for new clients was more of an administrative role which was limited to the gathering and collation of data for delivery to the notaries who would perform a more detailed, in-depth CDD check on the beneficial owner.

5.2.2. Application of risk mitigating measures

FIs

292. Banks, insurance companies, MTCs and the credit union interviewed generally apply mitigating measures in line with their risks. Entities met with, articulated the roles for AML/CFT personnel which includes a clear designation of the AML/CFT function (to the compliance officer or money laundering reporting officer (MLRO), and in some cases the CEO) and the role and importance of the Board of Directors (BOD) in relation to AML/CFT matters (e.g., by having a BOD risk committee which would review and discuss reports prepared by the compliance officer or MLRO on ML/TF risks and compliance obligations).

293. The policies and procedures of large insurance companies and banks are reviewed and updated regularly and these sufficiently address the risks present within their specific entities and sectors as identified by them through the conduct of risk assessments. Additionally, the banks, insurance companies and MTC providers expressed a reliance on technology and automated systems that can easily be adapted to emerging risks.

294. FIs categorise customers by risk and larger FIs have invested heavily in compliance staff in recent years. Banks explained that as part of their client acceptance policy, they would not onboard a casino as a new customer. This was based on concerns they have regarding cross-border transactions within the casino sector, such as managing transaction flows and understanding the rationale for such transaction flows. The AT understands that such a practice aims to safeguard international correspondent banking relations. The AT also considers that the casino sector (primarily due to its highly cash intensive nature) is considered high-risk for ML, coupled with the fact that there are no supervisory examinations by the FIU taking place - such supervision, which if it were in place and effectively functioning, would serve to mitigate some of the existing ML risks and vulnerabilities. One bank also indicated that customers from high-risk countries would be refused from being onboarded based on the bank's risk tolerance and appetite.

DNFBPs

295. DNFBPs have not adequately applied risk mitigating measures. DNFBPs did not conduct any formal assessment of their operations to determine their risk exposure but instead employed an informal approach. This entailed informal background reviews of clients (country of residence, country of birth/nationality, client type (i.e., natural/legal person) and PEP status) and assessments of transactions (volume, value, origin and destination of transactions). As a result, it was difficult to determine the extent to which risk mitigating measures and internal controls were being

implemented based on identified risks. Most DNFBPs (i.e., notaries, real estate agents, accountants, lawyers, TCSPs and one DPMS that is part of an international group) have developed AML/CFT policies, but these were not risk-based and some of these policies were outdated and not in line with the current regulations in Sint Maarten. In addition, most casinos interviewed expressed that they have not developed written AML/CFT policies.

296. Most DNFBPs conduct CDD and collect basic information on their clients. EDD requirements such as PEP and sanctions screening do not form a structural part of their risk mitigation measures. Consequently, DNFBPs do not implement focused mitigating measures to address high-risk scenarios as envisaged under a risk-based approach. Moreover, there is a limited understanding of the BO requirements. BO information is not adequately collected by most DNFBPs, and no verification is performed in instances where this is collected. The involvement of TCSPs in the establishment of legal persons is limited to gathering the initial information from the individual(s) desirous of establishing the structure, which is then forwarded to the notary who will incorporate (or establish, in the case of a trust) the legal structure(s) via notarial deed. The TCSPs interviewed expressed that their involvement was more of a preparatory, administrative role to gather documents at the initial stage of the legal person establishment process, and, as such, the application of risk mitigation measures would be conducted at the notary stage.

5.2.3. Application of CDD and record-keeping requirements

FIs

297. Banks, insurance companies, MTCs and the credit union demonstrated that they understand their CDD obligations and would refuse a prospective client if the CDD documentation was incomplete. As for simplified CDD, FIs indicated that this would only be applied in the case where the client was a governmental agency and most FIs explained that the simplified CDD requirements measures are similar to standard CDD requirements.

298. FIs interviewed have effective processes in place for onboarding customers, carrying out CDD and ongoing monitoring. While banks, insurance companies and MTCs correctly indicated that they would drill down to the natural person within corporate structures (even complex ones involving a chain of ownership), they expressed an understanding that the beneficial owner would be synonymous with the majority shareholder of a corporation. As such, situations where the majority shareholder may not be the beneficial, same may go undetected. Based on meetings with banks, most of the onboarding process is done in-person although the process may start online. Prior to finalisation, the customer must appear in person to complete the process. Records are kept for a minimum of five years, with some FIs stating they would maintain documents for a longer period (seven or ten years).

DNFBPs

299. Most DNFBPs met collect basic CDD documentation (identification, source of funds, etc.) during customer onboarding. Notaries, real estate agents and accountants, in the instances where CDD documents are not provided, do not continue the client onboarding and refuse business. Casinos, lawyers and DPMS do not have adequate CDD measures in place due to the lack of appropriate policies. For most entities, including TCSPs, the documentation collected during CDD is not utilised to determine customer risk or to establish customer profiles to facilitate ongoing monitoring. Most DNFBPs do not have adequate identification and verification measures in place

for beneficial owners. These measures are limited to the use of open-source information and DNFBPs mostly regard the shareholder to be the beneficial owner. DNFBPs maintain records for up to ten years; none indicated that data is kept for less than five years.

5.2.4. Application of EDD measures

FIs

300. Implementation of EDD measures varies amongst FIs interviewed, depending on their size and international exposure.

301. *PEPs* - Most banks, insurance companies and MTCs interviewed have formulated procedures for entering into or continuing a business relationship with a PEP, which includes automated daily screening systems. FIs met apply EDD to PEP clients and often use open sources to perform searches and checks. EDD measures noted during interviews with FIs include senior management approval for certain types of transactions (e.g., life insurance benefit payouts for PEP beneficiaries).

302. *Correspondent banking* - Banks noted that they each had less than five correspondent banking relationships in recent years, and those correspondent banking relationships were primarily limited to large U.S. correspondent banks.

303. *New technologies* – FIs explained that before a new software or other technological tool would be developed, acquired and implemented by an FI, the head office would risk assess the product and senior management at the head office level would give its final approval. For those without a head office, the senior management of the local firm would make the assessment and the final decision.

304. *Wire transfers* – Banks in Sint Maarten are subject to the U.S. SWIFT wire transfer regulations and have established online banking systems to comply with these regulations.

305. *TF-TFS* – Larger FIs use a range of automated systems (including commercial tools) to monitor various TFS lists (UN, EU and OFAC lists). Entities interviewed are aware of their TF-TFS obligations and stated that should there be a positive hit, a report would be sent immediately to the head office, FIU and CBCS, and the account would be frozen immediately. Also, the credit union, a smaller FI, utilises automated solutions. During the assessment period, there were no funds frozen as there have been no positive hits.

306. *Higher-risk countries identified by the FATF* – FIs confirmed the use of various lists (internal and FATF) and sources to identify and maintain their understanding of high-risk countries and integrate this into their customer onboarding and ongoing CDD processes. Many have automated processes to flag customers and transactions from high-risk jurisdictions who are then, once identified, subjected to EDD. MTCs generally use the FATF list of high-risk countries and have appropriate controls in place. This is particularly important as MTC providers make and receive cross-border payments, including from high-risk jurisdictions. One MTC operator explained that when approached to remit funds to a high-risk jurisdiction by a customer who had no ties to the jurisdiction and the transaction rationale was unclear, the transaction was rejected, and the sender was contacted to collect the returned funds. MTC operators also confirmed that transactions to high-risk countries would not be outright rejected, they are instead subjected to a heightened degree of scrutiny. For example, payment for goods whereby the sender appropriately explained

the substance of the transaction and provided the invoice from the supplier of the goods for which payment was being remitted.

DNFBPs

307. *PEPs* – Notaries, real estate agents and accountants request information from persons during onboarding confirming their PEP status, while casinos, lawyers and DPMS met do not take specific measures when dealing with PEPs. DNFBPs explained that local PEPs are easier to identify than international PEPs. When conducting business with an international PEP, no EDD takes place. The role of TCSPs in the process of onboarding clients is primarily limited to the collection and gathering of client information which is forwarded to the notary. The notary performs EDD when dealing with a PEP, person from a high-risk country and other indicia identified by the notary triggering the requirement for the performance of EDD.

308. *TF-TFS* – Casinos, DPMS and most lawyers do not screen against sanctions list. One lawyer explained screening clients at the onboarding stage and mentioned receiving the National Gazette. Real estate agents screen at the on-boarding stage by downloading the sanctions lists directly from the UN website. Notaries and accountants screen clients during onboarding against sanctions lists and annually for returning clients. These DNFBPs visit the UN website and download the lists, and one notary mentioned making use of a commercial tool. Some DNFBPs (notaries, real estate) met have indicated that in the case of a positive hit, they would submit a report to the FIU and freeze the client's assets. During the period under review, there were no funds frozen as there have been no positive hits.

309. *Higher-risk countries identified by the FATF* – EDD measures regarding high-risk countries as listed by the FATF are implemented by notaries and accountants. For other DNFBPs, awareness on the high-risk countries is limited, as limited guidance on this subject is received and the FIU does not regularly update the high-risk countries lists.

5.2.5. Reporting obligations and tipping off

FIs and DNFBPs are required to submit objective and subjective UTRs (see Chapter 3; IO.6).[20]

Table 5.1. No. of UTRs submitted by sector

Sector	2019	2020	2021	2022	2023
Financial Institutions (FIs)					
Banks	21,389	22,531	17,943	14,326	14,752
Insurance companies and insurance brokers	13	-	-	1	-
MTCs	507	490	1,776	1,251	875
TCSPs	68	29	2	-	3
TOTALS - FIs	**21,977**	**23,050**	**19,721**	**15,578**	**15,630**

[20] Objective UTRs are based on a monetary threshold trigger whereby the value of the transactions is at or above a certain amount in NAf (Guidelines on Indicator Regulation Sint Maarten, 1 May 2016). Subjective UTRs are not based on a

DNFBPs[21]					
Accountants	2	1	-	1	2
Administrative offices	92	20	15	11	6
Casinos	1,599	987	2,050	3,197	3,242
Car dealers	86	105	159	99	75
DPMS	-	-	-	-	1
Lawyers	36	14	20	26	26
Notaries	183	203	368	258	214
Real estate	-	2	6	7	6
Tax advisors	-	-	-	-	-
TOTALS-DNFBPs	**1,998**	**1,332**	**2,618**	**3,599**	**3,572**
GRAND TOTAL	**23,975**	**24,382**	**22,339**	**19,177**	**19,202**

310. FIs and most DNFBPs are aware of their responsibility to report UTRs, although reporting is largely based on the objective indicator rather than on subjective indicators. From on-site interviews with the private sector and the FIU, the AT understands that the ability to recognise subjective indicators is limited. This is due to the insufficient quality of the transaction monitoring systems, business rules and the need for additional training of compliance personnel. One bank pointed out that further dialogue with authorities, such as the FIU and the PPO, would be helpful to understand the trends, typologies and red flags they observe (e.g., in relation to human trafficking) as this could help them to train staff and submit more UTRs based on subjective indicators.

311. In general, reporting by FIs has remained relatively steady from 2019 to 2020, but in the banking sector, particularly, UTRs have increasingly declined since 2020. The AT understood from authorities and the banks interviewed that the discontinuation of cheques contributed to the declining number of UTRs (based on the objective indicator). Banks and MTCs submit the most UTRs which is due to the high volume of transactions. On the other hand, the insurance and TCSP sectors submit limited UTRs, which is in line with the nature of their products and service offerings (i.e., payment of insurance premiums, establishment of trusts, incorporation of companies and payment of professional service TCSP fees). As for the credit union and micro-lenders, there are no UTRs recorded, and this would be in line with their services, activities and risk profile. The sole activities of the micro-lenders represent consumer loan issuances on a small scale and repayment of the same by borrowers. The operations of the credit union are limited to a closed group of eligible participants (members) who are represented by governmental

monetary threshold trigger but instead when there are concerns as to a transaction that appears unusual and may be possibly related to ML and/or TF.

[21] Reporting obligations also extend to sectors such as car dealers, administrative offices and tax advisors that are supervised by the FIU for AML/CFT purposes. However, these sectors fall outside the scope of the functional definition of an FI or DNFBP per the FATF Glossary.

employees and governmental retirees. Products offered by the credit union comprise savings accounts, consumer loans and funeral insurance.

312. Supervisory examinations by the CBCS reveal that the banking sector has improved its reporting obligations (from six breaches in 2019 to one in 2022). For the MTCs, two breaches were identified in 2022 and none in 2023. Breaches related to a lack of proper transaction monitoring resulting in a significant number of transactions not being reported.

313. As for the DNFBPs, the higher-risk sectors of casinos and notaries file the most UTRs, which is in line with their risk profile: for the casinos this is due to the inherent nature of their operations being high volume and cash intensive. From on-site interviews, the AT understands that the UTRs are largely based on the objective indicator. The reporting by real estate agents, lawyers and DPMS – sectors weighted most important, important and moderately important by the AT – is minimal. The range of zero to six reports annually by real estate agents and DPMS confirms a lack of awareness, inadequate training, and possibly a challenge to recognize red flags within these sectors. DPMS interviewed explained the frequent risk of credit card fraud in the sector and instances of clients desiring to make large value cash purchases. In the AT's view these situations could trigger the submission of reports. For the accountants, the number of UTRs submitted is low, but the AT could not ascertain whether this would be in line with the risk profile; further information was requested from authorities but was not provided.

314. FIs and DNFBPs did not file UTRs based on TF suspicion during the assessment period which may be the result of the limited TF risk understanding by obliged entities.[22] In on-site interviews, both FIs and DNFBPs mentioned lack of feedback and guidance from the FIU on the utility of their UTRs. Where feedback is received, it generally relates to the completeness of the report (i.e., whether all fields are filled out) rather than its quality or value.

315. All FIs and most DNFBPs interviewed are aware of their tipping-off obligations. Within the FIs, reporting is done by compliance departments, which adds additional confidentiality protection as there is little involvement of front-line staff once the initial reporting query has been raised. Moreover, FIs and TCSPs have confidentiality clauses embedded in personnel employment contracts and discuss the topic both informally in staff meetings and within formal training sessions.

5.2.6. Internal controls and legal/regulatory requirements impeding implementation

FIs

316. Generally, banks, MTCs, insurance companies and the credit union demonstrated a positive AML/CFT compliance culture, primarily driven by the existence of their own strong internal control environment, head office oversight, oversight by their compliance department and internal and external audits.

317. FIs have internal AML/CFT compliance policies which are updated at varying intervals. Banks review their AML/CFT policy on an annual basis, or when there is a trigger event, and updates are approved by the management. FIs in Sint Maarten generally have a compliance function and

[22] In 2022, a bank submitted a UTR based on suspicion of large amounts of cash and/or wire transfers. The FIU conducted further analysis and found suspicion of TF (see Chapter 3; IO.6).

audit arrangements despite challenges with attracting and retaining appropriate skilled staff. Internal audits are carried out by the head office's internal audit department on an annual (or more frequent) basis and firms are also subjected to an annual external audit. There are some cases where compliance officers are located outside of Sint Maarten, at the head office, which does not hinder reviewing clients and transactions, or providing instructions to front-line staff.

318. FIs provide comprehensive AML/CFT training to new and existing staff on an annual basis which covers red flag indicators to detect unusual activity as well as obligations relating to sanctions screening. Such training is both internal, led by the compliance officer, and external, through third parties (online and in-person). When hiring staff, most FIs interviewed conduct checks against social media, police records and references from previous employments; with more robust controls for senior level staff (e.g., requiring a certificate of good conduct).

319. Several large banks, insurance companies and MTCs have head offices abroad and unreservedly share information within the group. The AT was not informed of situations where difficulties have arisen about sharing suspicious transaction information within the group where they encounter conflicting local legislation in other jurisdictions.

DNFBPs

320. Notaries have written policies in place, and these are updated on a regular basis, while lawyers, TCSPs, real estate agents and DPMS either have a written policy, which has not been updated for several years, or do not have a written policy but use team meetings to inform staff of AML/CFT requirements. Casinos do not have written policies in place.

321. Most of the DNFBPs had a compliance officer. This function was mostly exercised by staff in addition to their main tasks: for example, law firm partners acting as compliance officers. Notaries provide regular internal and external AML/CFT training to staff; while for the other DNFBPs, including TCSPs, there is no regular training program, and some entities received limited training from the FIU and third parties. One notary indicated that due to the absence of any supervisory monitoring by the FIU, they plan to conduct an external audit in 2024 to ensure compliance with AML/CFT measures.

Overall conclusion on IO.4

322. Understanding of ML risks and AML/CFT obligations is good among banks, insurance companies, MTCs and the credit union. They generally apply mitigating measures in line with risks, including having compliance officers, internal policies and procedures that are regularly reviewed and updated, and risk categorisation of customers is undertaken. These sectors broadly understand their CDD and EDD obligations, including screening against various lists (sanctions, higher-risk countries), and provide regular training to staff. The efforts are largely driven by the existence of a strong internal control environment, head office oversight, oversight by their compliance department and audits.

323. In the DNFBP sectors, notaries (a higher-risk sector) and TCSPs demonstrated a more mature understanding of ML risks and AML/CFT obligations, as compared to other sectors. In particular, the higher-risk sectors of casinos and real estate agents showed a basic understanding of ML risks and AML/CFT obligations. DNFBPs employ an informal approach to determine their risk exposure, which does not allow for understanding whether mitigating measures and internal controls are implemented based on identified risks. Mitigating measures are weaker in most DNFBPs, particularly for some higher risk sectors such as the casinos, real estate and DPMS. Where internal AML/CFT policies are developed they are not risk-based or are sometimes outdated. CDD is generally conducted in the various DNFBP sectors, but EDD measures regarding PEPs, TF-TFS and higher-risk countries do not form a structural part. The limited supervision and guidance by the FIU have an impact on the implementation of preventive measures by DNFBPs.

324. Across the FIs and DNFBPs, the AT determined that the TF risk understanding is limited, and the identification of BO largely focusses on shareholders. The AT positively notes that FIs and DNFBPs keep records for at least five years. While reporting obligations are generally understood and most sectors submit reports in line with their risks in terms of quantity, UTRs are primarily based on objective indicators and no TF UTRs based on TF suspicion from FIs and DNFBPs were filed. Subjective indicators are less understood, and entities met indicated a lack of feedback and guidance from authorities.

325. **Sint Maarten is rated as having a moderate level of effectiveness for IO.4.**

Chapter 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

a) Sint Maarten's market entry controls for FIs and TCSPs are good with fit and proper checks conducted at the application stage and thereafter by the CBCS. For DNFBPs supervised by the FIU, there is no adequate framework in place to prevent criminals and their associates from holding controlling interests or management functions. Furthermore, the checks that are carried out for DNFBPs do not capture the beneficial owner.

b) Since multiple competent authorities (CAs) are responsible for registering DNFBPs for different purposes, Sint Maarten does not have a clear overview of its DNFBP population. There are entities from higher-risk sectors, such as casinos and real estate, that are not registered with the FIU and therefore not subject to supervision.

c) The CBCS has a good understanding of ML risks in the sectors under its supervision, informed by increased data-driven analysis (annual questionnaires that feed into an automated, risk-weighted, risk scoring and assessment dashboard) and the conduct of the NRA; with the entity-level understanding being better than the sectoral-level. The FIU's understanding of ML risks is developing at the entity level for the notary, real estate and DPMS level, but has yet to expand this to entities in other sectors and at the sectoral level. The TF risk understanding is for both supervisors less developed.

d) The CBCS has enhanced its risk-based approach for its supervisory activities which prioritises risk analysis and the use of data. However, as this new approach was introduced in 2022, and therefore was in its developmental stages, its overall effectiveness remains to be fully realised.

e) The FIU lacks risk-based supervision, having conducted no on-site examinations and limited off-site supervision (restricted to sending questionnaires to notaries, casinos, and real estate agents) without further in-depth analysis or action due to resource constraints. The FIU is inadequately resourced in terms of finance, personnel, and technology, which has affected the effectiveness, frequency, and quality of supervision and feedback. Furthermore, the FIU has not implemented a comprehensive risk-based supervisory framework to prioritise resources effectively.

f) The FIU has not adequately applied effective, proportionate, and dissuasive sanctions in cases where DNFBPs failed to comply with their AML/CFT requirements.

g) The CBCS's approach to remediation is to issue a report of findings following an on-site examination and to follow-up with the licensee until all cited deficiencies are remediated. This enforcement strategy, however, does not always bring about a timely, effective, dissuasive and proportionate approach.
h) Both supervisors conduct outreach activities; however, private sector representatives demonstrated that there is a varying understanding of ML/TF risks and AML/CFT obligations, in particular for the DNFBPs supervised by the FIU. Sint Maarten is in the process of updating the sectoral Provisions and Guidelines for the FIs and TCSPs.
i) For five sectors in Sint Maarten (asset managers, securities intermediaries, payment service providers, electronic money institutions sectors and VASPs) legislation is pending to include them in the licensing (and AML/CFT supervisory) regime of the CBCS. Pending the entry into force of the legislation, the CBCS has encouraged voluntary registration of VASPs but no entity has made use of this possibility so far.

Recommended Actions

a) Sint Maarten should subject all DNFBPs to market entry controls that include fit and proper checks and cover the beneficial owner, and further strengthen existing measures to detect and address unlicensed/unregistered activity.
b) The FIU should implement risk-based supervision of DNFBPs, including by:
   i. Increasing its resources, including the recruitment of additional supervisory staff.
   ii. Taking measures to register all DNFBPs that should be subjected to its AML/CFT supervision.
   iii. Updating the FIU's Supervision Handbook to incorporate clear guidelines for risk-based supervision, outlining specific criteria for identifying and managing risks.
   iv. Conducting regular off-site and on-site examinations prioritising high-risk sectors.
   v. Imposing remedial actions and sanctions, if applicable.
c) Sint Maarten should improve coordination between the CBCS and FIU[23] to ensure a more unified understanding of both ML and TF risks across all sectors.

[23] The MoU between the CBCS and the FIU was signed and concluded in February 2025, after the end of the ME on-site visit.

Moreover, both the FIU and CBCS could benefit from open and ongoing dialogue on the topic of unlicensed operators in Sint Maarten, and the FIU could also benefit from the risk assessments conducted by the CBCS where linkages could potentially be made between the possibility of ML schemes involving a mixture of FIs and DNFBPs.

d) Sint Maarten should continue to enhance its risk-based supervision to ensure that sectors are appropriately supervised for on-site and off-site supervision based on entity-level and sectoral-level risk ratings in line with the CBCS's processes, manuals, guidance documents, policies and procedures.

e) Sint Maarten should ensure that its supervisory sanctioning regime for FIs is effective, and sufficiently proportionate and dissuasive to ensure that FIs are deterred from committing (and re-committing, where applicable) regulatory breaches, and that such sanctions are appropriately applied based on the severity of the cited regulatory breaches.

f) The CBCS and FIU should continue to deepen their understanding of TF risks and vulnerabilities within the sectors, and at the entity-level, for the various institutions that they supervise. Targeted training on TF risks, including common typologies and vulnerabilities, is needed to address existing knowledge gaps.

g) Sint Maarten should enact legislation to enable the CBCS to have the licensing authority for VASPs, asset managers, securities intermediaries, payment service providers and electronic money institutions and the AML/CFT supervisory authority for VASPs, payment service providers and electronic money institutions.

h) Sint Maarten should adopt the updated Provisions and Guidelines for FIs and TCSPs.

326. The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14, R. 15, R. 26-28, R. 34, R. 35 and elements of R.1 and R. 40.

6.2. Immediate Outcome 3 (Supervision)

327. In Sint Maarten, FIs (i.e., banks, insurance companies and brokers, MTCs, credit unions and micro-lenders) and TCSPs are licensed and supervised by the CBCS, while DNFBPs (except for TCSPs) are supervised by the FIU. VASPs, securities intermediaries, asset managers, payment service providers and electronic money institutions are not licensed/registered - legislation is pending and once in force, the CBCS will be the licensing authority.[24] In addition, for VASPs, payment service providers and electronic money institutions, legislation is pending to bring them within the AML/CFT supervisory regime of the CBCS.

[24] The one active asset manager and one securities intermediary in Sint Maarten are licensed under the Curaçao licensing regime (National Ordinance Supervision Asset Managers and Securities Intermediaries Curaçao).

328. The assessment team (AT) considered the relative materiality and risk in Sint Maarten and weighted supervisory aspects most important for banks, casinos, notaries and real estate agents; important for insurance companies, brokers and lawyers; moderately important for MTCs, TCSPs and DPMS; and less important for securities intermediaries, asset managers, payment service providers, credit unions, micro-lenders, accountants and VASPs.[25]

329. The conclusions in this chapter are based on statistics and examples of supervisory activities and actions provided by Sint Maarten; guidelines and guidance issued by the supervisors; discussions with the CBCS and FIU as well as representatives of a broad sample of FIs and DNFBPs.

6.2.1. Licensing, registration and controls preventing criminals and associates from entering the market

CBCS – FIs and TCSPs

330. The CBCS conducts the fit and proper checks for banks, insurance companies and brokers, MTCs, credit unions, micro-lenders and TCSPs at the time of the licensing application. This is repeated every three years after the license has been issued or earlier based upon a trigger event (e.g., there is adverse media, or a complaint from the public). These checks cover the proposed (candidate) (co)policymaker, (candidate) member of a supervisory board or controlling interest shareholder (which is a (candidate) holder of a qualifying interest). They also extend to the beneficial owner. The CBCS Policy Rule on Integrity Testing sets out an approach to BO verification focusing on shareholders who hold 10% or more of the voting rights in the case of legal persons, which would not fully cover the FATF definition of BO. The CBCS explained and demonstrated that in practice more in-depth checks take place and would cover the full scope of BO.

331. Applicants must submit a personal questionnaire, certified by a notary (local or foreign), for each individual listed. They are screened against criminal, tax and financial records, as well as any supervisory findings, to assess suitability. The 11-page questionnaire requires personal details (e.g., name, address, date of birth, nationality, passport number), education and employment history, a CV, three personal references, and information on any criminal, financial, or business-related issues. The CBCS also considers applicants' professional experience and educational background, and gathers information from the COCI, Ministry of TEATT, tax authorities, and other domestic and foreign competent authorities via secure mail and hard copies.

332. By the end of the on-site visit, there were 49 FIs and TCSPs licensed with the CBCS. In the assessment period, the CBCS only received six applications: four for money transfer services, one micro-lender and one bank. All MTC and micro-lender applications were withdrawn as the applicants failed to complete the application process in its entirety; while the bank application (received and processed in 2019) was approved. The CBCS also withdrew two bank licenses in 2019 and 2020 as the related banks decided to leave the region.

333. After three years, or when there are trigger events, the CBCS will check if the (co)policymaker is still fit and proper. During the assessment period, the CBCS encountered one situation where a

[25] Sint Maarten's AML/CFT supervisory framework includes car dealers, which are assigned a medium-high ML risk rating in Sint Maarten's NRA. However, car dealers do not fall within the scope of the FATF Standards and therefore were not considered as part of the mutual evaluation of Sint Maarten.

policymaker was considered no longer suitable and therefore was removed – this was due to a conviction for a crime.

334. The AT understood, based on in-depth discussions with the CBCS, that there are substantial controls in place to detect and deter unlicensed activities. Measures and controls include the publication of licensed FIs in Sint Maarten on the CBCS website; issuing public warnings regarding a zero-tolerance regulatory approach towards operating without a license; banks requiring FI operators (such as MTCs) who establish a bank account to provide evidence of their CBCS license; reporting by licensed operators of unlicensed operators; tracking by the CBCS's communications department of unlicensed activity through searches of social media and open sources which is reported to the CBCS's supervision department for further action (i.e., a cease-and-desist letter). The CBCS provided cases in which it acted against detected unlicensed activity. For instance, in one case an unlicensed operator was discovered who displayed and marketed the word "bank" on its website but was not a bank licensed by the CBCS. Consequently, the CBCS directed in writing that the entity ceases and desists its operations. Another example is provided below (Box 6.1).

Box 6.1. Case study: Unlicensed operator of an investment institution

In 2018 the CBCS identified a pyramid scheme through open sources. Analysis of the activities revealed a possible violation of the National Ordinance Supervision Investment Institutions & Administrators. The CBCS contacted the entity and determined that the website was closed. Three weeks after contacting the identified operator, the CBCS discovered another similar type of scheme with a different website and thus proceeded to issue a public warning on the CBCS's website on May 21, 2019. The CBCS also issued publications in the newspaper to warn the public about such schemes. The website concerned was subsequently shut down and the CBCS continued with its preventive public warning approach and in 2020 it issued other public warnings about possible investment schemes.

335. VASPs in Sint Maarten do not yet fall within the national AML/CFT regime. Draft legislation is pending approval and once adopted would designate the CBCS as the licensing and AML/CFT supervisory authority. In preparation for its role, the CBCS published a press release requesting voluntary registration by VASPs with the CBCS; however, no VASP has made use of this possibility.

DNFBPs

336. Casinos, notaries, real estate agents, lawyers, DPMS and accountants are supervised by the FIU. They are subjected to registration and licensing by various competent authorities (FIU, Ministry of TEATT, the Joint Court); however, there are no robust controls to prevent criminals and associates from entering the market. The FIU does not conduct fit and proper tests when registering DNFBPs. The Ministry of TEATT carries out checks and screening depending on whether a business license, a director license or operational license is to be issued but these

measures do not cover all DNFBPs and do not capture the BO. The Joint Court is responsible for appointing lawyers and notaries; however, the AT was not provided with sufficient information to assess the effectiveness of the regime in place.

337. Additionally, because multiple CAs are responsible for registering DNFBPs for various purposes, Sint Maarten lacks a clear overview of its DNFBP population (see Table 1.1, Chapter 1). In particular for higher and medium-high risk sectors such as casinos, real estate agents and DPMS, the numbers held by the Trade Register (COCI), FIU and the Ministry of TEATT show large differences. For example, there are 46 real estate agents not registered with the FIU, but they are registered with the COCI and/or the Ministry of TEATT. As such there might be entities which should be supervised but are not subjected to AML/CFT supervision by the FIU.

FIU

338. DNFBPs are required to be registered with the FIU as their AML/CFT supervisor, with the exception of TCSPs as they are licensed and supervised by the CBCS. However, other than checking whether the DNFBP is registered with the COCI and has a business license from the Ministry of TEATT, the FIU does not conduct fit and proper tests. No data was provided on the number of registration applications received, revoked, approved, or denied during the assessment period. Without registration, the FIU cannot initiate supervision.

339. Unlicensed activity is sometimes detected using open-source information (see Box 6.2). The FIU is aware of unregistered DNFBPs in higher risk sectors, such as real estate, but has not imposed any sanctions. The FIU applies moral suasion to encourage these DNFBPs to comply with the registration requirement; however, this has not always yielded results. For a number of unregistered DNFBPs, in particular for the real estate sector, the FIU recently started discussing with the PPO whether to impose criminal sanctions, but no further action has been taken.

Box 6.2. Case study: Unregistered real estate agent H

In 2024, the Supervision Department of the FIU discovered real estate agents advertising their business on social media. However, they were not registered with the FIU. The FIU contacted some of these real estate agents through telephone and e-mail (some real estate agents were sent the registration forms) to register. One of the real estate agents was H who was sent a reminder since the deadline for registration had passed. The FIU did not receive a response from H and sent a second reminder. Before the deadline of the second reminder had passed, H submitted the completed forms and provided an explanation as to why it did not submit by the first deadline. Subsequently, H was registered with the FIU.

Ministry of TEATT

340. FIs and DNFBPs operating in Sint Maarten can either take the form of a sole proprietor or a legal person. If they are legal persons, they must register with the COCI in the Trade Register and obtain a business license from the Ministry of TEATT. If they are a sole proprietor, then

registration with the COCI is mandatory but they do not need to be licensed at all. For FIs and TCSPs, they can only operate as such once they receive a license from the CBCS (see analysis above).

341. The business license checks entail the screening of personal information provided through a client sheet (e.g., name, date of birth and place of birth, copy of tax/crib number, residential address), information on the incorporation of the legal person or arrangement, registration with COCI, and tax information. The screening does not entail checks on BO. For some businesses (FIs and DNFBPs), a business and director's license are needed and the Ministry of TEATT will review the application and certificate of good conduct. Domestic and foreign directors born in the former Netherlands Antilles and Aruba are exempt from the licensing requirement for directors, and no further checks are conducted.

342. The casino sector is the only DNFBP sector that undergoes more comprehensive checks. This includes criminal background screening for directors by the KPSM and INTERPOL Sint Maarten and, recently, screening against international data including open sources. However, none of these measures extend to the BO. For other DNFBPs, criminal background checks on directors are done at random and there is no additional screening. Furthermore, casinos require an operational license. Casinos are required to renew their license every five years. For the renewal they are required to pay a fee. No additional checks are conducted when issuing a renewed license. No data was provided on the number of applications received, approved, denied or revoked during the assessment period.

343. The Ministry of TEATT conducts field inspections to detect businesses operating without the required licenses. During the assessment period, no sanctions were imposed on DNFBPs. No information was provided on the number of DNFBPs detected that were operating without the required license.

Joint Court of Justice

344. Lawyers and notaries are appointed by the Joint Court of Justice. If they take the form of a legal person, they must register with the COCI and obtain a license from the Ministry of TEATT (see above). All notaries take the form of either an NV or BV, while the majority of lawyers in Sint Maarten operate as partnerships. In Sint Maarten a maximum of three notaries are allowed to operate. To become a notary an individual needs to study civil law notary in the Netherlands and then apply to be appointed by Royal Decree. After applying in Sint Maarten notaries undergo screening by the Joint Court of Justice in Sint Maarten. However, it is unclear what this screening entails and how many applications were received, approved, denied or revoked, as this information was requested by the AT but not provided by the authorities.

6.2.2. Supervisors' understanding and identification of ML/TF risks

345. Both supervisors have varying understanding of ML/TF risks in their respective sectors, both at the sectoral and entity level. The CBCS demonstrated a stronger understanding of ML and TF risks than the FIU. Both supervisors, however, have a less developed TF risk understanding as they could not demonstrate common typologies and vulnerabilities on how their supervised sectors could be used for TF purposes. The CBCS and FIU led in the NRA process which helped them gain a broad understanding of ML risks and vulnerabilities in the FI and DNFBP sectors;

however, the data challenges noted in Chapter 2 (IO.1) have an impact on the comprehensiveness of the understanding formed.

CBCS

346. The CBCS demonstrated a good understanding of the inherent ML risks in the banking, insurance, MTC, micro-lending, credit union and TCSP sectors; and a less developed TF risk understanding.

347. The CBCS informs its understanding through a range of information, including the NRA, the annual risk assessments conducted by its supervised entities (SARAs), meetings with professional associations (i.e., Sint Maarten Banker's Association (SMBA); Sint Maarten Insurance Association (SMIA); Sint Maarten Insurance Brokers Association (SIBA); and Caribbean Pension Funds Association (CaPA), and, to a minimal extent, on-site examinations.

348. At the entity level, the CBCS is enhancing its understanding of ML/TF risks. Prior to 2022, the CBCS determined and assigned risk ratings to individual entities using findings from on-site examinations, follow-ups (regarding the findings of the on-site examinations) and management meetings with supervised entities. Such information was not fed into a risk scoring tool that assigned risk scores based on a risk weighting methodology. During full-scope examinations, FIs were rated on components such as the safety and soundness of the institution's operations and activities. In other types of examinations, such as targeted examinations, no specific rating was assigned for the area covered in those examinations. The ML/TF risk of an entity was assessed on a general level as part of the compliance/reputational risk. Based on the conducted risk assessment, the frequency, intensity and risk areas to be covered during on-site examinations were determined. From 2019-2021, three years of the assessment period, three risk ratings were assigned (i.e., low, medium and high) and not all entities were risk-rated (e.g., MTCs). This approach was not as comprehensive as the newly implemented risk assessment scoring tool and methodology that was introduced in 2022.

