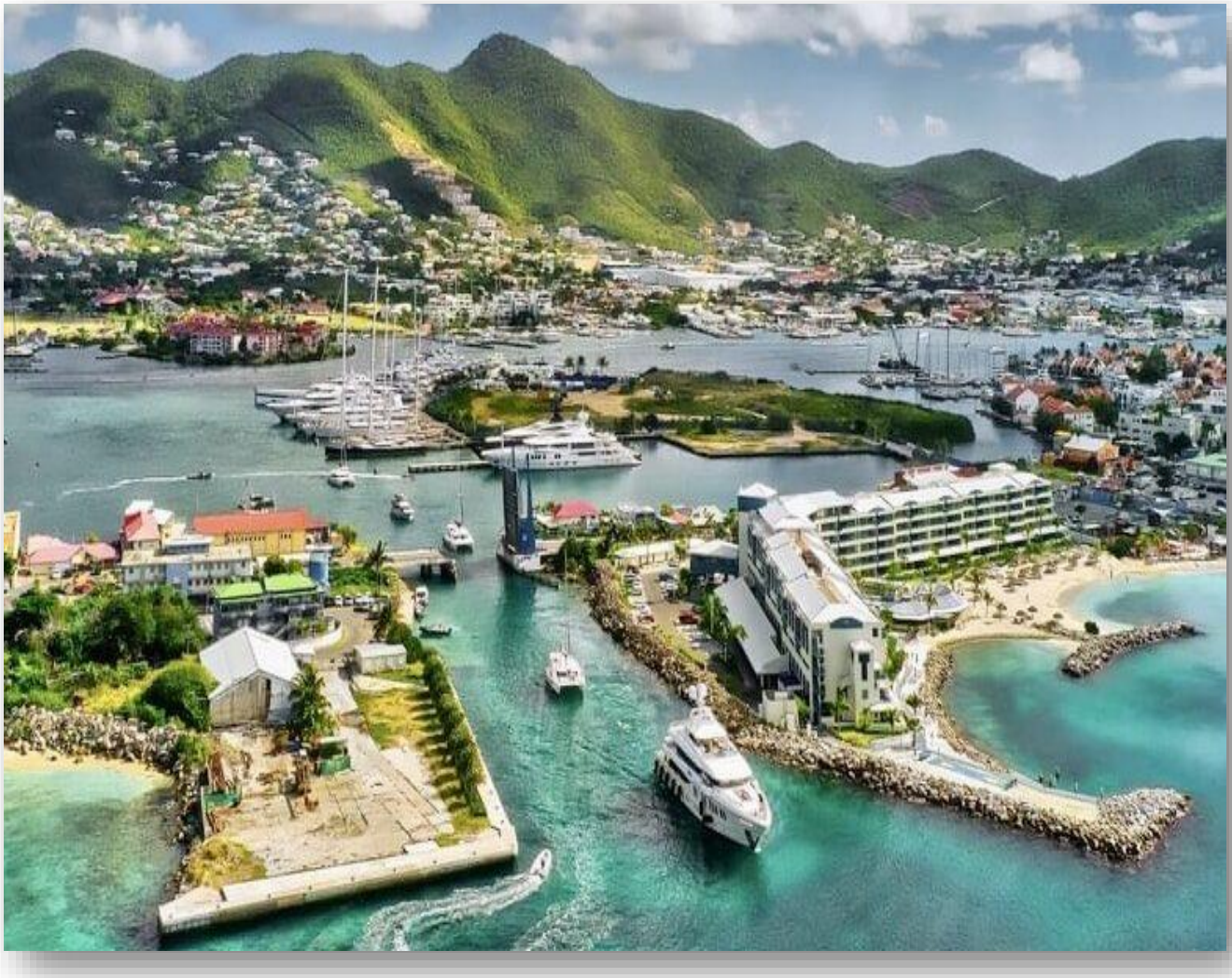
FINANCIAL INTELLIGENCE UNIT
Ministry of Justice - Sint Maarten

SINT MAARTEN

Anti-Money Laundering and Terrorist Financing National Risk Assessment (NRA) - 2024



16 PEACE, JUSTICE AND STRONG INSTITUTIONS

SUSTAINABLE DEVELOPMENT GOALS

30 August 2024

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EXECUTIVE SUMMARY

Introduction

The Government of Sint Maarten is, adhering to its motto "*Semper Pro Grediens*", committed to continually upgrade its understanding of the money laundering (ML), terrorist financing (TF) and proliferation financing (PF) risks that can affect Sint Maarten's financial integrity. To prevent and combat these risks effectively, Sint Maarten is strengthening its anti-money laundering/countering terrorist financing and proliferation financing infrastructure, and is developing robust, but at the same time realistic, policies and strategies.

ML is the process used by criminals to conceal or disguise the origin of criminal proceeds to make the funds appear to originate from legitimate sources. ML compromises the integrity of the international financial system, and is a threat to global safety and security.

TF encompasses the means and methods used by terrorists or terrorist organizations to finance their activities. This money can come from legitimate sources, for example from business profits and charitable organizations' donations, or from illegal activities including trafficking in weapons, drugs or people.

PF refers to the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual-use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.

Both ML and TF have a negative impact on a country, as these (cross-border) crimes can have far-reaching consequences for its financial integrity, its economy and (through subversive activities) its state of law. ML and TF are therefore criminalized through incorporation in the Criminal Code of Sint Maarten. Furthermore, the Parliament of Sint Maarten has adopted several Anti-ML/Countering FT and PF laws and regulations such as the National ordinance combatting ML and TF (AB 2019, no. 25), the National Ordinance Financial Intelligence Unit (AB 2019, no. 24), the National ordinance reporting cross-border cash transports (AB 2019, no. 26), the National Sanction Ordinance (AB 2019, no. 25) and the National Sanction Regulation (AB 2022, no. 23).

Sint Maarten became a member of the Caribbean Financial Action Task Force (CFATF) in May 2011. The CFATF is an organization of twenty-five (25) states and territories of the Caribbean basin which have agreed to implement common countermeasures against ML, TF and PF. As a member of this organization, Sint Maarten is required to and has been implementing the Financial Action Task Force (FATF) 40 Recommendations, which set out a comprehensive and consistent framework of (binding) measures which countries should implement in order to combat ML, TF and PF.

Sint Maarten had its 1st CFATF Mutual Evaluation in July 2000, and the 2nd round Mutual Evaluation in October-November 2002, both as part of the Netherlands Antilles. The CFATF conducted a 3rd Mutual Evaluation on Sint Maarten which was adopted by its Plenary on January 8th, 2013. The 3rd MER provides a summary of the AML/CFT measures in place in Sint Maarten, as at the date of the onsite visit or immediately thereafter. It describes and analyses those measures, and provides recommendations on how certain aspects of the system could be strengthened, and also sets out Sint Maarten's levels of compliance with the FATF 40 Recommendations.

In the 12th Follow-Up Report of the LI Plenary and Working Group Meeting of November 20th - December 11th, 2020, the conclusion of the CFATF was the following:

> *"This detailed analysis of Sint Maarten's actions to close the deficiencies noted in its 3rd MER provides an overview of the progress relating to all Core and Key Recommendations that were rated PC/NC. The analysis indicates that Sint Maarten addressed all Core and Key Recommendations rated PC/NC (R. 3, 5, 10, 13, 23, 26, 35, 36, 40, SR. I, II, III, IV, and V) to a level comparable to at least an LC or C. It is recommended to the*

Plenary that Sint Maarten should be allowed to exit the follow-up process and the 3rd Round of Mutual Evaluations."

With this 1st National Risk Assessment (NRA -2024), the Government of Sint Maarten specifically implements FATF Rec. 1, stating:

"*Countries should identify, assess, and understand the money laundering and terrorist financing risks for the country, and should take action, including designating an authority or mechanism to coordinate actions to assess risks, and apply resources, aimed at ensuring the risks are mitigated effectively. Based on that assessment, countries should apply a risk-based approach (RBA) to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified.*"[1]

Art. 18 of the NOCMLTF, is stating that the Minister of Justice:

"*shall establish a national policy to promote transparency, integrity and public confidence in the governance and management of all non-profit organizations, as well as national policy to prevent or reduce money laundering and terrorist financing, which is based on the identified risks. This policy will be reassessed every ten years, adjusted if necessary, and re-established*."

Central to the compilation of this NRA was a methodological joint participatory process which enabled Sint Maarten to identify the main drivers of ML-, TF-, and PF Risk. The methodological process was based on the understanding of the cause-and-effect relations among ML Risk factors and variables relating to the regulatory, institutional, geographical, and economic environment. For the diverse Threat or Vulnerability themes or sectors, a multidisciplinary Project Group (PG) was set up in teams consisting of experienced practitioners from relevant government agencies and the private sector. Information was also compiled from relevant public and private sectors through interviews and questionnaires to determine ML and TF risk prevalence and incidents.

Organization of the NRA Project

The information and analysis for this NRA was compiled by a project organization, consisting of three (3) Sub Project Groups (SPG) under the guidance of a Steering Group. The Financial Intelligence Unit of Sint Maarten (FIU) acted as lead organization and Chair of the NRA Steering Group (overseeing body), while a national coordinator on behalf of the Chair of the Steering Group worked along with the project groups. The Steering Group consisting of representatives of the FIU, the '*Centrale Bank van Curaçao en Sint Maarten*' (CBCS), and the Secretaries-General of the relevant ministries.

The NRA process, which was initiated in June 2022 and finalized in March 2024, involved the following three (3) phases:

1. Preparation and Launch.
2. Data Collection, Analysis, and Drafting of the Report.
3. Finalization of the Report and drafting of proposed actions following the assessment.

National ML Threat Assessment

The following summary of risk assessment is based on the World Bank Group Methodology utilized by the Sint Maarten NRA report project group. This Excel-based model enables countries to identify the main drivers of ML Risk, and it is also a framework for future data collection that can be used to update the NRA on a regular basis. It provides a methodological process based on an understanding of the cause-and-effect relations among ML Risk factors and variables relating to the regulatory, institutional, and economic environment. The NRA tool comprises several interrelated modules. These modules are built on "input variables", which represent factors related to ML Threat and ML Vulnerability. "**Threat**" refers to the scale and characteristics of the proceeds of crime, the TF and PF in the country. "**Vulnerability**" refers to existing deficiencies in the available defense and response mechanisms to combat ML.

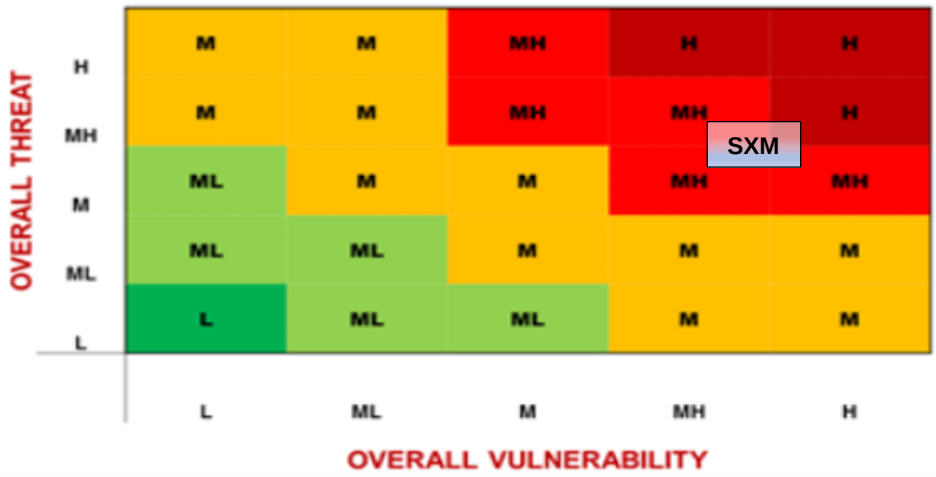
Both the ML Threat level rating and the ML Vulnerability level rating for Sint Maarten is **MEDIUM-HIGH**.

[1] https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html

The combination of the ML Threat and the ML Vulnerability results in an overall ML Risk level rating for Sint Maarten of **MEDIUM-HIGH**.

Table 1. Risk map showing Sint Maarten's ML Risk level, as a function of Threat and Vulnerability

OVERALL ML RISK FOR SINT MAARTEN



During the NRA reporting period 2017-2021, Sint Maarten encountered the environmental disasters of hurricanes Irma and Maria in September 2017, which affected daily life and the economy of the whole country tremendously for a couple of years. As a result, the execution of the legally assigned tasks of the FIU was paralyzed for a certain period of time. Furthermore, the COVID-19 pandemic impact in 2020 has been detrimental for the DNFBP sectors, and gave a significant impulse on the serious and organized global crime landscape, re-shaping criminal activities and creating new opportunities for certain criminal networks.

Data for this national ML Threat Assessment was collected from supervisory, administrative, enforcement, and judicial agencies. Also, a qualitative review of official legal and socio-economic documents, academic literature, and international articles was conducted. The overall level of the national ML Threat for Sint Maarten is rated at **MEDIUM-HIGH**. To assess the ML Threat, the SPG focused on the origin of the proceeds of crime by assessing the predicate offences that generate proceeds of crime, the total proceeds of crime, and the sectors in which the proceeds of crime are invested and laundered. Based on the results of this analysis, the NRA project group concluded that the predicate offences that posed the highest ML Threat in Sint Maarten are:

- ***Fraud, Drug Trafficking, Migrant Smuggling, Tax Evasion, Theft and Robbery***

HIGH ML Threat levels in specific businesses or commercial activities based on sectoral assessments are applicable for the following sectors:

- ***Banking***
- ***Trust Company Service Providers***
- ***Notary***

National TF Threat Assessment

For Sint Maarten, the SPG concluded that the Threat of terrorist individuals, organizations and financing at a national or sectoral level is rated at **LOW**, resulting in a **LOW** TF Risk level. Preventive measures and internal controls over certain sectors can be strengthened by means of inter alia establishing a Sint Maarten Gaming Authority, tasked with monitoring compliance with the AML/CFT regulatory framework in the Casino sector. Additionally, Law Enforcement Agencies (LEA) and other stakeholders across the

supervision chain need additional resources to enhance awareness, supervision and auditing. International cooperation remains an important factor.

National PF Threat Assessment[2]

Sint Maarten's greatest exposure to PF Risk would rest in (a) the misuse of international companies to mask ownership of businesses and assets; and (b) the registration on the Sint Maarten shipping registry of vessels that may be used to transport weapons of mass destruction by designated entities. No further assessment was made as for the Sint Maarten's shipping registry of vessels. To date Sint Maarten has not taken any steps to implement targeted financial sanctions in relation to proliferation financing (PF). Sanctions issued by international (UN) and supranational (EU) bodies, and other jurisdictions which inter alia Sint Maarten's FIs and DNFBPs must implement, are published through the official National Sanction Regulation, and posted timely on the official CBCS and FIU websites, and shared with the FIs and the DNFBPs. The SPG has concluded that there are no indications that government or private entities on Sint Maarten provide (possible) strategic goods and services to areas with an active terrorist threat. The national or sectoral PF Threat level is rated at **LOW**.

National Vulnerability Assessment

The necessary information for the National Vulnerability assessment was gathered during different meetings with the NRA Project groups, including information gathered through interviews and questionnaires with different stakeholders, as well as through formal reports on research conducted. Information for the National Vulnerability assessment was mostly qualitative. Statistical data was also collected from relevant institutions. The assessment demonstrates material weaknesses in the areas of the quality of the AML/CFT policy and strategy, including the quality in the maintenance of statistics in this area. It also highlights a lack of (sufficient) resources dedicated to investigations, criminal prosecution, and adjudication in the assessed area. The overall ML/TF/PF Vulnerability level for Sint Maarten is rated at **MEDIUM-HIGH**.

National Overall Sectoral ML Threat, Vulnerability and Risk Score

The sectoral assessment identified the following sectors (FIs and DNFBPs) as most exposed to ML Threat:

Table 2. Sint Maarten's Overall Sectoral ML Threat, Vulnerability and Risk Score

	SECTOR	ML THREAT SCORE	ML VULNERABILITY SCORE	ML RISK SCORE
1.	Banking	HIGH	MEDIUM	MEDIUM-HIGH
2.	Insurance	LOW	MEDIUM-HIGH	MEDIUM
3.	Securities Intermediaries & Asset Management	LOW	MEDIUM-LOW	MEDIUM-LOW
4.	Trust Company Service Providers	HIGH	MEDIUM-LOW	MEDIUM-HIGH
5.	Money Transfer Companies	MEDIUM-HIGH	MEDIUM-HIGH	MEDIUM-HIGH
6.	Micro Lending	LOW	MEDIUM	MEDIUM-LOW
7.	Credit Union	LOW	MEDIUM	MEDIUM-LOW
8.	Virtual Asset Service Providers	LOW	HIGH	MEDIUM
9.	Car Dealer	MEDIUM-HIGH	MEDIUM-HIGH	MEDIUM-HIGH
10.	Casino	MEDIUM-HIGH	HIGH	HIGH
11.	Real Estate Agency	MEDIUM	MEDIUM-HIGH	MEDIUM-HIGH
12.	Accountant	MEDIUM	MEDIUM-HIGH	MEDIUM-HIGH
13.	Lawyer	MEDIUM	MEDIUM-HIGH	MEDIUM-HIGH
14.	Notary	HIGH	HIGH	HIGH
15.	Dealers in Precious Metals and Stones	MEDIUM	HIGH	MEDIUM-HIGH
16.	Non-Profit Organizations	LOW	MEDIUM	MEDIUM-LOW

[2] The national PF Threat Assessment was conducted based on the FATF Guidance on Proliferation Financing Risk Assessment and Mitigation document https://www.fatf-gafi.org/en/publications/Financingofproliferation/Proliferation-financing-risk-assessment-mitigation.html

- **ML Threat and ML Vulnerability to the Banking Sector**

Considering the **HIGH** ML/TF/PF Threat level and its **MEDIUM** Vulnerability level, the overall ML/TF/PF residual Risk level of the Banking sector in Sint Maarten is rated at **MEDIUM-HIGH**. The Banking sector represents 67% of total assets for the financial system. Sint Maarten is mainly a cash-based economy, however most sectors on the island maintain bank accounts with the Banking sector to facilitate their banking needs. Banks report the most (objective and subjective) unusual transactions (UTRs) to the FIU in the financial system. Several ML/TF/PF vulnerabilities are addressed. There is a comprehensive regulatory framework, robust entry controls, adequate supervision procedures and practices, knowledge and integrity of banks' staff, and market pressure to meet international standards. However, some improvements are required in the effectiveness of the compliance function, while little improvements are required in the effectiveness of unusual transactions monitoring and reporting, and enforcement of administrative law sanctions and criminal law sanctions.

- **ML Threat and ML Vulnerability to the Securities Intermediaries and Asset Management Sector**

The Securities Intermediaries and Asset Management sector's overall residual Risk to ML/TF/PF is rated at **MEDIUM-LOW**. The Threat level of the Securities Intermediaries and Asset Management sector is assessed as **LOW**, and the sector's Vulnerability level to ML has been rated at **MEDIUM-LOW**.

The Securities Intermediaries and Assets Management sector is small within Sint Maarten's financial sector and the core financial transactions susceptible to ML/TF/PF are conducted at local banks via customer accounts. There was no reporting of UTRs for the period under review. Although no examinations were performed in this sector, the (overall) net ML Risk level is rated at **MEDIUM-LOW** based on the activities performed in this sector, and the vulnerabilities in Sint Maarten.

- **ML Threat and ML Vulnerability to the Insurance Sector**

The Insurance sector's residual Risk to ML/TF/PF has been rated at **MEDIUM**. The Threat level for ML/TF in the Insurance sector is rated at **LOW**. The CBCS did not have to contemplate any administrative or criminal actions against any insurance company in Sint Maarten during the years under review. The ML Vulnerability level is rated at **MEDIUM-HIGH**. The P&G for the Sint Maarten Insurance sector is still in process to be updated. Currently no fines were imposed by the CBCS in this sector.

- **ML Threat and ML Vulnerability to the Other Financial Institutions Sector**

The Other Financial Institutions sector in Sint Maarten comprises of three (3) Money Transfer Companies (MTCs) with head offices in Curaçao, two (2) Micro Lending institutions, and one (1) branch of a Credit Union, also with its head office in Curaçao.

- **The MTC Sector**

The overall residual ML/TF/PF Risk level for the MTC sector in Sint Maarten is rated at **MEDIUM-HIGH**. Because of the cash-intensive nature of MTCs and the customer-base, among other things, there could be a high level of undetected ML/TF/PF activity in this sector. The MTC sector's Threat level to ML is rated at **MEDIUM-HIGH.** Based on the categories assessed and areas where improvement is required, the ML/TF Vulnerability level of the MTC sector is rated at **MEDIUM-HIGH**.

- **The Micro Lending Sector**

The (overall) residual ML/TF/PF Risk level for this sector remains at **MEDIUM-LOW**. The ML Threat level for ML/TF/PF for the Micro Lending sector on Sint Maarten is rated at **LOW**. The Micro Lending sector is small compared to the overall Sint Maarten financial sector, and the core transactions susceptible to ML are conducted at local banks and involve little to no cash transactions. There were no UTR cases reported to the FIU and/or PPO. Furthermore, there are no (major) findings of concern to this sector.

- **The Credit Union Sector**

The (overall) residual ML/TF/PF Risk level for the Credit Union sector is rated at **LOW**. The Credit Union sector's Vulnerability to ML has been rated at a **LOW** level. The ML/TF/PF Threat level posed by the Credit Union sector is rated at **LOW**. The credit union only offers deposits and consumer loan products to a closed group and cash transactions are not accepted. No examinations were performed in this sector for the period under review and no reporting of UTRs was noted during the period under review.

- **ML Risk to the Trust and Company Service Providers (TCSP) Sector**

The (overall) residual ML Risk level for the TCSP sector is rated at **MEDIUM-HIGH**. The sector is very small within Sint Maarten's financial activities, and made only 0.13% of all reporting of UTRs to the FIU. The ML Threat level posed by this sector is rated at **HIGH**, based on Expert judgment from the PPO. The TCSP sector's Vulnerability level to ML has been rated at **MEDIUM-HIGH.** The CBCS, applying a risk-based approach, is committed to enhance its supervision of this sector.

- **ML Risk to the Virtual Asset Service Providers (VASP) Sector**

The (overall) residual ML Risk level for the Virtual Asset Service Providers (VASP) sector in Sint Maarten is rated at **MEDIUM**. This rating is given because of the small number of entities currently operating within the financial technology (Fintech) space in Sint Maarten. The ML Vulnerability level for the VASP sector is generally rated at **HIGH** because of the speed and mostly borderless nature of transactions.

- **ML Risk to the Financial Inclusion (FI) Products Sector**

Financial inclusion (FI) is generally understood as a process of assisting low to non-income earners and other disadvantaged groups to have proper access to financial services and products such as basic bank accounts, mobile money accounts and pre-paid cards at an affordable cost and in a timely manner. The (overall) residual Risk level for this sector for the time being remains **LOW** as Sint Maarten's financial sector currently does not offer identifiable or specifically targeted FI products or services. However, this can result in a larger informal economy sector within Sint Maarten which poses greater risks for non-compliance with AML/CFT standards. This can change in the future pending adoption of new related legislation.

- **ML Threat and ML Vulnerability to the DNFBP Sectors**

The DNFBP sectors in Sint Maarten that fall under the supervision of the FIU, are incorporated in Art. 2, paragraph 1, under b, of the NOCMLTF. Currently, amendments of the NOCMLTF are drafted to include "*the tax advisors, and the experts giving advice or providing assistance in the field of Legal, Fiscal, or Administration*" within the Accountant sector, to include the realtors, appraisers and project developers within the Real Estate Agency sector, and to include the pawnshops, within the Dealers in Precious Metals and Stones (DPMS) sector. The DNFBP sectors in Sint Maarten that were actually assessed are:

Accountant sector	**Casino sector**	**Car Dealer sector**	**DPMS sector**
Lawyer sector	**Notary sector**	**Real Estate Agency sector**	

All DNFBPs are subject to the provisions of the NOCMLTF[3], the National ordinance reporting cross-border cash transports, the National Sanction Ordinance, and the National Sanction Regulation, the

[3] National ordinance combatting money laundering and terrorist financing (AB 2019, no. 25)
http://www.fiusxm.net/web/fiuweb/fiusxmweb.nsf/29e3df05e1abce0804257682005b24be/4c75ff953fdfd92004257950004fadf5/$FILE/National%20Ordinance%20combating%20ML-TF%20AB%202019%20no%2025.pdf

NOFIU[4], as well as the Provisions and Guidelines (P&Gs) issued by the FIU.[5] During the period under review the FIU carried out sectoral assessments with several DNFBPs.

In general, the main causes for the **MEDIUM-HIGH** rated ML Threat level, and **MEDIUM-HIGH** ML Vulnerability level for the DNFBP sectors are:

- Not all DNFBPs have registered at the FIU, and few or no follow up measures (reminders/sanctions) by the FIU have taken place.
- Limited information sessions performed by the FIU, and no onsite audits resulting in low AML/CFT awareness/knowledge in the specific sector.
- Poor reporting behavior because of insufficient or incomplete Customer Due Diligence (CDD) conducted in the specific sector.
- Less readily available statistics from LEA with respect to involvement or use of a specific sector in (financial) crime or ML cases, which hampered proper supervision in the specific sector.
- No readily available UBO information from COCI, which hampered LEA investigation purposes.

- **ML Risk to specific DNFBP Sectors**

The majority of the DNFBP sectors have a ML Risk level rated at **MEDIUM-HIGH:**

- **The Car Dealer Sector**

In general, the high value of cars and the level of cash activity in this sector make the sector attractive for ML. However, the cash transactions in this sector are assessed at approximately 20%. All the registered car dealers have a compliance policy and procedures and compliance officers in place. Inherent vulnerability factors could not be assessed due to lack of information. The start-up and exploitation of a car rental company makes it fairly easy to use illicit money to purchase the rental cars, and the cash-intensive rental business provides opportunities to mix legal and illegal money.

- **The Real Estate Agency Sector**

ML through the purchase of real estate is a long-standing phenomenon. It is possible to invest significant amounts of money in a single transaction while potentially obscuring the identity of the beneficial owner via the use of corporate vehicles, agents or intermediaries. Real estate transactions may involve large sums and compared to financial sector transactions, can be subject to much less scrutiny, particularly when no loan through a financial institution is involved. During the review period, almost 104 real estate agents or firms were known at the FIU, of which 58 were registered at the FIU. In reality, the number of real estate firms is assumed to be higher. This means that a significant number of real estate firms are not registered at the COCI, nor at the FIU. The AML/CFT knowledge of staff is a weakness. In principle, the tasks of the compliance officer are performed by the manager or the director.

- **The Lawyer Sector**

Lawyers providing transactional services to clients (as opposed to litigation or defence) can acquire property, manage money, operate bank accounts, form trusts and companies and serve key roles in them, and help purchase and sell other businesses, among other things. These tasks are perfectly legal, but they can also be essential components in ML/TF schemes, which may not necessarily be identified by the lawyer if AML/CFT preventive measures are not applied. Because of the involvement of lawyers,

[4] National Ordinance Financial Intelligence Unit (AB 2019, no. 24) National Ordinance MOT AB 2019 no. 24.pdf (fiu-sxm.net)

[5] Provisions and Guidelines for Lawyers, Notaries, Accountants, Tax, Advisors and Administration Offices http://www.fiusxm.net/web/fiuweb/fiusxmweb.nsf/29e3df05e1abce0804257682005b24be/4c75ff953fdfd92004257950004fadf5/$FILE/PG%20Lawyers%20Notaries%20Accountants%20Tax%20advisors%20and%20Administration%20offices%20-%20Aug%202020.pdf

the underlying transactions may also acquire an air of legitimacy to outside parties. The AML/CFT knowledge of this sector is improving.

- **The Accountant Sector**

This sector provides services that can be misused for ML/TF schemes. Accountants record business transactions for companies, report on company performance, and issue financial statements, to name a few of the services. They play an important role in safeguarding the integrity of the national economic and financial system. The majority of accountants have compliance policies and compliance officers in place. The AML/CFT knowledge of this sector is improving.

- **The Dealers in Precious Metals and Stones Sector**

The closed and opaque nature of the diamonds markets, currently dealing with natural and lab-grown diamonds, and the high value of diamonds, combined with a lack of expertise in this area on the part of the authorities, have left this industry susceptible to abuse by criminals. In the assessed period no ML/TF cases involving Dealers in Precious Metals and Stones (DPMS) are known by the LEA. Cases that were noticed concerned robberies and stolen credit cards. The basic CDD is conducted by this sector, seeing the majority of the customers using credit cards (approx. 88%). The high-end dealers, also selling loose diamonds and precious metals are using Branch Codes of Conduct, and Branch internal guidelines which refer to regulatory obligations. The majority of businesses in the DPMS sector are represented by the Indian Merchants Association (IMA) of Sint Maarten. The number of UTR submitted by the DPMS sector to the FIU is considered low. The AML/CFT knowledge of this sector is improving.

- **ML Risk and TF Threat to the NPO Sector**

The relatively large NPO sector in Sint Maarten has four (4) representational and self-regulatory organizations/umbrella organizations that have developed standards and initiatives to help individual organizations ensure accountability and transparency in their operations. During the assessment of the NPO sector and meetings with the self-regulatory organizations/umbrella organizations, it became apparent that there is insufficient awareness of possible ML/TF abuse of NPOs.[6] There is no intelligence that indicates that the NPO sector in Sint Maarten is being misused for ML or TF. The ML Risk level and TF Threat level for NPOs is rated at **LOW**.

- **Environmental and Natural Resources Crimes**

The environmental and natural resources crimes that are intended within the FATF ML context, cover a wide range of activities, from illegal extraction and trade of forestry, minerals and illegal wild life trading to illegal land clearance and waste trafficking.[7] Although the Sanitary Landfill of Sint Maarten had been under scrutiny from the PPO in 2018, and illegal building activities and illegal waste disposals have taken place during the period under review, no environmental and natural Resources Crimes related to ML/TF/PF have been detected. Since 2021 a waste management project (ISWM-SXM) started that to date is ongoing, in which integrated solid waste management on Sint Maarten is being legally structured. A Waste Authority is proposed to be established that could be tasked with AML/CFT supervision activities pertaining to environmental and natural resources crimes, in cooperation with the non-governmental organization (NGO), the Nature Foundation Sint Maarten. The Nature Foundation Sint Maarten currently assists the government in all issues related to the management of the environment and its preservation through a Service Level Agreement with the Minister of VROMI. The Nature Foundation Sint Maarten is also the government appointed Management and Scientific Authority, making them responsible for: 1) National activities related to the CITES convention;

[6] The FIU missed an opportunity in 2023 to participate in a congress for NPOs organized by the umbrella organizations.
[7] https://www.fatf-gafi.org/en/publications/Environmentalcrime/Environmental-crime.html

2) Advising the Minister of VROMI on the identification of species, and all other matters relating to nature management and nature conservation that are submitted to them for advice. This NGO is authorized to enforce administrative law on violations of environmental regulations.

The following prioritized Action Points, derived from the Action Points list of Section 5 (Proposed Action Points for Enhancement of Sint Maarten's AML/CFT/CFP Regulatory Framework), are proposed for dealing with the ML/TF/PF Threat, Vulnerability and Risk factors in the relevant public and private sectors.

