



Anti-money laundering and counter-terrorist financing measures

St. Kitts and Nevis

Mutual Evaluation Report

January 2022



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Executive Summary

1. This report summarises the AML/CFT measures in place in St. Kitts and Nevis as at the date of the on-site visit during March 15th – 26th, 2021. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of St. Kitts and Nevis' AML/CFT system and provides recommendations on how the system could be strengthened.

Key Findings

- a) St. Kitts and Nevis has a limited understanding of its Money Laundering (ML) risk based on its National Risk Assessment (NRA), which was conducted in 2018-2019 and an NRA follow-up in 2020-2021 which allowed the country to identify areas where further actions were necessary to improve the AML/CFT framework, reduce vulnerability to ML/TF risks and allocate national resources to mitigate against these risks. The NRA was not comprehensive as it did not fully consider the risks from external funds flows resulting from St. Kitts and Nevis being a small international financial centre. There was a lack of consideration of international predicate crimes with funds flowing through or remaining in the jurisdiction and the risks associated with legal persons and legal arrangements were not identified.
- b) The risk of Terrorist Financing (TF) was not fully considered as the NRA did not include consideration of relevant information, such as the cross-border movement of cash and bearer-negotiable instruments (BNIs) through Customs and Excise Department (CED) and the financial flows (including wire transfers) through the international financial sector.
- c) St. Kitts and Nevis did not have a national policy objective for the confiscation of criminal proceeds, instrumentalities, and property of equivalent value for ML until March 2021. The legislative infrastructure was amended to allow for civil forfeiture. The White-Collar Crimes Unit (WCCU) pursues confiscation of criminal proceeds and property only where major cases of predicate offences had been identified and assets are available for confiscation in the event of a conviction. Confiscation of proceeds and instrumentalities of crime are exceptionally low in St. Kitts and Nevis.
- d) The level of Suspicious Transaction Reporting (STR) is low and not consistent with the risk rating of the reporting sectors identified in the NRA.
- e) The WCCU conducted 12 ML investigations for the period. A comparison of the number of predicate offences for 2019 (725) and 2020 (426) with the number of ML investigations of six (6) for each year highlights the low level of ML investigations. There have been no ML convictions in St. Kitts and Nevis.

- f) The level of knowledge and understanding of TF within the St. Kitts and Nevis by FIs and especially the Designated Non-Financial Business and Professions (DNFBPs) and some competent authorities (CAs) is limited. However, there had been two (2) investigations into suspected TF cases which had not revealed any illicit activity within St. Kitts and Nevis.
- g) The Anti-Terrorism Amendment Act (ATAA) provides for the implementation of TFS without delay. Due to the recent enactment of the ATAA the private sector was not aware of the requirement to deprive a listed person or entity of their assets without delay when a match is identified. Although AML/CFT training has been provided to the FIs and DNFBPs in St. Kitts and Nevis, there is still a lack of understanding of TF in the sector and a lack of knowledge of reporting requirements.
- h) There are adequate licensing requirements including fit and proper obligations, for most FIs including banks, insurance, credit unions and MSBs. In St. Kitts fit and proper for domestic insurance and MSBs does not include BO. Among DNFBPs, there is adequate licensing requirements for TCSPs and casinos however, implementation of a framework to supervise for other categories of DNFBPs was to commence.
- i) The FSRC has examined FIs and DNFBPs (mostly TCSPs and gaming entities) for compliance with their AML/CFT obligations. However, it is difficult to determine the level to which these examinations are based on ML/TF risks. The FSRCs risked based supervisory framework is geared primarily towards prudential supervision and prudential concerns while AML/CFT is a subsidiary concern.
- j) FIs with regional or international presence demonstrated more developed understanding of ML/TF risks and implementation of AML/CFT obligations. Other entities and DNFBPs displayed a lower level of understanding of ML/TF risks and AML/CFT obligations.
- k) St. Kitts and Nevis can provide a wide range of mutual legal assistance (MLA) and extradition, and the jurisdiction is sufficiently empowered to seek MLA through agreements and Memoranda of Understanding (MOUs). It is possible for some CAs to exchange information in the absence of agreements or MOUs in place with other jurisdictions. St. Kitts and Nevis has mechanisms that allow for the exchange beneficial of ownership information.
- l) Comprehensive statistics were not provided by the relevant CAs involved in the processing of MLA and extradition requests which shows that they do not possess efficient case management systems.
- m) St. Kitts and Nevis did not seek legal assistance for international co-operation to pursue ML cases which have transnational elements during 2017 to 2020.
- n) St. Kitts and Nevis has implemented mechanisms to ensure that basic information on the types and forms of legal persons and arrangements is publicly available. Vulnerabilities for legal persons and legal arrangements have not been formally identified. Companies are subjected to robust incorporation procedures by the registries to validate information submitted by the

entities and as a matter of practice the services of the TCSP/registered agents must be utilised for the incorporation of a legal person and legal arrangement in St. Kitts and Nevis. TCSPs as the main company formation agents are required to maintain accurate and up to date beneficial ownership information.

Risks and General Situation

2. St. Kitts and Nevis' economy is dependent on tourism, its Citizenship by Investment (CBI) Program, manufacturing and the financial services sector. Tourism accounts for approximately 15% of the Gross Domestic Product (GDP) while the overall financial services sector accounts for approximately 10.5% of GDP. The CBI program which offers economic citizenship through either a stipulated contribution to the Sustainable Growth Fund (SGF) or minimum real estate investment is one of the main sources of government revenue. The government uses SGF funds for economic diversification and applications can only be made through licensed TCSPs.
3. The main sources of criminal proceeds identified in the country's 2019 NRA and follow-up 2021 NRA are larceny (including house breaking), drug related offences (trafficking and possession with intent to supply on the domestic market), robbery and other gun related offences. The drug offences are predominantly in respect of locally grown marijuana while the gun offences involve local robberies. There are no estimates on the level of criminal proceeds generated by these offences.
4. St. Kitts and Nevis is a small international financial centre whose focus is company formation. ML vulnerabilities in both the 2019 and 2021 assessments were identified as being primarily driven by various factors relating to the absence of independent information sources, the quality of border controls, the CBI Program, the international banking sector, the international insurance sector and the DNFBP sector. During the NRA follow-up process, two (2) additional areas of vulnerabilities were identified. These additional areas of vulnerabilities were Virtual Assets (VA) and Virtual Assets Service Providers (VASPs); and proliferation financing (PF).
5. The initial NRA of 2019 was limited by data collection challenges which affected the effective assessment of ML threats to the jurisdiction and resulted in the assessment being primarily focused on vulnerabilities. Data collection challenges also resulted in some categories of DNFBPs not being assessed. St. Kitts and Nevis has a substantial number of International Business Companies (IBCs) and limited liability companies (LLCs) (9,104 active IBCs and 3,433 limited liability companies) with beneficial owners (BOs) from across the world. The NRA did not assess the risks of legal persons and arrangements in the jurisdiction. However, TCSPs and international banking were rated as having medium vulnerability. The gaming and real estate sectors and money service businesses (MSBs) were rated as high vulnerability. Whilst the NRA assessed the overall TF threat as low, the assessment did not consider the international funds flow feature of a small international financial centre or cross-border transactions.

Overall Level of Compliance and Effectiveness

6. Since its third Round Mutual Evaluation, St. Kitts and Nevis has enacted several measures to strengthen its AML/CFT regime. These measures include enactment of various pieces of key legislation including the Proceeds of Crime (Amendment) Act (POCAA), 2009; the ATAA, 2009; the Financial Services Regulatory Commission Act (FSRCA), 2009; the Insurance Act (IA), 2009, the Money Services Business Act (MSBA), 2008 and the Financial Services (Implementation of Industry Standards) Regulations (FSR). Further, St. Kitts and Nevis used the postponement of the mutual evaluation due to the COVID-19 pandemic to enact legislation to deal with deficiencies identified in the 2019 NRA.
7. However, there are weaknesses in St. Kitts and Nevis' technical compliance. The issue of TFS in relation to TF and PF had not been adequately addressed and a reporting regime for FIs and DNFBPs in relation to PF was enacted during the onsite visit. Technical deficiencies were also found in the understanding of TF risks, with further deficiencies in both the TF reporting and STR reporting regime. Overall, the technical compliance framework still needs improvements. There has not been enough time for the recent enactment of legislation in St. Kitts and Nevis to positively affect the outcomes in core issues.
8. St. Kitts and Nevis has demonstrated some level of effectiveness in the area of domestic co-operation among the law enforcement agencies (LEAs) as evidenced by joint investigations and the sharing of information. However, significant improvements are needed to strengthen the risk-based approach (RBA), increase ML/TF investigations, prosecutions, convictions and confiscations and the implementation of preventive measures and supervision in particular with regard to DNFBPs.

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

9. St. Kitts and Nevis conducted its first NRA during the period January 2018 to July 2019. It assessed national ML vulnerabilities of various sectors including banking, insurance, securities, credit unions, MSBs and some DNFBP sectors. The NRA of 2019 was limited by data collection challenges and affected the effective assessment of ML threats to the jurisdiction that resulted in the assessment being primarily focused on vulnerabilities. Data collection challenges also resulted in some categories of DNFBPs not being assessed.
10. In assessing ML threats to the jurisdiction in the 2019 NRA, larceny, drug related offences, robbery and other gun-related offences were identified as the main proceeds generating offences in the jurisdiction. International predicate crimes with funds flowing through or remaining in the jurisdiction were not identified. Cross-border threat was analysed to some extent. The TF threat was assessed as low. The NRA did not have a risk assessment of legal persons and legal arrangements within the context of St. Kitts and Nevis as a small international financial centre. At the end of March 2021, St. Kitts and Nevis produced an NRA follow-up report which had similar deficiencies as those identified in the 2019 NRA.
11. ML vulnerabilities in both the 2019 and 2021 assessments were identified as being primarily driven by the absence of independent information sources, the quality of border controls, the CBI Program, the international banking sector, the international insurance sector and the DNFBPs sector. The follow-up NRA also sought to identify, assess, and understand new threats

and vulnerabilities in the jurisdiction which were VASPs and PF. At the time of the on-site visit, the NRA follow-up report had not been approved by the Anti-Money Laundering National Committee (referred as NAMLC) or shared with public and private sector stakeholders.

12. St. Kitts and Nevis developed a National Action Plan (NAP) with input from the CAs and private sector stakeholders to mitigate risks identified in its AML/CFT regime. The NAP outlines key actions, agencies responsible for completion of the actions and timeline for completion. A national AML/CFT strategic plan for the year 2021 was also developed. The plan was informed by the key outcomes of the 2019 NRA. NAMLC was responsible for the development and monitoring of the implementation of the strategic plan.
13. St. Kitts and Nevis established a NAMLC whose mandate includes coordination with the supervisory authorities and other government agencies for the issuance and implementation of the necessary AML/CFT policies and regulations to ensure full compliance with the FATF Recommendations. During the period under review, while there was some inter-agency coordination and cooperation on TF matters between the Financial Intelligence Unit (FIU) and WCCU there was no coordination and cooperation among the CAs on PF matters at policy and operational levels.

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

14. The FIU is accessing and utilizing financial intelligence and relevant information to conduct its functions. The WCCU and CED have also demonstrated that they are accessing and utilizing financial intelligence.
15. The FIU's operational analysis has supported the WCCU in the conduct of their functions to identify and locate assets, identify individuals, create financial profiles. CAs have received limited training in the use of financial intelligence and relevant information in the conduct of their functions. Although the FIU has provided training and awareness to some FIs, guidance, awareness, and feedback is still very limited and could be the reason for the low numbers of STRs submitted by the DNFBPs to the FIU.
16. The level of STRs reporting by some FIs and DNFBPs is low and not commensurate with the country's vulnerability assessment. FIs and DNFBPs have demonstrated a lack of understanding of their reporting obligations.
17. The FIU distributes typologies and advisories to FIs and DNFBPs. The CED and Competent Authority for Tax Matters (CATM) are using financial intelligence to a limited extent. The Royal St. Christopher & Nevis Police Force (RSCNPF) (units outside the WCCU) do not request financial intelligence from the FIU regularly as a policy. The information technology (IT) system of the FIU is overseen by an officer external to the FIU who is employed by the Ministry of Finance, raising security concerns about FIU data confidentiality and independence.
18. St. Kitts and Nevis has a well-established technical framework to investigate ML and conduct prosecutions. ML investigations are conducted by the WCCU, a unit of the RSCNPF. Investigators at the WCCU are well trained and experienced. The main source of financial intelligence leading to ML and TF investigations is the case disclosures (CDs) disseminated by the FIU to the WCCU. Cases above a threshold of XCD 20,000 (USD 7,361) would include a parallel investigation for ML, while those under the threshold only have predicate offence

investigations. As a result of deficiencies identified in the NRA, measures were implemented including legislative amendments which increased the investigative techniques available to the WCCU. These include controlled delivery and undercover operations.

19. The WCCU has easy access to databases of the other LEAs for its investigations. The number of ML investigations as reported by the WCCU are six (6) ML investigations each for 2019 and 2020 and two (2) for the first three (3) months of 2021. A comparison of the number of predicate offences for 2019 and 2020 with the number of ML investigations highlights the low level of ML investigations.
20. There was no indication that the NRA findings were taken into consideration in the selection of ML investigations. ML is not being aggressively investigated by the WCCU. While St. Kitts and Nevis has a small international financial centre with a foreign clientele and a substantial number of corporate entities there have been no ML investigations for foreign predicates or corporate entities.
21. At the time of the onsite visit there were eight (8) prosecutions before the court for self-laundering ML. An ML charge would be imposed if the ML penalty for the predicate offence is considered by the Office of the Director of Public Prosecutions (DPP) to be not proportionate to the offence. There were no ML convictions in St. Kitts and Nevis, therefore the assessors were unable to assess the effectiveness, proportionality and dissuasiveness of sanctions. In lieu of being unable to secure a ML conviction, a conviction for the predicate offence will be sought to pursue confiscation proceedings and at the time of the onsite legislation was enacted to include civil asset forfeiture. There has been no opportunity for any of the above mechanisms to be used during the review period.
22. St. Kitts and Nevis did not have a national policy objective for the confiscation of criminal proceeds, instrumentalities, and property of equivalent value for ML until March 2021. The legislative infrastructure was amended to include civil forfeiture in March 2021. There was no dedicated unit within the WCCU or DPP for conducting confiscation proceedings or asset forfeiture under POCA. The WCCU pursues confiscation of criminal proceeds and property only where major cases of predicate offences have been identified and assets are available for confiscation in the event of a conviction.
23. The FIU's administrative freeze directive is used by the authorities to restrain funds for a maximum period of five (5) days in the absence of a court production order. Confiscation of proceeds and instrumentalities of crime are exceptionally low in St. Kitts and Nevis and aligns with the results of the top predicate offences in the NRA 2019. Confiscation of criminal proceeds, instrumentalities and property of equivalent value for TF is not pursued as a policy objective in St. Kitts and Nevis.
24. St. Kitts and Nevis has limited experience in asset recovery with foreign counterparts, either for proceeds of foreign predicates located in the jurisdiction or proceeds from domestic predicates laundered outside St. Kitts and Nevis. Cross border reports (CBRs) are sent to the FIU by the CED whenever cash and BNIs discovered over the identified threshold of USD 10,000 in an individual's possession at the ports of entry and exit. During the period under review the CED investigated two (2) matters where false declarations were considered. The cases were also forwarded to the FIU and WCCU where the potential for ML was also investigated.

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

25. While the NRA determined the threat of TF as low in St. Kitts and Nevis the assessment was not thorough. It did not indicate the data used as a basis for this conclusion and did not include consideration of St. Kitts and Nevis as a small international financial centre offering CBI services which are deemed high risk for both ML/TF. St. Kitts and Nevis has had no prosecutions or convictions for TF related offences. However, St. Kitts and Nevis has had two (2) investigations into potential TF cases which was initiated by STRs filed with the FIU. These investigations revealed no illicit TF activities.
26. The FIU and WCCU have demonstrated a prompt approach to any matter that could potentially have terrorism or TF element. The WCCU has acted upon case disclosures (CDs) and intelligence submitted by the FIU to conduct investigations of potential TF cases. There is a fair amount of training on TF in St. Kitts and Nevis however, the level of knowledge and understanding of TF within the Federation (St. Kitts and Nevis) by both regulated entities especially the DNFBPs and some CAs is limited.
27. St. Kitts and Nevis enacted legislation to implement TFS in 2020. The ATA has provisions for the implementation of measures in relation to United Nations Security Council Resolution (UNSCR) 1267 and UNSCR 1373. Although AML/CFT training has been provided to the FIs and DNFBPs in St. Kitts and Nevis, there is very limited knowledge or guidance in relation to TFS. The CAs knowledge of TFS varies. There is lack of awareness of the proper actions to be taken when there is a match against the UN Sanctions Lists.
28. The Non-Governmental Organisations (NGOs)/Non-Profit Organisations (NPOs) sector in St. Kitts and Nevis was not adequately addressed in the NRA 2019 to identify the subset of NGOs that fall under the FATF definition of an NPO or to assess those NGOs/NPOs that may be of greater risk for TF. A major concern for the assessment team is the lack of inclusion of NPOs and multi-form foundations (MFFs) registered and functioning in Nevis.
29. No funds or assets of designated persons have been found in St. Kitts and Nevis. Hence, no TF assets or instrumentalities were seized due to TF investigations and TFS. DNFBPs do not submit terrorist property reports (TPRs) dealing with assets of designated persons and entities within the ambit of the UNSCRs.
30. St. Kitts and Nevis enacted legislation to implement a framework against PF. Most FIs and DNFBPs were not aware of the need for identification of assets and funds held by designated persons or entities relating to PF, the freeze without delay requirement and the requisite reporting procedures in the event of funds or assets discovered. As at the date of the onsite FIs and DNFBPs were not monitored to ensure compliance with TFS obligations related to PF.

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

31. FIs with a regional or international presence have demonstrated a thorough understanding of their ML/TF risks. As there is no AML/CFT supervision of DNFBPs other than TCSPs and casinos, there is limited understanding of ML/TF risk and AML/CFT obligations within the remaining DNFBP sector in the Federation. International banks and insurance companies place heavy reliance on the risk mitigating measures of the parent company or the operations in the home jurisdiction. These institutions did not implement standalone measures in their St. Kitts

and Nevis' operations as it was expected the international controls would appropriately mitigate any risks. The lack of enterprise risk assessments by many regulated entities contributes to the low level of understanding of ML/TF risk and the corresponding inadequate mitigating measures.

32. FIs and DNFBBPs, except for dealers in precious metals and precious stones (DPMS), have a good understanding of their reporting obligations related to suspicious transactions. However, STRs were low and in most instances did not reflect the risk level of the sectors. While there was AML/CFT training by FSRC, the quality of risk management in relation to AML/CFT examinations and compliance with AML/CFT regulations were deficient and so there remains a low level of understanding of ML/TF obligations.
33. Approximately 90% of the FIs and DNFBBPs have approved compliance officers. Some compliance officers in the insurance sector and DNFBBPs do not have an adequate understanding of their AML/CFT obligations. Customer due diligence (CDD) and record-keeping measures for FIs and TCSPs are quite robust in the Federation. This is especially true for entities with an international presence as they have sophisticated programs to run names and checks against various sanction lists. Some local firms were not receiving UN Sanctions lists from FSRC and do not have adequately robust know your customer (KYC) identification and transaction monitoring protocols in place.
34. Most FIs and DNFBBPs are aware that enhanced due diligence (EDD) measures are required for high-risk customers but some were not able to demonstrate what EDD measures were taken by their institutions outside of enhanced transaction monitoring. Among FIs, domestic banks, insurance companies and MSBs who are a part of an international group and international banks were able to demonstrate specific EDD measures taken for high-risk customers. Other FIs including local domestic banks and insurance businesses, and credit unions did not specify what type of additional information is collected when conducting EDD. FIs generally display adequate level of implementation of internal controls. However, several DNFBBP sectors including DPMS, real estate agents, legal professionals and accountants have weak internal controls.

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

35. Licensing, registration, and fit and proper requirements of FIs and DNFBBPs licensed by the FSRC and the Eastern Caribbean Central Bank (ECCB) are robust and effectively implemented. Besides casinos and lawyers who operate as TCSPs, implementation of fit and proper requirements for other categories of DNFBBPs are inadequate or non-existent.
36. Supervisory authorities displayed limited understanding of ML risk based on the outcome of the NRA. Onsite supervision of DNFBBPs (other than casinos and TCSPs) are relatively non-existent and the supervisory authorities did not carry out regular ML/TF sectoral risks assessments. The FSRC Nevis branch completed some sector risk assessments in 2014 and updated them in early 2021. While the supervisory authority has demonstrated understanding of ML/TF risks particularly in the banking and insurance sectors, there is limited understanding and assessment of TF risk. Although the FSRC has provided guidance and outreach to FIs and TCSPs there is limited outreach to other DNFBBPs such as DPMS, accountants, and casinos.
37. While the FSRC has examined FIs and DNFBBPs (mostly TCSPs) it is difficult to determine the level to which these activities are risk-based. As a part of its risk based supervisory

framework which is geared primarily towards prudential supervision, the FSRC St. Kitts and Nevis conducts ML/TF risk assessments of regulated entities at the time of the examination. There is an absence of a comprehensive risk-based supervisory framework geared primarily towards AML/CFT supervision.

38. FSRC has and utilises a range of non-financial sanctioning powers, which range from warning letters to more severe sanctions such as revocation of licenses. It was difficult however to properly and effectively assess the sanctions levied by the FSRC as there was no clear indication of the nature of breaches identified as being AML/CFT vs prudential.

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

39. St. Kitts and Nevis has implemented mechanisms to ensure that basic information on the types and forms of legal persons are publicly available. Registers on the different types of companies and corporate entities are maintained by the FSRC St. Kitts and Nevis did not identify and assess ML/TF risks associated with legal persons and legal arrangements.
40. Companies are subjected to robust incorporation procedures by the registry to validate information submitted by the entities. TCSPs are required to maintain accurate and updated basic and BO information on their customers. CAs can obtain adequate, accurate and current basic and beneficial ownership information on all types of legal persons created in St. Kitts and Nevis. The Trust Act (TA) and the Nevis International Exempt Trust Ordinance (NIETO) do not require trustees to keep basic information accurate and updated on a timely basis. There is no mandatory statutory requirement for registered agents to be apprised in a timely manner of changes in the share ownership of their clients. Legal persons and legal arrangements are merely required to provide an annual notice to registered agents of any changes in the share ownership. During the reporting period the authorities have struck off and imposed fines for breaching of reporting requirements. While the range of sanctions is proportionate to the breaches, the pecuniary fines are not dissuasive for large established entities.

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

41. In St. Kitts and Nevis, MLA requests are sent directly to the Office of the Attorney General (AG) or forwarded through the Ministry of Foreign Affairs (MOFA). Although St. Kitts and Nevis has provided a wide range of MLAs, there were several delays in satisfying MLA requests. Except for the FIU, the CAs do not have an efficient case management system for MLA and extradition requests and there is no consistency in maintaining adequate information on the details of a request. In many instances, St. Kitts and Nevis did not provide feedback to requesting countries in relation to the progress made and status of MLA requests received.
42. St. Kitts and Nevis is sufficiently empowered to seek international cooperation with other jurisdictions through agreements and MOUs. It is possible for some CAs to exchange information in the absence of agreements or an MOU in place with other jurisdictions. St. Kitts and Nevis has mechanisms that allow for the exchange of BO information. St. Kitts and Nevis did not have reason to seek legal assistance for international co-operation to pursue ML cases which have transnational elements during 2017 to 2020. Comprehensive statistics were not retained by some CAs involved in the processing of MLA and extradition requests. There were discrepancies in MLA statistical information amongst the CAs.

Priority Actions

- a) A comprehensive assessment of the risks of legal persons and arrangements being abused for ML or TF should be completed within the context of St. Kitts and Nevis as a small international financial centre.
- b) St. Kitts and Nevis should conduct a comprehensive assessment of TF risk.
- c) There should be more formal oversight of DNFBPs (especially gaming, real estate sector, DPMS and lawyers). DNFBPs require a higher level of supervision and monitoring to ensure that they are adequately implementing internal controls related to AML/CFT obligations. St. Kitts and Nevis should enact legislation for the licensing and registration of DNFBPs.
- d) Comprehensive ML/TF risk assessments should be conducted for all regulated sectors and appropriate policies and procedures established for ongoing update of the sector risk assessments.
- e) As a policy, the WCCU should seek to investigate ML and implement prioritization of cases. The DPP should prosecute ML cases as a matter of policy.
- f) LEAs in St. Kitts and Nevis should take a more aggressive approach to identifying, tracing and restraining assets derived from criminal conduct that may be located in or outside the Federation and with the intention of recovering the same. The identification and tracing of assets located abroad should be done in greater collaboration with foreign counterparts.
- g) The capacity of LEAs in the areas of detecting and investigating TF should be enhanced through training and improvement of policies and procedures. There is need for enhanced supervision of FIs and DNFBPs in relation to their compliance with their obligations to implement TFS.
- h) St. Kitts and Nevis should increase its use of the Mutual Assistance in Criminal Matters Act (MACMA) to request assistance from its foreign counterparts to assist LEAs in pursuing domestic ML, associated predicate offences and TF cases that have a transnational element.
- i) An inter-agency statistical database should be developed to ensure that accurate and consistent information is retained by all CAs involved in the execution of MLA and extradition requests. Comprehensive statistics on international cooperation would enable MLA and extradition requests to be effectively tracked, thereby providing an accurate reflection of the degree of effectiveness of international cooperation requested and provided by St. Kitts and Nevis.

j) The technical deficiencies identified in the TC Annex should be addressed.

Effectiveness & Technical Compliance Ratings

Table 1. Effectiveness Ratings

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

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

Table 2. Technical Compliance Ratings

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

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

MUTUAL EVALUATION REPORT

Preface

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

This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 15th – 26th March 2021.

The evaluation was conducted by an assessment team consisting of:

- i. Junior Nisbett, Financial Investigator, Trinidad and Tobago Police Service, , Trinidad and Tobago (Law Enforcement Expert);
- ii. Lesley Pearson, Senior Manager Risk Analytics and Examinations, Securities Commission of The Bahamas, (Financial Expert);
- iii. Sharlene Jones, National Risk Assessment Coordinator, Financial Intelligence Unit, Belize, (Financial Expert);
- iv. Kara Duff-Yehudah, Legal Advisor/Compliance Officer, Guyana Geology and Mines Commission, Guyana, (Legal Expert).
- v. Roger Hernandez, Financial Advisor, CFATF Secretariat (Mission Leader) and Nikima Prince, Financial Advisor, CFATF Secretariat (Co-Mission Leader).

The report was reviewed by LaTeisha A.R. Sandy, FIU, St. Vincent and the Grenadines; St. Clair White, FIU, Bermuda; and Ryan Woodrow, USA.

St. Kitts and Nevis previously underwent a FATF Mutual Evaluation in June 2009, conducted according to the 2004 FATF Methodology. The September 22nd to October 3rd, 2008 evaluation and the April 30th, 2010 to December 2nd, 2014 follow-up reports have been published and are available at <https://cfatf-gafic.org/member-countries/saint-kitts-and-nevis>.

That Mutual Evaluation concluded that the country was compliant with eight (8) Recommendations; largely compliant with eight (8); partially compliant with 25; and non-compliant with eight (8). St. Kitts and Nevis was rated compliant or largely compliant with 13 of the 16 Core and Key Recommendations. St. Kitts and Nevis was placed in regular expedited follow-up in May 2009 and removed from follow-up in December 2014.

Chapter 1. ML/TF RISKS AND CONTEXT

43. St. Kitts and Nevis is a twin island federation, located in the northern section of the Leeward Islands in the Eastern Caribbean. The two (2) islands have a combined total area of 104 square miles (St. Kitts 68 sq. miles and Nevis 36 sq. miles). English is the official language of St. Kitts and Nevis, which has a total population of 48,011. Basseterre is the capital city of St. Kitts, while Charlestown is the capital city of Nevis.
44. St. Kitts and Nevis gained independence from Great Britain on 19th September 1983 and is a democratic federal state with a unicameral National Assembly of 14 members (plus the Attorney General (AG) if he or she is not an elected member). Queen Elizabeth II is the head of state, and she is represented by a Governor General who takes advice from the Prime Minister and cabinet. Eleven Assembly members are elected (from eight (8) constituencies in St. Kitts and three (3) in Nevis) plus three (3) senators appointed by the Governor General; two (2) on the advice of the Prime Minister and one (1) on the advice of the Leader of the Opposition. The present Constitution (St. Kitts and Nevis Constitutional Order, 1983) provides for the separation of powers under three (3) distinct arms: the Executive, the Parliament and the Judiciary. Autonomy, in certain defined areas is extended to the smaller island of Nevis through the Nevis Island Administration (NIA). Nevis has its own legislature, Premier and administration with five elected members and three nominated members. The federal government legislates for Nevis in matters of overall policy formation. Under the Constitution, provision is made for the secession of Nevis at six months' notice, after a two-thirds majority in favour in the Nevis Assembly and a referendum, also with at least two-thirds in favour. Both federal elections and those for the Nevis Island Legislature are held every five (5) years, the most recent being in 2020. St. Kitts and Nevis' judicial system is based on the British model, consisting of codified legislation and English common law. As a member of the Organization of Eastern Caribbean States (OECS), the judiciary forms part of the Eastern Caribbean Supreme Court. The court system is made up of lower courts (the Magistracy), the High Court and appeals lie in the appellate jurisdiction of the Eastern Caribbean Supreme Court.
45. The economy is largely reliant on tourism, its CBI Program, manufacturing and the financial services sector. Tourism impacts significantly on other sectors and accounts for approximately 15% of the GDP while the overall financial services sectors accounts for approximately 10.5% of GDP (most of which comes from the banking sector which accounts for 8% of GDP). Under the CBI program which accounts for approximately 11% of GDP, an individual is eligible for economic citizenship with a minimum real estate investment of USD 200,000 or USD 400,000 for each main applicant or through USD 150,000 contribution to the Sustainable Growth Fund (SGF). The government uses SGF funds for economic diversification and applications can only be made through licensed (TCSPs).

1.1. ML/TF Risks and Scoping of Higher Risk Issues

1.1.1. Overview of ML/TF Risks

46. St. Kitts and Nevis completed a National Risk Assessment (NRA) in 2019 and a follow-up risk assessment in 2021. The main sources of criminal proceeds identified are larceny (including house breaking), drug related offences (trafficking and possession with intent to supply on the

domestic market), robbery and other gun related offences. The drug offences are predominantly in respect of locally grown marijuana while the gun offences involve local robberies. There are no estimates on the level of criminal proceeds generated by these offences. Additionally, there has been a significant decline in crime during the period 2019 to 2020.

47. The NRA conducted in 2019 identified six (6) vulnerabilities. These were the international banking sector, international insurance sector, DNFBPs, specifically, DPMS, real estate agents, gaming and TCSPs, CBI Program, absence of independent information sources and quality of border patrol.
48. St. Kitts and Nevis is a small international financial centre. The international banking sector and its foreign operations, products, services, client base and non-face to face activity creates a level of ML/TF vulnerability which was rated medium in the 2021 follow-up NRA. The total assets of the international banking sector in 2020 was approximately USD 269 million. Significant activities of TCSPs include company formation services and provision of CBI services. The legal persons and legal arrangements associated with TCSPs are also areas of possible vulnerability for ML/TF risks. Complex corporate structures may be used as vehicles to obscure beneficial ownership (BO) information and complicate the trail for tracing the proceeds of crime. The level of vulnerability of the TCSP sector was rated medium in the 2021 follow up NRA.
49. The commercial banking sector comprises of both local and onshore foreign banks with approximate assets size of USD 2.5 billion; the sector was rated as medium in the 2021 NRA similar to the international banking sector. St. Kitts and Nevis has a CBI Program designed to stimulate investment by providing citizenship. It is one of the main sources of government revenue which was estimated to be approximately 11% of GDP in 2020 and is associated with ML/TF risks.
50. DNFBPs including the real estate sector, gaming and dealers in precious metal and stones were rated a high level of vulnerability in the 2021 follow NRA. It should be noted 90-95% of the lawyers in St. Kitts and Nevis are licensed TCSPs. However, lawyers carrying out DNFBP activities other than TCSPs were not subject to the AML/CFT regime at the time of the onsite. Two (2) new vulnerabilities were included in the follow-up NRA, PF and VASPs both of which were rated low. As at the date of onsite, there was no registered or licensed VASP in St. Kitts and Nevis.
51. The NRA has rated the threat of TF as low since St. Kitts and Nevis is part of the OECS subregion. However, the NRA did not consider the external funds flows of St. Kitts and Nevis financial sector.

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

52. St. Kitts and Nevis conducted its first NRA during the period January 2018 to July 2019 to identify, assess and understand its ML/TF risks. The NRA was organized and led by the NAMLC which was operational before it was formally established by law in early 2020 and involved the collective participation of key AML/CFT stakeholders from the public sector.
53. The World Bank's Risk Assessment Tool which provides a methodical process for countries to identify the main drivers of ML/TF based on the understanding of causal relations among risk factors and variables relating to the regulatory, institutional, and economic environment, was used to complete the NRA. The assessment involved the establishment of an NRA working

group comprising 54 persons from the key AML/CFT public sector stakeholders previously mentioned. From this working group six (6) teams were formed with each team being tasked with the completion of a Module of the NRA tool. Modules completed by the teams related to assessment of national ML and TF threats and vulnerabilities of various sectors including banking, insurance, securities, credit unions MSBs and DNFBP sectors.

54. The private sector contributed to the assessment by providing data and completing questionnaires. They received the first draft of the NRA report and provided feedback on it to the working groups.
55. At the end of March 2021, St. Kitts and Nevis produced an NRA follow-up report which was still pending the approval of the NAMLC at the time of the onsite. Consequently, the findings of this report were not yet shared with private sector stakeholders. This follow-up report focused on on-going progress made in addressing the ML/TF risks facing the jurisdiction as identified in the 2019 NRA. During the follow-up assessment, improvements in the AML/CFT controls and the extent to which threats and vulnerabilities have been mitigated by these controls were assessed. The NRA follow-up also sought to identify, assess, and understand new threats and vulnerabilities in the jurisdiction. From the assessors' discussions with private sector stakeholders, it was determined that they were unaware of the follow-up assessment that was being conducted.
56. Through the NRA process St. Kitts and Nevis was able to develop a reasonable understanding of its ML risk, however the understanding of TF risks was limited. The NRA process identified significant gaps in relation to data collection which hindered the process and overall results of the assessment. Improved data collection and retention was therefore identified as an area for priority focus. Other factors which hindered a comprehensive understanding of ML/TF risks included external threats not being adequately identified, sectors most at risk of threats not identified and risks associated with legal persons and legal arrangements not adequately assessed noting the significant number of legal persons and arrangements incorporated in the jurisdiction.
57. In identifying higher risk issues for increased focus during the on-site visit, the assessment team reviewed information provided by St. Kitts and Nevis including its NRA for ML/TF and relevant credible publications available through open sources. The following higher risk issues were identified and given increased focus during the on-site visit:

Higher Risk Issues

58. ***Larceny (including housebreaking)***: The NRA conducted by the authorities identified larceny as one of the main sources from which illicit funds are derived in St. Kitts and Nevis. Larceny was noted as the top predicate offence accounting for 41% of offences and housebreaking and larceny accounting for 32% of offences. Focus was placed on the existing measures to address the proceeds of crime and associated ML related to larceny and house breaking.
59. ***Drug related offences (Trafficking with intent to supply on the domestic market)***: The ML/TF NRA conducted by the jurisdiction identified drug related offences (trafficking with intent to supply on the domestic market) as accounting for 12% of predicate offences. The drug offences are primarily in respect of domestically grown marijuana. Focus was placed on the ability and effectiveness of LEAs to trace, seize/restrain and forfeit proceeds from these offences. St. Kitts and Nevis proximity to Puerto Rico and the U.S. Virgin Islands make it attractive to narcotics traffickers. There are possible border control challenges that arise based on the geographical

location of St. Kitts and Nevis with its open coastal borders. It is commonly understood that this type of terrain may lend itself more readily to potential asset and narcotic smuggling. Focus was placed on the ability and effectiveness of LEAs to trace, seize/restrain, and forfeit proceeds from these offences in the context of international cooperation.

60. **Tax Crimes:** The NRA indicates that tax crimes are relatively new, and a framework to operationalize the competent authority on tax crimes needs to be implemented. The jurisdiction has received tax information requests pursuant to the St. Kitts and Nevis MACMA¹. Income tax on individuals was abolished in St. Kitts and Nevis in 1980². This increases the risk of foreign tax crime as a predicate offence. Focus was placed on the jurisdiction's understanding of its risk from foreign tax crime and its policies and measures in place to address this issue. Given the number of International Business Companies (IBCs), the assessors reviewed the supervisory regime of TCSPs to evaluate the mitigation measures inclusive of BO provisions.
61. **Citizenship by Investment Program (CBI):** St. Kitts and Nevis introduced the CBI in 1984. An individual is eligible for economic citizenship with a minimum real estate investment of USD 200,000 or USD 400,000 for each main applicant, or through a USD 150,000 contribution to the SGF. Citizens of the Democratic People's Republic of Korea (DPRK), Iran, and Afghanistan are prohibited from applying³. Given its international nature, this type of program is vulnerable to ML/TF risks. The NRA indicates that applicants are subject to rigorous due diligence checks and applications are made through licensed TCSPs who are subject to AML/CFT oversight by the FSRC⁴. Focus was placed on the measures implemented in St. Kitts and Nevis including due diligence conducted on applicants to mitigate the risks of the program and the application of the funds including investments in the real estate sector and the SGF.
62. **International Sector:** The NRA indicates that the non-face-to-face activity of the international banking sector makes it vulnerable to ML/TF⁵. Challenges in the oversight of the international business corporations and trust sectors due to the secrecy and confidentiality laws have also been indicated elsewhere⁶. While assessing the legal, regulatory and operational framework of the international sector, focus was placed on BO and transparency issues and the availability and timely access to relevant information by domestic and foreign LEAs.
63. **TCSPs:** The legal arrangements and legal persons associated with TCSPs are areas of possible vulnerability for ML/TF. There are 98 TCSPs (52,266 IBCs of which 9,104 were active, 5,095 trusts of which 553 active and, 20,425 limited liabilities companies (LLCs)) of which only 3,433 are active. The TCSPs may facilitate obscuring BO information and complicate the trail for tracing the proceeds of crime. TCSPs are supervised by the FSRC pursuant to the provisions of the FSRCA. The NRA has indicated that the sector has been subjected to frequent and rigorous AML/CFT examinations to monitor the systems of control and the effectiveness of risk mitigating measures⁷. In light of the concern about secrecy and confidentiality laws, the assessors examined the preventive measures, the effectiveness of the supervisory framework

¹ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at page 18

² St. Kitts and Nevis Inland Revenue Department - www.skniird.com/IncomeTax-Page.aspx?PageID=137

³ INCSR 2019 Vol II- International Narcotics Control Strategy Report 2019 at page 162

⁴ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at page 22

⁵ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at page 21

⁶ INCSR 2019 Vol II- International Narcotics Control Strategy Report 2019 at page 162

⁷ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at page 22

for TCSPs as well as domestic and foreign law enforcement's ability to access relevant information.

64. **Gaming Sector:** The cash intensive nature of the gaming sector and other factors make it vulnerable to ML/TF. It was one of three sectors the NRA noted had a high vulnerability to ML/TF. A significant portion of the clients are tourists who may present a challenge in conducting ongoing monitoring and assessment of clients. To minimize the effect of this possible vulnerability, the supervisory authorities have conducted outreach and joint onsite examinations to assist the sector in identifying its risks and introducing appropriate risk mitigating measures and controls. Additionally, legislation was enacted for a more comprehensive AML/CFT based supervisory framework to properly supervise the sector⁸ during the onsite visit. The assessors examined the preventive measures and the effectiveness of the supervisory regime for the gaming sector.
65. **Terrorist Financing:** The NRA has indicated that the threat of TF is low in the OECS and as a result, there has been no STRs and no TF related investigations in the area⁹. However, the analysis for this conclusion is cursory based on the lack of international requests dealing with TF. The NRA also notes the regulatory structure of the NGOs lacks coherence and needs to be fully recognized for compliance with Recommendation 8. The assessors focused on determining the adequacy of the methodology used to assess the TF threat and whether the available information and data justified the assessment of low.
66. **Proliferation Financing:** The St. Kitts and Nevis International Ship Registry had registered 2,000 vessels by the end of 2017 as reported on its website. The assessors noted in the 2018 UN Report of Panel of Experts on DPRK, that a vessel registered in St. Kitts and Nevis was used in 2017 to evade DPRK sanctions. Given this international and regional backdrop, the assessors focused on St. Kitts and Nevis' compliance with combating PF measures as required by FATF Recommendations.

Emerging Issues

67. **Virtual Assets** With the enactment of virtual asset legislation in January 2020, the assessors sought to ascertain the extent of the activity in the jurisdiction and jurisdiction's framework relating to this emerging activity.

Low Risk

68. **Securities Sector.** There are two (2) licensed banking institutions that offer securities services. The total number of trades range from approximately 140 to 280 while the volume was from USD 7.4 million to USD 14.8 million in the last five (5) years with a declining trend since 2016¹⁰. The securities business constitutes a small portion of each bank's operation and present minimal risk as the client base is essentially made up of citizens of St. Kitts and Nevis domiciled locally and internationally. The FSRC conducted AML/CFT compliance examination of each licensed institution during the period from 2014 – 2018.

⁸ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at page 21

⁹ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at page 19

¹⁰ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at pages 29 and 30

69. **Credit Unions:** There are four (4) credit unions in St. Kitts and Nevis with total assets of approximately XCD 380 million (USD 140.6 million) accounting for 1.21% of GDP¹¹. They are subject to AML/CFT measures and do not process international transactions.
70. **Domestic Insurance** Domestic insurance accounted for 1% of GDP and comprise generic general and long-term life insurance. The products offered are generally associated with low risk of ML/TF.

1.2. Materiality

71. The economy of St. Kitts and Nevis relies heavily on tourism activities, and in recent years, significant CBI inflows. Strong activity in the construction sector, supported by large real-estate projects funded through the CBI program and its spill over to the economy, has underpinned economic growth in St. Kitts and Nevis in recent years¹². Other significant contributors to the economy of St. Kitts and Nevis include the manufacturing and financial services sector. The financial services sector contributes approximately 10.5% to the jurisdiction's GDP¹³ which was USD 1.01 billion in 2018, with the banking sector accounting for 76% of the financial sector's GDP contribution.
72. St. Kitts and Nevis is a small international financial centre which consist of commercial banking, international banking, domestic insurance, international insurance, securities, money service businesses, credit unions, and a TCSP sector. The TCSP sector in St. Kitts and Nevis is relatively significant with 98 TCSPs licensed as at December 31st 2020. Incorporated or registered in St. Kitts and Nevis as of December 31, 2020 were 52,266 IBCs of which 9,104 were active; 5,095 trusts of which 553 active and, 20,425 limited liabilities companies (LLCs) of which only 3,433 are active.

1.3. Structural Elements

73. The key structural elements required for an effective AML/CFT system are in place in St. Kitts and Nevis. The jurisdiction exhibited political and institutional stability, governmental accountability, rule of law, a professional independent judiciary and demonstrated high-level commitment in addressing AML/CFT issues. CAs, such as the FSRC, the FIU, the RSCNPF, the DPP, the AG, and NAMLC provide for an AML/CFT framework.

1.4. Background and Other Contextual Factors

74. St. Kitts and Nevis is not a predominantly cash based society and there are many international firms and trusts arrangements in the country. The government has established the CBI Program which provides CBI services and attracts persons from many different nations who acquire St. Kitts and Nevis citizenships by investing in the country's economy through contributions to its SGF or investing in real estate.

¹¹ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at pages 45 and 46

¹² St. Kitts and Nevis IMF 2017 Article IV Consultation Report at pages 37 and 69

¹³ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2019 at page 32

75. St. Kitts and Nevis is a small international financial centre offering international banking services and company formation services. St. Kitts and Nevis has well developed banking system with a wide range of banking facilities accessible by the population.

1.4.1. AML/CFT strategy

76. An action plan was crafted by public and private sector representatives in St. Kitts and Nevis based on the findings of the NRA conducted during the period 2018 to 2019. The two (2) year action plan identifies areas of ML risk, corrective actions, the responsible agencies, required budget and timelines for the action items. Corrective actions include amendments to laws and regulations and increases in human resources and training. The development of the National Strategic Plan and Policy Documents to fight against ML/TF were identified as a high-priority action item. PF was not included in the revised strategic action plan of 2021. The NAMLC was also established to coordinate the actions of supervisory authorities and government agencies to address the gaps identified in the AML/CFT framework by the NRA.

1.4.2. Legal & institutional framework

77. The main laws relevant to St. Kitts and Nevis AML/CFT/CPF system are as follows:

- a) **Proceeds of Crime Act** Cap. 4.28 (**POCA**) establishes ML as a criminal offence and a legal framework for confiscation and other provisional measures.
- b) **Anti-Terrorism Act** Cap 4.02 (**ATA**) establishes terrorism as a criminal offence and a legal framework for confiscation and other provisional measures.
- c) **Anti-Money Laundering Regulations** No. 46 of 2011 (**AMLR**) provides the legal basis for financial sector and DNFBPs regulation and supervision. It also sets out the basic AML obligations for FIs and DNFBPs.
- d) **Anti-Terrorism (Prevention of Terrorist Financing) Regulations** No.47 of 2011 (**ATR**), provides for the implementation of the United Nations International Convention for the Suppression of the Financing of Terrorism, creates TF offences, and sets out the basic TF obligations for FIs and DNFBPs.
- e) **Financial Services Regulatory Commission Act** Cap. 21.10 (**FSRCA**) establishes the Financial Services Regulatory Commission as the supervisory body with concomitant powers for AML/CFT monitoring and compliance of all FIs and DNFBPs.
- f) **Financial Services (Implementation of Industry Standards) Regulations** No. 51 of 2011 (**FSR**) outlines in greater detail the AML/CFT obligations of FIs and DNFBPs and provides guidance to achieve compliance with these obligations.
- g) **Financial Intelligence Unit Act** **Cap 21.09 (FIUA)** establishes the financial intelligence unit as an independent agency to receive reports of suspicious transactions from FIs and DNFBPs and to gather, store, analyse and disseminate information to law enforcement authorities and relevant bodies.
- h) **Companies Act** **Cap 21.03** and **Companies Ordinance** Cap 7.06 (**CO**) makes provision for the registrations and incorporation of companies and NPOs.

- i) **Anti-Proliferation (Financing of Weapons of Mass Destruction) Act (APA)** No. 10 of 2020 makes provision to prevent, disrupt and criminalize the financing of the proliferation of weapons of mass destruction.
 - j) **Anti-Proliferation (Financing of Weapons of Mass Destruction) Regulations (APR)** No. 9 of 2021 provides the CPF obligations and requirements for FIs and DNFBPs.
78. St. Kitts and Nevis has a broad range of authorities and agencies responsible for implementation and supervision of the AML/CFT regime, namely:
- a) The **Anti-Money Laundering National Committee** (referred to as **NAMLC**) was established by the Anti-Money Laundering National Committee Act (AMLNCA) 2020 to *inter alia* coordinate with supervisory authorities and other government agencies for the issuance and implementation of the necessary policies and regulations addressing the gaps identified in the AML/CFT framework to ensure full compliance with FATF Recommendations.
 - b) The **Office of the Attorney-General (AG)** is the Central Authority in St. Kitts and Nevis to receive and process Mutual Legal Assistance requests and extradition requests.
 - c) The **Office of the Director of Public Prosecutions (DPP)** is a department within the Ministry of Justice and Legal Affairs that is responsible for prosecuting all crimes and matters relating to ML/TF/PF.
 - d) The **Minister responsible for National Security** is empowered to designate any person or group of persons, whose activities fall within the definition of terrorist activity, as a terrorist or terrorist group once those persons are mentioned in the Consolidated List established and maintained by the 1267/1989 Committee.
 - e) The **Financial Intelligence Unit (FIU)** is the central national agency responsible for receiving, analysing and disseminating suspicious transactions reports (STRs) to the White-Collar Crime Unit (WCCU). The FIU also requests and shares financial information: (i) concerning the suspected proceeds of crime and potential financing of terrorism, or (ii) as required by national legislation or regulation, in order to combat ML and TF.
 - f) The **Royal St. Christopher and Nevis Police Force (RSCNPF)** is the principal LEA in the jurisdiction. The WCCU is a department within the RSCNPF which was established in 2008 with a mandate to investigate all ML and TF offences.
 - g) The **Financial Services Regulatory Commission (FSRC)** was established under the FSRCA as the ultimate regulatory body for AML/CFT monitoring and compliance of financial services within the jurisdiction. The FSRC has a St. Kitts branch and a Financial Services Regulation and Supervision Department in Nevis. The FSRC's principal functions are to maintain a general review of the operations of all regulated entities, monitor financial services business carried on in or from within St. Kitts and Nevis and to take action against persons carrying on unauthorised business and to monitor compliance by regulated persons with the POCA, the ATA and laws, regulations, codes or guidelines relating to ML or the financing of terrorism (FT).

- h) The **Customs and Excise Department (CED)** is a federal entity with local operations in Nevis. Its principal functions are border protection, revenue collection and trade facilitation. Some of the key authorities in St. Kitts and Nevis have signed MOUs to cooperate and exchange information. For instance, an MOU was executed among the FIU, the CED, the DPP and the police force to facilitate investigations and prosecutions of ML, TF, PF, and related predicate offences. The FIU and the DPP are empowered to cooperate with the CA of a foreign state in matters relating to ML offences.
- i) The **Competent Authority for Tax Matters (CATM)** is the authority charged with administering and ensuring compliance with tax laws in St. Kitts and Nevis. It is empowered to enforce these laws by bringing prosecutions and to increase its capacity and strengthen the tax compliance framework. It also handles requests and sharing of information with counterparts and relevant stakeholder agencies. Additionally, the CATM has the capacity to submit STRs to the FIU.

1.4.3. Financial sector, DNFBPs and VASPs

79. St. Kitts and Nevis is a small international financial centre which consists of commercial banking, international banking, domestic insurance, international insurance, securities, money service businesses and credit unions. The financial sectors, number of entities in the sectors and sector weights are captured in the following table:

Table 1.1 Financial Sector Type, Number of Entities and Weight

| Financial Sector Type | Number of Entities | Sector Weight |
|---|--------------------|----------------------|
| Commercial Banking | 7 | Most Important |
| International Banking | 2 | Highly Important |
| Domestic Insurance | 16 | Less Important |
| International Insurance (Companies & Managers) | 235 | Moderately Important |
| Securities | 2 | Less Important |
| Money Service Businesses | 18 | Highly Important |
| Credit Unions | 4 | Less Important |

80. Financial sector weight was determined by the risks, materiality, and context of the sectors in St. Kitts and Nevis.

- a) **Banking Sector** – The banking sector of St. Kitts and Nevis contributes approximately 8% to the jurisdiction GDP. For the year 2020, assets of the commercial banking sector totalled USD 2.6 billion while assets of the international banking sector totalled USD 269 million. The banking sector offers a wide variety of products and services which most other sectors in the economy rely on. Although the asset size of commercial banks is significantly larger than that of the international banks, ML/TF vulnerability for commercial and international banks was assessed as medium in the follow-up NRA 2021. The existence of a strong AML/CFT framework in the commercial banking sector proved effective in reducing the effects of the inherent vulnerabilities in the sector while the improved compliance function, documentation of policies and procedures as well as

risk assessment policies in the international banking sector resulted in an overall medium risk rating.¹⁴

- b) **Insurance Sector** – For the year 2018, the domestic insurance sector in St. Kitts and Nevis contributed approximately 1% of the jurisdiction’s GDP. Total assets for the domestic insurance sector as of December 2019 amounted to approximately USD 166 million while total assets for the international insurance sector amounted to approximately USD 323 million. Based on the size of the domestic insurance sector, the number of registered insurance companies and the products offered, the level of ML/TF vulnerability associated with the domestic sector was assessed in the NRA to be low. The international insurance companies do not maintain a physical presence in St. Kitts and Nevis and records of their operations are available for examination at the office of the insurance manager and registered agent in the jurisdiction. International insurance companies underwrite international risks, and their level of vulnerability remain medium in the 2021 follow-up NRA.
- c) **Securities** – The two (2) licensed securities entities in St. Kitts and Nevis are also licensed banking institutions. The securities business constitutes a small portion of each bank’s operations. Trading activity has been decreasing since 2016 and in 2019 the value of securities sold in St. Kitts and Nevis totalled USD 7.4 million. The NRA determined that the activities of the securities sector do not present significant AML/CFT vulnerabilities given the small size of the sector, limited trading activities and the number of licensees in the jurisdiction. Consequently, in the follow-up NRA 2021 the securities sector remains at medium-low vulnerability.
- d) **Money Service Businesses** – Two (2) classes of MSBs, being money transmitters and payday advance lenders, operate in St. Kitts and Nevis. The direct contribution of MSBs to GDP was not available. As of December 31, 2018, the total assets of payday advance lenders were XCD 8.2 million (USD 3 million). Payday advance lenders do not engage in cross-border services and have a predominantly domestic customer base but are highly cash intensive. The NRA assessed the vulnerability of payday advance lenders to be medium-low. For the year 2020, the number of inbound transactions of money transmitters totalled 61,684 with a total value of XCD 52,037 million (USD 15.25 million) while outbound transactions totalled 77,058 with a total value of XCD 57,952 million (USD 23.6 million). Although the average value of a money transmitter’s transaction is less than USD 500, the volumes of transactions which include cross border activity was high, totalling 138,742. Since 2016, there has also been a marked increase in licenses granted in the sector and STRs received from the sector. The overall vulnerability of MSB in the follow-up NRA 2021 was assessed as medium high.
- e) **Credit Unions** – During the period 2014 to 2020, credit unions contributed an average of 1.21% to the GDP of St. Kitts and Nevis. As of December 31st, 2020, assets of credit unions totalled USD 140.4 million. Credit unions do not process international transactions, have a small sector size and contribute minimally to the jurisdiction GDP. The NRA assessed the level of vulnerability associated with the credit union sector to be medium.

¹⁴ National Risk Assessment for Anti Money Laundering and the Financing of Terrorism 2021 at pages 30

81. The DNFBP sector consists of casinos and other gaming entities, real estate agents, DPMS, lawyers, notaries, other independent legal professionals, accountants, car dealers, car rental agencies and TCSPs. During the 2019 NRA not all categories of DNFBPs were adequately assessed due to data collection challenges, limitations in human resource capacity and lack of a comprehensive supervisory framework. Categories of DNFBPs that were assessed are TCSPs, gaming (including casinos), real estate agents and DPMS.
82. The DNFBP sectors, number of entities in the sectors and sector weights are captured in the following table:

Table 1.2 DNFBP Sector Type, Number of Entities and Weight

| DNFBP Sector Type | Number of Entities | Sector Weight |
|---------------------------------------|--------------------|----------------------|
| Trust and Corporate Service Providers | 98 | Highly Important |
| Gaming Sector | 5 | Moderately Important |
| Real Estate Sector | 240 | Highly Important |
| Dealers in Precious Metals and Stones | 57 | Moderately Important |
| Lawyers, Notaries & Accountants | 125 | Moderately Important |

- a) **TCSPs** – The TCSP sector in St. Kitts and Nevis is relatively significant with 98 TCSPs licensed as of December 31st, 2020, with all TCSPs being lawyers. These TCSPs were responsible for 52,266 IBCs, 20,425 LLCs and 5,095 exempt trusts amongst others, incorporated or registered in St. Kitts and Nevis as of December 31st, 2020. The TCSP sector was rated in the follow-up NRA 2021 as medium vulnerability rating.
- b) **Gaming** – There are five (5) gaming entities of which one (1) is a casino registered in St. Kitts and Nevis under its Betting and Gaming Control Act. The Gaming sector's contribution to GDP is not available and in the follow-up NRA 2021 its vulnerability remained high. The casinos are a hotel casino, and its activities are not significant.
- c) **Real Estate Sector** – There are 240 real estate agents operating in the St. Kitts and Nevis. The real estate sector contribution of the sector to GDP is not available. No information is available regarding the breakdown of the real estate sector into the international and domestic market. The follow-up NRA 2021 rated its level of vulnerability as high.
- d) **Dealers in Precious Metals and Stones** – Jewellers in St. Kitts and Nevis are registered by the CED. As of December 31st, 2020, there were 51 jewellers registered. The importation of high value goods highlights the predominance of jewelry in this category. There is a level of monitoring by the CED with respect to the importation of high value jewelry into the jurisdiction. No on-site examinations were conducted for the sector during the period 2016 to 2020 and in the follow NRA 2021 the vulnerability remained high.
- e) **Lawyers, Notaries and Accountants** – There are 94 notaries and 31 accountants operating in St. Kitts and Nevis. The total number of lawyers has not been provided.

However, 98 lawyers are licensed as TCSPs. No information is available on the contribution to GDP and they were not risk rated in the NRA follow-up report. As such they are rated moderately important.