349. In 2022, the CBCS moved to a more data-driven format of supervision geared to a risk-based approach to determine the ML/TF/PF inherent net risk scores across the individual supervised entities. Under this approach, more data sources are used, and more indicators and elements are considered. As part of this approach, the CBCS sends extensive annual questionnaires to its supervised entities which focus on inherent risks (e.g., product/service risk, geographical risk) and control measures of each individual firm. These questionnaires are tailored for each sector. The results of the questionnaires are supplemented with, if available, the national risk assessment; inputs from other stakeholders; findings of supervisory activity (either entity-level or horizontal/thematic reviews); prudential findings (on the broader corporate governance environment in an entity); information from the regulated entities on the entity's risk assessment and legislative obligations; financial and operational data that is being shared with the supervisory agencies as a part of routine off-site reporting (including prudential data); risk input from public/private partnerships or other consultation mechanisms; results of independent testing/audit that is provided to supervisory agencies; and feedback from the FIU on unusual transaction reports filed by entities. Using an interactive dashboard, data is analysed, and each individual firm is risk rated into four categories: high, medium-high, medium-low and low (see Table 6.1).

350. While the AT considers that this new approach would result in a more comprehensive understanding of risks at the entity level, these annual questionnaires have been circulated and completed for one full year within the assessment period (in 2023) and did not cover all the entities

under the supervision of the CBCS. Moreover, prior to 2022, periodic questionnaires (containing some 100 questions) were sent to the life insurance and brokers sector as well as the TCSP sector, and were mandated to be completed by TCSPs. The questionnaires served to inform the CBCS on the level of compliance of these institutions with legal requirements and the actions to be subsequently taken by the CBCS. Since 2022 the requirement is extended to other sectors supervised by the CBCS, including banks and MTCs. At the time of the on-site visit, the exercise for 2024 was ongoing. Therefore, the CBCS is starting to develop a mature understanding of risks at entity level.

351. At the sectoral level, the understanding of risks is more limited as compared to that at the entity level. The level of detail regarding contextual factors per sector (such as the types of financial activity, including cross-border), details on unregulated sectors (such as the size, composition, number and types of institutions) and overall common typologies were not clearly demonstrated. As such, while the CBCS participated in the development of the NRA and conducted entity-level risk assessments, it's primary understanding on a sectoral level was regarding what the higher vulnerable sectors were (i.e., the insurance and MTC sectors rated as being medium-high ML vulnerability). Due to its recency, the CBCS has not taken advantage of the new dashboard tool to distil sectoral trends and vulnerabilities.

Table 6.1. Risk ratings by sector (banks, insurance, TCSPs, MTCs, credit unions, micro-lenders) 2019-2023

YEAR	2019			2020			2021			2022				2023			
Sector	High	Medium	Low	High	Medium	Low	High	Medium	Low	High	Medium-high	Medium-Low	Low	High	Medium-high	Medium-Low	Low
Banks		87%	13%	29%	57%		29%	57%		14%	72%	14%		43%	43%	14%	
Life Insurers	50%	50%		50%	50%		50%	50%			25%	75%				100%	
Life Insurance Brokers			100%			100%			100%		50%	40%	10%			88%	12%
Trust Company Service Providers	50%	25%	25%	50%	25%	25%	40%	40%	20%			100%			50%	50%	
Money Transfer Companies	100%			33%	67%		33%	67%			67%	33%			33%	67%	
Credit Unions		100%			100%			100%									
Micro Lenders		50%	50%		50%	50%		50%	50%			100%				100%	

FIU

352. The FIU has a developing understanding of ML/TF risks at the entity level in the notary, real estate and DPMS sectors, and is yet to develop an understanding for other sectors and at the sectoral level across all the relevant sectors. The limited resources (two supervisors and one administrative staff) significantly impact the ability of the FIU to identify and maintain an understanding of ML/TF risks at various levels in its supervised sectors.

353. Since 2018, the FIU has a risk analysis tool that uses supervisory data: i.e., responses to risk assessment questionnaires, information stemming from supervisory activities and engagement with DNFBPs. However, this tool has not been used to its full extent due to insufficient available resources. Therefore, the understanding of sectoral risks is primarily based on the NRA for which the FIU sent questionnaires to its supervised entities; however, not all entities provided a response

(see Chapter 2; IO.1). Aside from the NRA, the FIU informs its understanding through off-site monitoring, which is broadly based on risk assessment questionnaires, and, to a limited extent, engagement with DNFBPs. The FIU circulated its first risk assessment questionnaire in 2017 to notaries, DPMS, car dealers, real estate agents and accountants, and in 2021 to real estate agents, car dealers and DPMS (based on information gathered during the NRA process). These questionnaires sought information on the entity (e.g., size, type of customers, product, services) and its risk mitigating measures (e.g., compliance regime, compliance officer, training of personnel, unusual transaction monitoring). However, other than collecting the responses, the outcomes have not been analysed nor used to feed into further off-site monitoring or on-site examinations.

6.2.3. Risk-based supervision of compliance with AML/CFT requirements

CBCS

354. In 2022, the CBCS moved to an enhanced risk-based approach to supervision of compliance with AML/CFT requirements, which covers TFS obligations. This approach focuses more on risk and data analysis (see section 6.2.2). The annual supervisory plans prioritise the highest risk areas and enable the CBCS to effectively allocate supervisory resources based on identified risks. Under the new approach the CBCS can conduct scheduled and unscheduled (based on trigger events) AML/CFT supervision. The CBCS has approximately 93 supervisory staff covering all entities and sectors in both Sint Maarten and Curaçao (i.e., a total of 305 supervised entities with 49 of the 305 being supervised entities in Sint Maarten). The AT considers the number of supervisory staff in relation to the number of supervised entities to be adequate.

355. Scheduled AML/CFT supervision includes a standardized programme (i.e., an untailored and generic application to all supervised entities) and a risk-based programme (specifically tailored to individual entities for uniquely identified risks). The risk-based programme includes institution-specific (on-site and off-site) examinations of entities with higher risk profiles and (on-site and off-site) thematic work where information (e.g., data, intelligence or events) suggests there may be a sector-wide issue. Part of the risk-based programme also involves monitoring mitigation plans where deficiencies have previously been identified. The CBCS also divides its approach between institute specific and thematic supervision and includes follow-up on remedial plans.

356. The CBCS conducts off-site and on-site examinations. Off-site examination can serve as a stand-alone examination or can be the first phase of an on-site examination. On-site AML/CFT examinations focus on the risk control framework of an entity and the operational implementation thereof. During an on-site examination, the CBCS reviews the entity-level risk assessments; AML/CFT policies and procedures; client files, compliance with CDD requirements; training manuals; transaction data; transaction monitoring; and UTR reporting. The supervisor chooses the approach, including the specific on-site and off-site activities most effective for the nature, scope and purpose of each examination. MTCs interviewed confirmed that the duration of on-site examination visits by CBCS typically lasts a day, whereas on-site examinations of large FIs, such as banks and insurance companies, last five days. On-site examinations comprise interviews with the supervised FI's personnel and reviews of sampled files. Table 6.2 provides statistics on the number of on-site examinations conducted by the CBCS during 2019 through 2023.

Table 6.2. On-site examinations conducted by CBCS by sector for 2019-2023

Sector	2019	2020	2021	2022	2023
Banks	8	0	0	3	0
Micro-lenders	2	0	0	0	0
Insurance companies (life)	0	0	0	0	1
Insurance brokers	4	0	0	0	0
MTCs	2	0	0	2	1
TCSPs	1	0	0	0	0
Credit unions	0	0	0	0	0
Totals	**17**	**0**	**0**	**5**	**2**

357. In 2019, the CBCS conducted 17 on-site examinations (i.e., approximately one-third of all supervised FIs) covering all eight of the banks at that time (100%), two out of the two micro-lenders (100%), four of the 19 insurance brokers (21%), two out of the three MTCs (67%), one out of the four TCSPs (25%) and none of the four life insurance companies. The quantum of on-site examinations in 2019 provides good coverage (i.e., one out of every three FIs) in relation to the supervised entities and covers all supervised sectors, except that there were no on-site examinations of insurance companies (even though some were considered high-risk; see Table 6.1) and of those sectors not yet subject to legislative licensing and overall supervision (i.e., securities intermediaries, asset managers, electronic money institutions, payment service providers and VASPs). During the COVID-19 crisis (affecting Sint Maarten in 2020 and 2021) all CBCS examinations were conducted remotely as desk-based reviews and led to more innovative use of data (e.g., the use of dashboards and outlier detections).

358. In 2022, the number of on-site examinations were greatly reduced to five and subsequently to two in 2023. The rationale for this reduction is that more efforts are being placed on the off-site supervision through annual questionnaires, which the CBCS expanded in mid-2022 to the banking and MTC sectors (previously only mandated for completion by the TCSP sector prior to 2022, but also sent to the insurance companies and broker sector prior to 2022). The extensive off-site reviews and data gathering to support the new risk-based format to supervision has allowed for a relaxation in the quantum of on-site examinations that the CBCS previously conducted in 2019 when it had not yet implemented the risk weighting and risk assessment automated dashboard tool. As overall supervision comprises both on-site and off-site supervision, the AT, based on interviews with the CBCS and reviews of information provided, contended that the shift to a more off-site approach was adequately informed by entity-level risk assessments that the CBCS has conducted from 2022 onwards. However, reducing on-site examinations to as low as 2 out of 49 total FIs almost entirely eliminates on-site examinations altogether and makes the supervisory approach entirely based on an off-site regime. Such an approach is also not aligned with the CBCS on-site examination policy (i.e., annual examinations for high-risk entities; once every three years for medium-risk; and once every five years for low-risk) or the CBCS standard approach (to conduct on-site examinations at all FIs with a high-risk profile, 50% of those with a medium-high risk profile, and 30% of those with a medium-low risk profile).

359. In the banking sector, eight banks were inspected in 2019 while none of them were rated as high-risk (see Table 6.1). By 2023, after the introduction of a new risk-based approach in 2022, 43% of banks were re-rated as high-risk and on-site examinations were conducted in respect of them in Q4, after the end of the on-site visit. As such, the CBCS as from 2022 commenced a transformation of its supervisory approach that is more in-depth with detailed dashboards (informed by a variety of qualitative and quantitative information) and risk assessments (informed by annual AML/CFT/CPF questionnaires). However, the implementation of this new approach has taken place during the last two years of the evaluation period and during the period from 2019-2021 the supervisory approach was not as detailed and granular as the risk-based one adopted and implemented as from 2022.

360. The CBCS also conducts on-site AML/CFT examinations arising out of trigger events. Triggers include adverse media, senior management personnel being convicted of a crime, a complaint against the firm, on-going regulatory compliance issues or part of a thematic examination plan (see Box 6.3).

Box 6.3. Case study: Triggered on-site examination at FI

In 2022, supervisors of the CBCS conducted a targeted AML/CFT examination at an FI. As part of its preparatory work for examinations across all FIs, the CBCS analysed all incoming and outgoing transactions, including network analyses. Although the on-site examination was initially scheduled for November 2022, the severity of the findings prompted the CBCS to conduct the examination earlier. The examination revealed that FI was not in compliance with AML/CFT regulations, making the institution vulnerable to risks of money laundering and terrorist financing. As a corrective measure, the CBCS enforced remedial actions, which the institution promptly implemented. In May 2023, the CBCS conducted follow up on-site examination at this FI and found that the institution was largely compliant with the AML/CFT laws and regulations.

FIU

361. There is no risk-based supervision performed by the FIU over its 264 entities.[26] The FIU has not conducted any on-site examinations, and off-site supervision has been limited to sending questionnaires to selected sectors (notaries, casinos and real estate) without further in-depth analysis or supervisory action. While the FIU has a handbook, on which it relies as part of its supervisory framework, it does not outline a risk-based approach. The handbook gives guidance for conducting off-site and on-site supervision. According to this handbook on-site supervision checks include checks for completeness of compliance program, testing for effective implementation of the compliance program and risk analysis. Furthermore, due to its limited

[26] This includes entities and sectors such as pawnshops and car dealers. These sectors are supervised by the FIU for AML/CFT purposes; however, they fall outside the scope of the definition of an FI or DNFBP per the FATF Glossary. When pawnshops sell the goods left in pledge to the public, consisting of precious metals and precious stones, the pawnshop is considered a DPMS by the FIU.

resources (two supervisors and one administrative staff), the FIU is yet to mature its understanding of ML/TF risks on an entity and sectoral level that could inform the application of a risk-based approach to supervision.

6.2.4. Remedial actions and effective, proportionate, and dissuasive sanctions

CBCS

362. The CBCS has powers to apply remedial actions and sanctions. In the assessment period, based on deficiencies identified, no financial fines or penalties were imposed and there were no licenses suspended, or conditions placed on any licenses due to deficiencies identified, however one TCSP license was revoked in 2022. The CBCS has resorted to remedial actions mainly in the form of instructions and warning letters. The CBCS has an enforcement policy whereby the CBCS places emphasis on following up on remedial action plans, and in cases with severe breaches, requires FIs to report on progress on a routine and frequent basis. Remediation is also followed up in subsequent investigations.

363. On occasions where more severe breaches were found, the cases were referred to the PPO for criminal proceedings. From interviews with the CBCS, the AT understands that the CBCS has not imposed supervisory measures where parallel criminal investigations and prosecutions are ongoing. The CBCS indicated that the legal framework does not require the CBCS to wait for the conclusion of criminal proceedings before intervention and measures, such as suspension and revocation of a license, can be taken if there are threats to the financial stability or risks to trust in the financial system. Therefore, an entity might still be active in situations where supervisory remedial actions or sanctions, such as a suspension of the license, would be appropriate while criminal proceedings are ongoing. The CBCS provided information regarding a TCSP who was fined prior to the assessment period and was put under enhanced monitoring; a management meeting was held in 2019, follow-ups were conducted in 2020 and 2021 and despite communications, the TCSP did not comply. Consequently, the CBCS revoked the license of the TCSP in 2022.

364. In the view of the AT, it was not comprehensively demonstrated that the resort to remedial actions was sufficient in all instances (i.e., associated remedial actions taken by level of breach severity). Likewise, the failure to impose sanctions could potentially result from not applying a detailed risk-based approach before 2022 as that applied subsequent to 2022, and the minimal extent of on-site examinations (notwithstanding the impact of COVID-19 on on-site supervision), which may lead to AML/CFT violations not being detected in a timely manner.

FIU

365. In the evaluation period, the FIU did not take any remedial actions against or imposed sanctions on its supervised entities for non-compliance. This is due to the limited human resources which did not allow the FIU to carry out its supervisory work and thus detect breaches.

6.2.5. Impact of supervisory actions on compliance

CBCS

366. Authorities provided statistics on the breaches identified by year and type of breach for the banks, MTCs, insurance sector and TCSPs. These statistics provided relate to breaches detected during

supervisory on-site examinations and the AT notes that not all sectors were inspected each year during the period under review (see Table 6.2).

367. For the banking sector (see Table 6.3), the AT noted that eight banks were inspected in 2019 and three in 2022 (there were no examinations in 2020 and 2021 due to COVID-19; see section 6.2.3). Of the banks inspected during the assessment period, the CBCS confirmed that 97% of the cited breaches had been closed.

Table 6.3: Overview of the type of AML/CFT breaches identified during on-site examinations in the banking sector for the period 2019-2023

BANKS: AML/ CFT defiencies identified (type and #) 2019-2023							
	2019	2020	2021	2022	2023	Total	%
CDD	7	0	0	7	0	14	13%
EDD	9	0	0	4	0	13	13%
Record keeping	2	0	0	1	0	3	3%
Reporting requirement	6	0	0	1	0	7	7%
internal audit	4	0	0	1	0	5	5%
external audit	1	0	0	0	0	1	1%
risk ass	8	0	0	1	0	9	9%
internal controls	12	0	0	3	0	15	14%
fit & proper requir.	2	0	0	1	0	3	3%
monitoring syst.	8	0	0	6	0	14	13%
Breach of law (specify)	6	0	0	2	0	8	8%
other (specify)	12	0	0	0	0	12	12%
Total	77	0	0	27	0	104	100%

368. During the assessment period, the CBCS identified various categories of onsite examination breaches amongst FIs, including CDD, EDD, recordkeeping, reporting requirements, internal audit, external audit, internal controls, risk assessments, fit and proper requirements, monitoring systems, and breaches of the law. In the MTC sector, the onsite examination revealed that CDD breaches increased from 50% in 2019 to 75% in 2023 and there was a decrease in deficiencies relating to reporting requirements and the monitoring system. However, the AT noted that the MTCs remediated (closed) all 20 identified breaches by 2023, with 16 being remediated in 2022 and 4 being remediated in 2023. In the MTC sector, all breaches were identified via the CBCS onsite examination and related primarily to CDD, risk assessments and reporting requirements. As for the insurance companies and brokers sectors, 34 out of a total of 43 (i.e., 79%) onsite examination identified breaches were remediated by 2023 (i.e., 6 in 2019 and 28 in 2023). The breaches in the insurance company sector (identified during the onsite examination in 2023) related primarily to CDD, recordkeeping, fit and proper requirements and monitoring, whereas in the insurance brokers sector, onsite examination breaches relate primarily to internal controls, CDD, fit and proper requirements and breaches of the law. In respect of the TCSP sector, there were minimal breaches identified during on-site examinations, with 7 identified in 2019 (relating to CDD, risk assessments, and breaches of the law), 5 of which were closed in 2020 and 2 remained open from 2020 until 2023.

369. Based on the number of cited breaches detected and remedied during the assessment period, the AT considered that the impact of supervisory actions on compliance was good in the banking (97% closed), TCSP (80% closed) and MTC (100% closed) sectors and moderate in the insurance companies and brokers sectors (79% closed). However, the AT noted that in the TCSP sector 2 out of the 7 identified breaches remained unresolved for an extended period, that is, 2 identified in 2019 that remained unresolved until 2023.

FIU

370. The FIU was unable to demonstrate the impact of its supervisory actions during the period under review. Aside from the limited supervision, in the form of some off-site monitoring (see section 6.2.3), it emerged from on-site interviews with DNFBPs that entities have a varying understanding of their AML/CFT obligations and ML/TF risks (see Chapter 5; IO.4). Furthermore, there is no clear trend in the UTRs submitted over the years per DNFBP sector (see Chapter 5; section 5.2.5). This suggests that the limited supervisory interventions undertaken by the FIU have not led to improved compliance.

6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks

371. The CBCS and the FIU conducted various outreach activities to promote an understanding of AML/CFT obligations and ML/TF risks, with the CBCS interacting more with its supervised entities compared to the FIU. Overall, these activities were not always comprehensive and on-site interviews with FIs and DNFBPs demonstrated that there was a varying understanding of AML/CFT obligations and ML/TF risks (see Chapter 5; IO.4). Both supervisors were in the process of raising awareness on national ML/TF risks as identified in the recent NRA through the dissemination of the NRA report and development of an outreach plan (see Chapter 2; IO.1).

CBCS

372. In addition to feedback provided on supervisory actions, the CBCS publishes newsletters three times per year that set out legislative changes and other feedback, it issues AML/CFT circulars (e.g., a circular on the Systematic AML/CFT/CPF risks – SARA guidance in September 2024), topical updates (e.g., COVID-19 related ML/TF risks in 2020) and publishes Q&As on a range of issues (e.g. transaction monitoring and risks of failing to detect during the screening process of clients that have antecedents when onboarding or executing transactions).

373. The CBCS also works closely with various professional sectoral bodies. It has quarterly meetings with SMBA on banking matters, and bi-annual meetings with SMIA, SIBA and CaPA on insurance and pension fund matters; however, these do not cover AML/CFT/CPF topics/matters. All sector professional bodies disseminate information to their members. The CBCS is currently updating the Provisions and Guidelines that set out further requirements for the various FI sectors and TCSPs. In this process, the CBCS is engaging with its supervised entities through management meetings and meetings held with the sector professional bodies, primarily for the banking, insurance, and pension fund sectors.

374. For FIs and TCSPs there is a dedicated account officer in the CBCS. FIs interviewed during the on-site appreciated the line of communication they have with the CBCS. At the same time, they noted that guidance from the CBCS could be more specific, such as sharing more information on red flags, common typologies and risks present in the various FIs sectors. Furthermore, the AT

found that FIs did not demonstrate a comprehensive understanding of TF risks (see Chapter 5; IO.4).

FIU

375. The FIU engages with its supervised entities through information sessions, held spontaneously or upon request, and management meetings when registering a DNFBP with the FIU. In these sessions and meetings, the FIU explains the AML/CFT obligations but not the ML/TF risks. There were information sessions for some sectors (accountants: 2 (2021), 3 (2022) and 3 (2023); lawyers: 1 (2021), 3 (2022), 3 (2023); casinos: 2 (2021); real estate agents: 3 (2024)), but none for notaries and DPMS during the evaluation period even though these sectors have been identified as high and medium-high risk respectively in the NRA. Furthermore, the FIU publishes relevant information (e.g., FATF publications and information bulletins for DNFBPs on preventive measures) on its website. This is not done on a regular basis and is not always kept up to date.

376. In 2020, the FIU issued Provisions and Guidelines for the DPMS, real estate agents, notaries, lawyers, accountants and administration firms, and car dealers. The guidelines lay out in further detail the AML/CFT obligations, such as having an institutional risk assessment, applying a risk-based approach to customers, carrying out customer due diligence and reporting to the FIU when a suspicion arises. However, at the time of the on-site visit there were no similar guidelines for casinos, which is a high-risk sector.[27]

377. DNFBPs interviewed showed differing understanding of their AML/CFT obligations and the ML/TF risks they could be exposed to at individual and sectoral level. They also indicated receiving limited guidance and information on compliance requirements which goes back to the extent and depth of the engagement efforts by the FIU.

Overall conclusion on IO.3

378. The CBCS and FIU supervise FIs and DNFBPs. At the CBCS there are robust market entry controls in place to ensure controllers and senior managers are fit and proper, and such controls fully cover and extend to BO in practice. For DNFBPs, there are inadequate market entry controls within the licensing processes, including a lack of fit and proper testing, which does not extend to BO. Moreover, there is a lack of financial, technological and human resources at the FIU to address the supervision of DNFBPs.

379. During 2019 to 2022 the CBCS's risk understanding with respect to ML/TF risks was primarily informed by an AML/CFT/CFP questionnaire that was sent to both the TCSP and insurance sectors, but mandated for completion on an annual basis only by the TCSP sector, and not by the more significant financial sectors (i.e. the banking and MTC

[27] In December 2024, after the end of the ME on-site visit, dedicated P&Gs for casinos were published by the FIU.

sectors), which greatly limited the CBCS's overall ML/TF risk understanding within these sectors. This consequently resulted in a less tailored approach to supervision, had the more detailed information been obtained on these most significant financial sectors at the time. As such, from 2019-2022, the risk ratings of the most significant financial sectors in Sint Maarten (i.e. banking and MTC sectors) were not as informed as that of the TCSP and insurance sectors, which is not as heavily weighted by the AT as the banking and MTC sectors.

380. Understanding of risk by the FIU is much less granular than that of the CBCS who has a stronger understanding. Although certain aspects of risk-based supervision have been introduced by the FIU, with the commencement of the off-site supervision in certain sectors, fundamental improvements are needed to ensure effective risk-based supervision is applied across all DNFBP sectors.

381. Moreover, the quantum of on-site examinations conducted by the CBCS in 2023 and 2022 have greatly declined in comparison to the level of on-site examinations conducted by the CBCS in 2019. Additionally, despite CBCS's re-ratings of the risk levels amongst banks, MTCs and TCSPs, these sectors continued to demonstrate a medium-high to high risk rating in 2022-2023, and thus the quantum of on-site examinations (5 in 2022 and 2 in 2023) does not fully align with a comprehensive risk-based approach to supervision, notwithstanding the enhancement of the risk-based approach to supervision by the CBCS in 2022.

382. The FIU relies on moral persuasion to get supervised entities to comply with requirements such as registration. The FIU did not demonstrate that these actions led to improved compliance levels by supervised entities. The CBCS relies heavily on warning letters and informal sanctions, even for more serious breaches of regulation, including unlicensed activity. This does not always have a deterrent effect and means that issues may go unaddressed longer than they would if formal measures were applied. The CBCS has taken remedial actions in the form of warning letters, the issuance of reports with findings and deadlines to remediate, the conduct of follow-up examinations to follow-up on previously identified AML/CFT findings and in 2022 the revocation of a TCSP license. In respect of the banking, MTC, TCSP and insurance companies and brokers sectors, most findings have been remediated (closed), thus demonstrating improved compliance. As for the credit union, there was no on-site examinations during the assessment period.

383. **Sint Maarten is rated as having a low level of effectiveness for IO.3.**

Chapter 7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

a) Sint Maarten has information on the types of legal persons and legal arrangements (trusts), and how to create them is publicly available through the Chamber of Commerce and Industry's (COCI) website and legislation.

b) Sint Maarten has taken steps to identify and assess the ML risks posed to legal persons but has not properly identified or assessed the specific ML vulnerabilities/ risks to which these entities are exposed. Also, the jurisdiction has not assessed the TF vulnerabilities/risks in relation to same. Sint Maarten does not have a full understanding of how legal persons registered in Sint Maarten can be misused.

c) Sint Maarten has some measures in place to mitigate the misuse of legal persons and trusts including the recently established beneficial ownership (BO) register and prohibition of the issuance of bearer shares. However, there is no time limit for holders of bearer shares to register their shares in the register of shareholders.

d) In Sint Maarten, notaries are responsible for creating legal persons and arrangements, and as the gatekeepers to the sector, Sint Maarten depends on them for verification of basic and BO information of legal persons. This system does not guarantee the maintenance of adequate, accurate, and current basic and BO information, as verification controls are lacking.

e) While competent authorities (Cas) in Sint Maarten can access basic and BO information on legal persons, it was not demonstrated in practice that adequate, accurate and current basic and BO information is provided to CAs upon request in a timely manner.

f) The COCI has a legal basis to issue proportionate and dissuasive sanctions for failure to meet the information requirements, including dissolving such legal persons. However, there were no attempts to identify breaches, and no sanctions were levied on legal persons in this regard over the assessment period. Thus, Sint Maarten was unable to demonstrate that sanctions are effective, dissuasive and proportionate.

Recommended Actions

a) Sint Maarten should thoroughly identify, assess and understand the vulnerabilities and the extent to which all legal persons incorporated and registered in the jurisdiction can be or are being misused for ML/TF. In particular, this would involve an assessment of specific threats and vulnerabilities posed to each type of legal person and include all relevant data sources such as MLA and other international cooperation requests involving legal persons.

b) After Sint Maarten takes steps to thoroughly identify, assess and understand the ML/TF vulnerabilities and risks and the extent to which all legal persons and arrangements in Sint Maarten can be or are being misused, the jurisdiction should implement mitigating measures commensurate with the vulnerabilities and risks identified.

c) Sint Maarten should expedite the registration of BO information on the COCI's BO registry and ensure that the COCI is provided with sufficient resources for the completion of this task.

d) Sint Maarten should develop and implement measures to ensure that basic and BO information is adequate, accurate and current, for example, by ensuring the COCI's verification of information on legal persons as obtained by notaries.

e) Sint Maarten should ensure that CAs can access adequate, accurate and current BO information in a timely manner to satisfy both domestic and international requests.

f) Sint Maarten should develop mechanisms to identify legal persons that are not complying with the requirement to submit accurate and current basic and BO information to the COCI and utilise effective, proportionate and dissuasive sanctions where such non-compliance is identified.

g) The COCI should enhance maintenance of statistics on requests - received and fulfilled - from CAs for basic and BO information.

384. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-R. 25, and elements of R.1, R. 10, R. 37 and R. 40.

7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

385. Sint Maarten has various types of legal persons as recognised and regulated under Book 2 of the Civil Code of Sint Maarten (CC): public limited liability companies (N.V.); private limited liability companies (B.V.); private fund foundations; foundations; co-operative societies; mutual

insurance companies; and associations. The limited liability company is the most prevalent type of legal person registered in Sint Maarten, with 4307 active public limited liability companies and 2650 active private limited liability companies (see Table 1.2; Chapter 1, for a complete overview of legal persons in Sint Maarten). Sint Maarten is not considered a company formation centre (see Chapter 1). Trusts are the only type of legal arrangement recognised under the laws of Sint Maarten. Currently, one express trust is registered with the Chamber of Commerce and Industry (COCI).

386. In Sint Maarten, legal persons and trusts are incorporated through a notarial deed. TCSPs are sometimes initially consulted for assistance in the preparation of documents required to establish legal persons and trusts; however, the documentation must always be passed to the notary who is responsible for the incorporation of such legal persons and trusts. The COCI is then responsible for the registration and maintenance of basic and beneficial ownership (BO) information related to legal persons and trusts.

7.2.1. Public availability of information on the creation and types of legal persons and arrangements

387. Information on the creation, types and features of legal persons is publicly available on the COCI's website and in the Civil Code, Book 2. The CBCS website provides information on the steps to incorporate the different types of legal persons (except for co-operative societies), as well as the filing forms and registration process.

388. Information regarding the creation of trusts is not available on the COCI website; however, this information is still publicly accessible through legislation, that is, Sint Maarten's Civil Code, Book 3, Title 6 which is available online.

7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

389. Competent authorities (CAs) have taken an important step forward to identify, assess and understand the vulnerabilities and how legal persons created in Sint Maarten can be or are being misused for ML/TF through the NRA; albeit such identification and assessment of risks have been achieved to a limited extent. As noted in Chapter 2; IO.1, the NRA, which was adopted in September 2024 during the on-site visit, had limitations in data availability and lacked comprehensive analysis. Further, there was an uneven understanding of ML/TF risks of legal persons among CAs interviewed during the on-site visit. These findings underscore the need for enhanced approaches relating to the risks and vulnerabilities of legal persons and suggest that Sint Maarten lacks a comprehensive basis to design appropriate measures to mitigate the misuse of legal persons.

390. The NRA 2024 concludes that the ML risk associated with legal persons in Sint Maarten is medium. To arrive at this conclusion, the NRA process involved analysing UTRs generated by the FIU as part of its operational assessments. The report highlights that legal persons can be established with minimal background checks on beneficial owners or directors. Furthermore, the incorporation process involving a notary does not impose stringent AML/CFT measures. According to the NRA, companies, whether registered in Sint Maarten or offshore jurisdictions like Panama and Anguilla, are frequently used to obscure the origins of funds; consequently, these funds are often layered and transferred between legal persons to disguise their illicit nature.

391. Moreover, legal persons, particularly in sectors such as real estate and trust services, facilitate large cash transactions and investments, providing a means to integrate laundered funds into the economy under the guise of legitimate activities. Challenges in accessing up to date and accurate BO information complicate investigations and increase the risk of misuse by criminals seeking to conceal ownership and control. Some cases cited in the NRA indicate the involvement of PEPs, who exploit legal persons for embezzlement, fraud and laundering of public funds.

392. Despite the effort made by Sint Maarten in identifying and assessing the risks related to legal persons, there are material gaps which indicate that the identification and assessment of ML/TF risks associated with legal persons was not comprehensive:

    i. The NRA did not identify and assess the TF risks concerning legal persons.

    ii. The NRA suggests that limited liability companies are the legal entities most involved in potential criminal cases. However, the NRA notes that detailed/precise data from the PPO was not available during the risk assessment, which obstructed the reaching of further conclusions.

    iii. The NRA analysis would have benefited from a granular assessment of the risks and vulnerabilities faced by each type of legal person. Furthermore, the NRA did not use sources of information other than FIU intelligence and specific high-profile cases. Additional sources may have made the analysis more thorough, e.g., incoming and outgoing MLA or other international requests that involved legal persons.

    iv. The NRA did not make a distinction between threats resulting from domestic and foreign proceeds generated from criminal activity.

    v. While the NRA acknowledged criminal cases involving legal persons, the statistical data was not well documented in respect of the type of legal person and nature of offences. As a result, the conclusions about the types of crimes involving legal persons were drawn solely from UTRs and specific case examples.

393. On-site interviews revealed varying understanding among CAs as to how such legal persons can be used as part of the layering of complex legal structures or examples of existing typologies concerning their possible misuse. Also, they had limited awareness on the related mitigating measures and strategies employed by the authorities to address same. The CBCS participated in the NRA and demonstrated a good understanding of ML risks identified with FIs and TCSPs (see Chapter 6; section 6.2.2). However, outside of the completion of questionnaires neither the COCI nor the PPO were involved in the NRA. The COCI, who is responsible for the registration of legal persons, did not demonstrate an understanding of the features of legal persons registered in Sint Maarten, which makes them more susceptible to ML misuse, nor were the inherent risks arising from the reliance on notaries to verify basic and BO information recognised. The COCI only becomes aware of a heightened risk regarding certain legal persons when the entity is flagged by law enforcement. Other CAs, such as the FIU, Sint Maarten Police Force (KPSM) and the Nation Internal Investigations Department (LR) also did not fully develop an understanding of the inherent risks arising from the sole use of notaries as gatekeepers to verify the basic and BO information submitted by legal persons during incorporation.

394. Despite the PPO's lack of involvement in the NRA, this authority demonstrated a fair understanding of how legal persons could be misused for ML albeit, this was in relation to

corruption and fraud cases involving public officials and legal persons. During on-site interviews, the PPO also discussed cases where legal persons were used to hold foreign bank accounts to launder illicit funds (see case examples at Box 3.5 and 3.8 under Chapter 3; IO.7 and IO.8 respectively). The Detective Cooperation Team (RST) also demonstrated a fair understanding of how legal persons can be misused for ML based on involvement with such cases.

395. Moreover, Sint Maarten has not identified the TF risks concerning legal persons and as stated above, this was not addressed in its NRA. Rather, the NRA links the low terrorism risk with low TF risk. Furthermore, during onsite interviews, CAs consistently asserted that TF was not an issue for the jurisdiction and did not appreciate the potential misuse of NPOs, as legal persons, for TF. Evidently, there was generally a limited understanding among CAs of how legal persons can be misused for TF.

7.2.3. Mitigating measures to prevent the misuse of legal persons and arrangements

Incorporation using Notaries and Registration at the COCI

396. Sint Maarten relies heavily on notaries as gatekeepers to prevent the misuse of legal persons and legal arrangements. Notaries are registered and supervised by the FIU for AML/CFT purposes. There is a cap on the number of notaries which may operate in Sint Maarten; the number is three and has been utilised. Additionally, notaries are subject to the supervision of the Supervisory Board of the Supervisory Chamber of the Joint Court of Justice. The Supervisory Board can discipline any notary for engaging in conduct which is unbecoming of a proper notary.

397. In Sint Maarten, the incorporation process for legal persons commences with a notary drafting the incorporation deed. During this process, notaries collect and verify the basic and BO information about the customers creating legal entities based on CDD obligations under the relevant AML/CFT legislation. Upon establishment through a notarial deed, legal persons must register with the COCI, and so incorporation information is submitted by the notary to the COCI for registration. However, the COCI does not conduct verification checks on the information submitted, thereby relying on notaries. Notwithstanding that notaries generally understand their AML/CFT obligations, including CDD requirements, they mostly focus on shareholders and threshold (see Chapter 5; IO.4), and the assessment team (AT) recognises the lack of adequate risk-based supervision of this sector by the FIU. Sole reliance on notaries for the verification of basic and BO information would create challenges in effectively preventing the misuse of legal persons.

398. At the COCI, registration information includes the personal data (name, gender, residential address, date, place, and country of birth, nationality, and signature) of each managing director and supervisory director, including his/her date of admission, and a certified copy of the deed of incorporation. In the event of changes, this information must be updated within one week from the occurrence of the fact giving rise to this change. The COCI issues registration excerpts to legal persons upon request. Before issuing these excerpts, the COCI ensures that the information provided on registration is updated. Additionally, the COCI has procedures to investigate the accuracy and currency of the basic and BO information and request further documentary evidence as necessary. Changes to the articles of incorporation must be effected through a notarial deed and submitted to the COCI within seven days of the change. All companies must update their registration with the COCI annually and pay an annual registration fee. Despite these legal

procedures in place, the COCI could not provide information about their implementation of this over the period under review.