Table 3. Prioritized Action Points proposed by the NRA Sint Maarten 2024

No.	Area & Sectoral Action Points	Lead Agent(s)
1.	**Mitigating National ML/TF/PF Threat, and Vulnerability**	
	1. Political commitment shall be renewed and ensured by assigning high priority to combatting ML, TF and PF, reflected in the allocation of sufficient resources for human capital and investment in IT, and technical capacity to the national judicial agencies, LEA and intelligence organizations concerned. 2. A national AML/CFT/CFP Committee shall be established tasked with drafting and updating of national AML policy and strategy (based on the Threats and Vulnerabilities identified in the NRA) together with coordination and monitoring of the AML/CFT/CPF regulatory framework, as well as receiving statistics in accordance with the FATF guidance AML/CFT-related data and statistics (October 2015). 3. The LEA shall gather statistics pertaining to AML/CFT/CFP. 4. The Department of Statistics (STATS) within the Ministry of TEATT shall also be tasked with generating and maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT regulatory framework in close cooperation with the ministries concerned (in line with Country package Measure A.2.). 5. Existing information sharing barriers shall be eliminated as much as possible, and the FIU and CBCS receive direct digital access to databases of other governmental organizations (e.g. Kadaster and COCI). 6. The effectiveness of confiscation regimes shall be enhanced through drafting and implementing comprehensive policies and regulations. A comprehensive framework for managing or overseeing the management of frozen, seized and confiscated property shall be worked out. 7. The FIU shall incorporate in its regulations (National Ordinance FIU) that commercial companies who provide AML/CFT trainings to the DNFBPs, require registration with the FIU.	• Ministry of General Affairs • Ministry of Justice • Ministry of Finance • Ministry of TEATT • Ministry of Public Health, Social Development and Labor • Ministry of VROMI • Ministry of Education, Culture, Youth and Sport • LEA • FIU
2.	**Mitigating Environmental and Natural Resources Crimes**	
	1. The proposed Waste Authority shall have a role in addressing environmental and natural resources crimes related to ML, FT and PF. Reporting to the FIU shall be included. 2. Environmental crimes shall be designated as financial crimes/predicate offences.	• Ministry of VROMI • The Nature Foundation • Ministry of Justice • FIU
3.	**Mitigating ML-TF for the purpose of the Banking Sector**	
	1. Update the P&Gs for the Banking Sector. 2. Management and/or the compliance functions should obtain more training on the main areas where deficiencies have been observed.	• CBCS • FIU • PPO

	3. The compliance function should scrutinize more transactions for subjective reporting and investigations. 4. The CBCS and FIU should finalize the MOU to enhance collaboration in the area of supervision. 5. The FIU reporting portal should be automated soonest for efficient and effective reporting. 6. The CBCS should continue to encourage banking institutions and implement mechanisms to expedite the transition from a cash-based economy to a digital-based economy.	
4.	**Mitigating ML-TF for the purpose of the Insurance Sector**	
	1. Update the P&Gs for the Insurance sector. 2. Periodic onsite examinations will continue to be conducted by the CBCS based on a risk-based approach.	• CBCS
5.	**Mitigating ML-TF for the purpose of the MTC Sector**	
	1. Update the P&Gs for the MTC sector. 2. Periodic onsite examinations will continue to be conducted by the CBCS based on a risk-based approach. 3. Staff and management of the MTC sector should obtain more training on the main areas where deficiencies have been identified. 4. The compliance function should obtain more training regarding subjective reporting and investigations.	• CBCS
6.	**Mitigating ML-TF for the purpose of the Securities and Asset Managers Sector**	
	1. Finalize the National Ordinance on the Supervision of Securities Intermediaries and Asset Management (NOSSIAM), specifically for Sint Maarten. 2. Periodic onsite examinations will be conducted by the CBCS based on a risk-based approach. 3. Finalize a specific AML/CFT/CFP P&Gs for the Securities Intermediaries and Asset Management sector.	• Ministry of Finance • CBCS
7.	**Mitigating ML-TF for the purpose of the Credit Union Sector**	
	1. The updated AML/CFT/CFP P&Gs for the Credit Institutions will be applicable to the Credit Union sector. 2. Periodic onsite examinations will continue to be conducted by the CBCS, based on a risk-based approach.	• CBCS
8.	**Mitigating ML-TF for the purpose of the Micro Lending Sector**	
	1. The updated AML/CFT/CFP P&Gs for credit institutions will also be applicable to the Micro Lending sector.	• CBCS
9.	**Mitigating ML-TF for the purpose of the Trust Company Service Providers Sector**	
	1. Update the AML/CFT/CFP P&Gs for the TCSP sector. 2. Periodic onsite examinations will continue to be conducted by the CBCS based on a risk-based approach.	• CBCS
10.	**Mitigating ML-TF for the purpose of the Virtual Asset Service Providers Sector**	
	1. Establish ML/TF/PF guidelines, which will assist VASPs and PSPs in applying measures to combat ML/TF/PF, and, in particular, in detecting and reporting suspicious transactions. 2. Issue advisory to the PSPs and VASPs to reiterate their AML/CFT/CFP obligations based on the NOCMLTF.	• Ministry of Finance • CBCS

	3. Conduct onsite and offsite inspections and intensify efforts to ensure compliance with the NOCMLTF. 4. Enact NOSPSP and NOSVASP and issue sector-specific guidelines. 5. Provide more guidance to the PSPs and VASPs for them to focus on analyzing and reporting subjective unusual transactions that require more investigation and more tailoring of the transaction monitoring system. 6. Require the submission of annual data on variables such as the volume and nature of the products provided, the transaction patterns, and the cross-border nature of transactions to enable the CBCS to enhance its risk assessment of PSPs and VASPs.	
11.	**Mitigating ML-TF for the purpose of the Financial Inclusion Products Sector**	
	1. Adoption of the National Ordinance Basic Payment Account. This would allow the financial institutions in Sint Maarten to offer financial inclusion products or services, which can reduce the current large financial informal sector.	• Ministry of Finance • CBCS
12.	**Mitigating ML-TF for the purpose of the Casino Sector**	
	1. In the legal-technical process of the establishment of a Gaming Board Authority, as part of Country package Measure H.2.3. (drafting new gambling legislation), the FIU will see to it (as part of its task preparing national ordinances and other regulations regarding the prevention and combating of ML, TF, PF and the predicate offences), that the AML/CFT supervision of the Casino sector will be accommodated within this authority. 2. The Hazard Games regulations (Gaming sector) shall be updated and include entry controls (explicit Fit and Proper tests) for granting licenses for casino owners, and junket operator licenses.	• Ministry of Justice • Ministry of TEATT • FIU
13.	**Mitigating ML-TF for the purpose of the Real Estate Agency Sector**	
	1. Registering of the realtors at COCI, ministry of TEATT and FIU shall be urged. 2. After completion of the registration process of all realtors, the FIU shall execute offsite and thereafter onsite assessments. 3. The dilettante realtors shall be purged from the sector.	• Ministry of Justice • FIU • COCI
14.	**Mitigating ML-TF for the purpose of the Notary Sector**	
	1. The Notary sector shall be encouraged to become a member of a Notarial Professional Organization within the Kingdom (e.g. the Dutch "*Koninklijke Notariële Beroepsorganisatie*" (KNB)). 2. The Notary sector shall be instructed to regularly participate in AML/CFT training sessions. 3. The Supervisory Chamber shall be invested with ML/TF supervision tasks and become the Self-Regulatory Body of the Notary sector. 4. Include in the P&G and in the NOCMLTF that Notaries shall inform their realtor clients that they are required to register at the COCI and the FIU.	• Ministry of Justice • FIU • Supervisory Chamber • Notary sector
15.	**Mitigating ML-TF for the purpose of the Lawyer Sector**	
	1. Offsite and thereafter onsite audits will be executed by the FIU at the lawyer sector. 2. In consultation with the Lawyer sector reach amendment of the Attorneys' Ordinance to invest the Council of Supervision for Attorneys with ML/TF supervision tasks and become the Self-Regulatory Body of the Lawyer sector.	• Ministry of Justice • FIU • Lawyers sector
16.	**Mitigating ML-TF for the purpose of the Accountant Sector**	
	1. Tax advisors and administration service providers shall be incorporated in the designated Accountant sector as mentioned in the NOCMLTF. 2. The Accountant sector shall be consulted on the establishment of a Self-Regulatory Body.	• Ministry of TEATT • FIU • Accountant sector

	3. Certification of professional Accountants shall be included in the regulations concerned.	
17.	**Mitigating ML-TF for the purpose of the DPMS Sector**	
	1. More offsite and onsite audits will be executed by the FIU. 2. Sectoral assessment with regard to the "diamond pipeline"[8] shall take place.	• FIU
18.	**Mitigating ML-TF for the purpose of the NPO sector**	
	1. Measures to strengthen effective NPO self-regulation will be encouraged. The umbrella organizations shall be informed about the position of Self-Regulatory Body. 2. The FIU will participate in the annual congresses organized by the umbrella organizations, providing comprehensive AML/CFT/CPF information.	• Ministry of Justice • FIU • NPO Umbrella organizations
19.	**Mitigating ML-TF for the purpose of the Legal Persons and other Legal Arrangements**	
	1. Establishment of an ML investigations data collection framework by the PPO, LEA. 2. Updating and completing the database of the COCI. 3. The Ministry of TEATT will carry out fit and proper tests of the requestor of the Business license, the Director license, and the Operational license, before issuing these. 4. More cooperation and coordination between the COCI, the Ministry of TEATT and the FIU, to streamline the information in their registers. 5. Expedite the UBO register by the COCI for legal persons to register their UBO's. 6. Provide more resources to the COCI as it currently (2024) is not able to ensure that accurate and up-to-date information on legal persons and legal arrangements and related UBO information is available on a timely basis.	• Ministry of Justice • Ministry of TEATT • COCI • FIU

[8] Bringing diamonds from production (mining) to the retail consumer involves several stages of processing and a variety of transactions (also known within the industry as "the diamond pipeline").

SECTION 1: INTRODUCTION, SCOPE & METHODOLOGY

1.1. Introduction

Money Laundering (ML) and Terrorist Financing (TF), including Proliferation Financing (PF) subvert the integrity and stability of financial markets and institutions. They encompass a wide range of activities and often involve transactions and activities crossing national borders. Their wide-ranging effects have motivated the Financial Action Task Force (FATF) to issue international standards to help prevent and combatting them. In February 2012, the FATF issued a revised set of international standards on combatting ML, TF, and PF, the FATF 40 Recommendations (last updated in November 2023).[9] These strongly emphasise assessment of ML, TF, and PF Risk at both the national and sectoral levels, and the adoption of a risk-based approach to prevent and combat ML, TF, and PF.

Under these international standards, countries are obliged to comprehensively assess their ML, TF, and PF Risk, and to share the results of that assessment primarily with financial institutions (FIs), and designated non-financial businesses and professions (DNFBPs). The government of Sint Maarten, through the Ministry of Justice, in collaboration with the '*Centrale Bank van Curaçao en Sint Maarten*' (CBCS), the Ministry of Finance, the Ministry of TEATT (Tourism, Economic Affairs, Transport, and Telecommunication), together with other national stakeholders conducted its 1st National Risk Assessment (NRA -2024). The World Bank Group (WBG) assisted in this process by providing introductory sessions on their risk assessment approach which is used by jurisdictions around the world, to assess their ML/TF Risk. A specific WBG Toolkit was used as methodology for this NRA.

Different research methods were employed in conducting this NRA. These included literature reviews, group discussions and meetings with representatives of the public sector, interviews with experts and public and private stakeholders, and analysis of the obtained information and data. Performing this risk assessment has provided a clearer insight into what country Sint Maarten is required to undertake to prevent and combat the Threat of ML, TF and PF even more effectively.

Due to several factors, such as limited human resources of public and private institutions, combined with the limited availability of information and data within organizations, it was not always possible to obtain all the data and statistics that the WBG Toolkit requires to conduct assessments in the ML and TF areas. The WBG Toolkit does not include any PF modules which were therefor conducted based on the FATF guidance and typologies studies in this area.[10] When statistics were not available, conclusions were based on the expertise of the members of the SPG, including other available experts in the relevant fields.

The FIU is currently operating as an administrative body, resorting under the Ministry of Justice. The effectiveness of the FIU can, in accordance with FATF Rec. 29 (Financial Intelligence Units), be improved by designating this supervisory body for the DNFBPs as an independent administrative body with legal personality (such as the CBCS). This will facilitate the levying of fees and imposing administrative law sanctions. With these administrative law sanctions, next to the criminal law approach, another effective, proportionate and dissuasive option is being created in accordance with FATF Rec. 35 (Sanctions) to address ML, TF and PF. Specific legislation ("*Lbham*") has already been drafted by the FIU for this purpose.

On December 22, 2020, Sint Maarten and the Netherlands signed the mutual arrangement for the implementation of the Sint Maarten Country package ("*Landspakket Sint Maarten*"), periodically specified in so-called Implementation Agendas ("*Uitvoeringsagenda's*").

[9] https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html

[10] https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Financingofproliferation/Proliferation-financing-risk-assessment-mitigation.html

The Country package includes measures in the following areas: financial management; costs and effectiveness of the public sector; taxes; the financial sector; the economy; medical care; education and strengthening the rule of law:[11]

Measure B.4. : *"Based on an integral detailed assessment, proposals will be developed and implemented to improve the quality, effectiveness and execution power of the government organization, which also includes the ministerial staffs."*

Measure B.14. : "*Sint Maarten will comply with the guidelines of the CFATF* [sic] *regarding combatting fraud and money laundering. A plan of approach will be drawn up and implemented*."

Measure H.1. : "*In the interest of stability of public order and safety, no cuts will be applied until further notice that limit the operational implementation capacity within the most vital sectors of the rule of law (Police, Customs, National Criminal Investigation Department, Public Prosecution Service, Court, Coast Guard, prison system and the security service*)."

These Country package measures show the commitment from both the Netherlands and Sint Maarten to overcome the challenges the government of Sint Maarten is undergoing in the field of financial (budget) shortages, shortage of qualified personnel and limited governmental infrastructure (and their correlation).

During the period under review 2017-2021, several commercial companies provided Compliance training on the topic of KYC, AML/CFT/CFP for FIs and DNFBPs. Despite the fact that the FIU was unable to provide enough awareness sessions for most of the DNFBPs, due to lack of resources, ML/TF/PF awareness could still be raised for the specific DNFBP sectors. This private sector initiative should be taken into account as well, in determining the conclusive levels of Threat, Vulnerability and Risk.

This NRA should be considered in the context of limitations and also in the context of the developments as highlighted above.

1.2. How this report is structured

This report is divided into five (5) sections:

Section 1:	Introducing Sint Maarten and the scope and methodology used for its NRA process. Describing the roles by the various competent authorities[12], and indicating to which authorities the content is relevant.
Section 2:	Providing a description of Sint Maarten's ML, TF, and PF Threat, Vulnerability, and Risk at national level, including the legal and regulatory framework.
Section 3:	Looking in greater detail at the ML and TF Threat and Vulnerability in the financial institutions, and other related institutions and sectors.
Section 4:	Considering the Threat, Vulnerability and Risk of the Designated Non-Financial Business and Professions (DNFBPs), the Legal persons and Other Legal arrangements, and the Non-Profit Organizations (NPOs).
Section 5:	Proposing Action Points which are based on the Sint Maarten NRA to address the risks pointed out in this report.

[11] https://www.two-acs.com/over-two/werkwijze-two/uitvoeringsagendas-en-uitvoeringsrapportages/sint-maarten

[12] Competent authorities refer to all public authorities with designated responsibilities for combatting ML, TF and PF. In particular, this includes the FIU; the authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing/freezing and confiscating criminal assets; authorities receiving reports on cross-border transportation of currency & BNIs; and authorities that have AML/CFT supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and DNFBPs with AML/CFT requirements. Self-Regulatory Bodies (SRBs) are not to be regarded as a competent authority. This includes financial supervisors established as independent non-governmental authorities with statutory powers. Source: https://www.fatf-gafi.org/glossary/

1.3. Country Sint Maarten

1.3.1. Geographical and Demographical Context

Country Sint Maarten is a Small Island Developing State (SIDS) located in the Leeward Islands Group in the Northeast Caribbean Sea. Sint Maarten shares its Northern border with the French Overseas Collectivity of Saint Martin, and these uniquely make up the smallest landmass in the world (Sint Maarten: 34 km² and Saint Martin 54.4 km²). There are no physical borders, and people are free to move between both sides of the islands. On January 1, 2019, the population of the whole island consisted of 77,257 inhabitants, with 44,222 living on Sint Maarten and 33,053 on La Collectivité de Saint Martin.[13] As part of France, La Collectivité de Saint Martin is also part of the European Union. Sint Maarten is one of four constituent countries that form the Kingdom of the Netherlands.

1.3.2. Economic and Social Context

Sint Maarten's economy depends largely on tourism. Restaurants, hotels, and other tourism-related sectors account for about 45 percent of GDP. In 2022, Sint Maarten's GDP was USD 1.797 billion.[14] Tourism accounts for 73% of foreign exchange income, and the jobs of roughly one-third of the employed population. Sint Maarten primarily caters to cruise tourists, who use the island's only deep-water port in Philipsburg. About 80% of visitors to the island are short-stay cruise tourists. Stay-over tourist spend average USD 149 daily, cruise visitors USD 142. Sint Maarten's tourism-based economy has been seriously disrupted by recent disasters such as Hurricane Irma in 2017 and the COVID-19 pandemic starting in 2020. Due in part to these two recent events, Sint Maarten's economy is arguably in bad shape (the country's GDP fell by 20% in 2020 as a result of the COVID-19 pandemic, IMF, 2020). However, this economic underachievement is also driven by structural matters. For this reason, the IMF as well as several other organizations have repeatedly stressed the need for improving the business and investment climate in Sint Maarten in order to foster economic growth. In response to the devastation caused by hurricane Irma in Sint Maarten a Trust Fund was set up, managed by the World Bank and financed by the government of the Netherlands for up to EUR 445.11 million (USD 519.42 million). Currently, Sint Maarten's business environment is characterized by low transparency and high bureaucracy, which constitutes a barrier to (foreign) investments (IMF, 2020). In order to foster Sint Maarten's growth potential and to make the transition towards structural economic growth, Sint Maarten wants to prepare itself for the economic/fiscal reforms the private sector and (inter)national organizations have been calling for. Recently, agreements were concluded between the Caribbean Countries of the Kingdom and the Netherlands on the Country packages, in accordance with the Kingdom Charter (Arts. 36, 37 and 38). The Country package that has been set out for Sint Maarten will be implemented through thematic projects. These projects in their entirety are aimed at a better quality of life for Sint Maarten residents, and the welfare promotion of the population through reforms of an administrative nature, the achievement of sustainable public finances, strengthening the resilience of the economy and, where appropriate, the creation of national organizations. In doing this, these thematic projects are focussed on reducing the tax burden (by lowering the public costs), improving labor and capital markets, and creating an attractive business climate.

The official currency in Sint Maarten is the Netherlands Antillean guilder (NAf), which has been legally pegged to the US Dollar (NAf 1.79 = 1 US Dollar)[15] for over 50 years. The US Dollar is also a commonly used currency on Sint Maarten, while Saint Martin uses the Euro. Sint Maarten and Curaçao will start using the Caribbean Guilder in March 31, 2025.[16]

[13] http://stats.sintmaartengov.org/press_reLEAe/Population/2024/Press_reLEAe_est_Population_2024.pdf

[14] https://www.cia.gov/the-world-factbook/countries/sint-maarten/#economy

[15] "*Regeling Wisselkoers Caribische gulden*", AB 2010, GT no. 24.

[16] https://exch.centralbank.cw/functions/banknotes-coins/caribbean-guilder

The established shared National Development Vision (NDV)[17] outlines the priority goals, including aligned United Nations Sustainable Development Goals (SDGs) for the country.

The National Vision of Sint Maarten is as follows:

> *"Sint Maarten as the Caribbean Business and Education hub, where everyone can be provided with the full range of opportunities needed to obtain and sustain an enhanced quality of life."*

The aim of the National Vision is to transform Sint Maarten into three themes, namely:

I. A compassionate and united Sint Maarten, which aligns with SDGs 1, 2, 3, 4, 5 and 10.
II. A strong and resilient economy, reflecting SDGs 1, 7, 8, 9, 11, 13, and 14.
III. A safe and secured, decisive and independent nation. This aim corresponds with SDGs 13, 16, and 17.[18]

SDG Target 16.4 is specifically relevant for this NRA, stating:

 	*"by 2030 significantly reduce illicit financial and arms flows, strengthen recovery and return of stolen assets, and combat all forms of organized crime."*

1.3.3. Political and Judicial Context

After a referendum in 2010, Sint Maarten became an autonomous country that forms part of the Kingdom of the Netherlands. The Kingdom of the Netherlands consists of four (4) countries: the Netherlands, Aruba, Curaçao, and Sint Maarten, with Bonaire, Sint Eustatius and Saba being special municipalities in the Kingdom. King Willem-Alexander is monarch of all four (4) countries in the Kingdom. His representative in Sint Maarten is the Governor of Sint Maarten, who is considered to be part of the government of Sint Maarten (Art. 32 of the Constitution of Sint Maarten).

Sint Maarten has an internal self-government that exercises a high degree of control over its own affairs, with the exception of the maintenance of independence and the defense of the Kingdom of the Netherlands; foreign relations; Netherlands citizenship; the arrangement of the orders of chivalry, as well as of the flag and coat of arms of the Kingdom of the Netherlands; the regulation of the nationality of ships and the setting of requirements with regard to the safety and navigation of sea-going vessels flying the flag of the Kingdom of the Netherlands, with the exception of sailing ships; the supervision of the general rules regarding the admission and expulsion of Netherlands nationals, setting general conditions for the admission and expulsion of foreign nationals, and the extradition. The mentioned items are handled by the Government of the Kingdom.

Sint Maarten has since the creation of the European Economic Community (EEC) in 1957, an Overseas Countries and Territories (OCT) ("*Landen en Gebieden Overzee*", LGO) status, which stimulates the partnership between the European Union and the LGO, based on three (3) pillars: 1) strengthening competitiveness, 2) increasing resilience and reducing vulnerability, and 3) encouraging cooperation and integration between the OCTs and other partners and neighboring regions. Pursuant to Art. 71 of the Council decision 2013/755/EU, 25 November 2013, on the association of the OCT and the European Union, *"the Union and the OCTs shall promote convergence of the rule with recognized international regulatory standards management and supervision in the field of financial services"*, such as the *"Core Principle for Effective Banking Supervision"* of the Basel Committee, and the *"International Standards on Combatting Money Laundering and the Financing of Terrorism & Proliferation"*, the 40 FATF Recommendations.

[17] https://nationaldevelopmentvision.org/app/ndv/#/home

[18] The Voluntary National Review of the Kingdom of the Netherlands on the implementation and progress of Agenda 2030 including the Sustainable Development Goals. Ministry of Foreign Affairs of the Netherlands, July 2022.

Art. 39 of the Charter of the Kingdom of the Netherlands stipulates that the civil and commercial law, civil procedure, criminal law, criminal procedure, copyright, industrial property, the notarial office, as well as provisions regarding weights and measures must be regulated in a corresponding manner (concordance principle: "*concordantie-beginsel*") in the Netherlands, Aruba, Curaçao, and Sint Maarten as much as possible. The government system is based on the *trias politica*, which means a clear division between powers of the executive, legislative, and judicial systems. The legal system used in Sint Maarten is based on civil law. The main body (corpus juris) of civil law is the Civil Code of Sint Maarten. Nearly all laws and regulations are, to a large extent, based on their equivalent in the Netherlands.

The Prime Minister, who chairs the Government, together with the Council of Ministers form the executive power of the Government of Sint Maarten. The Prime Minister and other ministers are appointed for four (4) year terms. Legislative power is shared by the Government and the Parliament. The Parliament comprises 15 members elected by direct popular vote to serve four (4) year terms.

Aruba, Curaçao and Sint Maarten have autonomously assigned a Minister Plenipotentiary, stationed in The Hague, the Netherlands. Together with the ministers of the Netherlands, they form the Kingdom Council of Ministers (Kingdom government), which deliberates on matters that concern the entire Kingdom, and that must be regulated by Kingdom law. The Council of State of the Kingdom consists of the Dutch Council of State as regulated in the constitution, expanded with members appointed by the King on behalf of Aruba, Curaçao and Sint Maarten. It is an advisory body to the Kingdom government. The advice focuses exclusively on matters of the Kingdom that also affect or are deemed to affect Aruba, Curaçao and Sint Maarten, as determined by the Charter for the Kingdom of the Netherlands.

Sint Maarten's Court system is a 3-tiered Court system, composed of a Court of First Instance and a Court of Appeal of Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba, that is also established in Sint Maarten. The Supreme Court for Sint Maarten is the Supreme Court in The Hague ("*Hoge Raad*"), the Netherlands, which is also the Supreme Court for Aruba, Curaçao, the BES islands and the Netherlands itself. Sint Maarten is the only country in the Kingdom of the Netherlands with a Constitutional Court, which evaluates the constitutionality of the provisions of legislation which is approved by the Parliament of Sint Maarten and signed into law (national ordinance), but which has not entered into force. National ordinances are codified, and published in the Official Publication.[19]

The High Councils of State (Parliament, Council of Advice, General Audit Chamber and Ombudsman) and other permanent advisory bodies within Sint Maarten, support and protect the state of law.

A report presented by the Law Enforcement Council in July 2022[20] assessed the approach of the Judicial authorities in combatting ML and TF, and concluded that this approach is insufficient. The structural lack of financial resources as well as the difficulty to employ high qualified staff is hampering the LEA, and the FIU from achieving the legally prescribed goals and desired results. Other reports have also alluded to this vulnerability, which also includes the challenge of the professionalization of these organizations.[21]

1.3.4. The AML/CFT Regulatory Framework of Sint Maarten

The relevant AML/CFT regulatory framework for Sint Maarten consists of the following, pursuant to Art. 81 of the Constitution of Sint Maarten (in hierarchical structure):

- **The Charter of the Kingdom of the Netherlands**

  The Charter is the highest Constitutional law in the Kingdom of the Netherlands, and supersedes all other laws. Relations between Sint Maarten and the other countries of the Kingdom of the

[19] Art. 3 of the Constitution of Sint Maarten ("*Staatsregeling*", AB 2010, GT no. 21, most recently amended by AB 2013, no. 15).

[20] Law Enforcement Council Report: 'Combatting money laundering and the financing of terrorism in Sint Maarten', July 2022.

[21] See "*Jaarverslag 2022 Parket Procureur-Generaal*" (See Annual Report 2022 Attorney General), See also: "Security and the Legal order in the Caribbean. Steps necessary to future-proof the Kingdom of the Netherlands." Advisory Report 116, September 10, 2020. Advisory Council on International Affairs.

Netherlands are governed by this Charter. The document regulates, among other things, the conduct of Kingdom affairs, the mutual assistance, consultation, and cooperation, and the constitutional organization of the member countries. The current Charter of the Kingdom of the Netherlands was enacted in 1954 and has been amended several times since its enactment due to, among other things, constitutional reforms (1975: independence Suriname; 1986: separation of Aruba from the Netherlands Antilles; 2010: dissolution of the Netherlands Antilles).

- **International Laws and Conventions**[22]
  - *Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;*
  - *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;*
  - *Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed at Washington, D.C., on 3 March 1973;*
  - *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;*
  - *International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;*
  - *Convention on the Physical Protection of nuclear Material, adopted at Vienna on 3 March 1980;*
  - *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988;*
  - *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, signed at Rome on 10 March 1988;*
  - *Protocol for the Suppression of unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, signed at Rome on 10 March 1988;*
  - *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Treaty) 1988;*
  - *International Convention for the Suppression of Terrorist Bombing adopted by the General Assembly of the United Nations on 15 December 1997;*
  - *United Nations Convention against Transnational Organized Crime (Treaty of Palermo) 2001;*
  - *United Nations Convention Against Corruption (UNCAC);*
  - *EU Convention on the Suppression of Crimes Connected to Electronic Networks (Treaty of Budapest) 2001.*
- **Kingdom Acts and Executive General Measures for the Kingdom** ("*Rijkswet*" and "*Algemene maatregel van Rijksbestuur*")

These laws/measures supplement the Charter of the Kingdom of the Netherlands by detailing subjects that are dealt with only generically in the Charter itself. Kingdom Acts and Executive General Measures of the Kingdom are permissible only in relation to those subjects expressly authorized by the Charter (Art. 14 of the Charter). They neither interfere with the Charter text itself, nor become an integral part of the Charter of the Kingdom of the Netherlands. Kingdom Acts that affect two or more Kingdom countries are enacted by consultation and approval by those countries and are thus more difficult to enact than other laws.

[22] As part of the Kingdom of the Netherlands, Sint Maarten cannot sign or ratify international conventions in its own right. Rather, the Kingdom may arrange for the ratification of any convention to be extended to Sint Maarten. The 1988 Drug Convention was extended to Sint Maarten in 1999. In 2010, the UN Convention against Transnational Organized Crime was extended to Sint Maarten, and the International Convention for the Suppression of the Financing of Terrorism was extended to the Netherlands Antilles, and as successor, to Sint Maarten. The UN Convention against Corruption has not yet been extended to Sint Maarten.

- *Kingdom Act on Public Prosecutor's Offices of Curaçao, Sint Maarten and Bonaire, St Eustatius and Saba;*
- *Kingdom Act Coast Guard of Aruba, Curaçao and Sint Maarten as well as for the public entities Bonaire, Sint Eustatius and Saba;*
- *Kingdom Act Financial Supervision Curaçao and Sint Maarten.*

- **The Constitution of Sint Maarten**

Each country within the Kingdom has its own Constitution ("*Grondwet"* or *"Staatsregeling*"). The basic rights of citizens, the institution and separation of the judicial, legislative, and executive branches, the organization of government and its tasks and obligations, along with related subjects are regulated in the Constitution of Sint Maarten. The Constitution can be amended by a National Ordinance; however, a National Ordinance containing such amendment needs to be approved by the Parliament by a majority vote of ⅔ (two thirds). Such amendment also needs the approval of the Government of the Kingdom of the Netherlands (Art. 44 of the Charter).

- **Cooperation Agreements** ("*Samenwerkingsregelingen*")

Art. 38 of the Charter provides for the possibility for Kingdom countries to enact cooperation agreements. For historical and practical reasons, Sint Maarten cooperates with Curaçao and Aruba on various issues, including most notably immigration and monetary and financial supervision legislation.

- **National Ordinances and National Decrees** ("*Landsverordeningen*" and "*Landsbesluiten houdende algemene maatregelen*", "*Landsbesluit sec*")

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 behavior. A National Ordinance can delegate the legal authority to further regulate a subject to Government.

National Decrees are delegation instruments enacted by Government (executive power). 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.

- *Code of Criminal Procedure of Sint Maarten* (*AB 2010, GT no. 1 and AB 2010, GT no. 30, most recently amended by AB 2015, no. 9*);
- *Criminal Code of Sint Maarten* (*AB 2019, no. 41*);
- *National Ordinance Reporting Cross-Border Cash Transports* (*AB 2019, no. 26*);
- *National Ordinance Financial Intelligence Unit* (*AB 2019, no. 24*);
- *National Ordinance Combatting Money Laundering and Terrorist Financing (AB 2019, no. 25)*;
- *National Sanction Ordinance ("Sanctielandsverordening")* (*AB 2019, no. 25)*;
- *National Ordinance Administrative Enforcement* (*AB 2018, no. 22*);
- *Book 2 of the Civil Code of Sint Maarten* (*AB 2019, no. 43)*;
- *National Ordinance Trade Register (A.B. 2013, GT no. 806, most recently amended by AB 2015, no. 9) + National Trade Register Decree* (*AB 2019, no. 24)*;
- *National Ordinance Establishment of Businesses* (*"Vestigingsregeling voor bedrijven"*);
- *National Ordinance on the Supervision of Banking and Credit Institutions* (*"Landsverordening toezicht bank- en kredietwezen"*);

- *National Ordinance containing regulations concerning the supervision of the Insurance industry* (*"Landsverordening houdende regels inzake het Toezicht op het Verzekeringsbedrijf"*);
- *National Ordinance containing regulations concerning the supervision of the insurance brokerage business ("Landsverordening houdende regeling van het Assurantiebemiddelingsbedrijf"*);
- *National Ordinance on the Supervision of Money Transfer Companies* (*"Landsverordening toezicht geldtransactiebedrijven"*);
- *National Ordinance on the Supervision of Investment Institutions and Administrators* (*"Landsverordening regelende het toezicht op beleggingsinstellingen en administrateurs"*);
- *National Ordinance on the Supervision of Trust Service Providers* (*"Landsverordening toezicht trustwezen"*);
- *National Ordinance on the Supervision of Securities Exchanges* (*"Landsverordening toezicht effectenbeurzen"*);
- *National Ordinance on Foreign Exchange Transactions* (*"Landsverordening houdende regels betreffende het deviezenverkeer"*);
- Corporate Governance Code, regulating good and transparent management of government owned companies and foundations, and their supervision in accordance with internationally accepted standards.