1.4.4. Preventive measures

83. The main AML/CFT preventive measures in St. Kitts and Nevis are generally based on the POCA, ATA, APA, APR, AMLR, FSRCA, FSR and FIUA. All provisions of the POCA, ATA, APA, APR, AMLR, FSRCA, FSR and FIUA are applicable to both FIs and DNFBPs. The legislation addresses the areas in the FATF Recommendations on preventive measures, including CDD, record keeping, internal controls, reporting of suspicious transactions, etc. No FIs and DNFBPs have been exempted from the FATF Recommendation. During the postponement of the mutual evaluation from March 2020 to March 2021 due to the COVID-19 pandemic the St. Kitts and Nevis enacted legislative amendments and new statutes to address deficiencies identified in the 2019 NRA.

1.4.5. Legal persons and arrangements

84. St. Kitts and Nevis as a small international financial centre offering company formation services has a legal framework which allows for a broad range of legal persons and legal arrangements designed to attract investment from foreign companies and individuals.
85. The Companies Act, Cap 21.03 outlines the requirements for the formation of companies limited by guarantee, shares and companies limited by both shares and guarantee. Limited liability companies may be exempt companies, ordinary companies, private companies, public companies or external companies. Local or domestic companies incorporated under the CO are categorised as public, private, non-profit and external companies. The Nevis Limited Liability Company Ordinance (NLLCO) provides for the formation of limited liability companies in the island of Nevis. The Nevis Business Corporation Ordinance (NBCO) provides for the establishment of international business corporations in the island of Nevis. The FA provides for the establishment of foundations. The Multi-form Foundation Ordinance (MFO) provides for the establishment of multiform foundations in Nevis. The Limited Partnership Act (LPA) provides for the establishment of limited partnerships.
86. Trusts in St. Kitts are formed under the TA. These trusts may be charitable trusts, spendthrift or protective trusts, unit trusts or common trusts. The NIETO provides for the creation of various types of international trusts including charitable trusts, non-charitable trusts, spendthrift or protective trusts and qualified foreign trusts.

Table 1.3 Type and number of registered legal persons and legal arrangements

| Type of Legal Persons/Arrangements | No. Registered (where available) |
|------------------------------------|----------------------------------|
| St. Kitts as of 31.12.2020 | |
| Private exempt companies | 486 with 453 being active |
| Private ordinary companies | 1,685 with 968 being active |
| External companies | 84 with 55 being active |
| Public companies | 39 with 22 being active |
| Exempt limited partnerships | 3 (all active) |
| Ordinary limited partnerships | 4 (all active) |
| Exempted trusts | 2(all active) |
| Ordinary trusts | 6 with 3 being active |
| Exempt Foundations | 344 with 257 being active |
| Ordinary Foundations | 34 with 25 being active |
| Nevis as of 31.12.2020 | |
| International business companies | 52,266 with 9,104 being active |
| Limited liability companies | 20, 425 with 3,433 being active |
| Domestic companies | 1,151 with 545 being active |
| Multiform corporations | 344 with 107 being active |
| Qualified foreign trusts | 115 with 16 being active |
| Exempt trusts | 5,095 with being 553 active |

87. The above table outlines the numbers of the types of registered legal persons and legal arrangements in St. Kitts and Nevis as of December 31st, 2020. The provisions under the AMLR, ATR and the FSR for FIs and DNFBPs require the obtaining of identification of beneficial ownership information for their customers.
88. The risk assessment did not identify the ML/TF risk of legal persons and legal arrangements in St. Kitts and Nevis.

1.4.6. Supervisory arrangements

89. The FSRC is the ultimate regulatory body for AML/CFT within the jurisdiction. The FSRC St. Kitts branch is responsible for the licensing, regulation and supervision of FIs and DNFBPs in St. Kitts. The Nevis (Financial Services Regulation and Supervision) Department (FSRC Nevis Branch) is responsible for the licensing, regulation, and supervision of FIs and DNFBPs in Nevis that conduct fiduciary and international financial services business. Legal persons and legal arrangement in St. Kitts and Nevis must be incorporated by the TCSPs/registered agents with the Registries in the FSRC St. Kitts and Nevis. The securities sector is governed by the Securities Act. The ECSRC is the regional body which regulates securities business including the market exchange and persons engaged in securities business within the Eastern Caribbean Currency Union (ECCU). Regulated entities in the banking sector are subject to two (2) licensing regimes. Commercial banks and the finance companies are licensed by the ECCB under the Banking Act, 2015, while international banking activities are licensed by the Ministry of Finance, Nevis Island Administration. Entities in the gaming sector are licensed by the FSRC under the Gaming Control Act of 2021.

1.4.7. International cooperation

90. St. Kitts and Nevis has cooperated with law enforcement in the United States of America (USA), United Kingdom (UK), the Caribbean and other jurisdictions in a timely manner providing and sharing information that has been requested for prosecution in other countries. The FIU also participates in training and sharing of information with regional FIUs. This engagement allows for intelligence and information sharing that may be generated from STRs.
91. The national policy seeks to assist other jurisdictions through the provision of information and intelligence relative to persons under investigation. This policy extends to participation in joint investigations of suspected persons or convicted persons, whether regionally or internationally. The role of the CED and Immigration is greatly enhanced through the Advance Passenger Information System (APIS) and the Advance Cargo Information System (ACIS). An example of this was a drug trafficking investigation from St. Vincent and the Grenadines where St. Kitts and Nevis assisted in the seizure of a boat and other property.
92. Additionally, St. Kitts and Nevis can provide a wide range of MLAs and extradition under the MACMA. Request for MLA and extradition are handled by the AG who is the Central Authority for all incoming and outgoing MLA and extradition requests. Extradition can be done for Commonwealth countries. St. Kitts and Nevis can process MLA requests from the USA, UK and other countries.

Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1. Key Findings and Recommended Actions

Key findings

- a) St. Kitts and Nevis conducted its first NRA during the period January 2018 to July 2019 and an NRA Follow-up during the period October 2020 to March 2021. These assessments resulted in the country having a limited understanding of the national ML/TF risks. Factors which limited the country's understanding of risks included inadequate assessment of national and sectorial threats, data collection challenges, and partial involvement of the private sectors. There was also no comprehensive vulnerability assessment of legal persons and legal arrangements within the context of St. Kitts and Nevis as a small international financial centre focused on formation of legal persons and arrangements. While TF risk assessments were conducted by St. Kitts and Nevis, these were limited as they did not consider factors such as the cross-border flow of funds in the context of St. Kitts and Nevis being a small international financial centre, and the movement of cash in and out of the jurisdiction.
- b) Following the completion of the 2019 NRA, St. Kitts and Nevis developed a NAP to mitigate risks identified in the NRA. The plan does not comprehensively address mitigation of TF risks.
- c) A National AML/CFT strategic plan for the year 2021 was also developed. The effectiveness of implementation and monitoring of the strategic plan could not be assessed as the plan was finalised less than a month before the end of the on-site visit to the country.
- d) Prior to the development of a national AML/CFT/CPF policy in March of 2021 there was little to no cooperation and coordination among the competent authorities on ML/TF/PF at the policy level. Domestic cooperation and coordination on ML at the operational level has been extensive while there has been none on PF.
- e) The AML/CFT/CPF policy developed by St. Kitts and Nevis outlines actions to be taken to implement the strategic plan, however, it falls short in outlining rules or principles to guide implementation of the national strategy to ensure risk mitigation is prioritized using a risk-based approach.
- f) The results of the NRA are not being used by St. Kitts and Nevis authorities as a basis to justify exemptions from AML/CFT requirements nor support the application of EDD or simplified due diligence (SDD).

Recommended Actions

St. Kitts and Nevis should:

- a) Take action to ensure that the jurisdiction develops a comprehensive understanding of its ML/TF risks by:
 - i. Implementing data collection tools or systems to collect data required for ML/TF risk assessments.
 - ii. Conducting a comprehensive assessment of the country's AML/CFT threats by including an analysis of proceeds of domestic predicate offences and cross border movement of funds.
 - iii. Ensuring that data on the proceeds from offences committed outside of the jurisdiction, which are either flowing through or remaining in St. Kitts and Nevis, are included in the NRA process.
 - iv. Conducting a comprehensive assessment of the risks of legal persons and legal arrangements being abused for ML or TF. This should be completed within the context of St. Kitts and Nevis as a small international financial center focused on the formation of legal persons and legal arrangements.
 - v. Carrying out a comprehensive assessment of threat level for the various financial sectors and the CBI program.
 - vi. Conducting a comprehensive risk assessment of all DNFBP sectors.
 - vii. Ensuring strategic analysis from the FIU is incorporated into the NRA process with a view towards identifying the country's existing and emerging ML/TF risks.
- b) Update the national strategic plan to include actions to mitigate risks of TF and guide ML/TF activities in the medium term and mitigate any additional risks identified in the NRA follow-up report of 2021 and update the plan to reflect current risks to the jurisdiction.
- c) Improve cooperation and coordination on ML/TF/PF matters at the policy level, the NAMLC should ensure that the AML/CFT/CPF policy is reviewed and updated regularly. The policy should outline rules or principles to guide implementation of the national strategy to ensure risk mitigation is prioritized using a risk-based approach.
- d) Ensure implementation of the policy on CPF to improve cooperation and coordination on PF matters at operational levels.
- e) The St. Kitts and Nevis authorities should develop and implement policies which will guide the use of risk assessments to justify exemptions from AML/CFT requirements and support the use of EDD for higher risk and SDD for lower risk situations.

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

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

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

94. St. Kitts and Nevis has taken positive steps towards identifying, assessing, and understanding its ML/TF risks however, the understanding of these risks by the jurisdiction remains limited. Understanding of ML/TF risk through the initial NRA of 2019 was limited by data collection challenges. This particularly affected the effective assessment of ML threats to the jurisdiction. Sector risk assessments conducted as a part of the NRA did not include analysis of sector threats and in the assessors' opinion resulted in the assessment being primarily focused on vulnerabilities. Data collection challenges also resulted in some categories of DNFBPs not being adequately assessed. Understanding of ML/TF risks in the jurisdiction was also limited by inadequate assessment of TF risks and risks associated with legal persons and legal arrangements. In addition, there was partial involvement of the private sector in the assessment process. Understanding of risks through the 2021 follow-up NRA was also limited by similar shortcomings of the 2019 NRA. The level of national ML threat, national TF threat and national vulnerability remained the same after completion of the 2021 NRA follow-up, despite an assessed reduction in the vulnerability level of the international banking, MSB and TCSP sectors.
95. In assessing ML threats to the jurisdiction in the 2019 NRA, and the 2021 NRA follow-up, larceny, drug related offences, robbery and other gun-related offences were identified by St. Kitts and Nevis as the main proceeds generating offences based on their prevalence in the jurisdiction. LEAs indicated that these offences are crimes of opportunity which do not generate large proceeds. Assessors determined that there is a gap in the jurisdiction understanding of the level of threat posed by these offences as they were provided with data from LEAs which indicate that proceeds from these offences and the value of drug seizures during the 2017 – 2020 period are estimated to be around USD33 million. Nine (9) ML charges were also levied during this period and there is no evidence that the proceeds of crime related to these charges were considered in the jurisdiction's threat assessment.
96. Threat assessment in the 2021 NRA follow-up had similar deficiencies as those identified in the 2019 NRA. The follow-up report indicated that data collection by the RSCNPF had been improved through the introduction of a Digital Crime Management Database. Whilst there was no evidence in the NRA follow-up report that data collected through improved data collection systems was used in the assessment of threats, the jurisdiction provided the data during the onsite visit, and it supports the conclusions on what the main proceeds generating crimes in the jurisdiction are. The national threat ranking was assessed in both the NRA of 2019 and the follow-up assessment of 2021 to be medium.
97. Data on the number of STRs filed with the FIU, ML cases investigated, and charges levied were presented in the threat assessment of both the initial NRA and the follow-up report. Proper analysis of this data was not done to assist in the identification of ML risks in the jurisdiction. Strategic analysis by the FIU to support identification of possible threats in the jurisdiction was

also limited and was not used in the NRA process to assist in identifying existing and emerging ML/TF risks to the jurisdiction.

98. This represents a gap in the jurisdiction's knowledge and understanding of its international threats in the context of the importance of the international financial sector to the jurisdiction. Cross-border threat was analysed to some extent in the initial NRA of 2019. The analysis included a look at the main countries from which goods are imported into St. Kitts and Nevis.
99. A variety of vulnerability factors were used to assess risk in every sector. The main national ML vulnerabilities identified in both the 2019 and 2021 assessments included the absence of independent information sources, the quality of border controls, the CBI Program, the international banking sector, the international insurance sector and the DNFBPs specifically the DPMS, Real Estate, Gaming and TCSP sectors. During the NRA follow-up process, two (2) additional areas of vulnerabilities were identified. These additional areas of vulnerabilities were VA and VASPs, and PF.
100. St. Kitts and Nevis identified the absence of independent information sources as a national ML vulnerability as in their opinion, these information sources such as credit bureaus which collect information from creditors on their borrowers play an important role in facilitating credit and identity information sharing which assist in screening and monitoring of individuals. At the time of the 2021 NRA follow-up exercise, a credit bureau was in the process of being developed.
101. The quality of border controls was also identified as a national ML vulnerability as the geographical location of the jurisdiction along with its open coastal borders may contribute to potential asset and narcotics smuggling. The authorities advised that they were in process of obtaining additional unmanned aerial vehicles to assist with monitoring coastal borders; and obtaining additional baggage x-ray scanners to assist in detecting undeclared cash being moved into or out of the jurisdiction.
102. The 2019 NRA and the 2021 NRA follow-up both identified the jurisdiction's CBI Program as an area that can be associated with ML/TF risks. These risks include criminals purchasing a St. Kitts and Nevis citizenship to protect their proceeds of crime or avoid justice. The assessments did not provide conclusions on the level of threats criminality of the participants pose to the CBI program, however, to mitigate risks, the jurisdiction adopted a robust client vetting and monitoring process and placed restrictions on applicants from designated high-risk jurisdictions. St. Kitts and Nevis' CBI Program is the longest running in the world and is a major contributor to the country's economy. Clients can obtain St. Kitts and Nevis citizenship by way of two (2) options available through the CBI Program. In the first option, clients can contribute a minimum of USD 150,000 to the country's SGF and in the second option clients can invest a minimum of USD 200,000 in an approved real estate development in the country.
103. CBI applications for clients making contribution to either the SGF or real estate developments are only submitted to the Citizen by Investment Unit (CIU) through local TCSPs. There are International Marketing Agents (IMAs) most of whom are located outside of the jurisdiction, who are authorized by the CIU to market the CBI Program internationally. The IMAs are vetted by way of a fit and proper test and must provide a copy of their AML policies and procedures to the CIU. Once an IMA receives an application from a client, they conduct KYC on the applicant which is then forwarded to a local TCSPs who submits the application to the CIU on behalf of the client. TCSPs are vetted and licensed by the FSRC St. Kitts and Nevis. Before

submitting a client application to the CIU, the local TCSP must first conduct preliminary CDD on the client. The CDD includes KYC and ML/TF checks, along with other checks to ensure that there is no negative media on the client. The TCSPs CDD report must be submitted to the CIU with the client application.

104. Once applications are received at the CIU, clients go through another vetting process which includes EDD checks by international due diligence companies and an international law enforcement check which is conducted with the assistance of the Joint Regional Communication Centre (JRCC). Applicants who are identified as PEPs by the international due diligence companies are subject to EDD which includes ensuring that they do not come from a corrupt government and that their source of funds is validated through their bank statements, employment records etc. The JRCC can access criminal data bases, AML databases and Interpol. They can access information from both the public list which includes persons who have convictions and other non-public list which show individuals who are the subject of an ongoing law enforcement investigation. The JRCC conducts checks on the clients and provide the CIU with appropriate feedback on the findings.
105. Further it was indicated that CBI applications are immediately rejected if any of the following condition exists: the client had a visa application refused by a country to which St. Kitts and Nevis has visa free access; reports received from the JRCC indicate that the client is a security risk to the jurisdiction; the client represents a reputational risk for the jurisdiction based on the information received; the client submits inconsistent information which suggest that they lied on the application; and the client is from one of three (3) prohibited countries being Democratic People’s Republic of North Korea, Iran or Afghanistan. The assessment team noted that clients accepted from countries associated with a high level of ML or TF risk such as Syria, Yemen, Iraq and Nigeria are subjected to EDD. It was uncertain however, how often this list of countries is updated. In instances where negative information is discovered on clients during the CDD process, clients are provided an opportunity to clarify the negative information before an application is refused. During the period 2017 to 2020, 7,330 applications were received for the CBI program and 151 were declined. Table 2.1 below provides a breakdown of the CBI applications that were declined during the assessment period.

Table 2.1. Breakdown of declined CBI Applications from 2017 to 2020

| Reason for Denial | 2017 | 2018 | 2019 | 2020 | Total |
|---------------------|------|------|------|------|-------|
| Security Alerts | 2 | 31 | 11 | 9 | 53 |
| Reputational Risk | 14 | 21 | 11 | 19 | 65 |
| UK Visa refusal | 2 | 4 | 2 | 7 | 15 |
| Interpol Red Notice | 0 | 1 | 0 | 0 | 1 |
| Multiple Identity | 0 | 1 | 0 | 0 | 1 |
| Criminal Record | 0 | 1 | 0 | 0 | 1 |
| US Visa refusal | 0 | 3 | 2 | 1 | 6 |
| Total | 18 | 62 | 26 | 36 | 151 |

106. A review of the above table 2.1 would suggest that the main reason for CBI denials are reputational risk and security alerts.

107. Monitoring of clients approved by the CBI Program continues even after their application has been approved and they have been granted St. Kitts and Nevis citizenship. In instances where clients' positions change negatively and could implicate the jurisdiction's reputation, the citizen (through the CBI Program) will meet the criteria for possible passport cancellation, revocation and further citizenship removal. The assessment team noted that there were 93 cases of passports being cancelled or revoked and there were no cases of citizenship removal during the period 2017-2020.
108. The assessors are satisfied that risk vulnerabilities associated with the CBI Program are being mitigated by its robust client vetting and monitoring processes.
109. The banking sector in St. Kitts and Nevis contributes approximately 8% to the jurisdiction GDP and consists of two (2) international banks, seven (7) domestic banks and a finance company. The 2019 NRA concluded that the ML vulnerability of domestic banks was medium. This reflects inherent vulnerabilities such as the cash intensiveness of the sector and cross border elements of some products and services; and the existence of strong AML/CFT frameworks. The 2021 NRA follow-up indicated that the vulnerability of the domestic banking sector remains at medium.
110. In the 2019 NRA, the international banking sector was assessed as having medium-high ML vulnerability. This was a result of inherent vulnerability associated with its international client base, non-face to face transactions and high volume of cross border transactions. The 2021 NRA update indicated that the sector had seen noted improvements in its risk management systems and internal controls, therefore ML vulnerability was reduced to medium.
111. The overall insurance sector contributes approximately 1% to the GDP of St. Kitts and Nevis. The domestic sector in the 2019 NRA, was assessed as having low vulnerability to ML based primarily on the size of the sector and the products offered. The 2021 NRA follow-up determined that the level of vulnerability in the sector remains low.
112. International insurance was assessed as having medium vulnerability to ML in the 2019 NRA. During the 2021 follow-up NRA, marked improvements were noted in the compliance functions, documentation of policies and procedures as well as procedures for risk assessment. The ML vulnerability rating of the sector remained at medium.
113. Securities services in St. Kitts and Nevis are offered by two licensed banking institutions and the services constitute a small portion of their operations. The securities sector was determined in the 2019 NRA to have medium-low ML vulnerability based on the size of the sector, limited trading activity and the strength of AML policies and procedures. The 2021 NRA follow-up concluded that ML vulnerability of the sector remains at medium low.
114. Credit unions contribute 1.2% to the GDP of the jurisdiction and were assessed as having medium-low vulnerability to ML during the 2019 NRA. This was based on factors such as the size of the sector, absence of international business activity and their level of AML controls. After the 2021 NRA follow-up the ML vulnerability level of the sector remained unchanged at medium low.
115. Two (2) classes of MSBs, being micro-financing/lending and money transmitters, operate in St. Kitts and Nevis. During the 2019 NRA, micro-financing and lending were assessed as having medium vulnerability to ML due to the size of the sector, predominant domestic customer base and the type of activity which was strictly domestic. Money transmitters were assessed as

having a high level of ML vulnerability because the high volumes and cross-border nature of transactions, and the low effectiveness of their AML compliance function. During the 2021 NRA follow-up, focus was placed on improvements made to the AML compliance management systems of the MSBs and their level of ML vulnerability was re-assessed to be medium-high.

116. While ML risk of TCSPs was assessed in the 2019 NRA and 2021 follow-up assessment, authorities in the jurisdiction advised that a separate assessment was not conducted for lawyers as they are captured in the assessment of TCSPs since all are lawyers. It could not be determined whether other activities for which lawyers should be supervised, such as buying and selling of real estate, management of client money, securities or other assets and management of client accounts were considered during the assessment. Authorities also advised that the car dealer and car rental agency sector is not currently being supervised as the sector is small with less than 1% of vehicle imports have a value of XCD 400,000 (USD 147,227) or more.
117. In the 2019 NRA, gaming, real estate agents and DPMS were assessed as having a high ML vulnerability while TCSPs were assessed as having a medium-high vulnerability. In the 2021 NRA follow-up, significant improvement was noted in the quality of risk management in the TCSP sector, and the sector was re-assessed to be of medium ML vulnerability. All other DNFBP sectors maintained their high ML vulnerability rating.
118. During the 2021 NRA follow-up exercise, emerging risks from VASPs were assessed. ML risk of VA activity and VASPs was assessed to be low due to no VASPs currently being registered and operating in the jurisdiction and investigations by law enforcement have not revealed any evidence signifying the illegal operation of VA businesses. ML risks arising from the COVID-19 pandemic were assessed to be low as the jurisdiction determined that FIs had effectively established and implemented procedures and mitigating risk measures to reduce any negative impact of the pandemic.
119. Additionally, St. Kitts and Nevis conducted a risk assessment of the NGO sector in St. Kitts in 2020 and determined that risk of TF abuse to the sector is low. The factors considered were the size of the sector, size of the entities, nature of their activities, source of funds, systems of internal control and compliance and adequacy of the NGO legislation. No segment of the NGO sector was identified as being at a higher risk for TF abuse than others. Nevis NPOs and MFFs which can take on the characteristics of an NPO were not assessed during this exercise. As at December 2020, 344 MFFs (it should be noted that not all MFs possess the characteristics of an NPO), 107 being active, were registered in Nevis.
120. In addition, the NRA report of 2019 did not include a comprehensive assessment of TF risks and risks associated with legal persons and arrangements. Assessing these risks is especially important noting the position of St. Kitts and Nevis as a small international financial centre focused on the formation of legal persons and legal arrangements. In assessing TF threats during the 2019 NRA, St. Kitts and Nevis emphasized that the threat is perceived to be quite low in the OECS subregion and in particular St. Kitts and Nevis. The basis for the conclusion that TF risk is low in the jurisdiction included no TF related STRs and investigations, no mutual legal assistance request received, or other international requests received by the FIU regarding TF activity within the period reviewed. Regulation of the banking sector and other FIs also indicated little evidence of TF activity occurring within the jurisdiction. It has been noted as reflected in Chapter 4, two (2) case studies were presented by the jurisdiction which indicated that there were two (2) TF investigations conducted, one as a result of spontaneous information received from a foreign FIU. These investigations revealed no illicit activity. During the 2021

NRA follow-up, TF risks were assessed by the Federation by reviewing the vulnerability of the NGOs in St. Kitts. In assessing TF risks, factors such as the cross-border and direction of flow of funds, including movement of cash, possible legitimate and criminal sources of TF, channels that can be used to move TF funds, quality of TF intelligence and adequacy of resources for TF investigations were not considered in either of the two (2) assessments. The follow-up report examined the characteristics of legal persons and arrangements but did not come to a determination on the level of vulnerability associated with them being abused for ML or TF. Although the NRA did not come to a conclusion on the level of vulnerability associated with legal persons and arrangements, the country has developed a perception of the vulnerabilities based on the supervision of TCSPs. As a result of the gaps in the assessment, the assessors concluded that the jurisdiction's understanding of their risk is limited.

2.2.2. National policies to address identified ML/TF risks

121. St. Kitts and Nevis further displayed its commitment to strengthening its AML/CFT/CPF regime by developing a national AML/CFT/CPF policy in March 2021. The overall objective of the policy is to strengthen the jurisdiction's framework in the identification, assessment and mitigation of any activity that foster or facilitate ML, the funding of terrorists or proliferation in or from within its shores. The policy was developed and approved by the NAMLC and contains provisions for it to be reviewed and updated on an annual basis by the NAMLC.
122. The main objective of the AML/CFT/CPF Policy should be to provide guidance and rules for completing activities to implement the strategic plan using a risk-based approach. The policy of St. Kitts and Nevis outlines actions to be taken to implement the strategic plan however, it falls short in outlining rules or principles to guide implementation of the national strategy to ensure risk mitigation is prioritized using a risk-based approach.
123. Prior to developing the national AML/CFT/CPF Policy and following the completion of its first NRA in 2019, St. Kitts and Nevis developed a NAP to mitigate risks identified in its AML/CFT regime. This NAP was developed with input from the competent authorities and private sector stakeholders during a workshop facilitated by the World Bank in July 2019. The NAP lists the sources of the ML vulnerabilities, key actions to be taken to address the vulnerabilities, agencies responsible for ensuring completion of the actions, detailed actions required to complete the key actions, and timelines for completion. While the NAP addresses risks identified in the NRA, it is composed mainly of institutional reforms and capacity building measures. For instance, some of the key action items highlighted are the establishment of the National Strategic Plans and Policy Document to fight ML/TF, increase of staff in the FIU and WCCU to improve efficiency and productivity, conduct of AML/CFT awareness training and harmonization and enhancement of the record keeping systems and recording capabilities of the judiciary and the RSCNPF. During the onsite visit, the NAP was approved by the NAMLC. No plan outside of training has been developed to mitigate potential risks of TF.
124. The NAP was developed as a short-term plan to be executed in approximately six (6) months. The goal of executing the plan in six (6) months was not met and not all actions had been completed at the time of the on-site visit. The NRA follow-up report of 2021 outlines the notable accomplishments from the NAP since 2019.
125. St. Kitts and Nevis updated the NAP in 2021 through the development of a national AML/CFT strategic plan. The national AML/CFT strategic plan was informed by the key outcomes of the

2019 NRA and outlined 15 broad objectives that must be met to address the findings of the NRA and reduce ML vulnerabilities in the jurisdiction. The objectives of the national AML/CFT strategic plan aligns with actions from the NAP that were yet to be completed and those that are ongoing measures which had been implemented since 2019. The effectiveness of implementation and monitoring of the strategic plan could not be assessed as the plan was finalized less than a month before the end of the on-site visit to the country. The national AML/CFT strategic plan will require updating to include objectives to address any additional risks identified in the NRA follow-up report of 2021 whenever this report is approved.

2.2.3. Exemptions, enhanced and simplified measures

126. The results of the NRA are not being used by St. Kitts and Nevis authorities as a basis to justify exemptions from AML/CFT requirements nor support the application of EDD or SDD. Circumstances for exemptions in the AML/CFT obligations are based on those stipulated in the FATF standards.
127. The FSRC conducts onsite and offsite examinations to determine the ML/TF risk of each regulated entity using the board-approved Risk Based Supervisory Framework implemented in 2015. During these examinations, it was determined that TCSPs and gaming entities posed the highest ML/TF risks. Outside of the TCSPs and gaming sector, the other categories of DNFBPs have minimal monitoring and oversight for AML/CFT. Therefore, while the country has identified these sectors as having overall high ML/TF risk no corresponding measures are in place to mitigate these risks.
128. In St. Kitts and Nevis FIs and DNFBPs must perform EDD for specific high-risk customers, foreign institutions, politically exposed persons (PEPs), non-face-to-face customers and customers from countries that do not apply or insufficiently apply FATF requirements. Further enhanced due diligence must also occur in any other situation which can present a higher ML/TF risk. Regulated entities are carrying out measures on international PEPs and non-face to face customers. This was demonstrated in the CBI program by banks, real estate agents and escrow agents. These institutions performed CDD inclusive of EDD where necessary prior to accepting clients and performing financial transactions. FIs and DNFBPs are required to take reasonable measures to determine whether a customer or BO is a domestic PEP however, it was noted that most regulated entities mentioned that due to the small nature of the island, all local PEPs are well known. Regulated entities also spoke about EDD on customers from high-risk jurisdictions from list disseminated by the FSRC or which in some cases the countries listed were embedded in the regulated entities CDD/KYC screening programs.
129. Early 2021 there was a legislative amendment to the AMLR/ATR to comply with the FATF Standards, which allows FIs to apply SDD measures where lower risks have been identified through an adequate analysis of risks by country or the FI. Due to the recent enactment of the AMLR/ATR amendment the assessment team was unable to assess effectiveness.

2.2.4. Objectives and activities of competent authorities

130. Some CAs have adjusted their objectives and activities to target vulnerable sectors identified in the 2018-2019 NRA. As a result of the NRA's findings, the FIU increased its outreach to the credit union sector and some FIs. Based on the NRA's findings, the FSRC held AML/CFT training sessions with representatives of the gaming sector, conducted an onsite examination of

a significant entity within the gaming sector, reviewed the AML/CFT and DNFBP regulations for consistency with the FATF Recommendations, conducted outreach visits with the jewellers and conducted follow-up examinations with the TCSPs and gaming entity. In May 2017, the FSRC launched its Facebook and Instagram pages to provide further awareness to the public about the FSRC and AML/CFT requirements.

131. The CATM indicated that it is currently utilizing the NAP to develop an operational plan. The CATM has a two-year implementation plan which incorporates elements of the NAP including training of staff in the identification of ML practices.
132. The CED participated in the 2018-2019 NRA and assigned staff to participate in the NRA Working Group's threat assessment and vulnerability teams. The CED noted that an action plan was formulated to address the deficiencies highlighted during the national risk assessment exercise. According to the CED, critical ML/TF risks include the possibility of passengers smuggling large sums of undeclared cash which exceed the required declaration threshold through legal ports of entry, the possibility of trade-based money laundering (TBML), under invoicing or over invoicing of items such as jewellery and other high value shipments, the use of large amounts of cash to pay for taxes at the department and the possible smuggling of large sums of cash, narcotics or firearms through porous borders.
133. Several measures were employed by the CED to address these ML/TF risks confronting St. Kitts and Nevis. In 2019, the CED acquired cargo scanners at a cost of XCD 1,800,000 (USD 662,519) to combat the different methods of concealment used by perpetrators of illegal activities. In 2018, the budgetary allocation for the Nevis division of the CED was increased from XCD 1,395,311 (USD 513,567) to XCD 2,732,900 (USD 1,005,889). In 2018 the budgetary allocation of the St. Kitts division of the CED, was increased from XCD 8,959,869 (USD 3,297,828) to XCD 12,211,848 (USD 4,494,773). In 2019 the sanctioned staff in the CED's enforcement division was increased from 29 to 35. During 2019, 19 CED officers received in house AML/CFT training.
134. The RSCNPF (WCCU) has implemented several measures to align its activities with the 2018-2019 NRA findings. As a result of the findings of the 2018-2019 NRA, the RSCNPF increased training for law enforcement, increased human resource capacity within the WCCU and its collaboration with other entities. The training of law enforcement personnel in AML/CFT is a continuous exercise. Training has extended beyond detectives to the level of basic recruit training, with approximately 100 officers benefitting from AML training provided by the Regional Security System – Asset Recovery Unit (RSS-ARU). The WCCU's staff also increased from two (2) officers in 2018 to a compliment of five (5) officers with all except one (1), exposed to overseas attachments and accreditation. The WCCU is also assisted by two (2) trained and certified financial analysts, who through partial secondment since 2019 have critically bolstered the WCCU's capacity to assess financial information. These analysts are enrolled in the FBI's Regional Forensic CPA Programme.
135. According to the 2018-2019 NRA, larceny, housebreaking and larceny, drug trafficking with intent to supply drugs, robbery and burglary were identified as the five prevalent predicate offences in St. Kitts and Nevis. Although there was an increase in the number of ML prosecutions, parallel financial investigations and confiscation measures are exceedingly low when evaluated against those crimes which have generated major proceeds of crime during the period under review. According to the RSCNPF's assessment, the majority of predicate

offences was individually insignificant in monetary value and would not have resulted in the conduct of financial investigations.

136. Additionally, migrant smuggling which was highlighted by the Immigration Department during the on-site interviews as an issue of concern, was not reflected in the 2018-2019 NRA findings however, human smuggling is not view as an emerging threat, but the jurisdiction has identified that the borders are porous and need to be secured and as such have increased border patrols. As a result of the vulnerabilities identified in the NRA relative to the open coastal borders and proximity to other jurisdictions, the Immigration Department opened additional offices on the Western and Eastern areas of the island. The human resource capacity was also increased at the existing offices.

2.2.5. National coordination and cooperation

137. St. Kitts and Nevis established the NAMLC whose mandate includes co-ordinating actions to assess the national ML and TF risks. As the national coordinating body responsible for AML/CFT/CPF matters at both policymaking and operational levels, NAMLC is an outcome of the 2019 NAP.
138. In accordance with section 5 of the AMLNCA, the NAMLC is chaired by the AG and comprises eleven other important functionaries within the AML/CFT/CPF regime. These are the Financial Secretary, the Comptroller of Customs, the Commissioner of Police, the DPP, a senior representative of the ECCB, the Comptroller of Inland Revenue (CATM), the Head of the St. Kitts and Nevis Branches of the FSRC, the Chief Immigration Officer, the Director of the FIU and a senior representative of the Legal Department, Nevis Island Administration.
139. Pursuant to section 4 of the AMLNCA, NAMLC has eight principal functions inclusive of coordination with the supervisory authorities and other government agencies for the issuance and implementation of the necessary AML/CFT/CPF policies and regulations. This is aimed at ensuring full compliance with the FATF Recommendations, coordination of actions to assess the country's ML/TF/PF risks, the provision of periodic updates of the NRA and risk-based outreach to high-risk sectors within St. Kitts and Nevis.
140. The NRA process in St. Kitts and Nevis began in 2018 with consultation meetings and training with the World Bank with representatives of the public sector. The work of the working groups, which included public sector officials, was ongoing during the year 2018 where various meetings were held to discuss strategies and projects to complete the NRA and enhance the AML/CFT regime of St. Kitts and Nevis. As a result of these meetings, some legislative changes were made during the years 2018 and 2019. These included amendments to the FSRC to include the definition of DNFBPs, virtual assets and the requirement for all financial services and related products to be licensed by the FSRC.
141. Additionally, in 2019, TCSPs regulations were passed to enhance the licensing and supervision of the TCSP sector. The Virtual Assets Act (VAA) was developed and drafted in 2019 and subsequently passed in January 2020. The FIU, FSRC, AG and the Ministry of Finance (members of SKN's Legislative Amendments Committee) held meetings from the 15th April 2019 to 23rd July 2020 in order to review the DNFBP regulations, legislative updates, review the TC Annex, discuss the MAFATFA and the Gaming Bill. During the period 2019 to 2020, NAMLC held five (5) meetings mainly to prepare for the upcoming mutual evaluation of St.

- Kitts and Nevis. During the period 2017 to 2020, there was little coordination and cooperation among the competent authorities for the development of AML/CFT policies.
142. Operationally, however frequent exchange of information, coordination and collaboration is apparent. For instance, in January 2020, the RSCNPF, CED, DPP, FIU and the Immigration Department amended an earlier 2006 Agreement to better facilitate the investigation and prosecution of natural persons and legal persons, or arrangements suspected of ML, terrorism, TF, the financing of proliferation of weapons of mass destruction (WMD) and related ML predicate offences.
 143. The FSRC, CATM and the Ministry of Finance collaborate on tax matters. The CATM participates in the FSRC's annual AML/CFT training workshops. The FIU and the WCCU have assisted the Central Authority with the processing of MLATs by gathering intelligence e.g., the tracing/identification of assets and company data that might subsequently be transformed into evidence via appropriate legal means. The FSRC-Nevis Branch and the CATM have also exchanged information. The CATM, FSRC and the CED have also conducted joint audits. During 2017 to 2020, the Port Authority has shared critical investigative information with the CED.
 144. The DPP regularly convenes case management sessions with the WCCU to discuss and review the conduct of ML investigations and prosecutions. The CED's Investigation Unit also submits criminal case files to the DPP for advice and prosecution purposes. The FSRC sends correspondence to the FIU prior to onsite examinations to inquire of the number of STRs filed by the regulated entity over a specified period. This information is verified by the FSRC during the onsite examination process. Additionally, AML/CFT issues which are highlighted during the onsite examination process are discussed at meetings of the FSRC's Board of Commissioners of which the FIU is a member. Information is also shared with other competent authorities, such as Customs, WCCU and the CATM as the need arises.
 145. The RSCNPF assists the CED with the vetting of new staff for both the CED and the Port Authority. Joint periodic beach patrols are conducted by the CED, the RSCNPF and the Coast Guard. The Immigration Department regularly receives requests for travel information from the FIU. In 2019, the Immigration Department received 67 requests for travel information from the FIU. Customs offences are jointly investigated by the CED and the RSCNPF.
 146. FIs are monitored by both the ECCB and the FSRC. The ECCB licences FIs which operate under the Banking Act 2015 and conducts prudential oversight and supervision of these entities. The AML/CFT supervisory role is fulfilled by the FSRC. During 2017 to 2019, the FIU processed 37 requests for assistance which were submitted by the WCCU. The WCCU primarily sought the FIU's assistance for financial investigations to identify or locate assets.
 147. The FIU spontaneously shared information with the Immigration Department to aid in the identification of illegal entry or exit at ports and possible smuggling of illicit funds/drugs into/out of the jurisdiction.
 148. During the period under review, while there was some inter-agency coordination and cooperation on TF matters between the FIU and WCCU there was no coordination and cooperation among the competent authorities on PF matters at policy and operational levels.

2.2.6. Private sector's awareness of risks

149. The FSRC has played a key role in raising awareness of the FATF standards through the work conducted to develop the NRA. This has included participation from both public and private sector representatives.
150. Private sector participation in the NRA was achieved through the submission of sector specific information requested by the authorities, feedback from questionnaires submitted to the regulators and workshops held to identify and mitigate the vulnerabilities in the various sectors. Majority of the FIs and DNFBPs attended the workshops and provided data. Most FIs interviewed had knowledge of the NRA but were not always aware of the identified vulnerabilities and risks facing their sectors. Additionally, the interviewed representatives were sometimes different from those that participated in the NRA on behalf of their sectors, and therefore were at times challenged to show awareness of the specific ML/TF vulnerability and risks identified in the NRA that affected their sectors. On the other hand, there was very limited knowledge about the NRA outside of the TCSPs which was revealed in interviews conducted with other operators in the DNFBP sector. The lack of knowledge about the NRA was due to the lack of participation.
151. Nonetheless, the level of activities carried out to build awareness of the NRA results among the private sector was medium to high. The NRA report was made available to the public in 2019. The results of the NRA were distributed via emails, the monthly newsletter that was dispatched by the FSRC and on the FSRC website. Workshops and face to face meetings could not be held due to the COVID-19 pandemic. The FSRC was the authority who disseminated the results of the NRA to the private sector.
152. St. Kitts and Nevis conducted an NRA follow-up exercise in 2020 which included collecting data from the private sector. At the date of the onsite the report had not been finalised or disseminated to the public and private sector partners.

Overall Conclusion on IO.1

153. St. Kitts And Nevis conducted its first ML/TF risk assessment in 2019 and a follow-up assessment in early 2021. These assessments were limited by the inadequate assessment of national and sectorial threats and partial involvement of the private sector in the assessment process. TF risks were not comprehensively assessed, and rating largely based on perception. An action plan was developed from the first NRA to mitigate risks identified in the Federation's AML/CFT regime. The action plan is composed mainly of institutional reforms and does not include actions to address threats to the country and various sectors.
154. Competent authorities in St. Kitts and Nevis generally agreed with the findings of the NRA. Some law enforcements were not aware of the estimated value of proceeds of crime in the jurisdiction. The results of the 2019 NRA were widely shared with public and private sector stakeholders. The report was also emailed to stakeholders and published on the website competent authorities. A National AML/CFT/CPF Policy was developed in March of 2021. The overall objective of the policy is to strengthen the jurisdiction AML/CFT/CPF framework. The policy of St. Kitts and Nevis outlines actions to be taken to implement the

strategic plan however, it falls short in outlining rules or principles to guide implementation of the national strategy to ensure risk mitigation is prioritized using a risk-based approach.

155. Prior to the above and following the completion of its first NRA St. Kitts and Nevis developed a NAP to mitigate identified risks. The NAP lists the sources of the ML vulnerabilities, key actions, agencies responsible for completion of the actions and timeline for completion. The NAP is composed mainly of institutional reforms and capacity building measures. St. Kitts and Nevis updated the NAP in 2021 through the development of a national AML/CFT strategic plan. The strategic plan had 15 broad objectives which were aligned with actions from the NAP that were yet to be completed and those that were ongoing. The assessment team noted that the results of the NRA are not being used by the authorities as a basis to justify exemptions from AML/CFT requirements nor support the application of EDD or SDD. Some competent authorities have adjusted their objectives and activities to target vulnerable sectors identified in the 2019 NRA, these include the FIU, FSRC, CATM and CED.
156. The NAMLC functions include coordination with the supervisory authorities and other government agencies for the issuance and implementation of the necessary AML/CFT/CPF policies and regulations. During the period 2017 to 2020, there was little coordination and cooperation among the CAs for the development of AML/CFT policies. Frequent exchange of information, coordination and collaboration among the competent authorities is apparent at the operational level. During the period under review, there was some coordination and cooperation on TF but none on PF.
157. The NRA included the participation of the private sector through submission of sector specific data. FIs and DNFBPs displayed different levels of awareness of ML/TF risks. The level of awareness of the NRA results among the private sector was varied. The NRA report was made available in 2019 and the report was disseminated via emails and published on the FSRC website. St. Kitts and Nevis conducted a follow-up exercise in 2021. At the date of the onsite the report had not been finalised or disseminated to the public.

St Kitts and Nevis is rated as having a low level of effectiveness for IO.1.

Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

- a) The FIU is accessing and utilising financial intelligence and relevant information to conduct its functions. The WCCU and CED have demonstrated that they are accessing and utilising financial intelligence.
- b) The FIU operational analysis has supported CAs to some extent in the conduct of their functions to identify and locate assets, identify individuals, create financial profiles, and lay criminal charges. However, the outcome achieved from operational analysis is limited.
- c) CAs have received training in the use of financial intelligence and relevant information in the conduct of their functions.
- d) The level of STRs reporting by some FIs is low and not commensurate with the country vulnerability assessment. Some FIs and DNFBPs have demonstrated a lack of understanding of their reporting obligations.
- e) The FIU activities has resulted in limited outcomes from information gathering, analysing, disseminations, and conducting joint investigations. The number of CDs has been declining and resulted in low number of ML investigations.
- f) The FIU stated that strategic analysis is incorporated in its annual report however, no annual report was produced or disseminated for the period 2015 to 2020. The FIU's annual report is not distributed or made available as a public document.
- g) The IT system of the FIU is overseen by an external officer who also works for the Ministry of Finance. This raises concerns about the security and independence of the FIU.

Immediate Outcome 7

- a) The WCCU, a unit of the RSCNPF is responsible for the investigation of all ML and TF matters and criminal asset recovery. The main source of financial intelligence leading to

ML and TF investigations is the CDs disseminated by the FIU to the WCCU. The RSCNPF has systems in place which allow staff of the WCCU to be aware of potential ML cases stemming from predicate offences. The DPP guides the WCCU in the conduct of ML investigations. In selecting a matter for ML investigations cases above a threshold of XCD 20,000 (USD 7,361) would include a parallel investigation for ML while those under the threshold will only have predicate offence investigations. There are instances where ML investigations can take place below the threshold.

- b) The selection of ML investigations does not take into account the results of the NRA and are based on a monetary threshold, the complexity of the matter and possible asset recovery. It is noted that the main predicate offence of ML investigations was larceny, which is consistent with the NRA finding, all ML investigations were for domestic offences which is not consistent with St. Kitts and Nevis as a small international financial centre with substantial external funds and TCSPs. Additionally, the selection for ML prosecutions does not consider the NRA findings and is based on specific criteria including whether the applicable penalty for the predicate offence or for an ML offence was proportionate to the criminality of the offence on trial. The national AML/CFT policies were only finalised during the onsite visit.
- c) The WCCU conducted 12 ML investigations for the period. A comparison of the number of predicate offences for 2019 (725) and 2020 (426) with the number of ML investigations of six (6) for each year highlights the low level of ML investigations. At the time of the onsite visit there were eight (8) ML prosecutions before the court for self-laundering.
- d) While St. Kitts and Nevis is a small international financial centre with a foreign clientele and a substantial number of corporate entities there have been no ML investigations for foreign predicates or corporate entities.
- e) There have been no ML convictions in St. Kitts and Nevis however, there are outstanding ML matters before the courts for final adjudication, therefore, assessors are unable to assess the effectiveness, proportionality, and dissuasiveness of sanctions.
- f) In lieu of no ML conviction, a conviction for the predicate offence will be sought to pursue confiscation proceedings and at the time of the onsite, legislation was enacted to include civil asset forfeiture. There has been no opportunity for any of the above mechanisms to be used during the review period.

Immediate Outcome 8

- a) St. Kitts and Nevis did not have a national policy objective for the confiscation of criminal proceeds, instrumentalities, and property of equivalent value for ML until March 2021. The legislative infrastructure is limited in scope, however in March 2021 POCA was amended under section 2 to provide for civil forfeiture.
- b) The WCCU is the dedicated unit within the RSCNPF for conducting confiscation

proceedings or asset forfeiture under POCA. The WCCU pursues confiscation of criminal proceeds and property only where major cases of predicate offences have been identified and assets are available for confiscation in the event of a conviction. The WCCU would not recommend confiscation proceedings be initiated by the DPP if assets are not identified at the time of conviction.

- c) Confiscation of proceeds and instrumentalities of crime are exceptionally low in St. Kitts and Nevis and aligns with the results of the top predicate offences in the NRA 2019. Confiscation of criminal proceeds, instrumentalities and property of equivalent value for TF is not pursued as a policy objective in St. Kitts and Nevis.
- d) St. Kitts and Nevis has limited experience in asset recovery with foreign counterparts, either for proceeds of foreign predicates located in St. Kitts and Nevis or proceeds from domestic predicates laundered outside St. Kitts and Nevis.
- e) CBRs are sent to the FIU and the WCCU by the CED whenever there are funds over the identified threshold of USD10,000 relating to cash and BNIs are discovered in an individual's possession at the ports of entry and exit. During the period under review the CED investigated two matters where false declarations were considered

Recommended Actions

Immediate Outcome 6

St. Kitts and Nevis should:

- a) Encourage the FIU and other CAs to have formal meetings regarding how FIU disseminations can better support their operational needs.
- b) Take measures to ensure the independence, confidentiality and security of all FIU data, and to ensure adequate office space for storage of records by providing the necessary resources.
- c) Continue its training program to improve and build capacity of the new and existing staff.
- d) Use financial intelligence and relevant information to a greater extent and in a manner aligned with the risk profile of the country. They should also ensure that the use of financial intelligence and relevant information is supporting clear outcomes.
- e) Ensure that all CAs have training on the effectiveness and importance of using financial intelligence as a part of their functions. Training should focus on the use of financial intelligence to lead to more investigations, prosecutions, convictions and confiscations.

- f) Enhance the strategic analysis products to include related ML/TF trends and patterns in line with the country's risk profile and establish mechanisms to disseminate strategic analysis products to the relevant CAs, FIs and DNFBPs.

Immediate Outcome 7

St. Kitts and Nevis should:

- a) Pursue the use of parallel financial investigations along with predicate offence investigations.
- b) Consider adjusting/removing the case selection criteria for ML investigation based upon a financial threshold.
- c) Consider a policy of selecting ML cases in line with the identified risk profile of the jurisdiction and pursue ML cases arising from the misuse of financial services in line with being a small international financial centre.
- d) Prosecute ML cases as a matter of policy and in align with the risk profile of the jurisdiction and AML/CFT policies.

Immediate Outcome 8

St. Kitts and Nevis should:

- a) Prioritise the development of strategies and procedures to implement the confiscation policy finalized in March 2021.
- b) Ensure the relevant CA prioritises the identification, tracing and restraining assets derived from criminal conduct that may be located in or outside the Federation and with the intention of recovering the same.
- c) Continue to provide relevant training to customs officials in relation to targeting the illicit physical cross-border movements of cash and BNIs that represent the proceeds of crime.

158. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R.3, R.4 and R.29-32.

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

159. The FIU is the single authority in St. Kitts and Nevis that is responsible for the receipt of STRs, and other financial information related to ML, associated predicate offences and TF, and the dissemination of the results of the analysis to LEAs. The FIU is governed by legislation and

receives all disclosures of information as required to be made pursuant to the POCA and the ATA. The FIU is an administrative type FIU and has no investigative powers. The FIU conducts analysis on STRs received from reporting entities to create financial intelligence for combatting of ML/TF activities.

160. The intelligence reports are the product of the FIU's analysis of STRs and the additional information obtained during the analytical process. These are disseminated to law enforcement as CDs, once it is determined that intelligence is actionable.

3.2.1. Use of financial intelligence and other information

161. The St. Kitts and Nevis' CAs use financial intelligence and other relevant information to identify and investigate leads, develop evidence in support of investigations and trace criminal proceeds related to ML, TF and associated predicate offences.
162. The FIU has powers to obtain information from reporting entities and CAs when gathering information into a STR relating to ML, TF and associated predicate offences. The main financial intelligence product of the FIU are CDs which are disseminated to the WCCU. The FIU has access to information from local CAs through MOUs. The FIU also receives currency transaction reports from Customs, quarterly TPRs from reporting entities and information requests from the WCCU, including other local LEAs and foreign law enforcement agencies. The FIU has an MOU with all other LEAs within St. Kitts and Nevis to share information on ML, associated predicate offences and TF. In addition, the FIU has a close relationship with the WCCU. Therefore, requesting and obtaining information when analysing an STR is relatively easy. Conversely LEAs and other CAs in St. Kitts and Nevis can access information from the FIU upon request.
163. The main department within the RSCNPF which mostly utilizes financial intelligence from the FIU is the WCCU. The WCCU is responsible for the investigation of CDs submitted by the FIU and any report into TF, conducting criminal investigations in financial crimes, asset recovery investigations and ML predicate offences and is the point of contact for the Asset Recovery Interagency Network for the Caribbean (ARIN-CARIB) Network. The WCCU also assists the AG's office in executing MLAT requests where that type of assistance is required. The Strategic Intelligence Unit (SIU), Drug Unit (DU), Local Intelligence Unit (LIU) and the WCCU are departments within the RSCNPF that also keep records on financial intelligence. Information on the types of other investigations carried out by the other units in the RSCNPF was not available and therefore an assessment of the use of financial intelligence by those units could not be made.
164. The FIU only disseminated CDs to the WCCU in regard to financial intelligence and other information. If necessary, the WCCU will contact other LEAs for further information when conducting investigations. The FIU disseminated 102 CDs to the WCCU during the period 2017-2020. The table 3.1 below shows the number of CDs disseminated by the FIU during the period under review.

Table 3.1. The number of case disclosures disseminated to the WCCU

| 2017 | 2018 | 2019 | 2020 | Totals |
|------|------|------|------|--------|
| 42 | 21 | 24 | 15 | 102 |

165. The FIU sends financial intelligence to the WCCU to conduct investigations. Once information is requested by the WCCU in relation to an investigation, the FIU can access its sources and provide a response to the WCCU in a timely manner. The LEAs indicated that there were no challenges in receiving information from the FIU. It is noted that the number of CDs has decline from 42 in 2017 to 15 in 2020. This decline mirrors a similar decline for the number of STRs submitted to the FIU which fell from 172 in 2017 to 97 in 2020. This decline of STRs is due to the reduction of STRs submitted by the MSB sector. (Please refer to table 3.4).

Table 3.2. The number of requests received from the WCCU by the FIU

| Types of Requests | 2017 | 2018 | 2019 | 2020 | Totals |
|------------------------------|------|------|------|------|--------|
| Domestic Request | 4 | 9 | 1 | 12 | 26 |
| Request for Foreign Agencies | 2 | 0 | 4 | 5 | 11 |

166. The table 3.2 above shows the number of requests received from the WCCU for domestic investigations and the WCCU request on behalf of foreign agencies. Most domestic requests were for assistance with financial investigations to identify and locate assets. This shows that financial intelligence and relevant information are being used by the WCCU to assist them in investigations. Additionally, the FIU also facilitated a request from the WCCU to freeze funds. See case study 3.1 below.

Box 3.1. FIU to Freeze Funds

In 2018, the FIU's assistance was sought in a domestic fraud investigation conducted by the WCCU. Upon receipt of the request to freeze by the WCCU, the FIU immediately applied the FIU's administrative freeze directive for funds over approximately USD 100,000 at a FI to avoid the dissipation of the funds.

167. Moreover, the WCCU utilises a range of financial intelligence and other relevant information when conducting investigations. The SIU, DU, LIU and Vehicle Registry System databases are frequently used for investigative purposes and once a CD is received from the FIU the standard protocol is to check the relevant databases to identify persons, contact information, addresses, assets ownership etc. The Land Registry and CATM are also frequently relied upon for information to assist with asset tracing. International and regional databases through agencies such as Interpol and JRCC are also used. This protocol is done for all investigations. During the period under review there had been ten (10) instances in which financial

information had been used to investigate and prosecute suspected offenders in St. Kitts and Nevis, five (5) were for potential drug and firearm related offences and the other five (5) were strictly for financial crimes. Financial information also comes in the form of production orders (through banks), and from CATM and other local businesses. Information obtained from banks are also used to build financial profiles.

168. Case study 3.2 below shows how CAs in St. Kitts and Nevis have been using financial information to assist in conducting investigations during the period 2017 to 2020.

Box 3.2. Financial information to assist in conducting investigations.

The FIU submitted a case disclosure to the WCCU concerning a subject's bank account which generated an STR which featured large amounts of deposits and withdrawals. The CED and the WCCU commenced a joint investigation and gathered information. Additional legal advice and assistance was provided by the DPP which revealed no known source of income. The joint investigation subsequently revealed predicate offences. Several counts of ML were subsequently brought, and charges were laid.

169. The table below shows the joint collaboration by the CED with the WCCU in conducting financial investigations in relation to associated predicate offences. Additionally, the CED received six (6) official requests for information from WCCU in regards to investigation being conducted against separate suspects during the period 2017- 2020. Therefore, this demonstrates that the CED is using financial intelligence to develop cases for trial and conviction and is also a source of financial intelligence to the WCCU. The CED also received information from the port authority both informal and formal with regards to firearm and drug offences.

Table 3.3. Yearly breakdown of Joint Investigation with the RSCNPF

| Year | No. Investigations | Awaiting Trials | No. Of Trials | Dismissed | Convictions |
|-------------|---------------------------|------------------------|----------------------|------------------|--------------------|
| 2017 | 8 | 1 | 8 | 0 | 7 |
| 2018 | 6 | 0 | 6 | 0 | 6 |
| 2019 | 9 | 5 | 9 | 1 | 3 |
| 2020 | 2 | 1 | 0 | 0 | 1 |

170. Also, as a part of information sharing, the FIU does spontaneous sharing of information with other CAs within St. Kitts and Nevis and vice versa. During the period 2017 to 2020, the FIU shared one (1) spontaneous report in 2019 with the AML/CFT supervisor (FSRC) and a total of six (6) with the WCCU between 2017 and 2020. There was an instance where the FIU received spontaneous information from a foreign FIU concerning an individual in St. Kitts and Nevis who appeared to be engaged in TF. The recipient had associates suspected to be linked with supporting terrorists. The FIU conducted data gathering inclusive of money remitters queries, the findings and all information was spontaneously shared with the WCCU, who then

conducted an investigation on this matter. The investigation revealed no evidence of TF, and the case was closed. (See case study 4.1 in Chapter 4 for further details).

171. The FIU, WCCU and the CED have been able to use financial intelligence and other relevant information in the conduct of their functions. However, the assessment team is of the view that it is not being used to its full capacity.

3.2.2. STRs received and requested by competent authorities

172. FIs and DNFBPs are required to report STRs to the FIU. STRs are submitted to the unit via hand delivery, however, since the pandemic STRs received have been forwarded through a secured email. Table 3.3 shows that the FIU receives STRs from a cross section of reporting entities. These STRs are stamped upon receipt with date, time, and method of receipt, they are forwarded to the Director who will review for completeness. The STR is entered into a database with a sequence number and then assigned to an analyst. Letters for request of information are sent out where necessary. During the period 2015-2019, the FIU issued approximately 6,000 letters of request (LoRs) to reporting entities to obtain information to assist analysing STRs, process proactive matters and satisfy request for assistance/information received. The average response time was within seven (7) business days, however the assessors noted that the banking sector response was an average of three (3) business days. The FIU has demonstrated that it is performing one of its core functions by receiving and analysing STRs from reporting entities.