399. As stated under section 7.2.1 above, a trust is the only form of legal arrangement in Sint Maarten. Like with legal persons, a notary must also be involved in the establishment of a trust, and it must be registered at the COCI. Similar gaps in the process as with legal persons would arise in respect of the verification of basic and BO information by the COCI. However, only one express trust is registered in Sint Maarten; thus, this gap in relation to trust was not heavily weighted by the AT given the immateriality of the sector in Sint Maarten.

Collection of beneficial ownership information by the COCI

400. Legislative amendments to the Civil Code were introduced in 2019 requiring legal persons and legal arrangements to register BO information with the COCI, which is an important mitigating measure to prevent the misuse of legal persons. However, such registration on the BO register only started in March 2024. Beneficial owners of existing legal persons and legal arrangements are invited to voluntary contact the COCI to provide BO information. According to the COCI it has been registering BO information on 100% of the shareholders and has indicated that there are plans to have BO information on all legal persons recorded by the end of 2025.

401. Although entities are required to update COCI's Trade Register within seven days of any changes to the basic and BO information, there is no verification of the updated information for AML/CFT purposes. Furthermore, legal persons and legal arrangements are not required to file annual financial statements with the COCI.

Prohibition on the issuance of bearer shares

402. Both public and private limited companies are legally prohibited from issuing bearer shares. Bearer shareholders are prohibited from exercising the rights attached to such shares while shares remain unregistered. However, the COCI has not implemented measures to identify those companies which previously issued bearer shares and ensure that such companies convert bearer shares to registered shares. There is also no specific time by which such conversions should occur.

Record-keeping

403. Supervised entities' compliance with their record keeping requirements is good. FIs and DNFBPs (including TCSPs) retain all relevant documents with respect to transactions for seven to ten years after the end of a business relationship or the performance of the relevant transaction on behalf of clients. Moreover, FIs and DNFBPs are required to, and were collecting BO information prior to the amendment to the CC, which will result in gaining insight into the ownership and actual control of the legal persons (see Chapter 5; IO.4).

Tax obligations

404. Legal persons and legal arrangements are required to register with the Tax Authority and submit annual tax returns. The information in such tax returns includes basic information such as shareholder information and incorporation documents (Art.40(1), General National Ordinance on National Taxes (NOGNT)). Further, the management of the company is legally required to keep a register containing the names and addresses of the ultimate beneficiaries who have an interest of 10% or more in the company. This information must be maintained by legal persons and

presented on request to the Tax Authority. These obligations would allow for verification and accuracy of the information provided.

Licensing

405. A non-resident or foreign managing director of a legal person must obtain a director's license from the Department of Economic Affairs within the TEATT. Such license is automatically revoked where the person is absent from the jurisdiction for more than 12 consecutive months (unless this period is interrupted by a temporary stay of at least two months in Sint Maarten) (Art.7(1)(e), National Ordinance for Business Licensing). Further, all legal persons carrying on business in Sint Maarten are required to obtain a business license from the Department of Economic Affairs. Although this licensing regime was considered a form of mitigating measure by the AT, it was noted that the screening for issuance of a business license does not entail checks on beneficial owners (see Chapter 6; IO.3). Furthermore, the Ministry TEATT does not reconcile its records with those of the COCI to ensure that all legal persons doing business in Sint Maarten are not operating without a license issued by the Ministry of TEATT.

Supervisory examinations

406. Regulatory breaches for failure to implement CDD obligations in respect of legal persons are detected during on-site examinations or desk-based supervision. The TCSP is requested to take corrective measures by updating the file within a certain period and providing the CBCS with proof thereof. Furthermore, the CBCS follows up with the TCSP and performs reviews during subsequent on-site examinations or management meetings. However, the AT notes that the on-site examinations should be conducted more frequently by the CBCS, and the FIU's supervision on DNFPBs requires severe improvement. Details in relation to breaches cited and remedial action taking arising from on-site examinations of FIs (including TCSPs) are covered in Chapter 6; IO.3.

7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

407. Relevant CAs can access basic and BO information on legal persons and arrangements from the COCI, FIs and DNFBPs, and other CAs such as the Tax Authority to some extent. However, Sint Maarten has not demonstrated that CAs can always access adequate, accurate and current BO information in a timely manner for the reasons to follow.

Information held by the COCI and Tax Authority

408. CAs such as the FIU, the PPO and LEAs (for instance the KPSM) have timely access to basic information held by the COCI via the COCI's online portal, by visiting the COCI's premises or via written requests to the COCI. CAs may apply to register an account through COCI's online portal available on its website which could be used to obtain immediate access to the basic information held by the COCI. At the time of the on-site visit, the Tax Authority and the FIU were the only authorities holding such accounts and thus have direct access to the COCI's registry whereby they could immediately access basic information through the online portal. CAs may also access basic information at the physical address of the COCI by paying a fee of 20 NAf (approximately USD 11)) Guilders for an excerpt of such information. During the on-site interviews, CAs indicated that basic information is sometimes provided on the same day of the request. The authorities also did not report any impediments to obtaining basic information from

the COCI during the period under review; nonetheless, cases to demonstrate effectiveness were not provided to the AT.

409. CAs can also obtain BO information from the COCI upon written request to the COCI. As previously indicated, the COCI registers BO information on 100% of the shareholders of the company despite the legal requirement being 25% or more. However, since the COCI newly started collecting BO information from new registrants in March 2024 and is currently updating records to obtain BO information on existing registrants, the COCI cannot always provide accurate and up to date BO information. Sint Maarten has published a BO implementation Plan outlining a 100% BO registration by 2028. However, during on-site interviews, the COCI indicated that BO information on all legal persons would be collected by the end of 2025. The COCI also indicated on-site that the public was informed of the requirement to register BO information via information bulletins.

410. Legal persons are legally required to update the Trade Register within seven days of any changes to the basic and BO information, but there is no requirement for verification of the updated information for AML/CFT purposes (see c.24.5). Sint Maarten has not demonstrated that legal persons provide the COCI with updates to changes in basic and BO information within the stipulated period. This deficiency regarding verification of basic and BO information impedes access to adequate and current information by CAs.

411. The COCI reported receiving 196 requests from CAs during the assessment period: 90% from emails and 5% from walk-ins. It is unknown how the remaining 5% of requests were made to the COCI. The AT could not ascertain whether the requests related to both basic and BO information or the timely adherence to such requests by the COCI. Nevertheless, the issues identified above regarding the accuracy of BO information would likely impact the quality and adequacy of the information provided. The COCI has not demonstrated that adequate and accurate BO information can be provided upon request.

412. In Sint Maarten, the Tax Authority holds basic and BO information upon registration of legal persons and trusts information, pursuant to the NOGNT. CAs can access basic and BO information from the Tax Authority pursuant to an Order from the PPO; however, the AT was informed that the process to obtain BO information via this Order may vary and can take several weeks, which would not be considered timely (see c.24.10). The authority also engages in updating basic and BO information on record only on an annual basis, which in the view of the AT is delayed. This means that the Tax Authority also would be unable to provide up to date and accurate basic and BO information for CAs if requested. Although CAs are aware that the Tax Authority collects BO information, the AT was not advised of any instance where such information was requested by CAs from the Tax Authority over the assessment period.

Information held by the FIs and DNFBPs

413. General compliance with AML/CFT record keeping requirements by FIs and DNFBPs signal availability of adequate basic and BO information to CAs from information held by such supervised entities. CDD information, including information on beneficial owners, is required to be held by supervised entities (see R.10). These entities have generally good compliance with these requirements, and during interviews, TCSPs and some DNFBPs such as notaries indicated they have been keeping BO information long before the 2019 legislative requirement to do the same. For FIs and TCSPs the frequency of updating this information is based on their assessment

of the risks of their clients. During on-site examinations, the CBCS verifies the compliance of the FIs with the CBCS Provisions and Guidelines, NOCMLTF and applicable regulations.

414. The PPO can receive basic and BO information upon request. Additionally, LEAs can request BO information from supervised entities via a Prosecutor's Order from the PPO. However, during on-site interviews the PPO indicated that the process could take several weeks for the police to serve the order and collect the information. Delayed service of the PPO order would significantly impede the timeliness of LEAs access to the information.

415. The FIU and the CBCS can also request basic and BO information from supervised entities. However, the FIU's supervision of supervised entities, particularly the notaries, regarding compliance with AML/CFT obligations to maintain BO information is insufficient. Therefore, the FIU could not demonstrate that BO information was in fact updated by their supervised entities.

International Cooperation

416. The FIU indicated that on seven occasions during the assessment period it received requests from foreign FIUs for BO information, However, no further information was provided on whether these requests were fulfilled and if so, whether this happened in a timely manner.

7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

417. Sint Maarten has measures in places to ensure that basic and BO information on legal arrangements can be accessed in a timely manner in the same way as legal persons. Trusts are constituted by a notarial deed pursuant to Art. 130, Book 3 CC. A notarial deed is also used for amendments to the trust deed or revocation. The trust deed must include the designation of a beneficiary or specific object and the appointment of at least one trustee resident or established in Sint Maarten. All trust deeds and amendments must be registered at the COCI. Additionally, all trusts in Sint Maarten must register with the Tax Authority and file profit tax returns unless the trust is created solely to promote a general social interest.

418. Trustees must provide BO information when registering the trust with the Tax Authority and are required to maintain such information. FIs and DNFBPs must perform CDD to identify their customers and beneficial owners, including persons who create trusts or act as trustees. However, where the BO is not a natural person, the law does not prescribe identification of the natural persons who are their beneficial owners.

419. During the period under review, only one express trust was registered in Sint Maarten. During on-site interviews, CAs did not indicate cases where basic and BO information was requested concerning this trust. Therefore, the AT could not determine whether CAs could access adequate, accurate and current basic and BO information on legal arrangements in a timely manner.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

420. Sint Maarten has the ability to impose sanctions and take actions against legal persons for failure to meet the requirements regarding the provision of basic and BO information to authorities. These include fines, dissolution and de-registration. At the time of the on-site visit, these powers had not been utilised.

421. The COCI is empowered to impose sanctions for non-compliance with the obligations to register at the Trade Register. These sanctions include fines of up to NAf100,000 (approximately USD 56,000) as well as dissolution and deregistration of legal persons and legal arrangements. Legal persons are also subject to fines for wilfully providing incomplete registration information. Further changes to basic and BO information should be filed with the COCI within one week and failure to do so is subjected to fines up to NAf 50,000 (approximately USD 28,000). However, the COCI does not have a mechanism to ensure that BO information is actually updated by legal persons (see c.24.5).

422. A legal person can be dissolved or deregistered by court order or by the COCI for failure to adhere to legal requirements concerning registration, such as no directors being registered for at least one year and failure to provide the COCI with the official operating address of the business or legal entity. However, in practice the COCI does not dissolve legal persons in the absence of a court order. There were no dissolutions, deregistration or other sanctions administered by the COCI during the assessment period, nor were any breaches by legal persons identified by the COCI.

423. FIs and DNFBPs are required to verify BO information when entering a business relationship. This information should be updated every year for high-risk customers and every 2-3 years for low-risk clients. In cases where the FIs or TCSPs fail to verify or update the information, the CBCS can take disciplinary measures including warning letters and fines (see Chapter 6; IO.3). The CBCS reported issuing warning letters during the assessment period which resulted in remediation actions by their supervised entities. Accordingly, no fines were issued during the assessment period.

424. DNFBPs are obliged to submit their BO information to the FIU when they register with the FIU for supervision. In cases where the DNFBPs fail to provide BO information or update the information, the FIU can take disciplinary measures including fines. However, since the FIU has not taken steps to update their records on BO information submitted by DNFBPs during the assessment period and did not engage in on-site examinations for AML/CFT compliance during the assessment period (see Chapter 6; IO.3), no fines were issued during the assessment period.

425. A notary is personally liable to any party sustaining loss and/or damage because of non-compliance with the registration obligations upon incorporation of legal persons and arrangements. The AT was not provided with any evidence of any notary held personally liable during the assessment period for non-compliance with information requirements.

426. There were no investigations and prosecutions in respect of the misuse of legal persons and arrangements or against TCSPs and other gatekeepers (e.g., lawyers, accountants, notaries) for failure to comply with basic and BO information requirements.

427. From a technical compliance standpoint, the sanctions sufficiently meet the requirements, that is, they are proportionate and dissuasive (see c.24.13) However, given that no sanctions were imposed during the assessment period, the effectiveness of the sanctions could not be determined by the AT.

Overall conclusion on IO.5

428. Sint Maarten has publicly available information on the types of legal persons and arrangements, and how to create them. Sint Maarten has also taken steps to identify and assess the ML vulnerabilities/risks related to legal persons; however, the jurisdiction was not able to properly identify and assesses these; nor were the TF vulnerabilities/risks associated with legal persons assessed. Moreover, the CAs demonstrated a limited understanding of misuse of legal persons. Although Sint Maarten has taken some measures that prevents the misuse of legal persons, the limited assessment and understanding of misuse of legal persons among CAs impact Sint Maarten's ability to effectively implement mitigating measures against the misuse of such entities. There were limited mitigating measures in relation to trusts as well; however, there is only one registered trust in the country, so such deficiencies were not weighed heavily relating to trusts.

429. The COCI is yet to collect BO information on all its registrants, following the newly established BO register. Moreover, Sint Maarten could not demonstrate that basic and BO information can be obtained by all CAs in a timely manner; and such information may also not always be adequate, accurate or current. Furthermore, CAs are unable to demonstrate their ability to respond to international cooperation requests for basic and BO information in a timely manner.

430. While there is a range of sanctions for non-compliance of the requirements, due to non-imposition of such sanctions during the assessment period, CAs could not demonstrate the imposition of effective, proportionate, or dissuasive sanctions to prevent the misuse of legal persons.

431. The AT is of the view that there are notable deficiencies under IO.5, especially in light of the risk and context of the jurisdiction (see Chapter 1; section 1.4.5).

432. **Sint Maarten is rated as having a low level of effectiveness for IO.5.**

Chapter 8. INTERNATIONAL COOPERATION

8.1. Key Findings and Recommended Actions

Key Findings

a) Sint Maarten has a legal basis to cooperate with international parties and has treaties and agreements enabling it to make and receive MLA requests. MLA requests are channelled through the International Legal Assistance Centre (IRC Carib) within the Attorney General's Office (AGO) which is an important initiative. The IRC Carib has developed Guidance for Handling Incoming Requests and maintains a manual case management system for incoming and outgoing MLA requests. However, the system does not include a mechanism for feedback regarding such requests.

b) Sint Maarten prioritises MLA requests based on the urgency of the request, any timeframe stipulated in the request and on the seriousness of the suspicion. The jurisdiction has not demonstrated that it executes MLA requests in a timely manner. International feedback indicated, in two instances, some delay in providing timely MLA.

c) Sint Maarten indicated that it received 20 extradition requests and sent out 26 extradition requests during the assessment period. The offences outlined in these incoming and outgoing extradition requests were not provided by Sint Maarten.

d) While in law, Sint Maarten does not have clear written implementation procedures, such as SOPs to ensure the timely execution of extradition requests, prioritisation and feedback, where appropriate.

e) Competent authorities (CAs) have demonstrated to a limited extent that they are seeking international cooperation via other means of cooperation, to assist in the conduct of their functions. However, in the absence of comprehensive data and statistics, the assessment team (AT) could not determine whether Sint Maarten is accessing and using international cooperation in line with ML/TF risks.

f) Sint Maarten provides international cooperation through formal mechanisms, pursuant to international treaties and domestic legislation as well as via informal mechanisms with foreign counterparts. While the FIU has demonstrated to some extent that it responds to requests in a timely manner and information is being shared with foreign counterparts on request and spontaneously, other CAs were unable to demonstrate the extent to which they are providing international cooperation related to ML and associated predicate offences.

g) Sint Maarten demonstrated the capacity to provide basic and beneficial ownership (BO) information. However, Sint Maarten has not demonstrated that basic and BO information was provided in a timely manner. Further, since Sint Maarten has recently commenced an exercise to collect BO information and as only some supervised entities have been collecting and updating BO information, the AT was unable to conclude that BO information provided by CAs to international parties during the assessment period was accurate and up to date.

Recommended Actions

a) Sint Maarten should document and implement policies to ensure that information is maintained on the timeliness in responding to MLA requests, so that it can monitor effectiveness and make improvements where necessary.

b) Sint Maarten should establish documented procedures for the timely processing of extradition requests including prioritisation and feedback where appropriate.

c) CAs should establish and implement a formal mechanism to obtain feedback regarding requests received for MLA or other forms of international cooperation and extradition.

d) Sint Maarten should maintain statistics to demonstrate that CAs, including LEAs, are seeking and providing timely MLA and other forms of cooperation, in line with the jurisdiction's risk profile.

e) Sint Maarten should maintain statistics regarding MLA, extradition and other international cooperation requests to include the types of offences for which the requests are made, status of requests, timeframe for responding to requests, countries sending or making the requests and value of assets frozen.

433. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, R. 15, R. 24, R. 25 and R. 32.

8.2. Immediate Outcome 2 (International Cooperation)

434. Sint Maarten provides MLA and extradition in accordance with international treaties and domestic legislation (see R. 36 - R. 39). International cooperation is critical for Sint Maarten given its geographical location and the ML risks it faces as a transit and destination country for drug trafficking, human smuggling and international financial crimes (see Chapter 1). Competent authorities (CAs) engage in other forms of cooperation through various channels, such as the Egmont Group, Caribbean Customs Law Enforcement Council (CCLEC) and INTERPOL.

Statistics on international cooperation are maintained to some extent by the IRC Carib, FIU and CBCS, however, there is a need for the maintenance of comprehensive statistics by all CAs. The technical compliance framework (R. 37- R. 40) reflects that CAs can actively make and respond to requests for international cooperation, which is assisted by its own network and overseas LEA liaison network. Although Sint Maarten is an autonomous country within the Kingdom of the Netherlands, it remains bound by several treaties and agreements through the Kingdom of the Netherlands, particularly in areas like foreign relations which remains the responsibility of the Kingdom. These agreements along with governing legislation, provide the basis for mutual legal assistance (MLA) and asset seizure.

8.2.1. Providing constructive and timely MLA and extradition

435. Sint Maarten provides MLA and extradition in accordance with international treaties (such as the European Convention on Mutual Assistance in Criminal Matters and the Kingdom's treaty with the United States of America on Mutual Assistance in Criminal Matters) and domestic legislation (such as the Code of Criminal Procedures (CCP) and the Extradition Decree of Aruba, Curaçao and Sint Marten). In all cases of MLA, dual criminality is required. The CCP also provides a basis for cooperation regarding confiscation and seizure of assets where there is no treaty between Sint Maarten and another country (Art. 579a, CCP). However, Sint Maarten has not demonstrated that it provides timely and constructive MLA and extradition to foreign authorities.

436. The IRC Carib, within the Attorney General's Office, is the Central Authority that receives and processes all incoming MLA requests for Sint Maarten, Curaçao and Bonaire, St. Eustatius and Saba (BES Islands). All incoming MLA requests are digitally received by the IRC Carib without a requirement for such requests to be sent via diplomatic channels or post. The IRC Carib has clear written internal procedures for processing both outgoing and incoming MLA requests in the form of a guidance document titled "Guide for Handling Incoming Requests (Registration, Acknowledgement of Receipt, Forwarding, Mailbox and Execution") created in 2022. This guidance document reflects the law applicable in Sint Maarten and is utilised by Counsel in the IRC Carib.

MLA

437. The IRC Carib uses an Excel spreadsheet for its case management system to manually track incoming and outgoing MLA requests. The system was implemented in 2017. There is a dedicated prosecutor in the IRC Carib who handles MLA requests and coordinates with the relevant CAs. The Attorney General also supports MLA processing, with an additional prosecutor in Curaçao if needed. Each request, logged by the designated MLA prosecutor, includes the reference number, suspect name (if known), suspicion, requesting country, requested action, and relevant dates.

438. The IRC Carib prioritises incoming MLA requests based on the urgency of the request, any timeframe stipulated in the request and on the seriousness of the suspicion. Requests are received via a dedicated e-mail address. If there are questions concerning a request, for example where the request is incomplete or unclear, the IRC Carib contacts the requesting state either by e-mail or phone to clarify the request. Completed requests are sent via email to the requesting state to ensure timely transmission. Requested information can also be sent by post, upon the request of the requesting state. Prosecutors involved in responding to MLA requests are subject to confidentiality pursuant to the National Ordinance on Substantive Civil Service Law (NOSCSL).

439. Table 8.1 below quantifies incoming MLA requests over the period under review. The IRC Carib advised that it received 345 MLA requests from six countries (the Netherlands, France, Portugal, USA, Antigua and Barbuda and Anguilla), none of which were refused. 28 of these requested MLAs related to ML, and no MLA requests for TF were received during the assessment period. Sint Maarten did not engage in the sharing or repatriation of assets during the assessment period, but the AT was advised that prior to 2019, Sint Maarten shared assets with another jurisdiction. The majority of the requests received by Sint Maarten were sent by France. Sint Maarten indicated that criminal records, DNA comparison and video footage are most frequently requested. The main criminal offences emanating from these requests relate to drug trafficking, bribery, fraud, ML and corruption. These offences are largely in line with the risk profile of the jurisdiction. Sint Maarten did not however provide comprehensive statistics, data or case studies on the status/outcome of all those requests.

Table 8.1. Incoming MLA Requests (2019-2023)

Year	2019	2020	2021	2022	2023
No. of Requests	68	66	90	68	53

440. Sint Maarten indicated that processing times varied from a few weeks to several months based on, inter alia, the complexity of the request. The case management system does not support follow-up dates or reminders, and the prosecutor must manage these manually. The IRC Carib, for the purposes of this evaluation, reviewed some of the physical case files for each year of the assessment period and provided the processing period for those reviewed cases, the particulars of which are set out below:

Table 8.2. IRC Carib's Processing Times – Incoming MLA requests

Year	Number of Requests	Range of Processing time (days)	Average Processing Time (days)
2019	9	55-225	114.4
2020	7	43-471	261
2021	2	71 and 472	271.5
2022	3	115, 202 and 475	264.3
2023	5	2-644	276.4

441. The IRC Carib advised that several factors impact the timely processing of requests, including delays resulting from seeking more information from the requesting state and where the requested information is available among several CAs and supervised entities. The AT considers that limited staff within the KPSM may also impact the timeliness of the provision of MLA.

442. Feedback from two jurisdictions in 2024, via the International Cooperation Feedback mechanism for mutual evaluations, revealed that their requests from 2021 and 2022 had not received responses, however in one instance Sint Maarten indicated that it held no records of the request.

443. The KPSM supports the IRC Carib in executing MLA requests, particularly requests from the U.S; and cooperates closely with foreign LEAs during investigations. The AT was advised that foreign investigators have been permitted to actively join the execution of an MLA request under the leadership and responsibility of Sint Maarten's CAs. The PPO indicated that it regularly permits the presence of foreign authorities on the island, while executing an MLA request, including during seizures and/or house searches, however no statistics or case studies of such were provided.

444. All MLA requests are forwarded by the IRC Carib to the Information Unit of the KPSM for preliminary information gathering and preparation of the file. Afterwards, the file is forwarded to the relevant unit within the KPSM for action. For example, the KPSM-FU or RST can receive the file and may then take the lead in obtaining the relevant information as well as maintaining contact with the IRC Carib regarding the execution of the MLA request. The KPSM-FU, which comprised 2 officers at the time of the on-site, advised that it prioritises incoming MLA requests based on the indicated urgency, available resources/capacity within the department and the availability of the information requested. There is no consideration of ML/TF risk for prioritisation and no established policy to guide MLA prioritisation.

445. The provisions under the CPC for obtaining criminal evidence, for example the powers of the KPSM to seize and obtain documents, also apply to obtaining MLA requested information. The KPSM ensures the safety and confidentiality of its network, including all information related to incoming requests for MLA. The KPSM advised that it implements specific authorisations for its personnel to prevent unauthorised access to files. All persons designated to handle such requests are required to maintain confidentiality in accordance with the NOSCSL.

446. The mandatory and voluntary grounds for refusing assistance are set out clearly in the CPC and appear to be reasonable and justified. The CA advised that no requests were refused. There is no written guidance for foreign CAs on submitting MLA requests, which may delay responses, and the IRC Carib must contact the requesting state to obtain further information. The feedback received from the Global Network did not generally indicate whether Sint Maarten's responses to MLA requests were useful, therefore, the AT was unable to determine the extent of its usefulness in enhancing investigations and prosecutions.

447. The IRC Carib does not actively seek feedback regarding the quality and usefulness of the information provided to the requesting state. Nevertheless, while feedback on the usefulness of Sint Maarten's responses is generally lacking, regarding the quality of the information provided by Sint Maarten, one jurisdiction reported that the information provided by Sint Maarten for ML/TF related cases was "fruitful.' Considering the limited information on the quality and usefulness of the information provided by Sint Maarten, the AT was unable to reach a full conclusion in this regard.

Extradition

448. The Governor of Sint Maarten is the CA for receiving and determining extradition requests. After receiving such requests via diplomatic channels, the Governor forwards the requests for review and processing to the IRC Carib. Sint Maarten facilitates extradition in accordance with the Extradition Decree of Aruba, Curaçao and Sint Maarten. Sint Maarten only permits extradition where there is a criminal investigation initiated by the authorities of the requesting state whereby the requested person is guilty of an offence under laws of both Sint Maarten and the requesting

state. The punishment for the offence must be a custodial sentence of one year or longer. Sint Maarten does not allow the extradition of its nationals unless the requesting country guarantees that, if the individual is sentenced to an unconditional term of imprisonment for extraditable offences, they will be permitted to serve their sentence in Sint Maarten.

449. Extradition requests may be refused under the circumstances outlined in Art. 2(b) of the Extradition Decree of Aruba, Curaçao and Sint Maarten and may be expedited if the requested person consents to be extradited. Whilst the law sets out the procedures and timelines for seeking extradition, the IRC Carib has not developed implementation procedures, such as SOPs, for ensuring timely execution of extradition requests. This includes a lack of guidelines on prioritisation or feedback where appropriate or necessary.

450. Pursuant to the CrC, Sint Maarten can decide to take over the prosecution of a case whenever extradition is not possible and if the requesting state so desires. This applies to offences that were committed outside Sint Maarten by Sint Maarten's residents, with or without Dutch nationality. After receiving the case file and evidentiary material from the requesting state, the prosecutor in charge will evaluate the case file and follow the regular procedures that are in place for the prosecution of local criminal cases.

451. Regarding incoming extradition requests, Sint Maarten indicated that the IRC Carib received 20 from 2019 to 2023 and that none of the requests related to ML or TF. The AT noted that from a sample of the statistics provided, the requests were specific to a stalking and extortion scheme; attempt of theft with violence, leading to death; and murder and criminal organisation. 15 of the 20 requests were from France while the other requests were made by the USA (two), Anguilla (two) and Spain (one). The jurisdiction provided some statistics for the response time for extraditions in 2023 as set out in Table 8.3 below:

Table 8.3. IRC Carib's Processing Times – Incoming Extradition requests for 2023

Requesting Jurisdiction	Processing Period (days)
USA	27
France	277
France	584
France	27

8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

452. Over the assessment period, Sint Maarten made limited MLA requests to pursue ML and associated predicate offences. Outgoing MLA requests to other countries operate under the same system as incoming requests and the IRC Carib maintains a list for outgoing requests. The following information is recorded in this list: reference number, name of the suspect (if known), requesting country, requested investigative action, date of dispatch of the request, the date on which the request was closed, and any remarks regarding the status of the case.

453. Sint Maarten indicated that it sought MLA 352 times from 2019 to 2024 (until 01 June 2024). Most of these requests were sent to France. 23 of these outgoing requests were ML related. However, Sint Maarten did not provide information on the status of all the requests or successful case studies. One jurisdiction which provided feedback to Sint Maarten indicated that the quality of the two MLA requests from Sint Maarten were good. One of the requests related to a case involving corruption and international bribery. The other request did not identify the type of offence but described the unusual behaviour of the requested subjects according to their financial profile. However, the small portion of ML related requests is not consistent with the jurisdiction's ML risk profile and Sint Maarten did not seek MLA to identify and/or seize assets during the period under review. There were no MLA requests in respect of TF, which is, on the other and, consistent with Sint Maarten's low TF risk profile according to the NRA.

454. There were 26 outgoing extradition requests from 2019 to 2023 however, the jurisdiction did not provide particulars regarding the timeliness of responses to extradition. Of the 26 extradition requests, no requests were in relation to ML or TF. These requests were sent to France, USA, the UK, Dominica, Anguilla, BVI, Spain and Panama. Sint Maarten did not provide statistics, data or case studies to demonstrate the predicate offences to which these requests relate, nor in relation to the number of requests that were approved, rejected or pending during the period under review.

8.2.3. *Seeking other forms of international cooperation for AML/CFT purposes*

455. CAs in Sint Maarten seek other forms of international cooperation, to a limited extent, to exchange information and intelligence for AML/CFT purposes from foreign counterparts.

FIU

456. The FIU actively seeks international cooperation with foreign FIUs, based on MoUs with Egmont Group member countries and non-Egmont Group member countries. The FIU has indicated it made 89 requests to foreign FIUs from 2019 to 2024, some of which involved corruption and tax related matters, which often had connections with foreign jurisdictions. The top countries from which the FIU requested information are Anguilla, France, the United States of America, Canada and the Netherlands.

457. The FIU indicated that it requested information once from two non-Egmont Group countries during the assessment period, namely Guyana and Haiti. These requests and the countries identified are in line with the ML risk profile of Sint Maarten. However, the FIU has not provided details on, inter alia, the nature of the requests and whether the FIU received responses in all instances. The information received from foreign FIUs provides the FIU with sufficient information to continue its analysis. However, no cases were submitted to demonstrate how the information requested facilitated the analysis of ML/TF cases by the FIU or the investigation by any domestic CA on whose behalf the information was requested. One jurisdiction indicated that there was one request to the FIU during the review period which was deemed "satisfactory and timely" and that the response time was within less than 30 days.

458. The FIU requests information from foreign FIUs when there is an identified link between the investigated subject(s) including legal entity(ies) and the foreign jurisdiction. Such links can be found, for instance, in businesses, residences, bank accounts that can be traced back to the foreign jurisdiction or travel history of a subject(s). The FIU advised that the type of information requested from foreign FIUs included:

- details of the persons or companies (subjects);
- whether the subjects, natural persons and businesses appear in the database of the foreign FIU;
- whether the subjects, natural persons and businesses, appear in other databases (e.g. commercial/public/law enforcement databases);
- detailed bank account information (bank account activity/inactivity);
- identification and detailed information regarding any business associated with the subjects;
- information, criminal records of the subjects; and
- any information about the subjects and associates identified by the foreign FIU that could be relevant for the analysis conducted by the FIU.

459. The FIU uses secure systems, specifically, the Egmont Secure Web (ESW) to share information with Egmont Group members and FIU-net (used within the Kingdom of the Netherlands) to request information from foreign FIUs. Regarding information exchange with non-Egmont Group members, information is secured with a passcode that is only accessible to the foreign FIU.

KPSM

460. The KPSM did not provide any statistics or case studies to demonstrate that it sought international cooperation during the assessment period; however, Chapter 3 (example Boxes 3.1 and 3.6) contains case studies where Sint Maarten sought assistance from other countries. No data, information, or statistics were maintained, and limited case studies were provided to assess the extent of its pursuit regarding other forms of international cooperation. The KPSM stated that it generally seeks informal cooperation with the French Gendarmerie due to the open border with Saint Martin. This cooperation involves requests made via phone, instant messaging, or email based on urgency. Collaboration with the Dutch police occurs through the Dutch Royal Police Force liaison, based on the Franco-Dutch Treaty on border control and an MoU between the Dutch police and the French Gendarmerie, which gives the Police and Gendarmes the opportunity to work closer to apprehend and prosecute criminals despite their nationality and place of habitation. The MoU covers cross-border pursuit, cross-border surveillance, and sharing of information.

461. The KPSM also seeks informal cooperation with foreign counterparts through email, telephone, and instant messaging. The KPSM-FU seeks criminal intelligence on a police-to-police level with international counterparts, including with authorities in Curaçao, the Dutch Royal Police Force, and the U.S. (Drug Enforcement Administration and Homeland Security) to address fraud and ML, particularly regarding money transfers to South America. Informal cooperation is also maintained with ARIN-CARIB, a regional entity composed of law enforcement and legal experts focused on recovering proceeds of crime and prosecuting related offences, including ML and illegal trafficking. The KPSM-FU also communicates with the Dutch Tax Department, Colombian law enforcement and the Dominican Republic through liaison channels or via an intermediary. The INTERPOL Unit is utilised for various international information requests, including those related to ML as well as TF, should the need arise. The jurisdiction advised that

responses from foreign law enforcement can take days or months, but no statistics or case studies were provided to demonstrate the effectiveness of this international cooperation.

462. Feedback received from one jurisdiction indicated the cooperation with the KPSM was good and that exchange of information and intelligence occurs on a regular basis. The jurisdiction also stated that the quality of the information received from the KPSM was reasonable and that the level of intelligence provided by the KPSM was good.

Customs Authority

463. The Customs Authority can seek information via the CCLEC. However, no statistics or case studies were provided to demonstrate the extent to which requests were sought and received via the CCLEC or any other mechanism. Feedback from one jurisdiction indicated that the Customs Authority sent seven requests for the period 2019 to 2024 relating to narcotic drug tracking and smuggling (currency). Such outgoing requests are consistent with the risk profile of the jurisdiction.

CBCS

464. The CBCS has the power to seek international cooperation through various platforms including the Group of International Financial Centre Supervisors (GIFCS). In their bi-annual meetings, the members discuss AML/CFT related topics and seek cooperation with their counterparts on matters to enhance the integrity of the global financial system.

465. Table 8.4. below depicts the number of requests made by the CBCS during the assessment period. The CBCS indicated that it made one request in 2022 to the Hong Kong Insurance & Pension Fund Regulator for relevant background information on a candidate co-policymaker. However, no response was received. The CBCS also indicated that it sent six requests to the Saint Lucia Regulatory Authority in 2023 requesting information on a candidate's co-policymakers and positive feedback was received within 10 days.

Table 8.4. International Cooperation Requests made by the CBCS

Year	2019	2020	2021	2022	2023
Total Number of International Cooperation Requests	3	14	12	1	6

Tax Authority

466. The National Ordinance on General National Taxes (NOGNT) provides for international cooperation and spontaneous exchange of tax information or exchange of tax information upon request. Within the Kingdom of the Netherlands, the tax authorities cooperate with each other and with the other OECD member countries concerning, inter alia, the taxation of taxpayers or the recovery of tax debts. The Tax Authority has advised that it exchanged information with foreign counterparts for administrative tax purposes. As such, all recent legal assistance for international cooperation requested by the Tax Authority has been made for administrative tax purposes and was not intended for use in criminal investigations. While the exchange of tax information can

also initiate criminal investigations, Sint Maarten has not provided statistics or data to demonstrate the extent of the information sought or exchanged in this regard.

8.2.4. Providing other forms international cooperation for AML/CFT purposes

467. The AT was advised that CAs regularly provide other forms of international cooperation to exchange relevant information in an appropriate and timely manner with foreign counterparts through various mechanisms such as the Egmont Group, INTERPOL and MoUs. To demonstrate the effective provision of information to foreign CAs, the FIU and CBCS provided data where available.

FIU

468. The FIU shares financial intelligence both in response to requests from foreign FIUs and spontaneously. Between 2019 and 2023 it received 67 information requests from foreign FIUs and responded to a total of 62 of these requests. It also received information requests from two non-Egmont members during the assessment period. During the assessment period, the FIU spontaneously shared information with foreign FIUs 25 times. No details were however provided on the nature of the requests or disclosures.

469. The FIU asserts that it responded to most the requests for information within 30 days. In the cases where there was a delay in the FIU's response to a request was due to dependency of the FIU for information from third parties, e.g. a service provider, a LEA or other CA to answer the information request, or that the request for information was incomplete and required clarification from the foreign FIU in order to complete the analysis.