- **Ministerial Regulations** ("*Ministeriële regelingen*")

Ministerial Regulations are legislative instruments issued by one or more ministers with competence on the subjects concerned. The authority to issue such regulations is delegated to the minister concerned by a National Ordinance.

- *National Sanction Regulation* ("*Sanctielandsregeling*");
- *Ministerial Regulation Indicators (AB 2013, GT no. 489, most recently amended by AB 2016, no. 12).*

- **Policy Documents**
  - Confiscation Directive of the PPO (2017.02);
  - Manual on Sanctions (draft June 2024).

- **Provisions and Guidelines (P&Gs)**

The FIU by means of the AML/CFT National Ordinances can issue Provisions and Guidelines (P&Gs) for the institutions and DNFBPs under its supervision. Furthermore, the CBCS can issue P&Gs for the FIs under the respective sectoral prudential ordinances. P&Gs are classified as regulation and are therefore enforceable. If these P&Gs are not adhered to by the institutions, sanctions can be imposed.

P&Gs of the FIU:

- Provisions and Guidelines for Lawyers, Notaries, Accountants, Tax Advisors and Administration Offices (Aug. 2020).
- Provisions and Guidelines for Car Dealers (Aug. 2020).
- Provisions and Guidelines for Jewellers (Aug. 2020).
- Provisions and Guidelines for Real Estate Agents (Aug. 2020).

P&Gs of the CBCS:

- Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing for Money Transfer Companies, Sint Maarten (Nov. 2013).
- Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing for Insurance Companies and Intermediaries (Insurance Brokers), Sint Maarten (Nov. 2013).

- Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing for Credit Institutions, Sint Maarten (Nov. 2013).
- Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing for Company (Trust) Service Providers, Sint Maarten (Sept. 2013).
- Provisions and Guidelines on the Detection and Deterrence of Money Laundering and Terrorist Financing for Administrators of Investment Institutions and Self-Administered Investment Institutions, Sint Maarten (and Curaçao) (Nov. 2013).

- **Other Instruments**

Court rulings (jurisprudence/case law), general principles of good governance ("*algemene beginselen van behoorlijk bestuur*")[23] and common practice ("*gewoonterecht*") are also considered sources of law.

1.3.5. AML/CFT Institutional Framework of Sint Maarten

To date Sint Maarten has not yet designated a National Anti-Money Laundering, Counter Financing of Terrorist and Counter Financing of Proliferation Committee (AML/CFT/CFP Committee) that can act as point of contact and coordinating body between international, regional organizations and the Government of Sint Maarten for the purpose of combatting ML, TF and PF. In Sint Maarten, national cooperation and coordination takes place through recurring meetings between the AML/CFT supervisory authorities and public authorities.

Sint Maarten's institutional framework to prevent and combat ML/TF/PF consists of the following entities (not listed hierarchically):

- **Parliament**.
- **Government** (Council of Ministers and Governor of Sint Maarten).
- **The Public Prosecutor's Office** (PPO) is responsible for all criminal proceedings brought within Sint Maarten.
- **The Security Service Sint Maarten** (VDSM) is tasked with conducting security investigations, promoting security measures and conducting investigations to protect the country against persons or organizations 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. The service carries out its tasks in accordance with the law and under the responsibility of the Minister of General Affairs. The VDSM does not fall under the judicial enforcement chain. In general, the VDSM focuses on identifying threats, with the aim of informing stakeholders so that these can be prevented or reduced.
- **The Financial Intelligence Unit** (FIU) with its Section Analysis and the Section Supervision, serves as the central national agency responsible for, among other things, collecting, registering, processing, and analyzing reported UTRs and transmitting disclosures on UTRs that are found suspicious by the competent authorities. Another function of the FIU is to conduct research into developments (trends) in the field of ML, TF and PF.
- **The '*Centrale Bank van Curaçao en Sint Maarten*'** (CBCS) is the AML/CFT regulator and supervisor for the financial service providers in Sint Maarten. It also publishes the warning notes published and updated regularly by the FATF for "Jurisdictions under increased monitoring" and the "High Risks Jurisdictions Call for Action."
- **The Police Force of Sint Maarten** (KPSM) is in charge of investigating crime in general.
- **Customs Sint Maarten** is the government department responsible for collecting and safeguarding import duties and for monitoring and controlling the flow of goods including animals, flora and fauna, transports, personal effects and hazardous items in and out of Sint Maarten. Customs Sint Maarten is also a law enforcement agency under the responsibility of

[23] Incorporated in the Dutch General ordinance administrative law ("*Algemene wet bestuursrecht*"), and also applicable in Sint Maarten.

the Minister of Justice. Customs Sint Maarten differs from most other countries in the region in that it is mainly a law enforcement agency, and not primarily an import duty collecting organization.

- **The Immigration and Border Protection Services** (IBPS) is a Department within the Ministry of Justice and is a binary organization, the Administrative Department, and the Investigative Arm. The Investigative Arm is tasked with, the enforcement of the National Ordinance on Admissions and Expulsions (L.T.U) 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) ensures safety on the waters around Aruba, Curaçao, Sint Maarten and the Caribbean Netherlands. 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 organizations such as Customs and KPSM.
- **The Office of the Attorney General** (head office established in Curaçao) oversees the National Detective Department in Sint Maarten and the team against organized crime, corruption and subversive activities ("*Team Bestrijding Ondermijning*": TBO, established in Curaçao but also active in Sint Maarten).
- **The Sint Maarten Receivers and Inspectorate of Taxes** implements the laws and regulations for the levying, collection and auditing of taxes, and is the competent authority for international cooperation for the exchange of tax information.
- **The Joint Detectives Team** ("*Recherche Samenwerkings Team"*: RST) within the Kingdom of the Netherlands has joint responsibility with the KPSM for investigating financial crimes within Sint Maarten.
- **The Joint Operations Unit** (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.
- **The Integrity Chamber Sint Maarten** is empowered to report on potential corruption incidents within government or government owned companies, and to provide integrity awareness programs to the public.
- **The General Audit Chamber** is empowered as a High Council of State, to conduct independent reviews on Government revenues and expenditures. Having an advisory/supervisory task.
- **The Advisory Council** ("*Raad van Advies*") is the last independent legislative advisor to the government and Parliament. Its goal is to promote the quality of the country's legislation and governance. Having an advisory/supervisory task.
- **Ombudsman** is as guardian of the Constitution the Ombudsman the only entity (High Council of State) that can submit a law that has been ratified, and seems to be in conflict with the Constitution, to the Constitutional Court for total or partial annulment before it goes into effect.
- **The Law Enforcement Council** is a public legal entity for Curaçao, Sint Maarten and the Netherlands (Bonaire, St. Eustatius and Saba) established by Kingdom Act of July 7, 2010. The Council is charged with the general inspection of the organizations within the Judicial system – with the exception of the Common Court of Justice – in Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba. The Council inspects 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.

- **The Social Economic Council** (SER) is an independent advisory organization of Sint Maarten. The Council consists of three (3) representatives from employer's organizations, (3) three representatives from employee's organizations, and three (3) independent experts. The Council's task is to advise the government on all important issues of a socio-economic nature.
- **The Land Registry** ("*Stichting Kadaster en Hypotheekwezen Sint Maarten*") is a private foundation established on Sint Maarten in 1999. Its primary objective is to execute the managerial tasks of "Cadastre and Public Registries" as laid down in the applicable legislation, rules, and regulations.
- **Corporate Governance Council** is an Advisory body for government about the application of the Corporate Governance Code.
- **Temporary Work Organization** (TWO) is set up by the Ministry of the Interior and Kingdom Relations to support Aruba, Curaçao and Sint Maarten in implementing the reforms and measures in their respective Country package. The TWO does this together with other Dutch ministries, which can provide the necessary expertise.

1.3.6. Beneficiaries of this National Risk Assessment (NRA)

This NRA is relevant for the following institutions[24]:

- *Sint Maarten government policy makers* who formulate the national AML/CFT/PF policies, to enable reasonable decisions on the institutional and regulatory framework, including the allocation of resources to competent authorities.[25]
- *The Sint Maarten Regulatory bodies* (CBCS and FIU).
- *Executive agencies*, including LEA and other investigative and inspection agencies.
- *FIs and DNFBPs* located in Sint Maarten for which information on the national Threat and Risk level of ML, TF, and PF is a critical source of information to contribute to business level risk-based obligations and risk assessments.
- *Non-Profit Organizations* (NPOs) that during their activities should be aware of the national Threat and Risk level of ML, TF, and PF.
- *International organizations:* (C)FATF, World Bank Group, Group of International Finance Centre Supervisors (GIFCS), OECD, IMF, Inter-American Development Bank (IDB), International Chamber of Commerce (ICC), WTO, World Customs Organization, Caribbean Customs Law Enforcement Council (CCLEC), Europol, Interpol, Anti-Money Laundering and Countering the Financing of Terrorism Authority (AMLA), Asset Recovery Inter-Agency Network for the Caribbean (ARIN-CARIB).

1.4. The NRA Purposes and NRA Process

1.4.1. The NRA Purposes

The primary purposes of the NRA are:

1) to inform competent authorities, FIs institutions and DNFBPs, of the existing national and sectoral ML/TF/PF risks, thereby enabling all participants in the assessment to further their knowledge and understanding of these risks;
2) facilitating the design and implementation of adequate risk-sensitive measures for risk mitigation and prevention.

Sint Maarten's first NRA is conducted in the form of a self-assessment by the Sint Maarten authorities using the WBG's Toolkit. This specific NRA tool balances the use of quantitative information (data and statistics) with qualitative information (experience, anecdotal evidence, public or academic information, etc.).

[24] See also the FATF guidance on National Money Laundering and Terrorist Financing Risk Assessment, February 2013.

[25] See FATF Recommendations 2012, updated October 2021, FATF Rec. 2 (National cooperation and coordination).

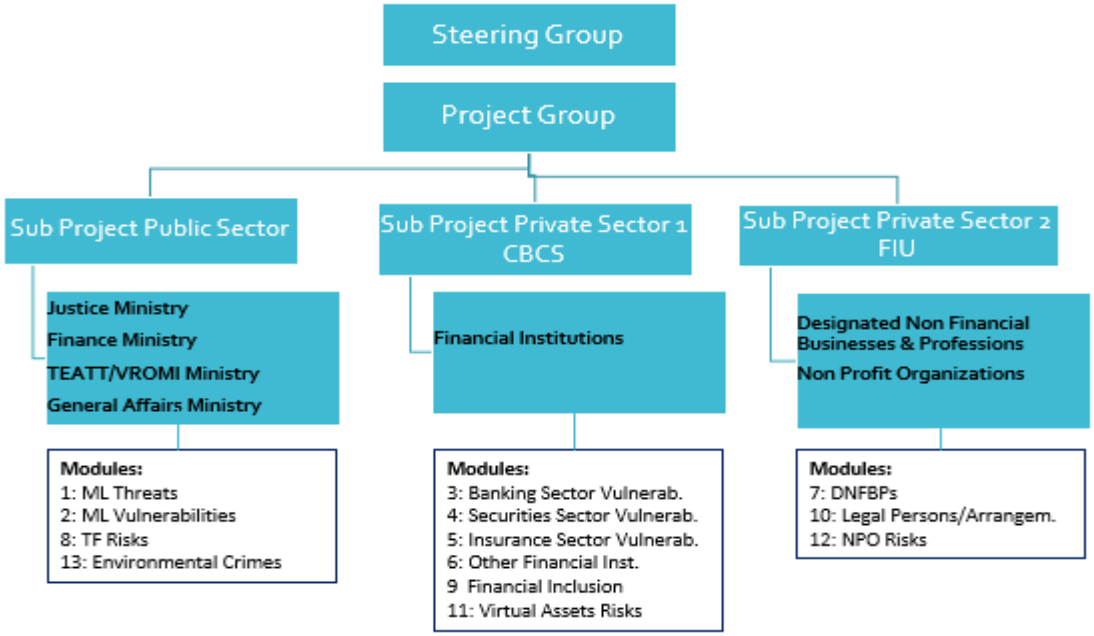
1.4.2. The NRA Process

Central to the compilation of this NRA was a methodological joint participatory process which enabled Sint Maarten to identify the main drivers of ML/TF/PF risks. The methodological process was based on the understanding of the cause-and-effect relations among ML Risk factors and variables relating to the regulatory, institutional, geographical, and economic environment. For the diverse Threat or Vulnerability theme or sectors, a multi-disciplinary Project Group was set up in teams consisting of experienced practitioners from relevant government agencies and the private sector. Information was also compiled from relevant public and private sectors through questionnaires to determine ML and TF Risk prevalence and incidents.

The FIU acted as lead organization and Chair of the NRA Steering Group (overseeing body), while a national coordinator on behalf of the Chair of the Steering Group worked along with project groups and stakeholders in a project structure consisting of approximately 30 persons:

- the Steering Group consisting of representatives of the FIU, the CBCS and the Secretaries-General of relevant ministries.
- an NRA Project Group lead by the national coordinator and consisting of a project coordinator and the leaders of the different SPGs.
- three (3) Sub Project Groups with NRA work divided in the following areas:
  - Public Sector (Ministry of Justice, including relevant LEA and other ministries) covering the national ML Threat, Vulnerability, and TF Risk.
  - the CBCS leading and covering the Banking sector and Insurance sector, other FIs amongst others.
  - the FIU leading and covering the DNFBPs, and risks for NPOs and Legal Persons and other Legal Arrangements.

Table 4. Sint Maarten NRA Project Structure



The Sint Maarten NRA process involved the following four (4) phases:

1. Project Planning and Introduction;
2. Identification Threats and Vulnerabilities;
3. Analysis of Risks and Impacts, and
4. the Evaluation and Finalization of the NRA report with list of Action Points.

1.5. The World Bank Group Toolkit

The World Bank Group Excel-based models enable countries to identify the main drivers of ML/TF risks, and it is also a framework for future data collection that can be used to update the Sint Maarten NRA on a regular basis. It provides a methodological process based on an understanding of the cause-and effect relations among ML Risk factors and variables relating to the regulatory, institutional, and economic environment and comprises several interrelated modules as provided in Table 4 here above. These modules are built on "input variables", which represent factors related to the ML Threat and Vulnerability. '**Threat**' refers to the scale and characteristics of the proceeds of crime, the TF and PF in the country. '**Vulnerability**' refers to weaknesses or gaps in a country's defenses against ML. The Threat or Vulnerability can exist at a national or sector level. The WBG Toolkit does not include any PF modules, and this area was assessed in Sint Maarten based on FATF guidance and typologies studies.

Data for the NRA was collected from supervisory, administrative, enforcement, and judicial agencies. Also, a qualitative review of official legal and other crime research documents, literature, and international articles was conducted. Secondary source information was collected by the Public Sector Sub-Project Group, the Sub-Project Group lead by the FIU on DNFBPs and NPOs, and the National Coordinator from various (C)FATF reports, and other open source intelligence. The necessary information for the National Vulnerability assessment was gathered through questionnaires and meetings with diverse focus groups by the different SPGs, and collated by the National Coordinator in the final report.

Information for the National Vulnerability module was mostly qualitative in nature. Information was gathered from, separate interviews with relevant government services and authorities, discussions in the Sub-Project Groups sessions, and written questionnaires sent to additional stakeholders. The same process was followed for the various sector assessments (Banking, Other FIs, DNFBPs, and NPOs). Threat and Vulnerability were identified by the relevant Sub-Project Group based on information provided by LEA, also by the CBCS, and through relevant open source intelligence, and professional organizations such as the World Bank Group, ACAMS, the Egmont Group[26], and (C)FATF mutual and typologies reports.

1.6. Challenges related to Data and Statistics Collection

This NRA generally takes the years **2017 to 2021** as parameters for the collection of data and statistics.[27] Later data and statistics (up to 2023) were utilized as well. Hurricane Irma (September 6, 2017) and subsequent hurricane Maria (September 19, 2017), as well as the COVID-19 Pandemic (2020) 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 2020 and 2021.[28]

The Sint Maarten NRA data collection process challenges mainly consisted of difficulties regarding the collection of statistics on investigations, prosecutions, and convictions. The information from investigation records by the PPO, the Court of First Instance Sint Maarten, and the different LEA varied in detail and accuracy, which affected the data quality. Either the information was not available or, it was being kept by different LEA, including PPO and the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba, and sometimes diffused over different parts of the Kingdom of the Netherlands. Also, different definitions of predicate offences were occasionally being used amongst the LEA, and these had to be manually reviewed and adjusted. Reports in 2014 and 2017 of the Law Enforcement Council, already indicated an ineffective exchange of information, data and

[26] https://egmontgroup.org/

[27] Statistics are the results of data analysis - its interpretation and presentation.

[28] Global crime trends during COVID-19: A study published 11 June 2021 demonstrated that crime largely decreased around the globe during COVID-19 stay-at-home orders. Overall, crime decreased 37% worldwide after stay-at-home orders were issued by governments: https://www.nature.com/articles/s41562-021-01151-3

statistics on investigations between the KPSM and the PPO.[29] It was also noted that other important institutions such as the Sint Maarten Chamber of Commerce & Industry (COCI)[30] which is tasked to collect important information on operative businesses, including Legal persons and other Legal Arrangements as well as NPOs, did not have relevant statistical information in a "ready to use" electronic format. This information again had to be mined through manual labour, using scarce available resources before it was available for proper analysis. As a result, in addition to the sectoral Threat identified through ML cases, the ML Threat for the various sectors were identified based on: information from the FIU, information from mutual legal assistance requests, information received from especially the LEA through questionnaires and during interview sessions. Relevant information on sectoral Threat was additionally reviewed through the Egmont Group, OECD, and IMF publications, as well as FATF typology reports. The experienced challenges in the synchronizing of statistics on investigations and predicate offences, requires relevant ML/TF/PF and other financial crime statistics to be streamlined on a centralized basis.

1.7. Recent Developments

During the NRA assessment period, various authorities already undertook actions that were recommended based on the (preliminary) outcomes of this NRA. The following are recent developments which are geared towards strengthening the AML/CFT/CFP risk-based approach of Sint Maarten:

1. The LEA started with the establishment of a data collection framework.
2. On February 14, 2024, COCI issued a public communication (via Facebook) informing that as of March 1st 2024 it will commence the registration process of "Shareholder and Ultimate Beneficiary Owner Information of all legal entities".
3. Country package Sint Maarten, Implementation agenda Measures:
   - **B.4.** "*Based on an integral detailed assessment, proposals will be developed and implemented to improve quality, effectiveness and execution power to improve the government organization, which also includes the efficiency and effectivity of the ministerial staffs*."
   - **B.14.** "*Sint Maarten will comply with the guidelines of the CFATF [sic] regarding combatting fraud and money laundering. An action plan is drawn up and implemented*."
   - **D.5.** "*The governance of the CBCS will be reinforced, in accordance with international best practices including by separating various tasks within the CBCS*."
   - **H.1.** "*In the interest of stability of public order and safety, no cuts will be applied until further notice that limit the operational implementation capacity within the most vital sectors of the rule of law (Police, Customs, National Criminal Investigation Department, PPO, Court, Coast Guard, prison system and the VDSM*)."
   - **H.2.** "*Based on existing or additional research, it will be determined whether and how the (physical and online) gambling sector should be reformed. The objective is to increase income for the government. Decision-making and implementation will take place on the basis of proposals*."
4. The FIU has entered into a MoU with Slovenia 2017; Kazakhstan 2019; Guatemala 2023; State of Palestine 2023, and Bahamas 2024.
5. In December 2023 the FIU has become a member of the Asset Recovery Inter-agency Network for the Caribbean (ARIN-CARIB), a network of law enforcement and judicial practitioners in the field of asset tracing, freezing, seizure and confiscation.

[29] Council of Law Enforcement 2014, and 2017 follow up report: 'The Public Prosecution Service in the incident-oriented investigation in Sint Maarten'.

[30] The Sint Maarten Chamber of Commerce & Industry (COCI) was not always able to provide the necessary information in a readily usable format, due to insufficient electronic data compilation and scarce available human resources.

6. The FIU has taken on the task[31] of updating (March 2024) the Manual on Sanctions, with emphasis on targeted financial sanctions, following up on FATF Rec. 6 and FATF Rec. 7.
7. As from July 2024, the PPO is making efforts to secure more detention space for financial crimes. Together with the Probation Service (Foundation Judicial Institutes Sint Maarten), the PPO is also executing community service sentences for financial crimes.

[31] With drafting this new Manual on Sanctions, the FIU is implementing Art. 3(2)(l) of the NOFIU.

SECTION 2: ML THREAT, VULNERABILITY & RISK AT NATIONAL LEVEL

2.1. ML Threat at National Level

2.1.1. Introduction

One of the main objectives of the public sector SPG was to identify and understand the ML Threat in terms of type of predicate offence, origin, and sector.[32] By identifying predicate offences, and analyzing their origin and sectoral impact, the SPG concludes that Sint Maarten has a ML Threat level rated at **MEDIUM-HIGH**.

The scarcity of compiled data by the main actors for the Sint Maarten ML framework was a key impediment to the development of a fully quantitative product of statistics and data-based models. This shortcoming illustrated strongly the need to introduce and keep relevant ML/TF/PF and other (financial) crime statistics on a streamlined and centralized basis. The SPG, despite this difficulty was however able to make use of the best available qualitative and quantitative information to reach an informed and reliable expert judgment on a series of factors that can impact ML Threat in Sint Maarten.

For this assessment, the SPG looked at the ML Risk level as being made up of a combination of three (3) main indicators:

1) *qualitative indicators of ML Threat*;
2) *quantitative indicators of ML Threat, and*
3) *qualitative indicators of financial flows*.

2.1.2. Identification of ML Threat

Sint Maarten does not have a threshold approach, which means that all crimes can be predicate offences for ML. The most pronounced predicate offences related to ML are:

- **Fraud**
- **Drug Trafficking**
- **Migrant Smuggling**
- **Tax Evasion**
- **Theft and Robbery**

In addition, the tourism sector provides opportunities for trade-based ML due to the high volume of cash transactions. Given the island's proximity to major drug-trading and producing countries, Sint Maarten faces the threat of being used and exploited as a transshipment point for the smuggling of drugs, contraband, money, and persons, which can be closely connected to ML outcomes.[33]

A Kingdom wide investigation[34] conducted in 2022 on threats and risks facing the Kingdom of the Netherlands also indicated especially for the Caribbean parts, noting their sizes and resource capacities, that unchecked organized crime could impair the social and political stability.

[32] The predicate offences in Sint Maarten are listed in: the 'Annex pertaining to the Explanatory Memorandum of the National Ordinance combatting money laundering and terrorist financing, under B. MONEY LAUNDERING AND CONFISCATION, Explanation of Rec. 3.' https://lokaleregelgeving.overheid.nl/CVDR671904/1

[33] UNODC Global report on Cocaine 2023 – Local dynamics, global challenges United Nations publications, 2023.

[34] ANV (2022), "*Rijksbrede Risicoanalyse Nationale Veiligheid, Analistennetwerk Nationale Veiligheid*" (ANV (2022) Government-wide National Security Risk Analysis, National Security Analysts Network).

Table 5a. Sint Maarten predicate offences investigations by KPSM and confiscated proceeds, 2017-2021

ML THREAT PREDICATE OFFENCE BREAKDOWN	Number of cases detected or investigated	Number of cases prosecuted	Number of convictions (cases)	Number of persons convicted	Amount (USD) of proceeds seized or frozen	Amount (USD) of proceeds confiscated
Corruption	1	1	1	2	-	2,472,527
Drug Trafficking	16	3	2	4	-	916,918
Organized Crime	4	4	3	3	-	-
Tax Crimes	4	2	1	1	-	260,172
Fraud (scam)	12	3	1	1	-	34,802
Fraud (forgery)	14	6	2	3	-	74,932.2
Cybercrime	1	-	-	-	-	-
Theft and Robbery	4	4	4	5		175,408
Human Trafficking and Migrant Smuggling	8	7	4	6	130,452	466
Sexual Exploitation, including of children	1	-	-	-	-	5,475
Illicit Arms Trafficking	2	1	1	1	-	-
Unknown Sources-Offences	5	2			4,721,338.19	158,057.75
Terrorism	-	-	-	-	-	-
TOTAL	**72**	**33**	**19**	**26**	**4,851,790.19**	**4,098,757.95**

Table 5b. Types of investigations carried out by PPO – Central Team, per year, per type of presumed crime

Type of crime	2019	2020	2021	2022	2023
Corruption	4	3	3	3	3
(Tax) Fraud	5	5	4	4	4
Integrity breaches	-	-	1	1	-
Money Laundering	6	5	4	4	4
Partaking in a criminal organization	-	-	-	-	-
Perjury	-	-	-	2	-
NOFIU	-	-	-	1	1
Illegal withdrawal of assets under seizure	1	-	-	-	-
Grand Total	**16**	**13**	**12**	**15**	**12**

2.1.3. ML Threat Sectoral Overview

The SPG concluded that the sectors most vulnerable to ML Threat, are the Banking sector and the Trust sector for the FIs, and the Notary sector for the DNFBPs. The PPO in addition has indicated that the most at risk sector for ML is the Trust and Company Service Providers sector.

The distribution of sectoral ML Threat is provided in Table 6 below for each sector within the FIs and DNFBPs. The factors considered in conducting the evaluation of the sectors amongst others included:

- data on abuse of these sectors for ML/TF purposes, whether national or international typologies.
- monitoring infrastructures for UTRs/STRs existing within the sector.
- the sector's AML/CFT awareness and commitment to compliance efforts and standards.
- the level of enforcement of AML/CFT obligations by supervisory bodies.

Table 6. Sectoral ML Threat

LOW	MEDIUM-LOW	MEDIUM	MEDIUM-HIGH	HIGH
Virtual Asset Service Providers		Accountant		**Banking**
Securities Intermediaries & Asset Management		Real Estate Agency	Casino	**Trust and Company Service Providers**
Insurance		Dealers in Precious Metals and Stones	Car Dealer	**Notary**
Micro Lending		Lawyer		
Credit Unions			Money Transfer Companies (MTC)	
Financial Inclusion				
NPOs				

2.1.4. ML Threat to the Trust and Company Service Providers Sector

In several of the cases investigated, the PPO indicated that the use of offshore holdings in Panama, Anguilla, and the Bahamas, are legal structures that have been most frequently abused for ML purposes during the period under review. Also, the jurisdictions of the United States, the Netherlands, Curaçao, Switzerland, Italy, and Canada rank highest on the list as being most frequently involved in detected ML cases.

The ML Threat level for the Trust and Company Service Providers[35] sector as well as for the Legal Persons and other Legal Arrangements are rated at **HIGH**.[36] Legal Persons established in Sint Maarten are required to apply for economic licenses at the Ministry of TEATT. No comprehensive AML/CFT fit and proper tests, including background checks, are implemented within the Business license, Director and Operational license application procedure.

The Anti-Corruption Taskforce (TBO) resorting under the Attorney-General's Office which, in the Kingdom of the Netherlands structure, is responsible for Curaçao, Sint Maarten, Bonaire, St Eustatius, and Saba, conducts criminal investigations with a financial-economic component and focuses on cases involving a politically exposed person (PEP), civil servants, government-owned companies, and facilitators or organizations in the collective sector. The following recently prosecuted cases are notable in this area:

Case Study 1: The "Seabass" case involved the embezzlement of funds, fraud, and abuse of function with the tendering of projects (Seabass). Here, two former top civil servants were arrested and investigated by the National Detectives Bureau for the suspicion of fraud, embezzlement, abuse of their position, and (habitual) money laundering, relating to the bidding and tendering for information technology (IT) projects and the purchasing of computer hardware and software for the government of Sint Maarten through a legal person structure. Here the government was defrauded for an amount of more than USD 1.9 million, where a large part of the money was transferred to shell companies in the US, which were the under control of the top official. Both suspects, in this case, received jail sentences by the Court of First Instance in Sint Maarten on December 21, 2022, in a long-term investigation.

Case Study 2: The criminal investigation "*Ruby*" looked into the wrongdoings of a (former) MP and (former) high-ranking civil servant at the Ministry of Public Housing, Spatial Planning, Environment, and Infrastructure. It relates to a limited number of crimes, including the alleged mismanagement of the sanitary landfill (the "Dump"). This investigation into administrative corruption involved the acceptance of bribes, abuse of authority, forgery, and the misuse of public funds for personal purposes. It was started in July 2018, by the TBO who narrowed in on criminal acts relating to the tendering process of contracts for the management of the Sint Maarten landfill. The suspect,

[35] See also Section 3 of this NRA.
[36] See also Section 4 of this NRA.

which also involved a family member and the use of legal persons, received a guilty verdict rendered by the Court of First Instance in December 2021.

Case Study 3: The "*Larimar*" case was conducted by the Joint Detectives Department (RST) under responsibility of the Central Team (TBO) of the Attorney General's Office. This investigation underscored corruption, money laundering, and payment of bribes to a public official in Sint Maarten by a construction company. The bribes were related to the awarding of projects, namely, a dredging contract for the Port of Sint Maarten and the construction of a causeway. In addition, what stood out in this investigation was a longstanding and structural relationship that existed between this construction company and some local politicians. This construction company also had tentacles to the holding company in the Netherlands which had to pay a penalty of USD 2 million for work for the Sint Maarten government.

2.1.6. ML Threat to the Banking Sector

The ML Threat level for the Banking sector in Sint Maarten is rated at **HIGH**.[37] The financial sector, including banking and offshore trust services, is a focal point for ML activities. Sint Maarten LEA reported that in the corruption cases investigated, it was shown that ML is also taking place locally.[38] Often, these laundered funds are directed through the financial sector to offshore holdings.

2.1.7. ML Threat to the MTC Sector

Sint Maarten is a largely cash-based economy, where the immigrant population predominantly uses money remitters to send money off-island. The rendering of services and goods outward with international character is limited, with often an outward flow of money to grey list jurisdictions under increased FATF monitoring, such as Haiti and Jamaica.[39] Due to applied regulations for the onboarding of clients wishing to open bank accounts, it is perceived that immigrants utilize MTCs, which sector also has a **HIGH** ML Threat level for the purposes of this NRA.[40]

2.1.8. ML Threat to the Real Estate Agency Sector

The ML Threat level for the Real Estate Agency Sector is rated at **MEDIUM**. There are 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. These initiatives harbor sufficient political or governmental support due to the attractive business models that present job opportunities for the local workforce. The SPG observed from reports[41], questionnaires, interviews, and cases investigated, an indication that a bulk of these investments are funneled inter alia into (real estate) development projects. By addressing real estate, where many supervised service providers are involved in some form, it was observed that the booming property market poses a ML Threat across its entire chain.

2.1.9. ML Threat to the Car Dealer Sector

The practice of criminals to use illegally obtained funds to acquire vehicles, which the PPO identified as occurring in the "*Bromelia"* Case (verdict Supreme Court of the Netherlands: 17 October 2017), indicates that this "*modus operandi"* poses a **MEDIUM-HIGH** ML Threat to the Car Dealer sector. In this criminal case, nine (9) vehicles that were confiscated, were initially purchased, and later exploited by criminals

[37] See also Section 3 in this Sint Maarten NRA.

[38] Combatting money laundering and the financing of terrorism in Sint Maarten. Law Enforcement Council, July 2022. https://www.raadrechtshandhaving.com/wp-content/uploads/2022/09/Combating-money-laundering-and-the-financing-of-terrorist-in-Sint-Maarten.pdf

[39] https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-october-2023.html

[40] Interviews with representatives of LEA indicated to note a high frequency of persons/migrants crossing the Sint Maarten border into the French territory suspected to do so, to use MTCs located there as well and avoid threshold regulations.