Table 3.4. The number of STRs filed by Sector

| Sectors | 2017 | 2018 | 2019 | 2020 | Totals |
|--|------|------|------|------|------------|
| FIs: Financial Institutions | | | | | |
| Banks | 44 | 32 | 28 | 76 | 180 |
| Insurance | 0 | 1 | 1 | 1 | 3 |
| Credit Unions | 4 | 2 | 7 | 3 | 16 |
| Money Service Business | 112 | 22 | 8 | 3 | 145 |
| Lending Institutions | 3 | 0 | 3 | 2 | 8 |
| Means of Payment Business | 0 | 0 | 0 | 0 | 0 |
| DNFBPs: Designated Non-Financial Businesses and Professions | | | | | |
| Trust & Corporate Service Providers | 8 | 9 | 15 | 5 | 37 |
| Casinos | 0 | 0 | 0 | 0 | 7 |
| Other (pawn shop & hotel accommodation) | 1 | 0 | 0 | 1 | 2 |
| Total STRs (regulated entities filed) | 172 | 66 | 63 | 97 | 389 |

173. During the period under review 2017-2020 as shown in table 3.4 above, a total of 389 STRs were filed. The information shows the majority of the STRs were filed by banks followed by MSBs. The lowest number of STRs filed were by the insurance sector, which is consistent with the vulnerability assessment of the sector within the jurisdiction. Further, the FIU indicated that in 2018 they conducted outreach to the insurance sector, as they observed the lack of STRs in previous years and felt that the sector needed more training in STRs. There is a lack of STR reporting from DNFBPs other than TCSPs and this is inconsistent with the

country risk assessment and the follow-up NRA 2021 as these sectors were rated as high risks. There has been a decline in the overall STRs being reported by regulated entities. There was a substantial decline in the reporting in 2018 due to the reduction in STRs submitted by MSBs resulting from STR training provided. The level of yearly reporting to the FIU appears to be minimal considering the international financial centre in Nevis. However, the low level of reporting may be reflective of the limited supervision of DNFBPs.

174. The FIU did not indicate any issues regarding submission of the quality of STRs. Majority of the STRs analysed by the FIU have resulted in minimal CDs being disseminated to the WCCU for ML/TF investigation purposes. The assessment team has been unable to ascertain the reason for the low level of CDs being disseminated. It is noted that the FIU has sought to improve the quality of reports and detection of suspicion by working closely with reporting entities through training to obtain information to be used in creating proper and effective financial intelligence.
175. The table 3.5 below shows that the FIU has taken some form of action against all the STRs filed by reporting entities during the period 2017-2020. The information shows that a total of 232 STRs were closed (reports not turned into CDs submitted to other LEAs) and a total 31 STRs remain outstanding which demonstrates that there is no backlog of STRs.

Table 3.5. Status of STRs Received

| Status | 2017 | 2018 | 2019 | 2020 |
|-----------------------------|------|------|------|------|
| Forward to the police (FTP) | 78 | 23 | 25 | 14 |
| Closed | 94 | 37 | 43 | 58 |
| Ongoing | 0 | 6 | 0 | 25 |
| Total | 172 | 66 | 68 | 97 |

176. A total of 140 STRs were developed into 102 CDs that were forwarded to the WCCU. The authorities have indicated that the figures for STRs forwarded to the WCCU do not coincide with figures for CDs as there are instances where more than one (1) STR was used to develop CDs disseminated and the analysis of some STRs roll over into the next year. The information extracted from the STRs were used to developed CDs that were sent to the WCCU, they were used for advisories and typologies that were distributed to reporting entities. This analysis was also shared with the regulators through training and awareness programs.
177. The FIU provides compliance officers feedback on the quality of STRs submitted through a feedback form and telephone interactions. Based on the analysis by the assessors of the form, it does not provide sufficient and actionable feedback to the reporting entities. Additionally, the authorities indicated that they also provide feedback through awareness programs to reporting entities and through training presentations made at FSRC conferences. The subject matter normally highlights trends developing from STRs and the quality of STRs being submitted by the FIs and DNFBPs (TCSPs). However, there is need for the feedback form to be more comprehensive. Continuous feedback should be provided to the reporting entities about the quality of STRs filed.
178. The FIU provided targeted training in 2018 to the insurance sector on quality of STRs. The FIU has a training plan of conducting four (4) training activities per year. Training is directed

towards sectors that submit a low number of STRs. New trends and patterns are included in training once they are observed. The FIU also conducts presentations when asked to do so by LEAs, supervisors and FIs.

Currency Declaration

179. The FIU also receives CBRs that are related to currency and BNIs from CED. CBRs are sent to the FIU when there is suspicion, or an identified person is in possession of USD 10,000 or more relating to cash or BNIs at ports of entry and exit in St. Kitts and Nevis. During the period under review 2017-2020 as shown in the table 3.6 below, the FIU received a total of 24 CBRs. Once detected the customs or police are required to submit information gathered to the FIU for further analysis. The CBRs submitted are inputted into a database system and upon receipt of a CBR the FIU searches its database to determine if individuals are linked to any STRs, request of assistance and spontaneous sharing reports. The CED is notified of any results found and if links are identified; the information is also forwarded to the WCCU. Case study 3.3 below is an example of information shared from a CBR with the WCCU during the period 2017-2020.

Table 3.6. No. of CBRs Received 2017-2019

| 2017 | 2018 | 2019 | 2020 | Totals |
|------|------|------|------|--------|
| 6 | 3 | 13 | 2 | 24 |

Box 3.3. Information shared from a CBR with the WCCU.

Individual “A”, a resident, declared USD 24,000 cash at the airport upon returning to the jurisdiction. “A” who was described as the owner of Business “B” in the jurisdiction, stated that the funds were generated from Business “B”.

Business “B” was already recorded in FIU’s database related to an STR. In the matter, business “B” received suspicious transfer of funds from an individual. After analysis, ML was suspected, and a CD was relayed to the WCCU for appropriate action.

The contents of the CBR were shared with the WCCU as additional information and the CED was informed of FIU’s findings and action taken.

3.2.3. Operational needs supported by FIU analysis and dissemination

Operational Analysis

180. The staff of the FIU is comprised of five (5) persons, namely, the acting Director, three (3) financial analysts and one (1) office attendant. The decision on whether an STR should be analysed and disseminated solely resides with the Director. As mentioned above, the Director receives the initial STR and assigns it to an analyst. To further develop and analyse STRs, the analyst is required to make requests to various entities to access further financial and relevant information. The FIU also uses relevant software in conducting its analysis of STRs. All analysts have access to the software programs which are available on their computer systems.

181. The FIU has operational independence and is able to carry out its functions without interference as the Director is responsible for managing the daily activities of the agency. The agency has its own budget which is funded by the Government of St. Kitts and Nevis. The FIU is housed within the Ministry of Finance. Entry to the FIU office is via electronic access cards, a security measure implemented by the FIU. The card is provided only to staff of the FIU. Physical files are stored in fireproof cabinets within the unit. Electronic data is connected to an offsite server housed at the Treasury department and the electronic records of the Unit are backed up daily on CDs and stored offsite. It should be noted that physical backups can be a security risk rather than a protection as they are prone to accidents such as fire, theft and other damage. The industry standard is securely encrypted cloud computing. The FIU office space is limited and the present configuration of storage i.e filing cabinets, office furniture and personnel does not allow for any increase in staff or equipment. The IT support for the FIU is provided by an individual within the Ministry of Finance's IT staff complement who is vetted to conduct the duties assigned for the FIU. The person designated is in charge of IT Support for the Ministry of Finance as well. The FIU is not a part of the Ministry of Finance and therefore this external support is a potential security vulnerability with regards to access to the FIU information systems and database. Additionally, the person also has other duties external to the FIU IT support. The FIU is required to be fully autonomous and as such needs its own operational independence, IT security and security and safety for record protection.

Table 3.7. Training that FIU staff participated in during the period 2017 – 2020

| 2017 | 2018 | 2019 | 2020 |
|--|---|---|---|
| OECD/Italian Gov't:- Police Intelligence & Financial Investigation | CFATF/EU: Open Source Investigation | CFATF: International Standards on Combatting ML/TF/PF | International Law Enforcement Academy (ILEA): Cryptocurrency Investigations |
| AML/CFT Awareness Seminar | AML/CFT Awareness Seminar | AML/CFT Awareness Seminar | ECOFEL: Financial Investigations on Wildlife and Forestry Crime. |
| CFATF/EU: CFATF Analyst Train-the-Trainer. | US Department of Trade & Law Enforcement Affairs: Cryptocurrency Investigations | World Bank NRA Training | CARICOM IMPACS/UNODC: Trade Based Money Laundering. |
| AML/CFT Awareness Seminar | ACAMS: 23rd AML & Financial Crimes Conference | AML/CFT Awareness Seminar | |
| CFATF Plenary & Working group meetings | Gaming Laboratories International: Gaming Round Table Workshop | CFATF Mutual Evaluation Preparation Seminar. | |
| UNODC: Combatting Cash Smuggling | RSS-ARU: SAR Intelligence Development Course. | World Bank: Counter Financing Terrorism | |
| Combatting Cash Smuggling | CFATF: Plenary & Working group meetings | International Organisation of Migration: Combatting Human Trafficking | |
| RSS-ARU: Offshore Financial Service & ML Activity | CFATF/Worldbank: Basic Combatting the CFT techniques | | |
| Financial Investigative Techniques | CFATF Plenary & Working group meetings | | |
| | Egmont Plenary & Workshop Meetings | | |

182. Table 3.7 above shows the FIU staff has received various training relevant to their duties and has accumulated some levels of expertise during their tenure at the agency to further aid in conducting the analytical functions of the FIU. Training in FIU related fields has been provided to staff to build their capabilities and capacity within the FIU. The assessment team noted that a broad range of local, regional and international training has been provided to the FIU staff in the areas of ML, TF, PF. During the period, a total of 29 training courses were attended by FIU staff inclusive of the Director. However, two senior members and the former director left the FIU at the end of 2020. Therefore, although training is being provided the assessment team noted that more specified analysis training should be sought and made available for the remaining and new staff to increase their capacity for analysis of STRs.
183. The FIU disseminates CDs to the WCCU. The CDs are shared with the WCCU to identify and investigate possible ML activity and associated predicate offences and proceeds of crime. The FIU gets informal feedback from the WCCU from the CDs submitted. The WCCU has described the CDs received as of good quality which have contributed to their investigations, despite the FIU need for specified analysis training and resources. The WCCU is the CA that receives operational analysis and dissemination by the FIU.

Disseminations

184. From the 389 STRs developed during the period 2017-2019, a total of 102 CDs were disseminated to the WCCU. Although, 102 CDs were disseminated only six (6) ML investigations resulted from the CDs. The information contained in the CDs can either initiate an ML/TF investigation, be added to an existing investigation or be stored in the LEAs database for future use. Every CD forwarded to the WCCU has been investigated. As seen above the FIU analysis is only supporting the operational needs through the disseminations of the CDs to the WCCU.
185. Based on table 3.8 below, the predicate offences that were identified by the FIU based on their analysis of STRs during the period 2017-2020 were theft, robbery, illicit drugs, organized crime, fraud, forgery, tax evasion and others. However, the main category identified was suspicious activity/behaviour which includes those STRs where it was not possible to identify a specific “*predicate offence*”.

Table 3.8. FIU - STRs Breakdown by Nature of Suspicion 2017 to 2020

| Nature of Suspicion | 2017 | 2018 | 2019 | 2020 |
|-------------------------------|-------------|-------------|-------------|-------------|
| Larceny | 12 | 8 | 7 | 0 |
| Theft | 0 | 0 | 1 | 0 |
| Robbery | 0 | 1 | 0 | 0 |
| Illicit Drug Trade | 0 | 1 | 0 | 0 |
| Embezzlement | 1 | 0 | 0 | 0 |
| Organized Crime | 1 | 0 | 0 | 0 |
| Fraud | 2 | 8 | 3 | 1 |
| Other | 0 | 0 | 3 | 1 |
| Suspicious Activity/Behaviour | 154 | 48 | 48 | 91 |
| Forgery | 2 | 0 | 5 | 2 |
| Tax evasion | 0 | 0 | 1 | 2 |
| Totals | 172 | 66 | 68 | 97 |

Strategic Analysis

186. After a review of STRs contained in the database, over a period of time, the FIU is able to identify trends and patterns. The Unit develops and distributes typologies and advisories (strategic intelligence) to the FIs and DNFBPs. During 2017 to 2020 the FIU issued 16 advisories. The advisory contains information on what is trending and recommended actions to mitigate risk. The advisories are shared with the FIs and DNFBPs, law enforcement and the regulators to provide alerts on what is trending and aid in the detection of ML, TF and related activities (e.g. potential fraud).
187. The FIU has indicated that strategic analysis is incorporated in its annual report however, no annual report was published since 2015. The assessment team received a merged annual report for the years 2015-2018 and a single annual report for the year 2019, these reports did not contain any strategic analysis. A typologies report was presented as evidence. Additionally, the FIU's annual report is not consistently made available on a timely basis. The assessors are of the opinion that the FIU should establish procedures to ensure wide distribution of their annual reports including typologies to improve outreach and awareness and strategic analysis. Moreover, the assessment team was unable to test the effectiveness of the FIU's strategic analysis products as the advisories issued informed specific criminal typologies and did not include related trends and patterns. Further, there is no indication that strategic analysis informed the NRA exercise.

3.2.4. Cooperation and exchange of information/financial intelligence

188. The FIU has signed MOUs with the following LEAs: RSCNPF, DPP, Immigration Department and the CED. As indicated above the WCCU and CED have conducted joint investigations which have resulted in trials. There are no ML convictions as these matters were pending at the time of the onsite. There are no obstacles to sharing information and financial intelligence between CAs in St. Kitts and Nevis. Due to the small size of St. Kitts and Nevis, all LEAs and other CAs have collaborated by sharing information between units involved with investigations of ML and associated predicate offences. Some units are working together to

ensure that there are successful ML/TF prosecutions. Intelligence/information can also be shared through special points of contacts of the various LEAs. The authorities indicated that they conduct joint investigations on ML matters (please refer to IO. 7).

189. The WCCU and the FIU have informal discussions on the STRs, and other information required for investigations. However, there is a need to formalize these ad hoc meetings between all LEAs and the FIU to discuss and advance ML/TF cases. Although, both formal and informal meetings are held between the LEAs, the FIU is not included, and the meetings are solely for the purpose of national security matters.
190. The FIU protects the confidentiality of the information through procedures outlined in the FIU SOPs. These address security protocols concerning the transmission of intelligence reports, controlled access to premises, personnel security clearance and information security. Hardcopy confidential information is hand delivered in sealed envelopes. The security and confidentiality procedures outlined are adequate for the FIUs operations. The other CAs have mechanisms and procedures to protect the confidentiality of the information exchanged and used.

Overall conclusion on IO.6

191. The FIU generates financial intelligence information which is disseminated to the WCCU in CDs. The FIU can access financial intelligence from databases of the local CAs. The FIU works with the WCCU and provides information on request in relation to any investigation being conducted by the WCCU. However, it is noted that the number of CDs being disseminated to the WCCU during the period under review has been declining. While 102 CDs were forwarded to the WCCU only six (6) ML investigations were conducted during the period.
192. The WCCU is the CA that received operational analysis and CD disseminations by the FIU. The WCCU has indicated that the CDs are of good quality and has contributed the ML investigations.
193. The yearly STR reporting to the FIU has been declining and is low considering the number of reporting entities and the small international financial centre in Nevis. However, the low level of reporting may be reflective of the limited supervision of DNFBPs and in turn limited training provided to entities classified as DNFBPs by the FIU.
194. The WCCU has however worked in conjunction with the CED on joint investigations resulting in the sharing of financial intelligence between both CAs.
195. The IT support for the FIU is provided by an individual within the Ministry of Finance's IT staff complement. The individual is not a direct staff member of the FIU therefore the external support is a potential security vulnerability with regards to access to the FIU information systems and database. Additionally, the person also has other duties external to the FIU IT support.
196. Although the FIU stated that strategic analysis is incorporated in its annual report the FIUs annual report is not consistently made available on a timely basis. Additionally, the FIUs strategic analysis product (advisories) only had specific criminal typologies and no

information on related trends and patterns. Also, there is no indication that strategic analysis was used to inform the NRA exercise.

St. Kitts and Nevis is rated as having a low level of effectiveness for IO.6.

3.3. Immediate Outcome 7 (ML investigation and prosecution)

3.3.1. ML identification and investigation

197. The WCCU, a unit of the RSCNPF, is responsible for the investigation of all ML and TF matters and criminal asset recovery. The financial intelligence which generates ML investigations is the CDs disseminated by the FIU to the WCCU. CDs are the result of the analysis of STRs submitted by reporting entities to the FIU. The information contained in the CDs can either initiate an ML/TF investigation, be added to an existing investigation or be stored in LEAs database for future use. The WCCU has indicated that the CDs disseminated from the FIU are of high quality with good actionable intelligence and therefore have triggered ML investigations.
198. Additionally, the RSCNPF has systems in place (Crime Management System and Morning Report) which allow staff of the WCCU to identify potential ML cases stemming from predicate offences. The Crime Management System (CMS) is a computer-based system in which all incidents and crime reports are filed. A Morning Report System generated by the RSCNPF provides daily updates on offences reported during the preceding 24-hour period. This allows for the WCCU to always be aware of these potential cases. Having identified reports, the WCCU would make a determination based on the facts presented. When ML is suspected, the WCCU may give advice to the relevant police department or may take over the case on the basis of criteria which is later described.
199. In selecting a matter for ML investigations, cases above a threshold of XCD 20,000 (USD 7,361) would include a parallel investigation for ML while those under the threshold will only have predicate offence investigations. Complexity of the matter together with the possibility of asset recovery are also criteria for selection. There is no indication of prioritization of cases, and this is not a formalised written process. However, in 2019, one (1) person was formally arrested and charged with a ML offence. That investigation was jointly conducted between the Criminal Investigations Department (CID), another unit of the RSCNPF and the WCCU. The individual was charged after approximately two (2) years of investigations. Financial intelligence from other departments is easily obtained to facilitate these investigations when necessary.
200. Additional sources of intelligence are reports made by the public, attorneys, overseas requests, social and other media, and day to day police interaction with the community. The DPP guides the WCCU in the conduct of ML investigations. Case management meetings are held where the DPP gives directions with timelines for implementation and provision of feedback on the progress of the investigation. Based on their progress, another case management meeting may be required with the WCCU. The DPP will make the necessary recommendation on the charges that should be preferred against the subject.

201. Case management relies on traditional means of documentation. Physical registers are used to document investigations then these files are all transferred into an electronic database. Back up is done on a standalone computer which is maintained on premises that are monitored with 24-hour security. Access to these computers is controlled with security protocols. It should be noted that physical backups can be a security risk rather than a protection as they are prone to accidents such as fire, theft and other damage. The industry standard is securely encrypted cloud computing. The WCCU consists of five (5) investigators and two (2) analysts who have accounting qualifications including forensic auditing. Investigators at the WCCU are well trained and have at least ten (10) years of service and have experience as detectives. Only senior officers are members of the WCCU, and all are required to undertake a period of 6 – 8 weeks secondment with the FIU in St. Vincent and the Grenadines. Training provided to staff of the WCCU during the last four (4) years include training in the FATF Standards and trade-based ML by CFATF, secondment training with the FIU St. Vincent and the Grenadines and TF training by the FSRC. Two (2) officers are also involved in training for the ACAMS qualifications. The above mixture of experience and training would appear to be adequate for the skills, knowledge and understanding required to undertake ML investigations.
202. As a result of deficiencies identified in the NRA, measures were implemented including legislative amendments which increased the investigative techniques available to the WCCU and the wider RSCNPF – these include controlled delivery, postponing of arrest and waiving surrender and undercover operations. The NAP identified the need for improved record-keeping, training, and increased human resources. An integrated database was created in January 2019 to provide statistics and improve criminal analysis, training was harmonized, and staff was increased in accordance with the NAP.
203. While the WCCU does not have direct access to the FIU database there is easy access to information from the FIU by request which is facilitated by the FIU being located across the corridor from the WCCU. The Immigration Department was once a part of the RSCNPF. The WCCU currently accesses information from Immigration upon request through a liaison. There is a Customs liaison officer through whom the WCCU can access information from the CED. The WCCU uses production orders to access information from FIs and DNFBPs.
204. The WCCU has advised that all investigations involve collaboration between LEAs including the CED as presented in the following table:

Table 3.9 Joint investigations between WCCU and CED 2017 to 2020

| Joint Investigations | 2017 | 2018 | 2019 | 2020 |
|----------------------|------|------|------|------|
| Investigations | 8 | 6 | 9 | 2 |
| Trials | 8 | 6 | 9 | 0 |
| Awaiting Trials | 1 | 0 | 5 | 1 |
| Convictions | 7 | 6 | 3 | 1 |
| Dismissals | 0 | 0 | 1 | 0 |

205. During the period 2017 to 2020, the WCCU and the CED carried out a total of 23 joint investigations. These investigations resulted in trials with a significant success rate for convictions.

206. The number of ML investigations as reported by the WCCU are six (6) ML investigations each for 2019 and 2020 and two (2) for the first three (3) months of 2021.

Table 3.10. Number of CDs received by WCCU and number of ML investigations.

| CDs/ML Investigations | 2017 | 2018 | 2019 | 2020 |
|-----------------------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| No of CDs received from FIU | 42 (developed from 71 STRs) | 21 (developed from 35 STRs) | 19 (developed from 21 STRs) | 15 (developed from 15 STRs) |
| No of ML investigations | 0 | 0 | 6 | 6 |

207. The above table presents the number of CDs received by the WCCU and number of ML investigations that were conducted in the same year. As can be seen, although the WCCU received 42 CDs in 2017 and 21 in 2018, no ML charges were brought in those years. Six (6) ML investigations were carried out in 2019 when 19 CDs were received and six (6) investigations were carried out in 2020 when 15 CDs were sent to the WCCU. While the increase in the number of ML investigations is welcomed there is no indication how many if any originated from the CDs. The low number of ML investigations may be the result of the limiting selection criteria as outlined in paragraph 196.

Table 3.11. Major reported crimes for the period 2017 to 2020

| Recorded Crimes | 2017 | 2018 | 2019 | 2020 | Totals |
|---------------------------|------|------|------|------|--------|
| Larceny | 425 | 432 | 373 | 304 | 1534 |
| Housebreaking and Larceny | 321 | 317 | 231 | 128 | 997 |
| Drug Trafficking | 152 | 127 | 75 | 18 | 372 |
| Robbery | 81 | 69 | 45 | 23 | 218 |
| ML | 2 | 3 | 1 | 2 | 8 |
| Conspiracy to commit ML | 0 | 0 | 0 | 1 | 1 |
| Totals | 981 | 948 | 725 | 476 | 3130 |

208. The above table 3.11 presents data on the chief predicate offences in St. Kitts and Nevis for the period 2017 to 2020. As indicated in the NRA, the main predicates are in descending order larceny, housebreaking and larceny and drug trafficking. The table indicates that crime is declining. However, a comparison of the number of predicate offences for 2019 and 2020 of 725 and 476 respectively with the number of ML investigations of six (6) for each year highlights the low level of ML investigations.

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

209. As indicated in the NRA of 2019, the main sources of the proceeds of crime were larceny (including house breaking), drug related offences, robbery and gun related offences. A breakdown of the predicate offences of the STRs submitted to the FIU was inconclusive since no predicate offence could be identified for 70 % of STRs. At best the largest category of

identified predicate offences was larceny which accounted for 10% of STRs submitted in 2020. Given that the NRA was finalised in the last half of 2019, there has not been enough time to react with ML investigations that address the threats and risks that were discerned in the NRA. Application of the risk-based approach should take place in the identification phase of ML cases. However, as noted, selection of ML investigations is done based on an applied threshold, complexity of the matter and the possibility of asset recovery. There was no indication that the NRA findings were taken into consideration.

210. The assessors were advised that the predicate offence for most ML investigations was larceny. Of the eight (8) ML charges laid, one (1) was based on the predicate offence of forgery and the other seven (7) were larceny. This is consistent with the NRA finding of larceny as the major predicate offence in St. Kitts and Nevis. All ML investigations were for domestic offences. This is not consistent with the fact that St. Kitts and Nevis has a large international sector with substantial external funds and TCSPs which were given a vulnerability rating of medium in the follow-up NRA 2021.
211. Next to the selection of ML investigations by the WCCU, the DPP has specific criteria for prosecuting ML. One (1) of the criteria was whether the applicable penalty for the predicate offence or for an ML offence was proportionate to the criminality of offence on trial. The DPP has not refused to proceed with any ML investigations solely due to this criterion but has triggered investigations in matters of concern.
212. The DPP is constitutionally responsible for all criminal proceedings in St. Kitts and Nevis. Therefore, the DPP is the sole person who can institute ML and TF proceedings. The DPP also carries out work related to MLA request, extradition request, restitution, and advice to Customs and the RSCNPF. At the time of the onsite the DPP consisted of (1) senior crown counsel and five (5) crown counsels, two (2) administrative officers and a national prosecution unit which includes police prosecutors. The senior crown counsel has been designated for dealing with all ML and TF matters in the jurisdiction, as such he has a direct link with the WCCU and provides advice to the WCCU on all ML/TF matters. Staff of the DPP has been trained in both ML and TF for the period under review. The DPP received training at the annual regional conference for DPPs and other ML/TF related training. The senior crown counsel has also benefited from specific training in ML, TF, financial investigative techniques and recognizing ML trends. The other members of staff at the DPP have also been exposed to ML training. The training being provided to the DPP would appear to be adequate for the understanding required to undertake ML prosecutions. The assessors noted based on interviews with the DPP, that the increase in staff at the WCCU in 2019 resulted in the increase in ML investigations by the unit.

Box 3.4. Investigation done at request of the DPP

In June 2020, at the request of the DPP, the WCCU conducted a financial investigation into a medical doctor following an allegation of rape by a patient. The investigation was triggered following suspicion that the victim recants the rape allegation because of financial payment and/or threats.

The WCCU investigation disclosed that the mother of the victim and her boyfriend received payment from the subject to influence the victim to withdraw the rape allegation. A number of production orders were obtained and restraint order against accounts held by the mother and her boyfriend. The subject of the rape allegation, the mother of the victim and her boyfriend have been charged for ML offences. These matters are pending before the Court.

3.3.3. *Types of ML cases pursued*

213. The ML investigations conducted by the WCCU as previously indicated were based on predicate offences of larceny and forgery. They were all domestic predicate offences. The factors and threshold used in selecting ML investigations resulted in a low number when compared with overall predicate offences. This suggests that ML is not being aggressively investigated by the WCCU. While St. Kitts and Nevis has an international financial centre with a foreign clientele and a substantial number of corporate entities there have been no ML investigations for foreign predicates or corporate entities.
214. At the time of the onsite visit, there were eight (8) prosecutions before the court for self-laundering ML. There have been no ML convictions in St. Kitts and Nevis. The length of these prosecutions ranges from 2 to 4 years. An ML charge would be imposed if the penalty for the predicate offence is considered by the DPP to be not proportionate to the offence. If the penalty for the predicate offence is considered by the DPP to be proportionate to the offence, no ML charge would be instituted. This view together with the criteria for selecting ML investigations results in less ML investigations and prosecutions than St. Kitts and Nevis would have with a more aggressive approach to detecting and punishing ML

3.3.4. *Effectiveness, proportionality and dissuasiveness of sanctions*

215. The penalties applicable for ML convictions are detailed in section 4(1) of POCA. A natural person on conviction is liable to a fine not exceeding XCD 250,000 (USD 92,017) or imprisonment for a term not exceeding 20 years or both. A corporate body is liable to a fine not exceeding XCD 700,000 (USD 257,647). The above penalty for a natural person is considered proportionate and dissuasive, however the fine penalty for a corporate body while dissuasive for an indigenous FI, is not for a large international FI. It is noted that the above provision sets upper limits for sanctions suggesting that penalties below the limits can be imposed with no lower limit being legislated. These sanctions are at the discretion of the judiciary.
216. As already indicated there have been no ML convictions in St. Kitts and Nevis. There are outstanding ML matters before the courts for final adjudication. Therefore, the assessors are unable to assess the effectiveness, proportionality, and dissuasiveness of sanctions.

3.3.5. Use of alternative measures

217. The authorities advise that in lieu of being unable to secure a ML conviction in relation to the cases before the court, a conviction for the predicate offence will be sought to pursue confiscation proceedings. At the time of the onsite, legislation was enacted to include civil asset recovery therefore the assessors are unable to assess the effectiveness of this measure.

Overall conclusion on IO.7

218. The WCCU uses CDs disseminated by the FIU to initiate ML/TF investigation. The criteria for selecting cases for ML investigations are based on a monetary threshold, complexity of the matter together with asset recovery. The WCCU receives guidance from the DDP and has a system for case management.
219. The staff of the WCCU are well experienced and trained. The WCCU has access to databases of local CAs. The WCCU has only conducted 12 ML investigations during the period and the low number of investigations may be the result of limiting selecting criteria. Although St. Kitts and Nevis is a small international financial centre, there have been no ML investigations for foreign predicates or corporate entities.
220. Given that the NRA was finalised in the last half of 2019, there has not been enough time for ML investigations to reflect the threats and risks profiles in the NRA. There was no indication that the NRA findings were taken into consideration for the selection of ML investigations.
221. The DPP has specific criteria which also limited the selection for ML prosecutions. At the time of the onsite visit there were eight (8) prosecutions before the court and there have been no ML convictions in St. Kitts and Nevis. The selection criteria for ML investigations and ML prosecutions produces minimal results.
222. In lieu of being unable to secure an ML conviction, a conviction for the predicate offence will be sought to pursue confiscation proceedings and at the time of the onsite, legislation was enacted to include civil asset forfeiture. There has been no opportunity for any of the above mechanisms to be used during the review period.

St. Kitts and Nevis is rated as having a low level of effectiveness for IO.7.

3.4. Immediate Outcome 8 (Confiscation)

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

223. St. Kitts and Nevis did not have a national policy objective for the confiscation of criminal proceeds, instrumentalities, and property of equivalent value for ML until March 2021. Prior to the amendment of POCA under section 2, the legislative structure in St. Kitts and Nevis did not provide for civil forfeiture.

224. Confiscation of proceeds is exceptionally low in St. Kitts and Nevis based on a review of the crime statistics for the period 2017 to 2020. The assessors were advised during the onsite that there were seven (7) confiscation matters in 2020. Additionally, there were no confiscations of instrumentalities of crime or property of equivalent value during the review period. However, the assessment team noted that this low confiscation of proceeds and instrumentalities of crime is in line with the results of the top predicate offences in the NRA 2019 and the follow-up in 2021. The top crimes in St. Kitts and Nevis based on the statistics are larceny, housebreaking and larceny, burglary, robbery, and possession with intent to supply during the period under review. All predicate offences do not translate to ML charges or confiscations because they were petty in nature.
225. Table 3.12 below shows production and restraint orders obtained in 2019 and 2020. The statistics in the table indicate that nine (9) restraint orders were obtained during the review period of 2018 to 2020, with the majority of five (5) being obtained in 2020. This demonstrates an increased use of restraint orders by the WCCU.

Table 3.12. Production and Restraint Orders obtained in 2019 and 2020

| Year | Production order | Restraint order \$ | Status of Restraint Order proceedings | Persons charged with ML |
|------|------------------|--------------------|---|-------------------------|
| 2017 | Nil | Nil | Nil | Nil |
| 2018 | Nil | (1) \$275000 | The suspect absconded and as a result the funds were returned to the complainant. | Nil |
| 2019 | 13 | (3) \$585000 | This confiscation matter involved two respondents convicted for larceny offences. | 1 |
| 2020 | 31 | (5) \$1,495,000 | These ML and confiscation/forfeiture matters are still pending. | 7 |

226. The WCCU is the dedicated unit responsible for handling confiscation proceedings or asset forfeiture under POCA. The WCCU pursues confiscation of criminal proceeds and property only where major cases of predicate offences have been identified and assets are available for confiscation in the event of a conviction. Where the investigation reveals that the subject does not hold significant assets, the WCCU monitors the individual until conviction. At the time of the on-site, the WCCU was pursuing confiscation proceedings in the High Court against two (2) persons convicted in 2019 for the offences of larceny and fraud. In addition, confiscation pursued in court in relation to a drug offence, was stayed by an appeal of the decision.
227. In relation to minor matters, in addition to the imposition of a criminal sentence for the offence in question, the court typically addresses predicate matters (for e.g. larceny) by order of compensation. In cases where the tainted property in question has been identified, the court would automatically order the restitution of same to the victim. In cases of drug offences, the court is empowered to order a fine of up to three times the value of the drugs.

228. The authorities advised that confiscation proceedings have not always been the better option because restitution has proven to be more expeditious and effective in not only depriving the criminals of their ill-gotten gains but also in providing adequate compensation to the victims. However, statistics of the number of instances restitution occurred during the period under review and the corresponding values of the properties restored to the victims were not available. Consequently, the effectiveness of this measure could not be ascertained. The FIU's administrative freeze directive is used to restrain funds for a maximum period of five (5) days. The freeze order is an effective method used to rapidly restrict the use of tainted cash on an account. This is a pre-emptive measure taken before the restraining order. This mechanism is used as an additional measure to ensure that funds are not removed from the account while the WCCU seeks a restraining order over the questionable funds.
229. In 2018, the FIU's assistance was sought in a domestic fraud investigation conducted by the WCCU. Upon receipt of the WCCU's request, the FIU immediately applied its administrative freeze directive over approximately USD 100,000 held at a financial institution to prevent the dissipation of funds. Property seized pursuant to investigations (inclusive of cash) is normally stored by the RSCNPF within an exhibit room. Large property (for e.g., a vehicle) is kept at a secured compound (ordinarily the Défense Force Headquarters) and restrained cash is retained by the financial institution within an account. The CED has several mechanisms to detect and confiscate items. These include mandatory declaration of cash over the threshold, use of cargo and baggage x-ray scanners and trained examiners at ports of arrival and departure, use of risk profiling based on information obtained both regionally and internationally, documentary review/post clearance audits and a trained investigation team (including the use of the K9 Unit to detect illicit arms and narcotic drugs).
230. The CED's primary functions include the facilitation of trade and movement of people across the St. Kitts and Nevis borders, assessment and collection of customs, VAT and excise revenues and prevention of the illegal importation and exportation of contraband and other dangerous goods. Undeclared cash is detained by the CED pending the outcome of criminal charges. The general practice is that the seized cash is returned if the court imposes a fine on the offender. CBRs are sent to the FIU by the CED whenever there are funds over the identified threshold of USD 10,000 relating to cash and BNIs are discovered in an individual's possession at the ports of entry and exit. The CBRs aid in the identification of individuals who might be attempting to enter and exit the jurisdiction with illicit funds.
231. Confiscation of criminal proceeds, instrumentalities, and property of equivalent value for TF is not pursued as a policy objective in St. Kitts and Nevis. Policies and procedures for asset tracing relating to TF were not provided to the assessors. Two (2) suspected cases of TF were investigated by the WCCU. The investigations revealed that there were neither confirmed cases of TF nor property belonging to terrorists, terrorist organisations or terrorist financiers in St. Kitts and Nevis.

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

232. St. Kitts and Nevis has limited experience in asset recovery with foreign counterparts, either for proceeds of foreign predicates located in St. Kitts and Nevis or proceeds from domestic predicates laundered outside St. Kitts and Nevis. According to the AG's statistics, an MLA request for the service of a restraint order was received directly from Antigua on the 28th of

December 2017. However, the authorities did not indicate whether the restraint order resulted in assets being confiscated and repatriated to Antigua. The only other matter highlighted by the authorities where funds were repatriated to another jurisdiction occurred prior to 2016.

233. Based on the information provided, the restraint order proceedings for domestic predicate offences have not been resolved by the courts. Hence, the assessment team could not make a proper evaluation of the effectiveness of the confiscation or restraint measures. Additionally, there are no existing asset-sharing agreements between St. Kitts and Nevis and other countries. The assessors were advised that while the MLA legislation facilitates the registration of foreign orders, it is silent on the effect of registration. MLAT requests for information, freezing or seizing assets or confiscation from foreign countries were not made by St. Kitts and Nevis during 2017 to 2020.

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

234. St. Kitts and Nevis has a declaration system which provides the CED with the means to seize, detain and forfeit goods, including cash, once used in the commission of an offence or crime. The CED requires passengers carrying more than USD 10,000 in currency or BNIs to submit a declaration form to custom officers. There are signs posted at the ports of departure and arrival, informing the importing and traveling community of its obligation to declare cash or other monetary instruments exceeding USD10,000 or its XCD equivalent. The authorities believe that this has served as a deterrent.
235. The CED is reliant on the police, immigration, and other regional and international partners to assist in identifying persons moving across borders carrying large sums of cash or negotiable instruments. The CED depends heavily on intelligence from the police. In addition, the CED receives information from both air and seaport authorities in St. Kitts and Nevis as screening is done by the air/port authorities of outgoing vessels/aircrafts and every person boarding the aircraft/vessel is screened. As a result of the identification of the vulnerability of the quality of border control in the NRA 2019, two border control posts have been established to increase the security of the borders within St. Kitts and Nevis.
236. The CED submits reports on declared funds to the FIU. The FIU conducts database searches on subject information to determine whether individuals/entities have previously been associated with suspicious activities or requests for assistance. For undeclared cash, the penalty for false declaration is XCD 10,000 (USD 3,680) and for other offences the penalty can extend up to XCD 100,000 (USD 37,000) or three (3) times the value of the goods whichever is greater or to imprisonment for five (5) years. Undeclared cash and goods can be subject to forfeiture under section 191 and 192 of the Customs Act.
237. Customs officers in St. Kitts and Nevis have received and continue to make use of training in the areas of AML/CFT. Training in cross-border movements, seizures and detention of cash and BNIs was provided in 2017 for two (2) officers and most recent in 2020 for nine (9) officers. Customs officers in St. Kitts and Nevis have received limited training in relations to cross-border movements and seizures and detentions of cash and BNI for the period under review. However, at the time of the onsite, the authorities indicated that a strategic plan had been drafted which includes specified training in the areas mentioned above.

238. Although, the CED did not have any seizures and detention of cash and BNIs during the period 2017-2020, there have been investigations into two (2) matters where false declarations were considered. The cash was confiscated and detained pending the outcome of the investigations, nonetheless the persons were fined, and the cash returned. This, however, does not negate the fact that St. Kitts and Nevis has a potential threat relative to the cross-border movement of cash and BNIs. Below is case study 3.5 as an example which occurred in 2020.

Box 3.5. Potential threat relative to the cross-border movement of cash

This matter involved a national of Country A who arrived at RLB International Airport in January 2020 from Country B. The passenger failed to declare USD9,586, AED 225 and XCD 785. The Supervisor at the airport completed the cash inquiry form. The matter was then forwarded to the Investigations Unit of the CED. The Investigations Unit informed the FIU of the situation who informed the WCCU. The FIU and WCCU conducted covert inquiries into the affairs of the national from Country A and nothing suspicious was found. He was fined XCD 3,000 (USD 1,104) for the offence of false declaration pursuant to section 182 of the Customs Act.

239. The table 3.13 below represent the total number of CBRs and their monetary values in XCD received by the FIU for the period 2017-2020. The investigations into these declarations did not reveal anything of a criminal nature.

Table 3.13. FIU Cross Border Reports (CBRs) 2017 to 2019

| | 2017 | 2018 | 2019 | 2020 | Total |
|-----------|-------------|-------------|-------------|-------------|----------------|
| No CBRs | 6 | 3 | 13 | 2 | 24 |
| Value XCD | \$278,000 | \$163,000 | \$1,365,000 | \$62,331.12 | \$1,898,611.97 |
| (USD) | (\$102,323) | (\$59,995) | (\$502,411) | (\$22,942) | (\$698,816.20) |

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

240. St. Kitts and Nevis adopted a national AML/CFT policy in March 2021. Also, the jurisdiction amended the POCA under section 2 creating a legislative structure for civil forfeiture. However, these measures cannot be properly assessed due to the recent implementation. The CAs have demonstrated that they can confiscate, when necessary and they have done limited confiscation of criminal proceeds. The low confiscation of proceeds and instrumentalities of crime are in line with the breakdown of predicate offences in the jurisdiction.

241. In relation to TF, the assessors are concern that some FIs are not sufficiently trained to identify and report such offences to the relevant CAs.

Overall conclusion on IO.8

242. St. Kitts and Nevis did not have a national policy objective for the confiscation of criminal proceeds, instrumentalities, and property of equivalent value for ML until March 2021. There are no existing asset-sharing agreements between St. Kitts and Nevis and other countries. St. Kitts and Nevis has limited experience in asset recovery with foreign counterparts, either for proceeds of foreign predicates located in St. Kitts and Nevis or proceeds from domestic predicates laundered outside St. Kitts and Nevis.
243. The legislative infrastructure is limited in scope, however in March 2021 POCA was amended under section 2 which provides for civil forfeiture. These measures cannot be properly assessed due to the recent implementation.
244. The WCCU is the dedicated unit within the RSCNPF for conducting confiscation proceedings or asset forfeiture under POCA. The WCCU pursues confiscation of criminal proceeds and property only where major cases of predicate offences have been identified and assets are available for confiscation in the event of a conviction.
245. Confiscation of criminal proceeds, instrumentalities and property of equivalent value for TF is not pursued as a policy objective in St. Kitts and Nevis before March 2021. In relation to TF, some FIs are not sufficiently trained to identify and report such offences to the relevant CAs.
246. Confiscation of proceeds and instrumentalities of crime is exceptionally low in St. Kitts and Nevis based on a review of the crime statistics for the period 2017 to 2020. St. Kitts and Nevis has a declaration system which provides the CED with the means to seize, detain and forfeit goods, including cash, once used in the commission of an offence or crime.

St. Kitts and Nevis is rated as having a low level of effectiveness for IO.8.

Chapter 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

- a) According to the NRA 2019 and 2021, the threat of TF is perceived to be low in St. Kitts and Nevis. The NRA report of 2019 and 2021 does not take into consideration the nature and characteristics of St. Kitts and Nevis as a small international financial centre.
- b) St. Kitts and Nevis had two (2) investigations into potential TF which highlights some ability to investigate TF. There was no prosecutions or convictions for TF related offences. The assessment team was unable to assess whether the lack of prosecutions or convictions for TF is consistent with the country's TF risk profile.
- c) The FIU and WCCU have demonstrated a prompt approach to any matter that could potentially have a terrorism of TF element.
- d) There is a fair amount of training on TF in St. Kitts and Nevis however, the level of knowledge and understanding of TF within the Federation by both regulated entities especially the DNFBPs and some CAs is limited.
- e) St. Kitts and Nevis implemented a national policy for AML/CFT in March 2021.
- f) Investigations into suspected TF cases have not revealed any illicit activity within St. Kitts and Nevis. No alternative measures have been used to address TF and therefore there is no opportunity to measure the effectiveness of alternative measures.

Immediate Outcome 10

- a) The amended ATA provides basic measures for entities under the UNSCRs. It also requires the implementation for TFS without delay.
- b) St. Kitts and Nevis has not identified any terrorist organisations or terrorist support systems. It could not be determined that being unable to identify terrorist organisation or terrorist support is consistent with the country's TF risk profile due to the limited scope of the TF assessment in the NRA.
- c) The system for the distribution of the UN sanctions list was not used for at least two (2) years and only recently restarted.
- d) Due to the recent enactment of the ATAA the private sector was not aware of the

requirement to deprive a listed person or entity of their assets without delay when a match is identified.

- e) The NGO assessment in 2019 was limited and did not sufficiently assess the full sector of entities that fall under the definition of NGOs. Both the 2019 and 2020 risk assessments were limited to St. Kitts and did not include Nevis. The NGO risk assessment of 2019 identified a lack of regulatory structure. As a result, amendments were made to the NGOA to make provisions for the registration of entities under the Companies Act.
- f) It was noted that although AML/CFT training, guidance and outreach was provided, there is still a lack of understanding of TF in the sector and a lack of knowledge of reporting requirements.
- g) At the time of the onsite St. Kitts and Nevis had not identified any funds of assets of designated persons, hence no TF assets or instrumentalities were seized.
- h) At the time of the onsite, banks and insurance companies are the only regulated entities required to submit quarterly TPRs to the FIU. However, most of the institutions did not understand how to apply measures if screening processes revealed a positive match. Due to the recent enactment of measures to report matches without delay, the assessment team was not able to assess the effectiveness of these provisions.
- i) St. Kitts and Nevis has evaluated its TF risk as low however, the assessment was not comprehensive to support this conclusion.

Immediate Outcome 11

- a) St. Kitts and Nevis established a legal and institutional framework to implement TFS related to PF without delay by enacting the APA in August 2020 and the APR in March 2021.
- b) No funds and assets held by designated persons as defined in the UNSCRs were identified during the period under review.
- c) Most FIs and DNFBPs were not aware of the need for identification of assets and funds held by designated persons or entities relating to PF, the freeze without delay requirement and the requisite reporting procedures in the event of funds or assets discovered.
- d) Due to the recent enactment of the APA and the APR, FIs and DNFBPs were not monitored to ensure compliance with TFS obligations related to PF.

Recommended Actions

Immediate Outcome 9

St. Kitts and Nevis should:

- a) Ensure that a comprehensive TF risk assessment is completed.
- b) Ensure that more guidance and training are being provided to FIs and DNFBPs to enable them to identify possible instances relating to TF and take the necessary actions.
- c) Ensure the capacity of LEAs in the areas of detecting and investigating TF be enhanced through continued training and improvement of policies and procedures. Ensure that CAs are properly trained to identify and improve their understanding of TF risks and the TF offence in the country.

Immediate Outcome 10

St. Kitts and Nevis should:

- a) Ensure CAs develop a coordinated approach and mechanism to identify targets for designation to the UN Security Council under UNSCR 1267 and to identify targets for designation under UNSCR 1373.
- b) Develop a mechanism to ensure that it is fulfilling the obligations of disseminating the UN Sanctions List and any other relevant information in a timely manner to all CAs and private sector individuals. Enhance the capacity of LEAs in the areas of detecting and investigating TF in line with the risk profile, including on the role of terrorist financiers, through continued training and improvement of policies and procedures. Ensure that CAs are properly trained to identify and improve their understanding of TF risks and the TF offence in the country.
- c) St. Kitts and Nevis should conduct a comprehensive NGO risk assessment inclusive of Nevis to identify and monitor NGOs vulnerable to TF in order to take proportionate and effective actions to address the identified risk.
- d) St. Kitts and Nevis should increase and improve guidance and outreach to the private sector and NGOs with a view to improving the understanding of TF and to include the TPR reporting requirements and measures to take if screening processes yield a positive match.

Immediate Outcome 11

St. Kitts and Nevis should:

- a) Conduct a comprehensive analysis of sectors which are vulnerable to PF and issue appropriate guidelines to all relevant stakeholders (FIs and DNFBPs).

- b) Conduct outreach to inform FIs and DNFBPs of their new CPF/TFS obligations.
- c) Develop a comprehensive sensitisation and training programme to ensure that all CAs, FIs and DNFBPs understand the PF offence and the obligations to freeze funds and assets without delay.
- d) Develop measures to supervise and monitor FIs and DNFBPs to ensure that there is effective implementation of PF obligations.

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

4.2. Immediate Outcome 9 (TF investigation and prosecution)

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

248. According to the NRA 2019, the threat of TF is low in the Eastern Caribbean subregion. The country did a follow-up NRA 2021, and the results of this assessment yielded the same results as the 2019. TF in St. Kitts and Nevis was deemed low risk to the Federation. MLATs over the assessed period were not in respect of suspected terrorists or known TF related activity. There were no international requests received by the FIU regarding TF activity within the assessed period. The banking sector and other FIs are regulated and there is little evidence that TF activity is occurring in the jurisdiction. While the above would suggest that TF risk is low, the assessment does not take into consideration the nature of St. Kitts and Nevis as a small international financial centre with regards to the origin and destination of funds flows in and out of the jurisdiction, the use of international companies and legal arrangements and other structures to raise, conceal, move and distribute funds, the volume of incoming and outgoing wire transfers, customer profiles (types of customers), types of products and services and delivery channels offered in the jurisdiction and the level of TF awareness. As such the assessment team is unable to affirm that the TF risk is low due to the lack of comprehensive TF assessment. (Please see reference in IO.1)

249. St. Kitts and Nevis has had no prosecutions or convictions for TF related offences. However, St. Kitts and Nevis has had two (2) investigations into potential TF cases which was initiated by STRs filed with the FIU. However, the intelligence gathered, and investigation conducted did not reveal or suggest any illicit activity. Therefore, there is no data to effectively demonstrate prosecution and conviction of persons or entities for TF offences. Also, since there was limited scope of TF in the NRA it cannot be determined that not having prosecutions or convictions is consistent with the country's risk profile.

4.2.2. TF identification and investigation

250. The FIU and WCCU have demonstrated a prompt approach to any matter that could potentially have a TF element. The WCCU have acted upon (2) CDs submitted by the FIU to conduct investigations of potential TF cases. The WCCU took the following steps to investigate the TF CDs: executed search warrants on premises and electronic devices, conducted interviews of

relevant persons, reviewed financial records, made request to the US authorities, contacted the RSS-ARU for travel history and APIS information and contacted Interpol for assistance to determine if the suspect had any connection to terrorism or TF. After extensive investigation and information provided, the investigation determined that there was no link to terrorism or TF. Since the above investigations found no link to TF there was no link to the role of a terrorist financier. The above measures demonstrate the capacity of the FIU to gather intelligence on TF and the WCCU to carry out the TF investigation.

251. The FIU, the WCCU and the DPP have been trained by the RSS-ARU, the FIU St. Vincent and the CFATF on how to analyse and investigate TF matters in the Federation. The FIUA, the ATA and the POCA provides the legislative tools to investigate and gather evidence, prosecute, and confiscate property that is identified as TF property by the state. Additionally, the DPP has also received additional training by the British High Commission and the International Association for prosecutors. No prosecutions have taken place in the jurisdiction for TF.
252. The WCCU demonstrated an adequate understanding of TF, a similar level of understanding was not displayed by other CAs and regulated entities especially DNFBPs, the level of knowledge and understanding of TF within the jurisdiction is limited. More guidance and training should be provided to FIs and DNFBPs to enable them to identify possible instances relating to TF and take the necessary action, inclusive of filing STRs.

4.2.3. TF investigation integrated with and supportive of national strategies

253. During the period under review, St. Kitts and Nevis developed a National Strategic Plan in February 2021 however, there are no measures to address TF specifically. The National Strategic Plan contains broad AML/CFT measures (which should capture TF issues) such as the enhancement of training and outreach programmes for regulated entities and regulatory agencies and improvement in CED's overall effectiveness in respect of AML/CFT. For instance, increasing the ability of the CED to detect illicit coastal movement as well as its identification of monetary instruments held in concealed baggage. TF investigations focussed on the detection of TF activities conducted by individuals or entities within St. Kitts and Nevis, where monies were remitted to foreign jurisdictions to support terrorist activities or organisations in foreign jurisdictions (See case study 4.1 below). It was discovered from an STR that an individual had sent funds USD 200 to Iran claiming it was for visa processing fees. This matter was forwarded by the FIU to the WCCU via a CD. Financial checks were conducted but the authorities were unable to identify the account. The WCCU indicated that the assistance of the USA FBI was sought via RSS-ARU for an ongoing investigation into the suspected TF case.

Box 4.1. Investigations of possible TF activities

FIU received spontaneous information from a foreign FIU relating to Individual A in St. Kitts and Nevis. Individual A was observed sending funds, via money remitter, to Individual B in another Caribbean Country X. According to information received, Individual B is alleged to be associated with Individual C in Caribbean Country Y.

Individual C's sibling is identified as Individual D who also resides in Caribbean Country Y. Intelligence suggests that Individual D is suspected to be linked to a group of individuals who participate in terror activities in support of the Islamic State of Levant/Syria (ISIL/ISIS). It is believed that the group of individuals moved from Caribbean Country Y to Syria.

It is noted that Individual A is one of 50 individuals featured sending funds to Individual B. Individual A was the only person sending from St. Kitts and Nevis. The other senders were from eight other Caribbean jurisdictions. The funds sent to Individual B by the 50 individuals were small amounts that made no economic sense.

The FIU conducted data gathering inclusive of money remitters' queries. The findings and all information were spontaneously shared with WCCU. Based on the findings of the investigations the matter was deemed not suspicious and closed.

4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions

254. A natural person who has committed a TF offence under section 12 of the ATA is liable to a maximum imprisonment term of 14 years or a maximum fine of XCD 750,000 (USD 276,049) or both. On the other hand, a legal person is liable to a maximum fine of XCD 1,000,000 (USD 368,066).
255. At the time of the on-site visit, there were no prosecutions or convictions for terrorism or TF offences. Consequently, the degree of effectiveness, proportionality and dissuasiveness of the sanctions has not been tested.

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

256. Investigations into suspected TF cases have not revealed any illicit activity within St. Kitts and Nevis. No alternative measures have been used to address TF and therefore there is no opportunity to measure the effectiveness of alternative measures (provision for forfeited property).

Overall conclusions on IO.9

257. There were two (2) investigations into potential TF cases however these did not reveal or suggest an illicit activity. These two investigations were not sufficient to effectively demonstrate prosecution and convictions for TF offences. There is insufficient information and analysis in the NRA to determine the country's TF risk profile and therefore determine that the information in one (1) is commensurate with that risk profile.
258. The FIU, the WCCU and the DPP have been trained to analyse and investigate TF matters in the Federation. The WCCU and FIU have demonstrated the ability to identify and conduct potential investigations of TF cases. It is noted that St. Kitts and Nevis developed a National Strategic Plan in February 2021 and therefore the assessment of the implementation of the strategy could not be tested. Additionally, there is no opportunity to measure the effectiveness of alternative measures (provision for forfeited of property).
259. At the time of the on-site visit, there were no prosecutions or convictions for terrorism or TF offences. Consequently, the degree of effectiveness, proportionality and dissuasiveness of the sanctions has not been tested. There were no prosecutions for TF in St. Kitts and Nevis since there was no terrorist activity detected in St. Kitts and Nevis during the period under review.

St. Kitts and Nevis is rated as having a moderate level of effectiveness for IO.9.

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

4.3.1. Implementation of targeted financial sanctions for TF without delay

260. St. Kitts and Nevis enacted in August 2020 the ATA which was amended in the MAFATFA, 2020 to implement measures to address TFS. Under the ATA the AG is designated as the competent authority having responsibility for both identifying and initiating proposals of persons or entities to the UNSCR and its relevant Committees (1267, 1373 and 1988).
261. The amended ATA provides basic measures for identifying persons or entities under the relevant UNSCRs. It also, requires the implementation of TFS without delay and has measures including de-listing, unfreezing and providing access to frozen funds or other assets. Technical deficiencies in some of these measures are analysed in Recommendation 6 of the TC annex of this report. Due to the recent amended enactment of these measures in August 2020, it was not possible for the assessment team to assess the effectiveness of these measures.
262. Section 3 of the ATA No.12 of 2012 provides that the AG, can designate any person or group of persons, whose activities fall within the definition of terrorist activity, as a terrorist or terrorist group. Additionally, the AG may, also add or remove any person or group of persons from the list of designated terrorists or terrorist groups made under subsection (1). Furthermore, the Minister has designated the persons and groups listed pursuant to the Consolidated List established and maintained by the 1267 Committee with respect to Al-Qaida, Osama Bin Laden, and the Taliban and other individuals, groups, undertakings and entities associated with them as terrorists or terrorist groups for the purposes of the ATA Regulation 2 of Schedule 1.

263. St. Kitts and Nevis has not identified any terrorist organisations or terrorist support systems in the jurisdiction. Since the amendment of the ATA in 2020, mechanisms are being put in place to implement the provision of the recently enacted amended ATA regarding TFS without delay.
264. The FIU and WCCU have access to databases and information both local, regional and international to ascertain whether any suspect person or entity is on the UNSCR list.
265. The MOFA has been designated to distribute the UN sanctions list to CAs in St. Kitts and Nevis. However there have only been two (2) instances recorded of the list being shared and the MOFA only recently restarted doing so as of March 2021. Notices of new persons and entities designated for TFS as per the UNSCRs, have not been disseminated to FIs and DNFBPs by the MOFA or any other authority for at least two (2) years. This indicates that no mechanism was in place to ensure that TFS would be applied without delay when new persons and entities are designated.
266. Although the distribution of the UN sanctions list to CAs has not been done by the MOFA, the FSRC disseminates the list via email and publishing on the website to FIs and DNFBPs that they regulate. Changes to the list are also communicated to the regulated entities and published within 24 hours of receipt, however, there is limited guidance and training in some sectors in St. Kitts and Nevis, mainly the DNFBPs on their obligations. The DNFBPs except TCSPs and gaming sector have very limited supervision and very little or no knowledge of the sanctions lists. Some FIs and DNFBPs (TCSPs) indicated that they received the list via email or refer to it via the FSRC website.
267. For both the FIs and DNFBPs (TCSPs), the use of screening systems accompanied the CDD process and decreased the risk of being misused by terrorists or terrorist's organisations. Automated and manual screening systems are used to check customers against the sanctions lists. Some FIs had systems that did continuous screening of customers against the sanctions lists. Some entities indicated that they also utilised open-source technology to do screening however, this is not a suitable vetting tool for TFS once used in isolation.
268. Due to the recent enactment of the amendment to the ATA the private sector was not aware of the requirement to deprive a listed person or entity of their assets without delay. Overall, some FIs and DNFBPs were not clear on the steps to be taken and what measures are to be implemented whenever a match is identified. This can be credited to lack of awareness, training, and guidance by the competent and supervisory authorities. Some of the responses to '*if a match is found*' included, filing an STR, contacting the FIU or FSRC for further instructions and guidance.
269. FIs and DNFBPs not being aware of their requirements will present challenges to the jurisdiction in detecting any potential TF case. St. Kitts and Nevis authorities should conduct more outreach, guidance, training and supervision on the implementation of the UNSCRs. These actions should result in an understanding of the process and what measures should be implemented whenever a match is identified.