470. For the purposes of this evaluation the FIU reviewed some of the requests received during the assessment period and provided some average processing times. This is set out in Table 8.5. below. In 2019, most responses to information requests were provided within the 30-day response time. For one request, the FIU determined that it did not contain all necessary information pursuant to the Egmont Principles of Information Exchange. Although the FIU requested more (detailed) information from the foreign FIU to be able to provide more information, it was never provided by the foreign FIU. Consequently, the FIU closed off the request after four months of no satisfactory response from the foreign FIU.

Table 8.5. FIU's response time to requests from foreign FIUs

Year	Total Requests	Within 30 days	31-60 days	60+ days
2019	18	14	-	4
2020	7	5	1	1
2021	7	6	1	-
2022	9	8	1	-
2023	3	2	-	1

471. The FIU, when needed, contacts a foreign FIU to request further information or clarification after it has received the request for information. According to the FIU, the duration of the feedback response is dependent on several factors, such as the status of the analysis by the FIU (if the analysis is ongoing) or additional third-party information. The FIU stated that it has only requested feedback from a foreign FIU by sending a feedback form on one (1) occasion, in the year 2020. The case study below is an example of the FIU providing spontaneous disseminations to a foreign FIU.

Box 8.1. Spontaneous TF Dissemination by the FIU

Competent authorities: FIU, foreign FIU, PPO
Relevance for FATF Immediate Outcomes: - For IO.2; the case demonstrates the FIU's spontaneous disclosure to a foreign FIU. - For IO.9; the case demonstrates that a foreign FIU and FIU give a high priority to TF related UTRs/STRs and do not apply a high threshold to exchange TF information spontaneously with each other.

Case Summary:
In 2022, a local bank reported suspicious transactions of a client, natural person, into his account, consisting of (1) cash deposit that totalled USD 110,915.00, and (2) incoming wire transfers from a family member totalling USD 8,266.16. The activities and the explanations given, sale from a restaurant and savings in a neighbouring country, St. Kitts & Nevis, were not consistent with the client's customer profile. The cash deposits facilitated two flagged outgoing wire transfers totalling USD 45,750.00 to two natural persons in Egypt for the purchase of an apartment, however, no evidence of proof of purchase of an apartment was provided to the bank by the client. Requests for information were sent to the FIU St. Kitts and Nevis and to the FIU Egypt and information was collected from various open and closed sources, such as the Tax Department, LEAs and Chamber of Commerce. In addition, online open-source intelligence research was done. The information obtained revealed that the client did have family in Egypt, but that the apartment building was under construction and no deposit made for a unit by the family. The bank further reported other unusual transactions that the client carried out to various other subjects Searches of open and closed sources revealed that the subject, a client of the bank, had liked a post on social media of a relative of another subject, natural person, of Egyptian nationality, who was found guilty of committing 11 terrorist crimes in 2014 and sentenced to life in prison without the possibility of parole.

The FIU sent the information spontaneously to the Security Service Sint Maarten (VDMS), the LEA Sint Maarten and to the Egyptian Money Laundering and Terrorist Financing Combating Unit (EMLCU).

KPSM

472. Sint Maarten reported that cross-border, organized drug and ML crimes in Sint Maarten are primarily addressed by the RST and the KPSM-Fraud Unit. Furthermore, the RST maintains informal cooperation via telephone, instant messaging or email with inter alia the Dutch Royal Police Force, Immigration and Customs Enforcement, DEA and Homeland Security of the United States, the Federal Police of Belgium, the Royal Canadian Police, as well as the police forces of Curaçao and Bonaire. Formal contact is initiated through the intermediary of the Dutch Royal Police Force. However, Sint Maarten did not provide any statistics or case studies to demonstrate its assertions regarding the forms of international cooperation provided by the RST and the KPSM- Fraud Unit. The KPSM was unable to submit any other statistics or data to demonstrate the extent to which it provides other forms of international cooperation for AML/CFT purposes.

Tax Authority

473. The Tax Authority did not provide statistics, data or case studies to demonstrate the extent to which other forms of international cooperation were provided to foreign counterparts for AML/CFT purposes. Moreover, no case examples were presented to demonstrate that the Tax Authority provided international cooperation for AML/CFT purposes. Nevertheless, the AT recognised from the Global Forum Report that the Tax Authority does engage in the exchange of information for tax purposes.

Customs

474. Feedback from one jurisdiction indicated there were three requests for intelligence from Dutch Customs regarding an offence of Untrue Declaration. The information requested was received in a timely manner and used to conduct ongoing analysis.

475. The AT was advised that, pursuant to the CCLEC, Customs has taken part in the following operations: follow the money, small arms and light weapons, and reefers containers. The results of the information exchanged with the other CCLEC members are shared by the Regional Intelligence Liaison Officer (RILO) by means of a monthly bulletin. Customs-related information with the CCLEC is exchanged via the Regional Clearing System (RCS) or via e-mail. The RCS is a small boat clearing system designed to clear incoming and outgoing yachts. All the CCLEC members have access to this system. Besides the CCLEC members, several police forces, other LEAs and non-LEAs have access to the RCS system through a MoU with the CCLEC. Customs did not provide statistics, case studies or data to demonstrate the extent to which other forms of international cooperation were provided to foreign counterparts for AML/CFT purposes.

CBCS

476. The CBCS can provide international cooperation through various platforms including the GIFCS. In their bi-annual meetings, the members discuss AML/CFT related topics and seek cooperation with their counterparts on matters to enhance the integrity of the global financial system. The CBCS also cooperates and exchanges information with the Central Bank of Aruba and the Central Bank of the Netherlands based on MoUs. During the period under review, the CBCS reported that it received 51 requests from these counterparts (see Table 8.6) however no details were provided on the nature of the requests. In general, the CBCS advised that most requests are processed and responded to within 30 days. Further, feedback from one counterpart indicated that the CBCS provided timely information.

Table 8.6. Foreign Requests of the CBCS

Year	Total Requests Received
2019	12
2020	29
2021	7
2022	1
2023	2

8.2.5. International exchange of basic and beneficial ownership information of legal persons and arrangements

477. CAs can obtain and provide basic and BO information on legal persons/legal arrangements registered in Sint Maarten upon foreign requests. During the assessment period, CAs such as the IRC Carib and the FIU provided information in response to foreign requests for cooperation in identifying and exchanging basic and BO information on legal persons. This was done through MLA requests and requests from foreign FIUs. Whilst the IRC Carib did not provide information to demonstrate provision of BO information in response to requests, the FIU had requested BO information from service providers on seven occasions during the assessment period. No details were however provided about which foreign entity made the requests.

478. Several of these requests for information required the FIU to send more than one request for additional information to service providers, the PPO and law enforcement. The KPSM is usually able to collect all requested information and if this is not possible, the PPO will secure a subpoena from the Court to obtain documents pursuant to Art. 177s (1), CCP which will enable it to obtain all required information. The PPO can request BO information from supervised entities pursuant to a PPO Order.

479. Chapter 7; IO.5 highlights some concerns regarding the BO framework in Sint Maarten. Notaries are solely responsible for verifying BO information, however the COCI does not conduct verification. There is also no proper supervision of the notaries as DNFBPs by the FIU regarding AML obligations. In 2014, Sint Maarten commenced the process to register BO information of existing registrants, and the exercise is ongoing.

480. Although legal persons are required to update BO information within seven days of change; there is no system in place at COCI to ensure that this is in fact done. Further, the COCI has not identified those companies which still have bearer shares and not registered shares, which impacts accuracy and availability of BO information.

Overall conclusion on IO.2

481. Sint Maarten has a good domestic legal framework for all forms of international co-operation including several treaties through the Kingdom of the Netherlands as well as MoUs with foreign counterparts which may be used as the basis for MLA and informal sharing of information by CAs with regional and international counterparts. The IRC Carib is the Central Authority which maintains a case management system for MLA and extradition and coordinates the execution of requests. The IRC Carib also has internal written procedures in relation to the processing of MLA requests, although there is no written guidance to assist foreign CAs regarding how to present MLA requests.

482. The FIU has made international cooperation requests to foreign FIUs based on Egmont information exchange procedures and MoUs with non-Egmont members. The FIU generally responds to international cooperation requests within a timely manner, that is, 30 days and has also provided assistance to foreign counterparts via spontaneous disclosures. Apart from the FIU however, CAs do not generally provide timely international cooperation, whether through formal and informal channels; nor is this prioritised. Feedback from the Global Network relating to the quality of MLA was also limited.

483. Moreover, the extent to which Sint Maarten seeks MLA in respect of ML and predicate offences is not consistent with the risk profile of the jurisdiction. Sint Maarten also did not seek MLA to identify and/or seize assets during the assessment period. The inability of the CAs to provide adequate comprehensive qualitative and quantitative data to demonstrate that they are seeking and providing other forms of cooperation, specifically relating to the tracing and identification of assets and to investigate ML and other predicate offences is considered a major deficiency

484. Sint Maarten could not properly demonstrate that it is using formal and other forms of cooperation to obtain and provide information related to ML, suspected TF and associated predicate offences, on a case-by-case basis. In the absence of such, the AT was unable to determine the extent to which Sint Maarten seeks MLA and other forms of international cooperation in line with its ML risk profile.

485. Sint Maarten demonstrated its capacity to provide basic and BO information to foreign counterparts, however, in these instances the timeliness of same was not portrayed. Further, Sint Maarten has recently commenced an exercise to collect BO information and only some supervised entities have been collecting BO information. It is therefore difficult to assess whether the BO information provided by the FIU to international parties during the assessment period was accurate and current.

486. **Sint Maarten is rated as having a low level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE ANNEX

1. This section provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report (MER).
2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous MER published in 2013. This report is available from the CFATF website.

Recommendation 1 – Assessing risks and applying a risk-based approach

This new Recommendation was not assessed in the 3rd Round MER.

Criterion 1.1 - Sint Maarten identified and assessed its ML/TF risks through its first NRA (covering the period 2017-2021) which was adopted in September 2024. The NRA was developed based on the World Bank tool using quantitative and qualitative data collected from supervisory, administrative, enforcement and judicial agencies as well as supervised entities to determine sectoral threats, vulnerabilities and risks. However, there were significant data gaps in the NRA and limited assessment of the legal persons, NPO and VASP sectors.

Criterion 1.2 - The FIU is responsible for identifying and assessing ML/TF risks, as well as advising the Minister of Justice on any action to be taken and the application of a risk-based approach (Art.3(2)(k), NOFIU). Sint Maarten has not designated an authority or mechanism to coordinate actions to assess risks. However, for Sint Maarten's first risk assessment, the FIU used a Steering Group to coordinate actions to assess ML/TF risks.

Criterion 1.3 -There is no mandate for the risk assessments to be kept up-to-date.

Criterion 1.4 - The NRA was adopted in September 2024 (during the Mutual Evaluation (ME) on-site visit).[28] As at the end of the on-site visit, the FIU started to disseminate the NRA to some DNFBPs via e-mail. However, the assessment team's (AT's) interviews with several competent authorities (CAs), FIs and most DNFBPs revealed that they were not aware of the NRA findings, such as those regarding the high-risk sectors of casinos and notaries. Both the FIU and the CBCS indicated that they will host information sessions to explain and share the NRA results with their supervised entities.

Criterion 1.5 - The FIU is responsible for advising on and, on request, formulating an AML/CFT national policy based on the risk assessment, and promoting the implementation of that policy and cooperation between supervisors, investigative authorities and other parties responsible for implementing that policy (Art.3(2)(l), NOFIU). Additionally, the NRA includes proposed action points for enhancement of Sint Maarten's AML/CFT/ CPF framework (Pgs. 80 – 83, NRA). However, there was no evidence that resources have yet

[28] After the ME on-site visit, the NRA was published in the National Gazette (on 11 October 2024) and uploaded on the websites of the FIU and the CBCS.

been allocated based on risk. At the agency level, the CBCS adopted an enhanced RBA to AML/CFT supervision of FIs and TCSPs in 2022, which serves to better inform the overall supervision of these entities (see c.26.4(b)).

Criterion 1.6 - Sint Maarten does not have exemptions from the FATF Recommendations.

Criterion 1.7 - (a) Sint Maarten requires FIs and DNFBPs to conduct enhanced due diligence (EDD), where they identify higher risks, to manage and mitigate those risks (Arts.10(1), 20(1), (2), NOCMLTF). However, the conduct of EDD is not dependent on higher risks identified by the country; and **(b)** there is no requirement for FIs and DNFBPs to incorporate this information in their risk assessments.

Criterion 1.8 - FIs and DNFBPs are allowed to conduct simplified due diligence (SDD) measures when ML/TF risks are lower (Art.6(1), (3), (4), NOCMLTF; p.18/section 2.5, P&Gs Jewellers; p.19/section 2.3, P&Gs Lawyers, Notaries, Accountants, Tax Advisors and Administrative Offices; p.18/section 2.4, P&Gs for Real Estate). There is no requirement for these lower risks to be consistent with the country's assessment of its ML/TF risks.

Criterion 1.9 - Supervisors are required to ensure that FIs and DNFBPs are implementing their obligations under R.1 (Art.31, NOCMLTF). However, shortcomings exist in relation to certain obligations under R.1, R.26 and R.28.

Criterion 1.10 - FIs and DNFBPs are required to identify and assess their ML/TF vulnerability and, using a risk-based approach, to mitigate this vulnerability effectively (Art.20, NOCMLTF). However:

(a) There is no explicit requirement in law or otherwise for FIs and DNFBPs to document risk assessments.

(b) There is no requirement for FIs and DNFBPs to consider all relevant risk factors before determining their overall risk levels and the appropriate level and type of mitigation to be applied.

(c) There is no requirement to keep risk assessments up-to-date.

(d) No mechanisms were identified to provide risk assessment information to CAs.

Criterion 1.11 –

(a) FIs and DNFBPs are required to have policies, controls, written procedures and measures which focus on AML/CFT (Art.20(2), NOCMLTF). However, for FIs, there is no requirement for these to be approved by senior management. For DNFBPs, except for casinos[29], this requirement is covered in the dedicated Provisions and Guidelines (p.11, P&Gs Jewellers; p.37-38, P&Gs Lawyers, Notaries, Accountants, Tax Advisors and Administration Offices; p.36, P&Gs Real Estate).

(b) FIs and DNFBPs are required to conduct a periodic evaluation of the procedures and measures to mitigate the risks identified (Art.20(4), (5) NOCMLTF). However, there is no

[29] The P&Gs for casinos have been published on the website of the FIU in December 2024, after the end of the ME on-site visit.

general requirement for FIs and DNFBPs to enhance these procedures and measures if necessary.

(c) FIs and DNFBPs are required to take enhanced measures and mitigate the risks where higher risks are identified (Art.10, 20(1), (2), NOCMLTF).

Criterion 1.12 - Sint Maarten allows SDD measures to be applied if lower risks have been identified (see c.1.8). SDD is not permitted whenever there is a suspicion of ML/TF (Art.6(1), (3), (4) NOCMLTF). However, there are gaps in criteria 1.9-1.11 which impact this criterion.

Weighting and Conclusion

Sint Maarten identified and assessed its national ML/TF risks through its NRA which was approved in September 2024. FIs and DNFBPs are obliged to apply EDD where higher risks are identified. However, deficiencies exist throughout the Recommendation, including findings that Sint Maarten has not yet implemented risk-based measures to mitigate ML/TF risks.

Recommendation 1 is rated Partially Compliant.

Recommendation 2 - National Cooperation and Coordination

Sint Maarten was rated PC with this Recommendation (formerly R.31) in its 3rd Round MER. Deficiencies included: the need to formalise the National Committee on Money Laundering (CIWG) and many other national co-ordination mechanisms; and the PPO had not yet undertaken training. Sint Maarten addressed some deficiencies, and the level of compliance was improved to a level comparable to LC by its 12th FUR.

Criterion 2.1 – Sint Maarten does not have national AML/CFT policies that are informed by the risks identified. However, there is a provision to have policies, when developed, to be reviewed every ten years (Art.18(3), NOCMLTF).

Criterion 2.2 – The FIU is the designated authority responsible for formulating national AML/CFT policies (Art.3(2)(l), NOFIU).

Criterion 2.3 – At an operational level, Sint Maarten has mechanisms in place which enable, *inter alia*, the FIU and law enforcement authorities (LEAs) to co-operate, and where appropriate, co-ordinate and exchange information domestically with each other through the Cooperation Agreement for the Intelligence Centre Sint Maarten (ICSM). The ICSM is a collaboration which comprises the FIU, Customs Department Sint Maarten, Police Force (KPSM), Coast Guard (KW), National Internal Investigations Department (NIID), Public Prosecutor's Office (PPO), Security Service (VDSM); and the Royal Military Police (KMAR). The core mandate of the ICSM is to exchange information to assist with organisational priorities regarding: local, cross-border crime and subversive crime; identifying and recognising criminal collaborations, identifying and drawing up crime images; identifying trends and developments in crime; the integrated approach to administrative and/or criminal enforcement; and the development and application of innovative methods and techniques within surveillance and enforcement. At a policymaking level, however, there are no mechanisms in place for the FIU, LEAs,

supervisors and other CAs to co-operate, and where appropriate, co-ordinate and exchange information domestically with each other concerning the development and implementation of AML/CFT policies and activities.

Criterion 2.4 –The ICSM is the mechanism for co-operating and co-ordinating on operational CPF matters; however, the same deficiencies under c.2.3 apply.

Criterion 2.5 – Sint Maarten has legislation in place for the protection of personal data. The provisions therein do not inhibit the exchange of information in the combating of ML and TF (Art.2(4), NOPPD). Accordingly, data protection and privacy rules are compatible with AML/CFT requirements and do not inhibit co-operation and co-ordination.

Weighting and Conclusion

Sint Maarten designated the FIU as responsible for national AML/CFT policies and there are no impediments regarding co-operation and co-ordination among relevant authorities at the operational level. However, Sint Maarten has not developed coordinated and holistic national AML/CFT policies informed by identified risks. Also, Sint Maarten has not demonstrated that there are mechanisms in place for co-operation and co-ordination concerning the development and implementation of AML/CFT/CPF policies and activities at the policymaking level.

Recommendation 2 is rated Partially Compliant.

Recommendation 3 - Money laundering offence

Sint Maarten was rated LC with this Recommendation (formerly R.1 and R.2) in its 3rd Round MER. The following deficiencies were identified: the ML offence did not cover all categories of predicate offences; the Criminal Code was not applicable to anyone who was outside of Sint Maarten; there was no evidence that parallel civil and criminal proceedings were possible; and the penalty applicable to culpable ML was not sufficiently dissuasive.

Criterion 3.1 - The offence of ML is criminalised in line with the Vienna and Palermo Conventions (Arts. 2:404, 2:405, 2:406, CrC).

Criterion 3.2 – The offence of ML is applicable to any proceeds obtained directly or indirectly from the commission of any serious offence. All serious offences are predicate offences which include a range of all designated categories of offences listed in the glossary of the FATF Methodology (Arts.2:404, 2:406, CrC).

Criterion 3.3 – Sint Maarten applies an all-crimes approach regarding predicate offences to ML, including all serious crimes (see c.3.2).

Criterion 3.4 – The ML offence extends to any type of property that directly or indirectly represents the proceeds of crime, and any person who hides or conceals the real nature, the source, the location, the transfer or the moving of an object; or hides or conceals the identity of the person entitled to an object; or who has in his possession an object where he should reasonably suspect that the object originates directly or indirectly from any crime. *"Objects"* means all corporeal property and all property rights (Art.2:406(2), CrC).

Criterion 3.5 - It is not necessary that a person is convicted of a predicate offence when proving that property is the proceeds of crime (Hoge Raad, September 27, 2005, NJ 2006/473).

Criterion 3.6 – Sint Maarten extends the predicate offence of ML to conduct that occurred in another country which constitutes an offence in that country, and which would constitute a predicate offence had it occurred domestically. The Criminal Code applies to any Dutch national or any foreign national who has a permanent place of residence or resides in Sint Maarten, who, outside the territory of Sint Maarten, commits an offence which is considered a serious offence under the Criminal Code of Sint Maarten and is punishable under the law of the country where it was committed (Art.1(6), CrC).

Criterion 3.7– The ML offence applies to persons who commit any predicate offence (Arts. 2:404 and 2:406, CrC).

Criterion 3.8 – In Sint Maarten, it is possible for the intent and knowledge required to prove the ML offence to be inferred from objective factual circumstances based on case law established within the Kingdom of the Netherlands. In the case of ECLI: NL: GHAMS: 2020:1556 (Evidence consideration for money laundering), the court established that ML can be considered proven if, based on the established facts and circumstances, it cannot be otherwise than that the amounts of money originate from any crime. Additionally, the PPO provides insight into the evidence from which such facts and circumstances can be deduced.

Criterion 3.9 – The Criminal Code makes provision for sanctions for different types of ML offences with regard to natural persons convicted of the offence as follows:

- Intentional (knowing or understanding) ML is punished with imprisonment to a maximum of eight years or a fine of NAf 100,000 (approximately USD 56,000) (Art.2:404, CrC);
- Habitual ML is punished with imprisonment to a maximum of nine years or a fine of NAf 100,000 (approximately USD 56,000) (Art.2:405, CrC); and
- Negligent ML is punished with imprisonment to a maximum of four years or a fine of NAf 25,000 (approximately USD 14,000) (Art.2:406, CrC).

These sanctions are in line with those available for other similar serious offences such as human trafficking, fraud, theft and embezzlement. These sanctions are considered proportionate and dissuasive**.**

Criterion 3.10 – Criminal sanctions are applicable to legal persons which include foundations, private fund foundations, associations, cooperatives, mutual insurance companies, public limited companies and private companies (Art. 1:1 CrC). Additionally, a public company, silent partnership, shipping company and capital funds are deemed to be equivalent to legal persons (Art. 1:127, CrC). The sanctions for legal persons are the same as those for natural persons. Where a criminal offence is committed by a legal person, criminal proceedings may be imposed on (a) the legal person, (b) those persons who have ordered the commission of the criminal offence and those persons who actually directed the unlawful acts or (c); persons referred to in (a) and (b) jointly. Criminal sanctions are not precluded by civil or administrative sanctions as dissolution of a legal person can be

imposed where a legal person has been convicted of ML (Art. 2:25 (1)(c), CC). The combination of sanctions applicable for legal persons is proportionate and dissuasive.

Criterion 3.11 – A range of ancillary offences is available for ML, including participation in (Art.1:123(1)(a), CrC); association with or conspiracy to commit (Art.1:123, CrC); attempt (Art.1:119(1), CrC); aiding and abetting (Art.1:124(a), CrC); inciting (Art.1:123(b), CrC); facilitating (Art.1:124(b), CrC); counselling the commission (Art.1:123(1)(b), CrC).

Weighting and Conclusion

Recommendation 3 is rated Compliant.

Recommendation 4 - Confiscation and provisional measures

Sint Maarten was rated PC with this Recommendation (formerly R.3) in its 3rd Round MER. The deficiencies were: the powers to confiscate or take provisional measures concerning TF or some predicate offences for ML were limited; confiscation measures (under both pre-conviction and post-conviction circumstances) in the Criminal Code did not allow for the measures to be imposed without notice; and based on insufficient statistics, effectiveness of the confiscation regime could not be confirmed. Sint Maarten addressed the shortcomings, and compliance was improved to a level comparable to C in its 12th FUR.

Criterion 4.1 – Arts. 1:74; 1:75 and 1:77, CrC and Art. 119 (a), CCP of Sint Maarten set out the primary legislative measures governing the confiscation of *'objects'* held by criminal defendants or third parties. The term *'objects'* includes all corporeal property and all property rights (Art: 1:77(6), CrC).

(a) Objects belonging to a convicted person which were obtained entirely or largely either by the commission of or from the proceeds of any criminal act, are subject to forfeiture (Art.1:75 (a), CrC).

(b) Proceeds of (including income or other benefits derived from such proceeds), or instrumentalities used or intended for use in, ML or predicate offences and/or objects with which the criminal act was committed, or objects used to commit or used in preparation to commit the criminal act are subject to confiscation (Art.1.75 (a, b, c and e), CrC).

(c) Art. 2.408, CrC criminalises TF. Art. 1.67(1), CrC makes provision for the forfeiture of proceeds upon conviction of any criminal offence. Further, objects can be forfeited and confiscated (Arts 1.68 and 1.75, CrC). As such, the jurisdiction has legislative measures that enable the confiscation of property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations.

(d) Property of corresponding value is subject to confiscation in Sint Maarten. In such circumstances, where there is property that has not been seized at the time of confiscation, such property will be assessed, and a monetary value will be assigned to it. Such property must be surrendered, or its assessed value must be paid. (Art 1:75 (a - e) and Art 1:77 (3), CrC).

Criterion 4.2 - Concerning property subject to confiscation, there are wide provisional investigative powers aimed at determining the amount of the illegally obtained profit, with a view to their confiscation under Art.1:77, CrC (Art.177a, CCP).

(a) Art. 177a, CCP allows for investigative provisional measures to be taken where there is suspicion of a crime or a criminal offence where a significant pecuniary advantage may have been obtained. The examining magistrate is authorised to grant permission for investigating officers to obtain from any person, a statement, documents or data in relation to the subject of an investigation (Art.177b, CCP) and execute search warrants (Art. 177d, CCP) to identify, trace, and assess any relevant property. Art. 177s, CCP also allows for the public prosecutor to request information from CAs, FIs and DNFBPs to identify, trace and evaluate relevant property. *"Person"* is defined as both the natural and legal person (Art. 1, CCP).

(b) The examining magistrate can authorise the seizure of all objects for which a pecuniary benefit of any importance can be obtained, objects may also be seized to safeguard the right of redress or a fine to be imposed for that offence (Art. 119a, CCP).

(c) Assets seized under Art. 119a, CCP is done for safekeeping and to ensure confiscation with the right to recourse. The authority to take the assets into custody of the State will prevent or void actions that prejudice the country's ability to freeze seize or recover property subject to confiscation.

(d) There are appropriate investigative measures which can be taken include the acquisition of search warrants and production orders (see R.31).

Criterion 4.3 - Art. 1:68, CrC outlines the grounds on which property belonging to a third party can be forfeited, ensuring that bona fide third parties' rights to their property are protected. Furthermore, a bona fide third party can be compensated where the confiscated item was lawfully disposed of, destroyed, given away or is designated to be used for a purpose other than an investigation (Art.145(2), CCP).

Criterion 4.4 - There are mechanisms in place for managing and disposing of property frozen, seized or confiscated (Arts. 2 and 13 of the National Decree on Detention Confiscated Objects). During the pre-trial phase (managing) the Registrar of the Court of First Instance is the custodian of seized assets (Art. 141, CrC). Upon confiscation, permission must be sought from the PPO before the said property can be disposed of (Art. 13, NDDCO). Furthermore, the asset must be sold publicly, with the proceeds deposited to the National Treasury (Art. 42, NOAE).

Weighting and Conclusion

Recommendation 4 is rated Compliant.

Recommendation 5 - Terrorist financing offence

In the 3rd Round MER, Sint Maarten was rated NC with Recommendation 5 (formerly SR II). The main deficiencies were: no specific penalty was reflected in the Criminal Code for the offence of TF; the indirect or unlawful provision of funding for the commission of a terrorism offence was not criminalised; the wilful provision of funds etc. to individual

terrorists was not criminalised; TF was not independently criminalized and therefore there was no comprehensive treatment of TF in the Criminal Code as required by the TF Convention; the Criminal Code did not specify a penalty for the legal person which participates in an organization aimed at committing terrorist offences; and not all terrorist offences referenced in Annex 1 to the TF Convention were criminalized as required. According to the 12th FUR, Sint Maarten, as a result of legislative amendments, substantially improved its compliance with the requirements to a level of LC at minimum, with the term "funds or other assets" covered to have the same scope as R.6, and to address the threat posed by foreign terrorist fighters (FTFs).

Criterion 5.1 – Sint Maarten criminalises TF based on Art 2 of the TF Convention by virtue of Art. 2:408, CrC. Anyone who intentionally provides himself or another with means or information or intentionally collects, acquires, has in his possession, or provides to another person objects that serve in whole or in part, directly or indirectly, lawfully or unlawfully, to provide financial support for the commission of specified terrorist crimes is covered. *"Objects"* is defined broadly and aligns with the FATF definition of *"funds and other assets"* (Art. 2:406(2), CrC). The definition of *"terrorist intent"* is in alignment with the TF Convention (Art. 1:203, CrC).

Criterion 5.2 – In Sint Maarten, the TF offence extends to any person who intentionally provides or collects objects directly or indirectly, lawfully or unlawfully, that serve in whole or in part to provide financial support for the commission of a terrorist crime or a crime in preparation or facilitation of a terrorist crime or to provide financial support for the commission of specified crimes (Art. 2:408, CrC). This provision is sufficiently broad to include a criminal offence for providing or collecting funds or other assets in support of a terrorist or terrorist organisation in the absence of a link to a specific terrorist act or acts.

Criterion 5.2(*bis*) – The TF offence in Sint Maarten includes financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in terrorist acts or conducting or participating in terrorist training (Art. 2:408, CrC). Participation in terrorist training can broadly include receiving instruction (Art 1:124 CrC).

Criterion 5.3 –Sint Maarten's TF offence extends to any funds or other assets. *"Objects"* means money, as well as all property and all property rights, however acquired, and the documents and data carriers, in whatever form or capacity whatsoever, from which the ownership or entitlement with regard to the money, property or assets, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, bills of exchange and letters of credit (Art. 2:408(2), CrC). This definition meets the definition of funds and other assets, whether from a legitimate or illegitimate source.

Criterion 5.4 – TF offences do not require that the funds or other assets: (a) were actually used to carry out or attempt a terrorist act(s) **(**see the Dutch District Court case. ECLI:NL:RBDHA:2020:1324https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBDHA:2020:1324) which is binding on Sint Maarten.

Criterion 5.5 – The intent and knowledge required to prove the offence can be inferred from objective factual circumstances based on the Supreme Court's jurisprudence (see the Dutch case of Hoge Raad case-NJ 2003, 552 which is binding on Sint Maarten).

Criterion 5.6 – Natural persons found guilty of a TF offence can be sentenced to a term of imprisonment for a maximum of 18 years or a fine in the fifth category- NAf 100,000 (approximately USD 56,000.) (Art. 2:408, CrC). In addition, forfeiture proceedings can be pursued pursuant to Art 1:67, CrC. A person convicted of a TF offence can be disqualified from rights including holding public office or specific offices, practising specific professions and the right to be elected as a member of general representative bodies (Arts. 2:56 and 1:64 CrC). The combination of measures is considered proportionate and dissuasive by the AT.

Criterion 5.7 – Criminal liability applies to legal persons (Art. 1:127, CrC). Sanctions can be imposed on the legal person, those persons who have ordered the commission of the criminal offence including TF, and those persons who directed the unlawful acts. Legal persons can be fined up to NAf 1,000,000 (approximately USD 560,000) (Art 1:54 (7)(8)). Moreover, funds illegally obtained by legal persons are subject to forfeiture (Art 1:67-68 CrC) and confiscation (Art 1:77 CrC) and the legal person can be dissolved (Art 24, CC). The combination of sanctions is considered dissuasive and proportionate.

Criterion 5.8 – It is an offence in Sint Maarten to:

(a) attempt to commit the TF offence (Art. 1:119, CrC);

(b) participate in a TF offence or attempted offence (Art. 1:123(1)(a), CrC);

(c) organise or direct others to commit a TF offence or attempted offence (Art. 1:123(1)(b), CrC); and

(d) contribute to the commission of one of more TF offence(s) or attempted offence(s) by a group of persons with a common purpose (Arts. 2:54 and 2:80, CrC).

Criterion 5.9 – TF is a designated ML predicate offence (Arts. 2:404 and 2:406, CrC) (see c.3.2).

Criterion 5.10 – TF offences apply, regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organisation(s) is located, or the terrorist act(s) occurred/will occur (Arts. 1:4 (n) and 1:6(e), CrC).

Weighting and Conclusion

Recommendation 5 is rated Compliant.

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

Sint Maarten was rated PC in the 3rd Round MER regarding Recommendation 6 (formerly SR.III). The main deficiencies included: the framework did not support an ability to invoke freezing mechanisms in response to a requesting foreign State's freezing requirement; the substantive freezing mechanism for persons listed pursuant to UN Resolution 1267 (1999) did not meet the 'without delay' requirement; and there was no clear guidance specially to other persons and entities concerning their obligations in taking action under the freezing

mechanism. By the end of the 3rd Round, Sint Maarten did not address all deficiencies, and the PC rating was maintained.

Criterion 6.1 – In relation to designations pursuant to the UNSCRs 1267/1989 and 1988:

(a) The Ministry of Foreign Affairs of the Netherlands is the CA responsible for proposing persons or entities to the 1267/1989 Committee and to the 1988 Committee for designation (Art. 2, Sanctions Act, 1977 of the Netherlands). Sint Maarten, as a constituent of the Kingdom of the Netherlands, cannot propose designations directly to the UN Sanctions Regimes, hence the Ministry of Foreign Affairs of the Netherlands is responsible for proposing designations to Committees 1267/1988/2253 and 1988 on Sint Maarten's behalf. However, there is no formal mechanism for Sint Maarten to propose designations to the Kingdom of the Netherlands for proposal to the Committees.

(b) – (e) There are no measures to meet the criteria.

Criterion 6.2 –

(a) The Minister of General Affairs in conjunction with the Council of Ministers (consists of the Ministers of Tourism, Economic Affairs, Transport and Telecommunications; Public Health, Social Development and Labor, Justice, Finance, Education, Culture, Youth & Sport and Public Housing, Spatial Planning, Environment and Infrastructure) is the CA responsible for designating persons or entities that meet the specific criteria for designation, as set forth in UNSCR 1373 (Art.3(1), NSR). However, there are no mechanisms to give effect to the request of another country for designation of persons or entities pursuant to UNSCR 1373.

(b) – (e) There are no mechanisms to meet these criteria.

Criterion 6.3 –

(a) There are no measures to meet this criterion.

(b) There is no requirement for prior notice in respect of a designation decision (Art 3, NSO).

Criterion 6.4 – Art. 2(3), NSO makes provision for the implementation of freezing measures without delay and without prior notice pursuant to the relevant Ministerial Regulation. However, "without delay" is not defined in law or enforceable means, and the implementation of UN designations pursuant to UNSCR 1267/1989 and 1988 requires a transposition via Ministerial Regulations which would cause delay.

Criterion 6.5 – The CBCS and the FIU are the CAs responsible for implementing and enforcing compliance with TFS-TF obligations in Sint Maarten (Art. 12(1), NSO). The following standards and procedures apply:

(a) All natural and legal persons are required to freeze without delay and without prior notice funds or other assets of designated persons (Art. 2(3) NSO and Art. 4, NSR). However, no law or enforceable means interprets the timeframe for freezing without delay.

(b) The obligation to freeze also applies to any funds or other assets owned or controlled by the designated person or entity, and not just those that can be linked to a particular terrorist act, plot or threat; cash or other assets owned or controlled, in whole or in part, directly or indirectly, by designated persons or entities; cash or other assets derived from or generated by cash or other assets owned or controlled, directly or indirectly, by designated persons or entities; and the funds or other assets of persons and entities acting on behalf of or on behalf of designated persons or entities (Art 2(3), NSO).

(c) Natural and legal persons are prohibited from transferring funds, assets, economic resources or financial or other services related thereto, making available directly or indirectly, in whole or jointly, for the benefit of designated persons and entities; entities owned or controlled directly or indirectly, by designated persons or entities; or persons and entities acting on behalf of or on behalf of, or at the direction of designated persons or entities, unless a permit or permission has been granted by the minister or an international organization in accordance with the relevant resolutions of the Security Council (Art 4(4), NSO and Art 4, NSR).