[41] The United States State Department Narcotics Strategy Report, Volume II: Money Laundering' (2022): "*the favorable investment climate and rapid economic growth of the island is responsible for drawing rich investors who invest in large-scale real estate developments which include hotels and casinos*."

involved in the narcotics trade. The vehicles were used in a car rental fleet to launder the original proceeds and generate legitimate funds.

2.1.10. ML Threat to the Casino Sector

Based on Expert Judgment (KPSM[42], PPO and Law Enforcement Council), and FATF Typologies reports produced over the last 20 years, casinos have consistently been identified with a high ML Threat level.[43] The ML Threat level in the Casino sector in Sint Maarten is rated at **MEDIUM-HIGH** by interviewed parties, based on the high cash-intensive nature of this business allowing for the easy mixing of illegally obtained funds with legitimate funds.[44]

2.1.11. ML Threat to the Accountant Sector

The ML Threat level for the Accountant sector is rated at **MEDIUM**, partly due to their role as gatekeepers for AML obligations, particularly for the financial administration of legal persons. Since they have access to detailed financial information of clients, the Accountant sector faces a risk of abuse by persons utilizing their services to prepare financial statements that afford the hiding of illegally obtained funds.

2.1.12. ML Threat to the Lawyer Sector

The ML Threat level for the Lawyer sector is rated at **MEDIUM**. The expertise within this sector could be used to circumvent compliance with the AML/CFT regulations, and misconducts can be possibly shielded by attorney client privilege or work product protection. There exists a Council of Supervision for lawyers, that handles complaints from civilians/clients related to the services provided to them by lawyers.

The Sint Maarten Bar Association deals with issues affecting the practice of the legal profession in general. Membership of the Bar Association is not mandatory for lawyers practicing in Sint Maarten. Currently, no legal basis exists for the Council nor for the Bar Association to act as a Self-regulatory body (SRB), to address AML/CFT issues within the Lawyer sector.

2.1.13. ML Threat to the Notary Sector

The ML Threat level for the Notary sector is rated at **HIGH**. About 50% of the notaries' clientele are foreign natural persons or legal persons. The services provided by notaries to its foreign clientele are mostly title acquisitions and real estate transfers occurring from abroad. In such cases, tracing the source of funds is cumbersome and can affect the proper execution of CDD.

2.1.14. ML Threat to the Dealers in Precious Metals and Stones (DPMS) Sector

The ML Threat level is rated at **MEDIUM**. In general, criminals mostly tend to invest and launder their illegally obtained funds in ownership of tangible and easy to carry high-end products. In the assessed period no ML/TF cases involving Dealers in Precious Metals and Stones (DPMS) are known by the LEA. Cases that were noticed concerned robberies and stolen credit cards. The basic CDD is conducted by this sector, seeing the majority of the customers using credit cards (approx. 88%).

The majority of businesses in the DPMS sector are represented by the Indian Merchants Association (IMA) of Sint Maarten. The number of UTR submitted by the DPMS sector to the FIU is considered low. The AML/CFT knowledge of this sector is improving.

[42] The Law Enforcement Council report from July 2022, titled: "Combatting money laundering and the financing of terrorist in Sint Maarten" cited KPSM officials indicating that the scale of money laundering on the island is large given the size of the population in relation to the number of casinos. While casinos do report transactions to the FIU, the KPSM believes that this is done by most merely to 'appear' transparent, as they are known to be popular venues for ML.

[43] See: https://www.fatf gafi.org /en/publications/Methodsandtrends/Vulnerabilitiesof casinos and gamingsector.html

[44] See the Casino Sector in Section 4 of this NRA.

2.2. ML Vulnerability at National Level

2.2.1. Introduction

The term "Vulnerabily" refers to those factors that can be exploited by a threat or that can support or facilitate its activities. Within the ML/TF/PF context, assessing Vulnerability means examining factors representing weaknesses in the AML/CFT systems or controls within a jurisdiction. They can also include the features of a particular sector, a financial product or type of service that make them attractive for ML, TF or PF purposes. The sections below aim to identify the overall Vulnerability level of Sint Maarten to ML/TF and PF, with specific attention to the public sector. It also aims to prioritize actions that will improve Sint Maarten's ability to combat ML by strengthening AML/CFT and CPF controls at national level.

2.2.2. Identification of National Vulnerability Level

The necessary information for the National Vulnerability Assessment was gathered through interviews and questionnaires with different stakeholders, as well as through formal reports on researches conducted. Information for the National Vulnerability module was mostly qualitative. Information was furthermore gathered from the discussions in the Sub-Project Group sessions, and detailed questionnaires sent to relevant private and public sector institutions. Additional data and statistics were also collected from relevant institutions. The assessment demonstrated material weaknesses in the areas of the quality of the AML/CFT policy and strategy. It also highlighted the overall lack in resources dedicated to supervision of reporting entities, and investigation, prosecution, and adjudication in the area of AML/CFT. This has created a national Vulnerability level for ML, TF and PF for Sint Maarten that is rated at **MEDIUM-HIGH**.

2.2.3. Quality of AML Policy and Strategy

Currently the quality of AML/CFT/CFP policies/policy aspects of the different ministries is medium-low. The mostly outdated documents need to be adapted to the most recent FATF Recommendations. Sint Maarten is in the process of drafting legislation for designation of a National AML/CFT/CFP Committee (like in Curaçao) which oversees the formulation, coordination, and implementation of AML/CFT/CFP policies and strategies. This specialized organization will benefit the overall quality of AML Policy and Strategy.

2.2.4. LEA Cooperation, Capacity and Resources for Financial Crime Investigations

Sint Maarten has a varied AML/CFT regulatory framework at its disposal to combat ML and TF which is based on international standards. Sint Maarten is also signatory of various protocols of the Kingdom of the Netherlands to support national LEA. E.g.: the Protocol related to detective cooperation in the Kingdom provides for additional capacity to local authorities such as the Sint Maarten Police Force (KPSM) and the National Detectives Agency (LSM) on an operational level. Customs and Coastguard authorities are also being supported in various areas based on a Kingdom Protocol to strengthen border control in the countries.[45] These protocols can be considered conducive towards enhancement of ML/FT/PF investigation capacity, and other cross-border crimes such as illegal human-, arms-, and drug trafficking, which are predicate offences.[46] The capacity and resources for financial crime investigations are very low at a national level.[47] To date, the national police and PPO lack adequate financial crime

[45] The border control of Sint Maarten is also assisted by a "Flexpool KMAR" arrangement supported by the Dutch Royal Marechaussee.

[46] An Intelligence Center Sint Maarten (ICSM) has been established in 2019, in which the most important LEA partners structurally enter into operational information consultation.

[47] A 2022 Law Enforcement Council Report on Combatting money laundering and the financing of terrorism in Sint Maarten concluded: *"the local investigative authorities are only able to carry out limited investigations into money laundering, whether as a stand-alone offence or as a component of a criminal investigation. This because of their lack of financial investigative capacity. On the other hand, the Anti-Corruption Taskforce (TBO), having specialist expertise and sufficient capacity, has been able to conduct large scale criminal investigations and was able to apprehend and prosecute key subversive figures. In some of*

capacity, which is rated at a minimum standard. Since 2016 a "Central Team" (PPO-CT), backed by the Netherlands partner support, has been established within the Dutch Caribbean islands (BES), as well as for Sint Maarten. This team has dedicated police and specialized prosecutors and judges, financed by the Netherlands and they are equipped to investigate financial crimes and pursue asset forfeitures. This on the other hand has raised some questions on the division of LEA resources within the Kingdom of the Netherlands.[48] Additionally, the focus of these combined LEA entities seems to be mostly on corruption cases involving the public sector, which the PPO considers most at risk for ML abuses.

2.2.5. Integrity and Independence of Financial Crime Investigators

There have been indications of integrity breaches by LEA in Sint Maarten during the NRA assessment period, which have been dealt with by the internal integrity department of the KPSM, and in some instances by the "National investigation Department", resorting under the Attorney General's office. This indicates a level of efficiency of internal integrity procedures. In addition, no records/statistics exist regarding prosecution of persons who tried to compromise the integrity of financial crime investigators in Sint Maarten. Various High Councils of State in Sint Maarten have structural supervision and oversight powers. Next to these, the Law Enforcement Council and the Integrity Chamber are authorized to conduct integrity assessments. In addition, there are in-house supervision/oversight frameworks where policies, procedures, and practices are in place (Attorney General for the PPO, and the National Investigation Department for the rest of government). The Minister of General Affairs has the responsibility to impose an integrity policy that is aimed at promoting good official conduct, and which in any case pays attention to promoting integrity awareness and preventing abuse of powers, conflicts of interest and discrimination. Within every ministry so-called entrusting officials ("*vertrouwenspersonen*") are assigned (Arts. 82 and 83 of the LMA).

2.2.6. Effectiveness of Customs Controls

In terms of AML's strategy on cash flows, via cross-border declarations, Customs, in cooperation with other LEA, such as the Alpha Team[49], pay keen attention to incoming and outgoing (cross-border) cash movement. There are appropriate measures and sanctions in place in case of non-compliance of the obligation to declare unauthorized or illegal transportation of cash, negotiable instruments, and precious metals and stones. In most of the cases when money above a certain amount (NAƒ 25,000. or more) is not declared, a fine can be imposed. When there is a suspicion of ML, the full amount can be confiscated for investigation. An official report is drawn up and sent to the PPO and the FIU for registering. Specific procedures are laid down in a Process Handbook for Customs Sint Maarten. The PPO is tasked with imposing and levying the relevant criminal law sanctions. With the assistance of the Police Force of Sint Maarten, Customs can complete investigations.

Table 7. Overview Customs cash enforcement Sint Maarten Port of entries

Year	Cash Enforcements	Sanctions 10%	Seizures	Total amount of USD encountered	Total amount of EURO encountered
2017	9	5	4	156,906.07	
2018	34	30	3	758,694.04	
2019	21	7	4	442,030.33	27,350.00
2020	5	5	-	114,154.72	
2021	3	2	1	75,115.79	

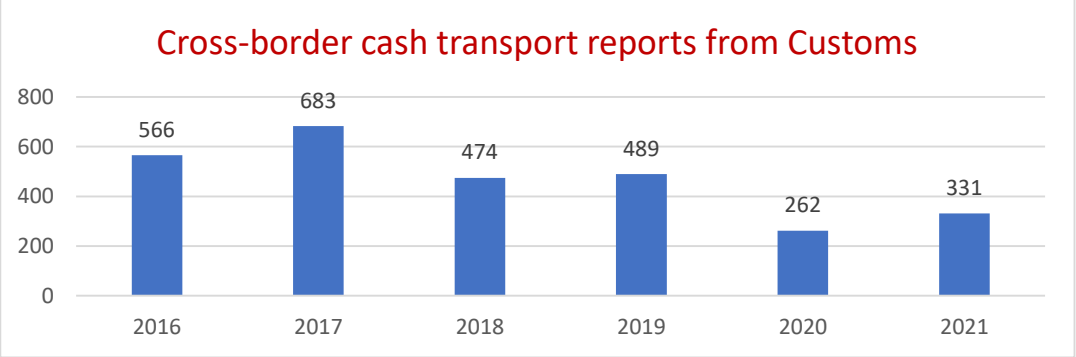
these cases money laundering formed a component." https://www.raadrechtshandhaving.com/wp-content/uploads/2022/09/Combating-money-laundering-and-the-financing-of-terrorist-in-Sint-Maarten.pdf

[48] A more recent Law Enforcement Council report published in 2023 again noted that there was a deficit in resources to the Law Enforcement entities in the Dutch Caribbean region, including Sint Maarten. Even though a good cooperation level seems to be existing between Law Enforcement entities in the European part of the Dutch Kingdom with their Caribbean partners, there seem to be "skewed growth" in resources between the local authorities and their supporting partners from the European continent.

[49] https://www.policesxm.sx/about/special-operations/alpha-team/

In a few of the mentioned cases there were indications or suspicions that these funds could be linked to ML, but no further financial investigations were conducted to conclusively rule this out. Most interceptions involved arrival 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 Guyana). There were also instances of other international destinations such as: Brazil, France, Colombia, USA, Taiwan, and Canada. In 2019 there was a detection of an amount of gold bars on a private aircraft arriving from Venezuela transiting through Sint Maarten's airport.[50]

Table 8. Cross-border cash transport reports from Customs to the FIU



2.2.7. Capacity and Resources for Financial Crime Prosecutions

The PPO noted that notwithstanding efforts in the investigation and prosecution area, it is still difficult to measure the overall effectiveness deriving from suspicious activity monitoring and reporting. This weakness derives from the lack of capacity for follow-up in investigations, both at the end of police force as well as at the end of the PPO. A 2018 Law Enforcement Council report noted that the PPO of Aruba, Curaçao, Sint Maarten and the Dutch Caribbean Islands (Bonaire, Sint Eustatius, Saba) jointly cooperated in "in-depth specialisms" in the following areas: Cyber crime, Forensic Investigation, Human Trafficking/Smuggling, ML and TF.[51] As from July 2024, the PPO is making efforts to secure more detention space for financial crimes. Together with the Probation Service (Foundation Judicial Institutes Sint Maarten), the PPO is also executing community service sentences for financial crimes.[52] More efforts are still needed to collect fines imposed by the Court for financial crimes.

2.2.8. Integrity and Independence of (Financial Crime) Prosecutors

Indications of integrity breaches regarding prosecutors in Sint Maarten were encountered in the assessed period. In addition, no statistics exist regarding prosecution of persons who tried to compromise the integrity of the PPO. Prosecutions of alleged ML and related financial offences are instituted without interference, political or social pressure, corruption, intimidation, or abuse of office. The PPO performs its tasks independently. In high-profile ML and corruption cases, defendants can be transferred to other parts of the Kingdom, or prosecutors working in other parts of the Kingdom of the Netherlands can temporarily prosecute cases in Sint Maarten if necessary. This measure prevents any possible influence on the PPO during high profile cases.

2.2.9. Capacity and Resources for Judicial Processes

The capacity and resources for judicial processes and integrity and independence of judges could not be assessed effectively due to lack of information and input from the Court of First Instance, seated in Sint Maarten. Information and data on specific cases involving ML, TF or environmental crimes can be found

[50] https://www.soualiganewsday.com/index.php?option=com_k2&view=item&id=26638:joint-control-of-private-jet-leads-to-discovery-of-gold-bars&Itemid=536

[51] Research into cooperation between the public prosecutor's offices the Public Prosecution Service of Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba. Law Enforcement Council, December 2018.

[52] https://www.sxm-talks.com/st-martin-news-network/prison-space-assigned-for-subversive-crimes-smn-news/

online on a site of all court decisions and case law.[53] The SPG noted through its expert opinion that the Court has enough capacity to adjudicate ML cases. As noted above, in high-profile cases, prosecutors and judges can be brought in from other parts of the Kingdom of the Netherlands to adjudicate these cases. Indications of integrity breaches regarding judges in Sint Maarten are not encountered in the assessed period. There was a corruption case that involved a clerk of the court, wherein funds were stolen to an amount of over USD 1 million. This case went to trial and the suspect clerk was found guilty. The case is currently still in appeal procedure. Convictions and verdicts in corruption and related financial offences are rendered without interference, political or social pressure, corruption, intimidation, or abuse of office. The Common Court of Justice has a complaints procedure in which is regulated how to file a complaint at the Board pertaining to the manner in which the Court has acted in a particular matter.[54] There is an operative Code of Conduct for the Judiciary.[55]

As stated in Measure H.1 of the Country package Sint Maarten:

> "*In the interest of stability of public order and safety, no cuts will be applied until further notice that limit the operational implementation capacity within the most vital sectors of the rule of law (Police, Customs, National Criminal Investigation Department, Public Prosecution Service, Court, Coast Guard, prison system and the security service*)."

2.2.10. Quality of FIU Intelligence Gathering and Processing

The FIU, an Administrative model FIU in the context of the Egmont Group Heads of Financial Intelligence Units, is an administrative body resorting under the Ministry of Justice [56], and is oriented towards the investigation of UTRs, and the dissemination of analyzed STRs to the LEA concerned. As administrator of its transactions database, the director of the FIU can disseminate data from the database without requiring authorization of other agencies or parties. The FIU keeps a register for the collection, processing and analysing of data and information obtained pursuant to the National Ordinances on reporting unusual transactions, and a register for the collection, processing and analysing of data and information obtained by it in its role as supervisor.[57]

The Section Analysis of the FIU serves as the central national agency responsible for, among other things, collecting, registering, processing, and analyzing reported UTRs and transmitting disclosures on UTRs that are found suspicious by the competent authorities. Another function of the FIU is to conduct research into developments in the field of ML and TF.

Currently amendments of the NOFIU are drafted to designate all functions at the FIU as positions of trust; therefore, all (candidate) personnel of the FIU shall undergo thorough integrity screening by the National Security Agency (VDSM), which must be repeated every three (3) years. Staff members are required to be educated at a higher vocational bachelor level at minimum. They receive additional appropriate training and are for instance obliged to follow the Certified Anti-Money Laundering Specialist (CAMS) training by the Association of Certified Anti-Money Laundering Specialists (ACAMS). The FIU's workforce includes employees with expertise in a wide range of fields, such as legislation, ICT, finance, law enforcement, and security. The FIU is currently drafting legislation and project plans to receive more resources, to increase the investigative capacity at the FIU, which will have a positive effect on combatting ML and TF.

Based on Art. 2, paragraphs 3 and 4 of the NOFIU, the FIU is authorized to operate financially independent, but the administrative body has not yet been designated as an independent administrative body with legal personality. Such designation will authorize the FIU to manage its own financial, human,

[53] https://www.uitspraken.nl/

[54] http://gemhofvanjustitie.org/uploads/files/Klachtenregeling%20definitief%20v1%2021.pdf

[55] http://gemhofvanjustitie.org/uploads/files/Gedragscode%20Rechterlijke%20Macht%20NL.pdf

[56] https://egmontgroup.org/

[57] Art. 4, paragraphs 1 and 2 of the NOFIU.

and technical resources more efficient, and better aligned with FATF Rec. 29 (Financial Intelligence Units).

In Sint Maarten, the reporting entities (DNFBPs and FIs) report financial transactions based on:

(1) a threshold amount, with the use of an objective indicator,

or

(2) based on a suspicion of ML or TF, or when the financial transaction does not fit the profile of the client, with the use of a subjective indicator.

The reporting entity must apply a risk-based approach buttressed by training, experience, awareness, and knowledge in the ML and TF field. Overall, the mechanism to report UTRs is in place in Sint Maarten.

The system works as follows:

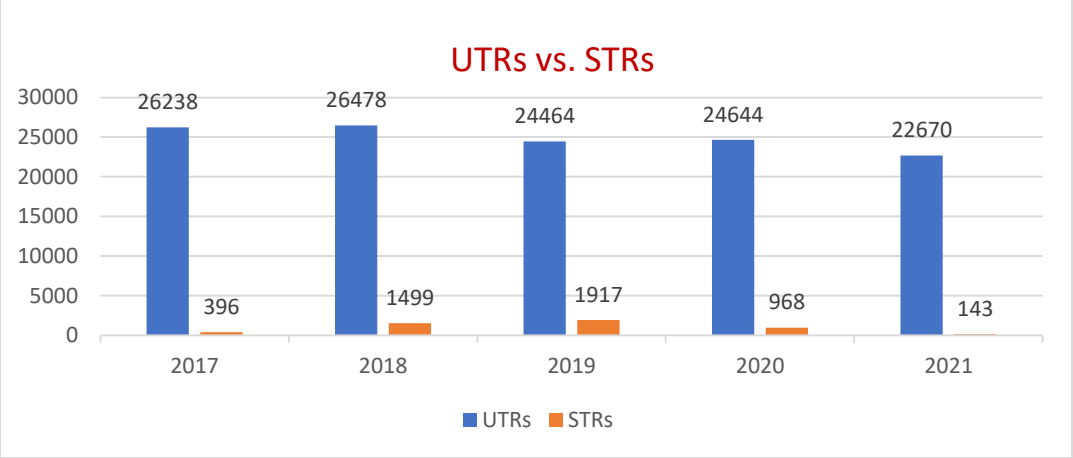
(a) the FIU conducts an investigation of reported UTRs; when a suspicion arises of ML or TF, the UTRs become STRs and these are disseminated to the PPO, together with an intelligence report,

or

(b) the LEA is busy conducting a criminal investigations and requests the FIU to consult its database on transaction information related to their suspect (natural person or legal person). If the suspect of the criminal investigation appears in the FIU database, then the transactions become STRs, and that information will be sent to the PPO.

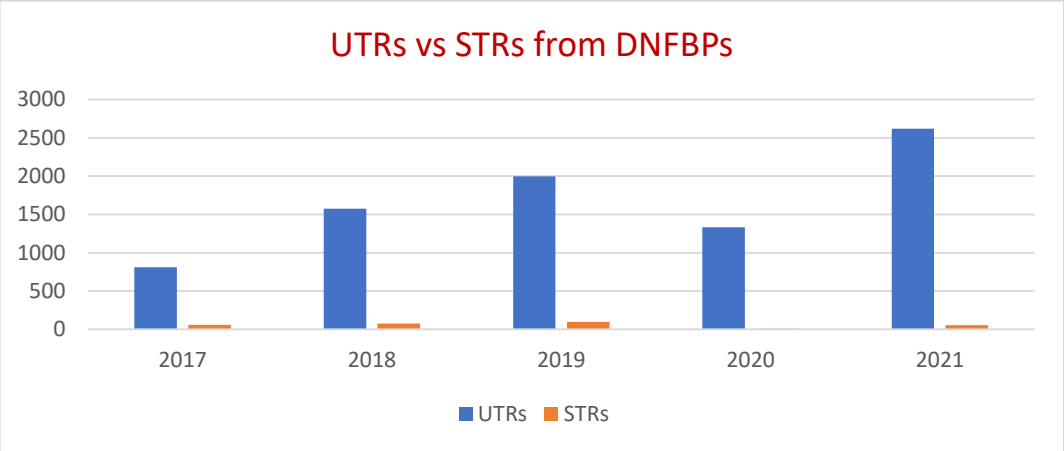
In the following table the reported UTRs, based on objective vs. subjective indicators are listed.

Table 9. Sint Maarten UTRs - STRs numbers processed by the FIU during NRA Reporting Period



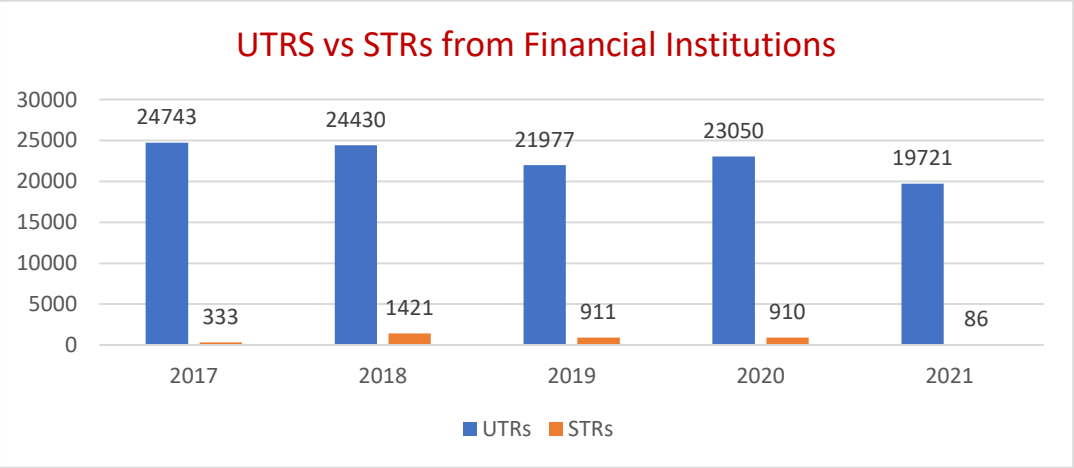
The FIU recorded the DNFBP having submitted more than 8,334 UTRs of which a total of 300 transactions were reported with the use of a subjective indicator (based on minimum financial transaction amounts) over the reporting period, broken down per annum in the below table:

Table 10. UTRs vs STRs from DNFBPs during NRA Reporting Period



The FIs recorded 113,921 UTRs and 3,661 STRs submitted to the FIU:

Table 11. UTRs vs STRs from Financial Institutions during NRA Reporting Period



2.2.11. Effectiveness of Supervisory/Regulatory Bodies

Within the AML/CFT/CPF regulatory framework, the supervisors are largely responsible for assessing and understanding risks pertinent to the sector under supervision. FIs are supervised by the CBCS. The implementation of Risk-Based supervision has ensured that resources are geared towards the execution of onsite examinations of the supervised FIs, based on their risk profile. The FIU is tasked with the supervision of the DNFBPs. The effectiveness of the CBCS as well as the FIU is for a large part dependent on the available resources (budget and personnel). A comprehensive framework for managing or overseeing the management of frozen, seized and confiscated property still needs to be worked out.

2.2.12. Availability and Access to Ultimate Beneficial Ownership Information

The COCI is encountering resources issues. More resources need to be provided to this independent administrative body, to allow it to ensure that accurate and up-to-date license (in cooperation with the Ministry of TEATT) and UBO information is available on a timely basis. Some legal persons that are inactive are still registered as active[58], while activities for which licenses are granted by the Ministry of TEATT are not always registered. The obligation to register UBO information of businesses at the COCI is included in the National Ordinance Trade Register[59] and in the National Trade Register Decree[60]. As

[58] The COCI started a delisting/dissolving procedure in September 3, 2021, pursuant to Art. 2:25 of the Civil Code.

[59] AB 2013, GT no. 806, most recently amended by AB 2015, no. 9.

[60] AB 2019, no. 24.

per March 1st 2024 the COCI is factually registering the UBO information starting with new registrants. To date, there is no digital access to the UBO Register for the CBCS and the FIU.

2.2.13. Availability of Reliable Identification Infrastructure

Availability of reliable identification documentations is not indicated as a Vulnerability within the AML/CFT/CPF regulatory framework. The reliability of identification documentation is very high and as such avoids the abuse for ML/TF purposes through these means. Based on the National Ordinance Identification obligation ("*Landsverordening identificatieplicht*")[61] there is a list of recognized identification documents issued by the government. Passports, identification cards, and driver's licenses are the main legal identification documents according to this ordinance. The Civil Registry department is responsible for the issuance of passports on behalf of the Kingdom of the Netherlands, and identification cards and driver's licenses on behalf of the Sint Maarten Minister of Justice. Passports are printed in the Netherlands while Identification cards and Driver's licenses are produced in Sint Maarten. These documents have sophisticated security features (machine readable zones). Furthermore, there are adequate internal control mechanisms at the Civil Registry department to mitigate the risk of illegal issuance of identification documents, the same goes for immigration documents, which are also an official form of identification.

During the NRA review period (2017-2021), there were no reported incidents of fake national IDs in which perpetrators try to forge these documents since they are difficult to replicate. Consequently, competent authorities and AML-regulated institutions can highly rely on Sint Maarten's identification infrastructure. In 2019 the National Ordinance Identification with Financial Services and the National Ordinance on the Reporting of Unusual Transactions were merged into the National Ordinance combatting ML and countering TF, wherein Art. 4 stipulates the requirement for official recognized documents to be used in financial transactions.

2.3. Terrorist and Proliferation Financing, Cyber Terrorism Risk at National Level

2.3.1. Terrorism and TF

TF in Sint Maarten is criminalized and incorporated in Art. 2:408 of the Criminal Code of Sint Maarten. TF is defined as the intentional collection, provision, or disposition of funds for oneself or for another, directly or indirectly, to use them, or know that some or all of these funds will be used, for the commission of a terrorist crime or for the support of persons or organizations committing or attempting to commit terrorist crimes, or for the commission of a crime in preparation for or facilitating the commission of a terrorist crime.

2.3.2. Threat of Terrorism and TF Threat

For Sint Maarten the SPG concluded that the Threat of terrorist persons or organizations at a national or sectoral level is **LOW**. With Sint Maarten being a relatively small island economy with tourism as the main economic pillar, the country's geographical location, relatively easy logistical accessibility, and high mobility of goods and services can seem to pose threats, though none have been recorded. In addition, Sint Maarten LEA data for this NRA does not point to any presence of terrorism or TF cases, nor any existence of homebred/self-funding. MTC activity is recorded in Sint Maarten, but neither UTR or STR data conclusively led to any designation of terrorism or TF outcomes.

Even with the global migration of ISIL fighters from a neighboring jurisdiction where levels of radicalization are greater, the Global Terrorist Index[62] and the Global Terrorist Threat Assessment 2024[63] indicates a **LOW** Threat level rating for the Caribbean region. This is confirmed by the Counter Terrorist

[61] Art. 2 of the Ordinance on Identification obligation ("*Landsverordening Identificatieplicht*") (AB 2013, GT no. 472, most recently amended by AB 2015, no. 9).

[62] Global Terrorist Index 2018 - World | ReliefWeb (Note: Page 34)

[63] Global Terrorist Threat Assessment 2024 | Center for Strategic & International Studies (Note: Pages 36-37).

Assessment Report published in 2018, which indicated that there is no active terrorist Threat in Sint Maarten.[64]

During interviews and information gathered for this NRA concerning the TF Threat level, it was noticed that competent authorities and LEA also frequently indicated not to have observed any terrorism or PF signs in Sint Maarten. On the other hand, interviews and results of questionnaires conducted for this NRA indicated a low awareness of TF typologies not only within private sector stakeholders, but also with the LEA, including the PPO and the Court of justice. The 2022 Law Enforcement Council Report[65] indicated that as far as TF is concerned, the competent authorities currently have not observed any concrete signs of TF in Sint Maarten.

2.3.3. TF Vulnerability

For Sint Maarten the SPG concluded that the TF Vulnerability and TF Risk at a national or sectoral level is rated at **LOW**. CFT laws are in place by way of statutory regulation, adopted by the Parliament of Sint Maarten. Preventive measures and internal controls over certain sectors still need to be strengthened; e.g.: a Sint Maarten Gaming Authority is yet to be established for the Casino sector. In addition, other stakeholders across the supervision/regulatory chain regularly express having a shortage of expertise, skills, training, knowledge, capacity, budget, and tools. The FIU supervision programs require additional resources to carry out more regularly scheduled onsite examinations, and enhanced monitoring of the reporting entities.

2.3.4. Conclusion

The SPG concluded that the TF Threat, TF Vulnerability, and TF Risk level at a national or sectoral level is rated at **LOW**. Preventive measures and internal controls over certain sectors need to be strengthened. LEA and the FIU need to obtain more political commitment and consequently additional financial resources to invest in acquiring expertise and skills through training and courses, and enhance awareness, investigation, and supervision.

2.3.5. PF - Sanctions Enforcement

In the context of FATF Rec. 1 and of this NRA -2024, PF Risk refers strictly and only to the potential breach, non-implementation, or evasion of the targeted financial sanctions (TFS) obligations referred to in FATF Rec. 7.[66] Proliferation is the spread of nuclear, radiological, chemical, or biological weapons; their means of delivery such as missiles, rockets, and drones, as well as related materials, such as WMD-sensitive materials, equipment, and technology.

No assessment of PF took place nor could it be determined for Sint Maarten. Art. 12, paragraph 1 of the National Sanction ordinance, states that:

> "*In addition to the supervisors, employed at the CBCS and the FIU, referred to in Art. 2 of the National Ordinance FIU, are responsible for monitoring compliance with the provisions of or pursuant to this National Ordinance, officials or persons designated by national decree. Such a designation will be published in the National Gazette*."

2.3.6. Conclusion

The SPG concluded that the PF Threat and PF Vulnerability at a national or sectoral level is rated at **LOW**.

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[64] CARICOM IMPACS and the United Nations Office of Counter-Terrorist (UNOCT) collaborate to detect and counter terrorists and serious criminals' travel using passenger data | 'Programme de lutte contre le terroriste axé sur les déplacements'.