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

270. The definition of an NGO in St. Kitts includes the characteristics of an NPO in the FATF Glossary and NGOs in St. Kitts are registered under the NGOA. Similarly for Nevis, entities

which carry out functions of NPOs are registered under the Nevis Companies Ordinance and MFFs which may also undertake charitable activities are registered under the provisions of the MFO.

271. The initial NGO assessment in 2019 was limited to registered NGOs in St. Kitts. Nevis NPOs and MFFs which far outnumber those in St. Kitts were not included in the assessment. This is a major concern for the assessment team. Both the 2019 and 2020 risk assessment were limited to St. Kitts and did not include Nevis. However, the NGO risk assessment 2019 identified, a lack of a regulatory structure for the NGO/NPO sector within St. Kitts. The risk assessment concluded at the time the jurisdiction required a reorganisation for compliance with recommendation 8¹⁵ in addition the threat of TF within the country was rated low. The review was limited and did not sufficiently assess the full sector of entities that fall under the definition of NPOs. At the time NPOs were not required to register and of the 32 NGOs registered in St. Kitts who were required to file annual returns and keep proper accounting records only three (3) were fully compliant with filing annual returns and financial statements. At the time of the assessment however, FSRC St. Kitts did contact 56 companies limited by Guarantees (not-for-profit) who carried out charitable activities to advise them of their requirement to register. A questionnaire was sent to them to ascertain if they meet the FATF classification.
272. St. Kitts and Nevis conducted a follow-up NGO risk assessment in 2020. The country used varying methods to retrieve information, one of which was questionnaires which yielded poor responses. The country also used follow up calls to get additional information. This risk assessment, which was not comprehensive determined the NGO sector in St. Kitts to be low risk for TF. St. Kitts identified four (4) priority areas requiring work; these areas were legislative review, record keeping requirements, implementation of STR reporting, awareness and adequate training.
273. The FSRC-St Kitts in collaboration with the Registrar has conducted sessions focused on sensitising the public on the requirements of the NGO legislation and AML/CFT obligation. In addition, flyers and newsletters were issued to the public as part of the sensitisation drive in St. Kitts. During the outreach period, there was active dialogue with NGOs, to provide further clarity on issues such as the registration process, filing returns and accessing FSRC St. Kitts website for newsletters of NGOs within St. Kitts. Additionally, the Registrar in St. Kitts did general outreach with the sector in respect of AML/CFT. Two (2) NGOs have undergone onsite examinations to assess their vulnerability to TF abuse. The examinations focused on accounting and record keeping and lacked a TF focus. The main remedial action identified was implementation of record keeping practices of donations. The assessment team noted from interviews that although AML/CFT training, guidance and outreach was provided, there is still a lack of understanding of TF in the sector and a lack of knowledge of their reporting requirements should there be a suspicion of TF.
274. As a result of the identified lack of a regulatory structure mentioned above, amendments were made to the NGOA in 2020. The data provided in the 2019 NRA recorded a total of 74 not for profit organisations and 233 multi-form foundations operating in Nevis. In addition to this, clubs and associations were not included in the assessment and the figures used in the 2019 risk assessment were not consistent to those of the 2020 assessment. However, an amendment to

¹⁵ St. Kitts and Nevis National Risk Assessment Report 2019, Pg.19

the NGOA in 2021 makes provisions for the registration of entities under the Companies Act to be registered as NGOs. Due to the recent enactment of the act, it was not possible to assess the effectiveness of this measure.

275. It is evident that although St. Kitts and Nevis has made an attempt to conduct an NGO risk assessment it was another thematic approach and did not cover the full scope of the sector within both St. Kitts and Nevis and thus there are significant gaps within the NGO risk assessment report. Besides those mentioned above regarding a complete domestic review of the sector there were also limitations on available data for entities that were registered and included in the risk assessment. Although these entities are required to file annual returns and keep proper accounting records (inclusive of filing financial statements) only six (6) filed annual returns and three (3) filed both annual returns and financial statements. Regarding financial inflows six (6) NGOs in St. Kitts received funding from overseas organisations. Five of them received funding of XCD 50,000 (USD 18,501) or less annually from international donors in the USA while one (1) received financial inflows of XCD 100,000 (USD 27,000) annually from regional donors. There was also no data provided on donor identification to make an assessment of same. Further there was no data available regarding outflows to regional/International organisations for the registered NGOs.
276. St. Kitts and Nevis has not fully demonstrated the proper application of a risk-based approach or proportionate measures to identify those non-profit organisation/non-profit companies vulnerable to TF.

4.3.3. Deprivation of TF assets and instrumentalities

277. At the time of the on-site, St. Kitts and Nevis had not identified any funds or assets of designated persons. Hence, no TF assets or instrumentalities were seized because of TF investigations and TFS.
278. St. Kitts and Nevis has considerably narrowed the application of TFS. Banks and insurance companies are the only regulated entities required to submit quarterly TPRs to the FIU and implement TFS when they encounter funds belonging to a designated person or entity. Over the period 2017-2019, only FIs in St. Kitts and Nevis have filed TPRs. Although FIs indicated that their customers are screened against the UN Sanctions List via automated systems, most of them did not understand how to apply TFS if the screening processes yielded a positive match (other than a false positive). However, under MAFATFA, 2020 section 115 (2)(b) states that all regulated entities are required to submit STRs to the FIU without delay and in any case within 24 hours of the identification. Due to the recent enactment mentioned above St. Kitts and Nevis is not able to demonstrate an effective mechanism to detect whether they have, or control funds linked terrorist/terrorist groups.

4.3.4. Consistency of measures with overall TF risk profile

279. The 2019 NRA of St. Kitts and Nevis as well as the 2021 NRA follow-up both indicated that the TF threat of the Federation was low. As previously mentioned, the Assessors determined that the NRA activities in 2019 and 2021 did not include a comprehensive assessment of TF risks in the jurisdiction. Cross border financial flows were not considered in the assessment of TF risks along with other critical information.

280. In 2020, the jurisdiction assessed the vulnerability of NGOs in St. Kitts to TF abuse as low. An assessment of NPOs registered in Nevis was not conducted therefore the 2020 assessment is not a full reflection of NPOs in the jurisdiction. As a result of these factors, the assessors determined that the jurisdiction does not have a solid understanding of its TF risk. Sustained outreach and targeted risk-based supervision and monitoring of NPOs in the Federation is limited and it was determined that it is not the result of the perceived low risk level. Supervision and monitoring of NPOs in the jurisdiction are still in a nascent stage. Due to the lack of sustained outreach to the NPO sector, NPOs do not have a good understanding of their TF vulnerabilities and measures implemented to protect themselves from TF abuse are very limited.

Overall conclusions on IO.10

281. St. Kitts and Nevis has not identified any terrorist organisations or terrorist support systems. Since there was limited scope of TF in the NRA it could not be determined that being unable to identify terrorist organisations or terrorist support is consistent with the country's risk profile. The requirements for the implementation of TFS without delay was only recently enacted in August 2020. As such the systems and mechanism for implementing the measures are still being developed with regard to the distribution of notices of persons and entities newly designated for TFS and the UN sanctions list; and ensuring FIs and DNFBPs are aware of their obligations under the TFS requirements. The amendment to the NGOA in 2021 makes provisions for the registration of entities under the Companies Act to be registered as NGOs, this would include not for profit organisations. Both the 2019 and 2020 risk assessment appeared to be limited to St. Kitts.
282. The initial NGO assessment in 2019 was limited to registered NGOs. Nevis NPOs and multiform foundations which far outnumber those in St. Kitts were not include in the assessment. It was noted that although AML/CFT training, guidance and outreach was provided, there is still a lack of understanding of TF in the sector and a lack of knowledge of their reporting requirements should there be a suspicion of terrorist financing. At the time of the on-site, St. Kitts and Nevis had not identified any funds or assets of designated persons. Hence, no TF assets or instrumentalities have been seized because of TF investigations and TFS.
283. At the time of the onsite banks and insurance companies are the only regulated entities required to submit quarterly TPRs to the FIU however, most of the institutions did not understand how to apply measures if screening processes revealed a positive match. Due to the recent enactment of measures to report matches without delay, the assessment team was not able to assess the effectiveness of these provisions. St. Kitts and Nevis has evaluated its TF risk as low. However, the assessment was not comprehensive to support this conclusion.

St. Kitts and Nevis is rated as having a low level of effectiveness for IO.10.

4.4. Immediate Outcome 11 (PF financial sanctions)

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

284. For most of the period under review, St. Kitts and Nevis did not possess a legal and institutional framework to implement TFS related to PF without delay. The APA which makes provision for TFS for PF was enacted in August 2020 and the APR March 2021. Procedures devised to identify and deter persons or entities from raising, moving and using funds or other assets for the financing of proliferation in accordance with the UNSCRs are set out in the APR which only become enforceable on the 26th of March 2021, the last day of the onsite of St. Kitts and Nevis.

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

285. At the time of the on-site visit, St. Kitts and Nevis had not identified any funds or other assets of persons and entities designated by the United Nations Security Council (and those acting on their behalf or at their direction) in relation to PF. In 2020, however, four (4) oil tankers were deregistered by the St. Kitts and Nevis International Ship Registry within the Maritime Department because of their suspected links to Iran.

286. The Maritime Department is a member of the National Security Committee, the International Ship and Port Facility Committee and the National Maritime Security Committee within St. Kitts and Nevis. Officials of St. Kitts and Nevis International Ship Registry were not aware of PF international requirements. The authorities explained that they have never encountered any ML/TF/PF issue since the establishment of the St. Kitts and Nevis International Ship Registry in 2005.

287. St. Kitts and Nevis is a member of the Registry Information Sharing Company which is based on the MOU signed among Liberia, Marshall Islands and Panama and joined by Palau, Honduras, Comoros, Vanuatu, Cook Islands, Dominica and Moldova to increase information sharing on vessels suspected of sanctions violations and acts or processes of deregistration of such vessels. Additionally, St. Kitts and Nevis is a party to the Paris and Caribbean MOUs which enables the St. Kitts and Nevis International Ship Registry to receive alerts if St. Kitts and Nevis registered ships are involved in sanctioned activities. Vessels travelling out of North Korea and Iran are monitored to ensure that they are not registered with the St. Kitts and Nevis International Ship Registry.

288. The authorities indicated that there is a robust due diligence process in place for the review of applications for registration with the St. Kitts and Nevis International Ship Registry in the Department of Maritime Affairs. Prospective applicants must provide a copy of the current flag state, the recognized organization engaged to issue the applicable conventional certification (SOLAS, MARPOL etc), the age of the vessel, the name and details of the registered owner, the name and details of the BO in the format of a Certificate of Incumbency, the trading area that the vessel will be operating and the ship management company. Once that information is received, the Registry carries out research tasks using services such as Lloyds List Intelligence, US OFAC website and vessel movement platforms such as Automatic Identification System

(AIS). All of the information collected is passed to the International Registrar of Shipping and Seamen for final review and decision. Based on the Registrar's review, further information may be required, or the vessel may be accepted or rejected. At the time of the onsite, there were 471 vessels registered with the Registry. Of that amount, 95% are owned by an organization and 5% owned by individuals. The authorities indicated that the Registry does not record the commercial activities of ships on a day-to-day basis. An analysis is conducted whenever a vessel is reportedly involved in unlawful activities. While the above measures provide for some mitigation however, the country does not have adequate monitoring system of the commercial activities of the ships on the registry. Additionally, the current staff of the ship registry are unaware of the issues surrounding PF.

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

289. The UN Consolidated Sanctions List and the OFAC Sanctions List are published on both St. Kitts and Nevis FSRC branches' websites and disseminated via email to FIs.
290. Most regulated entities were not aware of the need for identification of assets and funds held by designated persons or entities relating to PF, the freeze without delay requirement and the requisite reporting procedures in the event of funds or assets discovered. The main reason for this is due to the recent enactment of the APA in August 2020 and the APR in March 2021.
291. NAMLC indicated the need for greater sensitisation of competent authorities and reporting entities in relation to TFS pertaining to PF. In addition, to the commencement of PF training with the FIU and RSCNPF and the issuance of newsletters, a comprehensive training programme would eventually be developed by the St. Kitts and Nevis FSRC branches.

4.4.4. Competent authorities ensuring and monitoring compliance

292. Due to the recent enactment of the APR, St. Kitts and Nevis could not demonstrate that it has effectively monitored and ensured compliance by FIs and DNFBPs with their TFS obligations relating to PF. Although the FSRC St. Kitts and Nevis branches asserted that the UN Sanctions Consolidated List is screened regularly by FIs and DNFBPs, most of the regulated entities interviewed were unable to describe their procedures for the implementation of TFS related to PF.
293. FIs and DNFBPs were not monitored specifically for compliance with TFS related to PF. None of the objectives listed for the on-site examinations related to an assessment of compliance by FIs and DNFBPs with TFS requirements related to PF. In the absence of appropriate legislation up until August 2020 and the recent passage of the APR 2021, no FIs or DNFBPs could be sanctioned for non-compliance with TFS obligations related to PF.

Overall conclusion on IO.11

294. St. Kitts and Nevis established a legal and institutional framework to implement TFS related to PF without delay by enacting the APA in August 2020 and the APR March 2021. St. Kitts and Nevis had not identified any funds or other assets of persons and entities designated by the United Nations Security Council (and those acting on their behalf or at their direction) in relation to PF. However, in 2020 four (4) oil tankers were deregistered by the St. Kitts and Nevis International Ship Registry within the Maritime Department because of their suspected links to Iran.
295. The St. Kitts and Nevis International Ship Registry has a due diligence process for reviewing application for registration. However, it does not have adequate monitoring system of the commercial activities of the ships on the registry. Also, the current staff of the ship registry are unaware of the issues surrounding PF. Most regulated entities were not aware of the need for identification of assets and funds held by designated persons or entities relating to PF, the freeze without delay requirement and the requisite reporting procedures. Due to the recent enactment of the APR, St. Kitts and Nevis could not demonstrate that it has effectively monitored and ensured compliance by FIs and DNFBPs with their TFS obligations relating to PF.

St. Kitts and Nevis is rated as having a low level of effectiveness for IO.11.

Chapter 5. PREVENTIVE MEASURES

5.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 4

- a) There are varying levels of understanding of ML risks and an overall low level of understanding and awareness of TF risks among FIs and DNFBBPs. More developed FIs with regional or international presence demonstrated a fair understanding of ML risks and obligations as they conducted some level of risk assessment of their business. Understanding of risks by other entities is limited to the findings of the NRA. DNFBBPs displayed the lowest level of understanding of ML/TF risks.
- b) International FIs have an understanding of TF risk and are aware of reporting obligations and TFS while smaller FIs and DNFBBPs have a low level of understanding of TF based on the fact that they did not carry out TF risk assessments. There was little consideration of the TF risk in the products and services being offered by these institutions within the context of St. Kitts and Nevis. This was also reflected in the implementation of TF risk mitigation measures.
- c) STR reporting is low across most reporting entities and the level of reporting did not reflect the risk levels of the sectors. Some entities were not aware of the correct reporting authority.
- d) There is limited understanding among FIs and DNFBBPs of TFS requirements and reporting obligations.
- e) CDD and record-keeping measures for FIs and TCSPs is understood in the Federation, predominantly for entities with an international/regional presence. Some of the local entities (such as banks, credit union and other categories of DNFBBPs) particularly in St. Kitts do not have adequately robust KYC identification and transactions protocols in place nor the capacity for proper ongoing monitoring as the compliance function was not adequately staffed.
- f) Most FIs and DNFBBPs are aware that EDD measures are required for high-risk customers, but some did not demonstrate EDD measures undertaken by their institutions outside of enhanced transaction monitoring. (Areas that could be enhanced include PEP and sanction screening). These institutions included local domestic banks and insurance businesses, credit unions, along with DNFBBPs with the exception of TCSPs. FIs who are a part of an international group and

international banks were able to demonstrate specific EDD measures implemented for high-risk customers.

- g) Other FIs including indigenous domestic banks and insurance businesses, and credit unions and DNFBPs except for TCSPs did not specify what type of additional information is collected when conducting EDD.
- h) Except for domestic banks and insurance companies that are a part of an international group, international banks and TCSPs, FIs and DNFBPs are not familiar with obligations relating to high-risk countries.
- i) FIs generally display adequate level of implementation of internal controls. However, DNFBPs including TCSPs, gaming, DPMS and real estate agents, were assessed as having weak internal controls.

Recommended Actions

Immediate Outcome 4

St. Kitts and Nevis should:

- a) Ensure that regulated entities who have not completed enterprise risk assessments, particularly those in the MSB, TCSP and real estate sectors complete and document this assessment to demonstrate their understanding of ML/TF risks and corresponding mitigating measures.
- b) Implement measures to improve the knowledge of FIs and DNFBPS on identifying and reporting suspicious transactions and activities with priority given to the international banking, MSB, TCSP and real estate sectors.
- c) Ensure that local domestic banks and insurance businesses, credit unions, along with DNFBPs implement effective measures to conduct CDD and EDD (areas that could be enhanced include PEPs and sanction screening) when required and maintain proper transaction records.
- d) Enhance the guidance and training provided to regulated entities with priority given to international banking, MSB, TCSP and the real estate sectors for them to implement TFS without delay.
- e) Provide in-depth guidance on conducting ML/TF risk assessments for domestic and smaller FIs, DNFBPs and other obliged entities with respect to the products and services they offer, including new technologies.

- f) Implement measures to ensure that FIs and DNFBPs fully comply with obligations relating to internal controls.

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

5.2. Immediate Outcome 4 (Preventive Measures)

297. St. Kitts and Nevis is a small international financial centre which offers an array of products and services such as international banking, trust and company services and international insurance management to international clients. Most international companies are incorporated in Nevis. The products and services offered to both nationals and non-nationals include high levels of non-face to face transactions, large volumes of cross-borders transactions etc. The sectors offering these services range from banking, insurance (both domestic and international), MSBs and DNFBPs. The assessors noted that some of the services being offered are geared towards attracting high-net worth individuals. The sectors in the NRA were assessed within a range of high, medium, and low ML vulnerabilities. The assessors have considered factors such as the size and business activities of the sectors and the international services being offered within some sectors which pose an even higher risk for the jurisdiction.

298. Considering the risk and materiality within the St. Kitts and Nevis context, the assessors assigned a weight of most important to the commercial banking sector, which has seven (7) entities. FIs which were assigned a weight of highly important include international banks (3) and money service businesses (18), while international insurance (497) was assigned a weight of moderately important and domestic insurance (16) and securities (2) were assigned a weight of less important.

Table 5.1. Financial Sector Type, Number of Entities and Weight

| Financial Sector Type | Number of Entities | Sector Weight |
|--|--------------------|----------------------|
| Commercial Banking | 7 | Most Important |
| International Banking | 2 | Highly Important |
| Domestic Insurance | 16 | Less Important |
| International Insurance (Companies & Managers) | 235 | Moderately Important |
| Securities | 2 | Less Important |
| Money Service Business | 18 | Highly Important |
| Credit Unions | 4 | Less Important |

299. Within the DNFBP sectors TCSPs, real estate agents were assigned a weight of highly important while lawyers, gaming, DPMS and accountants were assigned a weight of moderately important.

Table 5.2. DNFBP Sector Type, Number of Entities and Weight

| DNFBP Sector Type | Number of Entities | Sector Weight |
|---------------------------------------|---------------------------|----------------------|
| Trust and Corporate Service Providers | 98 | Highly Important |
| Gaming Sector | 5 | Moderately Important |
| Real Estate Sector | 240 | Highly Important |
| Dealers in Precious Metals and Stones | 57 | Moderately Important |
| Lawyers, Notaries & Accountants | 125 | Moderately Important |

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

300. Interviewed entities that participated in the NRA workshops (these entities were from various sectors including international banks, domestic banks, credit unions, MSBs, insurance companies, and TCSPs) were able to adequately demonstrate their understanding of the risks identified in the NRA affecting their business and the overall sector. They were also able to demonstrate knowledge of risk mitigating measures contained in the NAP. There was a general agreement by some regulated entities with the findings of the NRA. However, during the on-site a number of smaller FIs and DNFBPs lacked an understanding of ML/TF risks and AML/CFT obligations. Overall, there is little awareness of TF risks by FIs and DNFBPs within the country. Regulated entities were legally required to perform and submit enterprise risk management assessment to the FSRC in 2020 and 2021. However, due to the recent enactment of this obligation not all entities complied with this requirement. Supervisory authorities should pro-actively monitor the compliance with this obligation. Some FIs and DNFBPs have not documented their enterprise-wide ML/TF risk assessments which contributes to the low understanding of ML/TF risks. In general, however, the FIs with a regional or international presence, such as the two (2) international banks, four (4) foreign banks and international insurance companies have demonstrated a thorough understanding of their ML/TF risks as they have conducted enterprise-wide risk assessments. The FSRC St. Kitts and Nevis branches have a risk assessment template which is customisable and available for purchase at an affordable cost by its regulated entities. The enterprise-wide risk assessment template is appreciated as a tool to understand ML/TF risk and AML/CFT obligations.
301. As there is no formal legislation or policy to govern licensing or registration of DNFBPs other than TCSPs and gaming and casinos, there is limited understanding of risk and AML/CFT obligations within the remaining DNFBP sectors in the jurisdiction. Although, there has been limited AML/CFT oversight of the gaming sector, one (1) institution in this sector had conducted an enterprise-wide risk assessment of its business and has an understanding of its ML/TF risks and is aware of the AML/CFT obligations. While it advised of challenges in collecting CDD data from customers who are mostly tourists, it has mitigating measures to monitor clients and gather data on them. The casino classified clients into various categories based on risk factors. The customers are subjected to in-depth assessment and EDD measures and must provide bank statements. The casino utilises an international software program which

collects data on customer casino activity which is review regularly and vets customers against other casinos sanction lists as well as UN sanctioned lists. Incentives are offered to customers to join the loyalty program which allows the casino to monitor play activity on a daily basis. Further any customer that spends more than USD 1000 is monitored and any amount over USD 3000 requires that a large transaction form including source of income, employment, address and other CDD information must be completed.

302. The table 5.3 below shows the Quality of Risk Management in relation to AML/CFT examinations and compliance with AML/CFT Regulations by sector for the period 2017 – 2020. This data measures the efficiency and effectiveness of a regulated person/entity’s internal controls and systems to reduce its inherent risk and loss associated with exposure to high-risk situations. In general, some of the persistent deficiencies from AML/CFT onsite examinations included, lack of customer risk assessments, absence of consistency in collecting KYC documentation, inadequate procedures for the recognition and reporting of suspicious activities and AML/CFT monitoring and insufficient AML/CFT training.

Table 5.3 Quality of Risk Management – St. Kitts AML/CFT Examinations

| Ratings | 2017 | 2018 | 2019 | 2020 | Totals |
|----------------------|-------------|-------------|-------------|-------------|---------------|
| Satisfactory | 0 | 2 | 0 | 1 | 5 |
| Needs Improvement | 8 | 5 | 3 | 5 | 21 |
| Deficient | 2 | 3 | 4 | 1 | 10 |
| Critically Deficient | 4 | 2 | 1 | 0 | 7 |
| Totals | 14 | 12 | 8 | 7 | 43 |

Table 5.4. Quality of Risk Management – St. Kitts AML/CFT Examinations by Sector from 2017-2020

| Sectors | Satisfactory | Needs Improvement | Deficient | Critically Deficient | Totals |
|--------------------|---------------------|--------------------------|------------------|-----------------------------|---------------|
| MSBs | 0 | 3 | 1 | 0 | 4 |
| TCSPs | 2 | 6 | 6 | 4 | 18 |
| Credit Union | 0 | 4 | 1 | 0 | 5 |
| Domestic Insurance | 0 | 5 | 0 | 0 | 5 |
| Banks | 1 | 0 | 0 | 0 | 1 |
| Securities | 0 | 1 | 0 | 0 | 1 |
| Gaming | 0 | 0 | 1 | 2 | 3 |
| Accountants | 0 | 1 | 0 | 0 | 1 |
| Insurance Managers | 0 | 1 | 0 | 0 | 1 |
| Insurance Broker | 0 | 0 | 1 | 1 | 2 |
| NGOs | 2 | 0 | 0 | 0 | 2 |
| Totals | 5 | 21 | 10 | 7 | 43 |

303. During these examinations the deficiency of risk management systems demonstrates the low level of understanding of ML/TF risk and obligations. DNFBPs except (TCSPs and gaming sector) continue to have a low level of implementation of AML/CFT Regulations. During the

years 2017 to 2020 only 5 of the 43 entities examined had satisfactory internal controls and systems in place. This can be compared and correlated to the low level of compliance with AML/CFT Regulations noted in Chapter 6.

304. The table 5.5 below shows a similar report for the FSRC Nevis branch which covered a different period and was not broken down by sector.

Table 5.5. Quality of Risk Management - Ratings for Full Scope Examinations - Nevis

| Ratings | 2017 | 2018 | 2019 | 2020 | Totals |
|----------------------|------|------|------|------|--------|
| Strong | 0 | 1 | 0 | 1 | 2 |
| Satisfactory | 0 | 5 | 0 | 0 | 5 |
| Needs Improvement | 8 | 3 | 7 | 5 | 23 |
| Deficient | 8 | 4 | 3 | 0 | 15 |
| Critically Deficient | 0 | 0 | 2 | 0 | 2 |
| Totals | 16 | 13 | 12 | 6 | 47 |

305. The table 5.6 demonstrates a steady reduction in the number of institutions categorised as deficient and critically deficient over in the years 2017 to 2020. However, further improvement is required to achieve a higher level of satisfactory quality of risk management systems.

Table 5.6. Quality of Risk Management – Ratings for Follow-Up Examinations - Nevis

| Ratings | 2017 | 2018 | 2019 | 2020 | Totals |
|----------------------|------|------|------|------|--------|
| Strong | 0 | 0 | 0 | 0 | 0 |
| Satisfactory | 2 | 1 | 1 | 4 | 8 |
| Needs Improvement | 4 | 8 | 8 | 4 | 24 |
| Deficient | 2 | 4 | 2 | 0 | 8 |
| Critically Deficient | 0 | 0 | 1 | 0 | 1 |
| Totals | 8 | 13 | 12 | 8 | 41 |

306. Similar to St. Kitts, follow-up examinations in Nevis, with the exception of the year 2020 did not show major improvements and in fact there appeared to be a decline for some previously examined entities. As an example, there were no critically deficient entities in 2017 nor 2018, yet follow-up reports of the same entities in 2019 produced a critically deficient rating. Similarly, in 2017 there were eight (8) needs improvement and eight (8) deficient and while there was slight improvement in the 2018 follow-up (of 2017 exams) only one (1) entity of the 13 follow-ups was satisfactory. This shows the regulated entities low level of understanding of their ML/TF risks and AML/CFT obligations.

307. The FSRC and FIU held several ML and TF trainings and also issued public statements. Their annual AML/CFT conferences are open to all sectors and throughout the years held targeted compliance training with specific sectors. However, it was noted in interviews with some entities that there was a lack of understanding of the STR reporting process and the correct actions to be taken when there is a match with a name on the sanctions list.

308. As noted above the international FIs have an understanding of the ML/TF risk and are aware of the TF reporting obligations and TFS sanctions. However, the smaller FIs and DNFBPs have

limited understanding of TF based on the fact that there has been no evidence of TF in St. Kitts and Nevis. There was little consideration of the TF risk involved in the products and services being offered by these institutions within the context of St. Kitts and Nevis.

5.2.2. Application of risk mitigating measures

309. Generally, FIs with an international or regional presence indicated that an overall business risk assessment is done of their operations and in some instances for the regional FIs an assessment specific to St. Kitts and Nevis. Banking institutions and insurance companies with international and regional affiliates place heavy reliance on the risk mitigating measures of the parent company or the operations in the home jurisdiction. These institutions did not necessarily implement standalone measures in their St. Kitts and Nevis' operations as it was expected the international controls would appropriately mitigate any risks. Additionally, the CDD measures employed by the banking sector is applied to all customers with enhanced measures being employed for PEPs and high-risk customers. These measures are continuously reviewed with necessary adjustments made in line with best practices and national policies.
310. In accordance with the FSRC (Minimum Guidelines for Compliance Officers and Reporting Officers) Regulations, FIs and DNFBPs are required to submit an application for approval of their compliance officers / money laundering reporting officer (MLRO) by the FSRC. This is done to ensure that entities hire competent individuals as compliance officers/MLROs for approval by the FSRC. The table below outlines the number of regulated entities which have approved compliance officers as at December 2020.

Table 5.7. Number of licensed entities and approved compliance officers

| Sector | Number of Licensed Entities | Number of Approved Compliance Officer |
|--------------------|-----------------------------|---------------------------------------|
| Banking | 6 | 5 |
| Credit Unions | 4 | 3 |
| MSBs | 10 | 10 |
| Insurances | 16 | 15 |
| Insurance Agents | 14 | 11 |
| Insurance Brokers | 2 | 2 |
| Trusts | 4 | 3 |
| Escrow | 4 | 3 |
| TCSPs | 40 | 32 |
| Casinos | 5 | 1 |
| Insurance Managers | 2 | 0 |
| Totals | 107 | 86 |

311. Table 5.7 illustrates that approximately 90% of the regulated entities have approved compliance officers as of December 2020. In some instances, some applications have remained pending as the applicants continue to receive the relevant training in order to qualify for approval. Compliance officers are required to have extensive training and expertise in AML/CFT matters or possess a relevant AML/CFT certification. Some of the compliance officers interviewed from the insurance and DNFBP sector did not appear to have adequate understanding of AML/CFT

which contributes to the lack of entity risk assessments. The FSRC has developed a targeted compliance officer training for entities, upon request, to assist with providing the appropriate knowledge and developing an effective AML/CFT Program. However, some compliance officers who attended special training sessions with the FSRC or external training, still displayed a lack of AML/CFT understanding. Entities are also encouraged to participate in relevant webinars, workshops and conferences to enhance the experience of officers in this area, as well as, providing opportunities to keep abreast of emerging trends.

312. The onsite and follow-up examinations revealed that most regulated entities have developed and implemented an AML/CFT compliance program which includes policies, procedures and internal systems on recognition and reporting of suspicious activity, record keeping, independent audit and risk assessment. The FSRC continues to provide training on adequate measures to implement policies and procedures within an effective AML/CFT system and emerging trends in local and international standards and guidelines. It is noted however that there is heavy reliance on follow-up examinations to show corrective actions therefore it appears the outreach is not effective as a preventative measure in the first instance. There is a lack of some sector analysis, particularly for the DNFBPs (dealers in precious metals and stones, real estate, NPO/NGOs) and as such these measures are limited. The NRA also considered these sectors high in the threats vulnerabilities assessment, however there is minimal oversight and monitoring. While there is outreach and regulated entities spoke to policies and guidelines in place, there was more confidence and understanding from regulated entities regarding ML with little focus on TF. Further, many entities had not completed an enterprise risk management assessment and as such were not implementing a risk-based approach to monitoring and assessing their clients. The FSRC has also conducted sectoral risk assessments during the period however, these assessments were not comprehensive and done on an irregular basis. As such risk mitigating measures within entities could not reflect institutional risk profiles or sectoral risk profiles.
313. There is an overall low level of awareness of TF risks within the jurisdiction, which is seen in FIs and DNFBPs. FSRC provided training sessions to regulated entities which included TF reporting and risk mitigating measures. Additionally, the FSRC disseminated newsletters to regulated entities on matters pertaining to TF and risk mitigation. Although, the above measures were conducted by the FSRC, FIs and DNFBPs were still not aware of TF reporting requirements or TF risk mitigating measures. Also, the country has not done a comprehensive assessment to understand at a national level the threat of TF. While the NRA notes that the threat of TF is perceived to be quite low in the OECS subregion, no justification for this perception is provided and nothing specific to St. Kitts and Nevis.

5.2.3. Application of CDD and record-keeping requirements

314. In the case of FIs and DNFBPs, there is a strict CDD and record keeping regime in place. Appropriate CDD and record keeping requirements for FIs and DNFBPs are outlined in the AMLR, ATR and the FSR. The onsite examinations conducted by the FSRC on the operations of the FIs and DNFBPs are aimed to check compliance with AML/CFT obligations including CDD and record keeping measures. Deficiencies noted within the CDD and record keeping measures are outlined in the examination report. Follow-up examinations are conducted to determine the regulated entity's progress in addressing the deficiencies identified and the implementation status of the recommended actions. A review of the noted deficiencies revealed

a large percentage (50% or more of the entities examined in 2019 and 2020) consist of a lack AML/CFT training, absence of compliance / reporting officers, inadequate compliance oversight, inconsistencies in the collection of KYC documents, lack of STR reporting register, lack of or inadequate on-going monitoring. This suggest that while policies and procedures are in place, they are not effective as a high rate of regulated entities continue to have low ratings in these areas. Some regulated entities such as banks, MSBs and insurance firms indicated that though irregularities were detected in the on-boarding process, a STR is not filed in all instances, it was indicated the transaction is not completed or the business is refused. This is an example of the lack of compliance with the application of CDD measures by reporting entities.

315. Regarding onsite examinations of entities within the gaming sector, it was reported that transactions were not completed (pay out of winnings or acceptance of cash to buy chips/betting) without the collection of the appropriate identification documents. The assessment team was informed during the on-site that the nature of the casino business and the turnover of customers provided a challenge to identify and perform CDD. However, the interviewed casino had measures in place to require ID for any transaction prior to cashing out of amounts over USD 1500 and required customers to complete a large transaction report where they verify and collected identification information for any amounts over USD 3000. A loyalty program was started to obtain more information from customers and to monitor transactions. A facial recognition system allows the casino to run a check through the casino and UN sanctions list. All identification documents and aliases used from various casinos worldwide is checked along with any listing of illicit activities, of any aliases. A review of the three (3) follow up examinations for the gaming sector in 2019 and 2020 revealed that the quality of the risk management system remained critically deficient/deficient which seems to demonstrate that preventative measures are not adequately in place.
316. FIs generally have investigative/due diligence software which is used to match the names of customers in their databases against sanctions lists. Based on on-site interviews some of the FIs (particularly local institutions) did not have adequate capacity to carry out customer review and ongoing monitoring as all customers were not risk rated. The rating and monitoring were done manually for thousands of customers with a limited compliance staff. Some institutions indicated that it was a challenge given the number of customers and size of portfolios, to risk rate, review and monitor their customers sufficiently.
317. The overall application of enhanced or specific CDD is understood within the Federation and record-keeping requirements adhered to. Banks, insurance, TCSPs and money remitters demonstrated compliance and understanding of and collection of CDD (including beneficial ownership). Interviewed institutions indicated they had no difficulty in obtaining BO information required under CDD procedures. This was especially true for entities with an international presence as they had programs in place to run names and checks against various sanctions list. Senior management of these entities understood the process and can get further guidance from their head office (or regional / group compliance) whenever uncertain. Ongoing monitoring was limited and not necessarily on a risk basis as some entities had yet to perform an enterprise-wide risk assessment to understand their risk or had not risk rated all their clients and as such on-going monitoring was not consistent. For DNFBSs, the TCSPs were especially aware of their obligations particularly regarding beneficial owners as many worked with the CBI Program. They understood the need to have proper documentation at all stages, prior to receipt of funds (wire transfers) from clients and even when transferring payments to other

parties (escrow agents) etc. The obligations regarding BO were also equally applicable to all the TCSPs activities, in particular, company formation. Some of the other DNFBPs such as real estate agents, large accounting firms also showed awareness of CDD procedures and understood the need to collect beneficial ownership information. Several of the jewellers were not aware of anything specific outside of collection of data for tax exemption purposes and had little to no interaction with the regulators for testing and/or AML/CFT training.

5.2.4. Application of EDD measures

318. Findings of examinations conducted by both branches of the FSRC during the period 2017 to 2020 identified minimal issues relating to application of EDD measures. From discussions with FIs and DNFBPs however, it was determined that the understanding of and application of EDD measures varied amongst sectors. While most were aware that EDD measures are required for high-risk customers they were unable to demonstrate EDD measures applied by their institutions outside of enhanced transaction monitoring. Among FIs, banks, insurance companies and MSBs who are a part of an international group and international banks were able to demonstrate specific EDD measures applied for high-risk customers. Other FIs including local domestic banks and insurance businesses, and credit unions advised that EDD measures include asking additional questions and collecting additional information.
319. In the DNFBP sector, TCSPs were able to demonstrate specific EDD measures taken for high-risk customers. Other businesses and professions in the sector, including accountants, DPMS and NGOs did not provide examples of specific measures taken for high-risk customers.

PEPs

320. Most entities are familiar with the concept of PEPs and that the requirements for PEPs should also apply to their family members. There was little evidence of knowledge that additionally measures applied to PEPs should also be applied to their associates, which is an indication that they are not being done as required. DPMS, and NGOs have had very limited AML supervision in the Federation and therefore have limited knowledge of AML/CFT obligations including requirements related to PEPs. Other FIs and DNFBPs including domestic and international banks, insurance businesses, MSBs, credit unions, TCSPs/lawyers, accountants, and real estate agents are familiar with the concept of PEPs, and that they are required to take additional measures in business relationships with them. In some instances, however, local domestic banks and insurance businesses, and credit unions, along with DNFBPs with the exception of TCSPs, could not specify (other than conducting enhanced monitoring of business relationships) the EDD measures applied to PEPs. As a result, it could not be concluded that EDD measures are being applied to PEPs as required.
321. Further, most FIs and DNFBPs interviewed indicated that domestic PEPs and their family members are identified primarily from local knowledge since the Federation is small. None of the FIs and DNFBPs interviewed acknowledged maintaining a domestic PEP list to assist in identifying domestic PEPs. Some entities allow for PEPs to be identified by self-disclosure through declarations on forms that are used to establish relationships with customers. Most entities also use client risk screening software and applications to assist with PEP identification.

Correspondent Banking

322. Domestic and international banks in St. Kitts and Nevis are respondent banks only and do not offer correspondent banking services. Conducting EDD in the process of providing correspondent banking services, therefore does not apply to them.

New Technologies

323. Any new products implemented by FIs and DNFBPs must be approved by the AML/CFT supervisory authority in the jurisdiction. From discussions with FIs and DNFBPs during the on-site visit, it could not be determined whether any new technologies were implemented during the period reviewed. Enhanced or specific measures taken relating to new technologies, therefore, could not be assessed. An insurance company that is a part of an international group and a micro-finance/payday lender acknowledged introducing new products during the review period. No ML/TF risk assessments were conducted for these products as is required. The micro-finance/payday lender mentioned that the ML/TF risk of the new product is low which is in line with the overall business risk however, as mentioned this determination was not based on the results of a product risk assessment. St. Kitts and Nevis enacted legislation in January of 2020 for the regulation and licensing of VASPs operating from within the Federation. The FSRC was named regulator and supervisor of VASPs but at the time of the on-site visit, there was nothing to test the effectiveness of the licensing and supervision framework for VASPs as no application for licensing had been received. The NRA follow-up report of 2021 indicated that there were no VASPs operating in the jurisdiction and investigations by LEAs did not indicate evidence of illegal operations of VASPs in the Federation. Based on these factors the ML risk was assessed to be low. This assessment is reasonable considering that law enforcement in the jurisdiction has not detected any ML/TF threat to this sector and the jurisdiction. As indicated in the NRA follow-up report steps have been taken to reduce the vulnerability associated with the VA activity and VASP. These steps include the continual review and amendment of the VASP legislation, raising awareness of the VA legislation and allocating training resources to relevant agencies to identify and monitor risks associated with VASP.

Wire Transfer Rules

324. The 2019 NRA indicates that wire transfer services are offered in the Federation by banks and money transmitters. The ML/TF risk of the product was assessed to be high based mainly on the volumes of transactions and their cross-border nature. The banks were assessed to have strong and robust AML/CFT control frameworks which would take into consideration wire transfer rules which are required to be implemented. During interviews, money transmitters advised that they had no difficulties receiving sender information for incoming transfers and they would question receivers of outgoing transfers to determine the sender's knowledge of the receiver. Money transmitters have appropriate AML/CFT control frameworks which provide for the implementation of wire transfer rules regarding sender and beneficiary information.

325. In their AML/CFT frameworks, banks and money transmitters utilise automated transaction screening tools which assist in prohibiting transactions with designated persons or entities. Banks and money remitters advised that there have been no instances where a match with sanctioned persons was identified during the wire screening process; therefore, there have been no instances where transactions with designated persons or entities were prohibited, or freezing action taken.

Targeted Financial Sanctions related to TF

326. The ATA allows for the freezing of funds of persons or entities charged or about to be charged under the ATA or who have been identified as being designated by the UNSCRs. In these cases, the DPP is empowered to apply without delay for the order to freeze assets. Regulated entities were not familiar with actions to be taken once a sanctioned person is identified.
327. Besides banks, securities entities, insurance companies and MSBs which are a part of an international group, and TCSPs/lawyers, other FIs and DNFBPs interviewed including local domestic banks and insurance entities, credit unions, real estate agents, accountants, DPMS, and casinos did not display an appropriate level of familiarity with the UN sanctions list and acknowledged that they were not being advised about newly designated persons in accordance with the UNSCR. As indicated in Chapter 4 under the analysis of IO.10, the MOFA which is designated to receive and disseminate notices of new designations under the UNSCRs has not been receiving and disseminating these notices for at least two (2) years. Previously mentioned entities who were familiar with the UN sanction list are dependent on their customer screening and transaction monitoring tools to identify designated persons. This, however, does not allow for TFS to be applied without delay when new persons and entities are designated.
328. Entities that were not a part of an international group were unsure of the process for freezing funds and indicated that should they identify a designated person or entity they would advise the FIU and refer to them for guidance. Banks, securities entities, insurance businesses and MSBs who are a part of an international group and TCSPs/lawyers advised that they would place holds on funds and notify the FIU upon identification of a designated person or entity. No examples were provided, or cases noted of designated persons being identified, transactions prohibited, or freezing actions taken because of designated persons being identified.

Higher Risk Countries

329. The AMLR requires FIs to apply risk sensitive EDD measures to business relationships and transactions with natural and legal persons including other FIs from or in countries which do not apply or insufficiently apply FATF Recommendations. During discussions with FIs and DNFBPs, it was determined that only domestic banks and insurance companies that are a part of an international group, international banks and TCSPs are familiar with the obligations relating to high-risk countries. Some entities also indicated that they would rely on risk screening tools for identification of these countries. FATF and CFATF statements on high-risk countries and other monitored jurisdictions are disseminated to FIs and DNFBPs by the FSRC, however, based on the lack of knowledge it was determined that some entities could not appropriately identify customers from high-risk countries and apply measures required for business relationships and transactions with persons and entities from those countries.
330. The FSRC St. Kitts and Nevis branches indicated that advisories issued to FIs and DNFBPs via email includes FATF public statements on high-risk countries and the advisories are also posted on the website of both branches of the FSRC. There was no evidence that these advisories were issued to DPMS in the jurisdiction.

5.2.5. Reporting obligations and tipping off

331. Except for DPMS, the entities have a good understanding of their reporting obligations related to suspicious transactions. However, the ability to identify and report suspicious transactions

was low across most sectors and in most instances the level of STRs did not reflect the risk level of the sectors. Table 5.8 below shows STRs filed by sectors for the period 2017 – 2020.

Table 5.8. No. of STRs filed by Sector 2017 – 2020

| Sectors | 2017 | 2018 | 2019 | 2020 | Totals |
|-------------------------------------|------|------|------|------|--------|
| Banks | 44 | 32 | 34 | 76 | 186 |
| Insurance | 0 | 1 | 1 | 1 | 3 |
| Credit Unions | 4 | 2 | 7 | 3 | 16 |
| Money Services Businesses (MSBs) | 112 | 22 | 10 | 3 | 147 |
| Lending Institutions | 3 | 0 | 5 | 2 | 10 |
| Trust and Company Service Providers | 8 | 9 | 10 | 5 | 32 |
| Real Estate Agents | 0 | 0 | 0 | 0 | 0 |
| Casinos | 0 | 0 | 0 | 7 | 7 |
| Lawyers | 0 | 0 | 0 | 0 | 0 |
| Pawn Shop (Other) | 1 | 0 | 0 | 0 | 1 |
| Hotel | 0 | 0 | 1 | 0 | 1 |
| Total STR Filing | 172 | 66 | 68 | 97 | 403 |

332. The banking sector is the most consistent in filing STRs and files the most reports annually. There was a notable increase in filing of STRs by banks between the years 2019 and 2020 and this was a result of an increase in irregular credit card transactions identified by the banks. Credit card transactions monitoring systems in banks were enhanced and this facilitated real time alerts which allowed for more effective detection and timely reporting of suspicious card activities. In the financial sector, reporting is lowest amongst insurance companies and credit unions. The low level of reporting for insurance would be consistent with the assessed risk level of the domestic insurance sector. Reporting in the MSB sector has been decreasing since 2017 which was an anomalous year with 112 reports filed by the sector. Since then, reporting has averaged 11 per year in the MSB sector. This is low and not consistent with the sectors ML vulnerability rating of high risk in 2019, medium high risk in 2021 and the marked increase of licenses issued in the sector since 2017.
333. Filing of STRs is low across all DNFBP sectors with some sectors not having any filing during the period reviewed. One of the possible factors of the low level of STR filing is lack of adequate supervision of the sector. As of February 28th, 2021, there were 240 real estate agents in the jurisdiction and no STR was filed by them during the review period. There were 98 TCSPs in the jurisdiction and they filed an average of nine (9) reports per year. Casinos filed STRs for the first time in 2020 and among the 51 registered DPMS, no STRs were filed during the period reviewed. These levels of filings are not consistent with the large number of entities in these sectors and their risk ratings which were high for real estate agents, gaming and DPMS and medium high for TCSPs.
334. Feedback provided to the entities on STRs filed did not include the quality of the STRs filed. Feedback provided by the FIU is based mainly on the status of the report and what is being done with it. No information is available from the FIU on the value of the transactions involved. Except for DPMS, training has been provided to staff of the entities to assist in the

understanding of tipping off obligations. This training may have contributed to there being no instances of tipping off identified during the period reviewed.

5.2.6. Internal controls and legal/regulatory requirements impending implementation

335. It was determined through interviews and review of examination reports, that FIs that are a part of an international group implemented internal controls at a higher level. However other FIs and DNFBPs demonstrated a high level of inadequate AML/CFT policies and procedures. This speaks to the quality of the implementation of internal controls which was also low in over 50% of the entities examined during the period 2017-2019. Detailed information was not available on the level of these deficiencies by sector. The ML/TF employee training program of regulated entities was also found to be inadequate in over 40% of entities examined. Over 70% of entities examined during the period reviewed displayed an inadequate audit function to test the effectiveness of their compliance programs. As previously mentioned, sector specific data related to these deficiencies was not available. After follow-up examinations by the FSRC, reductions were seen in the number of deficiencies identified in the full-scope examinations. Data on deficiencies identified during the period 2017 to 2019 show that at the end of 2019, 45% of deficiencies identified were now compliant, 33% were partially compliant and 22% remained non-compliant. The FSRC has indicated that in instances where insufficient or insignificant progress in rectifying deficiencies is observed, the licence of the regulated entity would not be renewed or would be revoked. Despite these actions, activities to ensure further reductions in deficiencies require enhancement.
336. The FSRC St. Kitts and Nevis branches indicated that as it relates to implementation of internal controls, shortcomings identified during compliance examinations relate mostly to the lack of an independent audit to test the effectiveness of the compliance function, inconsistent collection of CDD documentation and failure of the regulated entities to implement risk assessment procedures. Data on these deficiencies by sector was not available from the FSRC Nevis branch.
337. The low understanding of preventive measures and implementation of internal controls among DNFBPs may be a result of an ineffective registration and supervision framework for these entities. In St. Kitts, AML supervision activities for DNFBPs other than TCSPs is minimal with some sectors not being subject to any examination. In Nevis, besides TCSPs, supervision of other categories of DNFBPs is almost non-existent.
338. Based on discussions with regulated entities, FIs that are a part of an international group are subject to group wide compliance requirements which also meet the minimum standards of St. Kitts and Nevis. There are no financial secrecy laws that would inhibit the implementation of the FATF recommendations.

Overall conclusions on IO.4

339. There are varying levels of understanding of ML risks and implementation of preventive measures among FIs and DNFBPs, however there is a low level of awareness of TF risks in the jurisdiction. This was evidenced by the lack of TF reporting and the absence of TF risk mitigating measures. This was evidenced by the lack of guidance to the sector regarding TF reporting and the absence of risk mitigating measures. Also, the country has not done a comprehensive assessment to understand at a national level the threat of TF. More developed FIs with regional or international presence, such as some banks, insurance businesses and MSBs had fair understanding of AML/CFT risks and obligations as they conducted some level of risk assessment of their business.
340. From discussions with FIs and DNFBPs however, it was determined that the understanding of and application of EDD measures varied amongst sectors. While most were aware that EDD measures are required for high-risk customers they were unable to demonstrate EDD measures applied by their institutions outside of enhanced transaction monitoring. Among FIs, banks, insurance companies and MSBs who are a part of an international group and international banks were able to demonstrate specific EDD measures applied for high-risk customers.
341. Understanding of risks by other entities is limited to the findings of the NRA as in most instances they have not conducted and/or documented an enterprise-wide risk assessment. While there was an improvement in the percentage of approved compliance officers by the end of the onsite, some still do not have adequate understanding of their AML/CFT obligations. The banking sector files the highest percentage of STRs and for most other entities, the level of filings is not in line with the sector risk. While the FSRC has undertaken supervision activity to develop knowledge of TFS, most entities are not aware of the actions that should be taken to ensure TFS are implemented without delay when required. As recent as March 2021 during the onsite FSRC St. Kitts was not distributing the UN sanctions lists and new designations are not being shared in a timely manner to its regulated entities and as such checks against same were not being performed (particularly with the local FIs and DNFBPs (TCSPs).

St. Kitts and Nevis is rated as having a low level of effectiveness for IO.4.

Chapter 6. SUPERVISION

6.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 3

- a) There are adequate licensing requirements including fit and proper requirements, for most FIs including banks, insurance, credit unions and MSBs. Among DNFBPs, there is adequate licensing requirements for TCSPs and casinos however, licensing or registration requirements for other categories of DNFBPs are inadequate.
- b) The FSRC displayed limited understanding of ML/TF risk based on the outcome of the NRA.
- c) The FSRC Nevis branch conducted sectoral risk assessment in 2014 however, they have not been systematically updated. The banking sector assessment was updated in 2017 and early 2021. The FSRC St. Kitts has conducted annual sector risk assessments, of the commercial banking, domestic insurance, TCSP, credit union, MSB and gaming sectors during the period 2017 – 2020 however, they did not consider key risk factors in the assessments. There are no policies in place for on-going review and update of ML/TF sector risk assessments. Neither branch of the FSRC has conducted sector risk assessments of DNFBPs other than TCSPs and gaming entities.
- d) While the FSRC has provided guidance and outreach to FIs and TCSPs there is limited outreach to other DNFBPs such as DPMS, accountants and real estate agents.
- e) The FSRC has examined FIs and DNFBPs (mostly TCSPs and gaming entities) for compliance with their AML/CFT obligations. However, it is difficult to determine the level to which these examinations are based on ML/TF risks. The FSRCs risked based supervisory framework is geared primarily towards prudential supervision and prudential concerns while AML/CFT is a subsidiary concern.
- f) The FSRC utilises a range of non-financial sanctioning powers, from warning letters to more severe sanctions such as revocation of licenses. It was difficult however to assess the AML/CFT sanctions levied by the FSRC as there was no

clear indication of whether sanctions were related to AML/CFT compliance failures.

- g) The assessment team noted that the FSRC St. Kitts Branch and the Nevis branch appear to share an AML/CFT regime however different processes and procedures are used by the branches in the AML/CFT oversight of regulated entities.
- h) Supervisory resources of both branches of the FSRC are not considered adequate noting that some high-risk DNFBP sectors with large numbers of entities e.g. real estate agents have not had any compliance examinations and a small number of examinations have been conducted for others.

Recommended Actions

Immediate Outcome 3

St. Kitts and Nevis should:

- a) Ensure that all DNFBPs (including real estate agents, DPMS, lawyers and accountants) are subject to license and/or registration and supervision, inclusive of fit and proper requirements to prevent criminals and their associates from holding or being the beneficial owners of a significant or controlling interest or holding management functions in the entities.
- b) Develop and implement an independent risk-based supervisory framework for AML/CFT supervision.
- c) Ensure the FSRC conducts comprehensive ML/TF risk assessments of all regulated sectors and develop and implement appropriate policies and procedures for ongoing review and update of the sectoral risk assessments.
- d) Increase collaboration between the FSRC St. Kitts Branch and the Nevis Financial Services (Regulation and Supervision) Department to ensure a consistent approach in AML/CFT supervision of their respective entities.
- e) Increase training and guidance to the other categories of DNFBPs such as real estate agents, DPMS, and accountants.
- f) Undertake a comprehensive review of resources available for AML/CFT supervision activities at the FSRC and increase resources where they are determined to be insufficient.
- g) Enhance supervision of FIs and DNFBPs in relation to their compliance with their obligations to implement TFS.
- h) Provide more outreach, guidance, training and supervision on the implementation of the UNSCRs related to TF especially to the DNFBP sector.

- i) Should ensure that supervisors are applying sanctions (inclusive of monetary penalties) that are dissuasive, effective and proportionate for all higher risk sectors.

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

6.2. Immediate Outcome 3 (Supervision)

343. The FSRC, which is divided into two operational departments, one located in St. Kitts (FSRC St. Kitts branch) and the other in Nevis (Nevis Financial Services Regulation and Supervision) Department (FSRC Nevis branch), is the AML/CFT supervisor for FIs and DNFBPs in the Federation.
344. FIs supervised for AML/CFT measures include domestic banks, international banks, domestic insurance, international insurance (companies and managers), securities, MSBs and credit unions. In assessing the effectiveness of the AML/CFT framework of St. Kitts and Nevis the assessors considered the risk and materiality of the sectors as noted in IO.4. As such, most importance was placed on the findings in relation to the commercial banking sector while high importance was placed on the international banks and MSBs, moderate importance on the international insurance sector and less importance on the domestic insurance, securities and credit union sectors.
345. DNFBPs supervised for AML/CFT measures include casinos and other gaming entities, real estate agents, DPMS, lawyers, accountants, and TCSPs. Amongst these sectors, high importance was placed on findings related to the real estate agents based on their vulnerability to ML and importance to the CBI Program and the number of entities operating in the sector and TCSPs due to their importance to the international financial sector, company formation and the size of the international financial sector and their medium high ML vulnerability rating. Due to the sizes and levels of activity, moderate importance was placed on the casinos and gaming, DPMS and accountants' sectors.
346. There is a legal requirement for some DNFBPs to be licensed, which includes casinos and TCSPs. Real estate agents, DPMS are not subjected to licensing or registration requirements with adequate fit and proper requirements to prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding management functions in the entities. AML/CFT compliance examinations have also not be conducted for any entities in these sectors. Similarly, there are no licensing requirements from an AML/CFT supervision and monitoring aspect for lawyers and accountants whose services fall within the definition of DNFBPs, unless they happen to operate as TCSPs in which case they are licensed in that capacity. Other than TCSPs and casinos a framework to ensure AML/CFT compliance for other categories of DNFBPs has not been implemented and the FSRC acknowledges the need to register or license all categories of DNFBPs.
347. St. Kitts and Nevis enacted legislation in January 2020 which requires VASPs operating in the Federation to apply for registration with the FSRC who was named as the registrar and

supervisor of VASPs. At the time of the on-site visit, the FSRC had issued a notice to the public advising that VASP operating in the jurisdiction must be registered with them. Also, as mentioned in Chapter 5 under the application of EDD measures relating to new technologies, a ML/TF risk assessment of VASPs had been undertaken by the jurisdiction. No other supervisory activity relating to VASPs had been undertaken as no entity had applied for registration or was registered with the FSRC and no unregistered entity was identified in the jurisdiction. Unregistered entities are subject to a sanction of XCD 100,000 (USD 36,800) and imprisonment for a period not exceeding five (5) years. As a result of this, there was no need to test the effectiveness of the licensing and supervision framework for VASPs.