(d) The Minister of General Affairs is responsible for immediately notifying FIs and DNFBPs of designations (Art 9, NSO). The CBCS issues sanctions letters to the persons and institutions under its supervision emphasising the requirement to adhere to the provisions of the sanction laws. The link to the consolidated UN sanctions list is provided, and the procedures in case of a match are set out. Moreover, in the respective AML/CFT P&Gs on Combating Money Laundering and the Financing of Terrorism for the sectors under the CBCS's supervision, FIs are instructed to continuously consider the sanctions laws and regulations that are in force, which can be found on the CBCS's website. The FIU also instructs DNFBPs to monitor the UN sanctions lists in its P&Gs. The Sanctions Manual 2016 states that the sanction coordinator of the Foreign Relations Department of the Ministry of General Affairs (DBB) will inform the COCI as well as law firms and other non-financial institutions via letter of any designations. However, there is no stipulated timeframe for such communication, therefore it is unclear whether the communication of designations should occur immediately upon taking such actions. Furthermore, Sint Maarten has not demonstrated that the authorities provide clear guidance to DNFBPs on their obligations under freezing mechanisms.

(e) Sint Maarten requires FIs and DNFBPs to report, within 48 hours to the FIU, any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions (Art. 7, NSO).

(f) There are measures in place to protect the rights of bona fide third parties when implementing the obligations under R.6 (Art 10(2), NSO).

Criterion 6.6 –

(a) Sint Maarten has not identified any publicly known procedures to submit de-listing requests to the 1267/1989 Committee or the 1988 Committee in the case of persons and entities designated pursuant to the UN Sanctions Regimes, which do not or no longer meet the criteria for designation.

(b) Sint Maarten has not identified measures in force to de-list and unfreeze the funds or other assets of persons and entities designated pursuant to UNSCR 1373.

(c) Regarding designations pursuant to UNSCR 1373, Sint Maarten has identified procedures to allow, upon request, review of the designation decision before a court or other independent CA. Art 10, NSO permits an appeal to the court against a Ministerial Regulation as referred to in Art 2, NOAJ.

(d) Sint Maarten has submitted that regarding designations pursuant to UNSCR 1988, the draft Manual on Sanctions, 2024 contains delisting procedures and provides that a request for delisting can be submitted by the person concerned to the UN Focal Point for delisting. However, at the time of the on-site visit, the draft Manual had not been approved by the Council of Ministers and thus was not in force.

(e) Sint Maarten has submitted that regarding designations on the Al-Qaida Sanctions List, the draft Manual on Sanctions, 2024 contains delisting procedures and provides that a request for delisting can be submitted by the person concerned to the UN Ombudsperson to the ISIL and Al-Qaida Sanctions Committee. However, at the time of the on-site visit the draft Manual had not been approved by the Council of Ministers and thus was not in force.

(f) Art. 8, NSO makes provision for the unfreezing of funds or other assets of persons or entities with similar names as designated persons or entities, by the Minister, or the judge where the obligations as referred to in Arts. 2, 3 and 4 are wrongly applied to a state, territory, natural person, legal entity, group or organisation with the same or a different similar name as designated in the Ministerial Regulation referred to in Art. 2. Detailed guidance pertaining to the procedure that should be followed as per Art. 12 is contained in the Sanctions Manual, 2016 under the heading "A financial Match". This document is publicly available.

(g) There is no mechanism for communicating de-listings and unfreezings to FIs and DNFBPs immediately upon taking such action. Additionally, there is no mechanism for providing guidance to FIs and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action.

Criterion 6.7 – The Minister of General Affairs under the NSO may, by decision, grant a full or partial exemption to access frozen funds or other assets (Art. 11, NSO).

Weighting and Conclusion

Sint Maarten has a few elements of the legal framework required for the implementation of TFS-TF under Recommendation 6. However, there are some key deficiencies under this Recommendation, including no mechanisms for: implementation of TFS without delay; identifying and proposing targets for designations as set out in the relevant UNSCRs communicating the giving effect to request for designations by foreign countries; for delisting; and communicating delistings and unfreezings to supervised entities. These are shortcomings are regarded as moderate in the context of Sint Maarten.

Recommendation 6 is rated Partially Compliant.

Recommendation 7 – Targeted financial sanctions related to proliferation

This new Recommendation was not evaluated in the 3rd Round of Mutual Evaluations.

Criterion 7.1 – Sanctions Decrees are implemented against the Democratic People's Republic of Korea (DPRK). These Decrees implement targeted financial sanctions without delay to comply with UNSCRs adopted under Chapter VII of the Charter of the United Nations, relating to the prevention, suppression, and disruption of proliferation of weapons of mass destruction and its financing (Art. 2, NSR). However, "without delay" is not defined in law or enforceable means, and the implementation of UN designations pursuant to UNSCR 1718 requires a transposition via Ministerial Regulations which would cause delay.

Criterion 7.2 – The CBCS and the FIU are the CAs responsible for implementing and enforcing compliance with TFS-PF obligations in Sint Maarten (Art. 12(1), NSO). The following standards and procedures apply:

(a) Art. 3, NSO and Art. 3, NSR read together require all natural and legal persons to freeze without delay and without prior notice the funds and other assets of designated persons and entities related to the DPRK. However, no law or enforceable means interprets the timeframe for freezing without delay.

(b) The freezing obligations applicable to DPRK applies to: (i) any funds or other assets owned or controlled by the designated person or entity, and not just those that can be linked to a particular terrorist act, plot or threat; (ii) the cash or other assets owned or controlled, in whole or in part, directly or indirectly, by designated persons or entities; (iii) the cash or other assets derived from or generated by cash or other assets owned or controlled, directly or indirectly, by designated persons or entities; and (iv) the funds or other assets of persons and entities acting on behalf of or at the direction of designated persons or entities (Art 2(3) NSO).

(c) All natural and legal persons are prohibited from transferring funds or other assets, economic resources or financial or other services related thereto, make available directly or indirectly, in whole or jointly, to: designated persons and entities owned or controlled directly or indirectly by designated persons or entities; or persons and entities acting on behalf of or on behalf of designated persons or entities, without the permission of the Minister or an international organisation in accordance with the relevant UNSCRs (Art. 2(4) NSO).

(d) Sint Maarten has identified mechanisms in the Sanctions Manual, 2016 which include letters and publication on the CBCS website for communicating designations to FIs and DNFBPs. The Sanctions Manual does not indicate the timeframe for taking such action. The FIU does not provide similar guidance to DNFBPs.

(e) Sint Maarten requires FIs and DNFBPs to report, within 48 hours, to the FIU any assets frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs, including attempted transactions (Art. 7, NSO).

(f) The rights of bona fide third parties are protected in the domestic framework, which provides that natural and legal persons who act in good faith are not liable to third

parties for the frozen actions and actions taken by them in compliance with R.7 (Art 10(2), NSO).

Criterion 7.3 – Sint Maarten has identified the CBCS and the FIU as the CAs charged with monitoring and ensuring compliance of FIs and DNFBPs with obligations under R7 (Art. 12(1) NSO). Criminal sanctions apply to enforce compliance by FIs and DNFBPs with freezing obligations and those in breach of these requirements are liable to imprisonment of up to four years and a fine in the fifth or sixth categories (NAf 100,000 (USD 55,865.90) and NAf 1,000,000 (USD 558.659) respectively) depending on whether the offence was committed intentionally or not (Art. 16, NSO). The CBCS monitors and ensures compliance by conducting off-site and on-site reviews (CBCS's Handbook of Policy & Procedures Risk-Based Supervision). However, the FIU has not adopted measures to monitor and ensure compliance of DNFBPs with the obligations reflected in R.7.

Criterion 7.4 –

(a) Sint Maarten has not demonstrated that it meets this criterion.

(b) Art. 8, NSO makes provision for the unfreezing of funds or other assets of persons or entities with similar names as designated persons or entities, by the Minister, or the judge where the obligations as referred to in Arts. 2, 3 and 4 are wrongly applied to a state, territory, natural person, legal entity, group or organization with the same or a different similar name as designated in the Ministerial Regulation referred to in Art. 2. Detailed guidance pertaining to the procedure that should be followed as per Art. 12 is contained in the 2016 Sanctions Manual under the heading "A financial Match". This document is publicly available.

(c) The relevant minister or ministers may, by decision, grant a full or partial exemption to access frozen funds or other assets provided that the international regulation underlying the sanction as referred to in Art. 2 expressly provides for this (Art. 11, NSO).

(d) The Minister of General Affairs is responsible for immediately notifying FIs and DNFBPs of designations (Art. 9, NSO). The CBCS issues sanctions letters to the persons and institutions under its supervision emphasising the requirement to adhere to the provisions of the sanction laws. The respective AML/CFT P&Gs for the sectors under the CBCS's supervision do not address TFS-PF or proliferation financing. The Sanctions Manual, 2016 states that the sanction coordinator of the DBB will inform the COCI as well as law firms and other non-financial institutions via letter of any designations. However, similar provisions are not included in the draft Sanctions Manual, 2024. Furthermore, there is no stipulated timeframe for such communication, therefore it is unclear whether the communication of designations should occur immediately upon taking such actions. Moreover, Sint Maarten has not demonstrated that the authorities provide clear guidance to DNFBPs on their wider obligations regarding TFS-PF.

Criterion 7.5 –

(a) EU Regulation 2017/1509, which entails regulation concerning the DPRK, is directly applicable in Sint Maarten, per Art. 2 (ff), NSR. Art. 34 (12) of the EU Regulation 2017/1509 provides that any such interest, other earnings and payments are frozen in

accordance with paragraph 1, paragraph 3 of Art. 34 of the EU Regulation 2017/1509 shall not apply to the addition to frozen accounts of: (a) interest or other earnings on those accounts; and (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which the person, entity or body referred to in the Article was designated.

(b) This criterion is not applicable. TFS set out in UNSCR 2231 ceased to apply on 18 October 2023.

Weighting and Conclusion

Sint Maarten has met some of the requirements under R.7. However, some key deficiencies remain. For instance, the framework does not support the implementation of TFS without delay, and there are no mechanisms for directly communicating delisting and unfreezing to FIs and DNFBPs. These deficiencies are considered moderate shortcomings in the context of Sint Maarten.

Recommendation 7 is rated Partially Compliant.

Recommendation 8 – Non-profit organisations

Sint Maarten was rated NC in the 3rd Round MER for SR VIII. The main deficiencies identified were as follows: No recent risk assessment with regard to the NPO sector; no oversight or supervisory regime for NPOs; no requirement for the NPO sector to keep financial information; no procedures in place to ensure that they are able to effectively investigate and gather information on NPOs; and no training sessions or sensitization forum held for NPOs. According to its 12th FUR of the 3rd Round, Sint Maarten had not addressed four of the five shortcomings identified concerning Special Recommendation VIII. Based on the clarification provided as to how authorities investigate and gather information on NPOs, compliance with Special Recommendation VIII was however improved up to a level comparable to a PC by its 12th FUR**.**

Criterion 8.1 –

(a) Sint Maarten has identified foundations and associations as organisations that meet the definition of NPOs. Sint Maarten has also identified the number and categories of NPOs that meet the FATF definition of NPOs. However, Sint Maarten has not demonstrated that it has used all relevant sources of information to identify the features and types of NPOs, which by virtue of their activities or characteristics, are likely to be at risk of TF abuse.

(b) Through its NRA, Sint Maarten has identified, to some extent, the nature of threats posed by terrorist entities to the NPO sector and how terrorist actors can abuse NPOs.

(c) Sint Maarten has not reviewed the adequacy of measures- including laws and regulations, to ensure that any at-risk subset of NPOs is properly regulated, supervised and is not abused for TF - in order to be able to take proportionate and effective actions to address the risks identified.

(d) Sint Maarten has not identified measures to allow for periodic re-assessments of the sector's potential vulnerabilities to terrorist activities to ensure effective

implementation of measures.

Criterion 8.2 -

(a) Sint Maarten has submitted that there are clear policies to provide accountability, integrity and public confidence in the administration and management of NPOs. There is power for the relevant minister to create a national policy for this purpose (Art. 18, NOCMLFT) however this national policy has not been developed or produced. The Corporate Governance Code, established by National Decree, contains general measures regulating good and transparent management of companies and foundations and their supervision in accordance with internationally accepted standards. The Corporate Governance Code applies to companies and foundations (Art.3, NOCG) however it is not applicable to associations. All NPOs that are legal persons, are required to register with the COCI and are not permitted to open a bank account unless registered with the COCI. Also, these NPOs are required to keep information provided up to date (Art. 4 (1), NOTR). Further, foundations and associations with a balance sheet total exceeding NAf 100,000 are obligated to prepare, publish and submit annual accounts to the COCI and the FIU (Art. 2:59, CC).

(b) Sint Maarten has not conducted any outreach and educational programmes with NPOs and the donor community to raise awareness about potential TF abuse and risks as well as the measures NPOs can take to protect themselves against such abuse.

(c) Sint Maarten has not worked with NPOs to develop and refine best practices to address TF risk and vulnerabilities and thus protect them from TF abuse.

(d) Sint Maarten has not identified the mechanisms used to encourage NPOs to conduct transactions through regulated financial channels where feasible.

Criterion 8.3 - Sint Maarten recently completed its NRA and therefore, the country cannot yet demonstrate a risk-based application of measures to NPOs that are at risk for TF abuse.

Criterion 8.4 -

(a) Sint Maarten has not demonstrated that appropriate authorities monitor compliance of NPOs with the requirements of R.8, including the requirement for risk-based measures to be applied to them under c.8.3.

(b) Sint Maarten applies criminal and administrative sanctions to NPOs or persons acting on their behalf. Such criminal and administrative sanctions apply to all legal persons (Art 2:408 CrC and Art. 2:25, CC). Persons acting on behalf of NPOs that are convicted for TF can be disqualified from holding public office or specific offices, practicing specific professions and disqualified from elected membership of general representative bodies. NPOs convicted of a TF offence can be subject to fines and such fines also apply to legal persons convicted of TF. These sanctions are considered proportionate and dissuasive.

Criterion 8.5 -

(a) The Secretary of the COCI is obligated to give access to all registered annual reports to foreign and domestic agencies to perform their legal duties (relevant provision not

identified). Sint Maarten has not identified the measures in place for other agencies, which hold relevant information on NPOs, to ensure effective co-operation, co-ordination and information sharing.

(b) Sint Maarten identified the VDSM and the PPO as the relevant CAs but has not demonstrated that the VDSM and PPO have investigative expertise and capability to examine those NPOs suspected of either being exploited by or actively supporting terrorist activity or terrorist organisations.

(c) The FIU is authorised to access all sources of information, relevant data or information held by or on behalf of other authorities (Art. 5(1), NOFIU). Sint Maarten has not demonstrated that all investigating authorities have similar access to obtain such information during an investigation. The PPO and the LEAs can obtain the information via a Prosecutor's Order.

(d) The FIU can provide data to authorities and civil servants charged with investigating and prosecuting criminal offences, which can be reasonably presumed to be important in enabling the investigation and prosecution of ML or the underlying crimes (Art. 6, NOFIU). There is no express requirement for such information to be promptly shared with CAs in order to take preventive action.

Criterion 8.6 - The FIU is permitted by law to provide information in respect of NPOs to local and foreign authorities charged with investigating and prosecuting criminal offences (Arts. 6 and 7, NOFIU). The FIU is also responsible for the exchange of information with foreign FIUs (Arts. 6 and 7, State Decree Register FIU 2013). Where the MLA requests concern information regarding NPOs suspected of TF or involvement in other forms of terrorist support, the designated authority is the public prosecutor. Requests to the PPO must go through the official channels and comply with the necessary conditions (Art. 555, CCP).

Weighting and Conclusion

Sint Maarten has some of the elements in place under R.8, however there are moderate shortcomings. Sint Maarten has identified the sub-sector of NPOs that meets the FATF definition and to some extent, has identified the nature of the threat posed by terrorists to NPOs through the NRA. However, Sint Maarten has not identified the subset of NPOs likely to be at risk of TF abuse; and has not reviewed the adequacy of measures including laws and regulations to ensure that any at-risk subset of NPOs is properly monitored or supervised and are not abused for TF. Furthermore, NPOs are not supervised or monitored for TF purposes. There are also no identified measures to allow for periodic re-assessment of the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures.

Recommendation 8 is rated Partially Compliant.

Recommendation 9 – Financial institution secrecy laws

Sint Maarten was rated LC with this Recommendation (formerly R. 4) in its 3rd Round MER because there was no clear provision for the FIU as supervisor to exchange information with other foreign supervisors.

Criterion 9.1 – There are no financial secrecy laws that inhibit the implementation of AML/CFT measures in Sint Maarten as regards suspicious transactions reporting (Art.28, NOCMLTF); however, it is unclear whether FIs can share information between themselves where required by R. 13, R. 16 or R. 17.

Access to information by competent authorities

The CBCS can request all necessary information to properly exercise its supervisory tasks (Arts.14-16, 18, NOAE) and other CAs can access information held by FIs (Art.177S, CCP).

Sharing of information between competent authorities

The CBCS can share confidential information obtained through the course of its activities with other domestic and foreign CAs (e.g., MoU 2002 between the CBCS and the Public Prosecutor; Arts.41(2), (3), (4), NOSBC). The same goes for the FIU (Art.6, NOFIU).

Sharing of information between FIs

It is unclear whether FIs can share information between themselves where required by R.13, 16 or 17.

Weighting and Conclusion

Sint Maarten has met most of the requirements under R.9; however, it is unclear whether FIs can share information between themselves where required by R. 13, R. 16 or R. 17.

Recommendation 9 is rated Largely Compliant.

Recommendation 10 – Customer due diligence

Sint Maarten was rated PC with this Recommendation (formerly R.5) in its 3rd Round MER. Deficiencies included: the legislation did not adequately cover the scope of financial services activities and operations conducted by FIs that were subject to AML/CFT requirements; certain categories of financial services providers were not covered (intermediaries operating in the Curaçao Stock Exchange (DCSX) and life insurance agents); no threshold for occasional transactions that are wire transfers; no requirements to undertake CDD measures when the FI has doubts about the veracity or adequacy of previously obtained CDD; and the basic obligation to conduct CDD was not set out in law. Sint Maarten addressed some shortcomings, and compliance was improved to a level comparable to LC by its 12th FUR.

Provisions are applicable to financial service providers which based on the definition set out in Art.2(a), NOCMLTF include all the activities of FIs as required by the FATF Standards.

Criterion 10.1 – FIs are prohibited from keeping anonymous accounts or accounts in obviously fictitious names (Art.5(1), NOCMLTF).

Criterion 10.2 – FIs are required to undertake CDD measures when:

(a) establishing business relations (Arts.4(1)(a), 3(1), 5(2), NOCMLTF);

(b) carrying out occasional transactions in excess of NAf 25,000 (approximately USD 14,000), including situations where the transaction is carried out in a single operation or in several operations that appear to be linked (Arts.3(1)(b), (c), 4(1)(b), NOCMLTF);

(c) legislative provisions do not apply to carrying out occasional/incidental transactions that are wire transfers in the circumstances covered by R.16 and its Interpretive Note.

(d) There is a suspicion of ML/TF (Art.3(1)(g), (h), NOCMLTF);

(e) the FI has doubts about the veracity or adequacy of previously obtained customer identification data (Art.3(1)(e), NOCMLTF).

Criterion 10.3 – FIs are required to identify the customer (whether permanent or occasional, and whether natural or legal person or legal arrangement) and verify the identity based on reliable and independent documents, data or information (Arts.7(1)(a), (1)(b), 17, NOCMLTF).

Criterion 10.4 – FIs are required to verify that any person purporting to act on behalf of the customer is so authorised and identify and verify the identity of that person (Arts.7(1) (e), 8(1), NOCMLTF).

Criterion 10.5 – FIs are required to identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner, such that the FI is satisfied that it knows who the beneficial owner is (Arts.7(1)(b), 7(3), 17(5), NOCMLTF). A beneficial owner ("ultimate beneficiary") is defined as a natural person who (1) has an interest of more than 25% of the capital, or can exercise more than 25% of the client's voting rights at a shareholders' meeting, or in some other way can exercise effective control in or on behalf of the client; (2) is the beneficiary of 25% or more of the capital in a legal construction, including a foundation or a trust, or can exercise effective control in the legal construction; or (3) has control over 25% or more of a client's capital (Art.1(ee), NOCMLTF).

Criterion 10.6 – FIs are required to understand and, as appropriate, obtain information on the purpose and intended nature of the business relationship (Art.7(1)(c), NOCMLTF).

Criterion 10.7 – FIs are required to conduct ongoing due diligence on the business relationship, including:

(a) scrutinising transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the FI's knowledge of the customer, and their business and risk profile, including where necessary, the source of funds (Art.7(1)(d), NOCMLTF).

(b) ensuring that data or information collected under the CDD process is kept up-to-date and relevant, particularly for higher risk categories of customers (Art.9(1), NOCMLTF). There are no requirements to undertake in reviews of existing records.

Criterion 10.8 – For customers that are legal persons or legal arrangements, FIs are required to understand the ownership and control structure of the customer (Arts.7(1)(a), (3)(b), (3)(c), 8(1), (2), NOCMLTF). There is no requirement for FIs to understand the nature of the customer's business.

Criterion 10.9 – FIs are required to identify the customer and verify its identity in instances where the customer is a legal person or legal arrangement through the following information (Art.7(3)(b)(1-2°), (3)(c)(1-2o), NOCMLTF):

(a) name, legal form, and proof of existence.

(b) there is a requirement for the collection of the names of the relevant persons having a senior management position in the legal person or arrangement. However, there are no requirements to collect information on the powers that regulate and bind the legal person or arrangement.

(c) the address of the registered office; however, there is no specific requirement for requiring a principal place of business address in the case whereby the registered office is not the principal place of business.

Criterion 10.10 – For customers that are legal persons:

(a) FIs are required to identify and take reasonable measures to verify the identity of the beneficial owner in such a way that the FI is convinced of the identity of the ultimate beneficiary (Art.7 (1)(b), NOCMLTF).

(b) There are no requirements for FIs to identify and take reasonable measures to verify the identity of beneficial owners to the extent that there is doubt under (a) as to whether the person(s) with the controlling ownership interest is the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural person (if any) exercising control of the legal person or arrangement through other means.

(c) In the event of failing to verify the identity of the natural person exercising control under (a) or (b), there is no requirement for the establishment of the identity of the relevant natural person holding a senior managing official position within the legal person. If the customer or the owner of the controlling interest is a listed company and is subject to disclosure requirements which impose requirements to ensure transparency of the beneficiary or is a subsidiary of such a company, the rules regarding CDD are not applicable to shareholders or ultimate beneficiaries of such a company (Art.7(4), NOCMLTF).

Criterion 10.11 –For customers that are legal arrangements:

(a) FIs are required to take reasonable measures which, at a minimum, result in the FI gaining insight into the ownership and actual control structure of that client (Art.8(2), (3), NOCMLTF). In respect of trusts, FIs are required to take reasonable measures to identify and verify the identity of the beneficiary of the trust with documents used to verify the identity of the trustee, the person who exercises effective control over the trust, the settlor of the trust, the protector, the beneficiaries or categories of beneficiaries and the ultimate beneficiary of the assets of the trust (if different) as well as the way in

which these identities have been verified by a reliable and independent source (Art.7(3)(c), NOCMLTF). Section 3 of the CC Book 3 contains requirements on who can act as a trust, the management of the trust and on the registration of property belonging to the trust.

(b) There are no legislative provisions for FIs to identify and take reasonable measures to verify the identity of beneficial owners for other types of legal arrangements and the identity of persons in equivalent or similar positions. However, it is recognised that Sint Maarten does not have any other types of legal arrangements besides trusts in the legal framework, thus this deficiency was not heavily weighted.

Criterion 10.12 –In addition to the CDD measures required for the customer and the beneficial owner, FIs are required to conduct the following CDD measures on the beneficiary of life insurance and other investment related insurance policies, as soon as the beneficiary is identified or designated:

(a) for a beneficiary that is identified as specifically named natural or legal persons or legal arrangements – taking the name of the person (Art.4(3)(a)(b), NOCMLTF).

(b) obtaining sufficient information concerning the beneficiary to satisfy the FI that it will be able to establish the identity of the beneficiary at the time of the payout (Art.4(3)(b), NOCMLTF). The provision however does not cover the element of a beneficiary that is designated by characteristics or by class or by other means.

(c) verifying the identity of the beneficiary should occur at the time of the payout (Art.4(2)(b), NOCMLTF).

Criterion 10.13 –FIs are required to take enhanced measures which include reasonable measures to identify and verify the identity of the beneficiary and the ultimate beneficiary at the time of payout (Art.10(3), NOCMLTF). However, there are no requirements for FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. Additionally enhanced measures are not required on the basis of a determination that a beneficiary who is a legal person or a legal arrangement presents a higher risk.

Criterion 10.14 (a)-(c) - FIs are allowed to verify the identity of the customer and beneficial owner during the course of establishing a business relationship if this is necessary to ensure the service provision is not disrupted and there is little ML/TF risk. In such cases, FIs should verify the identity as quickly as possible after the establishment of the business relationship (Art.4(1)(2)(a), NOCMLTF). There is no requirement on the ML/TF risks being effectively managed prior to the verification and identification of the customer and beneficial owner during the establishment of a business relationship.

Criterion 10.15– FIs are allowed to verify the client's and ultimate beneficiary's identity during the procedure for entering into a business relationship in situations where there is a lower ML/TF risk. Additionally, a bank can open an account before the identity of the customer can be verified, provided it guarantees that the account cannot be used before verification has taken place (Art.4(2)(a), (2)(c), NOCMLTF). However, there are no requirements for FIs to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification.

Criterion 10.16 –FIs are required to apply CDD requirements to existing customers on the basis of materiality and risk, and to conduct due diligence on such existing relationships at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained (Arts.3(1)(e)(f)(g)(h), 3(3), 6 (1) (3) (4), 10(1)(2), NOCMLTF).

Criterion 10.17 – FIs are required to perform EDD where ML/TF risks are higher (Art.10(1), NOCMLTF).

Criterion 10.18 – FIs are permitted to conduct SDD for certain types of clients (Art.6, NOCMLTF); however, it is unclear if this is informed by risk assessments conducted by the country and FIs (see R.1). SDD is not acceptable whenever there is suspicion of ML or TF, or specific higher risk scenarios apply (Art.6(4), NOCMLTF).

Criterion 10.19 – Where an FI is unable to comply with relevant CDD measures, it is required: (a) not to enter into a business relationship or execute the transaction or terminate the business relationship (Art.5(2), (4), NOCMLTF) and (b) to consider making an STR in relation to the customer (Art.25(3), NOCMLTF).

Criterion 10.20 – In cases where FIs form a suspicion of ML or TF, and they reasonably believe that performing the CDD process will tip-off the customer, they are permitted not to pursue the CDD process and are required to file an STR (Art.9(2), NOCMLTF).

Weighting and Conclusion

FIs are required to comply with CDD measures. However, deficiencies remain, amongst others, in relation to: carrying out occasional/incidental transactions that are wire transfers; requiring the principle place of business address when the registered office is different; identifying a senior managing official within the legal person; identifying and verifying the beneficial owner of other types of legal arrangements; and SDD informed by risk assessments conducted by the country or FIs.

Recommendation 10 is rated Partially Compliant.

Recommendation 11 – Record-keeping

Sint Maarten was rated PC with this Recommendation (formerly R.10) in its 3rd Round MER because of a lack of explicit record-keeping requirements stipulated in law or regulation. Sint Maarten addressed the shortcomings, and compliance was improved up to a level comparable to C by its 12th FUR.

Criterion 11.1 – FIs are required to retain all records on transactions at the national and international level, for a period of at least ten years after the execution of the transaction (Art.22(2), NOCMLTF). This is further strengthened with specific guidance issued by the CBCS on the type and way of maintaining the necessary information (e.g., P&Gs CIs

require credit institutions to retain both domestic and international transactions for at least five years after the transaction took place).

Criterion 11.2 – FIs are required to retain all data obtained through CDD, account files and business correspondence, and results of analysis of unusual transactions undertaken, for at least ten years after the termination of the business relationship or the execution of a transaction (Art.22(3), NOCMLTF).

Criterion 11.3 – FIs are required to maintain information on transactions in such a way that permits reconstruction of individual transactions and it can be used as evidence for prosecution of criminal activity (Art.22(2), (3), NOCMLTF).

Criterion 11.4 – FIs are required to keep copies on CDD identification and verification documents and transaction records and make these available without delay to CAs (Arts.23, 17(6), 22, NOCMLTF).

Weighting and Conclusion

Recommendation 11 is rated Compliant.

Recommendation 12 – Politically exposed persons

Sint Maarten was rated LC with this Recommendation (formerly R.6) in its 3rd Round MER because there were no clear requirements within the P&Gs for FIs to put in place appropriate risk management system to determine whether a potential customer, customer or beneficial owner is a PEP.

Criterion 12.1 – PEPs are those persons who either within or outside Sint Maarten hold or have held a prominent public office or hold a responsible and prominent position in an international organisation, and the family members or relations of such persons (Art.1(w), NOCMLTF). FIs are required to:

(a) have risk assessment procedures to establish whether a client, a prospective client, an ultimate beneficiary or a beneficiary of a life insurance policy is a PEP (Arts.10(2), 11(1), NOCMLTF).

(b) obtain approval by persons who are in overall charge of the FI when establishing or continuing a business relationship with or execute a transaction for a PEP (Art.11(2)(a), (3), NOCMLTF).

(c) have procedures to enable it to establish the source of wealth and the source of funds of its clients and the ultimate beneficiaries who are designated PEPs (Arts.10(4)(c), 11(1), NOCMLTF).

(d) conduct enhanced ongoing monitoring of the business relationships (Arts.10(4), 11(2)(b), NOCMLTF).

Criterion 12.2 (a) and (b) - FIs must apply the same measures outlined in c.12.1 to domestic and foreign PEPs, including taking reasonable measures to determine if the

customer or a beneficial owner is a PEP; and adopting the measures in c.12.1(b) to (d) (Arts.10, 11, NOCMLTF).

Criterion 12.3 – Measures set out in c.12.1 and c.12.2 also apply to the family members and relations of PEPs (Art.1(w), NOCMLTF). Family members of a PEP include the spouse or a person who is considered equivalent to the spouse; the child; the spouse of that child or a person who is considered to be equivalent to the spouse of that child; or the parent. Persons who have a relationship with a PEP include a natural person who is known to be a jointly beneficial person of a legal entity or legal entity with a PEP, or who has other close business relationships with a PEP.

Criterion 12.4 – FIs are required to have risk assessment procedures to establish whether a client, a prospective client, an ultimate beneficiary (i.e., beneficial owner) or a beneficiary of a life insurance policy is a PEP (Art.11(1), NOCMLTF). However, there is no requirement to determine whether the beneficial owner of the beneficiary is a PEP. Ongoing due diligence must be conducted and includes the scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the FI's knowledge of the customer, his or her business and risk profile, and source of funds/wealth where necessary – these are set out in the non-binding P&Gs for insurance companies and insurance brokers (p.12, P&Gs ICs and IBs). FIs are required to consider making a UTR to the FIU if there are doubts relating to the identity of the client after being accepted. However, where higher risks are identified, FIs are not required to inform senior management before the payout of the policy proceeds.

Weighting and Conclusion

Sint Maarten meets most of the elements of R.12; however, a minor gap exists regarding the requirements on FIs in relation to life insurance policies.

Recommendation 12 is rated Largely Compliant.

Recommendation 13 – Correspondent banking

Sint Maarten was rated LC with this Recommendation (formerly R.7) in its 3rd Round MER. Deficiencies included: there were only specific provisions on correspondent banking activities for credit institutions and not for other types of FIs; there were no provisions for FIs to assess the respondent institution's AML/CFT controls and to ascertain that they are adequate and effective.

Criterion 13.1 – In relation to cross-border correspondent banking and other similar relationships, FIs are required to (Art.15(1), (2), NOCMLTF):

(a) gather sufficient information about a respondent institution to understand fully the nature of the respondent's business, and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a ML/TF investigation or regulatory action;

(b) assess the respondent institution's AML/CFT controls;

(c) obtain approval from senior management before establishing new correspondent relationships; and

(d) clearly understand the respective AML/CFT responsibilities of each institution.

Criterion 13.2 – FIs providing payable-through accounts must satisfy themselves that the respondent bank (Art.15(3), (4), NOCMLTF):

(a) has performed CDD obligations on its customers that have direct access to the accounts of the correspondent bank; and

(b) can provide relevant CDD information upon request to the correspondent bank.

Criterion 13.3 – FIs are prohibited from entering into, or continuing, correspondent banking relationships with shell banks. They are also required to satisfy themselves that respondent FIs do not permit their accounts to be used by shell banks (Art.16, NOCMLTF).

Weighting and Conclusion

Recommendation 13 is rated Compliant.

Recommendation 14 – Money or value transfer services

Sint Maarten was rated NC with this Recommendation (formerly SR.VI) in its 3rd Round MER. Deficiencies related to no formal requirements for MTC providers to inform the supervisor of agents and sub-agents. Sint Maarten addressed the shortcomings, and compliance was improved up to a level comparable to C by its 12th FUR.

Criterion 14.1 –The CBCS licenses natural or legal persons carrying out MTC services (Arts.2(1), 4, NOSMTO). The CBCS and authorised foreign exchange banks are mandated by law to carry out MTC services and therefore do not require a license (Art.2(3), NOSMTO). If the CBCS is of the opinion that there are possible threats to the foreign exchange, the CBCS may establish rules with regard to these payments and receipts (Art.10, RFETCSM).

Criterion 14.2 – Carrying out MTC activity without prior authorization is subject to proportionate and dissuasive sanctions. Providing MTC services without a license is punishable with an administrative fine by the CBCS which is maximum NAf 100,000 (approximately USD 56,000) or 10% of the turnover of the MTC in the financial year preceding the decision of the administrative fine, whichever amount is higher (Arts.2(1), 29 (1), 38(1) NOSMTO). However, the method of imposing the fines and determining the amount of the fines is set out by National Decree which is still in legislative process; therefore, no information is available on what amount of penalties have been imposed.

Criterion 14.3 – MTCs are subject to monitoring for AML/CFT compliance (Arts.31, 2(1)(a)(10°), (11°), NOCMLTF).

Criterion 14.4 – MTCs are required to maintain a current list of its agents and this list is required to be accessible to the CBCS (p.10, P&Gs MTC); however, it is unclear if this list is also available to other CAs in the country.

Criterion 14.5 – MTCs are not required to include their agents in their AML/CFT programmes and monitor them for compliance with these.

Weighting and Conclusion

MTCs are captured as FIs and therefore subject to licensing requirements. It is unclear if the list of agents is available to other CAs in the country; there is no requirement to include agents in the AML/CFT programme and monitor compliance with these. Furthermore, the method of imposing the fines and determining the amount of the fines is set out by National Decree which is still in legislative process; therefore, no information is available on what amount of penalties have been imposed.

Recommendation 14 is rated Partially Compliant.

Recommendation 15 – New technologies

Sint Maarten was rated LC with this Recommendation (formerly R.8) in its 3rd Round MER because there were no requirements for money transfer companies (MTC) to have policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions.

Criterion 15.1 –The 2024 NRA of Sint Maarten includes a section on VASPs and the ML/TF risks that may arise in relation to the VASP sector in Sint Maarten. The 2024 NRA does not include a comprehensive assessment of the ML/TF risks related to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products.

FIs are required to take measures to identify and assess ML/TF risks that may arise in relation to the development of new products and new business practices and the use of new or developing technologies for both new and pre-existing products (Art.20(3), NOCMLTF). However, this requirement does not extend to new delivery mechanisms.

Criterion 15.2 – FIs are required to **(a)** undertake the risk assessments prior to the launch or use of such products, practices and technologies; and **(b)** take appropriate measures to manage and mitigate the risks (Art.20(3), (4), NOCMLTF).

Criterion 15.3 –

(a) As part of its 2024 NRA work, Sint Maarten has looked at the ML/TF risks arising from activities linked to virtual assets, as well as from certain activities carried out by VASPs. The CBCS also conducted market research on the presence and activities of Fintech companies in Sint Maarten and their impact on the financial sector, which research highlighted the relatively small scale of the sector in Sint Maarten.