[65] Council for Law Enforcement Report 2022: 'Combatting money laundering and the financing of terrorism in Sint Maarten'.

[66] FATF Rec. 7 requires countries to implement targeted financial sanctions to comply with the United Nations Security Council Resolutions (UNSCRs) relating to the prevention, suppression and disruption of proliferation of weapons of mass destructions (WMD) and its financing.

2.3.7. Cyber crime

An increase in cyber attacks has been detected worldwide over the last years, and can be expected to grow even more, due to geopolitical tensions and increasing misuse of advanced available Artificial Intelligence. The professionalization and commercialization of criminal tools and services continues to increase, with the result that even less technically skilled criminals can more easily commit cyber attacks.[67] Cyber crime has been criminalized through incorporation in Art. 1:6, paragraph 1, under d, of the Criminal Code of Sint Maarten.

2.3.8. Threat of Cyber Attacks

Further review for this NRA indicated that the Threat level for cyber crime in Sint Maarten is rated at **MEDIUM-HIGH**. Sint Maarten has recorded sixteen (16) cases where cybercrime was committed to further nefarious activities for financial gain. These attacks targeted the country's critical infrastructure vital to the economy and most probably crossing jurisdictional lines within the digital space. The types of attacks observed occurred in the form of:

- email business scams (BECs) - 7 cases
- Emotet[68] malware - 1 case
- Phishing/Spoofing - 7 cases
- Eking Ransomware - 1 case

2.3.9. Vulnerability to Cyber Attacks

In 2022 a ransom attack occurred at the government owned company GEBE NV[69], the National electricity and water distribution company. On March 17, 2022 a message in the computer system of GEBE NV indicated that it was hacked by BlackByte, an organization that focuses on stealing and encrypting data, mainly from companies that have security flaws or weaknesses in software, hardware, or systems that have not yet been addressed through an update or patch. As a result of the hack, the entire customer database, financial data, and other business data were encrypted.[70] This shows the **MEDIUM** level of Vulnerability of Sint Maarten to this type of crime. Vital institutions such as FIs, the Sint Maarten Medical Center, the Port Sint Maarten Group, the Airport (PJIA), and the Sint Maarten Telecommunication Holding Company (TELEM NV) can be targeted with serious consequences for the Sint Maarten population. The KPCN has established a cyber/digital and public-private cooperation to combat Cyber crime.[71]

2.3.10. Conclusion

The National Risk level for Cyber crime is rated at **MEDIUM-HIGH**. None of the cases that were assessed indicated a direct link to TF. Cyber crime mostly tends to target critical infrastructure with significant financial resources. Cyber crime threatens the public's safety and our national and economic security. Investment in proper information management is expected to be prioritized.

2.3.11. Environmental and Natural Resources Crimes

The UN, G7, G20 and other international bodies have recognized the need to address financial flows from environmental crimes. In December 2019, the UN General Assembly Resolution 74/177 called on all Member States to criminalize illicit trafficking in protected species of wild fauna and flora and other crimes that affect the environment, such as trafficking in timber, precious metals, stones and other

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[67] *See report: '*Cybersecuritybeeld Nederland 2023 | Publicatie | Nationaal Coördinator Terrorismebestrijding en Veiligheid' (nctv.nl) (Cybersecurity Assessment Netherlands 2023, National Coordinator for Combatting Terrorism and Security - Ministry of Justice and Security).

[68] Emotet is a sophisticated and destructive malware that is primarily spread through phishing emails.

[69] GEBE stands for: "*Gemeenschappelijk Electriciteitsbedrijf Bovenwindse Eilanden*" (English: Joint Electricity Company Windward Islands).

[70] https://www.thedailyherald.sx/islands/gebe-non-cooperative-with-prosecutor-in-ransomware-cyberattack-investigation

[71] https://open.overheid.nl/documenten/ronl-e3c13f9bf2371d95b96f2dcdb2c4fc267781a7d5/pdf

minerals, involving organized criminal groups as serious offences (i.e., thereby criminalizing laundering of such crimes). The need to prevent and tackle ML arising from environmental crime was further reiterated in 2019 in the UN Secretary General's "Roadmap for Financing the 2030 Agenda for Sustainable Development", which calls for accelerated action in targeting combatting illicit financial flows, ML and environmental degradation (United Nations, 2019).

Sint Maarten has criminalized the illicit trafficking in protected species of wild fauna and flora in the National Ordinance basis of nature management and protection.[72] This National Ordinance implements the CITES-treaty (Washington, March 3, 1973) pertaining to the international trade in endangered species of wild fauna and flora. Next to the criminal law approach, the Minister with the portfolio of Environment (VROMI), can impose administrative law sanctions, following FATF Rec. 35 (Sanctions).

Art. 2:124b, paragraph 1 of the Criminal Code of Sint Maarten criminalizes proliferation of weapons of mass destruction causing environmental damages:

> *"Any person who deliberately acts in violation of permits to transport, possess, bring or have brought into or outside the territory of the Kingdom or Sint Maarten, or to dispose of nuclear material, as referred to in the Treaty on the Physical Protection of Nuclear Material (Trb. 1981, 7), if there is a risk of serious physical injury to another person or significant damage to property or the environment, shall be punished with a prison sentence of not more than twelve years or a fifth-category fine."*

2.3.12. Conclusion

Since 2021 a waste management project (ISWM-SXM) started that to date is ongoing, in which integrated solid waste management on Sint Maarten is being legally structured. A Waste Authority is proposed to be established that could be tasked with AML/CFT supervision activities pertaining to environmental and natural resources crimes, in cooperation with the non-governmental organization (NGO), the Nature Foundation Sint Maarten. The Nature Foundation Sint Maarten currently assists the government in all issues related to the management of the environment and its preservation through a Service Level Agreement with the Minister of VROMI. The Nature Foundation Sint Maarten is also the government appointed Management and Scientific Authority, making them responsible for:

1) National activities related to the CITES convention;
2) Advising the Minister of VROMI on the identification of species, and all other matters relating to nature management and nature conservation that are submitted to them for advice.

The Nature Foundation Sint Maarten is authorized on behalf of the Minister of VROMI, to enforce administrative law on violations of environmental regulations.

The occurring crimes that affect the environment and natural resources of Sint Maarten, which are mostly waste water dumping/oil fuel spills, illegal building activities, can not be related to ML/TF/PF. Trafficking in timber, precious metals, stones and other minerals, involving organized criminal groups does not occur.

The National Risk level for Environmental and Natural Resources Crimes is rated at **LOW**.

[72] "*Landsverordening grondslagen natuurbeheer en -bescherming*", AB 2013, GT no. 809, most recently amended by AB 2015, no. 9.

SECTION 3: ML THREAT & VULNERABILITY IN THE FINANCIAL SECTOR

3.1. ML Vulnerability to the Banking Sector

3.1.1. Banking Sector overview

As of December 2022, the Banking sector on Sint Maarten comprises three (3) branches of local general banks (with their head offices in Curaçao), one (1) branch of a subsidiary of a foreign bank (with its head office in Curaçao), one (1) subsidiary of a foreign bank, one (1) branch of a foreign bank, one (1) branch of a savings bank (with its head office in Curaçao) and one (1) specialized credit institution (with its head office in Curaçao). There are no international banks in Sint Maarten. However, local commercial banks can have both resident and non-resident clients. Banks in Sint Maarten provide mainly personal banking, small business and corporate banking services and offer a range of traditional products within each category. On December 31, 2022, the total assets in the Banking sector amounted to NAf 5.36 billion of which total loans amounted to NAf 1.8 billion. Assets for the Banking sector represent 67% of assets for the financial system, while net income represents less than 1% of nominal GDP.[73]

Table 12. Total Assets in NAf (in billions)

Year	2022	2021	2020	2019	2018
Assets	NAf 5.36	NAf 6.23	NAf 5.73	NAf 5.67	NAf 5.01

3.1.2. Assessment ML Threat to the Banking Sector

This NRA determined that the ML Threat level for the Banking sector is rated at **HIGH,** and this is the main sector granting banking services to the financial and non-financial sectors and facilitating all financial transactions and the economy at large. In addition, the economy of Sint Maarten is largely cash-based as cash is the most dominant payment instrument.[74] Based on data collected over the period July 2021 to June 2022 via a questionnaire, physical cash deposits at banks exceeded NAf 1.1 billion. The Banking sector contributed on average 94% of all financial UTRs reported to the FIU and 90% of all financial transactions reported to the PPO over the period 2016-2021.

The Banking sector furthermore provides wire transfer services, to and from various geographic regions. However, transactions conducted with jurisdictions under increased monitoring are limited.

Table 13 provides total inbound and outbound transaction with the top five jurisdictions over the period 2019 to 2022.

Table 13. Outbound and inbound transactions conducted with jurisdictions

Flow	2022		2021		2020		2019	
Outbound	**Country**	**%**	**Country**	**%**	**Country**	**%**	**Country**	**%**
1	United States	50%	United States	49%	United States	54%	United States	52%
2	Cayman Islands	9%	Cayman Islands	8%	The Netherlands	6%	Barbados	7%
3	The Netherlands	7%	The Netherlands	8%	Barbados	5%	The Netherlands	5%
4	France	3%	Sint Maarten Non-Residents (NR)	3%	Puerto Rico	4%	Puerto Rico	3%
5	Puerto Rico	2%	France	3%	Cayman Islands	2%	France	2%
	Other	29%	Other	29%	Other	29%	Other	30%

[73] Nominal GDP (billions of U.S. Dollars) 1,533 – IMF Article V, July 2023 report.

[74] A glance into Sint Maarten's payment behavior and financial matters 2021 – CBCS September 2022 report.

Flow	2022		2021		2020		2019	
Inbound	**Country**	**%**	**Country**	**%**	**Country**	**%**	**Country**	**%**
1	United States	66%	United States	72%	United States	68%	United States	69%
2	France	6%	The Netherlands	5%	The Netherlands	5%	Sint Maarten NR	6%
3	Switzerland	5%	France	4%	Sint Maarten NR	5%	France	3%
4	The Netherlands	4%	Sint Maarten NR	4%	France	3%	The Netherlands	2%
5	Anguilla	3%	Caribbean Netherlands (BES)	2%	Caribbean Netherlands (BES)	2%	Switzerland	2%
	Other	22%	Other	13%	Other	17%	Other	18%

The main customer base in the Sint Maarten Banking sector is salaried and self-employed natural persons, small and medium enterprises and local corporations. Also, Sint Maarten has several unbanked cash-intensive businesses (i.e. casinos), which pay all expenses in cash. This creates opportunities for these businesses to integrate illegitimate funds into the economy. Furthermore, there are natural and legal persons that operate in different industries at the same time, which facilitates the opportunity for co-mingling of funds, as well as layering and integration. In addition, several natural and legal persons have accounts at different banks allowing them to perform transactions simultaneously at different institutions. This creates the opportunity for smurfing/structuring[75], allowing for the circumvention of reporting requirements at a specific institution.

Recently, Sint Maarten's Real Estate Agency sector has been very active with construction projects, pre-construction sales and reselling of condominiums and homes. Data collected over the years depicts an increasing trend in transfers via commercial banks to purchase construction materials. However, it is difficult to monitor all financing and expenditures of several real estate developments as many construction projects are not (fully) financed locally. In light thereof, this creates an opportunity for expenditures (of goods and services) from the construction projects to be supplemented with cash payments, which can be used for layering and integration. This phenomenon can lead to illegitimate cash from these projects being deposited within the Banking sector as means of ML.[76]

3.1.3. ML Vulnerability to the Banking Sector

The Banking sector's ML Vulnerability level is rated at **MEDIUM** based on the following assessments:

3.1.3.1. AML regulatory framework, Entry controls and Enforcement of administrative law and criminal law actions

All license applications are subject to an adequate licensing, and fit and proper tests requirement by the CBCS. A dedicated cross-sectoral department assesses new applications for the issuance of licenses, finalize withdrawals of licenses, perform fitness and (periodic) integrity testing and maintain license data, among other things. There are general admission requirements to assess applications, however; formal written manuals and procedures to guide the process, including the proactive review and assessment of the applicant's compliance function and AML/CFT/CFP manuals during the application process are currently being worked on.

In July 2022, the CBCS published additional supervisory policy enforcement instruments. This document covers the full range of enforcement instruments available to the CBCS. During the period under review, the CBCS did not take any administrative enforcement actions against banks or its directors, nor was any

[75] Smurfing/structuring is a money laundering technique that involves splitting a large bank deposit into smaller deposits to evade financial transparency reporting requirements.

[76] https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/RBA-Real-Estate-Sector.pdf.coredownload.pdf

bank or its directors referred for further criminal investigation by the CBCS. However, the CBCS exercised moral persuasion to positively influence behavior.

3.1.3.2. Effectiveness of Supervision procedures and practices

In 2021, the CBCS restructured the supervision sector, which included the formation of a specialized AML/CFT, Governance, Compliance & Conduct Supervision department (AML/CFT Supervision department). With its highly trained staff, the CBCS applies risk-based supervision within its AML/CFT regulatory framework, which is commensurate with the identified risk. The CBCS increased its staff in the AML/CFT supervision department over the past two (2) years, with the intent to supervise all FIs requiring AML/CFT supervision based on a risk-based approach. During the period of 2019-2023, the CBCS conducted ten (10) onsite examinations at commercial banks[77], applying, in practice, risk-based supervision commensurate with the identified risk within its AML/CFT regulatory framework. Concurrently, the CBCS engaged in several desk supervision activities to strengthen its supervision. In addition, the CBCS enhanced its follow-up process with the upgrade of its issue tracking software. The CBCS is currently in the process of finalizing its risk-based supervision in written procedures.

Collating data on all examination findings across all institutions can be made structural and streamlined to provide better overviews on findings on a Banking sector level. Monitoring and assessing these overviews can provide the CBCS with more comprehensive insights into areas where further attention is needed on a financial sector level, and additional trainings can be recommended. Furthermore, prior to conducting onsite examinations, the CBCS and the FIU could have discussions to determine which transaction reporting concerns should be included in the scope for further testing to enhance supervision. The CBCS is currently working on a 'MoU on the co-operation, consultation, and exchange of information regarding AML/CFT/CFP', with the FIU, which will also include the streamlining of this process.

3.1.3.3. Effectiveness of the Compliance Function

Overall, the design of the Compliance functions in place appears adequate. However, the effectiveness requires improvement. The onsite examinations revealed that most of the banks have an adequately staffed and design of the compliance function. For the Sint Maarten banks, some of the activities of the compliance function are centralized in Curaçao or at the parent or another group institution, which can be more effective in some instances. Under all circumstances, the CBCS performs thorough assessments of the entire compliance function despite the location to ensure the collective responsibilities are carried out and managed.

Based on the onsite examinations for the period under review, it was determined that the main concerns of the compliance function relate to inadequate follow-up on CDD, identification of PEPs, EDD or high-risk clients and PEPs, updating risk and transaction profiles and ongoing monitoring. From 2019 to 2022, the CBCS observed some improvements in the areas of CDD.

3.1.3.4. AML Knowledge and Integrity of Banks' staff

The CBCS' AML/CFT P&Gs require banks to include a permanent training program for employees in their compliance program, and training is required annually. This training requirement is tested during each onsite examination. Based on the results of the onsite examinations performed at the banks from 2019-2022, it was determined that compliance with the annual AML/CFT training requirement has improved.

Based on the CBCS' Policy Rule on Integrity Testing and the Policy Rule for Sound Business Operations in the Event of Conflict of Interest, Incidents and Integrity-Sensitive Positions (Policy Rule), banks have a duty to report all incidents with regard to integrity breaches of their directors and staff members. Furthermore, banks are required to perform "Know Your Employee" (KYE) practices when hiring, and this process is reviewed during onsite examinations. Integrity related incidents by banks' staff appears

[77] The CBCS did not conduct any onsite examinations during 2020 and 2021 due to COVID-19.

to be low for the reporting period of 2018-2022, based on the two (2) incidents reported, related to employees' integrity.

3.1.3.5. Effectiveness of Monitoring-Reporting

Currently, all banks in Sint Maarten use automated systems for transaction monitoring. Internal reporting within the bank and external reporting to the FIU are conducted. Based on onsite examinations performed in 2019, unusual activity monitoring and reporting deficiencies related mainly to backlog in actioning alerts and non-reporting of mandatory objective indicators.

However, during examinations conducted in 2022, it was determined that there was improvement in transaction reporting. Statistics from the FIU depicted that FIs were reporting more objective UTRs based on pre-determined indicators, and less subjective UTRs. These seemed to require more investigation by the compliance department and possibly (more) tailoring of the bank's transaction monitoring system.

Table 14. Numbers of financial sector AML/CFT reports submitted to the FIU

Year	Objective indicators	% of Total	Subjective indicators	% of Total	Grand Total
2021	17,394	97%	549	3%	17,943
2020	22,185	98%	346	2%	22,531
2019	21,138	99%	251	1%	21,389
2018	23,229	97%	806	3%	24,035
2017	22,418	98%	385	2%	22,803
2016	-	-	-	-	16,441

Based on the CBCS examinations conducted from 2019 to 2022 and in further discussions with the FIU, it was determined that there was improvement in transaction and quality of reporting. The online reporting portal at the FIU is not active due to technical reasons, which is currently being rectified. Reporting by the banks to the FIU is in the meantime done via an encrypted spreadsheet.

3.1.3.6. Level of market pressure to meet AML Standards

Subsidiaries and branches in Sint Maarten have a zero tolerance for reputational risk at the parent level. Hence, bank management is highly sensitive to international and local AML-related reputational risks. Relationships with correspondent banks is of paramount importance as Sint Maarten is highly dependent on tourism and imports.

Corresponding banking services are critical for economic financial stability and continued banking services. Consequently, the banking institutions are highly pressured to meet international AML standards.

3.1.3.7. Products and services with the highest ML Vulnerability

Looking at the data collected from the banks as part of the questionnaires, it was noted that the products and services with the highest vulnerability to ML are:

- *deposit accounts (with a high amount of physical cash deposits).*
- *foreign currency exchange services.*
- *domestic and international transfers.*

3.1.4. Conclusion

The Banking sector ML Risk level in Sint Maarten is rated at **MEDIUM-HIGH**. This follows the assessed **HIGH** AML/CFT Threat level and **MEDIUM** level Vulnerability in this sector. The Banking sector represents 67% of total assets for the financial system. Sint Maarten is a cash-based economy, however most sectors on the island maintain bank accounts with the Banking sector to facilitate their banking needs. Banks report the most (objective and subjective) UTRs to the FIU in the financial system.

Although there is a comprehensive regulatory framework, robust entry controls, adequate supervision procedures and practices, knowledge and integrity of banks' staff, and market pressure to meet international standards, improvements are required in the effectiveness of the compliance function, and little improvements are required in the effectiveness of unusual transactions monitoring and reporting and enforcement of laws and regulations (imposing administrative law sanctions and criminal law sanctions). Regarding the use of products and services, it can be concluded that deposit accounts, foreign currency exchange services, domestic and international transfers are the driving factors with the highest Vulnerability to ML.

3.2. The Securities Intermediaries and Asset Management Sector

3.2.1. Securities Intermediaries and Asset Management Sector overview

For the period under review there was one (1) FI providing both Securities Intermediary and Asset Management service in Sint Maarten. As per December 2022, total assets for the Securities Intermediaries and Asset Management sector represents under 1% of the total assets for the financial sector.

3.2.2. ML Threat to the Securities intermediaries and Asset Management Sector

The ML Threat level of the Securities Intermediaries and Assets Management sector is rated at **LOW**. All financial transactions by securities intermediaries and asset managers in Sint Maarten are channeled through the local banks. There were no UTRs reported to the FIU nor PPO over the period 2016-2021 for the Securities Intermediaries and Asset Management sector.

3.2.3. ML Vulnerability to the Securities Intermediaries and Asset Management Sector

The ML Vulnerability level in this sector is rated at **MEDIUM-LOW**. The CBCS remains responsible for the AML/CFT supervision of the Securities Intermediaries and Asset Management sector, and internal controls are tested the same way as other supervised FIs. Following risk-based approach principles, there were no onsite examinations performed by the CBCS during the period under review. As part of the CBCS' admission requirements, candid

ate (co-)policymakers and UBOs owning ten percent (≥ 10%) or more of the shares of the institution must submit a personal questionnaire and are subjected to fit and proper tests, including background checks, to ensure criminals and associates do not manage, hold, or have a controlling interest in the entities the CBCS supervises.[78] Securities intermediaries and asset managers that do not comply with the compulsory AML/CFT/CFP requirements of the NOCMLTF, are committing an offence, which is a punishable act.[79] The banks also have the responsibility to monitor and report account transactions for meeting the FIU reporting indicators. Consequently, the AML/CFT transaction controls and KYC principles of the banking sector are also applied. The compliance function in this sector is primarily responsible for basic KYC matters. The CBCS also did not take any administrative enforcement actions

[78] Prior to the harmonization in 2019, securities intermediaries and asset managers were licensed pursuant to the National Ordinance on the Supervision of Securities Intermediaries and Asset Management (NOSSIAM) which was applicable to both Curaçao and Sint Maarten. Currently, Sint Maarten is pending the enactment of its own NOSSIAM.

[79] Pursuant to Art. 33(1) of the NOCMLTF, each action in breach of the provisions shall, to the extent it was **intentional**, be punished by either a prison sentence of a maximum of four years or a financial penalty of the sixth category. Art. 33(2) of the ordinance states that each action in breach of the provisions shall, to the extent it was **unintentional**, be punished by either imprisonment for a maximum of one (1) year or a financial penalty of the sixth category.

against securities intermediaries and asset management or its directors, nor was there any referral for further criminal investigation by the CBCS during this period. There were no incidents reported by the Securities Intermediaries and Asset Management sector for the period under review. Therefore, it appears that staff integrity related incidents by this sector are low.

3.2.4. Conclusion

The Securities Intermediaries and Asset Management sector ML Risk level is rated at **MEDIUM-LOW**. This sector is very small within Sint Maarten's financial sector, and the core financial transactions susceptible to ML are also conducted at local banks. There was no reporting of UTRs for the period under review. No examinations were performed in this sector because the sector was considered low significant based on the CBCS' risk-based approach. The overall net Risk level is rated at **MEDIUM-LOW** based on the activities performed and the ML Vulnerability in Sint Maarten.

3.3. The Insurance Sector

3.3.1. Insurance Sector Overview

The Insurance sector in Sint Maarten comprises four (4) life insurance companies and eight (8) general insurance companies as per December 31, 2022. Three (3) of the four (4) life insurance companies are branches from insurance companies established in Curaçao, while one (1) of the life insurance companies is incorporated in Sint Maarten. The full overview of the sector is reflected in table 15. For the purposes of this NRA only life insurance companies will be discussed.[80]

Table 15. Overview Insurance Sector Sint Maarten

Type of financial institution quantity	2018	2019	2020	2021	2022
Life Insurance companies	4	4	4	4	4
General Insurance companies	8	8	8	8	8
Funeral Insurance companies	1	1	1	1	1
Captive insurance companies	0	0	0	0	0
Professional reinsurance companies	0	0	0	0	0
Pension funds	1	1	1	1	1
Insurance brokers	23	20	19	21	19
General funds for sickness insurance	0	0	0	0	0

The Insurance sector had a total asset size of NAf 1,4 billion as per December 31, 2022.

Table 16. Asset sizes Insurance Sector Sint Maarten

Asset size in thousands NAf	2018	2019	2020	2021	2022
Institutional investors and insurance brokers					

[80] The FATF Glossary excludes non-life insurance activities from the activities performed by "financial institutions" which fall under the scope of the FATF requirements. As a result, the FATF Recommendations do not apply to non-life insurance (even if the non-life insurance activities are within the scope of financial sanctions regimes): See also the: "Guidance for a Risk Based Approach Life Insurance Sector" FATF October 2018 https://www.fatf-gafi.org/en/publications/Fatfrecommendations/RBA-Life-Insurance-Sector.html

Life Insurance companies[81]	1,292,148	1,390,327	1,452,661	1,499,391	1,429,432
General Insurance companies[82]	540,130	440,895	407,840	455,019	466,094
Funeral Insurance companies	1,327	1,618	1,673	1,816	1,947
Captive insurance companies	0	0	0	0	0
Professional reinsurance companies	0	0	0	0	0
Pension funds	823,930	880,396	814,577	754,384	685,679
Insurance brokers	30,892	35,519	36,479	22,708	15,493
General funds for sickness insurance	0	0	0	0	0

3.3.2. ML Threat to the Insurance Sector

In general, the ML Threat level in the Insurance sector is rated at **LOW**[83], which is also the case in Sint Maarten. There were no ML investigations in the Insurance sector in Sint Maarten over the reviewed period. During the same period, a total of 46 UTRs have been reported for the Insurance sector, which equals 0.04% of all UTRs reported for the financial sector. Additionally, two (2) STRs were submitted to the FIU.

3.3.3. ML Vulnerability to the Insurance Sector

The ML Vulnerability level in the Insurance sector is rated at **MEDIUM-HIGH**. The Insurance sector is regulated and supervised by the CBCS. There is a comprehensive regulatory framework in place, and the P&Gs for the Sint Maarten Insurance sector are being updated. Additionally, at this moment no administrative fines were imposed by the CBCS on insurance companies.

3.3.4. Effectiveness of supervision procedures and practices

The CBCS has conducted several AML onsite examinations at the insurance brokers in Sint Maarten, and one examination was conducted in the Insurance sector in 2023. Furthermore, the CBCS conducted several off-site activities.

3.3.5. Effectiveness of UTRs monitoring and reporting in the Insurance Sector

Based on the results of the questionnaires for the purpose of the Insurance sector, it was determined that most life insurance companies have effective systems in place to help them identify, monitor, and record complex and UTRs. An overview of submitted UTRs and STRs by the Insurance sector is included below.

Table 17. Overview reported UTRs and STRs from Insurance Sector in Sint Maarten

UTRs Reported Period Years	2016	2017	2018	2019	2020	2021
Life Insurance	11	11	13	13	0	0
STRs reported to the PPO	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**
Life Insurance	1	1	0	0	0	0

[81] Total assets include life insurance companies in Curaçao, as there is no separate reporting done at the Sint Maarten entity level.

[82] Total assets include general insurance companies in Curaçao, as there is no separate reporting done at the Sint Maarten entity level.

[83] Many life insurance products are not sufficiently flexible to be the first vehicle of choice for money launderers: https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/RBA-Life-Insurance.pdf.coredownload.pdf

3.3.6. Integrity of Staff, Compliance level and AML Training in the Insurance Sector

Most of the insurance companies in Sint Maarten have a Code of Conduct (and Ethics) in place in which inter alia the procedures of whistle blowing are described. Most life insurance companies also indicated that they do have internal compliance programs that are commensurate to the level of risk based on factors such as the volume and nature of products provided, the client base profile, and the cross-border nature of transactions. Additionally, most life insurance companies also indicated that they have the appropriate AML training programs and materials available to their staff and management.

3.3.7. Conclusion

The ML Risk level for the Insurance sector is rated at **MEDIUM**. The ML Threat level for the Insurance sector is generally rated at **LOW**. The CBCS did not have to contemplate any administrative law or criminal law actions against any insurance company in Sint Maarten during the years under review. However, the ML Vulnerability level is rated at **MEDIUM-HIGH**. The P&G for the Sint Maarten Insurance sector is in the process of being updated.

3.4. Other Financial Institutions

3.4.1. Overview of Other Financial Institutions Sector

The Other Financial Institutions sector in Sint Maarten comprises three (3) money transfer companies (MTCs) (head offices in Curaçao), two (2) micro lending institutions and one (1) branch of a credit union, (head office in Curaçao). On December 31, 2022, total assets in these sectors amounted to NAf 51.19 million. This represents less than 1% of assets of the Sint Maarten financial system.

3.4.2. Money Transfer Companies (MTC) Sector

3.4.2.1. ML Threat to the MTC Sector

The ML Threat level for the MTC sector is rated at **MEDIUM-HIGH**. As per December 2022, total assets for the MTC sector stood at NAf 2.89 million, which represents less than 1% of the total financial sector. The MTC sector is small (with 3 institutions) and the products are simple. However, because of the cash-intensive nature of MTCs and the customer bases, among other things, there could be a high level of undetected ML activity in this sector.

During the year 2022, there were 29,013 inbound transactions with a total value of NAf 21.5 million and 93,649 outbound transactions with a value of NAf 56.2 million. This depicts an average of NAf 741 per transaction incoming and NAf 600 per transaction outgoing. Based on value of transactions, the top five jurisdictions for outbound transactions were: United States (19%), Jamaica (18%), Dominican Republic (14%), Columbia (12%), and Guyana (3%); while inbound transactions originated from: the United States (57%), the US Virgin Islands (4%), the Dominican Republic (3%), Canada (2%) and St. Kitts and Nevis (2%).

The sector facilitates cross-border transfers by customers with and without bank accounts. However, there is a relative high integration with the Banking sector. Registered MTCs on Sint Maarten maintain bank accounts with local banks for operational purposes as funds received from customers are deposited and transferred abroad. Due to Sint Maarten's demographics and multicultural (non-)resident base, outbound transactions are mostly conducted by recurring customers.

The MTC sector contributed on average 6% of all financial UTRs reported to the FIU and 9% of all financial transactions reported to the PPO over the period 2016-2021. Approximately 12% of all UTRs filed by this sector during the review period were based on subjective indicators.

3.4.2.2. ML Vulnerability to the MTC Sector

Sint Maarten's MTC sector's ML Vulnerability level is rated at **MEDIUM-HIGH**. The assessment of the AML/CFT control framework related to MTCs revealed that the highest vulnerable areas, which require improvement, are the effectiveness of the compliance function, the effectiveness of UTRs monitoring and (automated) reporting, AML knowledge of MTCs' staff, and enforcement of administrative and criminal sanctions. The main strengths are the comprehensiveness of AML regulatory framework,

availability and effectiveness of entry controls, the effectiveness of supervision procedures and practices, the availability of administrative and criminal sanctions and the level of integrity of staff.

3.4.2.3. Comprehensiveness of AML/CFT regulatory framework and Entry Controls in the MTC Sector

Sint Maarten has a comprehensive AML/CFT regulatory framework in place for this sector. The AML/CFT regulatory framework is based on national ordinances, codes, executive decrees, regulations, and P&Gs.

There is an effective entry control on the sector of other FIs, including the MTC sector. Pursuant to the National Ordinance on the Supervision of Money Transfer Companies (NOSMTC), it is forbidden for any person to conduct the business of a money transfer company in or from Sint Maarten without previously obtaining a license or dispensation from the CBCS.[84]

3.4.2.4. Integrity of Staff and Supervision procedures and practices in the MTC Sector

In terms of the integrity level of the staff in the MTC sector, upon review of the examination findings conducted during the period under review, there were no findings related to integrity breaches and of potential "tipping off" cases. The CBCS conducted six (6) onsite examinations in the sector during the period 2019-2023.[85]

3.4.2.5. Effectiveness of unusual transactions monitoring and reporting in the MTC Sector

Currently, other FIs in Sint Maarten are using automated systems for transaction monitoring. However, these systems are not being adequately used in the MTC sector. Hence, unusual activity monitoring and reporting to the FIU by the MTCs require improvement. Examination findings determined that UTRs in many instances are not being reported to the FIU, based on their unusual nature and patterns. MTC customers often perform multiple transactions occurring the same day or consecutive days (and perhaps at different MTCs within a given period) below the reporting limit, which are currently not sufficiently being reported.

3.4.2.6. Effectiveness of the compliance function in the MTC Sector

Overall, the effectiveness of the compliance function for the MTC sector requires improvement. Based on the examination findings, it was determined that insufficient research is being conducted by the compliance function on the purpose and intended nature of the business relationship. These findings coincide with the compliance functions' limited knowledge of UTRs/STRs. It is expected that the UTRs should be higher than 12%. Hence, more staff training and implementation of transaction monitoring is required.