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

FSRC – St. Kitts Branch

348. The Licensing Committee of the FSRC considers license applications for all regulated entities except for domestic banks and securities business. This is in accordance with Section 32 of the FSRC Act. The FSRC conducts due diligence checks on all beneficial owners and individuals with a significant or controlling interest or those holding a management function in FIs or DNFBPs. For foreign individuals, this is done by an international investigative agency which conducts background checks on personal, business history and associates of the applicants. Local individuals are required to submit a police record and banking and professional reference letters. The results of the due diligence check are one of the factors used to determine the fitness and propriety of each applicant.
349. The test for fitness and propriety includes an examination of pre-existing criminal record, financial stability, adequacy of financial and professional experience, academic qualifications and the applicant's reputation, character, financial integrity, and reliability.
350. Licenses are subject to annual renewal and a failure to achieve a satisfactory level of compliance would result in the non-renewal or a delay in renewal of the license in question. Different FIs are licensed under their relevant governing statutes and the attendant fit and proper provisions. In addition, TCSPs operating in St. Kitts are licensed by the FSRC – St. Kitts Branch. All applicants are required to complete an application form which captures details such as the name, address and contact details of the applicant. Details relating to the proposed operations of the TCSP are also submitted in the application documents. Due diligence/background checks are conducted on all applicants – (i) individuals and (ii) directors and senior managers of applicant entities. The due diligence/background checks are conducted by an external agency. These reports are used for the assessment of fitness and propriety of the applicants and all controlling persons for applicant firms. Fitness and propriety include an examination of pre-existing criminal record, financial stability, adequacy of financial and professional experience, academic qualification and the applicants' reputation, character, financial integrity and reliability.

Table 6.1 St. Kitts FSRC Sector Breakdown for Applications for Fit and Proper Test requirements

| Sector | 2017 | | 2018 | | 2019 | | 2020 | |
|--------------|-----------|----------|-----------|----------|-----------|----------|----------|----------|
| | Approved | Rejected | Approved | Rejected | Approved | Rejected | Approved | Rejected |
| Insurance | 5 | 0 | 12 | 0 | 10 | 2 | 1 | 0 |
| MSBs | 3 | 0 | 0 | 2 | 1 | 0 | 1 | 0 |
| TCSPs | 4 | 0 | 3 | 0 | 6 | 2 | 3 | 2 |
| Escrow | 0 | 0 | 0 | 0 | 4 | 3 | 2 | 0 |
| Total | 12 | 0 | 15 | 2 | 21 | 7 | 7 | 2 |

351. In relation to the table above, rejected applications in all sectors were a result of the entities or individuals not meeting fit and proper requirements.

Nevis Financial Services (Regulation and Supervision) Department (FSRC – Nevis Branch)

352. All persons carrying on international banking business in Nevis must be licensed under the NIBO. Part III of the NIBO sets out the licensing requirements for international banks including requirements for examination of applicants and their associates. Applicants must also submit a comprehensive business plan, an AML/CFT compliance manual, a cyber security and risk policy and an enterprise-wide risk assessment. The FSRC as regulator and AML/CFT supervisor of international banking will then conduct a review of the application which includes conducting extensive due diligence on all control persons, contacting the applicant to discuss the application completeness, status, and outstanding issues, conducting interviews with the applicants, and reviewing and assessing the financial history of each of the control persons which includes source of wealth and source of funds documentation. Where necessary, the Regulator of International Banking may request additional information to complete the assessment of the application. The Regulator of International Banking will not consider an application complete until all requested information is received, and it is in a form satisfactory to the FSRC-Nevis branch. Please see case study 6.1 below 2017-2020.

Box 6.1. Application for an international banking licence.

An application for an international banking licence was received by the FSRC – Nevis Branch. Having reviewed the information provided on behalf of the proposed directors and senior management and having conducted fitness and propriety assessments following the receipt of external due diligence, it was determined that the process to review the application should not continue due to concerns regarding probity, competence, qualifications and experience of the directors and senior management. The representative of the applicant was contacted to discuss those concerns. As a result, the applicant withdrew the application. This case study demonstrates the ability of the FSRC - Nevis branch to employ measures to ensure that market entrants are subject to robust fitness and propriety requirements and that applications would be rejected or not processed if red flags are raised during the application process.

353. TCSPs operating in Nevis must be licensed by the FSRC – Nevis branch. Applicants should complete an application form and submit it along with a comprehensive business plan and AML/CFT policies and procedures to the FSRC – Nevis branch for processing. The application form captures the name and address of the applicant, purpose of the application, contact details of the applicant, incorporation/ registration details of the applicant (date and place of incorporation, share capital, names and addresses of managers, etc.), names and addresses of bankers in and outside of Nevis, and names and addresses of auditors in and outside of Nevis. During the licensing process TCSPs are subject to due diligence/background checks performed by an external service provider as well as an assessment of fitness and propriety of all control persons such as directors, beneficial owners, and senior management personnel. The regulator may also conduct interviews with relevant officers as deemed necessary.
354. All international insurance business operating in Nevis are required by the Nevis Insurance International Ordinance (NIIO) to be registered. This licensing process is carried out by the FSRC Nevis branch. Section 29 of the NIIO requires an insurance manager to be registered and to pay the prescribed registration fee and every prescribed annual renewal fee. The licensing process includes the application of fit and proper criteria to all directors, beneficial owners, control persons and senior management of the applicant. The licensing process also includes a review of the proposed business structure to ensure feasibility and congruency so that the entity is not used for ML purposes. The proposed entity is also risk rated and EDD is undertaken if the risks are determined to be high.
355. An application for a MSB license must be submitted to the FSRC- Nevis branch with the relevant supporting documents and application fee. In considering applications for licensing the FSRC-Nevis branch conducts investigations as it deems necessary at the expense of the applicant, to ascertain the validity of the documents submitted, the financial condition and history of applicant, nature of business, fitness and propriety of key persons (directors, beneficial owners, shareholders, senior managers including compliance officers), source of initial capital, the convenience and needs of the community to be served.
356. In considering an application for a Class A or Class B license, the FSRC -Nevis branch shall, take into consideration the adequacy of capital structure, and the earning prospects of the applicant. Due diligence investigations are conducted utilizing the same processes as those for the international banking, international insurance and TCSP sectors. The various steps in the licensing process are captured in the FSRC – Nevis branch’s Compliance Division Timelines for Processing Applications for Management Companies/Registered Agents and MSBs.
357. Prior to 2021, gaming activities in St. Kitts and Nevis required a licence issued by the Gaming Board which was established under the Betting and Gaming (Control) Act. An application to the gaming board for a licence required in the case of a natural person, a written police report about the applicant’s character and criminal history; a recent photograph of the applicant, certified copy of the applicant’s passport or social security number; and a sworn declaration by the applicant that he or she was not a beneficial owner or controller of a bank. In the case of a legal person, the application include a certificate of registration issued by the Registrar of Companies for St Kitts; a written police report about the applicant’s character and those of its directors, shareholders and officers; a sworn declaration by the applicant, its directors, shareholders and officers that they were not beneficial owners or controllers of a bank. New legislation has been passed in 2021 making the FSRC the regulator for the gaming sector.

358. Lawyers must apply to the court for a practicing certificate to practice law in St. Kitts and Nevis. Besides approval from the courts, there are no other licensing requirements unless the lawyers also operate as TCSPs (all lawyers operate as TCSPs). In these cases, the lawyers apply to the FSRC for licensing as a TCSP. Accountants must apply to the Institute of Chartered Accountants of the Eastern Caribbean to be able to offer services of auditing and attestations and are also licensed by the FSRC. Real estate agents and DPMS are not subject to fit and proper requirements to prevent criminals and their associates from holding or being the beneficial owner of a significant or controlling interest or holding management functions in these entities. The FSRC intends to enact legislation to register or license all categories of DNFBPs. At the time of the onsite this legislation had been drafted.
359. Where there are changes to control persons such as directors, beneficial owners and senior management personnel, regulated entities are required to notify the St. Kitts and Nevis branches of the FSRC for appropriate due diligence checks to be conducted. Compliance with this requirement is verified during the annual renewal of licence for regulated entities (FIs, casinos and TCSPs) by the FSRC. EDD checks are done for persons who are deemed to be higher risk.

Table 6.2 Nevis FSRC Breakdown for Applications for Fit and Proper Test requirements

| Sector Applications approved | 2017 | 2018 | 2019 | 2020 |
|------------------------------------|-----------|-----------|-----------|-----------|
| | Approved | Approved | Approved | Approved |
| Insurance | 16 | 7 | 11 | 12 |
| MSBs | 0 | 0 | 0 | 4 |
| TCSPs | 2 | 3 | 2 | 0 |
| Int'l Banks | 0 | 0 | 1 | 1 |
| Total | 18 | 10 | 14 | 17 |

360. The table 6.2 above for Nevis applications provides a sector breakdown for licensed applications during the period. Additionally, during the period there was one (1) application which was denied in 2017 for an international bank and one (1) in 2020 for a TCSP as a result of the entities or individuals not meeting fit and proper AML/CFT requirements. There were two (2) rejected for TCSPs in 2020 due to incomplete applications that were therefore not processed. There was one (1) application for Insurance in 2018 which was withdrawn prior to denial due to the applicant, being determined not to be fit and proper.

Eastern Caribbean Central Bank

361. Domestic banks operating in St. Kitts and Nevis must be licensed by the ECCB. An application for a license must be submitted to the ECCB, accompanied by the application fee, relevant documents and other information necessary to process the licensed application. Among the information required would be detailed information regarding persons who will hold or ultimately benefit from significant shareholdings, directly or indirectly and the directors and officers, including their qualifications and experience. As part of the licensing process the ECCB will carry out due diligence checks on all shareholders, directors and senior management and beneficial owners of the bank in order to ensure that they are fit and proper before approving a license application.

362. FIs licensed by the ECCB are required to indicate in writing to the bank when there are any changes in their shareholders, directors, and senior management. For every new person appointed to senior management and the board, a due diligence questionnaire and a full due diligence check must be completed. Annually, every licensed FI must also complete a due diligence questionnaire in relation to their shareholders, directors and senior management.
363. The Eastern Caribbean Securities Regulatory Commission (ECSRC) is an independent and autonomous regional regulatory body for the Eastern Caribbean Securities Market which is a regional securities market for the eight ECCU member countries. Since 2001, the operations of the ECSRC have been outsourced to the ECCB. As such, the functions of the ECSRC are carried out by an independent Secretariat which is operated by ECCB assigned staff members. Consequently, due diligence applied by the ECSRC to market entry is guided by the ECSRC Agreement. The two licensed securities entities in St. Kitts and Nevis are part of the operations of domestic banks licensed by the ECCB and due diligence requirements are similar for the securities branch of the domestic banks.

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

364. In 2015, the FSRC adopted a risk-based supervisory framework which includes the assessment of risk and supervision of FIs in St. Kitts and Nevis. This risk-based supervisory framework is focused on supervision of FIs to ensure financial soundness and prudent management. The risk-based supervisory framework is mainly prudential based; however, it provides a method for assessing ML/TF risks of FIs as part of the overall risk assessment of the FIs prudential risks. This includes a limited analysis to determine an entity's level of compliance with AML/CFT laws and regulations and the effectiveness of its ML/TF risk mitigating measures. There is an element of AML/CFT for the assessment of the compliance function. The World Bank's ML/TF risk assessment tool was used to conduct the NRA and both branches of the FSRC had leadership roles in the teams that were formed to conduct the assessment. However, at the time of the onsite, the FSRC demonstrated a limited understanding of ML/TF risks, since all required sectors were not comprehensively assessed during the NRA exercise. Comprehensiveness of the assessments was limited by a lack of information due to real estate agents, DPMS, lawyers, accountants not being effectively supervised for compliance with their AML/CFT obligations.
365. Also, the assessments conducted both in 2019 and 2021 were vulnerability assessments with little focus on sector threats as outlined in Chapter Two of this report. The AMLNCA 2020 provides guidance on the frequency of the NRA. However, no policy for frequency of ML/TF sector risk assessments outside of the NRA was noted. FSRC St Kitts conducted assessment of the commercial banking, domestic insurance, TCSP, credit union, MSB and gaming sectors during the period 2017 – 2020. It was determined that the supervisor's understanding of risks based on these assessments remain limited as the key risk factors such as customer risk, channels of delivery for products and services and country/geographic factors relating to customer base and transactions were not considered in the assessment. No risk assessment was conducted for other DNFBP sectors. FSRC Nevis only provided risk assessment for the banking sectors for 2017. This assessment was comprehensive however there was no evidence to support frequency of update of this assessment or events that trigger update. FSRC St. Kitts and Nevis branches also use different methodologies to assess sector risk, and this is a concern. Both branches assessed the risk of commercial banks separately in 2017 and no justification has been provided for the supervisors conducting separate risks of the same sectors.

366. While risk assessments of sectors are being conducted there is no indication that the results of the individual risk assessments of FIs and DNFBPs are factored into the sector assessment. Review of the individual risk assessments conducted on FIs and DNFBPs following an examination also indicated that they comprise both prudential and AML/CFT risks. The deficiencies in the 2019 and 2021 NRAs remain primarily vulnerability based. The data provided for the assessment by the FSRC branches relate to vulnerability only and the threat assessment was not evident. The FSRC St. Kitts and Nevis have limited understanding of their ML/TF risk due to deficient sectoral risk assessments. Additionally, the sectoral risk assessments are irregular and different methodologies are used. Furthermore, the institutional risk assessments are comprised of both AML/CFT and prudential risk.

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

367. Both branches of the FSRC conducted supervisory activities to determine the extent to which FIs and DNFBPs are complying with their AML/CFT obligations. The FSRC's Risk-Based Supervision Framework manual indicates that the level and frequency of supervisory scrutiny and the degree of intervention depends on the risk profile of the regulated entity. This was confirmed by officials of the FSRC during the on-site visit. A risk matrix is used to assess an entity's risk level at the end of the compliance examination. The FSRC's Risk-Based Supervisory framework is mainly prudential based however, it includes an element of AML/CFT in it, in the assessment of the compliance function.
368. The framework provides two risk matrices, one being for prudential risk assessment and the other for AML/CFT risk assessment. From the review of examination reports provided by both branches of the FSRC, it was determined that they outlined the results of the assessment of compliance with AML/CFT obligations. The matrix used to determine risk level at the end of these examinations, however, was the risk matrix provided for the assessment of prudential risks. This indicates that AML/CFT examinations may not be conducted based on the level of ML/TF risk. There is also no indication that entity risk is considered in determining the scope of the examinations, or that sectoral risk is considered in the determination of the level and frequency of supervisory activities including onsite examinations.

FSRC St. Kitts

369. The FSRC St. Kitts supervises domestic banks, the development bank, domestic insurance, securities, credit unions, MSBs and DNFBPs in St. Kitts for compliance with AML/CFT requirements. The AML/CFT supervision of these entities is driven by the risk-based supervisory framework adopted in 2015. Using that framework, risk assessments are produced for entities after on-site examinations based on a matrix. The matrix rates the overall risk of the entity, inherent risk, legal risk, reputational risk, composite risk and rates the compliance function of the entities being examined. The risk based supervisory framework for St. Kitts which was developed in 2015 is a prudential risk-based assessment; however, the tool does provide for the assessment of the elements of an AML/CFT component in the assessment. Although it was indicated to the assessment team that on-site visits are heavily AML/CFT focused and assessment of AML/CFT compliance is a major component of examinations, the assessment team concluded that the AML/CFT scope of the examinations is limited. Below is table 6.3 showing the level of examinations conducted over the past four years.

Table 6.3. Examinations conducted by FSRC St. Kitts for the period 2017 - 2020.

| Sectors | 2017 | 2018 | 2019 | 2020 |
|-----------------------|-------------|-------------|-------------|-------------|
| Banks | 0 | 1 | 3 | 0 |
| Credit Union | 7 | 2 | 2 | 11 |
| TCSF | 15 | 9 | 4 | 3 |
| MSB | 3 | 5 | 2 | 3 |
| Insurance Business | 4 | 3 | 5 | 3 |
| Insurance Broker | 0 | 1 | 0 | 2 |
| Casino | 0 | 1 | 2 | 1 |
| Securities Businesses | 0 | 2 | 0 | 0 |
| Accountants | 0 | 0 | 1 | 0 |
| NGOs | 0 | 0 | 2 | 1 |
| TOTAL | 29 | 24 | 21 | 24 |

370. In conducting examinations, an annual schedule is prepared, and effort is made to include entities from all sectors. Three types of examinations are conducted by the FSRC St. Kitts. These are full scope examinations which always include an AML/CFT component, follow-up examinations which test progress being made in completing remedial actions to address deficiencies identified in full scope examinations, and spot checks which are targeted examinations based on an issue that has been identified or needs special attention in a licensed business. Spot checks are conducted unannounced.
371. The compliance staff of FSRC St. Kitts includes eight (8) regulatory staff. On-site examinations are headed by a manager or deputy for each sector and includes other members of the regulatory staff. There are two (2) managers and a deputy at the FSRC St. Kitts branch. The staff has received adequate training and has knowledge and expertise to conduct AML/CFT supervision even though they are not strictly AML/CFT experts and are also required to conduct prudential supervision of entities. The size of the supervisory staff is not currently adequate noting that some high-risk DNFBP sectors with large numbers of entities are not currently being examined and a small number of examinations have been conducted for others.
372. The timeline between the on-site examination and transmitting the examination report to the entities varies. Examination reports are approved by the Board of the FSRC before going out to the entities. The Board determines whether the recommendations are comprehensive, and timelines for completing remedial actions is reasonable. It can take up to six (6) months for an entity to receive their AML/CFT compliance report.
373. The FSRCA outlines who sits on the board. The Board is required to meet nine times per year. Generally, the report is sent out on average 90 days after the onsite. The assessment team noted that this process of post onsite examination is not based on a risk-based approach. The FSRC, however, informs the examined entities about the deficiencies identified from the time of the exit meeting so that the entities can start working on them.
374. Follow-up examinations are conducted within 3 to 12 months after the entity receives the examination report and are based on the institutional risk rating. After examination and based on level of risk assessed, timeline for follow-up and the next full scope examinations is highlighted in Table 6.4 which shows the Risk Base Examination Schedule.

Table 6.4. Risk Base Examination Schedule

| Examination Risk Rating | Time of Follow -up Exam | Next Full- Scope Exam |
|--------------------------------|--------------------------------|------------------------------|
| High | 6 weeks to 3months | 2 – 3 years |
| Medium | 9 – 12 months | 3 - 5 years |
| Low | 12 – 18 months | 5 years |

375. As previously mentioned, there is no indication that scope of the examination is based on risk or that sector risk is considered in the timeline for follow-up and next full scope examination. For high-risk entities, follow-up is scheduled within 6 weeks to 3 months and determines whether there needs to be more frequent monitoring. Regulated entities are required to submit a compliance report annually to the FSRC. This report also assists in risk rating the individual entities. A newsletter was issued providing guidance on the requirements and standard for submitting this annual report.

376. Examinations of DNFBPs by the FSRC St. Kitts has been minimal except for TCSPs and at the time of the on-site visit, legislation was being drafted for licensing and supervision of all DNFBPs by the FSRC. The main deficiencies identified by the FSRC St. Kitts Branch for TCSPs include:

- Inadequate Compliance function and oversight
- Inadequate AML/CFT Policies and Procedures Manual
- Non-implementation of an approved AML/CFT Policies and Procedures Manual and
- Insufficient AML/CFT Training

Based on the discussions with the FSRC and review of supervision documents, it could not be determined that compliance inspections are done on a risk sensitive basis. FSRC St. Kitts and Nevis are completing risk-based supervision training with the World Bank in order to implement an effective AML/CFT risk-based supervision program. Due to the extent of their AML/CFT supervision responsibility and other responsibilities of the FSRC, the FSRC will be required to obtain additional staff or designate other authorities as the AML/CFT supervisor for some of the entities they supervise.

FSRC Nevis Branch

377. The FSRC Nevis is responsible for supervising domestic and international banks, international insurance entities, insurance managers, MSBs and DNFBPs in Nevis for compliance with AML/CFT obligations. The FSRC Nevis branch has adopted a supervision framework whereby increased monitoring of TCSPs, and the international banking sector is undertaken due to their perceived inherent vulnerability to ML/TF risks. As a result, an onsite examination procedures manual has been developed specific to onsite examination of TCSPs. The table 6.5 below reflects the number of examinations undertaken by the FSRC Nevis branch during the period 2017 to 2020, and clearly shows the focus on supervision of TCSPs which have been subjected to a much higher level of examination than any other entity.

Table 6.5. Examinations conducted by FSRC Nevis Branch

| Sectors | 2017 | 2018 | 2019 | 2020 |
|----------------------------|-----------|-----------|-----------|-----------|
| Banks/Lending Institutions | 1 | 4 | 3 | 2 |
| MSB | 1 | 2 | 2 | 5 |
| TCSP | 21 | 20 | 28 | 12 |
| Insurance Managers | 7 | 1 | 2 | 2 |
| Totals | 36 | 27 | 35 | 21 |

378. An internal risk assessment exercise was conducted to determine how best to prioritize and schedule examinations of TCSPs. Based on this assessment, several TCSPs were chosen for full scope onsite examinations and both offsite monitoring and onsite examinations are conducted on TCSPs. The main AML/CFT deficiencies identified are as follows:
- Lack of ongoing monitoring
 - Lack of independent/internal audit
 - Absence of risk assessment
 - Failure to submit Certificate of Compliance
379. At the FSRC Nevis branch, there are five (5) assistant regulators in the Compliance Division who lead the examination of TCSPs, MSBs and international banks. Examination of insurance managers is led by five (5) other assistant regulators in the International Insurance Division. In total, 11 staff at the FSRC Nevis branch are responsible for conducting examinations and monitoring reporting entities.
380. Within the period 2017 to 2020, all TCSPs, international banks, MSBs, and insurance entities were subject to full scope, follow-up and spot check examinations. Other categories of DNFbps including real estate agents which is weighted as highly important has not been subject to examination in Nevis. Although the jurisdiction indicates that most TCSP's are lawyers and accountants, no information was provided as to whether there are lawyers and accountants who are not TCSPs and who provide other services for which they should be supervised. Overall supervision activities for DNFbps in Nevis is limited and in the case of real estate agents, does not align with the risk level or weighting of the sector.
381. Sector risk assessments should influence the intensity and frequency of monitoring of entities; however, in Nevis the risk profile resulting from examinations are the influencing factor. The risk base approach should be used for setting the examination cycle for entities. The FSRC Nevis branch has examined two (2) international banks based on the business activities, high volume of transactions, and huge asset size on a yearly basis as they are considered systematically important financial institutions (SIFIs). At the time of the on-site visit to St. Kitts and Nevis, the FSRC Nevis branch was undertaking AML/CFT risk-based supervision training with the World Bank, and it is expected that upon completion this should assist in improving the comprehensiveness of risk-based AML/CFT supervision in Nevis.
382. Offsite analysis is used in preparation for the planning of the onsite examinations. This analysis looks at the findings of quarterly compliance reports, audited financial statements and internal audit reports to assist in planning the scope and issues of the onsite examination. Offsite analysis is also undertaken to monitor the regulated entity's progress with addressing

AML/CFT deficiencies and the risk profile of the entity which is assessed at the end of an on-site examination and updated as required.

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

383. The FSRC has a range of non-financial enforcement powers, which allows them to apply sanctions in accordance with the severity of breaches of law and regulations for entities they license and supervise. The FSRC's compliance reports are approved by the FSRC Board of Commissioners and disseminated to the Board of Directors and senior management of examined entities. The reports would require remedial actions to be taken by examined entities within a stipulated timeframe.
384. The compliance report is typically forwarded within six (6) months of the examination. Real time oral feedback is given during the examination and the preliminary findings are presented in an exit interview with the directors and/or senior management of the regulated entities. A letter documenting the exit meeting is issued within two weeks of the meeting. Timelines of one (1) to six (6) months, based on the severity of the AML/CFT breaches are given for regulated entities to address deficiencies. Follow-up examinations to assess implementation of recommended actions are scheduled based on the risk level of the entities.
385. If the deficiency is not satisfactorily addressed, additional time may be granted to execute the corrective action and a second follow-up examination is conducted. A second or third follow-up examination is rarely conducted as in many cases, the FSRC's decision to ensure that outstanding serious deficiencies are addressed before a licence is renewed has proved useful and has acted as a deterrent. This ensures that resources are properly utilised, and that focus is shifted to more significant cases. There were however cases of at least four (4) credit unions and a trust company on 3rd and 4th follow-up examinations from St. Kitts FSRC, however these follow-ups were based on prudential and AML/CFT breaches.
386. Failure to comply with deadlines stipulated in the follow-up reports will result in enforcement action being taken against the regulated entity and section 40 of the FSRCA will be invoked. The FSRC will take one or more of the following actions:
- conclude a written agreement providing for a program of remedial action
 - issue a cease-and-desist order that requires the regulated entity or the person responsible for its management to cease and desist from the practice or violations specified in the order
387. In instances where there has been no material change to the conduct in question, the FSRC may recommend that the licensing committee take appropriate action as follows:
- restricting or varying the operation of a licence
 - revoking the relevant licence of the financial services business or regulated business to do finance business

FSRC – St. Kitts

388. The assessment team was unable to properly and effectively assess the sanctions levied by the FSRC. This was due to the fact that there was no clear indication that the breaches identified for the period 2017-2020 were related to AML/CFT matters versus prudential breaches. For the period under review the following sanctions were levied on FIs and DNFBCs (TCSPs) by St. Kitts FSRC. Tables 6.6 and 6.7 show the sanctions imposed by FSRC St. Kitts.

Table 6.6. Sanctions imposed by St. Kitts FSRC branch for the period 2017 – 2020

| Type of Sanction | 2017 | 2018 | 2019 | 2020 | Totals |
|---------------------------|-----------|----------|-----------|-----------|-----------|
| Warning Letter | 6 | 0 | 2 | 3 | 11 |
| Licence revoked/cancelled | 13 | 2 | 0 | 1 | 16 |
| Licence not renewed | 5 | 5 | 9 | 11 | 30 |
| Cease and Desist Order | 1 | 1 | 2 | 5 | 9 |
| Totals | 25 | 8 | 13 | 20 | 66 |

389. The FSRC St. Kitts branch has a range of sanctions available to them and has used all of them from warning letters to more stringent forms such as cease and desist orders and revoking or cancelling licenses.

Table 6.7. Sanctions imposed by St. Kitts FSRC on TCSPs 2017 – 2020

| Type of Sanction | 2017 | 2018 | 2019 | 2020 |
|------------------------|-----------|----------|----------|----------|
| Licence Cancelled | 13 | 2 | 0 | 1 |
| Non-renewal of licence | 5 | 5 | 9 | 5 |
| Totals | 18 | 7 | 9 | 6 |

390. The AML/CFT breaches leading to the above sanctions include the following:

- Inadequate discharge of the compliance function
- Failure to conduct an enterprise-wide risk assessment
- Failure to submit Certificate of Compliance
- Inconsistent collection and maintenance of KYC/CDD documentation
- Lack of adequate record keeping requirements
- Lack of ongoing monitoring
- failure to address AML/CFT breaches identified during on-site examination within stipulated timeframe

FSRC – Nevis Branch

391. For the period under review the following sanctions were levied on FIs and DNFBPs (TCSPs) in Nevis. Similar to St. Kitts, the Nevis FSRC branch used a range of sanctions from warning letters to more severe sanctions such as cease and desist and revocation. Nevis has asserted that only AML/CFT data was provided which appear to show the sanctions implemented are proportionate, effective and dissuasive for continuous AML/CFT deficiencies. Table 6.8 below shows the sanctions imposed by Nevis FSRC branch for the period under review.

Table 6.8. Sanctions imposed by Nevis FSRC branch for the period 2017 – 2020

| Type of Sanction | 2017 | 2018 | 2019 | 2020 |
|---------------------------------------|------|------|------|------|
| Warning Letter/Cease and Desist Order | 4 | 5 | 1 | 8 |
| Restricted License | 2 | 1 | 4 | 12 |
| Revocation of License | 2 | 0 | 0 | 0 |
| Surrender of License | 0 | 16 | 1 | 4 |
| Revocation of Fit and Proper Status | 2 | 0 | 1 | 0 |
| Advisory Warning | 1 | 2 | 1 | 0 |
| Warnings | 0 | 0 | 0 | 5 |
| Totals | 11 | 24 | 8 | 29 |

392. In relation to DNFBPS outside of TCSPs in St. Kitts and Nevis, there have not been any enforcement action by the FSRC for breaches of AML/CFT requirements. This is due to the lack of comprehensive oversight of the DNFBP sector. This area could not be effectively and fully assessed by the assessment team as St. Kitts and Nevis is still undergoing the transition of bringing entities identified as DNFBPs under their AML/CFT supervisory regime. At the time of the onsite assessment many of the DNFBPs had not been examined, therefore, there has been no identification of the full range of corrective measures and sanctions to be applied to this sector.

6.2.5. Impact of supervisory actions on compliance

FSRC – St. Kitts

393. The impact of the FSRC’s supervisory actions on compliance has mostly been seen in the TCSP sector as it has been subjected to more AML/CFT scrutiny than any other sector. The FSRC has undertaken an aggressive supervisory approach to understanding, monitoring, reviewing and managing the regulated entities that come under its legal purview. Pursuant to this overall mandate, over the period under review, the FSRC conducted a significant number of full-scope examinations, follow-up reviews and spot checks to assess the level of compliance within the various sectors. In addition to the rigorous schedule of examinations, the CAs have engaged in comprehensive outreach to the various sectors to inform, engage and discuss relevant requirements, issues, challenges and updates.

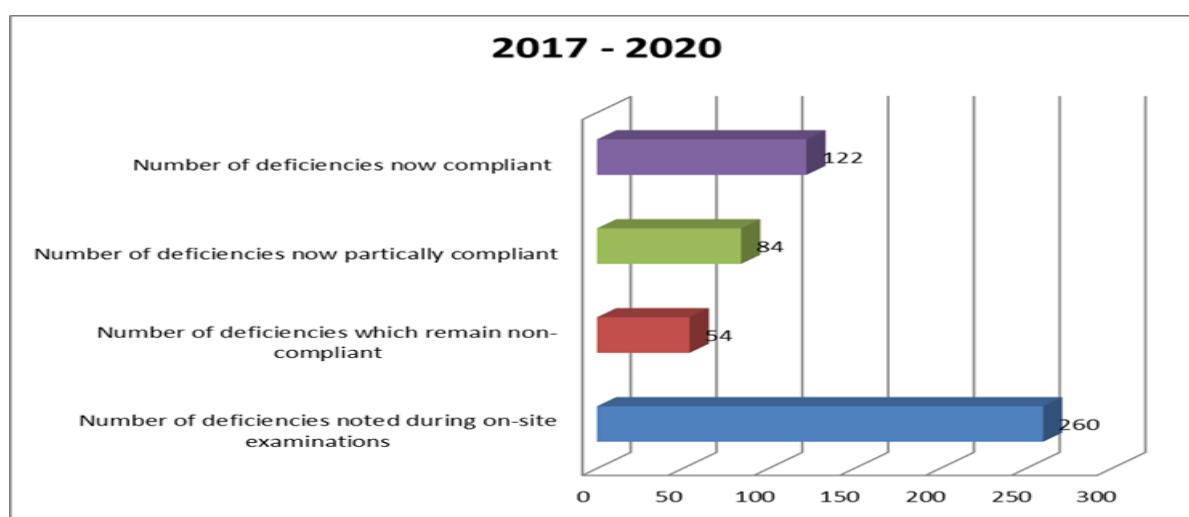
394. The table below shows the level of compliance with AML/CFT Regulations by sector for the period 2017 – 2020.

| Ratings | 2017 | 2018 | 2019 | 2020 | Totals |
|----------|------|------|------|------|--------|
| High | 0 | 1 | 0 | 1 | 2 |
| Moderate | 8 | 5 | 2 | 5 | 20 |
| Low | 6 | 6 | 6 | 1 | 19 |
| Totals | 14 | 12 | 8 | 7 | 41 |

Table 6.9. Overall level of compliance with AML/CFT Regulations by ratings**Table 6.10. Overall level of compliance with AML/CFT Regulations by sectors**

| Sectors | High | Moderate | Low | Totals |
|--------------------|------|----------|-----|--------|
| MSBs | 0 | 3 | 1 | 4 |
| TCSPs | 1 | 7 | 10 | 18 |
| Credit Unions | 0 | 4 | 1 | 4 |
| Domestic Insurance | 0 | 5 | 0 | 4 |
| Banks | 1 | 0 | 0 | 1 |
| Securities | 0 | 0 | 1 | 1 |
| Gaming | 0 | 0 | 3 | 3 |
| Accountants | 0 | 0 | 1 | 1 |
| Insurance Manager | 0 | 1 | | 1 |
| Insurance Broker | 0 | 0 | 2 | 2 |
| Totals | 2 | 20 | 19 | 41 |

395. As can be seen table 6.10 banks and credit unions have the highest level of compliance in the high and moderate categories while DNFBPs (TCSPs and Gaming Sectors) are the majority in the low category of AML/CFT compliance. Given this persistent compliance weakness it may suggest that supervisory measures for these sectors are not as effective.

Table 6.11. Level of Compliance

396. The table above shows during the period under review 2017-2020 the number of deficiencies identified during onsite examinations and the number of deficiencies that were addressed during the same period. As can be seen from the above table, about 46% of identified deficiencies were addressed while the remainder were either partially dealt with or still outstanding. While the above gives an indication of the overall level of compliance of entities during the period, this includes both prudential and AML/CFT compliance. As such the assessment team is unable to accurately assess the effectiveness of AML/CFT compliance.
397. The FSRC has asserted that entities with deficiencies which have not been sufficiently addressed after two (2) follow-up examinations, would not have their licences renewed. There were however some entities with as many as four (4) follow-ups, but the FSRC indicated that these included prudential breaches. It was unclear to the assessment team the level of AML/CFT monitoring vs prudential and the sanctions related thereto. The FSRC continues to work with the various regulated entities to build the level of understanding, cooperation and overall compliance. In that regard, the FSRC provides targeted quarterly training sessions and hosts an annual AML/CFT conference which have not only bolstered the level of understanding of the requirements but also promoted a greater level of compliance in key areas. However, there is a lack of guidance on actions to be taken if an entity has a match with a name on one of the UN sanctioned lists or submission of TF property reports to the relevant agency.

FSRC – Nevis Branch

398. The most common deficiencies identified during the onsite examinations were lack of an independent AML/CFT audit and report, inconsistent collection of KYC/CDD documentation and lack of implementation of risk assessment procedures. The FSRC – Nevis branch has seen an improvement in addressing these deficiencies as the renewal of regulated entities' licences are largely contingent upon their complying with the recommended actions for correcting AML/CFT breaches. There were 13 AML/CFT full scope onsite exams conducted in 2018 and 12 in 2019.

Table 6.12. Level of Compliance with AML/CFT Regulations - Ratings for Full Scope Examinations

| Ratings | 2017 | 2018 | 2019 | 2020 | Totals |
|----------------------|-------------|-------------|-------------|-------------|---------------|
| Strong | 0 | 1 | 0 | 1 | 2 |
| Satisfactory | 0 | 4 | 0 | 0 | 4 |
| Needs Improvement | 10 | 2 | 8 | 4 | 26 |
| Deficient | 6 | 6 | | 1 | 13 |
| Critically Deficient | 0 | 0 | 4 | 0 | 4 |
| Totals | 16 | 13 | 12 | 6 | 47 |

Table 6.13. Level of Compliance with AM/CFT Regulations – Ratings for Follow-Up Examinations

| Ratings | 2017 | 2018 | 2019 | 2020 | Totals |
|----------------------|-------------|-------------|-------------|-------------|---------------|
| Strong | 0 | 1 | 1 | 1 | 3 |
| Satisfactory | 3 | 2 | 1 | 3 | 9 |
| Needs Improvement | 2 | 7 | 9 | 2 | 20 |
| Deficient | 3 | 0 | 0 | 1 | 4 |
| Critically Deficient | 0 | 3 | 1 | 1 | 5 |
| Totals | 8 | 13 | 12 | 8 | 41 |

399. The above table 6.13 demonstrate the difference in the level of compliance reported between full-scope and follow-up examinations.

400. The FSRC in an attempt to improve the level of compliance of its regulated entities carried out training, outreach and issuance of advisories from 2017 to 2020. During the period under review the level of compliance of full scope onsite examinations was at its highest in 2018 when five (5) full scope examinations were rated strong or satisfactory. During the succeeding two (2) years from 2019 to 2020, only one (1) full scope examination was rated strong out of a total of 18 full scope examinations conducted during that period. This would suggest that the supervisory actions as previously mentioned did not improve the level of compliance for full scope examinations. The follow-up process is used to assess progress in rectifying deficiencies identified during full scope examinations. A review of the follow up exams, suggest that the level of compliance of regulated entities have declined rather than improved. As an example, full scope exams carried out in the years 2017/2018 identified no critical deficiencies. However, in the next two (2) years 2019/2020 follow-up exams (those exams resulting from full scope exams) identified critical deficiencies in their level of AML/CFT compliance. This would suggest that the follow-up discovered more deficiencies and the level of compliance had declined.

401. Meetings were scheduled by the FSRC to discuss the compliance reports' findings with directors/senior managers of examined entities. These targeted meetings also proved beneficial as the incidence of AML/CFT breaches has decreased amongst entities. Other contributing factors leading to an increase in the compliance levels of entities are the adoption and implementation of AML/CFT policies and procedures following the purchase of the FSRC's AML/CFT manual template and attendance at the AML/CFT conferences. During the onsite,

many Nevis regulated entities spoke of purchasing the risk assessment tool and using it to increase their understanding of and compliance with AML/CFT.

402. Additionally, the threat of the issuance of a restricted licence and delaying the renewal of a licence has encouraged regulated entities to address deficiencies in a timely manner. As stated earlier, the licence renewal process is not automatic, and the FSRC will review the compliance history of an entity and assess its suitability for renewal before renewing a licence. There is no effective monitoring, supervisory actions on compliance in relation to DNFBPs (except TCSPs and gaming entities) within the Federation.

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

FSRC – St. Kitts Branch

403. The FSRC has consistently engaged in a comprehensive program of training, outreach and awareness to the various sectors. This would include:

- Monthly newsletters
- Training (AML/CFT Annual Conference)
- Seminars (quarterly AML/CFT awareness seminar)
- Issuance of Advisories (as the need arises)
- Know-Your-Regulator Initiatives (annual KYR forum)

The newsletters are disseminated to all regulated entities via email and posted on the FSRC's website.

FSRC – Nevis Branch

404. Information on regulatory expectations and AML/CFT awareness are provided on a regular basis through the publication of monthly newsletters which can be accessed on the Nevis FSRC's website. The newsletters are also circulated to all regulated entities and persons on the FSRC – Nevis branch's contact list via email blast. Feedback received during onsite examinations confirm that many entities utilise the newsletters for training purposes. The newsletter topics are often chosen based on observations arising from onsite examinations, requests from regulated entities and current AML/CFT trends in order to provide guidance and promote awareness to practitioners in the financial services industry.

405. The FSRC - Nevis branch has been providing continuous annual AML/CFT training to industry practitioners. The format of the FSRC - Nevis annual AML/CFT training event has evolved over time to attract persons across all regulated sectors in both islands. The content has been expanded to accommodate information that could be utilised by persons working in the banking, insurance, gaming, legal, real estate, CBI, accounting and MSB sectors.

406. Notably, the focus of the two (2) most recent conferences was on the CFATF Mutual Evaluation Process and a CFATF representative was invited to sensitize attendees on this exercise. In 2018, aspects of the technical compliance components were explored. In 2019, elements of effectiveness were addressed. In both cases, the 200+ attendees were exposed to practical and interactive exercises to ensure knowledge transfer.

407. In 2019, attendees were also asked to discuss practical steps St. Kitts and Nevis could take to enhance its AML/CFT framework considering the impending mutual evaluation. This is

indicative of the regulated entities' awareness of the strengths and weaknesses of the country framework to combat ML/TF and how they can positively contribute to improving the country compliance with international standards.

408. While the two (2) regulatory bodies FSRC St. Kitts and Nevis Financial Services (Regulation and Supervision) Department share an AML/CFT regime, the level of understanding and oversight and application appears more comprehensive in Nevis for FIs. Interviewed regulated persons/entities from Nevis have a better understanding of AML/CFT/CPF in relation to BO, CDD measures and reporting of AML/CFT/PF suspicions as well as receiving the UN sanctions lists (in addition to OFAC, EU and others).
409. For the most part in St. Kitts (outside of persons regulated by both or who did specific terrorist finance and sanctions training) persons only spoke of the OFAC listing and were not aware of the UN Sanctions list. Further, St. Kitts FSRC (and the MOFA) admitted to not receiving nor disseminating the sanctions list until March 2021. The FSRC St. Kitts and Nevis branches have a different understanding and handling of the TPRs. St. Kitts advised that while the reports are collected, there is no review nor monitoring of them since they are FIU reports. Nevis indicated as per legislation the reports must be sent to both the FIU and FSRC Nevis and as such they keep a tracking report and review/monitor receipt of same for any matches. In some cases, in St. Kitts while the FIU is at times identified as the body to report STRs for ML/TF many also refer to the WCCU which seems to have a greater presence.
410. In general, FIs with an international presence (commercial banks with foreign HQs, international banks and insurances) tend to have a greater overall understanding of their AML/CFT obligations and ML/TF risks. In relation to DNFBPs other than TCSPs there is little to no engagement with the AML/CFT regulators. Regarding DPMS, they advised in discussions during the on-site visit that they have had no AML/CFT supervisory related interaction with the AML/CFT authority. During those interviews none of them were aware of the AML/CFT regime nor were they aware of the mechanism to submit STRs. Overall, there is a low level of STR in all sectors within the country. There was outreach to the gaming sector with the examination of three gaming entities.

Overall conclusion on IO.3

411. The FSRC St. Kitts and Nevis is legally empowered to supervise, monitor and regulate FIs and DNFBPs for compliance with AML/CFT legislation and is the ultimate AML/CFT supervisory authority in the jurisdiction. There is adequate licensing or registration requirements for most FIs including banks, credit unions and MSBs. Among DNFBPs, there is adequate licensing requirements for TCSPs and casinos however, licensing or registration for other categories of DNFBPs is inadequate. Outside of TCSPs there is minimal oversight of DNFBPs and no regulatory measures for sectors such as real estate, DPMS which are rated high in the NRA. While the FSRC has demonstrated a fair understanding of ML risks and related mitigating measures, particularly in the banking

and insurance sectors understanding of risks is limited partly due to the lack of comprehensive and on-going sector risks assessments.

412. There is limited understanding and assessment of TF risks. Risk-based supervision is implemented to some extent as a risk rating of individual entities is used to determine frequency and intensity of examinations. The FSRCs risked based supervisory framework is geared primarily towards prudential supervision and prudential concerns while AML/CFT is a subsidiary concern. Among the DNFBP sectors, supervision of TCSPs is well developed, however monitoring and examination of other sectors are in the early stages. The supervisory authority utilises a range of non-financial sanctioning powers from warning letters to revocation of licenses as there are no financial sanctions available to them. Sanctions that have been imposed are based on a combination of prudential and AML/CFT breaches.
413. There should be better coordination between the two (2) branches of the FSRC to ensure more comprehensive, consistent and effective supervision and monitoring of regulated entities. The inequality of supervision throughout the country in terms of distribution of UN Sanctions lists, handling of TF property reports and the difference rating scores for AML/CFT compliance add to the low level of supervision on a national level.

St. Kitts and Nevis is rated as having a low level of effectiveness for IO.3.

Chapter 7. LEGAL PERSONS AND ARRANGEMENTS

7.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 5

- a) Neither the 2019 NRA Report nor the 2021 Follow-Up NRA Report identified the threats and inherent vulnerabilities of legal entities incorporated in St. Kitts and Nevis to ML/TF, their respective categories of risk and the extent to which legal persons created in St. Kitts and Nevis can be or are being misused for ML/TF.
- b) It could not be determined whether the mitigating measures implemented by St. Kitts and Nevis were risk-based. However, these mitigating measures have to some extent prevent the misuse of legal persons and arrangements for ML/TF purposes during 2017 to 2020.
- c) The incorporation of private exempt companies ceased on the 1st of January, 2019 and those in existence prior to 2019 were discontinued effective June 2021.
- d) Information on the creation and types of legal persons and arrangements under relevant laws which govern the process is publicly accessible in St. Kitts and Nevis.
- e) Companies are subjected to robust incorporation procedures by the registry to validate information submitted by the entities. Only persons who are licensed and approved as TCSPs are permitted by law to incorporate and register legal persons and arrangements in St. Kitts and Nevis.
- f) CAs can obtain adequate, accurate and current basic and beneficial ownership information on all types of legal persons created in St. Kitts and Nevis, in a timely manner.
- g) The FSRC St. Kitts and Nevis registrar maintain comprehensive record keeping requirements to ensure accurate and current information of registered corporate entities. The records of the St. Kitts and Nevis registries are easily accessible to all CAs.
- h) BO information can be requested by the registries from relevant registered agents/TCSPs in a timely manner.
- i) During the reporting period, the authorities have struck different types of legal persons and arrangements off the register and imposed fines for breaches of reporting requirements. While the range of sanctions is proportionate to the breaches, the pecuniary fines are not dissuasive for large established entities.

However, the authorities have demonstrated the willingness to impose sanctions and strike off companies as a result of continuing breaches.

Recommended Actions

St. Kitts and Nevis should:

- a) Formally assess and identify the threats and inherent vulnerabilities of each type of legal persons and legal arrangements incorporated in St. Kitts and Nevis to ML/TF and their respective categories of risk and the extent to which these legal persons and legal arrangements created in St. Kitts and Nevis can be or are being misused for ML/TF.
- b) Develop relevant mitigating measures based on the national assessment of the inherent vulnerabilities of each type of legal person and legal arrangement incorporated in St. Kitts and Nevis to ML/TF, their respective categories of risk and the extent to which these legal persons and legal arrangements created in St. Kitts and Nevis can be misused for ML/TF.
- c) Amend the respective legislation to address the recording keeping deficiencies identified in the relevant statutes governing legal persons and legal arrangements in the analysis for Rec.24 and 25 in the TC Annex.
- d) Amend the respective legislation to provide proportionate, effective and dissuasive sanctions for large established entities in St. Kitts and Nevis for breaches of both basic and beneficial ownership reporting and record-keeping requirements not limited to the late filing of annual fees and annual returns.

414. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R.24-25, and elements of R.1, 10, 37 and 40.¹⁶

7.2. Immediate Outcome 5 (Legal Persons and Arrangements)

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

415. There are different types of legal persons and arrangements incorporated in St. Kitts and Nevis. Legal persons and arrangements can only be incorporated in Nevis through a registered agent (TCSPs) licensed by the FSRC. The statutes identified below are the mechanisms which outline the different types, forms and characteristics of these legal persons and arrangements.

¹⁶ The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

416. Legal persons established in St. Kitts are limited liability companies, foundations, limited partnerships and NGOs. The Companies Act outlines the requirements for companies limited by guarantee or by shares and companies limited by both shares and guarantee. Private ordinary companies, private exempt companies (“exempt companies”), public companies and external companies are the different forms of limited liability companies under the Companies Act. The LPA stipulates the registration requirements for limited partnerships. Trusts registered under the TA and foundations registered under the FA are the forms of legal arrangements which exist in St. Kitts. The table 7.1 below shows the number of legal persons and arrangements which existed in St. Kitts as of December 2020.

Table 7.1. The number of Legal Persons and arrangement in St. Kitts as at December 2020.

| Types of Legal Persons and Legal Arrangements in St. Kitts | Number as at December 2020 |
|---|-----------------------------------|
| Private ordinary companies | 968 |
| Private exempt companies | 453 |
| Public companies | 22 |
| External companies | 55 |
| Foundations | 25 |
| Trusts | 5 |
| Limited partnerships | 7 |

417. Legal persons existing in Nevis are domestic companies, NLLCs, IBCs and MFFs. Domestic companies incorporated under the CO are categorised as public, private, non-profit and external companies. The NLLCO, the NBCO and the MFO establish the incorporation requirements for domestic companies, NLLCs, IBCs and MFFs respectively. Pursuant to the NIETO, qualified foreign trusts and international exempt trusts are the only forms of legal arrangements registered in Nevis. The table 7.2 below shows the number of active legal persons and arrangements which existed in Nevis as of December 2020.

Table 7.2. The number of Legal Persons and arrangement in Nevis as at December 2020.

| Types of Legal Persons and Legal Arrangements in Nevis (active) | Number as at December 2020 |
|--|-----------------------------------|
| IBCs | 9104 |
| LLCs | 3,433 |
| Qualified trusts | 16 |
| International exempt trusts | 553 |

418. Information on the creation and types of legal persons and arrangements is publicly accessible in St. Kitts and Nevis. The relevant laws which govern the creation of the different types of legal persons and arrangements are available on the websites of the FSRC-St. Kitts and Nevis respectively. Further, both the St. Kitts and Nevis Registries have prepared brochures and forms which provide the incorporation requirements for the different types of legal persons and arrangements. The brochures and forms are available at the Companies Registries.

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

419. St. Kitts and Nevis conducted an NRA in 2019. However, as indicated in IO.1 the NRA was limited due to the focus on ML vulnerabilities, inadequate data and analysis. It did not include an assessment of the risk of legal persons and the extent to which they can be or are being misused for ML/TF in St. Kitts and Nevis. While the NAMLC indicated during the on-site interviews that the vulnerabilities of legal persons were considered in the assessment of TCSPs, this was not mentioned in the 2019 NRA Report.
420. While the 2021 NRA follow-up report only identified the mechanisms and framework to allow for access to information on legal persons and legal arrangements it was also noted that to date there have been no instances of the misuse of legal entities within St. Kitts and Nevis. The 2021 Follow-Up NRA Report did not include an ML/TF risk and vulnerability assessment of the different types of legal entities which exist in St. Kitts and Nevis. While the NRA indicates that *“the relevant authorities have a comprehensive understanding of the risk and vulnerabilities posed by legal persons and arrangements in the Federation”*, no information on these risks and vulnerabilities was presented in the 2021 follow-up NRA report or provided to the assessment team. Nevertheless, mitigating measures have been employed (see 7.2.3 below) based on their perception of the ML/TF risks for legal persons and legal arrangements. This is based on the FSRC supervisory oversight of TCSPs through its onsite examinations and the relevant sectoral risk assessment it has conducted during the period under review.
421. A risk assessment was conducted on the NGO (NPOs as defined in the FATF glossary) sector in the latter part of 2019. The NGO risk assessment was subsequently updated in 2020. The 2020 NGO risk assessment did not identify the TF vulnerabilities of NGOs in St. Kitts as well as the extent to which they can be or are being used for TF. The risk assessment did not include any NPOs in Nevis.

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

422. St. Kitts and Nevis has implemented several mitigating measures to prevent the misuse of legal persons and arrangements for ML/TF purposes. In the absence of an adequate risk assessment of legal entities, the assessment team could not determine whether these measures are risk-based or commensurate with the ML/TF risks and vulnerabilities of legal entities. However, to some extent, these mitigating measures were effective in preventing the misuse of legal persons and arrangements for ML/TF purposes during 2017 to 2020. The mitigating measures employed by St. Kitts and Nevis are:
423. For instance, no bearer shares were issued in St. Kitts during the review period. AML/CFT on-site examinations conducted by the FSRC-Nevis Branch confirmed that all custodians of bearer shares in Nevis complied with the requirements of the NBCO. No unregistered bearer shares were discovered in the Federation and there were no breaches of the beneficial ownership requirements in relation to bearer shares issued under the NBCO. During the review period, no nominees were discovered within legal persons operating in St. Kitts and Nevis. During 2017-2020, no legal person breached the requirements under law for the maintenance of accurate and updated basic information. Additionally, no legal person or arrangement was non-compliant with requirements under the Companies Act, LPA and Trusts Act mandating the submission of beneficial ownership information to the Registrar. The unexplained use of shelf corporations/companies was identified by the FSRC-Nevis Branch during the onsite examination of four (4) TCSPs and prompt enforcement action in

the form of “cease and desist” orders were taken against them. The corporations/companies were also removed from the respective registers by the Registrar of Corporations and Companies.

424. While St. Kitts and Nevis is a small international financial centre with a foreign clientele and a substantial number of corporate entities, none of the domestic ML or predicate offences committed during 2017-2020 involved legal persons and legal arrangements. There were no ML investigations for foreign predicates or corporate entities during the review period. During 2017-2020, the RSCNPF received only four (4) reports of suspicious activities involving legal persons from members of the public. These reports did not result in the institution of criminal charges against any of the legal persons operating in St. Kitts and Nevis.

Phasing out of exempt companies

425. Exempt companies would no longer be incorporated in St. Kitts and Nevis effective 1st January 2019 and those in existence were discontinued from June 2021. This is an important measure because there was no mandatory requirement for basic information on directors to be submitted to the Companies Registry.

Conduct of CDD of legal persons and arrangements by FIs and TCSPs

426. FIs and TCSPs are required to conduct CDD to identify the beneficial ownership and control structures of legal persons and arrangements. All legal persons and arrangements are required or must utilize the services of a registered agent of a TCSP. Details on implementation of these requirements are available in IO.4.

CDD Screening of legal persons during the incorporation process by the St. Kitts and Nevis Companies Registries

427. The St. Kitts Companies Registrar screens all legal persons (every person who has a controlling interest within the entity) during the registration process, using CDD software and screening against the UN Sanctions and OFAC Lists. The Office of the Registrar utilizes checklists for each legal person created to assess compliance with the requirements of the relevant legislation and the level of vulnerabilities associated with that particular applicant. CDD documents are collected for all beneficial owners, directors and secretaries of companies.
428. During 2017 to 2020, one (1) application was denied registration based on the nature of the business which was processing of alternative medicine. This was not in keeping with the Ministry of Health and the applicant was advised that the company would not be incorporated.
429. During the incorporation process, the Nevis Companies Registrar also ensures that anyone holding a controlling position in the entity is screened against the UN Sanctions List and the OFAC Sanctions list, in addition to online search engines. In 2018, the Nevis Companies Registry procured a due diligence subscription which allows staff within the Companies Registry to conduct searches at any time and as necessary.
430. During the review period, the FSRC-Nevis branch sent 20 requests to foreign authorities for information on applications. The requests related to beneficial ownership information and fitness and propriety assessments for control persons (directors, shareholders, beneficial owners, and senior management).

Use of Registered Agents (TCSPs) for the incorporation of IBCs, NLLCs, MFFs and international trusts under the NIETO

431. Incorporation or registering of an IBC, NLLC, MFF or an international trust under the NIETO requires the services of a TCSP (registered agent) who is licensed by the Nevis Island Administration and with a registered office in Nevis. The NBCO, NLLCO and the MFO stipulates that failure to maintain a registered agent would result in the dissolution of the IBC, NLLC and MFF respectively. The corporate and accounting records of the IBC and NLLC must be readily accessible upon request by the registered agent and the FSRC- Nevis branch.
432. The TCSP (registered agent) must obtain, verify, maintain and keep updated the identity of beneficial owners and shareholders of the IBC, NLLC and MFFs. Any change in beneficial owners, shareholders, directors or officers must be reflected in the registered agent's records. Similarly, registered agents must maintain accurate and updated information on the beneficial owners of the trust, such as the settlor, trustee (s), protector (s) and beneficiaries of a trust. AML/CFT on-site examinations are conducted by the FSRC-Nevis branch to ensure that registered agents comply with these stipulations. Regulated businesses (which includes TCSPs) are required to keep updated beneficial owner information and to ensure that documents, data, or information under identification procedures are kept updated and relevant by conducting reviews of existing records, including cases where inconsistencies are discovered. Additionally, trusts registered under the TA and NIETO are regulated businesses while trustees are regarded as providers of fiduciary services. Regulated businesses and fiduciaries are also required to maintain and verify the identity and beneficial owner of legal arrangements.

CDD checks of foreign IBCs, LLCs, trusts and MMF

433. In Nevis, IBCs, LLCs, trusts and MFF that have been redomiciled from another jurisdiction are subject to internal due diligence checks and searches by the FSRC-Nevis branch to ensure that the beneficial owners, directors, members, managers or officers, do not pose any ML/TF threats to the jurisdiction.

Strict licensing requirements for non-national directors and beneficial owners of Nevis domestic companies

434. Natural and legal persons who are shareholders or directors of domestic companies that have directors or beneficial owners who are non-nationals are required to apply for and obtain an Alien Land Holding licence under section 8 of the Aliens Land Holding Regulation Act, Cap. 10:01. This requirement also applies to IBCs and LLCs that are shareholders and directors of domestic companies.
435. In applying for an Alien Land Holding licence, persons will have to undergo a due diligence check to ensure that there are no adverse findings that would render the application undesirable. The applications are processed by the Ministry of Agriculture and the Nevis Island Administration Cabinet. In applying for an alien land holding license, persons undergo a due diligence check by the Ministry of Agriculture and the Nevis Island Administration Cabinet. Undesirable applicants are denied. All Alien Land Holding licences are registered at the High Court Registry and filed at the Companies Registry. Any changes to the shareholding structure or directorship of a domestic company which includes a non-national will not be allowed unless the Alien Land Holding licence is granted, obtained and registered.