(b) and (c) Although some preparatory work has been conducted by the CBCS in anticipation of becoming the regulator of the VASP sector, formal measures have not yet been legislatively implemented (via the enactment of the NOSVASP legislation) to mitigate the ML/TF risks posed by VAs and VASPs by taking account of risk assessments and investigations involving VAs, including TF typologies identified.

Criterion 15.4 (a)-(b) - There is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.

Criterion 15.5 – There is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.

Criterion 15.6 (a)-(b) - There is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.

Criterion 15.7 – There is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.

Criterion 15.8 (a)-(b) - While Sint Maarten is drafting legislation to regulate VA/VASPs (NOSVASP), there is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.

Criterion 15.9 (a)-(b) –There is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.

Criterion 15.10 – There is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.

Criterion 15.11 – There is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.

Weighting and Conclusion

FIs are in general required to assess ML/TF risks stemming from the use of new technologies; however, Sint Maarten has not identified and assessed the ML/TF risks at national level. Furthermore, there is no law or other enforceable means to regulate or license the VASP sector. The draft law to this effect (NOSVASP) was still pending at the end of the on-site visit.

Recommendation 15 is rated Non-compliant.

Recommendation 16 – Wire transfers

Sint Maarten was rated PC with this Recommendation (formerly SR.VII) in its 3rd Round MER because the requirements for wire transfers were not detailed in relevant P&Gs for FIs and there are no explicit provisions in the P&G for CIs to be risk-based.

Criterion 16.1 (a)-(b) - FIs must ensure that all fund transfers, regardless of the value, include required and accurate originator and beneficiary information. This information includes the name, address, national identity number, customer identification number, date and place of birth, unique transaction reference number and account number (Art.22, NOCMLTF).

Criterion 16.2 –Requirements concerning batch transfers are covered by the requirements described in c.16.1.

Criterion 16.3 – Sint Maarten does not apply de minimis requirements.

Criterion 16.4 – Sint Maarten does not apply de minimis requirements.

Criterion 16.5 – The ordering FI is required to ensure that the information accompanying the wire transfer includes originator information (Art.22(1), NOCMLTF).

Criterion 16.6 – Requirements to maintain the account number or unique transaction reference number to permit the transaction to be traced back to the originator or beneficiary are addressed within Art.22, NOCMLTF. Additionally, Art.22(2) NOCMLTF requires that the information be retained for at least ten years such that a request for information from a CA could be complied with without delay. This aligns with the requirements of c.16.6 whereby the compelling of immediate production of such information from LEAs can be complied with by both the ordering and beneficiary FI.

Criterion 16.7 – FIs are required to maintain all originator and beneficiary information collected, in accordance with R.11 and for a minimum of ten years (Arts.22(2), 23 NOCMLTF).

Criterion 16.8 –There is no prohibition on the ordering FIs to execute a wire transfer if it does not comply with the requirements specified in criteria 16.1 to 16.7.

Criterion 16.9 – For cross-border wire transfers intermediary FIs are required to retain all the required originator and beneficiary information that accompanies the wire for at least ten years after the business relationship has been terminated (Art.22(2), (3), NOCMLTF).

Criterion 16.10 – Where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, intermediary FIs are required to retain the required information for at least ten years after the business relationship has been terminated (Art.22(2), (3), NOCMLTF).

Criterion 16.11 –There is no requirement for intermediary FIs to take reasonable measures to identify cross-border wire transfer that lack required originator or beneficiary information.

Criterion 16.12 –There is no requirement for intermediary FIs to have risk-based policies in place to determine when to execute, reject or suspend wire transfers lacking the required originator or beneficiary information.

Criterion 16.13 –There is no requirement for beneficiary FIs to take reasonable measures to identify cross-border wire transfers that lack required originator or beneficiary information.

Criterion 16.14 – There is no requirement for beneficiary FIs to verify the identity of the beneficiary if the identity has not been previously verified and to maintain this information in line with R11.

Criterion 16.15 (a)-(b) – Only beneficiary MTC providers are required to adopt effective risk-based procedures, which includes submitting a UTR with the FIU for wire transfers that are lacking the name and address of the originator, and the restriction or termination of the business relationship with the FI (p.15, P&Gs MTCs).

Criterion 16.16 – MTC providers are required to comply with all of the relevant requirements of R.16 in the countries in which they operate, directly or through their agents (Art. 22(1), NOCMLTF); however, this seems to be limited to originator information.

Criterion 16.17 (a)-(b) – The requirements of 16.17 are not met.

Criterion 16.18 – MTCs are required to implement targeted financial sanctions in relation to UNSCRs 1267 and 1373 but not for other UNSCRs (p.20, P&Gs MTCs). Other FIs are not required to implement targeted financial sanctions.

Weighting and Conclusion

Sint Maarten has some wire transfer requirements in place. However, gaps exist across the Recommendation, including: there is no requirement that the ordering FI rejects the wire if it does not comply with the criteria of 16.1 to 16.7; requirements for intermediary and beneficiary FIs are not fully met; no requirements on MTCs that control both the ordering and the beneficiary side of a wire transfer; only MTCs are required to implement targeted financial sanctions in relation to UNSCRs 1267 and 1373 but not for other UNSCRs, and other FIs are not required to implement targeted financial sanctions .

Recommendation 16 is rated Partially Compliant.

Recommendation 17 – Reliance on third parties

Sint Maarten was rated PC with this Recommendation (formerly R.9) in its 3rd Round MER. Deficiencies included: the P&Gs were not entirely in line with the requirements, the sources through which FIs should satisfy themselves that a third party is adequately regulated is limited to MERs, and there are no requirements for MTC to comply with R.9. Sint Maarten addressed some shortcomings, and compliance was improved up to a level comparable to LC by its 12th FUR.

Criterion 17.1 – FIs are permitted to rely on regulated third parties to perform CDD measures or to introduce business (Arts.3, 6, 7, 9, 10, 13, NOCMLTF). The ultimate responsibility for CDD measures remains with the FI relying on the third party, which is required to:

(a) immediately obtain from the third party the necessary information concerning the elements of the CDD process as set out in R.10;

(b) satisfy itself that copies of identification data and other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay; and

(c) satisfy themselves that the third party is regulated and supervised or monitored for compliance with CDD and record keeping requirements in line with R.10 and R.11.

Criterion 17.2 – FIs are not permitted to rely on third parties based in a jurisdiction which does not, or does not sufficiently, comply with internationally accepted standards on AML/CFT, which includes countries on the FATF list of high-risk and non-cooperative jurisdictions (Art. 14, NOCMLTF). For FIs, third parties can be based in a jurisdiction that is adequately regulated and supervised with such jurisdictions being defined as those with a MER of less than 10 NC or PC ratings (Art. 14, NOCMLTF).

Criterion 17.3 (a)-(c) – There are no provisions for relevant CAs to consider that the requirements of c.17.1 and c.17.2 are met in the circumstances set out in c.17.3.

Weighting and Conclusion

FIs are permitted to rely on third-party FIs and DNFBPs. However, there is no overall obligation on FIs to have regard to information available on the level of risk; and there are no provisions that require relevant CAs to consider that the requirements of c.17.1 and c.17.2 are met in the circumstances set out in c.17.3.

Recommendation 17 is rated Largely Compliant.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

Sint Maarten was rated C with this Recommendation (formerly R.15 and R.22) in its 3rd Round MER.

Criterion 18.1 – FIs are required to implement AML/CFT programmes that have regard to ML/TF risks and the size of business and include the following internal policies, procedures and controls:

(a) compliance management arrangements (Art.21(2), NOCMLTF). However, this does not include the appointment of a compliance officer at the management level.

(b) there are no screening procedures to ensure high standards when hiring employees.

(c) an ongoing employee training programme (Art.21(1), NOCMLTF).

(d) an independent audit function to test the system (Art.20(5), NOCMLTF).

Criterion 18.2 – FIs are required to implement group-wide AML/CFT programmes that are applicable to all branches and majority-owned subsidiaries of the financial group. These include the measures in c.18.1 and:

(a) there are no policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management;

(b) provision of a report within the group (Art.27(3)(a), NOCMLTF). However, it is unclear whether such report entails customer, account and transaction information from branches and subsidiaries when necessary for AML/CFT purposes. It is also unclear if branches and subsidiaries receive such information from these group-level compliance functions when relevant and appropriate for risk management; and

(c) personal data shall only be transferred to another country if that country has an adequate level of protection guarantees (Arts.63, 64, NOPPD). Such safeguards are regarded as being adequate in the circumstances and in line with the requirements of 18.2(c) except that they do not include and address safeguards for tipping-off.

Criterion 18.3 – FIs are required to ensure that their foreign branches and subsidiaries have in place AML/CFT measures that are comparable to those required in Sint Maarten to the extent permitted by the host country. This only applies if and to the extent that supervision is exercised on the branch or subsidiary by the CA of the host country; otherwise, at a

minimum, the branch or subsidiary is required to apply internationally accepted standards for the prevention of ML/TF (Art.19, NOCMLTF). If the host country does not permit the implementation of AML/CFT measures consistent with the home country requirements, FIs must apply measures to counter ML/TF risks and inform the Sint Maarten FIU (Art.19, NOCMLTF).

Weighting and Conclusion

FIs are required to develop and implement AML/CFT programmes and to implement internal policies at the group level. Screening procedures when hiring employees are not mandatory and the compliance management arrangements do not include the appointment of a compliance officer at the management level. Sint Maarten does not require policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management; it is unclear whether the group-wide reports entail customer, account and transaction information from branches and subsidiaries when necessary for AML/CFT purposes, and if branches and subsidiaries receive such information from these group-level compliance functions when relevant and appropriate for risk management. Lastly, safeguards on the confidentiality and use of information exchange do not include and address safeguards for tipping-off.

Recommendation 18 is rated Partially Compliant.

Recommendation 19 – Higher-risk countries

Sint Maarten was rated PC with this Recommendation (formerly R.21) in its 3rd Round MER because notices with respect to strategic deficiencies were limited to jurisdictions for which the FATF calls for action and countermeasures were not clearly specified with respect to countries that do not apply or insufficiently apply the FATF Recommendations. Sint Maarten addressed the first shortcoming by its 12th FUR; however, former R.21 remained PC.

Criterion 19.1 – FIs are required to apply EDD if and depending on whether the nature of a business relationship or transaction with natural and legal persons carries a higher ML/TF risk (Art.10(1), (2)(h), NOCMLTF). However, it is unclear whether the application of EDD would be proportionate to the risks.

Criterion 19.2 –While FIs are required to consult the websites of the FATF, CFATF and CBCS to identify jurisdictions deemed to be non-compliant or insufficiently compliant with internationally accepted standards for AML/CFT, it is unclear whether FIs can apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.

Criterion 19.3 – FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries through periodic posts on the website of the CBCS. The FATF public statements are published on the website of the CBCS after each FATF Plenary and FIs receive notifications directly from the CBCS and through professional representative associations.

Weighting and Conclusion

FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries and are required to apply EDD; however, this is not proportionate to the risks. Furthermore, FIs are not required to apply countermeasures.

Recommendation 19 is rated Partially Compliant.

Recommendation 20 – Reporting of suspicious transaction

Sint Maarten was rated NC with this Recommendation (formerly R.13 and SR. IV) in its 3rd Round MER. Deficiencies included scoping issues in the coverage of predicate offences for ML and it was unclear whether STR obligations apply regardless of whether they involve tax matters or a threshold. Sint Maarten addressed the shortcomings, and compliance was improved up to a level comparable to C by its 12th FUR.

Sint Maarten's reporting system is based on UTRs. The FIU receives UTRs from reporting entities. Based on its own analysis, the FIU can declare them suspicious and disseminate them to the PPO and LEAs via the ICSM.

Criterion 20.1 – FIs are required to report unusual transactions to the FIU within 48 hours of becoming aware of the unusual nature of the transaction, unless the FIU prescribes a longer period for certain reports (Art.25(1), NOCMLTF). During the ME on-site visit, the AT learned that the reports for which the FIU would grant additional time are UTRs and would only do so for five days for the reporting entity to gather supporting documents. The AT found this to be reasonable.

FIs are required to use objective[30] and subjective indicators to determine unusual character. The subjective indicator is defined as transactions that differ from the client's profile and transactions that give rise to the suspicion that they may be related to ML or TF (Art.3, Ministerial Regulation on Indicators of Unusual Transactions). FIs are also required to inform the FIU without delay, if CDD has not provided the required information and there are indications that the client is involved in ML/TF (Art.25(3), NOCMLTF; see c.10.19).

Criterion 20.2 – FIs are required to report unusual transactions, including attempted transactions, regardless of the amount of the transaction (Art.25(1), NOCMLTF).

Weighting and Conclusion

Recommendation 20 is rated Compliant.

Recommendation 21 – Tipping-off and confidentiality

Sint Maarten was rated PC with this Recommendation (formerly R.14) in its 3rd Round MER. Deficiencies included: the tipping-off prohibition did not clearly apply to FIs and

[30] Objective indicators include a list of "automatic" criteria: e.g., specific types of transactions above certain threshold.

their directors, officers and employees (permanent or temporary). Sint Maarten addressed the shortcomings and compliance with R.14 was improved up to a level comparable to C by its 12th FUR.

Criterion 21.1 –FIs and their directors and employees are protected against any kind of liability when reporting their suspicions in good faith to the FIU (Arts. 29(1), (3), 30(1), NOCMLTF). Reporting to the FIU is based upon reasonable suspicion (see c.20.1) that the transaction could constitute or be related to proceeds of criminal activity or TF and therefore, the person does not require knowledge of whether the act occurred and neither do they need to know the specified offence.

Criterion 21.2 –FIs and their directors and employees are prohibited from disclosing the fact that a UTR or related information is submitted to the FIU. This prohibition does not apply to sharing this information within a financial group (Art.27(1)(a), (b), (3), NOCMLTF).

Weighting and Conclusion

Recommendation 21 is rated Compliant.

Recommendation 22 – DNFBPs: Customer due diligence

Sint Maarten was rated NC with this Recommendation (formerly R.12) in its 3rd Round MER. Deficiencies included: no AML/CFT requirements for internet casinos and no requirement for continuing due diligence for DNFBPs supervised by the FIU, and casinos, to be subject to the requirements of former R. 6, 8, 9 and 11. Sint Maarten addressed most of the shortcomings and compliance was improved up to a level comparable to LC by its 12th FUR.

Criterion 22.1 –DNFBPs are required to comply with the CDD requirements set out in R.10 in the following situations (Arts.7, 1(h)(2º), 2(1)(b), NOCMLTF):

(a) Casinos – when customers engage in financial transactions (using cash, electronically or by means of other payment systems) equal to or above NAf 5000 (USD 2793) (Art.3 (2)(d), NOCMLTF).

(b) Real estate agents - when they are involved in transactions for a client concerning the buying and selling of real estate (Art.3(2)(b)(1º), NOCMLTF).

(c) DPMS – when they engage in any cash transaction equal to or above NAf 25,000 (USD 13,966) (Art.3(2)(f), NOCMLTF).

(d) Lawyers, notaries, other independent legal professionals and accountants – when they prepare for, or carry out, transactions for their client concerning all the activities listed in c.22.1(d) (Art.3(2)(b), NOCMLTF).

(e) **TCSPs** - when they prepare for or carry out transactions for a client concerning the activities listed in c.22.1(e) (Art.3(2)(c), NOCMLTF).

In addition to the same requirements noted in R.10 for FIs, there are gaps in relation to c.10.1 and c.10.2(b)-(c) as the legal requirements cited in those criteria only apply to FIs.

Criterion 22.2 - DNFBPs are required to comply with the same record-keeping requirements as FIs (see R.11).

Criterion 22.3 - DNFBPs are required to comply with the same PEPs requirements as FIs (see R.12).

Criterion 22.4 - DNFBPs are required to comply with the same new technologies requirements as FIs and are subject to the same minor deficiency (see R.15).

Criterion 22.5 - DNFBPs are required to comply with the same third-party reliance requirements as FIs and are subject to the same deficiencies (see R.17).

Weighting and Conclusion

DNFBPs must comply with the requirements regarding CDD, record keeping, PEPs, new technologies, and reliance on third parties. However, there are minor shortcomings in relation to R.10, R.15 and R.17.

Recommendation 22 is rated Largely Compliant.

Recommendation 23 – DNFBPs: Other measures

Sint Maarten was rated NC with this Recommendation (formerly R.16) in its 3rd Round MER. Deficiencies noted for FIs also applied to DNFBPs and there was no legislation, for DNFBPs supervised by the FIU and casinos, that includes all the requirements of R.15 and R.21. Sint Maarten addressed most shortcomings and compliance was improved up to a level comparable to LC by its 12th FUR.

Criterion 23.1 –DNFBPs are subject to the same UTR requirements as FIs (see R.20), subject to the following qualifications (Arts.2(b), 3, 25, NOCMLTF):

(a) Lawyers, notaries, other independent legal professionals and accountants – when, on behalf of, or for a client, they engage in a financial transaction in relation to the activities described in c.22.1(d).

(b) DPMS – when they engage in a cash transaction with a customer equal to or above NAf 25,000 (USD 13,996) as described in c.22.1(c).

(c) TCSPs – when, on behalf or for a client, they engage in a transaction in relation to the activities described in c.22.1(e).

Criterion 23.2 - DNFBPs are required to comply with the same internal control requirements and group-wide measures as FIs in the circumstances set out in c.18.1 and c.18.2 and are subject to the same deficiencies (see R.18).

Criterion 23.3 - DNFBPs are required to comply with the higher risk countries' requirements as FIs and are subject to the same deficiencies (see R.19). The FATF public

statements are published on the websites of the CBCS and FIU. While the CBCS publishes these after each FATF plenary, the FIU has not updated the lists since October 2023.

Criterion 23.4 - DNFBPs are required to comply with the same tipping-off and confidentiality requirements as FIs (see R.21).

Weighting and Conclusion

DNFBPs are required to comply with the same UTR reporting and other internal control and tipping off requirements as FIs. However, there are shortcomings regarding R.18 and R19.

Recommendation 23 is rated Partially Compliant.

Recommendation 24 – Transparency and beneficial ownership of legal persons

R.24 (formerly R.33) was rated NC in the 3rd Round MER. The technical deficiencies identified were: the absence of a system to ensure access to the ultimate beneficial ownership (UBO) information; all CAs did not have access in timely fashion to adequate, accurate and current UBO information; the absence of a requirement for bearer shares to be transformed into registered shares operated at the discretion of the shareholder and was therefore not mandatory; and the absence of a requirement to capture and retain the UBO details of the legal person on whose behalf the bearer shares were kept or held.

Sint Maarten addressed most of the deficiencies identified for R.33 with new legislation; notwithstanding, the country still needed to ensure that CAs had access in a timely fashion to adequate, accurate and current UBO information. The level of compliance with this Recommendation has been brought up, at a minimum, to the level of LC by its 12th FUR.

Criterion 24.1 – (a) Sint Maarten has mechanisms that identify and describe the different types, forms and basic features of legal persons in the country pursuant to Book 2 of the Civil Code of Sint Maarten (CC) as follows: Public Limited Liability Companies (Arts.100-143, CC), Private Limited Liability Companies (Arts. 200-242, CC), Foundations and Private Fund Foundations (Arts. 50-59, CC), Association (Arts. 70-89, CC), Cooperative Association and Mutual Insurance Association (Arts.90-99, CC).

(b) The CC establishes the processes for creating legal persons and mechanisms for obtaining and maintaining basic and beneficial ownership (BO) information. Legal persons must also register with the COCI and this process is publicly available. This registration requirement also applies to branches of established foreign legal entities that operate in Sint Maarten (Arts. 13-22, TRD and Arts. 5-11, NOTR). The process for obtaining and recording BO information is also publicly available on the COCI's website.

Criterion 24.2 – Sint Maarten has assessed the ML risks associated with legal persons created in the country in its recently completed NRA (September 2024). However, the NRA did not assess specific threats and vulnerabilities posed to each type of legal person. Additionally, the data source was limited and did not include information from the PPO on criminal cases involving the misuse of legal persons for ML or mutual legal assistance and

international cooperation requests involving the misuse of legal persons for ML. Moreover, Sint Maarten has not assessed the TF risks for legal persons.

Criterion 24.3 –All legal persons created in Sint Maarten must be registered with the COCI, and foreign entities based in Sint Maarten are treated similarly. Basic information relating to the name of the company, date of incorporation, place of business, legal form, Articles of Association, and any amendments thereto as well as the information of the managing director(s), supervisory director(s) (if any) and proxy holders (if any) must be recorded, and this information is publicly available. (Art. 18-22, TRD).

Criterion 24.4 – Companies are required to maintain all the information set out in c. 24.3 in their deeds of incorporation and statutes (Arts. 18, 21 and 22, TRD). Shareholders' details must be recorded in a register kept by the board of directors, which includes the class of shares, the voting rights attached to these shares and the amount paid up on these shares. (Art. 209, CC Book 2). The date of every change should be recorded (Art. 109(2) and Art. 209(2), CC Book 2). Details should be recorded in the register and the company is required to provide same promptly (Art. 109(3) and Art. 209(3), CC Book 2). Sint Maarten requires companies to provide the Trade Register with the place where the shareholders register is kept and can be viewed (Art 109(5) and 209(5), CC, Book 2).

Criterion 24.*5* – Sint Maarten has mechanisms that ensure information referred to in c. 24.3 and c. 24.4 is accurate and updated on a timely basis. The Board of the companies is required to keep a register containing the information referred to in c. 24.4 and ensure it is updated on a regular basis (Arts. 109-111 and 209-211, CC Book 2). Shareholders and others whose information should be entered in the Trade Register must provide the Board with the necessary information in a timely manner along with copies of relevant documents. All legal persons are required to declare any amendment to the information, filed under c.24.3 and c. 24.4, to the Trade Register no later than one week after the date on which the event to be declared has been committed and the date on which it was to take effect (Art. 6, TRD).

Criterion 24.6 – Sint Maarten utilises **(a)** in complying with this criterion. Companies are required to register, in the Trade Register, personal information of the beneficial owner (Arts.16-22, TRD). The TRD prescribes the filing of changes regarding every aspect of the registration of the business and/or legal person within one week of any changes (Art 6, TRD).

Criterion 24.7 – Legal persons are required to register the personal data of the BO with the COCI (Arts. 18-22, TRD) and BO information must be updated within one week of any changes (Art. 6, TRD). Also, the Board of the company is required to keep updated BO information (Arts 109 and 209 CC, Book 2). However, the COCI lacks verification measures to ensure the accuracy of the BO information.

Criterion 24.8 – All companies are not mandated by law to cooperate with CAs for the provision of basic and BO information. However, DNFBPs are required to, at the FIU's request, designate a recognised expert who will report directly to the FIU on the service provider's internal organisation (Art. 5, NOFIU). Also, FIs and DNFBPs are required to cooperate with CAs by immediately providing information collected during the CDD process including BO information and changes (Art. 26(1) NOCMLTF).

Criterion 24.9 – A company is required to keep the books, records and other information carriers for ten years (Art. 15, CC). Following the conclusion of the liquidation of the company, the books, records and other information carriers of the dissolved legal entity shall remain in the custody of a custodian or liquidator for a period of ten years (Art. 33, CC). The COCI is required to keep the books, records and other information carriers of the dissolved legal entity, to the extent these are in its possession, at the office of the Trade Register for a period of ten years (Art 25b CC). Further, FIs and DNFBPs must, for at least ten years after a business relationship has been terminated, retain the information in an accessible manner and on request provide these to a competent authority without delay (Art. 23, NOCMLTF).

Criterion 24.10 – Basic information is available in the public register and may be accessed by CAs in a timely manner through written request or directly through the COCI's online portal (Art. 11, NOTR). The FIU has the power to access all sources of information including BO information held by or on behalf of other authorities (Art. 5 NOFIU). Furthermore, the PPO, Tax Authority, CBCS as well as LEAs can obtain access BO information held by COCI and other relevant authorities albeit via a Prosecutor's Order, which can take several weeks to execute and thus not considered timely.

Criterion 24.11 –Sint Maarten prohibits bearer shares (Arts. 100(1) and 200, Book 2 CC).

Criterion 24.12 – A Sint Maarten resident, acting as a nominee, whether a natural person conducting a business or profession or a legal entity, would be covered by the general record-keeping obligations imposed by the National Ordinance on General National Taxes (NOGNT) in Art 43(1). Persons acting as nominees are required to keep records of any information that is relevant for the enforcement of tax laws in respect of their own business, assets and liabilities, including identifying the beneficiaries who are entitled to receive payments for fiduciary services rendered (Art 43(2), NOGNT). Persons acting as nominees are also subject to the record-keeping obligations with regard to the taxation of third parties, as the dividend income received by the nominee is actually attributable and taxable to the economic owner (Art 45(1), NOGNT). Therefore, the nominee must maintain information about nominators. Sint Maarten also requires, at all times, persons providing administrative, trust and management services, whether or not for payment, including acting or causing to act as an authorised shareholder for another person, to perform CDD and identify the customer (the nominator) and the customer's beneficial owner(s) (Arts. 2(18)(d) and 3(2)(c)(4), NOMLTF).

With respect to an offshore company, a management service provider is obliged to have information indicating the person or persons by whom direct or indirect claims may be made on the distribution, the capital and the surplus after dissolution (Art. 12, NOSTSP).

Criterion 24.13 – Any person who intentionally submits an incorrect or incomplete statement intended for registration in the Trade Register, commits a criminal offence and shall be punished by a fine of the fifth category (NA*f* 100,000 or approximately USD 56,000). A person who is legally required to submit a statement for registration in the Trade Register, if it is due to his fault that the declaration made by him (he himself or by another person) is incorrect or incomplete is punishable by a fine of the fourth category (NA*f* 25,000 or approximately USD 14,000). Any person who fails to comply with his legal obligations to declare registration in the Trade Register is punishable by a fine of the fifth category

(NA*f* 100,000 or approximately USD 56,000) (Art.21, National Ordinance containing new provisions relating to Trade Register). These sanctions are proportionate and dissuasive.

Criterion 24.14 –

(a) Basic information in the trade registry is publicly available (see c.24.3) and is therefore accessible to foreign CAs via bilateral agreements and Egmont.

(b) The CBCS and the FIU can exchange information on shareholders with local and foreign CAs (see R.37 and R.40).

(c) The FIU can use its investigative powers to obtain basic and BO information on behalf of foreign counterparts (Arts. 5(8) and 7, NOFIU). The CBCS also has powers to obtain BO information from supervised entities (Art. 24a, NOSTCP). The PPO and other CAs can obtain BO information on behalf of foreign CAs via a Prosecutor's Order (Art. 177s, CCP).

Criterion 24.15 – Sint Maarten has not demonstrated how it monitors the quality of assistance it receives from other countries in response to requests for basic and BO information or requests for assistance in locating beneficial owners residing abroad.

Weighting and Conclusion

Sint Maarten has met some of the requirements under R.24, including having mechanisms that identify the types and process for the creation of legal persons, which is publicly available; basic and BO information of legal persons is registered and maintained at the Trade Registry; bearer shares are legally prohibited; and there are proportionate and dissuasive sanctions for natural or legal persons failing to comply with the requirements. However, there are key deficiencies: Sint Maarten did not comprehensively assess the ML/TF risk of legal persons; mechanisms in place do not ensure accuracy of basic and BO information, since information submitted to the COCI upon registration is not verified by the COCI. Moreover, CAs are unable to access BO information in a timely manner given the requirement for a Prosecutor's Order which can take up to several weeks to execute. The deficiencies are considered moderate given the risk and context of the jurisdiction.

Recommendation 24 is rated Partially Compliant.

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

This Recommendation (formerly R. 34) was rated as LC in Sint Maarten's 3rd Round MER. It was recommended that there should be mechanisms in place to guarantee that CAs are able to obtain and have access to accurate and current UBO information in a timely manner..

Criterion 25.1 –

(a) The trustee is obliged to maintain separate administration of each trust asset within Sint Maarten and to keep the associated books, documents and other data carriers in such a way that the composition, income and expenditure of each trust asset from the administration are determined at all times (Art. 137(2) CC, Book 3). The trustee is also required to keep informed of the names and addresses of all beneficiaries and to keep the relevant books, documents and other data carriers in such a way that the composition, income, and

expenditure of each trust asset can be always determined from the administration (Art.137a, CC). Sint Maarten also requires persons providing administrative, trust and management services, whether or not for payment, including acting or causing to act as an authorised shareholder for another person to, at all times, perform CDD and identify the customer and the customer's beneficial owner(s) (Arts. 2(18)(d) and 3(2)(c)(4), NOCMLTF).

(b) Sint Maarten does not have provisions for trustees to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors.

(c) In Sint Maarten, professional trustees are required to maintain the relevant information for ten years after the business relationship has been discontinued (Art. 23, NOCMLTF).

Criterion 25.2 – The trustee must ensure that the data and information which is obtained in the context of CDD, in particular data and information related to clients, ultimate beneficiaries or business relationships which pose a higher risk of ML/FT are updated and relevant (Art. 9, NOCMLTF).

Criterion 25.3 – FIs and DNFBPs have an obligation to inquire into the ultimate beneficial ownership of all clients when forming a business relationship (Art. 7, NOCMLTF), and there is a similar obligation on the trustee to inquire (Art. 8, NOMLTF). The duty applies when carrying out an occasional transaction above the threshold (Art 7(1)(d)). There is no requirement for trustees to disclose their status to FIs and DNFBPs.

Criterion 25.4 – Trustees are not prevented from providing CAs, FIs and DNFBPs with information relating to the trust. In fact, a service provider shall designate at least one person within its organisation who is charged with the internal receipt and assessment of potential reports, as well as for submitting reports to the FIU (Art 21(3), NOCMLTF).

Criterion 25.5 – The TCSPs must ensure that all customer and transaction records and information are available on a timely basis to the domestic CAs (Arts. 22 & 23, NOCMLTF). LEAs have powers to obtain information held by trustees or FIs and DNFBPs relative to their activities (see R31). The CBCS can request any information and have access to all data, including information and data relative to the clients of the TCSPs, for the execution of its tasks (Art. 20, NOSTSP).

Criterion 25.6 –

(a) Sint Maarten has mechanisms to facilitate access by foreign CAs to basic information on legal arrangements. Notaries must submit, to the COCI, an authentic extract of the trust deed containing the establishment and name of the trust, personal details of trustees or changes thereto, and the purpose of the trust (Art. 5(2), NOTR). Documents deposited in the Trade Register can be inspected by anyone upon the payment of a fee and on request of a copy or extract (Art. 11, NOTR). Thus, foreign CAs can also access the basic information.

(b) The CBCS may disclose data or information it obtains, in the fulfilment of its duties, to foreign supervisory authorities or supervisory authorities established in Sint Maarten, subject to certain exceptions (Art. 24(1), NOSTSP). Upon request or on its own initiative, the FIU can provide information to authorities outside the Kingdom of the Netherlands which shall only take place on the basis of a convention or administrative agreement, unless it concerns an authority recognised by the Egmont Group as a member and that, pursuant

to its national legislation, is not required to conclude an administrative agreement for the exchange of information with other authorities recognised as members by the Egmont Group (Art. 7(2), NOFIU).

(c) The FIU can acquire BO information on legal arrangements from the trustee using its investigative powers on behalf of foreign counterparts (Art. 7, NOFIU). Also, the CBCS may, at the request of a foreign supervisory authority, collect data or request information from, or carry out or cause to be carried out on any person who is or should be under its supervision and of which reasonably presumed to be in possession of data or information which may be of interest to the requesting party (Art. 24(a), NOSTCP). The PPO and the KPSM can obtain BO information on behalf of foreign counterparts with the use of a Prosecutor's Order (Art 177s, CCP).

Criterion 25.7 – The trustee is liable or if more than one trustee is in office, each of them is jointly and severally liable for any failure to exercise their functions in accordance with the law, unless the failure cannot be attributed to him (Art. 142, CC Book 3). Also, administrative and criminal sanctions can be imposed on trustees as service providers for non- compliance with the provisions of the NOCMLTF (Arts. 31 and 33, NOCMLTF)

Criterion 25.8 – Proportionate and dissuasive administrative and criminal sanctions apply to trustees under the NOCMLTF for failing to grant to CAs' timely access to information regarding the trust referred to in c.25.1 (Art. 33, NOCMLTF)

Weighting and Conclusion

Sint Maarten has met most of the requirements under R.25. There is however no requirement for trustees to hold basic information on other regulated agents of, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors. Additionally, there is no requirement for trustees to disclose their status to FIs and DNFBPs. The deficiencies identified are considered minor, given the risk and context of the jurisdiction, including the fact that there was only one legal arrangement (express trust) registered in the jurisdiction.

Recommendation 25 is rated Largely Compliant

Recommendation 26 – Regulation and supervision of financial institutions

Sint Maarten was rated PC with this Recommendation (formerly R.23) in its 3rd Round MER. Deficiencies included: there were unlicensed MTCs operating, a low number of on-site inspections for MTCs, no supervision of factoring services, and the RBA did not include AML/CFT risks. Sint Maarten addressed the shortcomings, and compliance was improved up to a level comparable to C by its 12th FUR.

Criterion 26.1 –The CBCS is responsible for supervising and monitoring FIs' compliance with AML/CFT requirements (Art.31, NOCMLTF).

Criterion 26.2 – Core Principles FIs and other FIs are required to be licensed by the CBCS: banks, credit unions and micro-lenders (Arts.1(c), 2, 3, NOSBC); insurance companies (Art.11(1), NOSII); investment institutions (Art.4(1), NOSIIA); MTCs (Art.4, NOSMTO); and insurance brokers (Art.4(5), NOSIB). Legislation is pending for asset managers,

securities intermediaries, electronic money institutions and payment service providers; although these sectors are lower risk and not material to the overall financial sector of Sint Maarten.[31] Banks are prohibited from entering or maintaining a correspondent banking relationship with a shell bank (Art.16(1), NOCMLTF); however, it does not sufficiently address the requirement that countries should not approve the establishment or continued operation of shell banks. As a compensating control in practice, the CBCS's licensing process includes criteria to ensure that shell banks are not established in Sint Maarten.

Criterion 26.3 –The CBCS takes necessary measures to prevent criminals and their associates from holding (or being the beneficial owner of) a significant controlling interest or holding a management function in an FI (Arts.2, 3, CBCS Policy Rule on Integrity Testing). The CBCS tests the integrity of all policymakers of FIs operating in or from within Sint Maarten and all (candidate) holders of a qualifying interest in FIs. While the CBCS Policy Rule on Integrity Testing focuses on tests of those shareholders who hold 10% or more, in practice the CBCS's tests extend to the ultimate beneficial owner.

Policy makers and holders of qualifying interest in FIs are subject to a periodic integrity test every three years and occasionally for reasons deemed valid by the CBCS, such as for verification and/or in case of change of antecedents before termination of the stipulated period, and in case of a reported incident. The FIs are furthermore prohibited from making the following changes without the CBCS's prior approval: appoint persons who determine or co-determine the daily policy of the supervised entity; appoint members of the supervisory board of the supervised entity; and change the composition of the shareholders of the supervised entity.

Criterion 26.4 – FIs are subjected to:

(a) *For core principle institutions* - regulation and supervision is in line with the core principles (Art.31(1), NOCMLTF; Arts.3(1), 8(1), (2), NOSBC; Art.4, NOIB), except principles 24, 28, 29 and 31 of IOSCO since securities intermediaries are not yet subject to AML/CFT licensing and supervision (legislation is pending).

(b) *For all other FIs* – regulation and supervision are risk-based by the CBCS (CBCS Handbook of Policy & Procedures Risk-Based Supervision).

Criterion 26.5 – The frequency and intensity of on-site and off-site AML/CFT supervision of FIs or groups is determined on the basis of sub (a)-(c) as contained in the CBCS Handbook of Policy & Procedures Risk-Based Supervision (V1.8); however, these measures do not apply to securities intermediaries, electronic money institutions and payment service providers for which legislation is pending.

Criterion 26.6 - The CBCS reviews assessments of ML/TF risk profiles on an annual basis (VI.2, CBCS Handbook of Policy & Procedures Risk-based Supervision) and when there are major events or developments in the management and operation of the FI or group (Annex 1, CBCS Handbook of Policy & Procedures Risk-Based Supervision).