3.4.2.7. Conclusion

This NRA reveals that the ML/TF Threat level to the MTC sector in Sint Maarten is rated at **MEDIUM-HIGH**. Based on the categories assessed and areas where improvement is required, the ML/TF Vulnerability level in the MTC sector is rated at **MEDIUM-HIGH**. The overall net Risk level for ML/TF in the MTC sector in Sint Maarten is rated at **MEDIUM-HIGH**.

3.4.3. MICRO LENDING SECTOR

3.4.3.1. ML Threat to the Micro Lending Sector

The ML Threat level to the Micro Lending sector on Sint Maarten is rated at **LOW**. There are two (2) Micro Lenders in Sint Maarten, wherein one (1) provides loans only to natural persons and the other provides loans only to legal persons. All loans disbursements are transferred to the customers' accounts from the Micro Lender accounts between local banks, and payments are primarily made from the customers'

[84] Pursuant to Art. 33(1) of the NOCMTF, each action in breach of the provisions shall, to the extent it was intentional, be punished by either a prison sentence of a maximum of four years or a financial penalty of the sixth category.

[85] The CBCS did not conduct any onsite examinations during 2020 and 2021 due to the COVID-19 pandemic.

accounts to the Micro Lender accounts also at local banks. Consequently, most of the AML/CFT transaction monitoring risks are indirectly transferred to the Banking sector.

From 2016 to 2021, there were no ML investigations conducted relating to the Micro Lending sector. Furthermore, no UTR cases were reported to the FIU and/or PPO. Additionally, this sector does not accept deposits from the public. As per December 2022, assets for the Micro Lending sector totaled NAf 44.5 million of which total loans amounted to NAf 32 million. Total assets for the Micro Lending sector represent less than 1% of assets for the financial sector. Total income for this sector represents less than 1% of the 2022 nominal GDP.

3.4.3.2. ML Vulnerability to the Micro Lending Sector

The ML Vulnerability level for this sector is rated at **MEDIUM**. The CBCS remains responsible for the AML/CFT supervision of this sector and internal controls are tested the same way as other supervised credit institutions (i.e., banks). Hence, the assessment of some of the Banking sector ML/TF Vulnerability is also applicable to the Micro Lending sector. Based on the AML/CFT onsite examination findings for the Micro Lending sector for the period under review, there were no major findings concerning the compliance function nor any other deficiencies worth disclosing to affect this risk assessment.

3.4.3.3. Conclusion

The overall residual ML Risk level for this sector is rated at **MEDIUM-LOW**. The Micro Lending sector is small compared to the financial sector and the core transactions susceptible to ML are also conducted at local banks and involve little to no cash transactions. There are no (major) examination findings nor concerns on this sector and no reporting of UTRs for the period under review.

3.4.4. CREDIT UNION SECTOR

3.4.4.1. ML Threat to the Credit Union Sector

The ML Threat level of the Credit Union sector is rated at **LOW**. There is only one (1) Credit Union in Sint Maarten, which is a branch office (Head office in Curaçao). This Credit Union only provides services to a closed group of members (solely natural persons and only offers deposits and consumer loan products). Cash transactions are not accepted. As per December 2022, assets for the Credit Union sector represents under 1% of the total financial sector. Deposits, withdrawals, and loan disbursements and payments are only conducted through local commercial banks by means of transfers to and from the credit union's account to customers' bank accounts and/or Point of Sale. Consequently, most of the ML/TF transaction monitoring risks are indirectly transferred to the Banking sector.

From 2016 to 2021, there were no ML investigations conducted relating to this sector. Furthermore, no UTR cases were reported to the FIU and/or PPO.

3.4.4.2. ML Vulnerability to the Credit Union Sector

The Credit Union sector's ML Vulnerability level has been rated at **LOW**. The CBCS remains responsible for the AML/CFT supervision of this sector, and internal controls are tested the same way as other supervised credit institutions (i.e., banks), and the AML regulatory framework is the same. The compliance function is located at the head office in Curaçao, where the CBCS is also responsible for supervision on a consolidated basis. Additionally, all transactions (i.e. deposits, withdrawals, and loan disbursements and payments) are channeled through local banks and the banks also have the responsibility to monitor and report account transactions meeting the FIU reporting indicators. Consequently, the compliance function mainly performs CDD/EDD, while the Banking sector indirectly monitors financial transaction reporting via the customers' account. However, there was no onsite examination performed at the Credit Union during the period under review due to the **LOW** level of AML/CFT/CPF Risk in this sector.

3.4.4.3. Conclusion

The residual AML/CFT/CPF Risk level in the Credit Union sector is rated at **LOW**. This sector is very small within the Sint Maarten's financial sector, and the core transactions susceptible to ML are also conducted at local banks and do not involve cash transactions. The ML Threat level posed by the Credit Union sector is rated at **LOW**. No examinations were performed in this sector for the period under review, due to its low-risk rating and no reporting of UTRs was noted during the same period.

3.5. The Trust Company Service Provider Sector

3.5.1. Overview of the Trust Company Service Provider Sector

The Trust Company Service Provider (TCSP) sector on Sint Maarten comprises four (4) entities, except for 2021 when there were five (5) TCSPs active. TCSPs are often involved in the establishment and administration of legal persons and legal arrangements. On December 31, 2022, total assets in the TCSP sector amounted to NAf 0.82 million. This represents 0.01% of assets for the financial system.

Table 18. Overview Total Assets TCSP Sector in NAf millions

Year	2022	2021	2020	2019	2018
Total assets	NAf 0.82	NAf 0.63	NAf 0.42	NAf 0.43	NAf 0.5

3.5.2. ML Threat to the TCSP Sector

The (overall) residual ML Risk level for the TCSP sector is rated at **MEDIUM-HIGH**, however the ML Threat level of the TCSP sector is rated at **HIGH**. The rationale for a high-threat level provided here is based on Expert Judgment from the PPO and based on a previous case in which a Trust office failed to submit UTR reports between 2011 and 2017. FATF Typologies reports[86] also suggests that Trust and company service providers can pose higher Threat as they are involved in a wide range of services and activities for their clients, which includes: acting as a director or secretary of a company. Criminals can seek TCSP services to help them retain control of proceeds of their crimes, while disguising the origin and ownership of these assets, also through the creation of shell companies to conceal their ownership and create an appearance of legitimacy.

As of December 2022, total assets for the TCSP sector represents less than 1% of the total financial sector of Sint Maarten. The TCSP sector can be considered small with four (4) TCSPs. The TCSP sector contributed on average 0.13% of all UTRs reported to the FIU and 1.28% of all transactions reported to the PPO over the period 2017-2021. During this period, the TCSP sector filed only 1 UTR based on subjective indicators. From 2016 to 2021, there were no ML investigations conducted relating to this sector. There were also no other compliance incidents reported by the TCSPs during the period under review.

3.5.3. ML Vulnerability to the TCSP Sector

The TCSP sector's ML Vulnerability level has been rated at **MEDIUM-LOW**. The CBCS is responsible for the AML/CFT supervision of this sector and internal controls are tested the same way as other supervised institutions (i.e., banks and MTCs). There is a legal basis for administrative and criminal sanctions. However, there were no onsite examinations performed at the TCSPs during the period under review. The CBCS also did not take any administrative enforcement actions against TCSPs during the period under review.

3.5.4. Conclusion

The (overall) residual ML Risk level for the TCSP sector is rated at **MEDIUM-HIGH**. The sector is very small within Sint Maarten's financial activities, and the core transactions susceptible to ML are also conducted at local banks. During the period under review, the TCSP sector made 0.13% of all reporting of UTRs to

[86] https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Rba-trust-company-service-providers.html

the FIU. However, the ML Threat level posed by this sector is rated at **HIGH** and the CBCS, since applying a risk-based approach, has committed to enhance its supervision on this sector.

3.6. The Virtual Asset Service Providers (VASP) Sector

3.6.1. Overview of the VASP Sector

At the international level, the global virtual assets (VAs) and virtual asset service providers (VASPs) sector has expanded rapidly over the past years.[87] The increased number of VAs and VASP types has been accompanied by an increased volume of VAs users, transactions, and revenues. The number of VAs users increased globally from 45 million in 2016 to 139 million by 2019. The number of Fintech[88] companies based in Sint Maarten is however limited. Presently, there is only one (1) operational Payment Service Provider (PSP) on the island, with its headquarters based in Curaçao, and two (2) VASPs as outlined in Table 20 below. These VASPs primarily focus on facilitating exchanges between VAs and fiat currencies and exchanges between VAs. In addition, four (4) VASPs based abroad were identified (according to the Cambridge database), offering their products or services in Sint Maarten.[89]

Table 19. Overview Fintech Companies in Sint Maarten

Type Fintech Company	Number
PSPs	1
Local VASPs	2
International VASPs	4

3.6.2. ML Threat to the VASP Sector

Given the small number of entities operating within the Fintech space in Sint Maarten, and the limited scale of their operations, the ML Threat level for the sector is rated at **LOW**. The presence of only one (1) PSP and two (2) VASPs in Sint Maarten makes the sector small compared to the broader financial sector. Their impact on the overall economy of Sint Maarten is therefore considered minor. The Fintech sector in Sint Maarten is noticeably young and has yet to develop. Based on the limited information available, the identified firms in this sector are predominantly start-ups, experiencing modest profitability and characterized as micro-enterprises with a minimal number of full-time employees (FTEs). Meaning that there is no robust Fintech sector in Sint Maarten and hence less AML challenges. Insights gained from the FIU indicate that no activities were reported to the FIU, suggesting that there were no UTRs/STRs or activities involving PSPs or VASPs.

3.6.3. ML Vulnerability to the VASP Sector

The VASP sector is rated at a **HIGH** level of ML Vulnerability.[90] New technologies, the speed of transactions and the borderless nature of Fintech bring significant benefits but also new opportunities and challenges for combatting ML/TF/PF. VAs are internet-based forms of currencies or mediums of exchange, distinct from physical currencies or forms of value such as banknotes, coins, and gold.[91] It is electronically created and stored. They allow for instantaneous transactions and borderless transfer of

[87] Cambridge Centre for Alternative Finance, 2nd Global Crypto asset Bench marking Study, December 2018: https://www.jbs.cam.ac.uk/wp-content/uploads/2020/08/2019-09-ccaf-2nd-global-cryptoasset-benchmarking.pdf

[88] Fintech refers to the integration of financial technology into offerings by financial services companies to improve their use and delivery to consumers.

[89] According to the Cambridge website (Cambridge Fintech Ecosystem Atlas (ccaf.io)) the number of Fintech companies will be a sum of global companies + Fintech companies serving that jurisdiction. Upon further inquiry with Cambridge, the SPG was informed that there are only 4 single Fintech companies, excluding the global ones, that serve Sint Maarten.

[90] Virtual assets are also posing increasing terrorist financing risks, including for fundraising by ISIL, Al Qaeda and right-wing extremist groups, although the vast majority of terrorist financing still takes place using fiat currency https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/June2023-Targeted-Update-VA-VASP.pdf.coredownload.inline.pdf

[91] https://www.fatf-gafi.org/en/publications/fatfrecommendations/documents/guidance-rba-virtual-assets.html

ownership as indicated above. This raises its Threat level for ML/TF and PF purposes. VAs generally can be purchased, traded, and exchanged among user groups and can be used to purchase physical goods and services, but can also be limited or restricted to certain online communities, such as a given social network or internet game. VAs or currencies are purchased directly or indirectly with genuine money at a given exchange rate and can generally be remotely redeemed for genuine monetary credit or cash, again raising Threat level for ML/TF and PF purposes. However, the Risk is expected to be mitigated to some extent as it is expected that most PSPs and VASPs will partner with traditional FIs, which are subject to strict regulatory requirements and provide an extra layer of compliance oversight.

3.6.4. Comprehensiveness of AML/CFT regulatory framework – Supervision effectiveness

Pursuant to the NOCMLTF[92], the CBCS is responsible for the enforcement of the so-called national reporting ordinances, and for supervising compliance of financial service providers with these national ordinances. Thus, the CBCS has the authority to conduct inspections, compel the production of information and impose disciplinary and financial sanctions based on the national ordinance. Currently a legislative package consisting of two (2) national ordinances: The National Ordinance on Supervision Payments Service Providers (NOSPSP), and the National Ordinance Supervision of Virtual Asset Service Providers (NOSVASP), are expected to enter into force in 2024. These legislations will introduce supervision on VASPs with respect to market entry and introduce effective systems for monitoring and prudential supervision by the CBCS. However, the CBCS currently still has a range of sanctions possibilities for when PSPs or VASPs fail to comply with the AML/CFT/CFP requirements.

3.6.5. Conclusion

The VASP sector generally is rated at a **HIGH** level of ML Vulnerability. This is caused by new and sometimes fast developing products and services sometimes, not captured through traditional compliance technologies, the speed of transactions, and the borderless nature of Fintech bring significant benefits but also new opportunities and challenges for combatting ML/TF/PF. However, the (overall) residual Risk level for the VASP sector in Sint Maarten is currently rated at **MEDIUM**. This rating is given the small number of entities operating within the Fintech space in Sint Maarten, and the still limited scale of their operations.

3.7. Financial Inclusion Products Sector Risk

3.7.1. Overview of Financial Inclusion Products Sector

Financial inclusion (FI) is generally understood as a process of assisting low to non-income earners and other disadvantaged groups to have access to financial services and products such as basic bank accounts, mobile money accounts and prepaid cards at an affordable cost and in a timely manner.[93] These products are used for, among other things, sending and receiving remittances, storing funds, and similar basic and limited financial transactions. To assess the Risk that such products can pose to the financial system in Sint Maarten from a ML/TF perspective, a review of financial products and services was conducted for this NRA to determine whether FI products in fact exist in Sint Maarten and, if so, their risk level. To do so, an online survey was conducted and sent out to the relevant FIs as well as follow-up emails to the same institutions to confirm the existence or not of such products within their respective consumer portfolio.

Another research into the payment behavior and other financially related matters in Sint Maarten conducted in 2021 by the CBCS in collaboration with the Sint Maarten Department of Statistics (STAT),

[92] Art. 31(1) NOCMLTF.

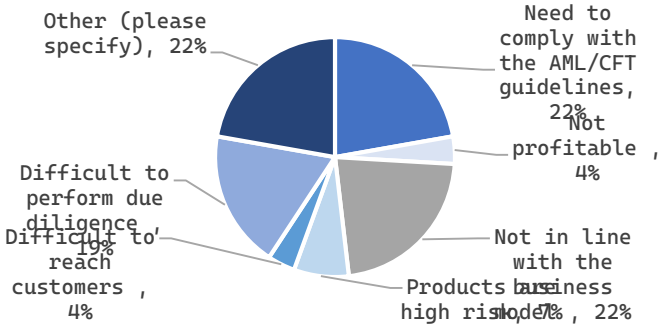
[93] For the World Bank, financial inclusion means that, "individuals and businesses have access to useful and affordable financial products and services that meet their needs – transactions, payments, savings, credit and insurance – delivered in a responsible and sustainable way." See https://www.worldbank.org/en/topic/financialinclusion/overview for more details.

was also used to compile the necessary information for this NRA.[94] Fourteen hundred (1,400) households were randomly selected from the total population to participate throughout 2021.

3.7.2. ML Threat to the Financial Inclusion Products Sector

Based on the survey results it became clear that Sint Maarten's financial sector does not currently offer identifiable or specifically targeted FI products or services, rendering the ML Threat level for this sector to be rated at **LOW**.[95] The main reasons for the non-availability of FI products and services were that it is either not in line with the business model of the FI (22%), or because of the need to comply with AML/CFT guidelines (22%). The second most significant reason was because it is difficult to perform the necessary due diligence (19%), probably due to lack of capacity and resources.

Table 20. Overview reasons FIs not to offer Financial Inclusion products



3.7.3. ML Vulnerability to the Financial Inclusion Products Sector

The ML Vulnerability level is rated at **LOW** as no FI products are currently being offered and thus no products, geographic risks for these products and customer/agent risk exists.[96] The CBCS study mentioned above[97] revealed that Sint Maarten is primarily a cash-based economy, with 88% of respondents stating they have some amount of cash at hand, while 80% said they withdraw cash to pay for purchases and 69% use cash to pay their bills. Of the respondents not interested in a current account, 43% have no payment alternative other than cash. This tentatively suggests a relatively large informal sector. The SPG on TF for this NRA also concluded that the informal economy in Sint Maarten is relatively large, employing and paying many on a cash basis. On the other hand, it noted that the banks in Sint Maarten do not allow the cashing of checks by employees who do not have an existing bank account with them. It was also noted that the Banking sector and currently applied AML/CFT policies also make it very challenging for the informal sector/workers to become part of the formal Banking sector, partly due to their strict onboarding regulations/policies relating to immigration and resident status.

3.7.4. Conclusion

The (overall) residual ML Risk level for this sector for the time being remains rated at **LOW,** as Sint Maarten's financial sector currently does not offer identifiable or specifically targeted FI products or services. However, this can result in a larger informal economy sector within Sint Maarten which poses greater risks for non-compliance with AML/CFT standards. This can change pending adoption of new financially related legislation: National Ordinance Basic Payment Account.

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[94] See "A Glance into Sint Maarten's Payment Behavior and Financial Matters 2021" by the CBCS for more details.

[95] All institutions offering loan and deposit products or insurance schemes in Sint Maarten, for example, confirmed via email that they currently offer no FI products or services within their portfolio.

[96] This can change soon pending adoption of new financially related legislation: National Ordinance Basic Payment Account ("*Landsverordening Basisbetaalrekening*") by the Parliament of Sint Maarten. This legislation is aimed at creating the legal right of almost all residents in Sint Maarten to have access to the formal financial system, albeit through a simplified and limited payment-type account within the necessary AML/TF safeguards.

[97] See Footnote 94.

SECTION 4. ML RISK TO THE DNFBP SECTORS

4.1. Introduction

The non-financial services of the DNFBP sectors that fall under the supervision of the FIU are listed in Art. 2, paragraph 1, under b, sub 1 up to 8, of the National ordinance combatting money laundering and terrorist financing (NOCMLTF): Casinos, Lotteries, Accountants, Tax Advisors, Administration Offices, Lawyers, Notaries, Car Dealers, Real Estate Agencies, Project Developers, Appraisers, Dealers in Precious Metals and Stones, Pawn-shops. All DNFBPs are subject to the stipulations of the NOCMLTF, the National Ordinance Financial Intelligence Unit (NOFIU), the National ordinance reporting obligation for cross-border cash transports, the National Sanction Ordinance, the National Sanction regulation, and the P&Gs of the FIU. During the assessed period supervisors of the FIU carried out NRA assessments with the following DNFBP sectors: Casino, Accountant, Lawyer, Notary, Real Estate Agency, Car Dealer and Dealers in Precious Metals and Stones.

Table 21. Overview overall ML/TF Risk to DNFBP Sectors

THREAT	*MONEY LAUNDERING RISK DNFBP SECTORS*				
H	M	M	MH	H	H Notary
MH	M	M	MH	MH Car Dealer	H Casino
M	ML	M	M	MH - Accountant - Lawyer - Real Estate Agency	MH Dealers in Precious Metals and Stones
ML	ML	ML	M	M	M
L	L	ML	ML	M	M
	L	ML	M	MH	H
			VULNERABILITY		

4.1.1. Comprehensiveness of AML Regulatory Framework

This variable is rated at **MEDIUM-HIGH** level. There are comprehensive AML/CFT laws and regulations regarding AML preventive measures and AML supervision for all the service providers. All DNFBP sectors with their services that are under supervision are incorporated in Art. 2, paragraph 1, under b, sub 1 up to 8, of the NOCMLTF. All DNFBP sectors have to comply with the AML/CFT obligations laid down in the national laws. The two (2) main laws are the NOCMLTF, and the NOFIU. The FIU has drafted P&Gs for all DNFBP sectors. In this way all DNFBPs can easily check relevant detailed information and explanation of AML/CFT topics. Additional information can be obtained by contacting the Section Supervision of the FIU, and through regular information sessions conducted by the FIU.

4.1.2. Effectiveness of supervision for all DNFBP sectors

This variable is rated at **MEDIUM** level. Based on Art. 3, paragraph 2 of the NOFIU, the FIU is responsible for the enforcement of the National reporting ordinances, and monitoring the compliance of non-financial service providers with these National Ordinances. Art. 31, paragraph 1 of the NOCMLTF, and Arts. 4, paragraph 2, 5, paragraph 5 and 6 of the NOFIU refer to the supervisory role of the FIU.

The Section Supervision of the FIU has a number of supervisory means to assess the extent to which the AML/CFT obligations are complied with by the DNFBPs. With the help of these means the supervisors carry out the supervisory tasks and can identify and understand the ML/TF Risk in the DNFBP sectors.

These means are carried out according to predetermined procedures, which are described in a Handbook. These Supervisory procedures for effective supervision of DNFBPs consist of registering of service providers, providing DNFBPs with information and compliance questionnaire to complete, holding Management meeting with DNFBPs, performing risk analysis of each DNFBP sector and auditing of DNFBPs.

Prior to the assessment period, during 2015-2017, supervisors of the FIU conducted various supervision procedures on the DNFBPs, leading up to conducting audits. Information sessions were provided, compliance questionnaires and risk assessment questionnaires were sent to DNFBPs, Management meeting were held, risk analyses were performed on all registered DNFBPs. Risk profiles were made up for all DNFBPs. The audits could not be performed on-site at the DNFBPs, due to the two (2) major hurricanes in September 2017, which ultimately resulted in understaffing (departure of staff) at the FIU, and consequently had a negative effect on the supervision of the DNFBP sectors. FIU staff recruitment continued in 2018 and 2019, and during the COVID-19 pandemic in 2020 and 2021. Despite the aforementioned, in the assessed period, the FIU continued to provide information sessions to DNFBPs; compliance questionnaires and risk assessments questionnaires were sent out (to conduct off-site monitoring). The administration of the FIU is being updated, and new DNFBPs are registered on a regular basis. Two (2) of the staff members took part in the 2022 FATF Standards Training Course.

4.1.3. Availability and Enforcement of Criminal Law Sanctions and Administrative Law Sanctions

Based on Art. 31, paragraph 1 of the NOCMLFT (see also Art. 3, paragraph 2, under a, of the NOFIU) the FIU is responsible for enforcing the AML/CFT national ordinances, and is authorized to impose sanctions if a DNFBP is non-compliant. Enforcement actions can be taken as described in Arts. 31, paragraph 3, and 33 (criminal law sanctions) of the NOCMLTF, and Art. 19 of the NOFIU. Non-compliance with AML/CFT regulations is considered a criminal offence (Art. 33 of the NOCMLTF).

Arts. 10-18 of the National Ordinance Administrative Enforcement (NOAE) (AB 2018, no. 22), enables the FIU to monitor compliance of the DNFBP sectors and impose administrative law sanctions. The authority of the FIU to impose these administrative law sanctions requires further regulation in a specific National ordinance, containing general measures ('*Lbham*'), which has already been drafted by the FIU.

Enforcement via imposing criminal law sanctions or administrative law sanctions can be applied to the person who carries out the act, as well as to the directors and other managers, regardless of whether these are natural persons or legal entities (Art. 33, paragraph 5 of the NOCMLTF).

In the assessed period and up to present the FIU has managed to get DNFBPs to comply with AML/CFT regulations via e-mail, reminder e-mails, by communicating in person with DNFBPs during information sessions, and by telephone. Other means of persuasion available to the FIU include issuance of warning letters, meeting with management, outlining timeframe by which all identified deficiencies are required to be rectified.

4.1.4. Availability and Effectiveness of Entry Controls

4.1.4.1. Introduction

This variable is rated at **MEDIUM-HIGH** level. There are various entry controls for DNFBPs before starting a business. All legal persons are required to be incorporated with a Notary, register at the COCI, request licenses with the Department of Economic Licenses of the Ministry of Tourism, Economic Affairs and Telecommunication Services (TEATT). DNFBPs doing business as a legal entity are all required to be incorporated by a Notary (Art. 2:2, paragraph 1 of the Civil Code (CC) of Sint Maarten, AB 2019, no. 43) (Dutch: "*Herzieningslandsverordening Boek 2 BW*"). Requirements to establish a legal entity are laid down in Arts. 2:2 - 2:8 of the CC of Sint Maarten:

- name check at the COCI.
- exact business address of the company.
- nature/purpose and objectives of the company.
- completed client information sheets.
- original valid identification.
- UBO declaration.
- Business/Branch license.
- Director license.
- a Business Registration number from the COCI.
- a business CRIB declaration letter (the CRIB number is a taxpayer identification number).

Managing Directors born in the former Netherlands Antilles, Sint Maarten, Curaçao, Sint Eustatius, Saba, Bonaire (the last four island, as long as born before 10-10-2010) and Aruba (as long as born before 1986) do not need to apply for a Director license. In all other cases a Director license is required. In the process of incorporation, the UBO information of the to be established business is verified. The Notary uses a form to request information with respect to the UBOs.

After incorporation, entities are required to register at the COCI and request a Business license and Director license at the Department of Economic Licenses of the Ministry of Tourism, Economic Affairs and Telecommunication Services (TEATT) before they start their operations. These services (registration at COCI and requesting of licenses) are often provided by the Notaries on Sint Maarten, on behalf of their client. For some DNFBPs (casinos and lotteries) an Operating license from TEATT is also required. DNFBPs are also required to register at the FIU (Arts. 3, paragraph 2, under b, 4 and 26, paragraph 1 of the NOCMLTF).

4.1.4.2. Registering at the Sint Maarten Chamber of Commerce & Industry (COCI)

The main role of the COCI is to ensure that all businesses (DNFBPs) on Sint Maarten are registered in its Trade Register (TR). A detailed description of the role and activities of the COCI can be found on their website.[98] In the TR all companies and legal entities (including DNFBPs) are required to register. This is based on Art. 2, paragraph 1 of the National Ordinance Trade Register ("*Handelsregisterverordening*").[99] The TR is a public registry, containing public records. Art. 3 et seq of the NOTR indicate which companies have to register and Art. 13 et seq Trade Register Decree (TRD) indicates which data is provided to the COCI, relating to each legal person.[100] Art. 8, paragraph 1 of the NOTR specifies that every business must complete its registration within one (1) week of the start of carrying out business activities. Changes to what is registered in the TR are made no later than one (1) week after the fact to be stated has occurred (Art. 8, paragraph 2 of the NOTR). Art. 6 of the TRD also states that registration in the TR and a statement to amend what is registered in the TR will be made no later than one (1) week after the fact to be reported has occurred, stating the day of entry into force. When registering in the TR, a screening is included. The companies submit identification, filling out a COCI model form (Attachment 1: different forms), articles of incorporation (if it concerns a Limited Liability company (N.V.) or a Private Liability company (B.V.), and proof of registration of the natural persons involved (Directors, Managers) at the Civil Registry Office. Upon receipt of the application through the COCI portal, the operation department of the COCI will perform due diligence to ensure that all requested information and documents are

[98] https://www.chamberofcommerce.sx/starting-a-business/legal-entities/

[99] The National Ordinance Trade Register (Dutch: "*Handelsregisterverordening*", AB 2015, no. 9) https://lokaleregelgeving.overheid.nl/CVDR143451/3?titel=handelsregister&datumop=20-3-2024

[100] National Decree, containing general measures implementing Art. 20 of the National Ordinance Trade Register, 2019 (Dutch: "*Handelsregister besluit*") https://lokaleregelgeving.overheid.nl/CVDR673447/1

submitted and up to date and the signatures are matching and valid. Once verification is satisfactorily completed, the Notary will be notified to submit all hard copies to the COCI for the final processing and registration. Besides the basic information, UBO Information is also registered in the TR as of March 1st 2024. According to Arts. 16 to 22 of the TRD, the UBO information must also be registered in the Trade Register or the place where the register, referred to in Art. 2:109 of the Civil Code (CC) of Sint Maarten, can be inspected insofar as it concerns UBOs who are registered in that register (Arts. 2:18, 2:19, 2:20 and 2:22 of the CC of Sint Maarten).

4.1.4.3. Registering at the FIU

Based on Art. 3, paragraph 2, under b, and Art. 4 of the National Ordinance FIU[101] and Art. 26, paragraph 1 of the NOCMLTF, all DNFBPs are required to register at the FIU. Information that a DNFBP registers at the COCI in the TR, also needs to be registered at the FIU, including occurring changes. The description of the services provided by the DNFBPs concerned, and other AML/CFT related information can be requested by the FIU, taking into account the principle of purpose.

4.1.5. Licensing for DNFBPs

4.1.5.1. Business License

Based on Art. 2 of the National Ordinance Establishment regulations for companies (Dutch: "*Landsverordening vestigingsregeling voor bedrijven"*) it is required for businesses (including all DNFBPs) to request a license from the Minister of TEATT, before starting to do business. This ordinance stipulates when a Business license is required, the requirements an application must meet, the minister's authority, reasons for revoking the license and the penalties applicable for non-compliance with the regulation. The Business license can be refused in the interests of public order and public peace, as determined by the minister, in accordance with Art. 5 of this Ordinance. In cases where the Business license was obtained by deliberately providing incorrect or incomplete information, the permit will be withdrawn. The Business license can also be revoked by the minister in the cases mentioned in Art. 7.[102] For the businesses that are already established (either locally or abroad) and want to open a branch in Sint Maarten, a Branch license is required. Although the application process can be lengthy, in anticipation of the issuance of license it is generally condoned that the company commences its operations.[103]

4.1.5.2. Director License

The Limited Liability Company (Dutch: N.V.), Private Liability Company (Dutch: B.V.) and some foundations are required to have a license for the managing directors. A Director license is required for individuals to function as the managing director of a business. Managing directors born in the former Netherlands Antilles, Sint Maarten, Curaçao, Sint Eustatius, Saba, and Bonaire (the last four islands, as long as born before 10-10-2010), and Aruba (as long as born before 1986) are exempted from the Director license. This exemption is based on the ordinance regulating the Establishment of Businesses prior to October 10, 2010, still in force and enforced by the Department of Economic Licenses. In all other cases, a Director license is required. If the director has a foreign nationality and is a resident or

[101] National Ordinance Financial Intelligence Unit (AB 2019, no. 24) National Ordinance MOT AB 2019 no. 24.pdf (fiu-sxm.net)

[102] "a. *in the interest of public order and public peace*; b. *if the person or persons to whom the permit has been granted cannot demonstrate that the conditions set for the permit are complied with*; c. *if it was obtained by deliberately providing an incorrect or incomplete statement, as referred to in Art. 4*; d. *if the permit holder has closed his business to the public for three (3) consecutive months or longer*; e. *if the person or persons to whom it has been granted settles abroad. An absence outside Sint Maarten for a period of longer than 12 consecutive months, whether or not interrupted by a temporary stay in Sint Maarten of less than two (2) months, automatically cancels the permit."*

[103] See SPURRING ENTREPRENEUR-SHIP IN SINT MAARTEN, STATE OF PLAY, POLICY OPTIONS AND IMPLEMENTATION PLANS REPORT, SEO Amsterdam Economics (SEO), Amsterdam Bureau for Economics (EBA), Tackling Law, FEBRUARY 22, 2021.

non- resident, a certificate of Good conduct and copies of diplomas/certificates are required. In cases where the director has a Dutch nationality and is a resident or non-resident, diplomas/certificates are also required. When requesting the Business (and Branch) and Director licenses, a checklist with required information and documents is used.

4.1.5.3. Operational License

In addition to the Business license and Director license, an Operational license is required for the Casino sector (casinos and lotteries).

4.1.5.4. Licensing Requirements

The licensing procedure by the Department of Economic Licenses (DEL) of the Ministry of TEATT is guided by a checklist provided to entities, and the review process is detailed in the Economic license request process document. This includes assessing whether the application aligns with the checklist criteria and determining approval or denial, based on positive or negative advice. The checklist provided to entities, outlines the required documents for obtaining a Business license and a Director license:

- *the business must submit a copy of the completed application form*;
- *a written request, addressed to the Minister of TEATT*;
- *a copy of the Deed of Incorporation*;
- *a copy of the business CRIB number declaration from the Inspectorate of Taxes*;
- *a copy of the excerpt from the COCI, and*
- *an address verification document for the business, such as a VROMI (Ministry of Public Housing, Spatial Planning, Environment and Infrastructure) address confirmation or a utility bill (GEBE NV).*

If the directors are Dutch nationals, residing in Sint Maarten, they must provide valid identification and address verification. If they are Dutch nationals but non-residents, they additionally need to submit diplomas and certificates. If the director is a non-national, there are additional requirements including valid identification and address verification, a certificate of Good Conduct and copies of their diplomas/certificate.