Restrictions on the use of bearer shares

436. Public ordinary companies and private ordinary companies under the Companies Act are prohibited from issuing bearer shares or bearer share certificates. Although private exempt companies under the Companies Act and IBCs are permitted to issue bearer shares, these shares must be registered and approved by the Registrar of Corporations or the FSRC.

437. Additionally, registered agents must maintain custody of the bearer share certificate on behalf of the beneficial owner and must maintain a register of each bearer share and up to date information on the beneficial owners. There were 312,711 bearer shares in existence, issued by a total of 19 IBCs registered in Nevis at December 31, 2020. No unregistered bearer shares were discovered during the review period.

Restrictions on the use of nominees

438. In St. Kitts and Nevis, nominees are not permitted to act as beneficial owners for entities. There were no discoveries of nominees acting as beneficial owners for legal persons and arrangements during the review period.

Removal of entities from the register

439. The Company Registrars are empowered to remove an entity from the register if there are reasonable grounds to believe that the entity has engaged in a criminal activity. In St. Kitts, a company is liable to be struck from the Registrar if it fails to comply with the salient requirement of filing annual returns. The process for removal for failure to file annual returns can take up to 4 months after which the company is struck off the registrar and dissolved. In Nevis, a company would be removed from the register if there are reasonable grounds to believe that an entity has engaged in a criminal activity. Please see Case Study Provided in Box 7.1 below which describes an occasion in 2019 where the Registrar removed two (2) entities from the register because one of them was listed on the OFAC sanctions list.

Box 7.1. Registrar's removal of a corporation (2019)

The OFAC list was checked by the Regulator to ascertain whether any registered entities in Nevis were published. In one case a match was found. The Regulator contacted the Registrar who was able to confirm the match. The Registrar immediately issued the requisite notice to a corporation and registered agent pursuant to subsections 119 (3) and (8) of the NBCO that the Articles of Incorporation would be forfeited, and that the corporation would be removed from the register. No objections were received from the corporation nor registered agent. The Registrar was however informed by the registered agent that an affiliated entity was also on the register because they shared the same beneficial owner. The corporation and the affiliated entity were both successfully removed from the register.

440. Additionally, due diligence searches are conducted by the FSRC-St. Kitts and Nevis branches when struck entities wished to be revived or restored to their respective registers. For instance, an entity was struck by the Registrar in 2007 and a warning was placed on the FSRC-Nevis branch's website. In 2017, the entity applied to be restored to the register and a due diligence search was also conducted. Once the details of the search results were identified, the entity's application for restoration was denied and the entity remains struck from the register.

441. All IBCs, LLCs, MFFs and trusts must be renewed annually to remain on the respective registers. Failure to renew would result in the entity being struck from the register for non-payment of the annual fees. During the period 2017 to 2020, 5392 IBCs, 78 MFFs, 2971 LLCs, 218 domestic companies and 374 trusts (qualified foreign trusts and international exempt trusts) were struck from the register by the FSRC-Nevis branch. Corporations struck

off the register for non-payment of the annual registration fees were automatically removed from the Register of Corporations.

Amendment of legislation governing legal persons and arrangements

442. The Companies Act, Cap. 21.03 was amended in 2019 and 2020 to require the submission of the identifying particulars of new directors or shareholders and beneficial ownership information to the Registrar whenever there's a change in the structure of the company. The LAP was amended to require the submission of the identifying particulars with respect to all general partners and limited partners who are individuals and who have beneficial ownership interest in the limited partnership.
443. Prior to 2021 (when there was no mandatory statutory requirement), the St. Kitts Companies Registry attempted to obtain beneficial ownership information from limited partnerships during the incorporation process. During the period 2019-2020 (after the effective date of the amendment), no limited partnership was non-compliant with the mandatory requirement of submitting beneficial ownership information to the Registrar.
444. Similar provisions in the Trusts Act, Cap. 5.19 were enacted in 2019 to mandate that prior to the transfer or payment of assets by trusts, the particulars with respect to any trustee who is an individual and has beneficial ownership interest must be submitted to the Registrar. Prior to 2019 (when there was no mandatory statutory requirement), the St. Kitts Companies Registry attempted to obtain beneficial ownership information from trusts during the registration process. During the period 2019-2020 (after the effective date of the amendment), no trust was non-compliant with the mandatory requirement of submitting beneficial ownership information to the Registrar.

Sectoral risk assessments of TCSPs

445. Annual sectoral risk assessments of TCSPs were conducted during the review period 2017-2020. Based on the findings of these sectoral risk assessments, the TCSP sector was subjected to more AML/CFT scrutiny than any other DNFBP sector within St. Kitts and Nevis (see Chapter 6). The 2018 sectoral risk assessment of TCSPs conducted by FSRC-Nevis revealed that the ownership structures for IBCs, LLCs, trusts, and multiform foundations were not particularly complex. Most owners of IBCs that are also captives are sole individuals. Less than 5% of examined TCSPs had structures that had multiple layers of ownership and in those cases, the TCSPs were able to understand the ownership chains and identify the ultimate beneficial owner behind them.
446. During the review period, no TCSP failed to provide the FSRC with beneficial ownership information when requested to do so by the competent authority. There is a mandatory obligation imposed on TCSPs to keep updated beneficial ownership information of legal persons and legal arrangements by ensuring that documents, data or information under identification procedures are kept updated and relevant by conducting reviews of existing records, including cases where inconsistencies are discovered.
447. Interviewed TCSPs indicated that they are required to ascertain the ultimate beneficial owner of every parent company in cases of clients with corporate shareholders. TCSPs demonstrated compliance and understanding of and collection of CDD inclusive of beneficial ownership (see Chapter 5). For DNFBPs, the TCSPs were especially aware of their obligations particularly regarding beneficial owners, they understood the need to have proper documentation at all stages, prior to receipt of funds (wire transfers) from clients and even when transferring payments to other parties (escrow agents) etc.
448. Findings of examinations conducted by both branches of the FSRC during the period 2017 to 2020 identified minimal issues relating to application of EDD measures (see Chapter 5).

In the DNFBP sector, TCSPs were able to demonstrate specific EDD measures taken for high-risk customers. TCSPs also have a good understanding of their reporting obligations related to suspicious transactions (see Chapter 5).

7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

Adequate, accurate and current basic and beneficial ownership information

449. The offices of the Registrar in both St. Kitts and Nevis are embedded in the FSRC –St. Kitts and Nevis branches respectively. The Companies Registry within the FSRC-St. Kitts branch is headed by a Registrar whose principal function is management of the Registry with a staff compliment of four (4) persons. The Companies Registry within the FSRC-Nevis branch is also headed by a Registrar whose primary function is management of the registry with a staff compliment of five (5) persons.
450. In St. Kitts, legal persons are recorded on an integrated Access Data System. This system captures the incorporation process from the Registry Clerk's registration entry upon receipt of payment, to the approval of the Registrar. Hardcopies of files are also maintained in filing cabinets in the registry storage room. Guidance checklists for the review of documents based on the various statutory requirements, beneficial ownership information for directors, secretary and counsellors, submission of annual reports and electronic copies of files secured in the registry storage room are critical components of this integrated access data system.
451. In St. Kitts, incorporation information is updated by the Registry's frontline staff. Documents are submitted to the front desk and an immediate check of the FSRC's Access Database System is conducted to verify their authenticity against information previously submitted to the Registry. The physical company file is also updated with the new information submitted to the Registry. Once the information is updated, it is signed off and dated by the Due Diligence Officer.
452. The Registrar's Office maintains separate registers for each legal person operating in Nevis. Each register within the Registrars Nevis Office is kept both manually and electronically and contains a numerical listing of all the names of the entities that are registered. Both registers (manual and electronic) are maintained by front desk staff and updated daily. Physical files are maintained for each incorporated company in secured cabinets, accessible only by registry staff.
453. During the period under review, the FSRC-Nevis branch used systems software to obtain, update and maintain all relevant required information. Books are also utilized within the Nevis Companies Registry to manually record information on each company incorporated, inclusive of the date of incorporation and incorporation documents. Annual records are also recorded in these books in chronological order.
454. The FSRC-Nevis branch also relies on TCSPs to ensure that CDD information is up to date and accessible to CAs. TCSPs are mandated by the AMLR to ensure that documents, data, or information obtained under identification procedures for their clients are kept up to date and relevant by undertaking reviews of existing records. Registered agents are required to ascertain the beneficial owner of every parent company until there is discovery of the natural person and BO information. This was corroborated by registered agents during the on-site interviews. TCSPs are also subject to offsite and onsite examinations by both the St. Kitts and Nevis FSRC branches.
455. The CATM is empowered to request any person to furnish information, inclusive of BO information. It is not a mandatory requirement for the CATM to request BO information

from every legal person and legal arrangement. However, the CATM attempts to obtain both basic and BO information.

456. The St. Kitts Companies Registry confirmed that there were instances where companies are shareholders of other companies. The registry will request the certificate of incorporation for the shareholder company and information about directors of the corporate shareholder.

Timely access -information on legal persons

457. The records of the St. Kitts and Nevis Company Registries are easily accessible to all CAs without payment of a fee. LEAs, supervisors and regulators corroborated that there was timely access to information in both Companies Registries. The CATM indicated that company information is easily accessible in a timely manner from both St. Kitts and Nevis branches of the FSRC.
458. Except for records pertaining to foundations, basic information records for legal persons and trusts within the St. Kitts Companies Registry are immediately available to general members of the public upon payment of a search fee. Any request for BO information is obtained by the registry from TCSPs who are registered agents.
459. The St. Kitts Companies Registry did not receive any request for basic information or BO information from FIs and DNFBS during the period 2017 to 2020. During the review period, requests were received from the FIU and the CATM. St. Kitts Company Registry's responses to the FIU's requests for information during 2017 to 2020 were provided in a timely manner in an average of two (2) days. No request exceeded two (2) days. The FIU's correspondences required the information should be produced within three (3) days and in many instances, it was provided on the same day. The CATM requested from the FSRC St. Kitts branch, 97 requests for company information about private ordinary companies in 2018, and 103 requests for company information about ordinary companies in 2019 and 2020. The requests received by the FSRC-St. Kitts branch from the CATM included both basic information and BO information.
460. Basic information on legal persons is immediately available to the public from the Nevis Company Registry upon payment of a search fee. This was corroborated by FIs and TCSPs. The Nevis Companies Registry was able to promptly retrieve from registered agents (TCSPs) publicly requested BO information. However, the AG indicated that there were instances of delays by registered agents with the provision of information required for the processing of MLA requests.
461. The Nevis Companies Registry received 927 requests for information about IBCs and LLCs during the period under review. Of the 927 requests, only one from a FI which sought information about an IBC. FIs also requested company information during the period under review. During the same period, the FSRC-Nevis branch also received 1309 requests from foreign agencies, registered agents, lawyers, real estate agents, accountants and FIs for company information. There were (52) 2017, (66) 2018, (70) 2019 and (52) 2020 respectively for public searches for BO information.

462. Case study 7.2 below describes an occasion where the FSRC-Nevis Branch shared BO information with the CATM. However, the length of time taken to provide the information with the CATM was not provided.

Box 7.2. Exchanging beneficial ownership information and the effective use of powers to compel the production of information (2017).

The CATM sought the assistance of the FSRC - Nevis Branch to compel the production of BO and accounting information for tax purposes from a regulated entity. In accordance with powers conferred on the FSRC by the FSRC Act, the FSRC - Nevis Branch wrote to the regulated entity requesting information within a stipulated timeframe. The regulated entity complied with the request. The information was shared with the CATM who was able to forward same to a treaty partner. This case study demonstrates the ability to cooperate domestically, enforce powers of production, and share beneficial ownership and accounting information internationally.

463. During the period 2017 to 2020, the CATM received 272 requests from the CAs in relation to companies and individuals. However, of that number, only 15 requests concerned companies. All CAs, inclusive of the FSRC-St. Kitts and Nevis branches, the WCCU, FIU, CED and AG can access basic and BO information in a timely manner from the CATM. The CATM received 36 requests for basic and BO information during the period 2017 to 2020, from the UK, French Republic, Russia, Canada, Australia, Republic of India, Kingdom of Norway, Kingdom of Sweden and Georgia (Europe). All BO information was received and conveyed to foreign authorities in less than 90 days. (Please see additional information in chapter 8). During the period under review, the FIU received 57 requests for company information. The information was provided in a timely manner with over 60% of the requests responded to within 30 days. The FIU responded to 53 of the requests while in four (4) instances, information could not be furnished due to insufficient details provided by the requesting state.

7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements.

464. The FSRC-St. Kitts Branch did not receive any request for information from a CA in relation to legal arrangements. There are also no instances during the review period whereby information on legal arrangements were provided through TCSPs.
465. During the review period, the FSRC-Nevis Branch received five (5) requests for information about legal arrangements, two (2) in 2018 from the FIU and three (3) in 2020 from the AG, WCCU and the FIU. The requests were mainly in relation to the name, number, status, registered agent/office and date of registration. Although the FSRC-Nevis Branch was able to retrieve the requested information from the Companies Registry, there was no information provided about the length of time taken to respond to the AG, WCCU and the FIU.

7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions

466. Criminal sanctions are available for breaches of reporting and record-keeping requirements under the various statutes governing legal persons and arrangements. Failure to comply with

these statutory requirements constitute criminal offences which would result in the institution of fines or periods of imprisonment for officers of the defaulting entities.

467. During the review period 2017 to 2020, 1162 legal persons and arrangements were struck off the register by the FSRC St. Kitts branch for unpaid fees and non-submission or late submission of annual returns. The legal persons struck off the register included 26 foundations, four (4) limited partnerships and 1026 companies registered under the Companies Act. No trusts were struck off the register in 2017, 2018 and 2020 but 21 of them were struck off the register in 2019. The majority of companies struck off the register were companies registered under the Companies Act.

468. The FSRC-St. Kitts imposed fines on 273 legal persons for late filings during the period under review. The types of legal persons sanctioned included ordinary companies, exempt companies and exempt foundations. Most fines were instituted on ordinary companies whilst no fines were instituted on ordinary foundations and legal arrangements. The aggregate total of fines during 2017 to 2020 ranged from XCD 250,653 (USD 92,257) to XCD 324,476 (USD119,428). Please see table 7.3 below which shows the fines imposed by the FSRC-St. Kitts on legal persons during 2017 to 2020 for late filings.

Table 7.3 Fines imposed by the FSRC-St. Kitts on legal persons during 2017 to 2020 for late filings.

| Corporate Entities | 2017(XCD) (USD) | 2018(XCD) (USD) | 2019(XCD) (USD) | 2020(XCD) (USD) |
|---------------------------|--------------------------------|--------------------------------|---------------------------------|---------------------------------|
| Ordinary Company | \$187,273 (\$67,631) | \$205,073 (\$75,480) | \$262,563 (\$96,640) | \$277,427 (\$102,111) |
| Exempt Company | \$47,900 (\$17,630) | \$37,950 (\$13,968) | \$38,900 (\$14,320) | \$26,700 (\$9,827) |
| Exempt Foundation | \$7,600 (\$2,780) | \$1,100 (\$404) | \$2,600 (\$956) | \$2,500 (\$920) |
| Resolution | \$22,866 (\$8,420) | \$5,730 (\$2,109) | \$5,124 (\$1,885) | \$17,850 (6,569) |
| Public | \$400 (\$147) | \$800 (\$294) | \$500 (\$184) | 0 |
| Totals | \$266,039 (\$97,920) | \$250,653 (92,256) | \$309,687 (\$113,985) | \$324,477 (\$119,429) |

469. During the period 2017 to 2020, the FSRC Nevis branch instituted a range of sanctions (fines) for late filing of annual fees, failing to obtain and designate a new registered agent, revivals of MFFs, reinstatement of legal persons and arrangements and for late filing of notices and annual returns. The total fines and penalties collected for late filing of annual fees, failing to obtain and designate a new registered agent and reinstatement of legal persons and arrangements were XCD 5,485,903 (USD 2,019,177) while a total of XCD 423,286 (USD 155,797) was collected for late filing of Notices and Annual Returns. Fines were instituted on 12,421 legal persons and arrangements for late filing of annual fees, 51 legal persons and arrangements for failing to obtain and designate a new registered agent, two (2) MFFs seeking revival and 934 legal persons and arrangements seeking reinstatement. Although there was a decrease in the number of legal persons and arrangements reinstated in 2020 vis-à-vis 2017, there was an increase in the resulting fines and penalties for such reinstatement in 2020.

470. Most fines imposed on legal persons and arrangements were for the late filing of annual fees. The majority of the penalties for late filings of notices and annual fees were imposed in 2017. No fines were imposed for the failure to obtain and designate a new registered agent in 2017 and 2018. No fines were imposed for the revival of MFFs in 2017 and 2019. Please see below table 7.4 which shows the types of fines imposed by the FSRC-Nevis branch on legal persons and arrangements during 2017-2020, and table 7.5 which shows penalties and fines (sanctions) against penalized legal persons/legal arrangements in Nevis for the period 2017-2020.

Table 7.4 Types of Fines imposed by the FSRC-Nevis branch on legal persons and arrangements during 2017-2020

| Description | 2017 | 2018 | 2019 | 2020 |
|--|--------------|--------------|--------------|--------------|
| Penalty for late filing of Annual Fees | 2920 | 3625 | 2684 | 3192 |
| Failing to obtain & designate a new registered agent | 0 | 0 | 13 | 38 |
| Revival of Multifirm Foundations | 0 | 1 | 0 | 1 |
| Reinstatement of Legal Persons and Arrangements | 193 | 243 | 146 | 150 |
| TOTAL | 3,113 | 3,869 | 2,843 | 3,381 |

Table 7.5 Penalties and fines imposed against penalized legal persons and arrangements in Nevis during 2017 to 2020

| Description | 2017(XCD) (USD) | 2018(XCD) (USD) | 2019(XCD) (USD) | 2020(XCD) (USD) |
|--|------------------------------------|------------------------------------|------------------------------------|------------------------------------|
| Penalty for late filing of Annual Fees | \$1,049,596 (\$386,321) | \$1,496,635 (\$550,861) | \$1,288,915 (\$474,406) | \$1,248,527 (459,541) |
| Failing to obtain & designate a new Registered Agent | 0 | 0 | \$17,550 (\$6,460) | \$49,950 (18,384) |
| Revivals of Multifirm Foundations | 0 | \$775 (\$285) | 0 | \$775.00 (\$285) |
| Reinstatement of Legal Persons and Arrangements | \$74,520 (\$27,428) | \$99,360 (\$36,571) | \$78,840 (\$29,018) | \$80,460 (\$29,614) |
| Penalties for late filing of Notices and Annual Return | \$138,140.00 (\$50,845) | \$99,396.00 (\$36,584) | \$113,575 (\$41,803) | \$72,175.00 (\$26,565) |
| Total Penalties and Fines Collected | \$1,187,736 (\$437,165) | \$1,696,166 (\$624,301) | \$1,498,880 (\$551,687) | \$1,451,887 (\$534,391) |

471. All legal persons and arrangements are liable to be struck off the register for non-submission of annual fees and annual returns. While the effectiveness and dissuasiveness of fines are dependent upon the size of an entity and the amount of financial assets and capital it possesses, the action of striking legal persons and arrangements off the register for non-submission of annual fees and annual returns is an effective and dissuasive sanction irrespective of the size and financial strength of an entity. For instance, where the trustees of a trust fail to submit annual payments and have been delinquent in such filing in excess of one (1) year and three (3) months, the Registrar shall strike the name of the trust from the Register of Trusts. Similarly, the Registrar may dissolve a MFF where it fails to pay the annual registration fee, maintain a registered agent for a period of one year or where the Registrar has reasonable grounds to believe that an IBC is engaged in any criminal activity.
472. During the review period 2017 to 2020, 1125 legal persons and arrangements were struck off the register by the FSRC St. Kitts branch for unpaid fees and non-submission or late submission of annual returns. The legal persons and arrangements struck off the register included 1056 companies, 44 foundations, 21 trusts and four (4) limited partnerships. Companies registered under the Companies Act accounted for the majority (94%) of entities struck off the register for the period 2017 to 2020. It is noted that the number of companies increased during the period with the largest increase in the last year 2020. Please see table 7.6 which shows the number of legal persons and arrangements struck by the FSRC-St. Kitts branch and the remaining number of active entities during 2017-2020.

Table 7.6 Number of Legal Persons and Arrangements incorporated and struck by the FSRC-St. Kitts branch during 2017-2020 and the number of remaining active entities.

| Types of Entities | 2017 | | 2018 | | 2019 | | 2020 | |
|----------------------|---|----------------------------------|---|----------------------------------|---|----------------------------------|---|-------------------------|
| | No. of entities struck off the register | No. of remaining active entities | No. of entities struck off the register | No. of remaining active entities | No. of entities struck off the register | No. of remaining active entities | No. of entities struck off the register | No. of remaining active |
| Companies | 30 | 3003 | 146 | 3092 | 292 | 2899 | 588 | 1498 |
| Foundations | 3 | 449 | 18 | 423 | 0 | 423 | 23 | 379 |
| Trusts | 0 | 32 | 21 | 8 | 0 | 8 | 0 | 5 |
| Limited Partnerships | 1 | 9 | 0 | 10 | 0 | 10 | 3 | 7 |
| Total | 34 | 3493 | 185 | 3533 | 292 | 3340 | 614 | 1889 |

473. During the period 2017 to 2020, 9046 legal persons and arrangements were struck off the register by the FSRC-Nevis branch for unpaid fees and non-submission of annual returns. The majority of legal persons and arrangements included 5392 (60%) IBCs and 2971 (33%) LLCs of the total entities struck off. The largest number of legal persons and arrangements were struck off the register in 2017. MFFs were the least number of entities struck off the register for the period 2017 to 2020. There has been a decline in the number of entities struck off the registers in 2017 and it was noted that the number remained the same for 2019 and

2020. Please see table 7.7 below which shows the number of legal persons and arrangements struck by the FSRC-Nevis branch during 2017 to 2020.

Table 7.7 Legal Persons and Arrangements incorporated and struck by the FSRC-Nevis Branch during 2017-2020.

| Types of Entities | 2017 | | 2018 | | 2019 | | 2020 | |
|---|---|---|---|---|---|---|---|----------------------------------|
| | No. of entities struck off the register | No. of remaining active entities | No. of entities struck off the register | No. of remaining active entities | No. of entities struck off the register | No. of remaining active entities | No. of entities struck off the register | No. of remaining active entities |
| IBCs | 1550 | 6481 | 1160 | 7484 | 1376 | 8256 | 1306 | 9104 |
| Multiform Foundations | 33 | 38 | 19 | 81 | 15 | 94 | 11 | 107 |
| LLCs | 838 | 2134 | 647 | 2482 | 695 | 2917 | 791 | 3433 |
| Trust (qualified foreign trust and International Exempt Trusts) | 110 | 346 | 87 | 405 | 119 | 479 | 71 | 569 |
| Domestic/Local Companies | 0 | Number not specifically mentioned in the NRA Follow-Up Report | 122 | Number not specifically mentioned in the NRA Follow-Up Report | 44 | Number not specifically mentioned in the NRA Follow-Up Report | 52 | 545 |
| Total | 2531 | | 2035 | | 2249 | | 2231 | |

474. During the reporting period, the authorities have struck different types of legal persons and arrangements off the register and imposed fines for breaches of reporting requirements. While the range of sanctions is proportionate to the breaches, the pecuniary fines are not dissuasive. However, many of the record-keeping and reporting requirements under the various statutes were not breached by legal persons during the review period. Additionally, the action of striking entities off the register was an effective and dissuasive sanction since a lower percentage of entities was struck from the register in 2020 when compared with the prior years of the assessment period.

475. As can be seen from above there are varying sanctions that have been applied in St. Kitts and in Nevis. The varying sanctions are due to the different incorporation statutes applicable in St. Kitts and in Nevis with differing sanctions.

Overall conclusion on IO.5

476. Information on the creation and types of legal persons and arrangements is publicly accessible in St. Kitts and Nevis. The relevant laws and incorporation requirements are available on the websites of FRSC St. Kitts and Nevis registries. In addition, the St. Kitts and Nevis Registries have prepared brochures and forms which have incorporation requirements for the different types of legal persons and arrangements. St. Kitts and Nevis conducted an NRA in 2019 however, it did not include a specific analysis of legal persons and arrangements. The follow up NRA report 2021 included a description of the framework and mechanisms in place for the creation and access of information on legal persons and arrangements. However, the inherent vulnerabilities of legal entities and their respective categories of vulnerabilities were not identified and the extent to which legal persons created in the country can be or are being misused for ML/TF. There is limited understanding of legal persons and arrangements' vulnerabilities by the FSRC.
477. In the absence of a formal risk assessment of legal entities, it could not be determined whether mitigating measures are commensurate with ML/TF risk and vulnerabilities of legal entities in St. Kitts and Nevis. However, to some extent, these mitigating measures were effective in preventing the misuse of legal persons and arrangements for ML/TF purposes during 2017 to 2020. Companies are subjected to robust incorporation procedures by the registries to validate the information submitted by the entities. As a matter of practice, the services of a TCSP or registered agent must be utilised for the incorporation of every legal person and legal arrangement in St. Kitts and Nevis. Additionally, TCSPs/ registered agents which are used for the incorporation of all legal entities in St. Kitts and Nevis are subjected to AML/CFT regulation and supervision by the FSRC. The registries in St. Kitts and Nevis maintain record keeping systems which allow for access to stored basic information on legal entities. Legal entities are required to annually update their information in the registries. Registered agents / TCSPs are required under AML/CFT obligations to maintain current BO information on legal entities. Information in St. Kitts and Nevis Company Registries are easily accessible to all CAs. LEAs and CAs corroborated that there was timely access to information in both Companies Registries.
478. Trusts registered under the TA and NIETO are regulated businesses and trustees are considered fiduciaries and are required to maintain and verify the identity and BO of legal arrangements. Regulated businesses and fiduciaries are subjected to compliance for AML/CFT obligations in particular the requirements to maintain BO information of legal arrangements by the FSRC. Similar mechanisms for access to legal persons also applies to legal arrangements.
479. During the reporting period, the authorities have struck different types of legal persons and arrangements off the register and imposed fines for breaches of reporting requirements. While the range of sanctions is proportionate to the breaches the pecuniary fines are not dissuasive. for large established entities. Nevertheless, there were instances where the authorities had cause to institute sanctions such as fines and striking entities off the register because of continuing breaches. However, the authorities have demonstrated the willingness to impose sanctions and strike off companies as a result of continuing breaches.

St. Kitts and Nevis is rated as having a moderate level of effectiveness for IO.5.

Chapter 8. INTERNATIONAL COOPERATION

8.1. Key Findings and Recommended Actions

Key Findings

Immediate Outcome 2

- a) St. Kitts and Nevis has provided a wide range of mutual legal assistance (MLA). The assistance provided included servicing of documents, provisional arrest, locating individuals, deportation and extradition. Servicing of documents account for 95% of the assistance. However, there were very few MLA request being made for the review period. While St. Kitts and Nevis has a mechanism to respond to MLA request, the present system does not allow for timely response and feedback.
- b) St. Kitts and Nevis is sufficiently empowered to seek MLA through agreements and MOUs. St. Kitts and Nevis sent one (1) MLA request to pursue a TF matter during the period under review.
- c) The FIU, WCCU and the DPP assist and provide information to the AG in responding to the MLA request. Timelines for responding for each request is based on the complexity involved in each request.
- d) Comprehensive statistics were not provided by the MOFA, AG and WCCU involved in the processing of MLA and extradition requests which shows that they do not possess efficient case management systems. Many discrepancies in MLAT statistical information amongst these CAs were observed.
- e) During the review period, three (3) requests for extradition were received by St. Kitts and Nevis. Two of the requests were refused because of the absence of an extradition treaty between St. Kitts and Nevis and each of the requesting jurisdictions.
- f) St. Kitts and Nevis did not seek legal assistance for international co-operation to pursue ML cases which have transnational elements during 2017 to 2020. However, legal assistance was sought to facilitate an investigation to pursue a potential TF case during the period under review.
- g) St. Kitts and Nevis has mechanisms that allow for the exchange of BO information. During, the period under review, the FSRC-Nevis branch, CATM and WCCU, responded to foreign requests. While the CATM responded to all request for basic and BO information, response times were inordinate. The FIU received requests for company information which it was able to respond to in 30 days by accessing information from 23 FIs and one (1) TCSP for the review period and the WCCU responded to informal requests for BO information.
- h) During the period under review, the FSRC-Nevis branch, CATM and WCCU, responded to foreign requests for BO information.

- i) There was limited use of the MACMA by St. Kitts and Nevis to formally request MLAs during the period under review. The WCCU primarily utilizes informal legal assistance through mechanisms such as JRCC, RSS-ARU and ARIN CARIB for the conduct of ML investigations. The CED did not receive any ML or TF related information requests during the period under review.
- j) The FIU provided other forms of international cooperation in a constructive and timely manner with its foreign counterparts for AML/CFT purposes.
- k) Informal channels of communication were primarily utilized by the WCCU to request assistance from its foreign counterparts for the conduct of investigations during the period under review.

Recommended Actions

St. Kitts and Nevis should:

- a) Consider increasing use of the MACMA to request assistance from its foreign counterparts to assist LEAs in pursuing domestic ML, associated predicate offences and TF cases that have a transnational element. Consideration for increased use of the MACMA should be pursued for high-risk areas in particular legal persons and arrangements.
- b) Ensure that CAs such as the MOFA, AG and WCCU have case management systems which would effectively allow for the prioritization of MLAT requests and incorporate efficient follow-up procedures to accurately monitor and reconcile the number of MLAT requests received, the progress of each MLAT request and the provision of timely feedback by St. Kitts and Nevis on the status of each request.
- c) Develop an inter-agency statistical database to ensure that accurate and consistent information is retained by all CAs involved in the execution of MLA and extradition requests. Comprehensive statistics on MLA would enable MLA and extradition requests to be effectively tracked, thereby providing an accurate reflection of the degree of effectiveness of MLA requested and provided by St. Kitts and Nevis.
- d) Given its risk profile, utilise the information-sharing mechanisms of the Caribbean Customs Law Enforcement Council (CCLEC) MOU to formally request information for AML/CFT purposes.
- e) Streamline the process to respond to MLA requests, by issuing/updating guidelines or manuals to determine relative roles, responsibilities, and timelines for action of the different authorities (including to dealing with tax matters, and confiscation).
- f) Devise systems and procedures outlining the roles and functions of relevant staff processing MLAT requests and establishing an effective record keeping system to track the status of each request and the relevant timelines.

480. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

8.2. Immediate Outcome 2 (International Cooperation)

8.2.1. Providing constructive and timely MLA and extradition

481. St. Kitts and Nevis has provided a wide range of MLA in accordance with its domestic legislation during the period 2017-2020. The AG is the central authority for the purposes of MLAs and extradition requested within the Federation. The AG is also the Minister of Justice and Legal Affairs. The AG is embedded within the Ministry of Justice and Legal Affairs (MJLA) with a staff complement of about 17 personnel including the AG. Along with their general duties, they are also tasked with fulfilling MLA and extradition requests. It was noted by the assessors that the staff complement is sufficient as the MLA and extradition requests are usually for the servicing of documents in civil matters. There are also very few requests and the time taken for a response is determined by the complexity and nature of the matter and the deadline given by the requesting country. At the time of the onsite, the AG identified one (1) matter in 2018 from the MOFA which dealt with ML. Furthermore, it was indicated that the MLA requests received did not result in the conduct of ML investigations in St. Kitts and Nevis.
482. In St. Kitts and Nevis MLA requests are sent directly to the AG or forwarded through the MOFA. Requests made by foreign countries to the MOFA follow diplomatic channels. Most MLA requests are sent directly to the AG via courier services (FEDEX). However, the AG has received direct MLA requests via email. The Solicitor General (SG) is the focal point and person who manages MLA and extradition requests and in some instance the SG has direct communication with the requesting country. The AG uses both an electronic system, as well as monthly meetings to keep abreast of active matters. The SG function as focal point for MLATs within the AG requires regular reporting from the assigned officers on the status of matters. Incoming MLAT requests are also monitored by the AG's legal assistants. Where the MLAT request contains insufficient information, the lawyer assigned would contact the focal point in the particular requesting country indicating the deficiency and letters would be sent to the foreign focal point as a follow-up.
483. Countries which sent MLA requests directly to the AG and via the MOFA during the period 2017-2020 were the USA, UK, Canada, St. Lucia, Curacao, Chile, Bermuda, Algeria, Greece, Ukraine, Poland, Bulgaria, Turkey, Switzerland, Slovakia, France and Russia. The largest number of requests, three (3) came from Turkey while most countries only had one (1) request. The varied countries reflect the international nature of the business of the financial sector in the Federation.

Table 8.1. MLAs received by Attorney General's Chambers

| | 2017 | 2018 | 2019 | 2020 | Totals |
|--------------------------------|----------|-----------|----------|----------|-----------|
| Requests received directly | 2 | 5 | 0 | 4 | 11 |
| Requests received through MOFA | 0 | 5 | 5 | 0 | 10 |
| Totals | 2 | 10 | 5 | 4 | 21 |

484. The above table presents information on the number of MLAs received by the AG for the period 2017 to 2020. The numbers of MLAs are low with the highest number being in 2018 with ten (10) requests.

Table 8.2. MLAs received by the Attorney General's Chambers by type of offence

| Types of offences | Number |
|-----------------------|--------|
| Conspiracy | 3 |
| Fraud | 3 |
| Money laundering | 2 |
| Murder | 1 |
| Shipbreaking | 1 |
| Tax evasion | 1 |
| Identity theft | 1 |
| Possession of firearm | 1 |
| Total | 13 |

485. The assistance provided included servicing of documents, provisional arrest, locating individuals, deportation and extradition. In St. Kitts and Nevis, 95% of the assistance provided relates to servicing of documents. Some of the offences for which the assistance was provided as indicated in the above table included ML, and predicate offences such as fraud, attempted tax evasion, conspiracy, possession of firearms, laundering proceeds of crime and murder. The time St. Kitts and Nevis took to complete most of these requests, particularly for the service of documents could not be verified by the assessment time as this information was not provided.

486. The FIU possesses a very efficient case management system and ably assists the AG in processing and executing MLAT requests. The FIU has a comprehensive SOP which provides a detailed explanation of the procedures for the receipt and dispatch of MLA requests. All MLAT requests are received by the FIU in a sealed envelope via hand delivery from the AG. Each MLAT request is logged sequentially, and its progress carefully monitored until submission of the information requested by the FIU to the AG.

487. During the period 2017 to 2020, the FIU received and processed 6 MLAT requests from the AG. Although there were two instances where the FIU's response extended beyond the thirty-day period, the average time for the requests was 16 days. As such, the assessors are satisfied that most of the responses were provided by the FIU to the AG in a timely manner and before the deadline given by the requesting country. Regarding feedback on international cooperation received by the assessors from other countries, one country assessed the FIU's quality of information to be very good and provided within a reasonable timeframe. However, one jurisdiction noted that during the period 2017 to 2019, 16 information requests were submitted to the FIU, and the average response time was 100 days. However, it was also noted that the FIU's responses are of good quality and quantity. The DPP has a pivotal role in assisting the processing of MLAT requests. The DPP assists the police with

applications for production orders. However, in the case of restraint orders, the application would be made by the DPP while the police assist with the investigations. The DPP receives requests electronically and by hard copy from the SG. MLATs and extradition requests are given priority and a response will be sent within 7 to 14 business days for a straightforward request and longer for complex ones. The DPP once received an informal notification of fraud from the UK which involved a sum of GBP 140,000,000 (USD 190,400,000). This informal notification was facilitated by the WCCU commencing investigation and the DPP assisted with the identification of witnesses. Afterward, the formal MLAT request was received, and the relevant application was made to the court.

488. The WCCU assisted with the processing of 14 MLATs during 2017 to 2020 by recording witness statements, conducting interviews, locating persons, serving documents, and accompanying foreign law enforcement officers to conduct local enquiries. There was one instance when foreign law enforcement officers were accompanied by officers within the WCCU to carry out investigations. The investigations were conducted over a period of two (2) days.

Table 8.3. No. of MLAT requests received by the WCCU during 2017 to 2020

| | 2017 | 2018 | 2019 | 2020 | Total |
|-------------|------|------|------|------|-------|
| No of MLATs | 2 | 2 | 4 | 6 | 14 |

489. In addition, there have been instances where information from the company registry was needed. The company's registry responded in a timely manner within 2-6 weeks. Information within the Companies Registries was thus easily accessible to facilitate MLA requests. Conversely, bank account information held by FIs and registered agents was not immediately accessible because of the production order prerequisite. However, the AG did not allot deadlines to the Companies Registry for the provision of information unless this was expressed by the requesting state.
490. While the Authorities unanimously asserted that MLA requests were prioritized, this was not corroborated by the AG's statistics which revealed lengthy timelines (in excess of one year) for the processing of requests. It was noted that the time taken to deal with a particular request and the procedure used in dealing with a request is largely dependent on the complexity of the particular matter. In some instances, it is apparent on the face of the request that a production order is needed. The determination as to the necessity of a production order depends on the nature of the request received and the details provided. In other instances, further enquiries would need to be done by the Registrar of Companies or the FIU which would then reveal the need for a production order. In other words, once these agencies have conducted their searches and enquiries and submitted their reports to the AG, a basis for further appropriate action may become apparent. The AG noted that if a request concerned the existence of bank accounts in St. Kitts and Nevis, the AG's office would not be able to determine the need for a production order until the FIU has returned the results of its enquiries. Notably, during the period under review, timelines for the attainment of production orders were also dependent upon the workload of both the AG and the judiciary.
491. Once the court granted the AG's application for a production order, the WCCU effected service on the FI or registered agent. However, setbacks were caused by the inability of registered agents to locate documents within a 2-week period. This was also apparent on the statistics provided by the FIU. During the on-site, the AG noted that the Federation is sometimes at a disadvantage due to the lack of specificity in MLA requests received from some foreign investigators and prosecutors and this resulted in inordinate delays. In instances

where information is needed from banks, depending upon the nature of the requests, the bank may request more time to fulfil the request. For instance, there was one occasion in 2019 where a bank was requested to provide records from the year 2012. The bank requested more time in order to examine its archives to retrieve the information. There was also an issue with specificity since the request did not identify a specific date in 2012. In some cases, both the requesting party's lawyers, and the AG's lawyers would have had to agree on more reasonable times for complying with the request. In this particular case, the bank did in fact retrieve the information and that information was given to the requesting state.

492. During the period under review, requesting countries did not provide feedback about the quality of assistance provided by St. Kitts and Nevis nor did St. Kitts and Nevis seek such feedback.
493. Furthermore, the statistics and information provided by the AG, FIU, MOFA and the WCCU were deficient or inconsistent. The AG's statistics did not always allow for the identification of respective timelines for processing MLA requests. Additionally, the MOFA's statistics only indicated dates MLA requests were received and the agencies assigned to process them. The only information from the WCCU about MLA requests were the number received during 2017 to 2020, the country which was the subject of the MLA request, the nature and date of receipt of the MLA request, the date of WCCU's response and the actions taken by the WCCU.
494. Additionally, the authorities were unable to indicate whether MLA requests received via diplomatic channels were forwarded by the MOFA in a timely manner. Discrepancies were also discovered in the statistical information received from the authorities. The MOFA reported that during the period under review, 33 MLA requests were submitted to the AG while the latter indicated that only 25 MLA requests were received from the MOFA.
495. Of concern to the assessment team, one (1) country indicated that there are seven (7) MLA requests currently outstanding by St. Kitts and Nevis, the majority of which seek bank or business records or confiscation related assistance. The country intimated that although it is successful in receiving records from St. Kitts and Nevis, it takes a long time. Another country indicated that an MLA request concerning a high value tax fraud was submitted but a significant length of time has elapsed without any response from St. Kitts and Nevis. See case study 8.1 below.

Box 8.1. MLA Request for Restraint Order

On the 28th December, 2017, the AG received an MLA request directly from Country A. The request related to the service of Claim Form, Affidavit and Restraint Order. On the 10th January, 2018, the documents were served by the WCCU. The affidavit of service was emailed to Country A on said date. There was correspondence with Country A and St. Kitts and Nevis counsel on the 11th and the 19th January 2018, re: Service on another company. Hard copies of documents were sent under cover of letter, dated 24th January, 2018.

496. There was a matter prior to 2016 where proceeds were confiscated and returned to a foreign country. Apart from the 2017 case referred to above, there were no other assets confiscated and repatriated during the period under review due to an MLA request.
497. Both the DPP and the AG expressed concerns about the weaknesses of the confiscation legislation. However, there was an amendment to Part IV Civil Recovery to POCA as at March 2021 and due to the recent enactment the assessment team was not able to assess this

measure. The AG posited that confiscation was not adequately addressed in the MLA legislation. Although the legislation allows the registration of foreign orders, it is silent on the effect of the registration. The SG emphasized that while the defect in the legislation did not impede the acquisition of a forfeiture order, it would have been desirable to use the MACMA to its fullest extent rather than invoking provisions from both MACMA and POCA.

Extradition

498. Extradition requests are received by the MOFA via diplomatic channels and dispatched to the AG. The AG provides the MOFA with a legal opinion whether an authority to proceed should be issued directly to the Magistrate. Once agreed the authority to proceed is signed by the Minister and is placed with the Magistrate. If a committal order is granted, in most cases, the Magistrate forwards the decision to the AG which would prepare the committal warrant.
499. During the period 2017-2020 under review, St. Kitts and Nevis received three (3) extradition requests from the United States, China and India. Of the three (3) extradition requests, only the request from the United States was successfully executed by St. Kitts and Nevis. Please see Case Study 8.2 below.

Box 8.2. Successful extradition of fugitive from St. Kitts and Nevis to the USA- July 2018

The following is the sequence of events which led to the successful extradition of a fugitive from St. Kitts and Nevis to the USA: On December 18th 2017 a request for provisional warrant was sent to AG's office. The AG's office responded to MOFA requesting that the MOFA obtain a copy of the arrest warrant issued and referred to in the request, but which was not included in the documents sent. On December 20th 2017, the matter was sent to the DPP. On January 4th 2018 the provisional warrant and accompanying documents were sent to the AG's office and transmitted to the DPP. On February 22nd 2018, the extradition request was received and sent to the DPP. On April 11th 2018 the authority to proceed was sent to the MOFA. On June 15th 2018 the fugitive was committed and on July 12th 2018 a notice of application for extension of time to file habeas corpus was done and the application was dismissed on July 19th 2018. On July 23rd, 2018, the opinion and draft warrant of surrender was prepared for the surrender of the fugitive. The fugitive was surrendered to the USA.

500. The extradition request received from China on 17th March, 2017 was refused on the basis that there was no extradition treaty between St. Kitts and Nevis and China. The suspect returned to China voluntarily. An investigation was conducted locally to determine whether any offences were committed in St. Kitts and Nevis. There was no indication of any criminal offence committed by the suspect in St. Kitts and Nevis. The extradition request received from India on the 6th December 2017 was also refused because there was no extradition treaty between St. Kitts and Nevis and India. It is also important to note information provided by a country about an extradition request granted in 2018. The request was submitted in February 2018 and the fugitive was returned to the requesting country in August 2018.
501. However, the country also indicated that there is one (1) pending extradition request which was submitted to St. Kitts and Nevis in January 2015. The fugitive was arrested in October 2016 and committed for extradition in May 2017. A habeas corpus challenge was filed in St. Kitts and Nevis. However, the records of the AG reflect that the time taken to deal with the matter was largely affected by the incomplete nature of the documents submitted. The extradition request was quite a complex one as shown in the Case Study 8.3 below.

Box 8.3 Complex Extradition Request

The first Diplomatic note received by the MOFA was dated January 6th, 2015. On January 12th 2015 an opinion was provided to the MOFA indicating that documents were not completed and in order. On February 5th 2015 a formal request was sent to the AG's office by the MOFA, then the documents were forwarded to the DPP. In September 2015 an opinion was prepared for MOFA and forwarded to the US. On November 30th 2015 a call was arranged and parties discussed the matter. On February 10th 2016 an opinion was sent to MOFA along with a draft authority to proceed. On May 15th 2017 the fugitive was committed. On July 14th 2017 the application for Habeas Corpus was heard, the matter was remitted to the Magistrate to set date for the hearing. During the proceedings, the subject of the extradition became deceased. On March 3rd 2020 the USA authority was advised by email that the subject of the extradition was deceased. On May 20th 2021 an email correspondence with the death certificate was attached and sent to the US authorities. On the same day (May 20th 2021) a letter with the death certificate attached was sent via FedEx to the US authorities. This information was conveyed to the requesting country.

502. Except for the FIU, the CAs do not have an efficient case management system for MLA requests and there is no consistency in maintaining adequate information on the details of a request i.e. the names of the parties and authorities involved in the request, the dates of receipt, response, and timelines for each stage of the process and the outcome and feedback of the request.
503. Assessors are concerned that during the period of 2017-2020 the non- criminalization of tax evasion limited the scope of the assistance be requested and provided by St. Kitts and Nevis based on the dual criminality requirement under the law. However, tax evasion was criminalized in March 2021. Despite the above major concern for the assessment team, the assessors did note that the country is able to provide assistance to other foreign jurisdictions through MLATs on tax matters. See Case Study 8.4 below.

Box 8.4. Request for Tax Information

In 2019 a request for tax information was forwarded to the AG by the Tax Authority. The request for tax information pertained to a civil investigation which was being conducted in the requesting state (A). The investigation concerned individuals and multiple entities, two of which were in St. Kitts and Nevis. The stated purpose of the investigation was to understand the nature of the international transfer of funds and to determine whether the funds were accurately reflected in filed income tax returns. The Tax Authority engaged the entities in St. Kitts and Nevis in relation to the request. After no cooperation was received from the entity involved, the matter was sent to the AG to apply for a production order. The AG applied for and obtained the order. The application was filed on November 1, 2019 and obtained on November 19, 2019. Application to vary the order was filed on July 28th 2020 and the order was granted in February 18th 2021. The Authorities are still awaiting documents and the matter is still ongoing.

504. St. Kitts and Nevis is sufficiently empowered to provide MLA and informal cooperation in relation to the high-risk areas identified in the 2019 NRA and the 2021 follow-up NRA (See Chapter One).

8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements

505. St. Kitts and Nevis did not seek legal assistance for international co-operation to pursue ML cases which have transnational elements during 2017 to 2020. In addition, St. Kitts and Nevis did not make any extradition request during the period under review. CAs were also not involved in parallel investigations with foreign authorities during the period under review.
506. There were only a few instances which required international assistance and in all of these instances, informal assistance was sought by St. Kitts and Nevis. However, legal assistance was sought to facilitate an investigation to pursue a potential TF case during the period under review. In this matter which originated from an STR, the assistance of local, regional and international agencies was utilized. Persons were interviewed by officers from the WCCU. The WCCU through the RSS-ARU sought assistance from the Federal Bureau of Investigations (FBI) of the USA in the investigation of this matter. As a result of investigations conducted, the matter was not deemed suspicious and closed.
507. The AG as the designated Central Authority can seek MLAs for the furtherance of investigations and prosecutions of predicate offences. None of the ML investigations/prosecutions involved foreign predicate offences during 2017 to 2020.
508. In 2018 and 2020, St. Kitts and Nevis made requests to a Caribbean jurisdiction for service of court documents and orders. These requests related to ongoing proceedings with the subject of the request being a national from another state who owned property in St. Kitts and Nevis. The matter is a complex one in which there had been a plethora of applications for orders including production orders, restraint orders, registration of restraint orders and a forfeiture order. The matter had been ongoing for an extensive length of time because it was rigorously contested in the Court System at almost every stage by the subject of the request. A forfeiture order was applied for by St. Kitts and Nevis and obtained in December of 2020

8.2.3. Seeking other forms of international cooperation for AML/CFT purposes

509. The CAs in St. Kitts and Nevis have sought other forms of international cooperation to exchange financial intelligence, supervisory, law enforcement and other information with their foreign counterparts for AML /CFT purposes.
510. The FIU has the independent authority to exchange information and execute MOUs with both local and international AML/CFT authorities. In response to requests received, the FIU executed 14 information-sharing MOUs with foreign FIUs from the Netherlands Antilles, Panama, Thailand, Canada, Taiwan, Honduras, Australia, Guatemala, Aruba, St. Maarten, Israel, Malaysia, Jamaica and Guyana. The FIU is not bounded by MOUs with foreign jurisdictions for information to be exchanged. However, the execution of MOUs is an important prerequisite for some foreign FIUs to share information.
511. The FIU utilises the Egmont Secure Web (ESW) to request and share information with its counterparts. During the period 2017 to 2020, seven (7) requests for assistance were disseminated by the FIU to its foreign counterparts to aid in the analysis of STRs. See Case study 8.5 below.

Box 8.5. FIU Response to Spontaneous Report

The FIU received spontaneous information from a foreign FIU relating to individual A in St. Kitts and Nevis. Individual A was observed sending funds via money remitter, to Individual B in another Caribbean Country X. According to information received, Individual B is alleged to be associated with Individual C in Caribbean Country Y.

Individual C's sibling is identified as Individual D who also resides in Caribbean Country Y. Intelligence suggests that Individual D is suspected to be linked to a group of individuals who participate in terror activities in support of the Islamic State of Levant/ Syria (ISIL/ISIS). It is believed that the group of individuals moved from Caribbean Country Y to Syria.

It was noted that Individual A is one of 50 individuals feared sending funds to Individual B. Individual B was the only person sending from St. Kitts and Nevis. The other senders were from eight other Caribbean jurisdictions. The funds sent to Individual B by the 50 individuals were small amounts that made no economic sense.

The FIU conducted data gathering inclusive of money remitters' queries. The findings and all information were spontaneously shared with WCCU.

512. Informal channels of communication were utilised by the WCCU to request assistance from its foreign counterparts for the conduct of investigations during the period under review. The WCCU frequently liaises with a number of overseas jurisdictions and informal requests for assistance during investigations has been very convenient. The WCCU seeks informal assistance to determine whether or not any information is available to assist in its investigations. Once a response is received, the WCCU consults with the DPP and a determination is made whether or not to seek legal assistance. A request for MLA would be made in instances where the information or evidence available adds significant weight to the prosecution's case. In the few instances where investigations showed transnational elements, informal assistance was first sought to determine the availability and/or usefulness of information from the overseas jurisdiction in question. Based on the responses received, in all instances, it was not deemed necessary by the WCCU to make an MLA request.
513. The WCCU sought assistance via the agencies of ARIN-CARIB and the RSS-ARU, which dispatched requests to international agencies for further information. During the period under review, the WCCU submitted one (1) formal request to the RSS-ARU and eight (8) requests in 2019 to ARIN-CARIB for assistance in investigations. These requests were made pursuant to ML investigations which were derived from STRs pertaining to large and frequent use of MSBs.
514. As a signatory to the CCLEC MOU, the CED receives monthly activity reports from the World Customs Organisation-CCLEC Joint Intelligence Office (JIO). It also receives from the JRCC a list of individuals who may be involved in ML or other illicit activities. Although the CED asserts that ML trends and typologies were received from regional and international agencies, these agencies were not identified and could not be verified by the assessment team.
515. The CED is permitted by the CCLEC MOU to submit formal requests for information (e.g., information on passengers) through the CCLEC JIO office. The CED indicated that the top three smuggling threats for St. Kitts and Nevis related to smuggling of cannabis, weapons, and cocaine. The CED did not use the information-sharing mechanisms of the CCLEC MOU during the period under review to formally request information for AML/CFT purposes.

8.2.4. Providing other forms international cooperation for AML/CFT purposes

516. The FIU is empowered by section 4 (3) of the FIUA to provide information, and prioritizes requests from foreign FIUs. It is the general rule that requests for assistance must be finalised and responded to within four (4) weeks of the receipt of the written request. If the timeframe is to be exceeded, an interim response is drafted. In instances where the FIU requests further information from the foreign FIU after receiving the request and no information is subsequently provided by the foreign FIU after a specific date given, the matter will be closed by the FIU (“unable to assist”). For example, where requests made have no details of the matter and/or do not provide a nexus of the matter under investigation to St. Kitts and Nevis.
517. During the period under review, the FIU disseminated information spontaneously and upon request to its foreign counterparts and non-counterparts. The FIU received and processed 109 requests for assistance/information from foreign FIUs and LEAs (see table 8.4) and disseminated 27 spontaneous information reports to foreign LEAs and FIUs during the period 2017 to 2020. Please see below table 8.4 which shows the number of foreign spontaneous reports sent by the FIU to foreign FIUs and LEAs.

Table 8.4. The number of Foreign Requests received by the FIU for the period 2017-2020

| Type of agency | 2017 | 2018 | 2019 | 2020 | Total |
|----------------|-----------|-----------|-----------|-----------|------------|
| Foreign FIUs | 27 | 27 | 30 | 19 | 103 |
| LEAs | 2 | 1 | 1 | 2 | 6 |
| Total | 29 | 28 | 31 | 21 | 109 |

518. The information exchanged by FIU with foreign FIUs was related to suspected ML activities such as fraudulent funds transfers and account takeover activities involving bank account holders, the identification of bank accounts, verification of citizenship and passports and the existence/verification of legal entities.
519. In addition, the information shared spontaneously by the FIU with foreign LEAs included STR information related to foreign jurisdictions. Of the 27 spontaneous reports disseminated, most of them were sent to foreign LEAs.
520. The majority of requesting parties did not provide feedback on the information shared by the FIU. However, they did receive limited feedback responses from foreign FIUs and LEAs for the period 2017-2020. (Please see table 8.5). Of the 41 responses the FIU received, ten (10) responses provided new information or links in relation to the targeted subjects. Eleven jurisdictions indicated that the information provided by the FIU was useful and of good quality. Two (2) matters assisted jurisdictions with their asset tracing investigations, three (3) matters helped in advancing a case towards prosecution and four (4) furthered an existing investigation. There was no occasion where the data provided by the FIU assisted in the determination of STRs.

Table 8.5. Feedback received by the FIU from Foreign FIUs and LEAs for the period

| Type of Feedback | 2017 | 2018 | 2019 | 2020 | Total |
|--|-----------|-----------|----------|-----------|-----------|
| Assisted to conduct investigation | 2 | 0 | 0 | 0 | 2 |
| Helped in moving towards prosecution | 3 | 0 | 0 | 0 | 3 |
| Furthered existing investigation | 0 | 1 | 0 | 3 | 4 |
| Information not timely | 0 | 1 | 0 | 0 | 1 |
| New information/links regarding known subjects | 3 | 4 | 0 | 3 | 10 |
| Information Useful/Good Quality | 2 | 4 | 0 | 5 | 11 |
| No Value added | 0 | 1 | 0 | 0 | 1 |
| Corroborated information already known to FIU | 2 | 3 | 0 | 2 | 7 |
| Assisted in Asset Tracing investigations | 0 | 1 | 0 | 1 | 2 |
| Assisted in determination of STRs | 0 | 0 | 0 | 0 | 0 |
| Totals | 12 | 15 | 0 | 14 | 41 |

521. St. Kitts and Nevis is a signatory to the Multilateral Competent Authority Agreement (MCAA) and the Convention on Mutual Administrative Assistance in Tax Matters. St. Kitts and Nevis is also a party to 24 Tax Information Exchange Agreements (TIEAs) and 21 Double Taxation Agreements (DTAs). Additionally, St. Kitts and Nevis is a member of the RSS-ARU and ARIN CARIB. During the period under review no information was shared by the CAs for AML/CFT purposes with their foreign counterparts under these arrangements.

522. The CARICOM Implementation Agency for Crime and Security (IMPACS) system is used by the WCCU to facilitate international and regional cooperation through the sharing of intelligence and other investigative resources. However, the assessment team was unable to verify this as the country did not provide any statistics on information and investigative resources shared by the CAs for AML/CFT purposes with their foreign counterparts under this arrangement. St. Kitts and Nevis is a member of the JRCC which is responsible for the operation and management of the APIS.

523. Accordingly, all commercial and private air and sea carriers operating inbound and outbound are required to electronically transmit APIS data on every passenger and crew member to foreign Immigration Departments via the JRCC in Barbados. The JRCC uses the APIS data to produce a watchlist of individuals, suspected of being involved in ML or other illicit activities. Although this is an example of the spontaneous exchange of information for AML/CFT purposes, the Immigration Department provided no statistics of the types and quantity of APIS data shared with the JRCC during the period under review and as such the assessment team was unable to verify the types of information shared.

524. During the period under review, the CED did not receive any information requests related to ML or TF. Notwithstanding, over that same period, the CED received and responded to 21 requests via the Enforcement Liaison Officer's (ELO) channel. Most of these requests were in relation to suspicious activities surrounding small cargo vessels and pleasure crafts. Recently, in 2021, the CED received and responded to a request for information via the

RSCNPF from a US LEA pertaining to a customs seizure of firearms, which took place in 2020.