[31] The one asset manager and one securities intermediary in Sint Maarten are licensed under the Curaçao licensing framework (National Ordinance Supervision Asset Managers and Securities Intermediaries Curaçao).

Weighting and Conclusion

Sint Maarten has met most of the requirements under R.26; however, legislative references are required in some instances (asset managers, securities intermediaries, electronic money institutions and payment service providers), and shell banks are not sufficiently prohibited.

Recommendation 26 is rated Largely Compliant.

Recommendation 27 – Powers of supervisors

Sint Maarten was rated LC with this Recommendation (formerly R.29) in its 3rd Round MER because there were no explicit provisions for sanctions against directors or senior management of FIs and sanctions had not dissuaded money remitters from operating without a license.

Criterion 27.1 - The CBCS is empowered to supervise, monitor and ensure compliance by FIs with AML/CFT requirements (Art.31, NOCMLTF).

Criterion 27.2 - The CBCS has the authority to conduct inspections of banks, credit unions and micro-lenders (Art.5, NOSBC); MTCs (Art.24, NOSMTO), Stock Exchanges (Art.16, NOSSE), Insurance Businesses (Art.120(a), NOSII; Art.18, NOSIB), Investment Institutions and Investment Administrators (Art.35, NOSII&IA). Legislation is pending for asset managers, securities intermediaries, electronic money institutions and payment service providers.

Criterion 27.3 - The CBCS can compel the production, without a court order, of any information relevant to monitoring compliance with AML/CFT requirements of banks, credit unions and micro-lenders (Art.12(1), NOSBC), MTCs (Art.24(3), NOSMTCs), Stock Exchanges (Art.16(3), NOSSE), Insurance Businesses (Art.120(a)(3), NOSII; Art.18, NOSIB), Investment Institutions and Investment Administrators (Art.35(3), NOSII&IA); however, not for the FIs mentioned in c.27.2 for which legislation is pending.

Criterion 27.4 - The CBCS is authorised to impose penalties, and enforcement action or administrative penalties (Art.31, NOCMLTF) and to withdraw, restrict or suspend the FI's license (Art.9(1)(h), NOSBC).

Weighting and Conclusion

The CBCS is empowered to supervise compliance by FIs; however, some sectors currently do not fall within the AML/CFT supervision of the CBCS. Given the low risk and materiality of these sectors in Sint Maarten (including no electronic money institutions operating in Sint Maarten), the AT found this to be a minor gap.

Recommendation 27 is rated Largely Compliant.

Recommendation 28 – Regulation and supervision of DNFBPs

Sint Maarten was rated NC with this Recommendation (formerly R.24) in its 3rd Round MER due to inadequate AML/CFT regulation and supervision of casinos, no supervisory regime for internet casinos, the FIU had not commenced as a supervisory authority and

deficiencies in the CBCS's supervisory function. Sint Maarten addressed most of the shortcomings and compliance was improved up to a level comparable to LC by its 12th FUR.

Criterion 28.1 –

(a) Casinos are required to be licensed (Art.1(1), NOGGT; Art.1, NOOGIMS).

(b) CAs have not taken the necessary legal or regulatory measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, or being an operator of a casino.

(c) Casinos are supervised for compliance with AML/CFT requirements by the FIU (Art.31, NOCMLTF).

Criterion 28.2 - The CBCS is the designated supervisor for TCSPs and the FIU is the designated supervisor for the other DNFBPs (Art.31(1), (3), NOCMLTF).

Criterion 28.3 - TCSPs are subject to systems for monitoring compliance with AML/CFT requirements (Arts.2(1)(a)(18o); 31(1), NOCMLTF). No information was provided by Sint Maarten regarding the other DNFBPs.

Criterion 28.4 -

(a) The FIU can enter all premises without consent, demand the presentation of or gain access to all records, documents or information relevant to monitoring compliance and in that regard supervised entities are not required to cooperate (Arts.13, 15, NOAE). However, anyone who is obliged to maintain confidentiality by virtue of his office, profession or statutory provision may refuse to provide cooperation to the FIU, insofar as this arises from his duty of confidentiality (Art.18, NOAE). The CBCS has these powers in relation to TCSPs (Art.20, NOSTSP).

(b) There are no fit and proper testing requirements for DNFBPs under the supervision of the FIU. In relation to TCSPs, the CBCS takes the necessary measures to prevent criminals or their associates from holding (or being the beneficial owner of) a significant controlling interest or holding a management function in a TCSP (Art.11(c), NOSTSP; see c.26.3).

(c) The CBCS and the FIU have appropriate sanctions available for failures to comply with AML/CFT requirements by DNFBPs (see R.35).

Criterion 28.5 -

(a) The determination of the frequency and intensity of on-site and off-site AML/CFT supervision by the CBCS for TCSPs is based on the understanding of ML/TF risks, taking into consideration the characteristics, in particular the diversity and number (VI.8, CBCS Handbook of Policy & Procedures Risk-Based Supervision). The FIU performs a risk analysis for the other DNFBPs under its supervision, assigning a risk profile that determines the likelihood of non-compliance, which then guides the frequency and intensity of supervision.

(b) Information provided by Sint Maarten deals with DNFBPs being required to implement an RBA approach rather than how supervision of DNFBPs is performed.

Weighting and Conclusion

The CBCS supervises TCSPs, and the FIU supervises the other DNFBPs. Sanctions are available for non-compliance with AML/CFT requirements. However, gaps remain as there are no express provisions for the authorities to take necessary legal or regulatory measures to prevent criminals from holding or having a management function in a casino. Whilst the FIU has the powers to monitor compliance such as entering premises without consent, these powers however are limited by persons bound to confidentiality rules; and there are no fit and proper testing requirements for DNFBPs under the supervision of the FIU.

Recommendation 28 is rated Partially Compliant.

Recommendation 29 - Financial intelligence units

Sint Maarten was rated NC with this Recommendation (formerly R.26) in its 3rd Round MER. Deficiencies included: no legal basis for the creation of the FIU; aspects of the law presented a risk to the operational autonomy of the FIU and created opportunities for undue influence; the absence of a permanent FIU Head; and the need for improvement in the security of the FIU information, the premises and employees. Sint Maarten addressed the shortcomings and compliance was improved up to a level comparable to Compliant by its 12th FUR.

Criterion 29.1 - The FIU acts as the central agency for receipt and analysis of UTRs, and dissemination of the results of that analysis (Art. 25, NOCMLTF and Art.3(2), NOFIU). Furthermore, reports of cross-border movements of cash are forwarded by the Customs Department, via secured e-mail, immediately to the FIU (Art. 4 (2), NORCCT) (see c.32.6).

Criterion 29.2 - The FIU is the central agency for the receipt of disclosures filed by reporting entities including:

(a) UTRs as required by R.20 and R.23 (Art. 25, NOCMLTF and Art.3(2), NOFIU); and

(b) Reports of cross-border movements of cash (Art. 4 (2), NORCCT) (see c.32.6). These reports are submitted to the FIU.

Criterion 29.3 -

(a) The FIU can obtain and use additional information from reporting entities as needed to perform its analysis properly (Art 3(2)(d), NOFIU and Art. 27(1)(a), NOCMLTF).

(b) The FIU has access to the widest possible range of financial, law enforcement and administrative information to properly undertake its functions (Art. 5(1), (4), NOFIU).

Criterion 29.4 (a) and (b) - The FIU is required to analyse the data it obtains in order to add value to such data and to examine whether the data could be important in preventing and combatting ML, TF and the underlying crime (Art. 3 (2)(b), NOFIU). Further, the FIU is required to conduct operational and strategic analysis (Art.3 (2)(f), NOFIU), however, in practice, only operational analysis is conducted.

Criterion 29.5 - The FIU is authorised to disseminate, spontaneously and upon request, information and the results of its analysis to relevant CAs, upon request and on its own initiative (Art.3(2)(f), NOFIU). Additionally, the FIU has adopted and used secure

mechanisms and procedures to protect and disseminate information and results of its analysis.

Criterion 29.6 –

(a) The FIU has adequate measures in place to protect information. This includes the signing of a confidentiality agreement by all employees, dedicated servers and offices for each unit which are only accessible by the staff of the unit. Also, the FIU follows the Egmont Handbooks on Securing an FIU and manuals related to the handling, storage, dissemination, and protection of information.

(b) Sint Maarten indicated that new draft legislation to Art. 9, NOFIU provides for security screening of all staff members of the FIU as well as the members of the supervisory board. However, the draft amendment to the NOFIU has not been approved and thus is not in force.

(c) Policy and procedures with respect to access to the facilities and information systems of the FIU are elaborated upon in the Egmont Handbooks on Securing an FIU. The building that houses the FIU is properly secured with the relevant security mechanisms and controlled access with information technology.

Furthermore, as it relates to storing UTRs and other sensitive information, the FIU has two servers, one for the Analytical Department and the other for the Supervision Department to store information. These servers are not connected to the internet, which reduces the likelihood of unauthorised access. Regarding accessing files on the system, only staff members of the Analytical Department can access and view files on the assigned server and the same goes for the Supervision Department and its assigned server. All files within the FIU have been digitised, however, printed copies of some documents still exist and those are stored in cabinets within the appropriate department.

To ensure the safeguarding of sensitive information, the FIU staff adhere to a stringent protocol of never leaving such information unattended and instead store same within secure, locked cabinets. As a further level of security, entry into the different departments is accessed controlled and can only be accessed by the staff of the particular department and the Director. Moreover, entry into the FIU is access controlled which requires a key swipe or bio metrics, and the building is equipped with a security system for added protection.

Criterion 29.7 -

(a) The FIU has authority and capacity to carry out its functions freely, including the autonomous decision to analyse, request and/or forward or disseminate specific information. The FIU as an independent and autonomous entity, specifies, *inter alia*, that the Director of the FIU shall conduct tasks assigned independently and exclusively; shall have overall responsibility for the management of the FIU; and independently dispose of the financial resources allocated (Art. 2, NOFIU).

(b) The FIU has the authority to make arrangements or engage independently with other domestic CAs or foreign counterparts on the exchange of information (Art.3 (2) (i) and (j), NOFIU).

(c) The FIU falls under the Ministry of Justice. Nevertheless, the functions of the FIU are outlined in the NOFIU and are distinct from those of the Ministry of Justice. Furthermore, the FIU is an independent and autonomous entity based on the provisions of Art. 2, NOFIU.

(d) The FIU is able to obtain and deploy the resources needed to carry out its functions, on an individual or routine basis, free from any undue political, government or industry influence or interference, which might compromise its operational independence (Art. 2, NOFIU and Art. 14, NOFIU) (see c.29.7 (a)). Art. 14, NOFIU requires, inter alia, the Minister to make all resources available to the FIU as was approved in the budget and policy plan.

Criterion 29.8 - The FIU became a member of the Egmont Group on June 5, 2014.

Weighting and Conclusion

Sint Maarten has met most of the requirements under R.29. However, the FIU does not conduct strategic analysis and legislation, which provides for adequate security screening/clearance of staff and members of the supervisory board of the FIU, is not yet in place.

Recommendation 29 is rated Largely Compliant.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

Sint Maarten was rated PC for R. 30 (formerly R.27) in its 3rd Round MER. The deficiencies identified were issues related to effectiveness which are now required to be addressed in Immediate Outcome 7 and include lack of resources and training. Sint Maarten did not sufficiently address the shortcomings and the rating of PC was maintained by its 12th FUR.

Criterion 30.1 – ML and TF, along with the predicate offences, are criminal offences in Sint Maarten (see R.3 and R.5). The Prosecutor General and public prosecutors of the Ministry of Justice, police officers of the Sint Maarten Police Force (KPSM), officials from the National Criminal Investigation Department (as provided by the law) and extraordinary police officers (to the extent that they have been appointed for such purpose) are tasked with the responsibility of investigating criminal offences in Sint Maarten (Art.184, CCP).

Criterion 30.2 - The investigative authorities identified in c.30.1 are authorised to pursue a criminal financial investigation of any related ML/TF offences during a parallel financial investigation, regardless of where the predicate offence occurred (Art. 177a, CCP).

Criterion 30.3 - The investigative authorities identified in c.30.1 are authorised to identify, trace and initiate freezing and seizing of property that is, or may become, subject to confiscation or is suspected to be the proceeds of crimes.

Criterion 30.4 - There are no non-LEAs in Sint Maarten with the responsibility for pursuing financial investigations of predicate offences.

Criterion 30.5 - Sint Maarten does not have an anti-corruption unit.

Weighting and Conclusion

Recommendation 30 is rated Compliant.

Recommendation 31 - Powers of law enforcement and investigative authorities

Sint Maarten was rated C for Recommendation 31 (formerly R.28) in its 3rd Round MER. R. 31 expands the powers of LEAs and investigative authorities. The revised R.31 requires CAs to have mechanisms in place to identify whether natural or legal persons hold or control accounts as well as to request information from the FIU when conducting relevant investigations.

Criterion 31.1 – CAs conducting investigations into ML, associated predicate offences and TF are able to obtain all necessary documents for use in those investigations, prosecutions and related actions including measures for:

(a) Production Orders: In the conduct of an investigation, the public prosecutor is authorised to request in writing (also with the authorisation of the examining magistrate in specific circumstances) personal, stored and recorded data from a person (not applicable to the defendant) in whose possession such data is held (Art.177t, CCP). "Person" is defined as both the natural and legal person (Art. 1, CCP).

(b) Search of persons and premises: Various provisions in the CCP make provision for the search and seizure of persons and premises by the public prosecutor, investigating officers and an examining magistrate (Arts.78,121,122,136 and 139, CCP).

(c) Taking of witness statements: In the conduct of a financial investigation, in order to obtain financial insight into the financial position of the subject of the investigation, an investigating officer is authorised to obtain a witness statement. (Art.177b, CCP). Art. 226, CCP provides for the taking of witness statements of suspects, witnesses and experts for use in criminal investigations.

(d) Seize and obtain evidence: The measures outlined in sub-criterion (b) allow law enforcement and investigative authorities to seize and obtain evidence.

Criterion 31.2 - CAs conducting investigations have the ability to use a wide range of investigative techniques for investigations of ML, associated predicate offences and TF including:

(a) Undercover operations: Under the authority of the public prosecutor an investigating officer has powers to infiltrate any criminal organisation and conduct pseudo purchases and services (Arts. 177m and 177n, CCP).

(b) Intercepting Communications: Interception of communication can be conducted with the authority of the public prosecutor who in some instances will require authorisation from an examining magistrate (Art. 177p, 177q and 177r, CCP).

(c) Accessing computer systems: The accessing of computer systems is permitted by various Articles within the CCP which make provision for, inter alia, the public prosecutor on his own behest and in some instances with the authorisation of the

examining magistrate for an investigating officer to access data, including stored and recorded data (Arts. 177s-177v, CCP).

(d) Controlled delivery: Controlled delivery is permitted under the CCP which makes provision for, inter alia, an investigating officer to postpone seizure during a criminal investigation of any item (Art. 177y, CCP).

Criterion 31.3 -

(a) Sint Maarten has mechanisms in place to identify, in a timely manner, whether a natural or legal person holds or controls accounts. The FIU can access all sources of information held by or on behalf of other authorities and from the private sector (Art. 5(1), NOFIU). When conducting investigations into ML, associated predicate offences and TF, the PPO and LEAs (such as the KPSM) can request such information from the FIU (Art.6, NOFIU) and from other CAs, FIs and DNFBPs through Prosecutors' Orders (Art.177s, CCP; see R.4.2(a)) and orally, in case this is urgent (Art.177s(5), CCP).

(b) The FIU and LEAs are empowered to identify assets without prior notification to the owner (Art.5(1), 6, NOFIU; Art.177s, CCP). They have direct and indirect access to information as explained in c.31.3(a) and there is no legal obligation to notify the owner of the assets, nor does this occur in practice.

Criterion 31.4 - CAs conducting investigations into ML, associated predicate offences and TF are authorised to request all relevant information from the FIU (Art.6, NOFIU).

Weighting and Conclusion

Recommendation 31 is rated Compliant.

Recommendation 32 – Cash Couriers

Sint Maarten was rated NC for R.32 (formerly SR. IX) in its 3rd Round MER. The deficiencies included: An *ad hoc* system was in place for the disclosure of the physical cross-border transportation of currency; there was no system to restrain currency where there is a suspicion of ML or TF; there were no statistics evidencing Customs' effectiveness in the area of international cooperation; there were no statistics regarding the number of false declarations and investigations forwarded to the PPO; and there was no process for confiscating currency or negotiable instruments for persons listed under UNSCR 1373 and 1267. Additionally, there were no statistics relating to shipments of gold or other precious metals and stones; no structure established for the training and targeted programmes for Customs and no information available with respect to the timeliness of the dissemination of the information relating to suspicious cash declarations/disclosures. Sint Maarten addressed most of the shortcomings and compliance with Recommendation 14 was improved up to a level comparable to LC by the 12th FUR.

Criterion 32.1 - Sint Maarten has implemented a declaration system for incoming and outgoing cross-border transportation of money (Art. 2(1), NORCCT). Money includes domestic and foreign banknotes, coins, currency notes and BNIs (Art.1 c, NORCCT). The obligation to declare money applies to all physical cross-border transportation, whether by persons or professional carriers (Art.2 (2), (NORCCT).

Criterion 32.2 - In Sint Maarten's declaration system all persons travelling with NAf 20,000 (approximately USD 11,200) or more must report that fact by submitting a written and signed declaration form (Art.2 (2), NORCCT).

Criterion 32.3 - Sint Maarten's legal framework provides for a written declaration system instead of a disclosure system.

Criterion 32.4 - Customs' officials and police officers at the Immigration and Border Protection Service are responsible for monitoring compliance with Sint Maarten's declaration system and have the authority to request all information from carriers concerning the origin and intended use of money (Art. 5 (2)(a), NORCCT).

Criterion 32.5 - Persons who fail to declare or who make a false declaration in respect of the importation or exportation of money shall be punished with a prison sentence of a term of not more than four years, or with a fine of the sixth category (NAf 1,000,000), or with both penalties (Art.7(1), NORCCT). The penalties are proportionate and dissuasive.

Criterion 32.6 - Information obtained through Sint Maarten's declaration process is available to the FIU. Customs' officials and police officers at the Immigration and Border Protection Service are required to immediately forward to the FIU cross-border reports (declaration forms), reports on seizure of money or other objects and reports of any suspicion of ML/TF to the FIU (Art. 4(2), NORCCT).

Criterion 32.7 - Sint Maarten has not evidenced any measure which allows for adequate co-ordination among customs, immigration and other related authorities at the domestic level on issues related to the implementation of Recommendation 32.

Criterion 32.8 - Customs' officials and police officers at the Immigration and Border Protection Service can stop and take into custody money or other objects where there is suspicion of ML/TF in violation of the NORCCT, which includes where there is a false declaration (Art. 5(2) (b) (e), NORCCT).

Criterion 32.9 - Sint Maarten's declaration system allows for the retention of information and the sharing of reports for international cooperation and assistance in accordance with R. 36-40 (Art. 4, NORCCT). Further, Customs is a member of the Caribbean Customs Law Enforcement Council (CCLEC), has treaties with other countries (see R. 40) and is authorised to share all pertinent information with the members of that organisation and countries.

(a) All reports of declarations which exceed the prescribed threshold are retained and sent to the FIU (Art. 4(2)(a), NORCCT).

(b) Records of all false disclosures where the currency was seized and detained are retained (Art. 4(2)(b), NORCCT).

(c) Reports of any suspicion of ML/ TF are retained and sent to the FIU (Art. 4(2)(d), NORCCT). The retained information includes the owner's identity and address, the size, origin and destination of the money or other items and the reason for the chosen method of transport. The FIU can then share this information with its foreign counterparts (Art. 3(2)(b), NOFIU).

Criterion 32.10 - Sint Maarten has strict safeguards to ensure proper use of the information collected through the declaration system. Anyone who is or has been involved in the implementation of the NORCCT is prohibited from disclosing any information that has become known in their capacity, except if the need for disclosure arises from the objective of the said NORCCT (Art. 8(1), NORCCT). Anyone who intentionally divulges said information shall be punished with a prison sentence of a term of not more than four years, or with a fine of the sixth category (NAf 1,000,000), or with both penalties; or anyone who unintentionally divulges said information, shall be punished with a prison sentence of term of not more than one year, or with a fine of the sixth category, or with both penalties (Art. 7(1) and(2), NORCCT). The reporting requirements of the declaration system do not restrict trade payments between countries for goods and services or freedom of capital movements.

Criterion 32.11 -

(a) As it relates to ML/TF predicate offences, a person who fails to declare or who makes a false declaration in respect of the importation or exportation of money shall be punished with a prison sentence of a term of not more than four years, or with a fine of the sixth category (NAf 1,000,000), or with both penalties (Art.7(1), NORCCT). Failing to declare or making a false declaration is a criminal offence (Art. 7(3), NORCCT). These sanctions are considered proportionate and dissuasive.

(b) Persons failing to declare or making a false declaration under the NOCCT can have their money or other objects forfeited upon conviction (Art. 1:67, CrC).

Weighting and Conclusion

Sint Maarten has met most of the requirements under R.32; however, the jurisdiction has not demonstrated that there is adequate coordination amongst CAs at the domestic level.

Recommendation 32 is rated Largely Compliant.

Recommendation 33 – Statistics

Sint Maarten was rated PC for this Recommendation (formerly R.32) in its 3rd Round MER. There were no statistics available relating to requests to overseas FIUs and no statistics available for requests for additional information by the FIU(MOT) to reporting entities. Also, several reporting entities did not file UTRs (subjective or objective) and appeared not to understand or know of their reporting obligations. Sint Maarten addressed most of the shortcomings and compliance was improved up to a level comparable, at a minimum, to a LC by its 12th FUR.

Criterion 33.1 – Sint Maarten maintains statistics as follows:

(a) The FIU is required to prepare an annual summary concerning the reports and official reports passed on to it coupled with suspicious transactions it submitted to the Public Prosecutors Office (Art. 3 (3)(b) & (d), NOFIU). Statistics are being maintained on UTRs received and disseminations made.

(b) The PPO and LEAs maintain some statistics regarding ML investigations, however, they have not demonstrated that they are maintaining statistics on ML/TF prosecutions and convictions.

(c) Sint Maarten has not demonstrated that it maintains statistics on property frozen, seized and confiscated.

(d) The IRC Carib, FIU and the CBCS maintain some statistics regarding MLA and other international requests for co-operation made and received**.** However, LEAs did not provide statistics on other international requests for co-operation.

Weighting and Conclusion

Sint Maarten has met some of the requirements under R.33. However, the jurisdiction has not demonstrated that comprehensives statistics are being maintained in relation to c. 33 (b)(c) and(d).

Recommendation 33 is rated Partially Compliant.

Recommendation 34 – Guidance and feedback

Sint Maarten was rated PC with this Recommendation (formerly R.25) in its 3rd Round MER. Deficiencies included: not much guidance was given to FIs on TF techniques and methods; P&Gs for providers of factoring services was not in place; and DNFBPs were not supervised by the MOT (FIU) and did not receive sufficient guidance regarding complying with AML/CFT requirements. Sint Maarten addressed most of the shortcomings and compliance was improved up to a level comparable, at a minimum, to LC by its 12th FUR.

Criterion 34.1 – The FIU can issue legally binding guidelines to FIs and DNFBPs on AML/CFT obligations (Art.31(2), NOCMLTF). Both supervisors (CBCS and FIU) established guidelines for FIs and DNFBPs on AML/CFT obligations, such as on detecting and reporting suspicious transactions. They also meet with, provide training for and organise information sessions with their supervised entities. The guidance and information sessions provided by the CBCS and FIU were not extensive and in the case of the FIU few resources were available to provide feedback to DNFBPs. For example, no specific sector guidelines were provided for casinos, which are assessed as high risk.[32] The CBCS issues, periodically, newsletters relevant to the sector which at times cover AML/CFT matters. Furthermore, there are no mechanisms for providing guidance to FIs and DNFBPs which may by holding targeted funds or other assets, on their obligations with respect to a de-listing or unfreezing action.

Weighting and Conclusion

Sint Maarten has met some of the requirements under R.34. However, there are some shortcomings with respect to the guidance and feedback provided by the CBCS and the

[32] The FIU published the guidelines for casinos in December 2024, after the end of the ME on-site visit.

FIU. No guidelines were provided to casinos which are regarded high risk within the DNFBPs.

Recommendation 34 is rated Partially Compliant.

Recommendation 35 – Sanctions

Sint Maarten was rated PC with this Recommendation (formerly R.17) in its 3rd Round MER. Deficiencies included: there were no explicit provisions in the NOIS and NORUT to indicate that sanctions apply to directors and senior management of FIs apart from the provisions in the Civil and Criminal Codes; sanctions were not effective against unauthorized MTCs, including directors and senior management and were used sparingly. Sint Maarten addressed the shortcomings, and compliance was improved up to a level comparable to C in its 11th FUR.

Criterion 35.1 –

In relation to R.6 - Any act contrary to the provisions under Art. 2 e, NSO, if committed intentionally, shall be punishable by imprisonment of not more than four years or a fine of the sixth category (NAf 1,000,000; approximately USD $555, 920), which is considered a criminal offence (Art.16, NSO). If any act contrary to the provisions under Art. 2, NSO is not committed intentionally, it shall be punishable by imprisonment of not more than one year or a fine of the fifth category (NAf 100,000), which is considered an offence.

In relation to R.8 - Sint Maarten applies criminal and administrative sanctions to NPOs or persons acting on their behalf. Such criminal and administrative sanctions apply to all legal persons (Art.2:408, CrC; Art.2:25, CC). Persons acting on behalf of NPOs that are convicted for TF can be disqualified from holding public office or specific offices, practising specific professions and disqualified from elected membership of general representative bodies. NPOs convicted of a TF offence can be subject to fines, such fines also apply to legal persons convicted of TF. These sanctions are considered proportionate and dissuasive.

In relation to R.9-23 - Supervisors (CBCS, FIU) can impose remedial actions, administrative coercion, administrative fines and criminal penalties to their supervised entities for non-compliance. These sanctions are proportionate and dissuasive. These sanctions are imposed per breach. These sanctions do not extend to unregulated entities (VASPs, payment service providers and electronic money institutions) operating in Sint Maarten; however, the aforementioned sectors are not material in size, risk or financial materiality in relation to the overall financial sector in Sint Maarten.

Remedial actions include warning letters and public notices. Administrative fines can amount to up to NA*f* 4,000,000 (approximately USD 2,234,636) (Art.31, NOCMLTF; Art.55, NOAE).

Criminal sanctions are imprisonment of a maximum of four years or a financial penalty of the sixth category (NA*f* 1,000,000; approximately USD 560,000) for intentional breaches

and by imprisonment for a maximum of 1 year or penalty of the sixth category for unintentional breaches (Art.33(1), (2), NOCMLTF).

Criterion 35.2 - Sanctions are also applicable to directors and senior management of FIs and DNFBPs (Art.33(5), NOCMLFT).

Weighting and Conclusion

Sint Maarten has proportionate and dissuasive sanctions for non-compliance with AML/CFT requirements of R.6, R.8 and R.9-23. Although sanctions do not extend to some unregulated entities (VASPs, payment service providers and electronic money institutions), this is considered a small gap as their materiality and risk is low in the context of Sint Maarten.

Recommendation 35 is rated Largely Compliant.

Recommendation 36 – International instruments

Sint Maarten was rated PC with Recommendation 36 (formerly R. 35 and SR. I) in its 3rd Round MER, which identified several deficiencies in implementing the Vienna, Palermo, and TF Conventions. Over the follow-up process, the country provided supporting material that explained the constitutional and international affairs framework that allows the automatic incorporation of treaty provisions into the legal system of all countries that are part of the Kingdom of the Netherlands, including Sint Maarten, therefore, demonstrating that it had addressed deficiencies related to R. 35. Compliance with both R. 35 and SR I had improved up to a level comparable at minimum to LC in its 12th FUR.

Criterion 36.1 – Treaties are entered into by the Kingdom of the Netherlands and extended to Sint Maarten. The following are therefore applicable to Sint Maarten: Vienna Convention (10-10-2010); Palermo Convention (10-10-2010); and Terrorist Financing Convention (10-10-2010). The United Nations Convention Against Corruption (UNCAC)/Merida Convention has not been extended to Sint Maarten.

Criterion 36.2 – In Sint Maarten, the TF convention has been fully implemented via the CrC. However, the Vienna Convention, the Palmero Convention and the UNCAC are not fully implemented. Sint Maarten has not evidenced the implementation of Arts. 3(1)(a), 4, 5, 7, 8, 9, 15, 17 and 19 of the Vienna Convention. While the Palmero Convention has been implemented via case law, and partially via domestic legislation, Sint Maarten has not evidenced that Arts. 29, 30 and 31 of the Palmero Convention are implemented. Furthermore, Arts. 24, 28, 38 and 43 of the UNCAC are not implemented.

Weighting and Conclusion

Sint Maarten is a party to the Vienna, Palermo and Terrorist Financing Conventions however the Merida Convention has not been extended to the jurisdiction. Sint Maarten has implemented all of the Articles of the Terrorist Financing Convention and some of the prescribed Articles of the Palermo, Vienna and Merida Conventions. In relation to those Conventions for which gaps exist, the legislative provisions to recognise full

implementation of the relevant Treaty Articles were not evidenced. Given Sint Maarten's risk and context, the shortcomings are deemed moderate.

Recommendation 36 is rated Partially Compliant.

Recommendation 37 - Mutual legal assistance

Sint Maarten was rated PC with the requirements for this Recommendation (formerly R. 36 and SRV) in the 3rd Round of MEs. The country's ability to extend MLA was limited, due to deficiencies in criminalising TF and determining the extent of assistance for matters not confirmed as predicate offences, such as illicit arms trafficking, smuggling, and insider trading. Sint Maarten addressed these deficiencies with amendments to its Penal Code that came into force in 2019. Compliance with R. 36 and SR. V improved up to a level comparable, at minimum, to LC by its 12th FUR.

Criterion 37.1 – Sint Maarten has a legal basis to provide a wide range of MLA, which includes investigation or cooperation in the investigation, the transmission of documents, files or documents of conviction or the provision of information, or the service of or issuing documents or giving notices or communications to third parties in connection with criminal cases. ML, TF and associated predicate offences are all criminalised in Sint Maarten (Art. 555, CCP). Art. 557, CCP states that the public prosecutor who has received the request shall decide without delay on the action to be taken, however, there is no basis for this provision of MLA to occur rapidly.

Criterion 37.2 – Art. 556(1), CCP states that requests for MLA should be addressed to the Public Prosecutor. In practice, this provision refers to the Attorney General responsible for MLA as the central authority. Sint Maarten has not identified clear processes for the timely prioritisation and execution of MLA requests. The International Legal Assistance Centre (IRC Carib) within the Attorney General's Office, maintains a case management system.

Criterion 37.3 – Sint Maarten allows MLA, whether or not a treaty exists, without imposing unreasonable or unduly restrictive conditions (Art. 558, CCP). Art. 559, CCP also provides other legal grounds to refuse a request which includes prosecution based on political beliefs, race and religion, double jeopardy and deprivation of liberty in a manner that is contrary to the principles of international laws or otherwise unlawful.

Criterion 37.4 -

(a) Sint Maarten does not refuse MLA requests on the sole ground that the offence is also considered to involve fiscal matters (Arts. 559 and 560, CCP).

(b) The jurisdiction can refuse MLA requests on the grounds of secrecy or confidentiality requirements in some circumstances such as: where the purpose for which the data or information will be used is not sufficiently determined; the intended use of the data or information does not fall within the scope of the supervision of financial markets or legal persons, companies or natural persons operating in those markets; the submission of the data or information would not be compatible with the current legislation or the public order; the confidentiality of the data or information is not sufficiently guaranteed; the submission of the data and information is or could be contrary to the interests the respective National Ordinance aims to protect; and there is insufficient

guarantee that the data or information will not be used for another purpose than the purpose for which it is submitted (Art. 40, NOSBC, Art. 18 of the NOSMTO, Art. 78 of the NOSIC, Art. 20 of the NOSIB, Art. 25 of the NOSIIA, Art.10 of the NOSSE, Art. 23 of the NOSTSP, Art.27, paragraph 1, under e, NOCMLTF). However, there are no provisions that allow the sharing or protection of information held in circumstances where legal professional privilege or legal professional secrecy applies.

Criterion 37.5 – Any person involved in executing a request is obliged to keep the information confidential, except in so far as any statutory provision imposes an obligation to publish whether the need to disclose arises from a role in the implementation of the Code. (Art. 45, CCP).

Criterion 37.6 – Dual criminality is not one of the conditions for refusing to render assistance related to MLA requests not involving coercive actions (Art. 559, CCP).

Criterion 37.7 – It is not required that both countries place the offence within the same category of offence provided that both countries criminalise the offence (Art. 559 of the CCP).

Criterion 37.8 –

(a) The investigative powers identified in the analysis of R. 31 are also available to be used in rendering MLA (Arts. 561 and 562, CCP).

(b) Sint Maarten has identified a broad range of other available powers and investigative techniques (see c.31.1 and c.31.2).

Weighting and Conclusion

Sint Maarten has met most of the requirements under R.37; however, there is no basis for the provision of MLA to occur rapidly; there are no clear procedures for the processing and prioritisation of MLA requests; and there are no provisions that allow the sharing or protection of information held in circumstances where legal professional privilege or legal professional secrecy applies.

Recommendation 37 is rated Largely Compliant.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

Sint Maarten was rated PC with the requirements of this Recommendation in the 3rd Round of Mutual Evaluations as the general deficiencies impacted the country's ability to freeze and confiscate in response to requests by foreign countries. The 12th follow-up report states that Sint Maarten addressed most of the deficiencies relative to R. 36, which cascade into R.38. The level of compliance with this Recommendation has been brought up, at a minimum, to a level comparable to LC by its 12th FUR.

Criterion 38.1 – Sint Maarten can take expeditious action in response to requests by foreign countries to identify, freeze, seize, and confiscate: **(a)** laundered property from, **(b)** proceeds from, **(c)** instrumentalities used in, or **(d)** instrumentalities intended for use in, money laundering, predicate offences, or terrorist financing; or **(e)** property of corresponding value. (Art.119(a), 579a-579d CCP).

Criterion 38.2 – Sint Maarten has not clearly demonstrated that it can provide assistance in response to requests for cooperation on the basis of non-conviction-based confiscation proceedings and related provisional measures of its own accord or when based on a treaty signed by the Kingdom of the Netherlands.

Criterion 38.3 – (a) There is a mechanism in place that allows for co-ordination of seizures with other countries. Art. 579a(3), CCP states that during the criminal financial investigation, the seizure of property may, in accordance with Art. 119(2) and Art. 119a(2), CCP, only take place where there are reasonable grounds for expecting that those objects will be an application for enforcement of a confiscation order on behalf of the requesting foreign State or a penalty for the confiscation of illegally obtained profits will be done. Furthermore, Art. 579(b)CCP sets out the circumstances in which property may be seized at the request of a foreign state.

(b) The country has mechanisms for managing and, when necessary, disposing of property frozen, seized or confiscated (Arts.141, 142 and 579d, CCP).

Criterion 38.4 – There are no comprehensive mechanisms in place that allow for the sharing of assets. However, the treaties that are in force between the Kingdom of the Netherlands and other jurisdictions and are applicable to Sint Maarten, allow for the sharing of assets. (Art. 7, Agreement between the Government of the Kingdom of the Netherlands and the Government of the United States of America regarding mutual cooperation in the Tracing, Freezing, Seizure and Forfeiture of Proceeds and Instrumentalities of Crime and the Sharing of Forfeited Assets).

Weighting and Conclusion

Sint Maarten has met some of the requirements under R.38. However, Sint Maarten has not clearly demonstrated that it can provide assistance in response to requests for cooperation on the basis of non-conviction-based confiscation proceedings and related provisional measures. Further, there are no comprehensive mechanisms in place for the sharing of confiscated assets with other countries.

Recommendation 38 is rated Partially Compliant.