4.1.5.5. Fit and Proper Test

Although the legislation does not yet encompass the scope of a Fit and Proper Test[104], including background checks, administrative controls do exist for the Casino sector (casinos and lotteries). There is a background screening process to prevent criminals or their associates from having owning, controlling, holding a significant or controlling interest, or holding a management function in the business. For all Director licenses of non-nationals (this is also done for other DNFBPs besides the Casino sector), the DEL requests a certificate of Good Conduct (Dutch: "*VOG*") as part of their screening process. An application can result in a negative recommendation, if there is an indication that the applicant has a relevant criminal background or is associated with criminals.

The background screening process of directors and shareholders for Casino and Lottery licenses applications is currently conducted with the assistance of the Police Force of Sint Maarten (KPSM). This process is conducted for all non-nationals directors. The application also involves searching open source intelligence, a financial background check, an investigation of the sources of initial capital for the establishment of the Casino, presenting the financial solvency of the principals at the time of submission of the Casino application. The aforementioned is recorded in the Rules of the Game, Government's

[104] The Fit and Proper Test evaluates various factors, including an individual's qualifications, competence, experience, honesty, and reputation.

Casino policy of 1996 (updated June 2011). Based on the outcome of the screenings, or any other requested advice, the Minister of TEATT is advised by the DEL on the granting of the casino or lottery license. Additional due diligence requirements are, a copy of a valid passport, a detailed Civil Registry registration not older than six (6) months, and a copy of the diplomas/certificates of director(s).

4.1.6. Availability and Access to Ultimate Beneficial Ownership Information

This variable is rated at **MEDIUM** level. In 2019 it was included in the Arts. 16-22 of the Trade Register Decree that UBO information must be registered in the Trade Register. As of March 1st 2024 the COCI started with the actual registration of UBOs.[105] The UBO register is a closed registry and can be accessed by UBOs and competent authorities. Based on Art. 26 of the NOCMLTF, a service provider (DNFBP) provides the FIU with data registered at the COCI in the Trade Register. When the DNFBPs are registered at the FIU, the UBOs of DNFBPs are also registered. Based on Art. 2:109 of the CC of Sint Maarten, detailed information of the UBO is collected via a specific UBO form. Based on Arts. 7-11, and Art. 23 of the NOCMLTF, DNFBPs are required to perform CDD and keep record of information. DNFBPs are required to keep basic information and UBO information pertaining to their clients that are legal persons.

4.1.7. Availability and use of Independent Information Sources

DNFBPs can request information from Kadaster, excerpts from the COCI, the Civil Registry, Immigration Department, bank statements, utility bills (GEBE bills). Information from these sources are independent and reliable that can assist DNFBPs in their CDD process. Social media can also be consulted. The DPMS sector has indicated that it often consults Credit Bureaus, seeing most of their clients use credit cards. The Real estate agency sector has indicated that its uses social media, employer's references, and banking information.

4.2. The Casino Sector

4.2.1. Introduction

The ML Risk level for the Casino sector is rated at **HIGH**. The Casino sector in Sint Maarten mainly consists of land-based casinos, online casinos and lotteries. The services of the Casino sector are laid down in Art. 2, paragraph 1, under b, sub 4°, of the NOCMLTF. The rules regarding the land-based casinos are laid down in the National Ordinance containing provisions regarding the operation of games of chance to promote tourism.[106] There are a total of 14 casino's in Sint Maarten. The casinos are divided in stand-alone casinos (total 10) and casinos within a hotel complex of 200+ rooms (total 4). The rules regarding the online casinos are laid down in the 'National Ordinance containing provisions regarding the exploitation of games of chance on the international market through service lines' (valid from 10-10-2010 until present).[107] There are currently three (3) online casinos. The online gaming for casinos is allowed under conditions, and licenses to install and maintain these hazard games are only given to legal entities established in Sint Maarten. An online casino license was issued to one of the registered land-based casinos. The main purpose of the establishment of casinos on Sint Maarten is a source of entertainment for tourism, however over the years they have extended to be a source of entertainment to the local population as well. The contribution of this sector is approximately 1.3% of the GDP. The Casino sector currently falls under the AML/CFT supervision of the FIU. Country package Sint Maarten,

[105] https://www.facebook.com/share/p/Q6UH6oBGtr2uMLBA/?mibextid=xfxF2i

[106] National Ordinance containing provisions regarding the operation of gambling games to promote the Tourism https://lokaleregelgeving.overheid.nl/CVDR208375/1

[107] National Ordinance containing provisions regarding the operation of gambling on the international market through service lines https://lokaleregelgeving.overheid.nl/CVDR142240

Measure H.2 is indicating the establishment of a Sint Maarten Gaming Authority (SMGA) that will strengthen the AML/CFT supervision of the Casino sector. The FIU wishes to transfer its AML/CFT supervision tasks on the Casino sector to the SMGA, that will operate as an independent administrative body and Self-Regulatory Body. The underlying legislation is being worked on.

4.2.2. ML Threat to the Casino Sector

The ML Threat level for the Casino sector is rated at **MEDIUM-HIGH**. There are no known ML cases in the assessed period. The casinos submitted a reasonable amount of UTRs in this period. Of the 6638 UTRs, 214 STRs were disseminated to the PPO. The STRs were produced after these objectively reported UTRs were analyzed by the FIU, and submitted to the PPO after a suspicion of ML had arisen. There was one (1) analysis with a reasonable suspicion of ML, due to winning too much via slot machines. A second analysis was in connection with cash transactions for partial purchase of a casino. The STRs did not lead to prosecution of a criminal case.

Overview information sessions, UTRs and STRs

Subject	2017	2018	2019	2020	2021	TOTAL
Information sessions	-	-	4	-	2	6
UTRs	673	1,329	1,599	987	2,050	6,638
STRs	20	54	81	3	56	214

4.2.3. ML Vulnerability to the Casino Sector

The ML Vulnerability level is rated at **HIGH**. Besides the Business license and Director license, casinos also need to apply for an Operating license at the DEL of the Ministry of TEATT. The Minister of TEATT is authorized to grant a license to operate a casino, subject to conditions and guarantees. In anticipation of the incorporation of the AML/CFT fit and proper tests, including background checks, in the law, as for the Casino licenses application procedure, entry controls are being applied. There is a background screening process to prevent criminals or their associates from having a controlling interest in the business. For all Director licenses of non-nationals (this is also done for other DNFBPs besides the casinos and lotteries), the DEL of the Ministry of TEATT requests a certificate of Good Conduct as part of their screening process. The application can result in a negative recommendation if there is an indication that the applicant has a relevant criminal background or is associated with criminals/criminal organizations. The background screening process of directors and shareholders for Casino licenses applications is currently conducted with the assistance of the Police Force of Sint Maarten. The application involves searching open source intelligence (OSINT), a financial background check, an investigation of the sources of initial capital for the establishment of the casino, presenting the financial solvency of the principals at the time of submission of the casino application. Additional due diligence requires a copy of a valid passport, a detailed Civil Registry registration, not older than six (6) months, and a copy of the diplomas/certificate of director(s). The authorities have implemented a moratorium on gambling licenses in Sint Maarten, since the maximum limit of ten (10) Casino licenses for stand-alone casinos has been reached, in accordance with the Casino Policy, Rules of the Game. There is no moratorium in effect for hotel-based casinos (casinos attached to a hotel). A Casino license is issued for a period of five (5) years. A renewal process is initiated with an application. The Casino license is not transferable.[108]

In the assessed period, the casinos regularly reported UTRs. The Casino sector is vulnerable to ML, because casinos are cash intensive businesses, often operating 24hrs per day, with high volumes of large cash transactions taking place very quickly. The volume of cash that is handled in the casinos is estimated

[108] National Ordinance containing provisions regarding the operation of gambling games to promote the Tourism https://lokaleregelgeving.overheid.nl/CVDR208375/1

at above 50%. Casino staff turnover is high, sometimes due to seasonal factors, which can lead to weaknesses in staff training and AML/CFT competencies. Some casinos have implemented compliance policies and procedures. One of the casinos mentioned a case of integrity breach. The Casino sector's AML/CFT awareness and knowledge is improving.

4.3. The Real Estate Agency Sector

4.3.1. Introduction

The Real Estate Agency sector ML Risk level is rated at **MEDIUM-HIGH**. This sector is relatively large, compared to the other DNFBP sectors and continues to grow. In the assessed period 104 realtors were registered at the COCI, while not all have registered at the FIU as yet. In October 2021 the FIU sent out a Risk Assessment Questionnaire to the Real Estate Agency sector, but due to a lack of resources (payment all-in-one platform for surveys), a final assessment could not be performed. There are seven (7) project developers registered at the COCI. Project developers are considered to be part of the Real Estate Agency sector. Not all project developers have registered at the FIU, and are therefore not yet assessed. Real estate agencies and the Notaries are the main actors involved in real estate transactions.

4.3.2. ML Threat to the Real Estate Agency Sector

The ML Threat level for the Real Estate Agency sector is rated at **MEDIUM**. ML through the purchase of real estate is a long-standing phenomenon.

Overview UTRs and STRs

Subject	2017	2018	2019	2020	2021	TOTAL
UTRs	1	39	-	2	6	48
STRs	-	-	-	-	-	

4.3.3. ML Vulnerability to the Real Estate Agency Sector

The ML Vulnerability level for the Real Estate Agency sector is rated at **MEDIUM-HIGH**. This is the result of inter alia that not all Real estate companies have registered at the FIU, and are not yet under supervision. There is also a lack of awareness with respect to AML compliance, deduced from the fact that a low amount of realtors has registered. The registered realtors do have compliance policies and compliance officers in place. The realtor profession is not a regulated profession and is not dependent on professional requirements (e.g. certificates). There are hardly any UTRs being reported to the FIU.

Real Estate agencies require a Business license for their company, and a Director license from the DEL of the Ministry of TEATT to operate. Not all persons identifying themselves as realtors, operate with a license. Some realtors operate individually on Facebook, and some realtors work together with the Notaries. Not many realtors have 'Know Your Employee' (KYE) measures in place. No integrity codes pertaining to this sector are known. There were no integrity breaches observed in the assessed period.

4.4. The Notary Sector

4.4.1. Introduction

The ML Risk level for the Notary sector is rated at **HIGH**. This sector is one of the smallest sectors, with only three (3) Notary offices. All three (3) offices have registered at the FIU. The office of Notary is regulated in the National Ordinance containing new rules regarding the office of notary.[109] A notary is a public official. There are sufficient entry controls for this sector. There is an admission procedure and a

[109] National ordinance containing new rules regarding the notary office http://lokaleregelgeving.overheid.nl/CVDR671741

basic level of knowledge and integrity required. A Notary is appointed by National Decree, and is required to take an oath (this includes making the promise and the declaration) before the Court of First Instance. There is a Supervisory Chamber presided by the President of the Joint Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba, which supervises the Notaries on their professional behaviour. There exists no Notarial Professional Organization such as the Dutch "*Koninklijke Notariële Beroepsorganisatie*" (KNB), whose most important tasks are ensuring proper professional practice and promoting professional competence through inter alia permanent education.

4.4.2. ML Threat to the Notary Sector

The ML Threat level for the Notary sector is rated at **HIGH**. The Notary sector plays an important role in case of the transfer of real estate and incorporation of legal entities. The ML Threat is particularly high when it regards the transfer of real estate. The NRA survey shows that about 50% of the clients are foreign natural or legal persons, which means that there are a lot of transactions from abroad. Real estate can be shielded by legal persons to disguise the UBO information. Tracing the origins of funds of real estate transactions seems to be rather cumbersome for this sector. Transactions partly take place between clients, and not via an escrow account, managed by the notary. There was one (1) case of integrity breach for the Notary sector. Case law exists with a notary's involvement.

Case Study 1: In this case (2016) where government leased land was not allowed to be subleased, but was still subleased to a third party. The lessors did not want to pay any tax on the rental income derived from the land, which they were not allowed to rent out. A solution was needed and found with the aid of a former notary. The solution was the establishment of a holding to allow the transition between the lessor and lessee. A strawman was also used as director of the holding. Although the strawman was the official director of the holding, it was clear that the actual owners were the lessors. The former notary was accused of having deliberately included falsities in authentic deeds.

Case Study 2: This case concerned a subject who took nearly USD 4 million in bribes and laundered parcels of land. In this case a notary was found guilty of breaching secrecy. The notary had informed the suspect in the investigation about a request from the PPO for information. Information ordered by the PPO in an ongoing investigation, from entities such as the office of a notary, must be kept confidential. The notary was informed of this when the PPO requested cooperation. Such breaches can lead to criminal charges and punishment. The notary was sentenced to one (1) month suspended prison sentence with two (2) years probation and 80 hours of community service.

4.4.3. ML Vulnerability to the Notary Sector

The ML Vulnerability level is rated at **HIGH**. During the assessed period no sectoral assessment from the FIU has occurred. Although the legal framework is in place and a Chamber of Supervision has been established, the latter is not operative. No provisions are available with regard to the use of escrow accounts by the notaries, and the specific supervision thereof. Tracing the origins of funds of the frequent financial transactions from abroad is cumbersome and leads to incomplete CDD. The (mostly objectively) reporting has improved because of more frequent info sessions from the FIU.

Table 22. Overview UTRs and STRs

Subject	2017	2018	2019	2020	2021	TOTAL
UTRs	121	105	183	203	368	980
STRs	2	21	4	5	-	32

In 2024 the section Supervision of the FIU has started with gathering information from this sector, to conduct a comprehensive sectoral assessment.

4.5. The Lawyer Sector

4.5.1. Introduction

In the assessed period thirty (30) law firms have registered at the FIU, and a total of 31 have registered at the COCI. The ML Risk level of the Lawyer sector is rated at **MEDIUM-HIGH**. To act as a lawyer in the Court of First Instance of Sint Maarten, one must first register at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba. There are requirements for registration. The Court can deny the request for registration on the grounds mentioned in the National Ordinance containing rules regarding persons who practice providing legal assistance.[110] Lawyers are registered after taking a professional oath. Based on Art. 20 of the National Ordinance containing rules regarding persons who practice providing legal assistance the legal profession, is supervised by a self-regulatory body with a Supervisory Board consisting of a chairman and two (2) members. Some lawyers are also member of the Sint Maarten Bar Association (not mandatory). Lawyers on Sint Maarten have to adhere to the Code of Conduct for lawyers.

According to Art. 2, paragraph 1, under b, sub 1 of the NOCMLTF, the services of lawyers and other professionals that fall within the scope of this national ordinance, consist of:

> 1°. to provide advice or assistance through a natural person, legal entity or company that independently performs, professional activities or activities in a commercial capacity, or prepares and carries out transactions as a lawyer, civil-law notary or junior civil-law notary, accountant, tax adviser or as an expert in a legal, fiscal or administrative area, or in the practice of a similar legal profession or business in relation to:
>
> a. the purchase or sale of immoveable property, vehicles, construction material, art works, antiques and the rights to which these are subjected;
> b. the management of client funds, securities or other assets;
> c. the management of a bank account, savings account, or securities account;
> d. the incorporation, operation or management of companies, legal entities or similar bodies;
> e. the purchase or sale or taking over of companies; or
> f. the preparation, approval or amendment of annual financial statements.

Lawyers provide among others, services as mentioned under a, b, d and e. The Lawyer sector is not required to report UTRs in case of:

1. Ascertaining the legal position of their client;
2. Performing their task of defending or representing a client in, or concerning judicial, administrative, arbitration or mediation proceedings.

Work relating to representing and defending a client in Court, ascertaining the legal position of a client, providing advice or assistance before, during and after a legal action in Court proceedings or providing advice or assistance about instigating or avoiding legal action in Court proceedings is therefore exempted. Most lawyers operate via a partnership under civil law (Dutch: '*openbare vennootschap*' ex Art. 7:801, paragraph 1 of the Civil Code of Sint Maarten), a legal form without legal personality. The partnership is further formed by private limited liability companies.

[110] National Ordinance containing rules regarding persons who practice providing legal assistance (applicable from 30-04-2013 to present) http://lokaleregelgeving.overheid.nl/CVDR142392

4.5.2. ML Threat to the Lawyer Sector

The ML Threat level for the Lawyer sector is rated at **MEDIUM**. The NRA survey shows that about 46% of the clients of the Lawyer sector are foreign natural or legal persons, which means that there are a lot of financial transaction from abroad. This makes the CDD cumbersome. No ML cases, involving lawyers are known and a reasonable amount of UTRs were reported in the assessed period.

4.5.3. ML Vulnerability to the Lawyer Sector

The ML Vulnerability level for the Lawyer sector is rated at **MEDIUM-HIGH**. The sector does not have compliance policies and procedures in place as yet. However, most firms have a compliance officer and within the smaller firms, mostly one of the lawyers acts as a compliance officer. The Lawyer sector has the availability and access to UBO through their clients. Lately, more lawyers have been showing interest in information sessions from the FIU, mainly on how to report UTRs. In 2022 the "*Stichting Beroepsopleiding Advocatuur Sint Maarten*", a foundation that provides a 3-years education program for starting lawyers, requested the FIU to provide information sessions to ten (10) lawyers. Currently the AML knowledge of this sector is improving. A small percentage of integrity breaches was indicated by this sector. A reasonable amount of UTRS were reported to the FIU.

Overview UTRs and STRs

Subject	2017	2018	2019	2020	2021	TOTAL
UTRs	3	11	36	14	20	84
STRs	-	-	1	2	-	3

4.6 The Accountant Sector

4.6.1 Introduction

The ML Risk level for the Accountant sector is rated at **MEDIUM-HIGH**. During the assessed period 36 accountants have registered at the FIU, and a total of 44 were registered at the COCI. Surveys were sent out to all 36 Accountants offices, registered at the FIU, of which fifteen (15) completed the questionnaires. The majority of the accountants operate in a Limited Liability Company (N.V.) and a few in Private Limited Liability Company (B.V.) or Sole Proprietorship. The majority of their clients consist of domestic natural persons and domestic legal persons, and there is a low cash activity.

Accountants, administrative offices and tax advisors on Sint Maarten have many similarities with regard to the services rendered. Some service providers operate in all three (3) of the above-mentioned sectors. Therefore, the administrative offices and tax advisors were not assessed separately. The services of the accountants include among other: preparing financial statements, advisory, payroll, tax compliance and audits. They can also deviate and provide other services as mentioned. Some certified accountants are members of the Royal Netherlands Institute of Chartered Accountants (NBA), a platform where members meet to exchange knowledge and experience.

The NBA works together with the Dutch Caribbean Accountants Association (DCAA), the association for accountants on Curaçao, Aruba, Bonaire, Sint Maarten, Sint Eustatius and Saba. The DCAA aims to promote good professional practice, to represent the interests of members, to maintain the quality of reporting at the desired level, and to stimulate the influx of the profession. The CBCS, through the Policy on the issuance of a Declaration of no Objection to Auditors of supervised institutions, maintains an interest in the quality with which an external auditor performs the audit of a financial institution. In

order to ensure mentioned quality the CBCS was given statutory powers over the appointment of the external auditor of fIs.[111]

4.6.2 ML Threat to the Accountant Sector

The ML Threat level for the Accountant sector is rated at **MEDIUM**. Although the Accountant sector is a gatekeeper that should easily be able to detect ML and TF red flags, since they receive detail financial information of clients and prepares annual accounts, no ML cases, involving accountants are identified in the assessed period. Not much UTRs were reported.

4.6.3 ML Vulnerability to the Accountant Sector

The ML Vulnerability level for the Accountant sector is rated at **MEDIUM-HIGH**. The accountants have compliance policies and compliance officers in place. The current compliance policies are in the process of being updated. Up to 2017, information sessions were provided by the FIU to a number of accountants, which were started again from 2021. Besides information sessions from the FIU, the Accountant sector also, on their own, engage in AML/CFT trainings from third parties (commercial companies), who provide these trainings on a regular basis on Sint Maarten. The AML/CFT knowledge is improving. The larger Accountant firms and mostly firms that are managed by chartered Accountants (Dutch: "*registeraccountant*", as regulated in Dutch legislation[112]), an Accounting Consultant (Dutch: "A*ccountant-Administratieconsulent*", AA: Art. 393, paragraph 1, Book 2 of the Civil Code of the Netherlands, and a Certified Public Accountant (CPA) according to US regulations, are more familiar with the AML obligations. There were no known integrity breaches of managers and staff in this sector in the assessed period.

4.7 The Car Dealer Sector

4.7.1 Introduction

The Car dealer sector is one of the smaller sectors in Sint Maarten. The ML Risk is rated at **MEDIUM-HIGH** level. Six (6) car dealers have registered at the FIU, of which five (5) participated in the assessment. Some Car dealers sell both new and used vehicles, others sell only new vehicles and some only used vehicles.

4.7.2 ML Threat to the Car Dealer Sector

The ML Threat level is rated at **MEDIUM-HIGH**. In general, criminals mostly tend to invest and launder their illegally obtained funds in ownership of vehicles, which the PPO also suspected in the "*Bromelia"* case in 2016.

Case Study 3: The Criminal Investigation Team (RST) seized, in close collaboration with the Police of Sint Maarten, nine (9) cars, owned by a car rental agency. The seizure was done based on the strong suspicion that these were purchased with money that has, amongst others been obtained from the trade in narcotics and that money was laundered through the rental company. The car dealership where the cars were purchased was not a suspect in this case. In that year UTRs were not reported by the car dealer as yet. This case is a clear illustration of illicit obtained funds being invested in purchasing cars by criminals.

In the assessed period a good amount of UTRs and STRs were reported. Transactions in this sector still takes place in cash (approximately 20%).

Overview UTRs and STRs

Subject	2017	2018	2019	2020	2021	TOTAL
Information sessions	-	-	2	3	3	8
UTRs	11	16	86	105	159	377
STRs	39	1	6	-	-	46

[111] Policy on the issuance of a Declaration of no Objection to Auditors of supervised institutions, April 2019. https://cdn.centralbank.cw/media/legislation_guidelines/20190509_guidelines_appointment_and_change_of_external_auditor_voor_publicatie_website_mei_2019.pdf

[112] Art. 41(1) of the Dutch "*Wet op het accountantsberoep*". https://wetten.overheid.nl/BWBR0032573/2021-07-01

4.7.3 ML Vulnerability to the Car Dealer Sector

The ML Vulnerability level is rated at **MEDIUM-HIGH**. In October 2021 the FIU sent out a Risk Assessment Questionnaire to the Car Dealer sector, but due to a lack of resources (payment all-in-one platform for surveys), a final assessment could not be performed. In the assessed period the UTRs have increased. The AML knowledge is not on the level to report UTRs subjectively. The AML knowledge is improving. All the FIU registered Car Dealers have a compliance policy and compliance officers. There were no known integrity breaches by managers and staff of the Car Dealers in the assessed period.

4.8 The Dealers in Precious Metals and Stones (DPMS) Sector

4.8.1 Introduction

Diamonds and precious metals are next to expensive jewellery a preferred vehicle for ML/TF due to its intrinsic characteristics. These include the high value, portability, and ease of transaction that jewellery offers to those engaged in illegal activities. Practical strategies for preventing and detecting ML/TF in this sector rely on implementing robust policies and deploying sophisticated monitoring systems. The DPMS sector used to be one of the largest DNFBP sectors on Sint Maarten. However, a large part of this sector closed down and became inactive after 2017 and 2020. In October 2021 the FIU sent out a Risk Assessment Questionnaire to the DPMS sector, but due to departure of staff within the section Supervision, a final Assessment could not be performed. The FIU is currently updating its DPMS administration. Thirty-one (31) dealers have completed the NRA questionnaire. High end dealers are selling next to expensive jewellery also loose diamonds and precious metals. They are using Branch Codes of Conduct, and Branch internal guidelines which refer to regulatory obligations. The assessment shows that 50% of the customers of this sector are tourist (cruise ships passengers and stay-over visitors). The Indian Merchants Association (IMA) of Sint Maarten comprises of all the Indian Origin Business People of Sint Maarten, who represent the majority of businesses in the DPMS sector.

4.8.2 ML Threat to the DPMS Sector

The ML Threat level is rated at **MEDIUM**. In general, criminals mostly tend to invest and launder their illegally obtained funds in ownership of tangible and easy to carry/wear high-end products; however, no ML cases involving dealers are known. Cases that were noticed concerned robberies and stolen credit cards. The number of UTR submitted by the DPMS sector to the FIU is considered low. The basic CDD is conducted by this sector, seeing the majority of their customers use credit cards (approx. 88%) and debit cards. Specific Credit Card Plans are offered by High end dealers.

4.8.3 ML Vulnerability to the DPMS Sector

The ML Vulnerability level is rated at **HIGH**. The value retention of precious stones and metals and the complexity of transactions can create a smoke screen for illicit activities. Moreover, the allure of the expensive jewellery industry for ML lies in its ability to disguise the origin of funds through over- or under-invoicing, and the resale of high-value items or the possibility to pay with loose diamonds or precious metals. The dealers with larger businesses have designated compliances officers, while the majority of small dealers (family businesses) have a combined owner/compliance officer. The DPMS sector attends information sessions provided by AML/CFT Compliance consultants from abroad. More supervision of the FIU on the DPMS sector needs to take place, with more attention to the "diamonds pipeline" structure and processes, because of the changes in the international diamond trade. The DPMS sector remains a specialized sector, with a lack of clear regulatory frameworks, that requires expertise on inter alia the subject of natural and lab-grown diamonds, and gold (and silver) price volatility.

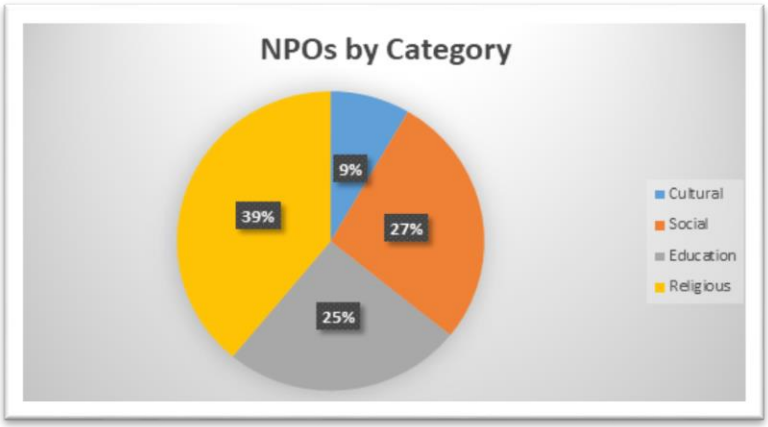
4.9 The Non-Profit Organizations (NPO) Sector

4.9.1 Introduction

FATF Rec. 8 and its Interpretive note is the cornerstone of this global organization's action to prevent, detect, and disrupt the abuse of NPOs for TF purposes.[113] Research of the NPO sector in Sint Maarten was primarily conducted through the collection of registration information from the COCI (by using the digital Business search registry of this entity), by interviewing the umbrella organizations, using questionnaires, and using other open-source intelligence.[114] In Sint Maarten, there is a relatively large amount of NPOs, approximately **2692** foundations and associations.[115] The majority of these NPOs are 'Private Fund Foundations' and 'Homeowners Associations'. All NPOs are required to be established by notarial deed and registered at the COCI.[116] As for the subset of organizations which fall within the FATF definition of an NPO, four (4) categories have been noted in Sint Maarten, broken down as follows:

Table 23. Overview four (4) NPO categories falling within FATF definition

Category	Amount	Percentage
Cultural	42	8%
Social	137	27%
Education	126	25%
Religious	195	39%
Total Amount	500	100%



[113] FATF Rec. 8 only applies to those NPOs which fall within the FATF definition of a non-profit organization: "*a legal person or arrangement or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works"*."

[114] https://www.chamberofcommerce.sx/services/business-registry/

[115] The open source Business search registry was used for the Dutch "*Stichting*" : 153 entries
The open source Business search registry was used for "*Foundation*" : 2138 entries
The open source Business search registry was used for the Dutch "*Vereniging*" : 30 entries
The open source Business search registry was used for "*Association*" : 389 entries

[116] Art. 4(1) of the National Ordinance Trade Register.

4.9.2 Financial position of the FATF NPOs

Governmental subsidies[117] can be considered as a basic source of income for NPOs. Rules pertaining to requesting and being granted a subsidy are contained in the General Subsidy Ordinance ("*Algemene subsidieverordening*").

Art. 8 of the General Subsidy Ordinance is stating: "*Requirements concerning the institution:*

1. *An institution has legal personality*.
2. *An institution that wishes to qualify for an annual subsidy has been incorporated by notarial deed and registered in the public register kept by the Chamber of Commerce and Industry*."

TOTAL subsidies Category Education: NAf 33,246,302:

- Stichting Voortgezet Onderwijs Sint Maarten: NAf 15,945,304
- Foundation for Academic and Vocational education: NAf 9,656,213
- Secundair Beroeps Onderwijs / NIPA: NAf 3,762,584
- Charlotte Brookson Academy: NAf 1,787,166
- University of Sint Maarten: NAf 2,095,035

For the other category **Education** FATF NPOs, no additional income data has been collected. Therefore, this income info is the minimal amount.

TOTAL subsidies Category Religious: NAf 32,276,130

- Methodist Agogic Centre: NAf 8,382,403
- Foundation of Seventh-Day Adventist Churches School Board: NAf 2,978,375
- Foundation for Catholic Education Sint Maarten: NAf 15,412,615
- Foundation for Protestant Christian Education, W.I.: NAf 5,502,737

For the other category **Religious** FATF NPOs, no additional income data has been collected. Therefore, this income info is the minimal amount.

TOTAL subsidies Category Culture: NAf 1,660,100

- Sint Maarten Museum Heritage Foundation: NAf 103,500
- Monumentenfonds: NAf 212,500
- Maritiem Archeologisch Meldpunt Sint Maarten: NAf 18,000
- SIMARC: NAf 66,000
- John Larmonie center: NAf 45,000
- Stichting Philipsburg Jubilea Library: NAf 1,097,100
- Stichting Culturele Ontwikkeling: NAf 118,000

For the other category **Culture** FATF NPOs, no additional income data has been collected. Therefore, this income info is the minimal amount.

TOTAL subsidies Category Social: NAf 673,800

- Youth Program Belvedere Community Center: NAf 120,960
- No kidding with our Kids: NAf 147,840
- Sint Maarten Youth Council: NAf 200,000
- Sint Maarten Early Childhood Development Association: NAf 80,000
- The Voice of Our Youth: NAf 125,000

For the other category **Social** FATF NPOs, no additional income data has been collected. Therefore, this income info is the minimal amount.

[117] The information source that has been used for gathering the total estimated value of income of FATF NPOs is the National Budget 2022 ("*Vierde concept begrotingswijziging dienstjaar 2022, Getallen Boek*").

Proceeds of the National Lottery

Art. 34, paragraph 1 of the National Lottery Ordinance ("*Landsloterijverordening 1949*") should be taken into account as well:

> "*The proceeds of the lottery are intended to make annual or one-off payments to associations or foundations with legal personality, exclusively serving a charitable purpose or to promote science, art or other public interest*."

No further information could be traced with regard to these annual or one-off payments to associations or foundations with legal personality.

4.9.3 TF Threat to the NPO sector

In principle, the key TF threats within the NPO sector in most jurisdictions can be characterised as:

- The raising of funds from the public under the pretence of being a charity, with or without registration.
- The abuse by NPO members or staff to divert funds to TF.
- Looting or diversion of NPO assets by terrorists in high-risk jurisdictions.
- NPOs being subject to extortion by terrorists that exercise control in conflict zones.