525. During the period under review, the FSRC disseminated information to its foreign counterparts. According to the FSRC-Nevis branch, 19 requests were received during the assessment period, all were prioritised, and responses provided within five (5) working days. The response letters were communicated through the same channels of receipt. Feedback received by the FSRC-Nevis branch from several regulatory authorities confirmed that the information provided was constructive.

8.2.5. International exchange of basic and beneficial ownership information of legal persons and arrangements

526. None of the MLA requests received during 2017 to 2020 related to BO information. However, a jurisdiction indicated that a request for BO information was sent to St. Kitts and Nevis, but the information was not provided. The FIU received a spontaneous report, and the response provided to the foreign FIU indicated that St. Kitts and Nevis possessed the information and there was no subsequent request for information/assistance submitted on the matter.
527. The statistics provided by the FIU shows that pursuant to an MLA request received by St. Kitts and Nevis in 2017, a TCSP was required to provide the identity of a BO. During the period 2017 to 2020 the FIU sought information from 23 FIs and one (1) TCSP. The FSRC was the primary agency from which the FIU sought information on company details to process MLA requests. Additionally, during the period 2017 to 2020, the WCCU received 11 (eleven) informal requests for information pertaining to the identification of BO of legal persons. The WCCU responded to each of these requests and provided the requested information.
528. The CATM received 36 requests for basic and BO information during the period 2017 to 2020 from the UK, French Republic, Russia, Canada, Australia, Republic of India, Kingdom of Norway, Kingdom of Sweden, Bulgaria, Argentina, France and Georgia (Europe). All BO information was received and conveyed to the relevant CAs in less than 90 days. During 2017, the CATM response times ranged from 38 days to 410 days with an average response time of 109 days. During 2018, the CATM response times ranged from 42 days to 207 days with an average response time of 94 days. During 2019, the CATM response times ranged from 56 days to 245 days with an average response time of 145 days. The response timelines for two (2) requests were not provided. During 2020, the CATM's response times ranged from 85 days to 210 days with an average response time of 146 days. Major factors which resulted in significant delays in the responses provided by the CATM were insufficient information provided by the foreign requesting authorities, delays by the foreign requesting authorities in response to clarifications sought by the CATM and difficulties in obtaining information from entities within St. Kitts and Nevis.
529. During the period under review, the FIU received 57 (fifty-seven) requests for company information, 52 (fifty-two) of the requests were received informally by the FIU while five (5) were received via MLATs. The information was provided in a timely manner with over 60% of the requests responded to by the FIU within 30 days, 53 of the requests were responded to by the FIU while in four (4) instances the FIU was unable to provide the requested assistance because the requesting jurisdiction did not provide sufficient information. The tables (8.6 and 8.7) below show the type of request received by the FIU in relation to company information and the status of foreign requests received seeking company information.

Table 8.6: Type of Request received by the FIU seeking company information

| Type of Request | 2017 | 2018 | 2019 | 2020 | Total |
|-----------------|-----------|-----------|-----------|-----------|-----------|
| MLAT | 1 | 3 | 0 | 1 | 5 |
| Informal | 12 | 17 | 13 | 10 | 52 |
| Total | 13 | 20 | 13 | 11 | 57 |

Table 8.7: Status of Foreign Requests received seeking company information

| Year | Total | Completed | Unable to Assist |
|--------------|-----------|-----------|------------------|
| 2017 | 13 | 12 | 1 |
| 2018 | 20 | 20 | 0 |
| 2019 | 13 | 11 | 2 |
| 2020 | 11 | 10 | 1 |
| Total | 57 | 53 | 4 |

530. The FSRC-Nevis branch received requests from foreign counterparts for the period 2017 to 2020 as indicated in the table 8.8 below.

Table 8.8. Total requests received by the FSRC – Nevis Branch from foreign counterparts 2017-2020

| Type of request | 2017 | 2018 | 2019 | 2020 | Total |
|-----------------|-----------|-----------|------------|------------|------------|
| IBCs | 63 | 70 | 75 | 71 | 279 |
| LLCs | 9 | 10 | 25 | 31 | 75 |
| Total | 72 | 80 | 100 | 102 | 354 |

531. As can be seen in the table 8.8 above the total number of requests received during the review period was 354. Requests for information on IBCs totalled 279 and accounted for 79% of total requests. The FSRC-Nevis branch responded to each of the requests in table 8.8. The FSRC Nevis branch sought 13 requests from foreign counterparts for AML/CFT purposes during the review period. The requests related to BO and fitness and propriety assessments of control persons (directors, shareholders and senior management staff of legal persons and regulated entities). Of the 13 requests, five (5) requests were sent in 2017, two (2) in 2018, and six (6) in 2020. All requests were resolved, and responses received by the FSRC Nevis branch within a timeframe of 5 to 30 days.

Overall conclusions on IO.2

532. St. Kitts and Nevis has provided a wide range of MLA during the period 2017-2020. The AG is the central authority for the purposes of MLA and extradition. The staff complement is sufficient as the MLAs are mainly for servicing of documents and civil matters. There are also very few MLA requests being made. Majority of the MLAT

- requests are sent directly to the AG or through diplomatic channels by MOFA to the AG.
533. The AG is assisted in processing MLAT requests by the DPP, WCCU and the FIU. Most of the responses provided by the FIU to the AG was in a timely manner. The DPP assists the police with applications for production order in response to MLAT requests. The WCCU assisted with the processing of 14 MLATs during the period 2017 to 2020. The company registry also provided information in a timely manner for MLAT requests. It is noted that statistics and information on MLAT requests provided by the AG, the FIU, MOFA and the WCCU were deficient and inconsistent. Information was not available to assess whether MLA requests were forwarded by MOFA in a timely manner.
 534. Extradition requests are received by the MOFA via diplomatic channels and dispatched to the AG. Except for the FIU the CAs do not have an efficient case management system for MLA and extradition requests
 535. St. Kitts and Nevis did not seek legal assistance for international co-operation to pursue ML cases which have transnational elements during 2017 to 2020. The only type of international assistance sought by St. Kitts and Nevis was informal. MLA was sought to pursue a TF case which had transnational elements. The WCCU through the RSS-ARU sought assistance from the FBI of the United States of America in the investigation of this matter. As a result, the matter was resolved. The AG also sought MLA for the furtherance of investigations and prosecutions of domestic predicate offences.
 536. The CAs in St. Kitts and Nevis have sought other forms of international cooperation to exchange financial intelligence, supervisory, law enforcement and other information with their foreign counterparts for AML /CFT purposes. Some CAs are empowered to exchange basic and BO information with foreign counterparts without the execution of an MOU.
 537. The FIU disseminated information spontaneously and upon request to its foreign counterparts and non-counterparts. The FIU processed 109 requests for assistance and information and disseminated 27 spontaneous information reports. The FIU noted that the majority of requesting parties did not provide feedback on the information shared. The WCCU uses IMPACS system to share intelligence and other investigative resources internationally and regionally. St. Kitts and Nevis is a signatory to several agreements that allow sharing of information with their foreign counterparts.
 538. None of the MLA requests received during 2017 to 2020 related to BO information. the FIU sought information from 23 FIs and one (1) TCSP. However, the CATM received 28 requests for basic and BO in several instances, this was not done in a timely manner due to further clarification of the requests being sought. The FSRC Nevis received 354 requests and sought 13 requests from foreign counterparts.

St. Kitts and Nevis is rated as having a moderate level of effectiveness for IO.2.

TECHNICAL COMPLIANCE ANNEX

1. This section provides detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerical order. It does not include descriptive text on the country situation or risks and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.
2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in [September 22nd to October 3rd 2008]. This report is available from <https://www.cfatf-gafic.org/cfatf-documents/cfatf-mutual-evaluation-reports/saint-kitts-and-nevis-1>

Recommendation 1 – Assessing risks and applying a risk-based approach

3. This Recommendation was issued in February 2012 and is being evaluated for the first time during this mutual evaluation.
4. **Criterion 1.1** – St. Kitts and Nevis conducted a NRA in 2018 -2019 using the World Bank Tool to determine ML/TF risks. The NRA examined the banking, insurance, securities sectors, credit unions, MSBs and DNFBPs. However, the published NRA 2019 did not include a risk assessment of legal persons and legal arrangements. There was minimal analysis of TF risk. A follow-up NRA report was completed in March 2021. This follow-up also included minimal analysis of TF risks and a description of the framework and mechanism of legal persons and legal arrangements in the country.
5. **Criterion 1.2** – St. Kitts and Nevis has established a NAMLC whose mandate according to section 4 (g) of the AMLNCA includes co-ordinating actions to assess national ML and TF risks.
6. **Criterion 1.3** – The first NRA was completed in 2019 and is intended to be a continuous process. The NAMLC is required by section 4 (h) of the AMLNCA to provide and coordinate periodic updates of the NRA. A follow up NRA exercise was completed in March 2021.
7. **Criterion 1.4** – The results of the NRA 2019 have been published on the websites of the FIU, the FSRC and the MOF and have also been disseminated by the FSRC to all relevant agencies, FIs and DNFBPs. The results of the follow-up NRA were disseminated after the on-site visit which ended March 26, 2021.
8. **Criterion 1.5** – St. Kitts and Nevis developed a two-year (2) action plan based on the findings of the NRA 2019. The action plan lists the areas of ML risks, details the corrective actions, the responsible agencies, required budget and timelines for action items. The corrective actions which included amendments to laws and regulations and increase in human resources and training were based on the risks identified in the NRA 2019. However, the action plan was developed without a TF Risk Assessment of the NPO sector and legal persons and arrangements. As noted above a follow-up 2021 NRA assessment was completed in March, 2021 therefore, no resources allocation on the basis of that assessment was available.
9. **Criterion 1.6** – St. Kitts and Nevis has not exempted any FIs or DNFBPs from taking actions in accordance with FATF Recommendations.
10. **Criterion 1.7** – (a) Regulation 5 of the AMLR and the ATR, and paragraphs 34 to 37 and 40 (b) of the FSR provide for enhanced measures to be applied based on specific high-risk scenarios in accordance with FATF Standards. (b) There is no requirement for FIs and DNFBPs to ensure that higher risk identified in the NRA is incorporated into their risk assessments.

11. **Criterion 1.8** – Regulation 6 of the AMLR and ATR outline reduced CDD measures for specific lower risk situations. However, the lower risk situations identified in the regulation is not consistent with the country’s assessment of its ML/TF risks.
12. **Criterion 1.9** – Regulation 3(a)(2) of the AMLR and ATR (as amended in the AMLRA, No. 6 of 2021 and the ATRA, No. 7 of 2021) require FIs and DNFBPs to identify, assess and document their risk assessments. The FSRC is authorized by section 4 (2) (d) (e) and (g) of the FSRCA and Regulation 13 of the AMLR and the ATR to examine and monitor FIs and DNFBPs for compliance with AML/CFT legislative requirements including the provisions cited above.
13. **Criterion 1.10** – Regulation 3(a) (2) of the AMLR and ATR (as amended in the AMLRA, No. 6 of 2021 and the ATRA, No. 7 of 2021) implement all the requirements of the sub criteria (a), (b), (c) and (d).
14. **Criterion 1.11** – FIs and DNFBPs are required by paragraphs 34 to 37 of the FSR and Regulations 3 and 5 of the AMLR and the ATR to have policies, controls and procedures, which are approved by senior management, to enable them to manage and mitigate the risks that they themselves have identified, monitor the implementation of those controls and to enhance them if necessary and to take enhanced measures to manage and mitigate the risks where higher risks are identified.
15. **Criterion 1.12** – As noted above, FIs and DNFBPs are permitted to take simplified measures to manage and mitigate risks and are also required to satisfy criteria 1.9 to 1.11. Regulation 6 (9) of the AMLR and the ATR stipulate that simplified measures are not permitted whenever there is a suspicion of ML/TF.

Weighting and Conclusion

16. St. Kitts and Nevis conducted an NRA in 2019 using the World Bank tool. While broad in scope the NRA had minimal analysis of TF risks and no analysis on legal persons and legal arrangements. A two (2) year action plan has been developed to implement a risk-based approach based on the results of the NRA. A follow-up NRA in 2021 was completed. FIs and DNFBPs are obligated to complete documented risk assessments. The lower risk situations identified in the AMLR are not consistent with the country’s assessment of its ML/TF risks and there is no requirement for FIs and DNFBPs to ensure that higher risk situations identified in the NRA is incorporated into their risk assessments.
17. **Recommendation 1 is rated largely compliant.**

Recommendation 2 - National Cooperation and Coordination

18. This Recommendation (formerly R.31) was rated PC in the 3rd Round MER because of insufficient co-operation and consultation between the DPP and the police when investigating possible ML and TF offences. In the 9th FUR it was noted that cooperation had improved through inter-agency meetings between the FIU, Customs, the Police and other competent authorities. The FIU has also conducted seminars aimed at fostering cooperation and there had been several successful joint investigations.
19. **Criterion 2.1** – Following the completion of the NRA, St. Kitts and Nevis developed an action plan to address the risks and identified deficiencies. The action plan identifies areas of ML risk, details corrective actions, the responsible agencies, required budgets and timelines for action items. The corrective actions which included amendments to laws and regulations and increase in human resources and training were based on the risks identified in the NRA. The NAP submitted by St. Kitts and Nevis identifies the establishment of a National Strategic Plan and Policy document for AML/CFT purposes as an action item to be addressed. A National Strategic Plan and National Policy 2021 was also developed. Due to minimal analysis of TF risk in the NRA there was no TF actionable items in the NAP.

20. **Criterion 2.2** – Section 3 of the AMLNCA establishes the NAMLC. The mandate of the NAMLC includes coordinating the issuance and implementation of policies to address gaps identified in the AML/CFT framework.
21. **Criterion 2.3** – Mechanisms are in place to enable policy makers, the FIU, law enforcement authorities, supervisors and other competent authorities to co-operate, and where appropriate, coordinate and exchange information domestically concerning the development and implementation of AML/CFT policies. These mechanisms apply at both policymaking and operational levels. The NAMLC is responsible for AML/CFT policies as stipulated in section 4 of the AMLNCA. The FSRC, the CED and the CATM have conducted joint examinations of the gaming sector for the years 2018 to 2019. The FIU, MOF and the CATM have also jointly collaborated on requests. An MOA was executed among the FIU, the CED, the DPP and the RSCNPF. This MOA facilitates investigations into and prosecutions of ML/TF and associated predicate offences. Section 59 of POCA empowers the FIU and the DPP to cooperate with the competent authority of another State in matters relating to ML/TF offences. The authorities also highlighted coordinated efforts between the FSRC and the CED. Supervisory authorities are also required by the AMLR, the ATR and the FSR to share information and co-operate with law enforcement and competent authorities.
22. **Criterion 2.4** – Section 5 of the MSFAA No. 9 of 2021 amended section 4(g) of the AMLNCA No. 2 of 2020 to authorise NAMLC to coordinate actions to assess the national ML, TF and PF risks.” However, there are no measures for the cooperation and co-ordination in combatting the financing of PF.
23. **Criterion 2.5** – Section 9 of the Customs Act No. 19 of 2014, section 15 of the FSRCA and the FIU’s SOPs impose confidentiality and non-disclosure requirements pertaining to the sharing of information by staff. The DPP, AG, WCCU, CATM and the Immigration Department all have measures in place for cooperation and coordination to ensure the compatibility of AML/CFT requirements with data protection and privacy rules and other similar provisions through the new interagency MOU. There are no similar measures for the other relevant CAs in St. Kitts and Nevis.

Weighting and Conclusion

24. Minimal analysis of TF risk in the NRA and there were no TF actional items in the NAP. There are no measures for the cooperation and co-ordination in combatting the financing of PF. There are no similar measures for the other relevant CAs in St. Kitts and Nevis.
25. **Recommendation 2 is rated partially compliant.**

Recommendation 3 - Money laundering offence

26. This Recommendation (formerly R. 1 and R.2) was rated PC and LC respectively in the 3rd Round MER because TF was not a predicate offence for ML, insufficient training of investigators and prosecutors, and no prosecutions under the POCA. As indicated in the 9th FUR, TF became a predicate offence for ML under the ATA, training was provided for investigators and prosecutors and several persons had been charged with ML.
27. **Criterion 3.1** – St. Kitts and Nevis has criminalized ML in section 4(2) of the POCA which states that “a person engages in money laundering where that person (a) engages directly or indirectly in a transaction that involves money or other property that is the proceeds of crime; (b) the person receives, possesses, disguises, conceals, disposes of or brings into or transfers from St. Kitts and Nevis any money or property that is the proceeds of crime or (c) conspires to commit, or attempts, incites another, aids, abets, counsels, facilitates or procures the commission of any of the activities in (a) and (b); and the person knows or ought reasonably to have known that the money or other property is derived, obtained or realised directly or indirectly from some form of offence. This

- complies with Article 3 (1) (b) and (c) of the Vienna Convention and Article 6 (1) of the Palermo Convention.
28. **Criterion 3.2** – Predicate offences for ML are based on the proceeds of crime which as defined in section 2 of POCA includes proceeds of any offence and any property derived directly or indirectly from any act or omission that occurred outside of St. Kitts and Nevis and which would constitute an offence in St. Kitts and Nevis. All FATF categories of offences have been criminalized in St. Kitts and Nevis as offences in accordance with the above definition. A range of offences are included within each of the categories. Recently, proceeds from income tax evasion outside of St. Kitts and Nevis qualify as proceeds of crime in accordance with the definition in POCA and income tax evasion is a predicate offence for ML in accordance with Section 4 of the MFSAA No. 9 of 2021 which amended section 60(1) of the TAPA. This law became enforceable on March 22nd, 2021.
 29. **Criterion 3.3** – St. Kitts and Nevis applies a threshold approach where predicate offences comprise all offences that fall within the category of offences under section 2 of the POCA and are thus punishable by a minimum penalty of more than one (1) year’s imprisonment. This threshold is higher than the minimum penalty of six (6) months imprisonment required for the criterion.
 30. **Criterion 3.4** – The offence of ML extends to any type of property regardless of its value once it represents the proceeds of crime. (Section 4(2) of POCA). It is irrelevant whether the property directly or indirectly represents the proceeds of crime. Property is given a wide definition in section 2 of POCA to include moveable or immovable, vested or contingent property, whether located in or outside of St. Kitts and Nevis.
 31. **Criterion 3.5** – Section 4 (2) (a) of POCA stipulates that the conviction of a person for ML is not dependent on the conviction of that person or any other person for a related offence. Therefore, when proving that property is the proceeds of crime, it is not necessary that a person be convicted of a predicate offence.
 32. **Criterion 3.6** – Predicate offences for ML extend to conduct which occurred in another country and would have constituted an offence both in that country and St. Kitts and Nevis. Pursuant to section 2 of POCA “*proceeds of crime*” means (a) proceeds of an offence; or (b) any property that is derived, directly or indirectly, by any person from any act or omission that occurred outside St. Kitts and Nevis and would, if it had occurred in St. Kitts and Nevis constituted an offence. “*Property*” is defined as “all property, whether movable or immovable, vested or contingent, proceeds from, instrumentalities used in and instrumentalities for use in the commission of any ML or related offence and whether situated in St. Kitts and Nevis or elsewhere.”
 33. **Criterion 3.7** – The ML offence is applicable to persons who commit the predicate offence pursuant to section 4 (2) of POCA.
 34. **Criterion 3.8** – The intent and knowledge required to prove the ML offence can be inferred from objective factual circumstances. According to section 4 (2) of POCA, the *mens rea* for the offence of ML will be proven where the person knows or ought to reasonably have known, that the money or other property is derived, obtained, or realised, directly or indirectly, from some form of offence.
 35. **Criterion 3.9** – In St. Kitts and Nevis, proportionate and dissuasive criminal sanctions apply to natural persons, convicted of ML. In accordance with section 4 (1) (a) of POCA, a natural person who engages in ML commits an indictable offence and is liable to a fine not exceeding XCD 250,000 (USD 92,500) or to imprisonment for a term not exceeding twenty years or both.
 36. **Criterion 3.10** – Criminal liability and sanctions do apply to legal persons which engage in ML. Section 4 (1) (b) of POCA states that a corporate body which engages in ML commits an indictable offence and shall be liable, on conviction to a fine not exceeding XCD 700,000 (USD 259,000). While the fine maybe dissuasive for indigenous FIs it is not for large international FIs.

37. **Criterion 3.11** – There are appropriate ancillary offences to the offence of ML under POCA. In accordance with section 4(2) (c), it is an offence for a person to conspire, attempt, incite another, aid, abet, counsel, facilitate or procure the commission of a ML offence.

Weighting and Conclusion

38. Criminal liability and sanctions do apply to legal persons which engage in ML and the fines for legal persons are not dissuasive for large international FIs.
39. **Recommendation 3 is rated largely compliant.**

Recommendation 4 - Confiscation and provisional measures

40. Recommendation 4 (formerly R.3) was rated PC in the 3rd MER due to (i) confiscation not being applicable to instrumentalities (ii) confiscation of instrumentalities of a predicate offence was only applicable when a defendant had absconded and (iii) effectiveness was considered insufficient. The 9th FUR noted that the legislative deficiencies were addressed by amendments to POCA and the ATA.
41. **Criterion 4.1** – Section 43(1) of POCA allows for the Court upon being satisfied that a person is convicted for an ML offence in St. Kitts and Nevis, to grant a forfeiture order upon an application from the DPP. Further, section 52(1) of POCA provides for a Court being satisfied that a person convicted for an offence has benefitted from criminal conduct to grant a confiscation order on an application by the DPP. There are no measures for the confiscation of criminal proceeds held by third parties in St. Kitts and Nevis.
42. **Criterion 4.1 (a)** - Section 43(1) of POCA allows for where a person is convicted for a ML offence and the Court is satisfied that the property is tainted property, it shall on an application by the DPP order that the property connected or related to the offence be forfeited. The foregoing proceedings are only applicable for convictions for ML offences and not convictions for predicate offences.
43. **Criterion 4.1 (b)** Section 52(1) of POCA allows for where a person is convicted for an offence, the Court upon being satisfied that the person has benefitted from the offence is required to make a confiscation order on the basis of an application by the DPP. Section 55(1) of POCA stipulates that the amount to be recovered under confiscation includes the Court's assessment of the value of the defendant's benefits. Section 43(1) of POCA empowers the Court to grant a forfeiture order in relation to proceeds and instrumentalities derived from, or connected, or related to the ML offence for which the defendant has been convicted following an application from the DPP. There is no provision that allows for the confiscation of instrumentalities used in or intended for use in the commission of an associated predicate offence.
44. **Criterion 4.1 (c)** Section 36(1) of the ATA No.21 of 2002 provides for a Court to grant a forfeiture order for conviction of a TF offence. Forfeiture proceedings are only applicable to properties, used in, or intended or allocated for terrorist acts or terrorist groups in some instances following a conviction for TF offences. Section 42 of the ATA allows for a Court to also forfeit cash should it be satisfied that the whole or part is reasonably believed to be terrorist cash.
45. **Criterion 4.1 (d)** Pursuant to section 43(6) of POCA property of corresponding value can be subject to forfeiture following conviction for ML offences but not in circumstances following a conviction for associated predicate offence.
46. **Criterion 4.2** – Measures contained in the POCA and the ATA address the requirements of sub-criterion a-d as follow:
47. **Criterion 4.2 (a)** Under sections 23, 28, 29, 30 and 31 of POCA, production orders, search warrants, property tracking orders (for ML offences only), monitoring orders and disclosure of tax information

- orders can be utilised by competent authorities to identify, trace and evaluate properties that can become subject to confiscation.
48. **Criterion 4.2 (b)** Under section 14 of POCA, a judge may grant a restraint order freezing any realisable property of a person convicted of an offence, or charge, or about to be charge for any offence in St. Kitts and Nevis or any other jurisdiction on an application by the DPP. The restraint order prevents the person from dealing or otherwise disposing of property. The application process is conducted ex-parte.
 49. **Criterion 4.2 (c)** Pursuant to section 18 of POCA restraint orders that are obtained from the Court contain the relevant safeguards to prevent or void the country's ability to recover property that is subject to confiscation. Further, there are penalties for legal or natural persons who contravened a restraint order by disposing or otherwise dealing with any property mentioned therein. Under section 45 of POCA, the Court can set aside any conveyance or transfer of property that occurred after seizure of the property or the service of the restraint order, unless such was made to a person acting in good faith and without notice.
 50. **Criterion 4.2 (d)** There is a wide array of investigative measures that are available to competent authorities (see (a) above and R.31)
 51. **Criterion 4.3** – Section 43(5) of POCA stipulates that the Court in considering whether a forfeiture order should be made is required to consider the rights and interest of third parties. This requirement is further reinforced in section 46 of the POCA. Sections 12(2)(b), 13, 14 (6) of POCA provide for the protection of third-party interest in respect of property seizures as well as in the granting of restraining orders for ML and associated offences. Section 46(7) of the ATA provides for restraint and confiscation of assets relative to TF offences. Pursuant to section 57(5) of POCA, where the DPP makes an application for an order regarding properties it has identified to satisfy a confiscation order against a person, the DPP is required to give written notice of such application to persons who may be affected by the order and persons claiming to have an interest in the property may appear and adduce evidence at the hearing. Proceeds of Crime Act 4.28 section 12(2)(b) and (3) allows for persons from whom the property was not directly seized to request a copy of the report and by sworn affidavit to make a request to the property seized.
 52. **Criterion 4.4** – Section 13 (4) and (5) of POCA provides for the COP to arrange for the return of seized property in certain circumstances in lieu of a forfeiture order and for property to be kept until dealt with in accordance with POCA. The above measures only deal with managing of restrained property and does not include disposal of such property or management and disposal of confiscated property. Sections 40 and 44 of the ATA provide for the management of detained cash and the disposal of forfeited cash deemed terrorist property. Section 37 provides for the disposal of forfeited property. The above measures do not include management of forfeited property.

Weighting and Conclusion

53. St. Kitts and Nevis has measures for competent authorities to forfeit/confiscate proceeds of crime, to identify, trace and evaluate properties for confiscation, to safeguard the rights of bona fide third parties and to restraint property that may become the subject of forfeiture. However, there are deficiencies such as: no measures for the confiscation of criminal proceeds held by third parties, no mechanism to confiscate/forfeit property laundered following the conviction of individual for the commission of an associated predicate offence, absence of mechanism to confiscate/forfeit instrumentalities in all circumstances. No mechanism for the disposal of restraint property, management and disposal of confiscated property and management of forfeited property.
54. **Recommendation 4 is rated partially compliant.**

Recommendation 5 - Terrorist financing offence

55. This Recommendation (formerly SR. II) was rated PC in the 3rd MER because TF was not a predicate offence for ML and there were inadequate penalties for legal persons in the ATA. These deficiencies were addressed by amendments to the ATA as noted in the 9th FUR.
56. **Criterion 5.1** – Section 12 of the ATA creates the offence of the financing of terrorism in accordance with the requirements of the Terrorist Financing Convention. (see paras. 112 - 114 of 3rd MER). Section 14, Part III of the ATA also criminalises involvement in funding arrangements for terrorist purposes.
57. **Criterion 5.2** – Pursuant to section 12(1) of the ATA, a person commits the offence of fund-raising for terrorist activities if that person invites another person, directly or indirectly, to provide property; and intends that the property is to be used or has reasonable cause to suspect that the property is to be used, for the purposes of terrorism; or solicits support for, or gives support to, a terrorist or terrorist group. Section 12(4)(a) and (b) of the ATA stipulates that a person also commits an offence if that person provides or collects funds, directly or indirectly, knowing or having reasonable cause to suspect that the funds are to be used, in whole or in part, for the purpose of carrying out a terrorist activity; deals in any property, directly or indirectly, knowing or having reasonable cause to suspect that the property is owned or controlled by or on behalf of a person or group engaged in terrorist activities. However, section 12(1) of the ATA does not stipulate that the terrorist offences will be established even in the absence of a link to a specific terrorist act or acts.
58. **Criterion 5.2 bis** – Section 12(2) of the ATA stipulates that an offer to provide, or the provision of, forged or falsified travel documents to a terrorist or member of a terrorist group constitutes the offence of giving support to a terrorist or terrorist group. Section 12(4)(e) criminalises the wilful provision or collection of funds by any means directly or indirectly, with the intention or knowledge that such funds would be used to finance the travel of individuals to a state other than their state of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.
59. **Criterion 5.3** – Section 2 of the ATA stipulates inter alia that “*funds*” refer to assets of every kind “*however acquired*” which means that there is no limitation in relation to the origin of the funds. Therefore, the reference to “*funds*” in Part III of the ATA applies to any funds whether from a legitimate or illegitimate source.
60. **Criterion 5.4** – The terrorist financing offences within Part III of the ATA do not require that the funds were used to carry out or attempt a terrorist act or be linked to a specific terrorist act.
61. **Criterion 5.5** – Under sections 12, 13 and 14 of the ATA, intent and knowledge can be inferred from objective factual circumstances for the purposes of proving the commission of a TF offence
62. **Criterion 5.6** – Criminal sanctions apply to natural persons who are convicted of terrorist financing as demonstrated by sections 12(6), 13(2), 14(2), 15(2), 17, 17(10), 27, 28, 30, 31 and 33 of the ATA. Penalties for offences for conviction on indictment range from imprisonment terms not exceeding 14 years to terms not exceeding 20 years with or without fines from XCD 500,000 (USD 185,000) to XCD 2,000,000 (USD 740,000). Penalties for summary conviction range from imprisonment terms not exceeding 3 years to terms not exceeding 10 years with or without fines from XCD 40,000 (USD 14,800) to XCD 2,000,000 (USD 740,000). The penalties as applicable to natural persons are considered proportionate and dissuasive within the context of St. Kitts and Nevis.
63. **Criterion 5.7** – Legal persons may be held criminally liable for the financing of terrorism in the ATA. ATAA No. 3 of 2012 quantifies the fines for natural persons and legal persons who commit breaches of sections 12, 13, 14, 15(2) and 17 in the ATA. However, these sanctions (fines) are not

proportionate and dissuasive for legal persons since they marginally exceed those for natural persons who may be subjected to not only a fine but also a period of imprisonment. Additionally, the fines for a body corporate are not dissuasive for a large institution with significant financial assets and capital. A natural person who commits the offence of fund-raising for terrorist activities under section 12 is liable to a maximum fine of either XCD 750,000 (USD 276,050) or XCD 50,000 (USD 18,403) (on an indictable or summary conviction) while the maximum fine for a body corporate is XCD 1,000,000 (USD 370,000). The maximum fine for a natural person who uses and possesses property for terrorist purposes under section 13 is XCD 500,000 (USD 185,000) or XCD 50,000 (USD 18,403) (on an indictable or summary conviction) while the maximum fine for a body corporate is XCD 750,000 (USD 276,050). A natural person who enters into funding arrangements for terrorist purposes under section 14 is liable to a maximum fine of XCD 750,000 (USD 276,050) or XCD 50,000 (USD 18,403) (on an indictable or summary conviction) while the maximum fine of XCD 1,000,000 (USD 370,000). In the case of section 15, a natural person who engages in ML for terrorist purposes is liable to a fine of XCD 2,000,000 (USD 740,000) on an indictable conviction or a maximum fine of XCD 2,000,000 (USD 740,000) on summary conviction whereas the fine for a body corporate is XCD 1,000,000 (USD 370,000). Consequently, under section 15, the fine for a legal person is not proportionate and dissuasive when compared with that for a natural person who is also liable to a maximum imprisonment term of twenty years or ten years on an indictable or summary conviction. Section 17 imposes sanctions for the failure to disclose information relating to a person who has committed a TF offence. Natural persons who breach the disclosure requirements are liable on indictment to a maximum imprisonment term of ten years or a maximum fine of XCD 5,000 or on summary conviction, a maximum imprisonment term of five years or a maximum fine of XCD 50,000. A body corporate or an unincorporated body is liable to a maximum fine of XCD 1,000,000.

64. **Criterion 5.8** – Ancillary offences are criminalised in sections 23, 24, 29, 30, 31 and 112 of the ATA. A person who knowingly prepares to commit, conspires to commit, or attempts to commit, incites another, aids, abets, facilitates, counsels or procures the commission of any of the offences under the ATA commits an offence. Accordingly, a person is also criminally liable for conspiring with or inciting another person to commit an act outside of St. Kitts and Nevis which constitutes an offence under the ATA.
65. **Criterion 5.9** – Section 12(6)(a) and (b) of the ATA stipulates where a person convicted of TF shall be liable on summary conviction to imprisonment for a term not exceeding 5 years and on indictment to a term not exceeding 14 years imprisonment. Therefore, both the summary and indictable offences of TF are offences as defined in section 2 of POCA and are predicate offences for ML. (see criterion 3.2).
66. **Criterion 5.10** – Sections 16 and 112 of the ATA enable the application of TF offences, regardless of whether the offence is committed inside or outside of St. Kitts and Nevis, or whether the terrorist or terrorist organisation is located inside or outside St. Kitts and Nevis. Additionally, section 2 of the ATA stipulates inter alia that the terms “terrorist act,” “terrorist activity” and “terrorism” include an act or threat of action which occurs within or outside of St. Kitts and Nevis.

Weighting and Conclusion

67. St. Kitts and Nevis has criminalised TF based on the Terrorist Financing Convention. TF offences are established in accordance with requirements of Recommendation 5 except in the absence of a link to a specific terrorist act or acts. Criminal liability and sanctions are also compliant except for the deficiency of inadequate stipulated penalties (fines) for legal persons in the ATA.
68. **Recommendation 5 is rated largely compliant.**

Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing

69. Recommendation 6 (formerly SR.III) was rated NC in the 3rd MER due to no provisions for freezing without delay, no measures for de-listing procedures or informing the public of de-listing and unfreezing procedures, no measures authorizing access to frozen funds and assets and no implementation of enacted provisions. These deficiencies were addressed by amendments to the ATA and provisions of the ATR as indicated in the 9th FUR.
70. **Criterion 6.1 (a-b)** Under section 114 of the ATA as amended in MAFATFA, No. 11 of 2020, the AG is designated as the competent authority having responsibility for both identifying and initiating proposals of persons or entities to the UNSC and its relevant committees pursuant to the obligations set out in the following UNSCR: (a) 1267/1999; (b) 1373 (2001) and (c) 1988 (2011) and their respective successor resolutions.
71. **Criterion 6.1 (c)** In terms of the evidentiary standard to be used when making a proposal for designation, section 116 of the ATA is instructive. Subsection (1) (a) and (b) provides as follows: The Attorney General shall make a determination, on a reasonable basis, based on the sufficiency of evidence, as to whether an individual, group, undertaking or entity (a) should be proposed to the 1267 Committee, for designation as appropriate, based on the specific criteria for designation, as set forth in UNSCR 1989 (2011) on Al-Qaida and related resolutions; (b) should be proposed to the 1988 Committee, for designation as appropriate, as set forth in UNSCR 1988 (2011) if that authority decides to do so and believes that it has sufficient evidence to support the designation criteria.
72. **Criterion 6.1 (d-e)** Section 120 provides for the Minister to promulgate regulations specifying the requirements of sub criteria d and e. “ Subject to sections 115, 116 and 117, the Minister may (among other things) prescribe in, Regulations (a) the criteria for designation pursuant to the relevant UNSCR; (b) the procedures and standard forms for listing, providing for statements of case on the basis for listing; (c) procedures for particulars and sufficiency of identifying information;” However at the end of the onsite, regulations covering sub criterion d and e had not been issued.
73. **Criterion 6.2 – (a)** Pursuant to the provisions of section 116 of the ATA, “the Attorney General shall make a determination, on a reasonable basis, based on the sufficiency of evidence, as to whether an individual, group, undertaking or entity; should be designated as persons or entities that meet the specific criteria for designation, as set forth in resolution 1373 (2001), as put forward either on the country’s own motion or where appropriate, the request of another country on such terms as may be prescribed by the Minister;
74. **Criterion 6.2 – (b)** The ATA provides that the Attorney General is the Competent Authority having responsibility for both identifying and initiating proposals of persons or entities to the UNSCR 1373.
75. **Criterion 6.2 – (c) and (d)**, pursuant to section 116 (2) of the ATA, where a request has been received, the Attorney General shall ensure that prompt determination is made on reasonable grounds as to whether the proposed designee meets the requisite criteria for designation.
76. **Criterion 6.2 – (e)** There are no measures to comply to the requirements of sub criterion (e).
77. **Criterion 6.3 – (a)** Section 116(3), the AG shall employ such procedures or mechanisms to collect or solicit as much information as possible to identify persons and entities that would meet the relevant criteria for designation pursuant to the relevant Security Council resolutions. **(b)** There are no measures to comply with the requirements of sub-criterion (b).
78. **Criterion 6.4 –** Pursuant to section 117 of the ATA as amended by the MAFATFA No. 11 of 2020, where an individual, group, undertaking or entity is designated by the 1267 Committee, 1988 Committee, 1373 (2001) or any other relevant Security Resolution Committee, all natural and legal persons within St. Kitts and Nevis, shall be required to freeze without delay the funds or other assets

- of those designated persons or entities. Section 115 of the ATA as amended by MAFATFA requires all regulated entities to scrutinized the OFAC, Sanctions list and other relevant sanction list where individuals groups, undertaking and entities may be identified.
79. **Criterion 6.5 – (a)** Section 117 of the ATA as amended by the MAFATFA No. 11 of 2020 stipulates that where an individual, group, undertaking or entity is designated by the 1267 Committee, 1988 Committee, 1373 (2001) or any other relevant Security Resolution Committee, all natural and legal persons within St. Kitts and Nevis shall be required to freeze without delay the funds or other assets of designated persons or entities. However, there is no requirement for all natural and legal persons to freeze, without prior notice, the funds or other assets of designated persons and entities.
 80. **Criterion 6.5 – (b)** Pursuant to section 117 (2) of the ATA as amended by the MAFATFA No. 11 of 2020, a natural or legal person shall be required to freeze the funds or other assets (a) that are owned or controlled by the designated person or entity and it is not necessary that those funds or assets are tied to a particular terrorist act, plot or threat; (b) that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (c) derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities; and (d) of persons and entities acting on behalf of, or at the direction of, designated persons or entities.
 81. **Criterion 6.5 – (c)** Section 118 of the ATA as amended by the MAFATFA No. 11 of 2020 states that where a person or entity is designated pursuant to section 114 (which refers to UNSRCs 1267/1999 and its successor resolutions, 1373 (2001) and its successor resolutions and 1988 (2011) and its successor resolutions) , nationals or other persons or entities within St. Kitts and Nevis shall not make available any funds or other assets, economic resources, or financial or other resources, directly or indirectly, wholly or jointly, for the benefit of those designated persons or entities or to any persons acting on behalf of those designated persons or entities.
 82. However, nationals or other persons or entities within St. Kitts and Nevis are not prohibited from making available any funds or other assets, economic resources, or financial or other resources, directly or indirectly, wholly or jointly for the benefit of entities owned or controlled, directly or indirectly, by designated persons or entities.
 83. Additionally, section 118 does not stipulate that the prohibitions shall be in place unless licensed, authorized or otherwise notified in accordance with the relevant UNSCRs.
 84. **Criterion 6.5 – (d)** Under sections 120 (1) (e) the Minister has the power to issue regulations on mechanisms for communicating designations to the financial sector, DNFbps and any other person or entity and once a designation is made providing clear and relevant guidance to the treatment of any funds or assets that are held. However as at the end of the onsite no regulations had been issued.
 85. **Criterion 6.5 – (e)** Section 7 of the MAFATFA, No. 11 of 2020 amended section 119 of the ATA where any action is taken by a FI or DNFbp pursuant to section 117 or 118, the FI or DNFbp shall notify the Attorney General, the FIU and the FSRC of the action taken to prohibit the dealing in funds, assets or other resources and that notification shall include any attempted transactions made by the designated person or entity or any person acting on behalf of the designated person.
 86. **Criterion 6.5 – (f)** Section 120 (2) of the MAFATFA No. 11 of 2020 the Minister may prescribe in Regulations for the procedural requirements of freezing and prohibiting of dealing without delay in funds or other assets of designated persons and entities and section 120(1)(f) outlining procedural requirements including measures for protection of the rights and interests of third parties acting in good faith. At the time of the onsite these regulations had not been issued.
 87. **Criterion 6.6 – (a)** There is no procedure for the submission of de-listing requests to the relevant UN Sanctions Committees 1267/1989 and 1988.

88. **Criterion 6.6 – (b)** The Anti-Terrorism De-Listing Procedures Regulations No. 62 of 2011 provide mechanisms for the Minister responsible for national security to de-list persons locally designated under section 3 of the ATA. This measure does not address the issue with de-listing entities and persons on the UNSCR 1373 list.
89. **Criterion 6.6 – (c)** The Anti-Terrorism De-Listing Procedures Regulations No. 62 of 2011 empowers the Minister responsible for national security to review requests made for de-listing locally designated terrorist and terrorist groups. This measure does not address the issue with de-listing entities and persons on the UNSCR 1373 list.
90. **Criterion 6.6 – (d)** There are no procedures to facilitate review of designations by the 1988 Committee in accordance with any applicable guidelines or procedures, including those of the Focal Point mechanism established under UNSCR 1730.
91. **Criterion 6.6 – (e)** There are no procedures informing the designated persons and entities on the availability of the United Nations Office of the Ombudsman pursuant to UNSCR 1904, 1989 and 2083 to accept de-listing petitions.
92. **Criterion 6.6 – (f)** Section 51 of the ATA provides a mechanism for persons to apply to the Court for a review of the freezing order to allow for the unfreezing of funds or other assets of persons or entities with the same or similar name as designated persons or entities who are inadvertently affected by the freezing. These measures were published on the Nevis FSRC website in August 2019.
93. **Criterion 6.6 – (g)** There are no mechanisms for communicating de-listings and unfreezing to FIs and DNFBPs immediately upon taking such action. No guidance has been provided to FIs and DNFBPs on de-listing and acts of unfreezing. While the October and November 2019 newsletters provided guidance on the de-listing and unfreezing procedures there is no specific description of the mechanism for communicating de-listing and unfreezing to the FIs and DNFBPs.
94. **Criterion 6.7** – The ATR establishes procedures to authorize access to funds frozen for basic living expenses in accordance with UNSCR 1452 or UNSCR 1373. Regulation 17(2) defines basic living expenses to include food, clothing, shelter, medicines and medical treatment, taxes, insurance premiums, public utility charges and reasonable legal expenses. Pursuant to Regulation 17 (4) and (5), the Registrar of the High Court must notify the Minister responsible for national security of any decision to allow access to the frozen funds. Once advised, the Minister must notify the committee established pursuant to UNSCR 1267 (1999) or the UNSCR 1452 as the case may be, of the intention to authorize access to funds, assets or resources of a terrorist or suspected terrorist or terrorist group for basic living expenses or for necessary extraordinary expenses. Within 48 hours, in the absence of a negative response from the committees, the Minister may proceed to authorize access to the funds, assets or resources on the terms indicated.

Weighting and Conclusion

95. While there are basic measures for proposing persons or entities to the 1267/1989 and 1988 Committees and effective TFS and minimal requirements for all natural and legal persons in St. Kitts and Nevis to comply with TFS. There are deficiencies with regards to implementation of TFS without delay. Communication of designated persons and entities submission of de-listing requests to the relevant UN Sanctions Committees 1267/1989 and 1988. There are no procedures to facilitate review of designations by the 1988 Committee. There are no mechanisms for communicating de-listings and unfreezing to FIs and DNFBPs immediately upon taking such actions and limited guidance to FIs and DNFBPs on de-listing and acts of unfreezing.
96. **Recommendation 6 is rated partially compliant.**

Recommendation 7 – Targeted financial sanctions related to proliferation

97. This Recommendation is new and is being evaluated for the first time during this mutual evaluation.
98. **Criterion 7.1** – Section 3 of the APA, No. 10 of 2020 outlines that the AG is the CA with the responsibility for designating persons or entities pursuant to the obligations set out in UNSCR that impose targeted financial sanctions in respect of the financing of proliferation of weapons of mass destruction.
99. **Criterion 7.2 – (a)** Section 4 of the APA, No. 10 of 2020 requires all natural and legal persons within St. Kitts and Nevis to freeze without delay or prior notice the funds or other assets of designated persons or entities with regard to PF.
100. **Criterion 7.2 – (b)** Section 4(1)(a)-(d) of the APA No. 10 of 2020 include freezing obligations extending to the full definition for funds which complies with the requirements of the sub-criterion.
101. **Criterion 7.2 – (c)** The measures in section 4 (1) of the APA No. 10 of 2020 ensures that funds or other assets are prevented from being made available by all natural and legal persons within St. Kitts and Nevis, to or for the benefit of any designated person or entity without the prior authorisation of the UNSC.
102. **Criterion 7.2 – (d)** Section 3 (3) of the APA states that where the AG designates a natural person or entity to the UNSC in accordance with section 3(1), notification of that designation shall be communicated to FIs and DNFBPs within 24 hours of that designation on such terms as may be prescribed by the Minister in Regulations. Therefore, section 3(3) of the APA does not contain mechanisms for communicating other designations (such as those made by the UNSCR Committees) to FIs and DNFBPs immediately upon taking such action and providing clear guidance to financial institutions and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations in taking action under freezing mechanisms.
103. **Criterion 7.2 – (e)** Section 4(3) of the APA makes provision for a natural or legal person to promptly notify the AG, the FSRC and the FIU of the freezing actions in accordance with the established mechanisms as well as regulations. The reporting requirement under section 4 (3) covers any other relevant action in response to the designation of a natural person or entity. These provisions are sufficiently broad to cover attempted transactions.
104. **Criterion 7.2 – (f)** Section 4(9) of the APA makes provision where the rights or interests of a bona fide third party in good faith are adversely impacted by actions taken pursuant to this Act, he or she shall notify the AG and the Court of his or her rights and shall provide evidence regarding same. Further, section 4(10) of the APA states that where the court makes an order freezing funds, the rights and interests of a bona fide third party shall be taken into account.
105. **Criterion 7.3** – Pursuant to section 4(8) of the APA, the FSRC is responsible for monitoring and ensuring compliance by FIs and DNFBPs with the provisions of the APA. The FSRC is also required by section 4(8) to monitor and ensure compliance by FIs and DNFBPs with the FSRCA, POCA, ATA, any regulations and all other AML/CFT legislation.
106. **Criterion 7.4** – There are no publicly known procedures to submit de-listing requests to the Security Council.
107. **Criterion 7.5** – There are no measures covering contracts, agreements or obligations that arose prior to the date on which accounts became subject to targeted financial sanctions pursuant to UNSCRs.

Weighting and Conclusion

108. There are no publicly known procedures to submit de-listing requests to the Security Council. There are no measures for contracts, agreements or obligations that arose prior to the date on which accounts became subject to TFS pursuant to UNSCRs.
109. **Recommendation 7 is rated partially compliant.**

Recommendation 8 – Non-profit organisations

110. This Recommendation (formerly SR. VIII) was rated PC in the 3rd Round MER due to the purpose and objectives, and identity of persons who control the activities of NPOs not being publicly available and insufficient time to assess effectiveness of recently implemented requirements. The identified deficiency was addressed in the enactment of the Non-Governmental Organisations Regulations of 2011.
111. **Criterion 8.1 – (a)** Section 3 of the NGOA, No. 15 of 2021 as amended by redefining the subset of NPOs that fall within the FATF definition include legal persons or arrangements or organisations. The authorities conducted a risk assessment in 2020 and identified 23 NPO/NGOs registered under the relevant statute in St. Kitts. While the majority of the registered domestic NGOs are locally funded the NGO risk assessment lack any information about funds outflows from these NGOs. The risk assessment also identified 56 unregistered organisations carrying on NPO activities in St. Kitts. Additionally, the risk assessment seemed to be limited to St. Kitts and there was no mention of MFFs and other NPOs operating in Nevis.
112. **Criterion 8.1 – (b)** The country identified the NGO sector as low risk for TF. The assessment was limited in scope and included NGOs/NPOs in St. Kitts (which is a smaller number) and did not assess NGOs/NPOs in Nevis. The assessment was not comprehensive and did not identify the nature of threats posed by terrorist entities to the NPOs. Additionally, the exercise did not identify the NGOs/NPOs that are most likely to be at risk for TF abuse.
113. **Criterion 8.1 – (c)** Since the subset of NPOs that maybe abused for TF support has not been identified, no review of the adequacy of measures related to this subset has occurred.
114. **Criterion 8.1 – (d)** A limited NGO/NPO risk assessment was conducted in 2019. There was a follow up in 2020 however the assessment did not evaluate the sector potential vulnerabilities to terrorist activities in St Kitts and Nevis nor did it assess NGOs/NPOs in Nevis. It was limited to a small number of NGOs/NPOs in St. Kitts.
115. **Criterion 8.2 – (a)** The relevant legislation for NPOs in St. Kitts is the NGOA Cap 20.59 (NGOA). The NGOA requires NPOs to submit annually, audited accounts and a report on their activities and policies for the year to the Registrar of Companies and to implement internal accounting and administrative procedures to ensure transparent and proper use of their financial and other resources (section 15(1) and section 16 respectively). The documents submitted to the Registrar are publicly available upon payment of a prescribed fee. (section 15(2)) The Registrar is required to publish the submitted financial statements and reports of NGOs in the Gazette and one local newspaper once each year (section 15(3)). These measures promote integrity and public confidence in the administration and management of charities in St. Kitts. While NPOs in Nevis are not covered by the NGO Act, they are subjected to the NCO and MFO whose requirements are limited to the submission of annual returns on their corporate status.
116. **Criterion 8.2 – (b)** St. Kitts and Nevis conducts awareness outreach programmes twice yearly. An AML/CFT conference is held annually and quarterly training sessions. There is a monthly Newsletter distributed to NPOs to inform them of ways in which they could be targeted. This

- Newsletter is published on the FSRC website. The donor community has not been included in these measures.
117. **Criterion 8.2 – (c)** The regulator has undertaken several initiatives to liaise with, raise awareness with, receive feedback from and guide members of the NGO/NPOs sector. This has taken the form of monthly newsletters; media outreach; face-to-face meetings; use of a questionnaire to update data on NGOs; communication and guidance via telephone; and communication and guidance via email. The above measures do not include any developments and refinement of best practices to address TF risk and vulnerabilities.
 118. **Criterion 8.2 – (d)** In St. Kitts NPOs are incorporated as ordinary companies and are encouraged to utilise banking institutions to transact the movement of funds. In order to set up a bank account the NPO must submit its incorporation documents as well as the Good Standing Document (GSD) issued by the FSRC. The FSRC has issued (3) three GSDs during the review period indicating that three (3) NPOs have opened bank accounts during the period.
 119. **Criterion 8.3** – Section 17 of the NGOA as amended by section 10 of the NGOAA 2020 designates the FSRC as the supervisory authority responsible for compliance of NGOs registered under the NGOA with the requirements of POCA, the ATA and all other AML/CFT legislation, codes, regulations and guidelines. These NGOs/NPOs are limited to St. Kitts. The FSRC supervises the NGOs using the board-approved Risk Based Supervisory Framework. Section 4(2)(g) amended in the FSRCA refers to the use of a risk-based approach to supervision and monitoring by the FSRC. No evidence has been provided to demonstrate that risk-based measures apply to NGOs at risk of terrorist financing abuse. There is no similar measure for NPOs in Nevis.
 120. **Criterion 8.4 – (a)** Section 16(2) (c) of the NGOA requires NPOs to comply with relevant provisions of the AMLR and any legislation to provide good governance and financial accountability and to safeguard against ML/FT activities. As indicated in criterion 8.3 the FSRC is formally authorised to supervise or monitor NPOs. The FSRC supervises the NGOs using the board-approved Risk Based Supervisory Framework. Section 4(2)(g) as amended in the FSRCA refers to the use of a risk-based approach to supervision and monitoring by the FSRC. No evidence has been provided to demonstrate that risk-based measures apply to NGOs at risk of TF abuse. Section 17(1)(a) of the NGOA provides for the NGO Commission to monitor the activities of the NGOs to ensure compliance with the provisions of the Act. The NGOA incorporates requirements of sub-criterion 8.2 (a) to promote accountability, integrity and public confidence by subjecting NPOs to specific reporting requirements which fall under the monitoring ambit of the NGO Commission as per section 17(1)(a) of the NGOA. There is no similar measure for NPOs in Nevis.
 121. **Criterion 8.4 – (b)** NPOs that fail to submit reports to the Registrar of Companies as required under the NGOA can have their certificate of registration cancelled after an independent investigation by the Registrar. This decision can be appealed to the High Court by the affected NPO (section 18 of the NGOA). While the sanction can be considered dissuasive, it is not proportionate since it is applicable to all breaches of the obligations to the Registrar of Companies. Additionally, there are no intermediary sanctions before cancellation which is the final sanction. There is no similar measure for NPOs in Nevis.
 122. **Criterion 8.5 – (a)** Government agencies namely, MOF, the CATM, FSRC and the FIU share pertinent information on NPOs on a monthly basis. An MOU signed between the CATM and FSRC February 26, 2021, allows for information sharing between CATM and FSRC. Additionally, Section 17(1)(e) of the NGOAA No. 4 of 2020 allows the FSRC to assist any authorised authority in any investigations for offences against the laws of St. Kitts and Nevis committed by a regulated entity and allows them to cooperate with the FIU in the supervision of a regulated entity.

123. **Criterion 8.5 – (b)** Section 129 of the CA provides for the appointment of inspectors to investigate unlawful or fraudulent activities of a company and can be used as the basis for investigating NPOs since they are required to be incorporated under the CA. Further section 3(h) of the MFSAA No. 9 of 2021 has added NGOs and MFFs under the First Schedule of the FSRCA thereby subjecting them to supervision by the FSRC. However, none of the above has the investigative expertise and capability to examine NPOs suspected of or either being exploited by, or actively supporting terrorist activity or terrorist organisations.
124. **Criterion 8.5 – (c)** Investigators appointed under the CA are empowered under section 131 to require the production of any document relevant to the investigation of the company. Additionally, with NGOs being subjected to the supervision of the FSRC, section 39(1) of the FSRCA provides for the FSRC to be able to compel the production of documents, records or information in the custody or control of any supervised entity. The above measures are not applicable to Nevis.
125. **Criterion 8.5 – (d)** In accordance with Section 10 of the NGOAA 2020, NGOs are under the regulatory umbrella of the FSRC and based on the amendment Section 17(1)(e) allows the FSRC to assist any authorised authority in the investigation of any offence against St. Kitts and Nevis which it has reasonable grounds to believe has or may have been committed by a regulated entity and allow FSRC to cooperate with the FIU in the supervision of a regulated entity. Further section 11 of the AMLR/ATR requires FIs to report any suspicious or unusual activity relative to ML/TF to the FIU. The NGOA does not include NPOs in Nevis.
126. **Criterion 8.6** – Its noted that MACMA names the AG as the competent authority for mutual assistance in criminal matters. Section 17(b) of the NGOA as amended provides for the NGO Commission to be subject to the power of the AG as the Central Authority for receiving and responding to requests in criminal matters pursuant to section 4 of MACMA. The NGOA does not include NPOs in Nevis.

Weighting and Conclusion

127. While St. Kitts has reporting and registration measures for NPOs and a general oversight body which is the NGO Commission, most of the criteria requirements under this recommendation have not been implemented. The NGOA does not include NPOs in Nevis.
128. **Recommendation 8 is rated partially compliant.**

Recommendation 9 – Financial institution secrecy laws

129. This Recommendation formerly R. 4 was rated C in the 3rd MER. The FATF requirements have not changed this recommendation since the 3rd MER.
130. **Criterion 9.1** – CAs can access information required to perform their functions in particular the Police (section 23 – 36 of the POCA); the FSRC (section 13 (g) and 39 of the FSRCA) and the FIU (section 11 of the FIUA and section 10(i)(a) of the MAFATFA of 2020). Additionally, section 66 of the POCA overrides any obligation with respect to secrecy or other restrictions on the disclosure of information imposed by any other enactments. There are no hindrances to the sharing of information between FIs as required for correspondent banking, wire transfers and reliance on third parties with the sharing of the relevant information facilitated by paras. 141 – 144, 122-123 of the FSR and Regulation 7(2)(a) of the AMLR respectively. The MOU of January 29, 2020, between CAs provides for the sharing of information between the FIU the RSCNPF, Immigration, CED and the DPP. The MAFATFA of 2020 section 10(i)(b) provides for the FIU to disseminate financial intelligence and other information to local and foreign authorities. The FSRC is allowed to share information with competent authorities domestically and internationally (section 3(1) of

the FSR (Exchange of Information) No. 15 of 2002, and (subsection 4(2)(h) and 16(1) of the FSRCA). St. Kitts and Nevis is a member of the ARIN CARIB, CCLEC, RSS and Interpol which allows for the LEAs to share information internationally. The AG office as the central authority can share information with relevant international counterparts through the MACMA. In addition, the CATM under the Rules for the Exchange of Information on Tax Matters allows for the exchange of tax information with foreign counterparts that would be obtainable for domestic inquiries.