Recommendation 39 – Extradition

Sint Maarten was rated PC with former R.39 in its 3rd Round MER. Deficiencies included the country's inability to execute extraditions in response to requests by foreign countries. Based on the progress achieved concerning Recommendation 36 and Special Recommendation II, the level of compliance with Recommendation 39 was brought up, at a minimum, to a level comparable to LC by its 12th FUR.

Criterion 39.1 - (a) ML and TF are extraditable offences (see R.3 and R.5 for the penalties for ML and TF offences and Art. 2 of the Extradition Decree of Aruba, Curaçao and Sint Maarten). Extradition is based on signed treaties by the Netherlands and extended to Sint Maarten. For example, the European Convention on Extradition and the Extradition Agreement between the Kingdom of the Netherlands and the United Arab Emirates.

(b) Sint Maarten did not provide evidence of having a case management system and clear processes (for instance SOPs) for the timely execution and prioritisation of extradition requests.

(c) Sint Maarten does not place unreasonable or unduly restrictive conditions on executing requests. Art. 2, 2b, 5 and 7 of the Extradition Decree of Aruba, Curaçao and Sint Maarten contain restrictions on requests for extradition, however these are not unreasonable or unduly restrictive.

Criterion 39.2 – (a) Sint Maarten does not extradite its nationals except where the extradition of a Dutch national has been requested for the purpose of a criminal investigation against him and in the opinion of the Governor, it is guaranteed that, if he is charged with the facts for which his extradition can be granted and is sentenced to an unconditional prison sentence, he will be allowed to serve this sentence in his own country (Art. 4, Extradition Decree of Aruba, Curaçao and Sint Maarten).

(b) Sint Maarten can prosecute its own nationals for prescribed offences committed abroad. No treaty is required, and the prosecutor will treat the matter as a local case and all local criminal procedures will apply. (Art. 1:6, CrC).

Criterion 39.3 – Dual criminality is required under the Extradition Decree. Extradition will only be granted if the suspected person committed an offence under the laws of both the requesting State and Sint Maarten (Art.2 (1) (a), Extradition Decree of Aruba, Curaçao and Sint Maarten). An offence punishable under the laws of Sint Maarten shall also include an offence as a result of which the legal order of the requesting State has been violated, whilst the same violation shall be punishable under the laws of Sint Maarten (Art.2 (2), Extradition Decree of Aruba, Curaçao and Sint Maarten).

Criterion 39.4 – Art. 19b, the Amendment to the Extradition Decree, provides that the person whose extradition has been requested by another State may, no later than the day preceding the day set for his hearing by the Court of Justice, declare his consent to immediate extradition.

Weighting and Conclusion

Sint Maarten has met most of the requirements under R.39. The deficiencies that exist relate to the absence of a case management system and clear processes for the timely execution and prioritisation of extradition requests. The AT considers these deficiencies as minor given the low number of requests received by the country during the period under review.

Recommendation 39 is rated Largely Compliant.

Recommendation 40 – Other forms of international cooperation

Recommendation 40 was rated PC for Sint Maarten's 3rd Round MER. The deficiencies cited included: The Extract General Regulation Import, Export and Transit of 1908 NG 1949 No. 62 (in relation to Customs) and all domestic legislation with respect to the law enforcement entities should provide for international cooperation with their counterparts; no provisions were identified under the NOSCBI, RFETCSM, NOSIIA or the NOSTCSP which reflect that the Central Bank can undertake investigations on behalf of their foreign

counterparts; and statistics were not provided with respect to spontaneous referrals of information as well as to information supplied on request in order that there can be an adequate assessment of the implementation of the criterion. By the 12th FUR, Sint Maarten corrected two of the three deficiencies identified in the implementation of R. 40. The country still needed to improve its legislation to allow for law enforcement agencies to provide international cooperation to their counterparts by means different from MLA. Compliance with Recommendation 40 had improved up to a level comparable at minimum to a LC.

Criterion 40.1 - CAs in Sint Maarten such as the FIU, CBCS, Police, Customs, Tax Authority and PPO, can rapidly provide the widest range of international co-operation in relation to ML, associated predicate offences and TF spontaneously and on request. The FIU is a member of the Egmont Group (EG) and shares information with members via the Egmont Group Secured Website. Information is shared with non-Egmont Group Members through various MoUs. Customs provides information via the Caribbean Customs Law Enforcement Council (CCLEC) based on the Customs Administrative Assistance Act signed by the Kingdom of the Netherlands. The Police provides information directly with their foreign counterparts based on legislation and via the Asset Recovery Network of the Caribbean (ARIN-CARIB) and INTERPOL upon request. Furthermore, international co-operation occurs via the different liaison officers from different agencies and jurisdictions such as the Dutch liaison officer or Caribbean Liaison officers or through the USA Consulate in Curaçao. The Tax Department provides information with foreign authorities including for AML/CFT purpose in accordance with the National Ordinance on General Taxes however this legislation was not provided. The CBCS provides information spontaneously and upon request pursuant to Art. 41, paragraph 1, 2 and 3, of the NOSBC, Art. 78a, paragraph 1, 2 and 3, of the NOSII, Art. 24, paragraph 1, 2 and 3, of the NOSTSP, Art. 28, paragraph 1, 2 and 3, of the NOSIIA, Art. 20a, paragraph 1, 2 and 3, NOIB, Art. 19, paragraph 1, 2 and 3, of the NOSMTO, Art. 7, paragraph 1, 2 and3, of the NOSSE, and Art. 28, paragraph 1, of the RFETCSM. The CBCS also has MoUs with foreign supervisors to facilitate and promote information sharing between the CBCS and supervisors and supervisory authorities in host countries.

Criterion 40.2 –

(a) CAs have a lawful basis for providing cooperation, as detailed in c.40.1.

(b) Nothing in law or otherwise prevents the CAs from utilising the most efficient means to cooperate.

(c)

FIU: The FIU uses the Egmont Secure Web (ESW) and FIU-net (used within Kingdom of the Netherlands) to request information from FIUs. The FIU exchanges information in a secure manner with non-Egmont Group members by securing the information with a passcode that is only accessible to the foreign FIU.

CBCS: The CBCS provides information by courier or posted by prepaid first-class mail and through a dedicated e-mail address.

Police: ARIN-CARIB provides a secure channel for the exchange of information.

Tax Authority: The Tax Department can exchange information electronically via secure mechanisms pursuant to the National Ordinance on General axes.

Customs: CCLEC provides a secure channel for transmission of information by custom authorities.

(d) The CBCS prioritises requests based on their nature and type. However, Sint Maarten has not indicated whether other CAs have clear processes for the prioritisation and timely execution of requests.

(e) The CBCS safeguards information obtained from foreign authorities by storing same in a segregated directory that is accessible only to relevant staff. Sint Maarten has not indicated whether other CAs have clear processes to safeguard the information received.

Criterion 40.3 - CAs (FIU, CBCS, Customs and Tax Authority) have signed and negotiated bilateral agreements with a wide range of foreign counterparts in a timely manner where such exists.

Criterion 40.4 - According to the Egmont Group Principles for Information Exchange, the FIU is required, upon request, to provide feedback relating to the timeliness of the response, the quality of the response and to what end the information was useful to that FIU and other CA (Paragraph 19 of the Egmont Group Principles for Information Exchange). There is nothing in law prohibiting the FIU from providing feedback to CAs on the quality of assistance received and usefulness of information obtained. There is also no prohibition in the bilateral agreements entered into by the CBCS or Customs for this CA to provide feedback on the quality of assistance received and usefulness of information. No information was provided in respect of the Police.

Criterion 40.5 -

(a) The FIU is bound by Egmont's Principles whereby FIUs should not prohibit or place unreasonable or unduly restrictive conditions on exchanging information or providing assistance with specific reference to the grounds under sub criteria (a) – (d) (para. 24, Principles for Information Exchange Between Financial Intelligence Units Paragraph 24). The CBCS does not prohibit or place unduly restrictive condition on the provision of exchange of information or assistance on the grounds specified in sub criteria (a)-(d) (Art. 41, paragraph 1, 2 and 3, of the NOSBC, Art. 78a, paragraph 1, 2 and 3, of the NOSII, Art. 24, paragraph 1, 2 and 3, of the NOSTSP, Art. 28, paragraph 1, 2 and 3, of the NOSIIA, Art. 20a, paragraph 1, 2 and 3, of the NOIB, Art. 19, paragraph 1, 2 and 3, of the NOSMTO, Art. 7, paragraph 1, 2 and 3, of the NOSSE, and Art.28, paragraph 1, of the RFETCSM). No specific information was provided with regard to the other CAs.

(b) The secrecy laws of FIs do not inhibit implementation of the NOFIU (Art. 28, NOCMLFT). As the provision is specific to FIs, it is unclear whether a request for information can be refused on the basis that DNFBPs are required to maintain secrecy.

(c) and (d) Except as it pertains to the FIU, no provisions were submitted for the other CAs.

Criterion 40.6 -

FIU: Egmont principles should be taken into consideration regarding the terms and conditions of information exchanged with other FIUs. Further, paragraph 32 of the Egmont Principles of Exchange stipulates that the exchanged information should be used for the purpose for which it was sought.
Police: Regarding the police, INTERPOL Rules were not provided to identify the nature of the controls and safeguards that were established in accordance with this criterion.
Customs: In respect of Customs' authorities, the CCLEC MoU states at Art II(2) that information provided under the MoU will not be used by the receiving administration for purposes other than the administration or enforcement of custom laws by its appropriate national authorities and any lawful investigation with respect thereto and will not be communicated to a 3rd party without written consent of the administration providing the information.
CBCS: The CBCS can disclose information unless the purpose for which the information is to be used is insufficient; the intended use of information does not fall within the framework of the supervision of financial markets or of legal persons, companies or natural persons operating in those markets; the provision of the information would not be compatible with the applicable legal regulations or public policy; the confidentiality of the information is not sufficiently ensured; the provision of the data or information is or would reasonably be contrary to be able to come up with the interests that the National Ordinance aims to protect; or there is insufficient guarantee that the data or information will not be used for a purpose other than that for which they are provided. Also, the CBCS is prohibited from sharing information provided by foreign supervisory authorities without their consent. (Arts. 24 and 24a, NOSTSP).

Tax Authority: No information was provided in respect of the Tax Authority.

Criterion 40.7 - The FIU, KPSM, Customs and the Tax Authority are required to comply with the requirements of this criterion and the confidentiality provisions of the supervisory Ordinances (Art, 40 NOSBC, Art. 78, NOSII, Art. 20, NOIB, Art. 25, NOSIIA, Art. 23, NOSTSP, Art. 10, NOSSE, Art. 27 RFETCSM, Art. 18, NOSMTO) the information received can only be used in the manner as described in these provisions.

Criterion 40.8 - In Sint Maarten the FIU (Art. 5 (8), NOFIU), the CBCS (Art. 41 a (2) NOSBC, Art. 78b(2) NOSII, Art. 20b(2)NOIB, Art. 28a(2) NOSIIA, Art. 24a(2) NOSTSP, Art. 7a(2) NOSSE, Art.29(1), RFETCSM, Art. 20(2), NOSMTC), the Police (INTERPOL's Rules on the Processing of Data) and Customs (protocols established by CCLEC and established treaties) are able to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically. The INTERPOL Rules relied on by police were not provided. A draft copy of the CCLEC MoU used by the Customs' authorities was provided. No information was provided for the Tax Authority.

Criterion 40.9 - The FIU performs its duties and activities in the context of the prevention and combatting of ML and TF (Art 3 (1), NOFIU). Arts. 6(1) and 7(1) of the State Decree FIU Register 2013 provide a legal basis for FIU to cooperate with foreign FIUs, including

FIUs that are not members of the Egmont Group. The FIU's duties include the independent conclusion of covenants or administrative agreements relating to the exchange of data and information with foreign authorities that have similar duties to the FIU (Art. 3(2)(i) NOFIU).

Criterion 40.10 - There are no legal provisions to prevent the FIU from providing feedback, upon request or whenever possible to its counterparts, however paragraph 19 of the 'Principles for information exchange of the Egmont Group' is referenced as the basis for the FIU of Sint Maarten (as a member of the Egmont Group) to provide feedback to its foreign FIU. According to Paragraph 19, upon request and whenever possible, FIUs should provide feedback to their foreign counterparts on the use of the information provided, as well as on the outcome of the analysis conducted based on the information provided.

Criterion 40.11 (a) and (b) - The FIU can share all information reported to it or obtained by it and information generated by its analysis (Art.3(2) (f) (i) and (j), NOFIU).

Criterion 40.12 – The CBCS has a legal basis for providing cooperation with its foreign counterparts (regardless of their respective nature or status), consistent with the applicable international standards for supervision, in particular with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes (Arts. 41, NOSBC; 78(a), NOSII; 28, NOSIIA; 20(a), NOIB; 19, NOSMTO; 7, NOSSE, 24(1-3), NOSTSP and 28, RFETCSM).

Criterion 40.13 – The CBCS can exchange domestic information with foreign counterparts, including information held by FIs (*see c. 40.12 for the relevant provisions*).

Criterion 40.14 – The CBCS can exchange **(a) (**regulatory, **(b)** prudential and **(c)** AML/CFT information, as required in this criterion (s*ee criteria 40.12 and 40.13 for the relevant provisions relating to the regulatory and prudential elements*).

Criterion 40.15 – The CBCS can conduct inquiries on behalf of foreign counterparts (Arts. 78b, NOSII; 24a, NOSTSP; 28a, NOSIIA; 20b, NOIB; 20, NOSMTC; 7a, NOSSE; and 29, RFETCSM) and to authorise or facilitate the ability of foreign counterparts to conduct inquiries themselves in the country to facilitate effective group supervision (Arts. 41b, NOSBC; 78c, NOSII; 24b, NOSTSP; 28b, NOSIIA; 20c, NOIB; 20, NOSMTO; 7b, NOSSE; and 30, RFETCSM).

Criterion 40.16 – The CBCS must ensure that it has the prior authorisation from a requested foreign financial supervisor for any dissemination of information exchanged or use of that information for supervisory and non-supervisory purposes (Arts. 41, NOSBC; 78a, NOSII; 24, NOSTSP, 28 NOSIIA, 20a of the NOIB, 19 of the NOSMTO, and 7 of the NOSSE).

Criterion 40.17 – LEAs can exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, TF and predicate offences, including the identification and tracing of proceeds and instrumentalities of crime based on the provisions identified in c.40.1

Criterion 40.18 – The CCP does not specify in what circumstances LEAs are permitted to use the investigative techniques referenced in R.31. As such, LEAs are allowed to conduct inquiries and use domestically available investigative techniques to obtain information in support of a request from a foreign counterpart.

Criterion 40.19 – Pursuant to Art. 564, CCP, foreign investigators can actively join the execution of a request for legal assistance under the leadership and responsibility of the Sint Maarten's CAs. There are no legal impediments to Sint Maarten LEAs forming joint investigative teams to conduct cooperative investigations and when necessary, establish bilateral or multilateral arrangements to enable such joint investigations. Such arrangements include the Mutual Legal Assistance in Criminal Matters Treaty with the USA and the INTERPOL agreement.

Criterion 40.20 – There is no prohibition preventing CAs from exchanging information indirectly with non-counterparts. The FIU, as a member of the EGMONT Group, adheres to the Egmont Principles of Information Exchange between FIUs with respect to indirect cooperation with foreign non-counterparts.

Weighting and Conclusion

Sint Maarten has met most of the requirements under R.40. CAs are able to provide a broad range of international cooperation - both spontaneously and upon request - in the areas of ML, associated predicate offences and TF. However, some deficiencies remain, for instance, with regard to CAs (CBCS excluded) demonstrating that they have a clear process for the prioritisation and timely execution of requests and a clear process for safeguarding the information received.

Recommendation 40 is rated Largely Compliant.

Summary of Technical Compliance – Key Deficiencies

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	PC	• While Sint Maarten has identified and assessed its ML/TF risks through its first NRA, there are significant data gaps in the NRA and, inter alia, limited assessment of the legal persons, NPO and VASP sectors. • While the FIU utilised a Steering Group for the development of Sint Maarten's NRA, there is no formal designation of an authority or mechanism to co-ordinate actions to assess risks. • There is no requirement to keep the risk assessments up to date. • At the time of on-site visit, there were not mechanisms in place to provide information on the results of the NRA to all relevant CAs, financial institutions and DNFBPs. • A risk-based approach has not been applied to the allocation of resources and implementing measures to prevent or mitigate ML/TF. • EDD is not dependent on higher risks identified by the jurisdiction. And there is no requirement for FIs and DNFBPs to incorporate the higher risks identified by the jurisdiction in their risk assessments. • Where simplified measures are allowed, there is no requirement that those measures must be predicated on the identification of a lower risk, which is consistent with the country's assessment of its ML/TF risks. • There are shortcomings under R. 26 and R. 28 which cascade under c.1.9. • There is no requirement for FIs and DNFBPs to keep their risk assessments up to date. • FIs and DNFPBs do not have appropriate mechanisms to provide risk assessment information to CAs. • There is no requirement for the policies, controls and procedures of FIs and casinos to be approved by senior management. • There is no requirement for FIs and DNFPBs to enhance their procedures and risk mitigation measures, if necessary. • There are shortcomings under c1.9-1.11 which cascade underc.1.12.
2. National cooperation and coordination	PC	• Sint Maarten does not have national AML/CFT policies that are informed by the risks identified. • At a policymaking level, there are no mechanisms in place for the FIU, law enforcement authorities, supervisors and other CAs to co-operate, and where appropriate, co-ordinate and exchange information domestically with each other concerning the development and implementation of AML/CFT/CPF policies and activities.
3. Money laundering offences	C	• All criteria are met.
4. Confiscation and provisional measures	C	• All criteria are met.
5. Terrorist financing offence	C	• All criteria are met.
6. Targeted financial sanctions related to terrorism & TF	PC	• There is no formal mechanism for Sint Maarten to propose designations to the Kingdom of the Netherlands for submission to UN 1267/1989 and 1988 Committee. There are no mechanisms to address c. 6.1(b)-(e). • There are no mechanisms to give effect to the request of another country for designation of persons or entities pursuant to UNSCR 1373. • There are no mechanisms for Sint Maarten to identify targets for designation pursuant to the UN 1373 list. • There are no mechanisms for CAs to collect or solicit information to identify persons and entities that, meet the criteria for designation • The legal framework in place for TFS does not allow for implementation without delay. • There are no mechanisms for Sint Maarten to directly communicate designations immediately upon taking such actions, nor has Sint Maarten demonstrated that it provides clear guidance to DNFBPs on their obligations under freezing mechanisms. • There are no procedures in effect for delisting and unfreezing funds or assets of persons or entities which do not or no longer meet the criteria for designation.

7. Targeted financial sanctions related to proliferation	PC	• The legal framework in place for TFS does not allow for implementation of UN designations pursuant to UNSCR 1718 without delay. • The legal framework in place for freezing funds and other assets of designated persons and entities related to the DPRK is not without delay (c.7.2 (a)) • The FIU does not have mechanisms for directly and immediately communicating designations to their supervised entities. • The FIU has not adopted measures to monitor and ensure compliance of DNFBPs with the obligations reflected in R.7. • There is no mechanism for delisting and communicating such de-listings and unfreezings to FIs and DNFBPs immediately upon taking such action. Additionally, there is no mechanism for providing guidance to FIs and other persons or entities, including DNFBPs, that may by holding targeted funds or other assets, on their obligations to respect a de-listing or unfreezing action.
8. Non-profit organisations	PC	• Sint Maarten has not demonstrated that it has used all relevant sources of information to identify the features and types of NPOs, which by virtue of their activities or characteristics, are likely to be at risk of TF abuse. • Through its NRA, Sint Maarten has not identified, to a full extent, the nature of threats posed by terrorist entities to the NPO sector and how terrorist actors can abuse NPOs. • Sint Maarten has not reviewed the adequacy of measures - including laws and regulations, to ensure that the at-risk subset of NPOs is properly regulated, supervised and is not abused for TF - in order to be able to take proportionate and effective actions to address the risks identified. • Sint Maarten has not identified measures to allow for periodic re-assessments of the sector's potential vulnerabilities to terrorist activities to ensure effective implementation of measures. • There are few clear and comprehensive policies to promote accountability, integrity and public confidence in the administration and management of all types of NPOs. • Sint Maarten has not conducted any outreach and educational programmes with NPOs and the donor community to raise awareness about potential TF abuse and risks and the measures NPOs can take to protect themselves against such abuse. • Sint Maarten has not worked with NPOs to develop and refine best practices to address TF risk and vulnerabilities and thus protect them from TF abuse. • Sint Maarten has not identified the mechanisms used to encourage NPOs to conduct transactions through regulated financial channels where feasible. • Sint Maarten has not identified the subset of NPOS which are at risk of TF abuse, therefore steps have not been taken to promote effective supervision or monitoring; apply risk-based measures; and monitor compliance. • Except for the COCI, Sint Maarten has not identified the measures in place for other agencies which hold relevant information on NPOs, to ensure effective co-operation, co-ordination and information sharing. • Sint Maarten does not have investigative expertise and capability to examine those NPOs suspected of either being exploited by or actively supporting terrorist activity to terrorist organisations. • Sint Maarten has not demonstrated that all investigating authorities have full access to information during an investigation. • It is unclear whether the measures in place to ensure that suspicious activities related to an NPO's operations are communicated to the relevant authorities allow for prompt sharing, enabling timely preventive or investigative actions.
9. Financial institution secrecy laws	LC	• It is unclear whether FIs can share information between themselves where required by R.13, 16 or 17.
10. Customer due diligence	PC	• Legislative provisions do not apply to carrying out occasional/incidental transactions that are wire transfers in circumstances covered by R.16 and its Interpretive Note. • There are no requirements to undertake reviews of existing records. • There is no requirement for FIs to understand the nature of the customer's business. • There are no requirements to collect information on the powers that regulate and bind the legal person and arrangement nor for requiring a principal place of business address in the case whereby the registered office is not the principal place of business. • There is no requirement for verifying the identity of the beneficial owner through sub b and c of c.10.10.

		• There are no legislative provisions for FIs to identify and take reasonable measures to verify the identity of beneficial owners for other types of legal arrangements and the identity of persons in equivalent or similar positions • The requirement to identify beneficiaries does not cover the element of a beneficiary that is designated by characteristics or by class or by other means. • There are no requirements for FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether EDD is applicable and enhanced measures are not required on the basis of a determination that a beneficiary who is a legal person or a legal arrangement presents a higher risk. • There is no requirement on the ML/TF risks being effectively managed prior to the verification and identification of the customer and beneficial owner during the establishment of a business relationship. • There are no requirements for FIs to adopt risk management procedures concerning the conditions under which a customer may utilise the business relationship prior to verification. • It is unclear if SDD is informed by risk assessments by the country or the FIs.
11. Record keeping	C	• All criteria are met.
12. Politically exposed persons	LC	• There are no requirements to determine whether the beneficial owner of the beneficiary is a PEP and to inform senior management before the payout of the policy proceeds where higher risks are identified.
13. Correspondent banking	C	• All criteria are met.
14. Money or value transfer services	PC	• The method of imposing fines and determining the amount of fines is set out in a National Decree that is in legislative process. • It is unclear if the list of agents is available to other CAs. • There is no requirement for MTCs to include their agents in their AML/CFT programmes and monitor them for compliance with these.
15. New technologies	NC	• Sint Maarten has not concluded the identification and assessment of ML/TF risks that may arise in relation to new technologies. • The obligation on FIs does not extend to new delivery mechanisms. • There is no law or other enforceable means in force with regard to the regulation or licensing of the VASP sector.
16. Wire transfers	PC	• There are no requirements that the ordering FI rejects the wire if it does not comply with c.16.1-16.7. • Requirements for intermediary and beneficiary FIs in c.16.11-16.15 are not fully met. • The requirement in c.16.16 is limited to originator information. • There is no requirement on MTC providers that control both the ordering and beneficiary side of a wire transfer. • MTCs are not required to implement other UNSCRs than UNSCRs 1267 and 1373; other FIs are not required to implement TFS.
17. Reliance on third parties	LC	• There are no provisions for relevant CAs to consider that the requirements of c.17.1 and c.17.2 are met in the circumstances set out in c.17.3.
18. Internal controls and foreign branches and subsidiaries	PC	• It is unclear whether the appointment of a compliance officer happens at management level. • There are no screening procedures to ensure high standards when hiring employees. • There is no requirement to have policies and procedures for sharing information within the group for AML/CFT purposes. • It is unclear whether there are safeguards to prevent tipping-off. • It is unclear whether reports provided within the group entail customer, account and transaction information; and whether branches and subsidiaries receive such information from group-level compliance when relevant and appropriate for risk management.
19. Higher-risk countries	PC	• It is unclear whether the application of EDD would be proportionate to the risks • It is unclear whether FIs can apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b) independently of any call by the FATF to do so.
20. Reporting of suspicious transaction	C	• All criteria are met.
21. Tipping-off and confidentiality	C	• All criteria are met.
22. DNFBPs: Customer due diligence	LC	• There are minor shortcomings in relation to R.10, R.15 and R.17.
23. DNFBPs: Other measures	PC	• There are shortcomings in relation to R.18 and R.19.

		• The FIU has not updated the list of FATF public statements since October 2023.
24. Transparency and beneficial ownership of legal persons	PC	• Sint Maarten has not assessed the TF risks for legal persons and the NRA did not comprehensively assess their ML risks. • The COCI lacks verification measures to ensure the accuracy of the BO information. • All companies are not mandated by law to cooperate with CAs in the provision of basic and beneficial ownership (BO) information. • Not all CAs have the powers to access basic and beneficial ownership information held by relevant parties on a timely basis. • Sint Maarten does not have mechanisms for monitoring the quality of assistance they receive from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.
25. Transparency and beneficial ownership of legal arrangements	LC	• Sint Maarten does not have provisions for trustees to hold basic information on other regulated agents or, and service providers to, the trust, including investment advisors or managers, accountants, and tax advisors • There is no requirement for trustees to disclose their status to FIs and DNFBPs.
26. Regulation and supervision of financial institutions	LC	• Not all FIs are required to be licensed and the prohibition on shell banks does not sufficiently address the requirement not to approve the establishment or continued operation of shell banks in the country. • There is no regulation and supervision in line with the core principles for securities intermediaries. • Measures regarding the frequency and intensity of on-site and off-site AML/CFT supervision of FIs or groups do not apply to securities intermediaries, electronic money institutions and payment service providers for which legislation is pending.
27. Powers of supervisors	LC	• A minor gap relates to some low risk and low material sectors not yet supervised.
28. Regulation and supervision of DNFBPs	PC	• There are no necessary legal or regulatory measures to prevent criminals from holding or having a management function in DNFBPs other than TCSPs. • Other than TCSPs, other categories of DNFBPs are not subject to systems of monitoring compliance with AML/CFT requirements. • There are no fit and proper testing requirements for DNFBPs under the supervision of the FIU. • The FIU has powers to monitor compliance but these are limited by persons bound to confidentiality rules. • No information is provided on how supervision of DNFBPs is performed implementing an RBA.
29. Financial intelligence units	LC	• Sint Maarten does not conduct strategic analysis. • There are no measures to ensure that the FIU staff members have the necessary security clearance levels and understanding of their responsibilities in handling and disseminating sensitive and confidential information.
30. Responsibilities of law enforcement and investigative authorities	C	• All criteria are met.
31. Powers of law enforcement and investigative authorities	C	• All criteria are met.
32. Cash couriers	LC	• There are no measures which allow for adequate co-ordination among customs, immigration and other related authorities at the domestic level on issues related to the implementation of Recommendation 32.
33. Statistics	PC	• Sint Maarten has not demonstrated that the relevant authorities are maintaining statistics on ML/TF prosecutions and convictions; and property frozen, seized and confiscated. • LEAs did not provide statistics on other international requests for co-operation.
34. Guidance and feedback	PC	• There are some shortcomings with respect to the guidance and feedback provided by the CBCS and FIU.
35. Sanctions	LC	• A minor gap relates to some sectors not yet supervised.
36. International instruments	PC	• The United Nations Convention Against Corruption (UNCAC)/Merida) Convention was not extended to Sint Maarten. • Sint Maarten has not identified all of the legislative provisions which allow for implementation of some of the relevant Treaty Articles (Vienna, Palermo and Merica Conventions).
37. Mutual legal assistance	LC	• There is no basis for the provision of MLA to occur rapidly. • There are no clear processes for the timely prioritisation and execution of MLA requests. • It is unclear under what circumstances Sint Maarten refuses MLA requests on the grounds of secrecy or confidentiality requirements for FIs or DNFBPs. It is also unclear if there are

		provisions that allow the sharing or protection of information held in circumstances where legal professional privilege or legal professional secrecy applies.
38. Mutual legal assistance: freezing and confiscation	PC	• Sint Maarten has not clearly demonstrated whether it can provide assistance in response to requests for cooperation on the basis of non-conviction-based confiscation proceedings and related provisional measures at a minimum, in circumstances when a perpetrator is unavailable or unknown. • There are no comprehensive mechanisms in place that allow for the sharing of assets.
39. Extradition	LC	• Sint Maarten lacks a case management system and clear processes (for instance SOPs) for the timely execution and prioritisation of extradition requests.
40. Other forms of international cooperation	LC	• Except for the CBCS, other CAs do not have clear processes for the prioritisation and timely execution of requests. • Except for the CBCS, other CAs do not have clear processes to safeguard the information received. • It is not clear whether the police can provide feedback to competent authorities, from which they received assistance, on the use and usefulness of the information provided. • Except for the FIU, it is unclear whether other CAs can refuse a request for assistance on the ground that the request is also considered to involve fiscal matters. • It is unclear whether a request for information can be refused on the basis that DNFBPs are required to maintain secrecy. • Except for the FIU, it is unclear whether a request for information can be refused by other CAs on the basis that there is an inquiry, investigation or proceeding underway in the requested country, unless the assistance would impede that inquiry, investigation or proceeding. • Except for the FIU, it is unclear whether a request for information can be refused by other CAs on the basis that the nature or status (civil, administrative, law enforcement, etc.) of the requesting counterpart authority is different from that of its foreign counterpart. • Not all CAs have established controls and safeguards to ensure that the information exchanged by CAs is used only for the purpose for, and by the authorities, for which the information was sought or provided, unless prior authorisation has been given by the requested CA. • It is not clear whether the Tax Authority and the police are able to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically.

Glossary of Acronyms[33]

Acronym	Definition
AB	Announcement Sheet ("Afkondigingsblad")
Adm II & SAdm II	Administrators of Investment Institutions and Self-Administered Investment Institutions
AFM	Dutch Authority for the Financial Markets
AII	Administrators of Investment Institutions
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AO/IC	Administrative Organization and Internal Control
ART	Asset Recovery Team
ARIN-CARIB	Asset Recovery Inter-Agency Network for the Caribbean
AT	Assessment Team
BES (Islands)	Bonaire, St Eustatius and Saba (Special municipalities of the Kingdom of the Netherlands)
BNI	Bearer Negotiable Instruments
BO	Beneficial Ownership
BPS	Border Protection Service
BZK	Minister of Internal Affairs and Kingdom Relations
CA	Competent Authority
CAIR	Caribbean Association of Insurance companies
CBCS	Central Bank of Curaçao and Sint Maarten ("Centrale Bank van Curaçao en Sint Maarten")
CC	Civil Code of Sint Maarten ("Burgerlijk Wetboek van Sint Maarten")
CCLEC	Caribbean Customs Law Enforcement Council
CCP	Code of Criminal Procedure ("Wetboek van Strafvordering van Sint Maarten")
CIs	Credit Institutions
COCI	Chamber of Commerce & Industry
COSRA	Council of the Securities Regulators of the Americas
CrC	Criminal Code of Sint Maarten ("Wetboek van Strafrecht van Sint Maarten")
CT	Central Team
DBB	Foreign Relations Department of the Ministry of General Affairs
DNFBP	Designated non-financial businesses and professions
EDD	Enhanced Due Diligence
ESW	Egmont Group Secure Website
EU	European Union
FI	Financial Institution
FIU	Sint Maarten's Financial Intelligence Unit ("Meldpunt Ongebruikelijke Transacties (MOT)")
FUR	Follow-Up Report
HR	Dutch Supreme Court ("Hoge Raad")
IB	Insurance Broker
IC	Insurance Company
ICSM	Cooperation Agreement Intelligence Centre Sint Maarten
IFS Register	Integrity Financial Sector Register
IOSCO	International Organization of Securities Commissions
IRC Carib	International Legal Assistance Centre Carib
KMAR	Royal Military Police

33 Acronyms already defined in the FATF 40 Recommendations are not included into this Glossary.

KPSM	Sint Maarten Police Force (“Korps Politie Sint Maarten”)
KWCarib	Dutch Caribbean Coast Guard
LEA	Law Enforcement Agency
LR	National Internal Investigations Department (“Landsrecherche”)
MLCO	Money Laundering Compliance Officer
MLA	Mutual Legal Assistance
MLAT	Mutual Legal Assistance Treaty
MoU	Memorandum Of Understanding
MTC	Money Transfer Company
NAf	Netherlands Antillean guilder
NAIC	National Association of Insurance Commissioners, USA
NCTVI	National Central Bureau Counterterrorism, Safety and INTERPOL
NDDCO	National Decree on Detention Confiscated Objects
NOAE	National Ordinance on Administrative Enforcement
NOAJ	National Ordinance on Administrative Jurisprudence
NOCG	National Ordinance Corporate Governance
NOCMLTF	National Ordinance Combatting Money Laundering and the Financing of Terrorism
NOFIU	National Ordinance Financial Intelligence Unit
NOGAC	National Ordinance on General Audit Chambers
NOOGIMS	National Ordinance containing provisions regarding the operation of games of hazard on the international market through service delivery services
NOGGT	National Ordinance containing provisions regarding the Gambling Games to promote Tourism
NOGNT	National Ordinance on General National Taxes
NOPPD	National Ordinance for the Protection of Personal Data
NORCCT	National Ordinance on Reporting Cross Border Cash Transports
NOSBC	National Ordinance laying down rules on the supervision of the banking and credit system
NOSCSL	National Ordinance on Substantive Civil Service Law
NOSII	National Ordinance on the Supervision of the Insurance Industry
NOSIIA	National Ordinance regulating the supervision of investment institutions and administrators
NOSIB	National Ordinance on the Supervision of the Insurance Business
NOSMTO	National Ordinance on the Supervision of Money Transfer Offices
NOSSE	National Ordinance on the Supervision of Securities Exchanges
NOSTSP	National Ordinance on the Supervision of Trust Service Providers
NOTR	National Ordinance Trade Register (“Landsverordening houdende nieuwe bepalingen met betrekking tot het handelsregister”)
NPO	Non-Profit Organisation
NSO	National Sanctions Ordinance
NSR	National Sanctions Regulations
NRA	National Risk Assessment
OECD	Organization for Economic Co-operation and Development
OFAC	Office of Foreign Assets Control, US Department of the Treasury
P&Gs	Provisions and Guidelines
PPO	Public Prosecutor’s Office (“Openbaar Ministerie”)
RBA	Risk-Based Approach
RFETCSM	Regulation for Foreign Exchange Transactions Curaçao and Sint Maarten
RST	Detective Cooperation Team (“Recherche Samenwerkingsteam”)
SAI	Self-Administered Investment Institutions

SARA	AML/CFT/CPF Risk Assessment
SDG	(United Nations) Sustainable Development Goal
SGAZ	Secretary-General of the Ministry of General Affairs
TEATT	Ministry of Tourism, Economic Affairs, Transport & Telecommunication
TRD	Trade Register Decree
UNCAC	United Nations Convention Against Corruption
UNSCR	United Nations Security Council Resolution
UTR	Unusual Transaction Report
VDSM	Security Service of Sint Maarten (“Veiligheidsdienst van Sint Maarten”)

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July 2025

Anti-money laundering and counter-terrorist financing measures – Sint Maarten

Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in Sint Maarten as at the date of the on-site visit from 16-30 September, 2024. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Sint Maarten's AML/CTF system, and provides recommendations on how the system could be strengthened.