Since there is no known domestic terrorism threat, the primary perceived risk to the registered NPO sector in Sint Maarten would be (a) in relation to insider abuse within the organization, or (b) with respect to the misuse of funds that are raised in Sint Maarten for charitable purposes overseas. There is no evidence to suggest that any of the registered NPOs do anything other than disburse charitable funds locally. To date, no TF case has been prosecuted in Sint Maarten; subsequently, no conviction has been secured, and no confiscation has been made in this context. The general opinion of LEA in Sint Maarten, based on their reviews and expert judgment, is that the TF Threat level is rated at **LOW**.[118] NPOs in Sint Maarten are required to show proof of COCI registration in opening and operating a bank account. All NPOs are encouraged to have bank accounts with the domestic banks on Sint Maarten, and conduct their financial transactions through regulated FIs.

Within the Kingdom of the Netherlands there are specific NPOs in the European part which disburse funds to Sint Maarten NPOs.[119] An NPO located and registered in Sint Maarten can request the Dutch Tax Administration to designate its organization as a Public Benefit Organization (PBO). The benefit of this PBO registration is that Dutch natural and Dutch legal persons from the Kingdom part in Europe who donate to a designated PBO in Sint Maarten can deduct their gifts from their Dutch income tax or corporate income tax.[120] It was noted through scientific review and expert judgement that NPOs with PBO status, are less expected to be abused for TF activities.[121] During the assessment of the four (4) umbrella organizations in Sint Maarten, there was no sufficient awareness in terms of potential threat for TF abuse of NPOs.

4.9.4 Main Vulnerability - Mitigating Measures for the NPO Sector

Most of the NPOs registered in Sint Maarten are relatively small organizations that function with local volunteers or have less than 10 employed persons. In the four (4) categories falling within the FATF definitions of NPOs for being at higher risk for TF (Cultural, Social, Education and Religious), there are

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[118] Sint Maarten has no known terrorist threat organizations or terrorist types operating within this jurisdiction. The review of criminal and terrorist intelligence, investigation, and prosecutions, TF designations and asset freezing/forfeiture, FIU, and financial institution reporting do not indicate any threat presence or activity in this jurisdiction.

[119] The four (4) Dutch NPOs, "*Stichting Kinderpostzegels Nederland*", "*Oranje Fonds*", "*Kansfonds*" and "*Sluyterman van Loo Foundation*", together form the "*Samenwerkende Fondsen Cariben*" (SFC) and work together on Sint Maarten (and the other 5 Dutch Caribbean islands).

[120] https://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/belastingdienst/business/business-public-benefit-organizations/public_benefit_organizations/tax_advantages_pbo/

[121] Cahier 2017-14: National Terrorist Financing Risk Assessment, Scientific Research and Documentation Center (Dutch) https://zoek.officielebekendmakingen.nl/blg-827871.pdf

only a few that raise funds abroad. These are in the area of the "Fraternities" organization, such as the Lions Club[122] and the Rotary Foundation.[123] These organizations are not known for high-risk typologies, and some of these structures can be monitored by their main location/headquarters.

The NPO sector in Sint Maarten has four (4) representational and self-regulatory organizations/umbrella organizations[124] that have developed standards and initiatives to help individual organizations ensure accountability and transparency in their operations. They do assess the NPOs in case of funding requests and provide training in project management and stakeholder engagement.[125] This funding/subsidy's structure, using fit and proper tests, including background checks, results in an 100% verifiability of sources. The following fundraising methods, with less or no form of verifiability, are also used by NPOs in Sint Maarten:

- Public donations
- Running a thrift store
- Religious contributions (tithing)
- Schools, individuals, and businesses donate dry food and canned food

The NPOs that have a balance sheet, and the total of the income or expenses of more than NAf 100,000 as far as could be reviewed, have not shown any irregularities related to TF risks in their annual reports. These annual accounts are drafted by accountants and are being published and forwarded to the COCI, as well as to the FIU. On request by authorities or in case there is any reason for the FIU to assume that suspicious transactions are taking place or have taken place by an NPO, the FIU can investigate further.

Pursuant to Art. 18, paragraph 1 of the NOCMLTF:

> *"The Minister shall adopt a national policy to promote transparency, integrity and public trust in the governance and management of all non-profit organizations*, (…)."

Although such a specific National NPO Policy has not yet been drafted, there are certain documents available that can be considered as part of such a required national policy. For example, the Corporate Governance Code, established by the Corporate Governance Council.[126]

4.9.5 Conclusion

Based upon the current understanding of the structure and composition of the NPO sector, and upon the expert judgment of criminal and terrorist intelligence, investigation, and prosecutions by LEA in Sint Maarten, there is little to suggest that the sector poses anything other than a **LOW** TF Risk.

4.10 Environmental Activities at a National Level

4.10.1 Environmental Crime is a type of financial crime

Despite the negative impact, law enforcement and environmental agencies, as well as banks, lenders and other financial institutions, often do not understand their exposure to this type of financial crime.

The environmental and natural resources crimes that are intended within the FATF ML context[127], cover a wide range of activities, from illegal extraction and trade of forestry, minerals and illegal wild life

[122] https://cxpay2fund.me/charity/making-a-difference-in-the-live-of-st-maarten-residents/

[123] https://www.facebook.com/rotarysxm/photos/a.617525924965927/3388959711155854/

[124] - Samenwerkende Fondsen Cariben (**SFC**): https://www.samenwerkendefondsencariben.org/en/home
- Resources for Community Resilience (**R4CR**): https://www.r4cr.org/about-we
- NPOwer: https://www.npowersxm.com/(**NPOwer** (115+ NPOs);
- Sint Maarten Development Fund (**SMDF**): https://smdf.sx/

[125] https://www.npowersxm.com/workshops/survey-development-and-data-analysis

[126] Art. 3 of the National Ordinance Corporate Governance ("*Landsverordening Corporate Governance*"). https://lokaleregelgeving.overheid.nl/CVDR206090

[127] FATF Report Money Laundering from Environmental Crime, July 2021.

trading to illegal land clearance and waste trafficking. Although the Sanitary Landfill of Sint Maarten had been under scrutiny from the PPO in 2018, and illegal building activities and illegal waste disposals have taken place during the period under review, no environmental and natural resources crimes related to ML/TF/PF have been detected.

4.10.2. World Bank for the Emergency Debris Management Project (EDMP)

In December 2018, the Government of Sint Maarten entered into a Grant Agreement with the World Bank for the Emergency Debris Management Project (EDMP). The main project objectives are to collect and process debris caused by hurricanes, improve the management of the solid waste disposal sites, and search for future waste management solutions for Sint Maarten (2019-present). EDMP includes disposal site improvements, the removal of shipwrecks and metal wrecks (such as vehicles) and the TDSR. In addition, the project plans to relocate the community adjacent to the disposal site by implementing a RAP to mitigate risks to health and safety during disposal site improvements. In March 2021, the Government of Sint Maarten endorsed a roadmap for EDMP. This roadmap focuses on completing critical safeguards instruments for EDMP and on proposed timelines for the Government of Sint Maarten to identify and commit to implementing key waste sector reforms. Realising these reforms is a condition to unlock the Trust Fund's USD 30M improving the waste disposal site and operations. This proposed Waste Authority could have a role in addressing environmental and natural resources crimes related to ML, TF and PF.

4.11 Legal Persons and other Legal Arrangements

4.11.1 Introduction

Natural persons have rights and obligations, such as paying taxes and adhering to the law. The law stipulates that companies and organizations can also have rights and obligations. This is possible if the company has a legal form with legal personality. The company is then considered a legal person. A legal person is established via a deed with a notary. Book 2 of the Civil Code of Sint Maarten (CC) regulates the founding of legal persons in Sint Maarten.

- Legal forms with legal personality (legal persons) are: *limited company, private company, foundation, association, cooperative, mutual insurance company and churches.*
- Legal forms without legal personality (other legal arrangements) are: *sole proprietorship, general partnership (partnership), limited partnership and shipping company.*

Requirements to establish a legal person are laid down in Arts. 2:2-2:8 of the CC of Sint Maarten. The Public Limited Liability Corporation (Dutch acronym: N.V.) and the Private Limited Liability Corporation (Dutch acronym: B.V.) are, beside the sole proprietorship, the most common legal forms for conducting business in Sint Maarten. Legal Persons and other legal arrangements are not considered a sector per se, because these legal forms are being used as corporate vehicles for inter alia the FIs and DNFBPs to perform their legal acts. However, these legal forms can be susceptible to abuse. This is why Legal Persons and other Legal Arrangements have been assessed for their ML Threat and ML Vulnerability.

Legal persons that can be established in Sint Maarten are included in Art. 2:1 of the CC of Sint Maarten: the Foundation, the Private Fund Foundation (Dutch acronym: SPF), the Association, and the Cooperatives, Mutual guarantee company, Limited Liability Company (N.V.), Private Liability Company (B.V.). Mutual guarantee company legal arrangements on Sint Maarten are the Sole Proprietorship, the Public Partnership, the Silent Partnership, and Federations. The Public Partnership and Silent Partnership are two (2) forms of partnerships.[128] With the amendment of Book 2 of the CC of Sint Maarten in 2019[129], the issuance of bearer shares ("*aandelen aan toonder*") is abolished. For N.V.'s, B.V.'s and partnerships the re-quest for a business license is handled by the Notary.

[128] See Art. 7:800 of the CC of Sint Maarten.

[129] AB 2019, no. 43.

Table 24. Overview Registered Legal persons and other Legal Arrangements at the COCI

Types	2019	2020	2021	2022	2023
BV	1618	1840	2086	2351	2650
NV	4094	4117	4190	4229	4307
Foundation	749	783	814	844	873
PPF	422	456	501	563	653
Sole Proprietorship	5135	5337	5615	5866	6143
Association	236	243	284	335	337

4.11.2 ML Threat to Legal Persons and other Legal Arrangements

The ML Threat level for Legal Persons and other Legal Arrangements is rated at **MEDIUM**. This is mainly based on the amount of STRs. The STRs in the Table 25 were produced after reported UTRs where legal persons were involved were analyzed by the FIU, and submitted to the PPO in case a suspicion of ML had arisen. The PPO can also request information on UTRs from the FIU when a criminal investigation is being conducted. There are criminal cases where legal persons were involved, however the data was not kept in clear statistics. From the website (https://www.rechtspraak.nl/) data of judicial decisions is stored and OSINT is gathered.

Table 25. Types of Legal Persons and other Legal Arrangements related to submitted STRs to the PPO

Types	2017	2018	2019	2020	2021
LLC (B.V. or partnership)	4	1	2	1	-
LTD (NV)	13	15	14	1	-
NV	12	23	19	14	3
BV	-	6	4	6	1
Corporation	-	2		12	1
Foundation	-	5	4	7	2
SA (B.V.)[130]	-	1	-	-	-

During the assessed period, the N.V. is the legal person that was most involved in possible criminal cases. The lack of exact data from the PPO obstructs further conclusions. During the assessed period LEA started with the establishment of a data collection framework. The Tax authorities have mentioned eight (8) Sole proprietorships, three (3) N.V.'s and one (1) B.V. that were involved in tax fraud during the assessed period. From gathered OSINT where legal persons and other legal arrangements were involved in criminal activities, four (4) cases concerned N.V.'s, and in one (1) case four (4) Sole proprietorships were involved.[131] Two (2) cases where the N.V.s were involved are summarized in the Case studies 1 and 2 below.

Case Study 1: One N.V. was convicted of tax fraud. The company's tax returns were set at "null", while an investigations revealed that a large part of the company's turnover was deposited on the private bank accounts of the company's director and a very limited part on the company's account. A large part of the privately received amounts were based on invoices which were not processed in the company's bookkeeping. This took place frequently. The N.V. was ordered to pay a NA*f* 464,613 fine and the director and his wife, who were responsible for the bookkeeping and processing of the tax reports, were also fined.

Case Study 2: The government of Sint Maarten was scammed by one of its own civil servants and co-defendants for years. The investigation was the result of an earlier investigation by the tax authorities when they informed the PPO of possible criminal behavior by the N.V. founded by the civil servant. This civil servant has forwarded contracts for the purchase of products by the government to companies that were under his control. The civil servant abused his position when awarding public tenders in function. The government was defrauded for an amount of more than USD 1.9 million. A large part of that money was transferred to shell companies in the USA which were under control of the civil servant. The civil servant was sentenced to imprisonment for fraud and

[130] The Société Anonyme (SA) is a French legal form comparable to a B.V.

[131] The two (2) sources can overlap.

habitual ML. Also a large number of government projects were awarded to an N.V. of another civil servant and co-suspect in this case.

4.11.3 ML Vulnerability to Legal Persons and other Legal Arrangements

The ML Vulnerability level for legal persons and other legal arrangements is rated at **MEDIUM**. For the establishment of a legal person, the services of a notary are required (Art. 2:2, paragraph 1 of the CC).[132] The requirements are inter alia, a name check at the COCI, the exact business address of the company, nature/purpose and objectives of the company (articles of association), completed client information sheets, original valid identification, UBO declaration, Business license, Director license, a Business Registration number from the COCI, business CRIB declaration letter (CRIB number: taxpayer identification number). Managing Directors born in the former Netherlands Antilles, Sint Maarten, Curaçao, Sint Eustatius, Saba, Bonaire (the last four island, as long as born before 10-10-2010) and Aruba (as long as born before 1986) do not need to apply for a Managing Director license. In all other cases a Director license is required. There is no minimum number of natural persons required to form a legal person, with the exception of the association, which by its nature requires at least two (2) persons to be established. A legal person is, as far as legal entities law ("*rechtspersonenrecht*") is concerned, equivalent to a natural person, unless the contrary is stated by law.[133] Requirements with respect to the financial statements of the different legal forms can be found in the Arts. 2:59, 2:89, 2:94, 2:116-126, 2:216-235 of the CC of Sint Maarten.[134] The process of incorporation of a legal person can take less than one (1) month, depending on the complexity and how quickly the client submits the requested documents and information to the Notary. The costs of formation of legal persons varies between NAf 1,500 and NAf 5,000 (USD 800 - USD 3,000). Pursuant to Art. 2:15, paragraph 1 of the CC of Sint Maarten, the board is obliged to monitor the financial status of the legal person and everything concerning the activities of the legal person, according to the requirements arising from these activities, to keep an administration and store the associated books, documents and others data carriers in such a way that the rights and obligations of the legal person can be known. The judge can dissolve the legal person on the basis of a request from an interested party or the PPO, if inter alia: a. its purpose or activities are wholly or partly in conflict with the good morals, public order, the law or the statutes; b. the founding act is seriously flawed; or c. the articles of association are contrary to the law (Art. 2:24 of the CC of Sint Maarten).

4.11.4 Registration of Legal Persons at the COCI

Legal persons are obligated to register at the Trade Register, kept by the COCI.[135] Art. 13 et seq of the Trade Register Decree (TRD) indicate which data is provided, relating to each legal person (name of the company, date of incorporation, place of business, articles of incorporation, information of the managing director(s), etc. The COCI maintains basic information with respect to legal persons and other legal arrangements, and this information is accessible to competent authorities. The public has access to basic information, this can be done by requesting an excerpt against a fee from the COCI (Art. 11, paragraphs 1 and 2 of the NOTR). In 2019 it was included in the Arts. 16-22 of the TRD that UBO information must be registered in the Trade Register or the place where the register, referred to in Art. 2:109 of the CC of Sint Maarten can be inspected, insofar as it concerns UBO who are registered in that register (Arts. 2:18, 2:19, 2:20 and 2:22 of the CC of Sint Maarten). The COCI has made provision for the aforementioned and as of March 1st 2024, UBO information is being registered in the Trade Register. After a company is established and registered at the COCI, the Business and Director licenses can be requested at the Ministry of TEATT.

[132] An exception is the Informal Association (Art. 2:73 of the CC of Sint Maarten).

[133] Art. 2:3, paragraph 1 of the CC of Sint Maarten.

[134] Tax filings are also required (Art. 1 of the National Ordinance on Profit Tax, Art. 4 of the National Ordinance on Wage Tax, Art. 2 of the National Ordinance on Business turnover).

[135] Art. 2, paragraph 1 of the National Ordinance Trade Register (AB 2015, no. 9; NOTR).

4.11.5 Licenses for Legal Persons

Businesses are required to have a Business license, issued by the Minister of TEATT.[136] Businesses that are already established (either locally or abroad), and want to open a branch in Sint Maarten, need a Branch license. The NVs, BVs and some foundations are required to have a Director license. In addition to the Business (and Branch) license and Director license, an Operational license is required for some businesses such as casinos and lotteries. When requesting the Business (and Branch) and Director licenses, a checklist with necessary information and documents is used. Although the legislation does not yet encompass the scope of fit and proper tests, including background checks, controls do exist for the Casino sector. In collaboration with the LEA, there is a background screening process to prevent criminals (or associates) from having a controlling interest in the business.

4.11.6 Conclusion

The ML Risk level for legal persons and other legal arrangements in Sint Maarten is rated at **MEDIUM**.
The ML Threat level for Legal Persons and other Legal Arrangements is rated at **MEDIUM**, mainly based on the amount of STRs. The ML Vulnerability level for legal persons and other legal arrangements is rated at **MEDIUM**, as the framework is strong and not many ML/TF cases were encountered.

[136] Art. 2 of the Sint Maarten National Ordinance Establishment of Businesses.

SECTION 5. PROPOSED ACTIONS POINTS FOR ENHANCEMENT OF SINT MAARTEN'S AML/CFT AND CPF REGULATORY FRAMEWORK (137)

No.	Area & Sectoral Action Points	Lead Agent(s)
1.	**Mitigating National ML/TF/PF Threat, and Vulnerability**	
	8. Political commitment shall be renewed and ensured by assigning high priority to combatting ML, TF and PF, reflected in the allocation of sufficient resources for human capital and investment in IT, and technical capacity to the national judicial agencies, LEA and intelligence organizations concerned. 9. A national AML/CFT/CFP Committee shall be established tasked with drafting and updating of national AML policy and strategy (based on the Threats and Vulnerabilities identified in the NRA) together with coordination and monitoring of the AML/CFT/CPF regulatory framework, as well as receiving statistics in accordance with the FATF guidance AML/CFT-related data and statistics (October 2015). 10. The LEA shall gather statistics pertaining to AML/CFT/CFP. 11. The Department of Statistics (STATS) within the Ministry of TEATT shall also be tasked with generating and maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT regulatory framework in close cooperation with the ministries concerned (in line with Country package Measure A.2.). 12. Existing information sharing barriers shall be eliminated as much as possible, and the FIU and CBCS receive direct digital access to databases of other governmental organizations (e.g. Kadaster and COCI). 13. The effectiveness of confiscation regimes shall be enhanced through drafting and implementing comprehensive policies and regulations. A comprehensive framework for managing or overseeing the management of frozen, seized and confiscated property shall be worked out. 14. The FIU shall incorporate in its regulations (National Ordinance FIU) that commercial companies who provide AML/CFT trainings to the DNFBPs, require registration with the FIU.	• Ministry of General Affairs • Ministry of Justice • Ministry of Finance • Ministry of TEATT • Ministry of Public Health, Social Development and Labor • Ministry of VROMI • Ministry of Education, Culture, Youth and Sport • LEA • FIU
2.	**Mitigating Environmental and Natural Resources Crimes**	
	5. The proposed Waste Authority shall have a role in addressing environmental and natural resources crimes related to ML, FT and PF. Reporting to the FIU shall be included. 6. Environmental crimes shall be designated as financial crimes/predicate offences.	• Ministry of VROMI • The Nature Foundation • Ministry of Justice • FIU
3.	**Mitigating ML-TF for the purpose of the Banking Sector**	
	7. Update the P&Gs for the Banking Sector. 8. Management and/or the compliance functions should obtain more training on the main areas where deficiencies have been observed. 9. The compliance function should scrutinize more transactions for subjective reporting and investigations. 10. The CBCS and FIU should finalize the MOU to enhance collaboration in the area of supervision.	• CBCS • FIU • PPO

[137] This list is not established based on priorities of the action points.

	11. The FIU reporting portal should be automated soonest for efficient and effective reporting. 12. The CBCS should continue to encourage banking institutions and implement mechanisms to expedite the transition from a cash-based economy to a digital-based economy.	
4.	**Mitigating ML-TF for the purpose of the Insurance Sector**	
	3. Update the P&Gs for the Insurance sector. 4. Periodic onsite examinations will continue to be conducted by the CBCS based on a risk-based approach.	• CBCS
5.	**Mitigating ML-TF for the purpose of the MTC Sector**	
	1. Update the P&Gs for the MTC sector. 2. Periodic onsite examinations will continue to be conducted by the CBCS based on a risk-based approach. 7. Staff and management of the MTC sector should obtain more training on the main areas where deficiencies have been identified. 8. The compliance function should obtain more training regarding subjective reporting and investigations.	• CBCS
6.	**Mitigating ML-TF for the purpose of the Securities and Asset Managers Sector**	
	1. Finalize the National Ordinance on the Supervision of Securities Intermediaries and Asset Management (NOSSIAM), specifically for Sint Maarten. 3. Periodic onsite examinations will be conducted by the CBCS based on a risk-based approach. 3. Finalize a specific AML/CFT/CFP P&Gs for the Securities Intermediaries and Asset Management sector.	• Ministry of Finance • CBCS
7.	**Mitigating ML-TF for the purpose of the Credit Union Sector**	
	2. The updated AML/CFT/CFP P&Gs for the Credit Institutions will be applicable to the Credit Union sector. 3. Periodic onsite examinations will continue to be conducted by the CBCS, based on a risk-based approach.	• CBCS
8.	**Mitigating ML-TF for the purpose of the Micro Lending Sector**	
	2. The updated AML/CFT/CFP P&Gs for credit institutions will also be applicable to the Micro Lending sector.	• CBCS
9.	**Mitigating ML-TF for the purpose of the Trust Company Service Providers Sector**	
	1. Update the AML/CFT/CFP P&Gs for the TCSP sector. 2. Periodic onsite examinations will continue to be conducted by the CBCS based on a risk-based approach.	• CBCS
10.	**Mitigating ML-TF for the purpose of the Virtual Asset Service Providers Sector**	
	4. Establish ML/TF/PF guidelines, which will assist VASPs and PSPs in applying measures to combat ML/TF/PF, and, in particular, in detecting and reporting suspicious transactions. 5. Issue advisory to the PSPs and VASPs to reiterate their AML/CFT/CFP obligations based on the NOCMLTF. 6. Conduct onsite and offsite inspections and intensify efforts to ensure compliance with the NOCMLTF. 4. Enact NOSPSP and NOSVASP and issue sector-specific guidelines. 5. Provide more guidance to the PSPs and VASPs for them to focus on analyzing	• Ministry of Finance • CBCS

	and reporting subjective unusual transactions that require more investigation and more tailoring of the transaction monitoring system. 6. Require the submission of annual data on variables such as the volume and nature of the products provided, the transaction patterns, and the cross-border nature of transactions to enable the CBCS to enhance its risk assessment of PSPs and VASPs.	
11.	**Mitigating ML-TF for the purpose of the Financial Inclusion Products Sector**	
	1. Adoption of the National Ordinance Basic Payment Account. This would allow the financial institutions in Sint Maarten to offer financial inclusion products or services, which can reduce the current large financial informal sector.	• Ministry of Finance • CBCS
12.	**Mitigating ML-TF for the purpose of the Casino Sector**	
	3. In the legal-technical process of the establishment of a Gaming Board Authority, as part of Country package Measure H.2.3. (drafting new gambling legislation), the FIU will see to it (as part of its task preparing national ordinances and other regulations regarding the prevention and combating of ML, TF, PF and the predicate offences), that the AML/CFT supervision of the Casino sector will be accommodated within this authority. 4. The Hazard Games regulations (Gaming sector) shall be updated and include entry controls (explicit Fit and Proper tests) for granting licenses for casino owners, and junket operator licenses.	• Ministry of Justice • Ministry of TEATT • FIU
13.	**Mitigating ML-TF for the purpose of the Real Estate Agency Sector**	
	4. Registering of the realtors at COCI, ministry of TEATT and FIU shall be urged. 5. After completion of the registration process of all realtors, the FIU shall execute offsite and thereafter onsite assessments. 6. The dilettante realtors shall be purged from the sector.	• Ministry of Justice • FIU • COCI
14.	**Mitigating ML-TF for the purpose of the Notary Sector**	
	5. The Notary sector shall be encouraged to become a member of a Notarial Professional Organization within the Kingdom (e.g. the Dutch "*Koninklijke Notariële Beroepsorganisatie*" (KNB)). 6. The Notary sector shall be instructed to regularly participate in AML/CFT training sessions. 7. The Supervisory Chamber shall be invested with ML/TF supervision tasks and become the Self-Regulatory Body of the Notary sector. 8. Include in the P&G and in the NOCMLTF that Notaries shall inform their realtor clients that they are required to register at the COCI and the FIU.	• Ministry of Justice • FIU • Supervisory Chamber • Notary sector
15.	**Mitigating ML-TF for the purpose of the Lawyer Sector**	
	3. Offsite and thereafter onsite audits will be executed by the FIU at the lawyer sector. 4. In consultation with the Lawyer sector reach amendment of the Attorneys' Ordinance to invest the Council of Supervision for Attorneys with ML/TF supervision tasks and become the Self-Regulatory Body of the Lawyer sector.	• Ministry of Justice • FIU • Lawyers sector
16.	**Mitigating ML-TF for the purpose of the Accountant Sector**	
	4. Tax advisors and administration service providers shall be incorporated in the designated Accountant sector as mentioned in the NOCMLTF. 5. The Accountant sector shall be consulted on the establishment of a Self-Regulatory Body. 6. Certification of professional Accountants shall be included in the regulations concerned.	• Ministry of TEATT • FIU • Accountant sector
17.	**Mitigating ML-TF for the purpose of the DPMS Sector**	
	3. More offsite and onsite audits will be executed by the FIU.	• FIU

	4. Sectoral assessment with regard to the "diamond pipeline"[138] shall take place.	
18.	**Mitigating ML-TF for the purpose of the NPO sector**	
	3. Measures to strengthen effective NPO self-regulation will be encouraged. The umbrella organizations shall be informed about the position of Self-Regulatory Body. 4. The FIU will participate in the annual congresses organized by the umbrella organizations, providing comprehensive AML/CFT/CPF information.	• Ministry of Justice • FIU • NPO Umbrella organizations
19.	**Mitigating ML-TF for the purpose of the Legal Persons and other Legal Arrangements**	
	7. Establishment of an ML investigations data collection framework by the PPO, LEA. 8. Updating and completing the database of the COCI. 9. The Ministry of TEATT will carry out fit and proper tests of the requestor of the Business license, the Director license, and the Operational license, before issuing these. 10. More cooperation and coordination between the COCI, the Ministry of TEATT and the FIU, to streamline the information in their registers. 11. Expedite the UBO register by the COCI for legal persons to register their UBO's. 12. Provide more resources to the COCI as it currently (2024) is not able to ensure that accurate and up-to-date information on legal persons and legal arrangements and related UBO information is available on a timely basis.	• Ministry of Justice • Ministry of TEATT • COCI • FIU

[138] Bringing diamonds from production (mining) to the retail consumer involves several stages of processing and a variety of transactions (also known within the industry as "the diamond pipeline").

DISCLAIMER World Bank Group

The National Money Laundering (ML) Risk Assessment of Sint Maarten has been conducted as a self assessment by Sint Maarten authorities, using the National ML Risk Assessment Tool Kit developed and provided by the World Bank Group. The role of the World Bank Group project team was limited to delivery of the tool, providing guidance on the technical aspects of the tool, and review/feedback to assist with its accurate use. Data, statistics, and information used for completing the National ML Risk Assessment Tool Kit modules, as well as findings, interpretation, and judgment under the scope of the National ML Risk Assessment, belong completely to the Sint Maarten authorities and do not reflect the views of the World Bank Group, its Board of Executive Directors, or the governments they represent. Nothing herein shall constitute or be considered a limitation upon or waiver of the privileges and immunities of the World Bank, all of which are specifically reserved.

ANNEX 1 of the National Risk Assessment Sint Maarten 2024: LIST OF ACRONYMS

ACAMS	Association of Certified Anti-Money Laundering Specialists
AML	Anti-Money Laundering
APF	Anti-Proliferation Financing
CBCS	'Centrale Bank van Curaçao en Sint Maarten'
CFATF	Caribbean Financial Action Task Force
CFT	Combatting the Financing of Terrorism
CDD	Costumer Due Diligence
COCI	Sint Maarten Chamber of Commerce & Industry
DNFBP	Designated Non-Financial Businesses and Professions
DPMS	Dealers in Precious Metals and Stones
EDD	Enhanced Due Diligence
FATF	Financial Action Task Force
FI	Financial Inclusion
FIU	Financial Intelligence Unit
IBPS	Immigration and Border Protection Services
ICSM	Intelligence Center Sint Maarten
KPSM	Sint Maarten Police Force
KYE	Know Your Employee
LEA	Law Enforcement Agencies (Police, KMAR, Customs, IBPS, and PPO)
NRA	National Risk Assessment
ML	Money Laundering
MLAT	Mutual Legal Assistance Treaty
MLRs	Money Laundering Regulations
MOU	Memorandum of Understanding
MSB	Money Service Business
NOSSIAM	National Ordinance on the Supervision of Securities Intermediaries and Asset Management
NOSPSP	National Ordinance on Supervision Payments Service Providers
NOAE	National Ordinance Administrative Enforcement
NPO	Non-Profit Organization
NOCMLTF	National Ordinance Combatting Money Laundering and Terrorist Financing
OECD	Organization for Economic Co-operation and Development
PBO	Public Benefit Organization
PEP	Politically Exposed Person
PF	Proliferation Financing
PPO	Public Prosecutor's Office
PPO-CT	Public Prosecutor's Office Central Team combatting subversion
RST	Joint Kingdom Detectives Department
SPG	Sub-Project Group
SRB	Self-Regulating Body
TBO	Kingdom Anti-Corruption Taskforce under the Attorney-General's Office
TEATT	Ministry of Tourism, Economic Affairs, Transport, and Telecommunication
TF	Terrorist Financing
TFS	Targeted Financial Sanctions
UBO	Ultimate Beneficial Owner
UTR	Unusual Transaction Report
STAT	Sint Maarten Department of Statistics
STR	Suspicious Transaction Report
WMD	Weapons of Mass Destruction
VA	Virtual Assets
VASP	Virtual Asset Service Provider

ANNEX 2 of the National Risk Assessment Sint Maarten 2024: LIST OF DEFINITIONS

Threat:	Groups, persons, objects, or activities with enough potential to cause harm to states, societies, economies, and other key elements of countries or regions. A Threat can exist at a national or a sector level.
Vulnerability:	Characteristics of a country, sector, or product that make it attractive for money laundering and terrorist financing. A Vulnerability can exist at a national or a sector level.
Risk:	A function of Threat, Vulnerability, and consequence. Inherent risks can be weighed against mitigating factors to assess net risks.
Money Laundering (ML):	Concealing or disguising the origin of illegally obtained funds. Money laundering is preceded by another form of crime, the so-called predicate offence.
Terrorist Financing (TF):	The means and methods used by terrorist organizations to finance their activities.
Proliferation Financing (PF):	The act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual-use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.
Predicate offence:	Any offence as a result of which proceeds have been generated that can be laundered.[139]
Unusual Transaction Report (UTR):	Report of a transaction that can be considered as unusual because it meets objective or subjective Indicators as designated as such on the basis of Art. 24 of the NOCMLTF.
Suspicious Transaction Report (STR):	Report of a transaction that causes a reporting entity to have a feeling of apprehension or mistrust about the transaction considering its unusual nature or circumstances, or the person or group of persons involved in the transaction.

[139] The predicate offences in Sint Maarten are listed in: the 'Annex pertaining to the Explanatory Memorandum of the National Ordinance combatting money laundering and terrorist financing, under B. MONEY LAUNDERING AND CONFISCATION, Explanation of Rec. 3.' https://lokaleregelgeving.overheid.nl/CVDR671904/1