Weighting and Conclusion

131. **Recommendation 9 is rated compliant.**

Recommendation 10 – Customer due diligence

132. Recommendation 10 (formerly R.5) was rated NC in the 3rd MER due to the AMLR not including TF obligations, certain CDD requirements were not in law or regulations and effectiveness could not be assessed due to recent enactment of the law, regulations and guidance notes. Deficiencies were addressed by enactment of the ATR and amendments to the AMLR and FSR. In St. Kitts and Nevis' 4th follow up report in 2011, this recommendation was re-rated as largely compliant. The FATF requirements for CDD have substantially changed.
133. **Criterion 10.1** – Paragraph 69 of the FSR prohibits regulated businesses from keeping anonymous accounts or accounts held in fictitious names. Regulated businesses as defined in the FSRCA the enabling statute of the FSR includes businesses subject to the laws listed in the First Schedule of the FSRCA. In the MFSAA, 2021, section 3(ii)(a) expands the definition for “financial services and related products” in the FSRCA to include: all activities of licensed FIs and DNFBPs in St. Kitts and Nevis.
134. **Criterion 10.2** – Regulation 4(1) of the AMLR/ATR requires relevant persons which includes FIs in accordance with the First Schedule of the POCA to conduct CDD before establishing a business relationship, conducting a one-off transaction (defined in regulation 2 of the AMLR/ATR in accordance with FATF requirements), where there is a suspicion of ML/TF or doubts about the veracity or adequacy of previously obtained data or documents. Regulation 6 of the AMLAR, No. 6 of 2021 amended Regulation 4 to allow for carrying out CDD on occasional transactions that are wire transfers in the circumstances covered by Recommendation 16 and its interpretive note. The above regulations have not been issued by direct parliamentary process as required by the FATF Methodology. However, section 51 of St. Kitts and Nevis' constitution and case law provide for regulations issued by a Minister as above to be equivalent in enforcement to law enacted by parliamentary process.
135. **Criterion 10.3** – Regulation 4(4)(b)(iii) of the AMLR requires FIs to obtain independent documentation from a reliable source as part of the identification and verification of customers including whether permanent or occasional, and whether natural or legal person or legal arrangement.
136. **Criterion 10.4** – Regulation 4(2)(c)(i) of the AMLR requires FIs to identify any person acting on behalf of a customer that is not an individual and verifying that the person is authorized to act in that capacity. Identification as stipulated by regulation 4(4) of the AMLR includes verification based on evidence from independent documentation from a reliable source. The AMLAR, (No. 6 of 2021 and ATAR, No. 7 of 2021) as amended includes similar measures for persons acting on behalf of an individual.
137. **Criterion 10.5** – Regulation 2 of the AMLR/ATR defines beneficial owner as a natural person who (i) ultimately owns or controls a customer or other person on whose behalf a transaction is

- being conducted; or (ii) exercises ultimate, effective control over the management of a legal person or other entity; and (b) includes ultimate ownership or control whether it is direct or indirect. Regulation 4(4)(b) of the AMLR states that identification of a person means obtaining evidence that (i) is reasonably capable of verifying that the person to be identified is in fact one and the same as the customer, third party, beneficial owner or controller being identified; and (ii) satisfies the relevant person through the use of documents, data or other information that the evidence of identification is conclusive.
138. **Criterion 10.6** – Regulation 4(2)(d) of the AMLR requires the obtaining of information on the purpose and intended nature of the business relationship or one-off transaction. The requirement does not include the understanding of the purpose and intended nature of the business relationship by the FIs.
 139. **Criterion 10.7** – Regulations 4(3)(a) and (b) of the AMLR require ongoing due diligence by scrutiny of transactions for consistency with knowledge of the customer including business and risk profile and ensuring that documents, data or information is kept up to date by undertaking reviews of existing records as required by the criterion. FIs are required at paragraph 34(2)(a) of the FSR to conduct reviews of source of funds through on-going risk assessments
 140. **Criterion 10.8** – Regulation 4(2)(c) of the AMLR requires FIs to understand the ownership and control structure of customers that are not individuals. Paragraph 34 of the FSR requires FIs to understand the nature of a customer’s business prior to the establishment of the relationship.
 141. **Criterion 10.9 – Companies**- Paragraph 82 of the FSR requires obtaining from companies a certificate of incorporation, memorandum and articles of association and statutory statement if applicable, resolution, valid account-opening authority, full names of all directors and copies of powers of attorneys. The above requirements do not cover requirement for names of senior management for other types of legal persons and legal arrangements and does not cover the requirement for information on address of registered office or principal place of business.
 142. **Partnerships**, paragraph 44 of the FSR requires partnerships to be treated as verification subjects which includes the individual partners to be identified and verified as natural persons. There is a discretionary rather than mandatory requirement for the partnership agreement. As such the above provisions only requires identification of the partners and does not provide for the requirements of (a), (b) (the powers to regulate and bind the legal person or arrangement) & (c) of this criterion.
 143. **Foundations**, there are no measures for foundations.
 144. **Trust**- paragraph 43 of the FSR requires individual parties to the trust to be identified and verified by FIs. For trusts, there are no measures for the name, legal form and proof of existence, powers that regulate and bind legal persons and arrangements and address of registered office or principal place of business.
 145. **Criterion 10.10** – Regulation 2 of the AMLR/ATR defines beneficial owner as a natural person who (i) ultimately owns or controls a customer or other person on whose behalf a transaction is being conducted; or (ii) exercises ultimate, effective control over the management of a legal person or other entity; and (b) includes ultimate ownership or control whether it is direct or indirect. Regulation 4(2)(c) of the AMLR/ATR requires FIs to identify the beneficial owner or controllers of a customer that is not an individual. The requirement for identifying beneficial owner or controller does not include consequential measures as required by the criterion.
 146. **Criterion 10.11** – Regulation 18, para 173 of the FSR (amendment), No. 41 of 2020 requires FIs to treat the trustees, settlors, beneficiaries and protectors (if any) of trusts as verification subjects. This means that FIs are required to identify and verify the identity of the trustees, settlors, beneficiaries and protectors of trust, however, there is no requirement to take reasonable measures

- in doing so. There are no requirements for the verification of identity of persons in equivalent or similar positions in other types of legal arrangements.
147. **Criterion 10.12** – Regulation 20 Para.183A of the FSR (amendment), No. 41 of 2020 outlines CDD measures that FIs must take for the beneficiaries of life insurance policies. These requirements include identification and verification as soon as the beneficiary is identified or designated and in all cases at or before the pay-out or the time when the beneficiary intends to exercise vested rights under the policy. There is no requirement for the identification and verification of a beneficiary that is designated by characteristics or by class or by other means. Other investment related policies are not allowed in St. Kitts and Nevis.
 148. **Criterion 10.13** – Regulation 20 Para. 183A (c) of the FSR (amendment)A No. 41 of 2020 requires FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced customer due diligence measures are applicable. If a beneficiary who is a legal person or legal arrangement presents a higher risk, enhanced measures should be taken, including reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary, at the time of the pay-out. The above provision fully complies with the requirement of this criterion.
 149. **Criterion 10.14** – Regulations 4(1)(a) and 4(5) of the AMLR/ATR require verification before the establishment of a business relationship or carrying out of a one-off transaction or completion after provided the conditions as set out in the criterion are met.
 150. **Criterion 10.15** – There is no requirement to adopt risk management procedures concerning conditions under which a customer may utilise a business relationship prior to verification.
 151. **Criterion 10.16** – Regulation 11 para. 34(2) & (3) of the FSR (amendment) No. 41 of 2020 requires a risk assessment to be conducted on existing customers. The risk assessment involves applying CDD measures to existing customers, including identification of the customer and understanding the nature of the business. However, the requirement does not include the identification of the beneficial owner and the application of CDD measures to existing customers on the basis of materiality and risk and the conduct of CDD at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained.
 152. **Criterion 10.17** – Regulation 5(2) of the AMLR/ATR requires FIs to apply enhanced customer due diligence measures on a risk sensitive basis to high-risk situations as outlined in Regulation 5(1) and any other situation which by its nature can present a higher risk of money laundering or terrorist financing. Regulation 5(5) of the AMLR/ATR as amended by the AML/ATF (Amendment) Regulations, 2021 requires FIs to conduct enhanced ongoing monitoring in relation to the business relationship between itself and a high-risk person or a politically exposed person. FIs are also required to obtain senior management approval before establishing or continuing, for existing customers, business relationships where a customer or beneficial owner is a high-risk person or a politically exposed person and take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as a high-risk person or a politically exposed person. These measures are consistent with examples of CDD measures that could be applied for higher-risk business relationships as outlined in paragraph 20 of Interpretative Note 15 of the FATF recommendations.
 153. **Criterion 10.18** – Paragraph 9(b) of the AMLAR No. 6 of 2021 provides for FIs to apply simplified CDD measures only where lower risks have been identified through an adequate analysis of risks by the FI or competent authorities of St. Kitts and Nevis. This provision also states that FIs should not use simplified due diligence measures where there is a suspicion of ML. There is no prohibition on using simplified due diligence whenever specific high-risk scenarios

apply and no requirement for simplified measures taken to be commensurate with the lower risk factors.

154. **Criterion 10.19** – Sub regulations 4(9)(e) and 4(9)(h) of the AMLR/ATR requires FIs to not establish a business relationship or carry out or complete a transaction; or to terminate a business relationship or not carry out or complete a transaction as the case requires when the FI is unable to complete identification procedures. The definition of identification procedures is in line with CDD measures as outlined in the FATF recommendation 10. Regulation 4(9)(h) of the AMLR/ATR provides that a relevant person shall consider whether to make a suspicious transaction report when it is unable to comply with identification procedures. Identification procedures as outlined in Regulation 4(2) and (3) of the AMLR/ATR are consistent with CDD measures required to be taken in R.10.
155. **Criterion 10.20** – There are no measures allowing for the cessation of CDD if continuation of such process will result in tipping-off a customer and instead filing a STR.

Weighting and Conclusion

156. While CDD measures have been implemented to a large extent in St. Kitts and Nevis, some deficiencies remain in important areas noting the context of the jurisdiction. Deficiencies include no requirement for FIs to understand the purpose and intended nature of the business relationship with individuals; deficient requirements to identify and verify the identity of customers who are companies, partnerships, foundations and trusts; no requirement for identifying beneficial owner or controller of a legal person through consequential measures; no requirement for types of legal arrangements other than trusts, to identify and verify the identity of beneficial owners through specific information; no requirement to identify the beneficial owner of existing customers and apply CDD measures on the basis of materiality and risk, no measures for regulated entities to be permitted not to pursue CDD to prevent tipping-off and no requirement to adopt risk management procedures concerning conditions under which a customer may utilise a business relationship prior to verification.
157. **Recommendation 10 is rated partially compliant.**

Recommendation 11 – Record-keeping

158. This Recommendation (formerly R. 10) was rated LC in the 3rd MER due to concerns about verifying the compliance by captive and international insurance companies with record-keeping obligations. This was addressed with the enactment of the FSRCA.
159. **Criterion 11.1** – Sub-regulations 8(1), (8)(2)(b) and 8(7) of the AMLR require FIs to keep the entry records, ledger records and supporting records of each transaction for a period of five (5) years from termination or dormancy of the account or when the relevant transaction or series of transactions were completed. The requirements for each transaction will include both domestic and international transactions.
160. **Criterion 11.2** – Sub-regulations 8(5) and (6) of the AMLR require FIs to keep records obtained pursuant to the application of CDD procedures or information that enables a copy of such evidence to be obtained, and all the supporting documents, data or information, including business correspondence in respect of a business relationship or one-off transaction for a period of at least five years commencing with the date on which the business relationship ends or the date on which a one-off transaction is completed. The above measures would include any analysis undertaken as part of all supporting documents and meets the requirement of the criterion.
161. **Criterion 11.3** – Regulation 8(3) of the AMLR imposes the obligation on all FIs for all records containing details relating to each transaction carried out by the FI in the course of any business

relationship or one-off transaction to contain sufficient information to enable the reconstruction of individual transactions.

162. **Criterion 11.4** – Regulation 8(1) A of the AMLR Amendment 9 of 2012 requires records of unusual and complex transactions shall be made available upon request to competent authorities and to auditors. Regulation 8(4) allows access to all records, on a timely basis to the FSRC, police officer or customs officer for the purposes of complying with a requirement under any relevant enactment. The difference in the 2 sections calling for “upon request” versus “timely basis” appears to note time difference and not immediately or swiftly as required by FATF.

Weighting and Conclusion

163. There is a minor deficiency in that there are no measures for CDD information and records to be swiftly available to domestic competent authorities.
164. **Recommendation 11 is rated largely compliant.**

Recommendation 12 – Politically exposed persons

165. Recommendation 12(formerly R.6) was rated LC in the 3rd MER as it was unclear whether the requirement for establishing source of funds/wealth applied where the PEP is the beneficial owner and not necessarily the customer with whom the FIs is transacting business. This was addressed by amendment to AMLR. In St. Kitts and Nevis’ 4th follow-up report in 2011, this recommendation was re-rated as compliant. Since then, the FATF requirements for PEPs have changed.
166. **Criterion 12.1** – The AMLR requires that a FI shall not form a business relationship or carry out a one-off transaction with or for another person unless the FI complies with the following:
167. **Criterion 12.1 (a)** Regulation 5(5)(a) AMLAR, No. 6 of 2021/ No. 7 of ATAR requires FIs to establish risk management systems to determine whether a customer or the beneficial owner is a high-risk person or a politically exposed person.
168. **Criterion 12.1 (b)** Regulation 5(5)(b) AMLAR, No. 6 of 2021 and, No. 7 of ATAR requires FIs to obtain senior management approval before establishing or continuing, for existing customers, business relationships where a customer or beneficial owner is a high-risk person or a politically exposed person.
169. **Criterion 12.1 (c)** Regulation 5(5)(c) of the AMLAR, No. 6 of 2021 and No. 7 of ATAR require FIs to take reasonable measures to establish the source of wealth and the source of funds of customers and beneficial owners identified as a high-risk person or a politically exposed person.
170. **Criterion 12.1 (d)** Regulation 5(5)(d) AMLAR, No. 6 of 2021, No. 7 of ATAR requires FIs to conduct enhanced ongoing monitoring in relation to the business relationship between itself and a high-risk person or a politically exposed person.
171. **Criterion 12.2** – Under Regulation 2(1) of the AMLR, the definition of politically exposed persons includes an individual who is a prominent public person or a person who has been entrusted with a prominent public function by an international organization outside St. Kitts and Nevis. Regulations 2(1)(d) in AMLAR, No. 6 of 2021 and, No. 7 of ATAR includes domestic PEPs in the definition thereby subjecting them to the same requirements for all PEPs. As noted in criterion 12.1 the requirements for (a-d) are applicable for all PEPs which includes domestic and international organisation PEPs. Where a FI proposes to have a business relationship or carry out a one-off transaction with a politically exposed person, regulation 3(3)(c) requires the FI to determine whether for money laundering purposes a customer is a politically exposed person or a person who has been entrusted with a prominent function by an international organisation.

Regulation 5(1)(b) in AMLAR, No. 6 of 2021 and, No. 7 of ATAR requires that FIs apply enhanced customer due diligence procedures in any situation which can present a higher risk of ML/TF. The FATF designated categories of offences are all predicate offences for ML under POCA as noted in the analysis for recommendation 3 under criterion 3.2. In the case of higher risk business relationships with such persons the criterion of 12.1 (b) to (d) are adopted.

172. **Criterion 12.3** – Family members and close associates of all PEPs are captured under Regulation 2(1)(b)(c), and measures outlined above under Criteria 12.1 and 12.2.
173. **Criterion 12.4** – Paragraph 183A(b) of the FSRA No. 41 of 2020 meets the requirements imposed on FIs to determine whether beneficiaries and/or beneficial owners of beneficiaries of life insurance policies are PEPs, which should occur at the latest at the time of pay out. Further where higher risks are identified, FIs are required to inform senior management before the pay out of the policy proceeds, to conduct enhanced scrutiny on the whole business relationship with the policyholder, and to consider making a suspicious transaction report.

Weighting and Conclusion

174. **Recommendation 12 is rated compliant.**

Recommendation 13 – Correspondent banking

175. Recommendation 13 (formerly R.7) was rated LC in the 3rd MER because the Guidance Notes did not include TF issues. This was addressed in the 4th follow up report of 2011 by the enactment of the ATR.
176. **Criterion 13.1** – Sections (a) to (e) of Regulation 4(12)(b) in AMLAR, No. 6 of 2021 and ATAR, No. 7 of 2021 comply with the requirements of (a) – (d) of the criterion.
177. **Criterion 13.2** – Section (f) of Regulation 4(12) of AMLAR/ATAR fully incorporates all requirements for “payable-through accounts”.
178. **Criterion 13.3** – Sections (g) and (h) of Regulation 4(12) of AMLAR/ATAR fully comply with all requirements for prohibition of correspondent banking relationships with shell banks.

Weighting and Conclusion

179. **Recommendation 13 is rated compliant.**

Recommendation 14 – Money or value transfer services

180. R. 14 (formerly SR.VI) was rated PC in the 3rd MER due to requirements of the MSBA not including TF and not being fully implemented. Offences under the AMLR and the MSBA were also not proportionate. The deficiencies were addressed by amending and fully implementing the MSBA. In St. Kitts and Nevis’ 4th follow-up report in 2011, this recommendation was re-rated as largely compliant. The FATF requirements for MVTS have changed.
181. **Criterion 14.1** – Section 4(1) of the MSBA requires a person to have a licence to carry on money service business in St. Kitts and Nevis. Under subsection 2(1) of the Interpretation Act Cap 1.02 a person includes legal persons. Money service business, as defined in the MSBA, includes money or value transfer services as defined by the FATF standards.
182. **Criterion 14.2** – Section 4(2)(c) of the FSRC requires the FSRC to monitor financial services business carried on in or from within St. Kitts and Nevis and take action against persons carrying on unauthorised business. Furthermore, subsection 13(1) of the MSBA states that no unauthorised person shall carry on money services business within St. Kitts and Nevis. Subsection 13(2) of the

MSBA stipulates that a person who breaches subsection (1) commits an offence and is liable on summary conviction to a fine of XCD 50,000 (USD 18,403) or to imprisonment for a term of 2 years or both. Section 4(4) of the MSBA also provides a penalty of a fine of XCD 150,000 (USD 55,210) or imprisonment for two (2) years or both on summary conviction for carrying on money services business without a licence. The FSRC has published warnings on its website advising persons to verify that any financial services being offered has been properly approved and licensed. A contact number was also provided for further information. This has resulted in an unlicensed entity being identified. The sanctions are not proportionate and dissuasive for international MVTS providers in St. Kitts and Nevis.

183. **Criterion 14.3** – Section 4(2)(d) of the FSRC designates the FSRC to monitor compliance of regulated persons, which includes MVTS, with all AML/CFT laws, regulations, codes or guidelines.
184. **Criterion 14.4** – Section 10(2) of the MSBA requires a separate licence for each place of business operated in the name of the same person, thereby requiring a licence for all MSB locations.
185. **Criterion 14.5** – There are no measures for the use of agents by MVTS providers in St. Kitts and Nevis since locations other than the principal address are treated as “branches” as per section 10(2) of the MSBA.

Weighting and Conclusion

186. MVTS providers are required to be licensed and are monitored for compliance with AML/CFT provisions. The FSRC is mandated to monitor financial services business carried on in or from within St. Kitts and Nevis and sanctions for operating without a licence are dissuasive. The sanctions are not proportionate and dissuasive for international MVTS providers in St. Kitts and Nevis.
187. **Recommendation 14 is rated largely compliant.**

Recommendation 15 – New technologies

188. Recommendation 15 (formerly R. 8) was rated PC in the 3rd MER due to the AMLR not including TF obligations and no specific effective measures for FIs to apply in non-face-to-face business. St. Kitts and Nevis amended the AMLR and guidance notes to address the deficiencies identified. In St. Kitts and Nevis’ 4th follow-up report in 2011, this recommendation was re-rated compliant. The FATF requirements on new technologies have also changed.
189. **Criterion 15.1** – Under regulation 3 A(4)(a) of the AMLAR, No. 6 of 2021 and ATAR, No. 7 of 2021 FIs should identify and assess the ML/TF risk that may arise in relation to the development of new products and new business practices, including new delivery mechanisms and the use of new or developing technologies for both new and pre-existing products. However, St. Kitts and Nevis has not conducted an assessment of ML/TF risk in relation to new products and new business practices and new or developing technologies. In the follow-up NRA which was completed in March 2021, VA were included.
190. **Criterion 15.2** – Under regulation 3(d) (ii) of the AMLAR, No. 6 of 2021 and ATAR, No. 7 of 2021 such risk assessment should take place prior to the launch of new products, business practices or the use of new or developing technologies provided that a relevant person shall take appropriate measures to manage and mitigate the risks that have been identified and assessed.
191. **Criterion 15.3** – (a) St. Kitts and Nevis’ overall risk level posed by VASP, and VA was rated low. This was due to the fact that there are no VASPs registered or operating within the jurisdiction, and there has been no evidence of the illegal operations of virtual asset business. No other information was provided on the assessment and its conclusion. (b) St. Kitts and Nevis has put in place legislative measures, supervisory oversight and training commensurate with the identified risk. (c) Under

- section 2 of the VAA No.1 of 2020, virtual asset business includes all activities listed in the glossary definition of a VASP. The measures indicated in criteria 1.10 and 1.11 similarly apply for this sub-criterion.
192. **Criterion 15.4** – (a) (i) Section 4(1) of the VAA states that a person shall not operate in or from St. Kitts and Nevis virtual asset business without being registered under the Act. This would include entities incorporated in St. Kitts and Nevis (ii) There is a registration requirement under section 4 of the VAA stating that no natural or legal person can offer or operate in or from within St. Kitts and Nevis, virtual asset business without being registered. (b) Sections 6 and 7 of the VAA detail fit and proper measures for any officer, executive, significant shareholder, beneficial owner, director and management of an applicant for registration at the time of application. Section 9A of the VAAA, no. 8 of 2021 provides similar measures for subsequent changes to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in a VASP.
 193. **Criterion 15.5** – Section 15 of the VAA outlines penalties for revocation and suspension of licenses. Additionally, Section 16 outlines the offences including operating a virtual asset business without registration and penalties for noncompliance with the requirements of the act. The penalty for operating a virtual asset business without registration is a fine not exceeding XCD 100,000 (USD 36,800) and imprisonment for a period not exceeding five (5) years. The fines above are not considered dissuasive for a natural or legal person. The above measures do not deal with actions to identify natural or legal person that carry on VASP activities without requisite registration. However, the FSRC has published warnings on their website advising persons to verify that any financial services being offered have been properly approved and licensed. A contact number was also provided for further information.
 194. **Criterion 15.6** – (a) Section 13(1) of the VAA authorises the FSRC to monitor and supervise VASPs to determine whether they are complying with the provisions of the Act, the FSRCA and any other legislation that would be relevant for the purposes of AML/CFT obligations. (b) Section 13(1)(2)(3) of the VAA provides for the FSRC to conduct inspections and compel the production of information. Section 15 provides for the FSRC to revoke and suspend for breach of the VAA. However, there are no range of disciplinary and financial sanctions.
 195. **Criterion 15.7** – At the time of the onsite St. Kitts and Nevis did not have any registered VASPs. Consequently, the authorities have neither established guidelines nor provided feedback. However, the authorities issued a Newsletter in November 2020 regarding red flags in relation to VA.
 196. **Criterion 15.8** – The First Schedule of the POCA was amended to include Virtual Asset Business and VASPs. In this regard, as VA business and VASPs are listed as regulated business activity, all provisions of the AMLR, ATR and FSR apply. The analysis of recommendation 35 applies and the deficiencies identified are also relevant.
 197. **Criterion 15.9** – The First Schedule of the POCA has been amended by POCA, No. 10 of 2021 to include Virtual Asset Business and VASP as a regulated business activity. The First Schedule of the FSRCA was amended by the MFSAA No. 9 of 2021 to include the VAA No. 1 of 2020. The FSR is also a Schedule to the FSRCA. (a) The requirement for occasional transactions in the AMLR and ATR is USD/EUR 15,000. No measures have been implemented to set an occasional transaction threshold of above USD/EUR 1000 for VASPs to conduct CDD. (b) While VAs / VASPs are now under the regulatory regime of POCA and the FSRC, there is no legislation for virtual asset transfers to meet the requirements on 15.9 (b)
 198. **Criterion 15.10** – The analysis under criteria 6.5(b), 6.6(e), 7.2(d), 7.2(e), 7.3 and 7.4(d) is also applicable for VASPs.

199. **Criterion 15.11** – Section 13 (4) of the VAA provides for the FSRC to cooperate with any local or foreign authority as necessary for the performance of duties and exercise of its powers under the Act. The FSRC has a broad legal basis to cooperate with its foreign counterparts, with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes via the FSRCA and the FSR (Exchange of Information). Analysis for criteria 40.12 and 40.14 is also applicable to this criterion.

Weighting and Conclusion

200. No specific guidelines or training to VASPs have been issued since the enactment of the act. Further, while the FSRC can examine and inspect VA and VASPs and compel the production of information there is no range of disciplinary and financial sanctions. Further some of the requirements of recommendation 16 are not met in relation to wire transfers and VAs / VASPs
201. **Recommendation 15 is rated partially compliant.**

Recommendation 16 – Wire transfers

202. R.16 (formerly SR. VII) was rated PC in the 3rd MER due to no requirement for all wire transfers to have detailed originator information, no guidance on the treatment of wire transfers with inadequate originator information and criminal sanctions under the AMLR and the FSRCA were not proportionate. These deficiencies were addressed by the implementation of the MSBA, and amendments to the FSRCA and the FSR. In St. Kitts and Nevis' 6th follow-up report in 2012, this recommendation was re-rated compliant. The FATF requirements on wire transfers have also changed.
203. **Criterion 16.1** – (a) Paragraph 123 of the FSR requires all cross-border wire transfers, not just those of USD/EUR 1,000 or more as required, to be accompanied by accurate and meaningful originator information. This must contain the name of the originator, an account number or a unique reference number, address of the originator and either a national identity or customer identification number or date and place of birth. The above requirement is applicable to all FIs and DNFBPs as defined by the FATF. (b) Paragraph 123 (b) as amended in the FSRA No. 41 of 2020 requires beneficiary information as set out in 16.1 (b) to accompany the wire transfer which complies with the requirements.
204. **Criterion 16.2** – Paragraph 123 (c) of the FSRA No. 41 of 2020) requires that full originator information should accompany wire transfers that are bundled in a batch file for transmission to beneficiaries. Full originator information as indicated in paragraph 122 (c) of the FSRA No. 41 of 2020 include the name, address and account number of the originator and beneficiary information.
205. **Criterion 16.3** – St. Kitts and Nevis does not apply a de minimis threshold for wire transfers since all cross-border wire transfers are required to be accompanied by accurate and meaningful originator information.
206. **Criterion 16.4** – Regulation 4(1)(c) of AMLR/ATR require identification procedures which includes evidence of verification as set out in Regulation 4(4)(b) when there is suspicion of ML/TF for any transaction. This will include wire transfers. The requirements of the AMLR/ATR are applicable to FIs.
207. **Criterion 16.5** – Paragraph 122 of the FSR requires all wire transfers (thereby including domestic wire transfers) to include accurate and meaningful originator information like cross-border wire transfers.
208. **Criterion 16.6** – Accurate and meaningful originator information must always be included with domestic wire transfers. Section 4(11)(a) of the FIUA was amended by the MAFATFA No. 11 of

2020 to allow the FIU to request information (including wire transfers) from FIs, competent authorities and other businesses that it deems necessary or desirable for the discharge or performance of its functions. Paragraph 123A of the FSRA No. 41 of 2020 stipulates that information accompanying domestic wire transfers must also include the same originator information as indicated for cross-border wire transfers, unless the FI is satisfied that the full originator information can be made available to the beneficiary FI and appropriate authorities by other means. In this latter case, the FI need only include the account number identifier provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary. The information must be made available by the ordering FI within three (3) business days of receiving the request either from the beneficiary FI or from appropriate authorities. Under section 31 of POCA once a FI has been served with a monitoring order, the FI must immediately produce the relevant information on record. A monitoring order requires a FI to disclose information about a transaction conducted through an account held by a particular person with the FI.

209. **Criterion 16.7** – Originator and beneficiary information are required to be retained as part of the requirements of section 1(a)2(b) and (7) of regulation 8 of the AMLR/ATR stipulating retention of the details of all transactions carried out by FIs during any business relationship or one-off transaction for a period of five years from the date of the completion of the transaction which will include wire transfers. Limitations noted in recommendation 11 apply here and as such the criterion is mostly met.
210. **Criterion 16.8** – Under paragraph 123C of the FSRA No. 41 of 2020 the ordering FI is not allowed to execute the wire transfer if it does not comply with the requirements of criteria 16.1 – 16.7.
211. **Criterion 16.9** – Paragraph 122 of the FSR requires all FIs to ensure that accurate and meaningful originator information are included with all wire transfers through the payment chain. This would include intermediary FIs. Paragraph 123D(a) of the FSRA No. 41 of 2020 requires FIs to retain all originator and beneficiary information of a wire transfer.
212. **Criterion 16.10** – Sections 24(1) and (2) of the Payment System Act require all system participants to retain all records obtained by them during the operation and administration of a funds transfer system. A system participant as defined in section 2 as any party who takes part in a funds transfer system operated, designated or regulated by the ECCB. This definition will therefore include intermediary FIs in the payment chain. Paragraph 123D(b) of the FSRA No. 41 of 2020 states that where technical limitations prevent the required originator or beneficiary information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer, the intermediary FIs must keep a record, for the minimum period under the relevant laws of all the information received from the ordering FIs or another intermediary FI. Section 2(b) and (7) of regulation 8 of the AMLR/ATR stipulates the retention of the details of all transactions carried out by FIs during any business relationship or one-off transaction for a period of five (5) years from the date of the completion of the transaction.
213. **Criterion 16.11** – Paragraph 123D(c) of the FSRA No. 41 of 2020 requires intermediary FIs to take reasonable measures, consistent with straight-through processing, to identify cross-border transfers that lack required originator information or required beneficiary information.
214. **Criterion 16.12** – Paragraph 123D(d) of the FSRA No. 41 of 2020 requires intermediary FIs to have risk-based policies and procedures for determining (a) when to execute, reject or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow up action.
215. **Criterion 16.13** – Paragraph 123E(b) of the FSRA No. 41 of 2020 requires beneficiary FIs to take reasonable measures which may include post-event monitoring or real-time monitoring where feasible, to identify cross-border wire transfers that lack required originator information or required beneficiary information.

216. **Criterion 16.14** – Paragraph 123E(c) of the FSRA No. 41 of 2020 requires that for cross-border wire transfers, a beneficiary FI shall verify the identity of the beneficiary, if the identity has not been previously identified, and maintain a record of that information in accordance with the record keeping requirements of the relevant laws. Limitations noted in recommendation 11 apply here and as such the criterion is mostly met
217. **Criterion 16.15** – Paragraph 123E(d) of the FSRA No. 41 of 2020 requires beneficiary FIs to have risk-based policies and procedures for determining: (i) when to execute, reject or suspend a wire transfer lacking required originator or required beneficiary information; and (ii) the appropriate follow up action.
218. **Criterion 16.16** – MVTS providers as regulated businesses under the First Schedule of the POCA and the First Schedule of the FSRCA are subject to the requirements of the FSR and the ALMR/ATR regarding wire transfers. The analysis of the relevant criteria of R.16 is also applicable to MVTS providers.
219. **Criterion 16.17** – (a) Regulation 11(2) of the AMLR requires all FIs to report any suspicious transactions which would include wire transfers to the FIU in St. Kitts and Nevis however it does not specify that information from both the ordering and beneficiary side have to be considered in determining whether an STR has to be filed. (b) However, this requirement applies only to St. Kitts and Nevis and does not include a requirement for an MVTS provider to file an STR in any other country affected by the same suspicious wire transfer and make relevant transaction information available.
220. **Criterion 16.16** – Paragraph 123E(e) of the FSRA No. 41 of 2020 requires FIs to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities, as per obligations set out in the relevant UNSCRs relating to the prevention and suppression of terrorism and TF, such as UNSCRs 1267 and 1373 and their successor resolutions.

Weighting and Conclusion

221. There are minor deficiencies with this recommendation. St. Kitts and Nevis does not have legislation that specify information from both the ordering and beneficiary side in order to determine whether an STR has to be filed. Additionally, it does not include a requirement for an MVTS provider to file an STR in any other country affected by the same suspicious wire transfer and make relevant transaction information available.
222. **Recommendation 16 is rated largely compliant.**

Recommendation 17 – Reliance on third parties

223. Recommendation 17 (formerly R.9) was rated PC in the 3rd MER due to no legal or enforceable requirement for the following: FIs to immediately get necessary CDD information from introducers; introducers and intermediaries to follow appropriate CDD measures; FIs to ensure that information will be provided without delay; and introducers to be subject to CFT obligations. There was also ambiguity about whether introducers were required to be supervised under FATF requirements and lack of compliance with the requirement for introducers and intermediaries to be subject to an AML/CFT supervisory regime. As indicated in the 9th FUR these deficiencies were addressed by amendments to the AMLR. In the St. Kitts and Nevis' 4th follow-up report in 2011, this recommendation was re-rated largely compliant. The FATF requirements on reliance have also changed.
224. **Criterion 17.1** – Sub regulation 7(2)(b) of the AMLR permits reliance on an intermediary or introducer to apply the identification procedures in respect of their customers or customers' beneficial owners /controllers while sub regulation 7(3)(b) stipulates that the FI remains liable for

any failure to apply the necessary identification procedures. The requirements of sub-criteria (a) – (c) are addressed as follows:

225. **Criterion 17.1 (a)** Sub regulation 7(2)(a) requires a FI to satisfy itself that the introducer or intermediary has appropriate CDD processes. Additionally, sub regulation 7(2)(c) requires an FI to immediately obtain information concerning the introducer or intermediary’s CDD processes including specific details on (i) identification procedures of customers; (ii) verification procedures where a customer is acting for a third party or in the case of a legal person, verifying the legal status or arrangements of that legal person; and (iii) verifying whether any person is properly authorised to act on behalf of a customer. The above provision requires obtaining information about the introducer or intermediary’s CDD processes and not about the customer. However, the criterion requires FIs to immediately obtain the elements (a) to (c) of the CDD measures set out in R. 10 (i.e., identification information of the customer, identification information of the beneficial owner and understanding the nature and purpose of the business).
226. **Criterion 17.1 (b)** Regulation (7)(6) requires an FI to obtain from the intermediary or the introducer adequate assurance on the following: (i) that identification procedures have been applied, (ii) that the intermediary or the introducer is required to keep and does keep a record of the evidence of the identification relating to the introduced customer and (iii), such information will be provided to the FI without delay once that information is requested. However, the above measures do not include other relevant documentation relating to CDD requirements.
227. **Criterion 17.1 (c)** Regulation 7(6) stipulates that reliance for CDD can be placed on a FI supervised by the FSRC or a person who carries on equivalent business. “Equivalent business” has been defined in Regulation 2 as a business that is subject to requirements to forestall and prevent ML/TF that are consistent with those in the FATF recommendations in respect of that business; and supervised, for compliance with the requirements of FATF. This provision meets the requirements of sub criterion 17.1(c).
228. **Criterion 17.2** – Sub regulation 2(b)(f) of the AMLAR/ATAR 2021 stipulates that the third party can be based in a country other than in St. Kitts and Nevis where the level of the country risk is assessed and the information on this risk assessment is available.
229. **Criterion 17.3** – There are no specific provisions that provide for FIs to rely on a third party that is a part of the same financial group. The measures in 17.1 which are applicable to all third-party FIs and DNFBPs would apply to FIs that are a part of the same financial group.

Weighting and Conclusion

230. Conditions for reliance on third parties include ensuring that copies of relevant CDD documentation will be available upon request from third parties who are regulated and supervised and have measures for CDD and record-keeping. However, there is no requirement for obtaining immediately the information concerning elements (a)-(c) of the CDD measures set out in R. 10. Most of the requirements of the recommendation are met with minor deficiencies related to criterion 17.1.
231. **Recommendation 17 is rated largely compliant.**

Recommendation 18 – Internal controls and foreign branches and subsidiaries

232. Recommendation 18 is a combination of former Rs. 15 and 22. R.15 was rated PC in the 3rd MER as the requirements for internal audit and testing, compliance officers and staff training did not apply to TF issues, and there was no requirement that internal testing should be independent and adequately resourced. These deficiencies were addressed by amendment to the ATR. R.22 was rated C in the 3rd MER. In St. Kitts and Nevis’ 5th follow-up report in 2012, recommendation 15 was re-rated compliant. Since then, the FATF requirements on this recommendation have also changed.

233. **Criterion 18.1** – Paragraph 25 of the FSRA No. 41 of 2020, as amended requires FIs to implement AML/CFT policies and procedures taking into account new and emerging risks and amendments to relevant legislation; the nature and level of ML/TF/PF risks; the legislative requirements; and the nature, size and complexity of the business:
234. **Criterion 18.1 (a)** Regulation 12 of AMLR requires that the compliance officer should be a senior officer. However, there is no defined requirement that such senior officer should be at management level.
235. **Criterion 18.1 (b)** There are screening procedures to ensure high standards when hiring employees (Par.133C of FSR as amended No.41 of 2020).
236. **Criterion 18.1 (c)** An ongoing employee training programme under paragraph 26 (e) as amended in the FSR No.41 of 2020 makes provisions for the ongoing training of officers and employees that is monitored accordingly.
237. **Criterion 18.1 (d)** Paragraph 28 as amended in the FSR No. 41 of 2020 required an independent audit function to test the system.
238. **Criterion 18.2** – Paragraph 10 as amended of the FSRA No. 41 of 2020 complies with the requirements of this criterion.
239. **Criterion 18.3** – Regulation 5(4) of the AMLR/ATR states that where the minimum AML/CFT requirements of St. Kitts and Nevis differ from those of the branches and subsidiaries of a FI or its customer located outside of the Federation, the higher standard of EDD measures shall be applied with the consent of the FSRC. The FI must inform the FSRC when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures as a result of prohibitive laws of the host country.

Weighting and Conclusion

240. While there are measures for FIs to maintain internal control policies and procedures, the requirement for the appointment of the compliance officer does not include the individual being at management level. There are requirements for FIs to ensure that their foreign branches and majority owned subsidiaries apply AML/CFT measures consistent with home country requirements.
241. **Recommendation 18 is rated largely compliant.**

Recommendation 19 – Higher-risk countries

242. Recommendation 19 (formerly R.21) was rated PC in the 3rd MER due to (a) an inability to enforce CFT measures, (b) FIs were only required to apply enhanced CDD when dealing with countries with weak AML/CFT systems and (c) supervisory authorities being unable to verify that captive and international insurance companies fully complied with the requirements. As indicated in the 9th FUR, all deficiencies except for (b) were addressed by amendments to the ATR and the FSRCA. In St. Kitts and Nevis' 4th follow-up report in 2011, this recommendation was re-rated compliant. Since then, the FATF requirements on this recommendation have also changed.
243. **Criterion 19.1** – Regulations 5(1) and 5(2) of the AMLR require FIs to apply risk-sensitive enhanced CDD measures to business relationships and transactions with natural and legal persons including other FIs from or in countries which do not apply or insufficiently apply FATF Recommendations. A similar requirement is also applicable where the FI has a foreign branch or subsidiary in the above-mentioned countries.
244. **Criterion 19.2** – Section 4(2) of the FSRCA gives the FSRC the power to provide guidance, thus enabling the FSRC to issue advisories including public statements via email to FIs when called upon

by the FATF and CFATF to do so. The advisories are also published on the FSRC websites. No countermeasures independently of any call by the FATF to do so have been applied.

245. **Criterion 19.3** – The FSRC issues advisories including public statements via emails to FIs when called upon by the FATF to do so. Advisories regarding public statements issued by the CFATF concerning AML/CFT weaknesses in CFATF members have also been issued.

Weighting and Conclusion

246. No countermeasures independently of any call by the FATF to do so have been issued.
247. **Recommendation 19 is rated largely compliant.**

Recommendation 20 – Reporting of suspicious transaction

248. Recommendation 20 (formerly R.13 and SR. IV) was rated NC in the 3rd Round MER due to STR reporting requirements of the AMLR and ATR not being in keeping with FATF requirements and sanctions of the AMLR and ATR not being proportionate. As noted in the 9th FUR, these deficiencies were addressed by amendments to the AMLR, ATR, and the Guidance Notes of the FSR.
249. **Criterion 20.1** – Sub regulation 11(1)(e) of the AMLR and sub regulation 11(1)(3) of the ATR require FIs to make a report to the FIU within 24 hours where they have reasonable grounds to suspect that funds are related to ML/TF or the proceeds of criminal activity. Section 4 of the MFSAA No. 9 of 2021 amended section 60(1) of the TAPA to make income tax evasion an offence for ML. As noted under R.10 the above regulations are considered equivalent to law enacted by parliamentary process under section 51 of St. Kitts and Nevis' Constitution and case law and therefore fully comply with the FATF requirements.
250. **Criterion 20.2** – Sub regulations 11(2)(a) and (b) of the AMLR/ATR mandate FIs to pay special attention to all complex, unusual or large business transactions, whether completed or not, and to all unusual patterns of transactions and to insignificant but periodic transactions, which have no apparent economic or lawful purpose. Sub regulation 11(2)(b) requires that upon reasonable suspicion that (i) a transaction described in subparagraph (a); or (ii) any other business transaction give rise to reasonable suspicion that the funds are the proceeds of crime or related to ML/TF, then the FI must make a report to the FIU within 24 hours.

Weighting and Conclusion

251. **Recommendation 20 is rated compliant.**

Recommendation 21 – Tipping-off and confidentiality

252. Recommendation 21(formerly R.14) was rated PC in the 3rd MER due to the tipping-off offence covering only information for ML investigations and not including information about STR reporting or related information to the FIU. As noted in the 9th FUR these deficiencies were addressed by amendments to the POCA and ATA.
253. **Criterion 21.1** – Sections 11(1) and 11(2) of the FIUA protect a director or employee of a FI or business entity or any other person who in good faith transmits information or submits a report to the FIU from proceedings for breach of banking or professional confidentiality and also from civil or criminal proceedings. Since the term *person* covers *body corporates*, this will include FIs under the provision. Reporting to the FIU is based upon reasonable suspicion (see criterion 20.1) that the transaction could constitute or be related to ML/TF or proceeds of criminal activity and therefore,

the person does not require knowledge of whether the act occurred, and neither do they need to know the specific offence.

254. **Criterion 21.2** – Section 5 of the POCA as amended by the POCAA No. 37 of 2011 and the ATA amended by the ATAA, No. 38 of 2011 prohibits any person (natural and legal) by law from disclosing the fact that an STR or related information is being filed with the FIU. The above provision includes directors, officers, and employees of FIs.

Weighting and Conclusion

255. **Recommendation 21 is rated compliant.**

Recommendation 22 – DNFBPs: Customer due diligence

256. Recommendation 22 (formerly R.12) was rated PC in the 3rd MER due to the following: deficiencies identified for FIs were also applicable to DNFBPs; powers of the FSRC extended only to financial services; no evidence of effective AML/CFT supervision of casinos; not all FATF activities of accountants and auditors were covered; and assessment of effectiveness of some DNFBP measures was not possible due to recent amendments in POCA. The deficiencies were addressed by remedial measures under the relevant Rs for FIs, amendments to the FSRC, the AMLR and the FSR. In St. Kitts and Nevis' 7th follow-up report in 2013, this recommendation was re-rated compliant. Since then, the FATF requirements on DNFBPs: CDD have also changed.
257. **Criterion 22.1** – Regulation 2 of the AMLR and the ATR require regulated businesses to comply with the provisions of the AMLR and the ATR. Regulated businesses as defined in regulation 2 of the AMLR and ATR are entities engaged in regulated business activity listed in the First Schedule of POCA. The listed business activity includes all categories of DNFBPs and their relevant services as indicated in the FATF glossary. Consequently, all provisions of POCA, AMLR and ATR are applicable to both FIs and DNFBPs. Regarding the FSR regulation 4 also stipulates that regulated businesses as defined in the FSRC must comply with the FSR. Regulated businesses as defined in the FSRC are listed in the first Schedule of the Act and include DNFBPs. As per paragraph 20 of the First Schedule of POCA as amended by section 2(b) of the POCAA Order 2012, the transaction threshold for CDD measures for casinos is XCD 8,155 (USD 3,000) as prescribed in criterion 22.1 (a) Given the above, the analysis for R. 10 for FIs with provisions of the AMLR/ATR and POCA are also applicable for DNFBPs. Consequently, the analysis for R.10 is applicable for DNFBPs with the additional partial compliance of criteria 10.1, 10.9 and 10.11 for all DNFBPs.
258. **Criterion 22.2** – The analysis of the record-keeping requirements of R.11 for FIs is also applicable to DNFBPs since it is based on provisions of the AMLR which also cover DNFBPs.
259. **Criterion 22.3** – The analysis of the requirements for PEPs in R. 12 for FIs is also applicable to DNFBPs since it is based on provisions of the AMLR which also cover DNFBPs.
260. **Criterion 22.4** – The analysis of the requirement for Rec.15, criteria 15.1 and 15.2 for FIs is also applicable to DNFBPs.
261. **Criterion 22.5** – The analysis of the requirements for reliance on third parties in R. 17 for FIs is also applicable to DNFBPs since it is based on provisions of the AMLR which also cover DNFBPs.

Weighting and Conclusion

262. The analysis for R.10 regarding FIs is applicable for DNFBPs with the additional partial compliance of criteria 10.1, 10.9 and 10.11 for all DNFBPs. The analysis of FIs compliance with the requirements of R. 11, 12,15 and 17 is also applicable for DNFBPs since it is based on provisions of the AMLR which also covers DNFBPs.

263. **Recommendation 22 is rated largely compliant**

Recommendation 23 – DNFBPs: Other measures

264. Recommendation 23 (formerly R.16) was rated NC in the 3rd MER due to deficiencies identified for FIs under the associated Rs being also applicable to DNFBPs. The deficiencies were addressed by remedial measures under the relevant Rs for FIs and amendments to the AMLR. In St. Kitts and Nevis' 4th follow-up report in 2011, this recommendation was re-rated compliant. Since then, the FATF requirements on DNFBPs: Other measures have also changed.
265. **Criterion 23.1** – The analysis of the suspicious transaction reporting requirements of R.20 for FIs is also applicable to DNFBPs since it is based on provisions of the AMLR which also cover DNFBPs.
266. **Criterion 23.2** – The analysis of the requirements for internal controls in R. 18 for FIs is also applicable to DNFBPs since it is based on provisions of the AMLR/ATR which also cover DNFBPs.
267. **Criterion 23.3** – The analysis of the requirements for higher-risk countries in R. 19 for FIs is also applicable to DNFBPs since it is based on provisions of the AMLR which also cover DNFBPs.
268. **Criterion 23.4** – The analysis of the requirements for tipping-off and confidentiality in R. 21 for FIs is also applicable to DNFBPs since it is based on provisions of the FIUA, POCA and the ATA which also cover DNFBPs.

Weighting and Conclusion

269. The analysis of FIs compliance with the requirements of R. 18,19,20 and 21 is also applicable for DNFBPs since it is based on provisions of legislation which also covers DNFBPs.
270. **Recommendation 23 is rated largely compliant.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

271. Recommendation 24 (formerly R.33) was rated LC in the 3rd MER due to no provision for BO or control of domestic companies. This deficiency remained outstanding at the end of the 3rd Round follow-up process. The FATF requirements for this recommendation have significantly changed.
272. **Criterion 24.1 (a)** St. Kitts and Nevis has a legal framework that identifies and describes the types, forms and basic features of legal persons in the country and the processes for the creation of those legal persons and for obtaining and recording of basic and beneficial information. The Company Act outlines the requirements for the formation of companies limited by guarantee, by shares and companies limited by both shares and guarantee. Limited liability companies may be exempt companies, ordinary companies, private companies, public companies or external companies. Local or domestic companies incorporated under the CO are categorised as public, private, non-profit and external companies. The NLLCO provides for the formation of limited liability companies in the island of Nevis. The NBCO provides for the establishment of international business corporations in the island of Nevis. The FA provides for the establishment, operation and management of foundations. The MFO provides for the operation and management of foundations within Nevis as multiform foundations. The LPA specifies the requirements for the establishment and regulation of the registration of limited partnerships.
273. **Criterion 24.1 (b)** Sections 4 - 9 of the Company Act, sections 4, 5, 7 - 11, 69, 176 of the CO, sections 4, 10, 12, 17, 18, 21 - 23 of the NLLCO, sections 4, 10, 12, 14, 19, 20 - 24 of the NBCO, sections 3 - 7 and 9 of the FA, sections 3 - 7, 9 - 11 and 14 of the MFO, and sections 4 - 7, 9 and

21 of the LPA specify the processes for the creation of the various types of legal persons which exist in St. Kitts and Nevis. Basic information on legal persons is obtained and recorded in accordance with sections 5 - 8, 72,72A, 84 - 86 of the Company Act, sections 4, 5, 69, 71, 175 - 185, 194, 199, 344, 356 and 503 of the CO, sections 17 and 22 of the NLLCO, sections 19 and 24 of the NBCO, sections 4, 18, 61 and 66 of the FA and sections 4, 6, 7, 9, 10 (9), 11, 17 (7), 18 (5), 19 - 21(7), 30, 62 - 64 and 95 of the MFO, and regulation 9 of the Multiform Foundations Regulations 2005(MFR). However, under sections 102 of the NBCO, a registered agent and any person authorised as an authorised custodian of bearer share certificates, must maintain evidence of the beneficial owners of bearer shares which includes evidence of the persons who are beneficial owners of that corporation where the owner of the shares contained in the bearer share certificate is a corporation. In the case of limited partnerships, both basic and beneficial ownership information is obtained and recorded in accordance with sections 5 - 7, 21 and 22 of the LPA, and subsection (3) - (5) of sections 5 of the Financial Services (Regulations) Order (FSRO) made under the LPA. The above procedures for incorporations and relevant provisions are available on the St. Kitts and Nevis FSRC website. Therefore, information on the processes for obtaining and recording of basic and beneficial ownership information is also publicly available.

274. **Criterion 24.2** – The 2021 NRA follow-up report includes a description of the mechanisms and measures for company formation and the functions of the company registries in St. Kitts and Nevis. While the report states that the relevant authorities have a comprehensive understanding of the risk and vulnerabilities posed by legal persons and arrangements none of these was identified in the NRA follow-up report 2021.
275. **Criterion 24.3** – The requirements of this criterion for the different types of legal persons are analysed as follows:
276. **Companies:** Pursuant to sections 4 (3), 5, 8 and 69 of the Company Act, there is a record of public companies and ordinary private companies registered which contains information on the company’s name, certificate of incorporation, legal form and status, the address of its registered office, the articles of association and the particulars of the directors. Section 220 allows for members of the public to inspect or obtain copies of documents submitted to the Registrar. However, private exempt companies (which were completely struck from the Companies Registry in June 2021) were not required by section 8 to provide the Registrar with the particulars of the intended directors.
277. **Local companies:** Pursuant to sections 4, 5, 8, 69, 71, 494 and 503 of the CO, there is a record of local companies registered which contains information on the company name, certificate of incorporation, legal form and status, the address of its registered office, articles of incorporation and a list of directors. This information is publicly available in accordance with section 495 of the CO.
278. **Nevis limited liability companies:** Pursuant to sections 24 and 25 of the NLLCO, there is a record of limited liability companies registered which contains information on the LLC’s name, certificate of formation, legal form and status, the address of its registered office, the articles of organisation, the names of the LLC’s registered agent and organisers. This information is publicly accessible in accordance with section 22 and 48 of the NLLCO.
279. **Nevis international business corporations:** Pursuant to section 24 of the NBCO, there is a record of IBCs registered which contains information on the IBC’s name, certificate of incorporation, legal form and status, the address of its registered office, the articles of incorporation, the names of the incorporators and directors (only if identified in the articles of incorporation). This information is publicly available in accordance with section 28 and 29 of the NBCO.
280. **Foundations:** Pursuant to sections 3-6, 12 and 61 of the FA, there is a record of foundations registered which contains information on the foundation’s name, certificate of establishment, legal form and status, the address of its registered office, its articles of association which includes the

- objects and purposes, the founder's name and the particulars of the secretary to the foundation. Section 66(2)(c) of the FA makes provision for the foundation to provide the full name and address of each councillor who is an individual. The information in the registry is not publicly accessible since section 59 requires the authorisation of a councillor or guardian of the foundation to inspect or obtain a copy of a document from the Registrar.
281. **Nevis multiform foundations:** Pursuant to sections 3- 7, 21(7), 30 and 86(3) of the MFO, there is a record of multiform foundations registered which contains information on the foundation's name, certificate of establishment, legal form and status, the address of its registered office, its memorandum of establishment and by-laws, particulars with respect to the registered agent, the secretary and members of the management and supervisory boards. However, the register is open to inspection only by the Registrar, a subscriber, a member of the management board or supervisory board (if any), the secretary and a beneficiary. Pursuant to section 86(3), the register maintained by the Registrar of all registered multiform foundations is open to public inspection, except where a notice is given to the Registrar that the information should not be publicly available.
282. **Limited partnerships:** Pursuant to sections 4-9 of the LPA, there is a record of limited partnerships registered which contains information on the LP's name, certificate of registration, the address of its registered office, legal form and status, declaration on the formation of the LP, a statement which includes the nature of the business to be undertaken by the LP, the full name and address of each general partner and the identifying particulars with respect to all general partners and limited partners who are individuals and who have beneficial ownership interest in the limited partnership. However, there is no mandatory requirement for the registry to record the LP's basic regulating powers. Section 58 permits any person to inspect or obtain a copy of documents obtained by the Registrar in relation to the limited partnership.
283. **Criterion 24.4** – The requirements of this criterion for the different types of legal persons are analysed as follows:
284. **Companies:** Pursuant to sections 41, 72, 84, 85 and 86 of the Company Act, companies are required to maintain information on the company's name, proof of incorporation, legal form and status, the address of the registered office, register of directors and a register of shareholders, containing the number of shares held by each shareholder and the categories of shares. Section 44 dictates that the company's register of members be kept within St. Kitts and Nevis. The company is required to give notice to the Registrar of the place where its register of members is kept, and of any change of that place. However, there are no requirements for the company to maintain information on its basic regulating powers and for the register of shareholders to contain the associated voting rights of the shareholders.
285. **Local companies:** Every company is required by sections 177, 178, 179, 180, 181, 182, 183, 184, 185 of the CO to maintain at its registered office information on the company's basic regulating powers, the address of the registered office, register of directors and a register of members which contains a statement of the shares held by each member. In accordance with section 177(7), the registers may be kept at the registered office of the company or at some other designated place in Nevis. Pursuant to section 176 (2), notification of change of the address of the registered office must be sent within 15 days of such change to the Registrar. However, there are no requirements for the company to maintain information on the company's name and for the register of members to contain the associated voting rights of the members.
286. **Nevis limited liability companies:** There are no requirements for NLLCs to maintain information on the company's name, proof of incorporation, legal form and status, basic regulating powers, list of directors and a register of shareholders or members. Pursuant to section 15, where a registered agent changes the registered address of the limited liability company, a written notification must be provided to the Registrar.

287. **Nevis international business corporations:** Pursuant to section 32 of the NBCO, every IBC is required to maintain by-laws and articles of incorporation which would contain the IBC's basic regulating powers, legal form and status and proof of incorporation. Every IBC is also required by section 101 of the NBCO to keep a register of shareholders and section 103(4) requires the books and records of a corporation to be kept at the registered office or at such place or places as the directors think fit. Pursuant to section 17(2) of the NBCO, where a registered agent changes the registered address of corporation, a written notification must be provided to the Registrar. However, there are no requirements for IBCs to maintain information on the IBC's name and list of directors.
288. **Foundations:** Every foundation is required by section 18 of the FA to keep at its registered office, a register of its councillors, guardian, and secretary. Every foundation is also required by sections 61, 62 and 66 of the FA to maintain information on the name and registered address of the foundation, its legal form and status and the foundation's basic regulating powers.
289. **Nevis multiform foundations:** Each multiform foundation is required by section 30 of the MFO to keep at its registered office, a register of members of its management board and supervisory board (if any) and secretary. Regulation 9 of the MFR requires every multiform foundation to keep at its registered office a record of all subscribers and subscriptions made and a register of all beneficiaries and their respective beneficial entitlements. Section 29 of the MFO requires a multiform foundation to have a registered office in Nevis which shall be the address of the registered agent in Nevis. Notice of any change in the situation of the registered office shall be given within 28 days to the Registrar. Every multiform foundation is required by sections 7 and 8 of the MFFO to maintain a memorandum of establishment for the foundation which would contain information on its name, legal form and status, proof of incorporation and basic regulating powers
290. **Limited partnerships:** In accordance with section 21(4) of the LPA, the general partners of every limited partnership must keep at the office for service, a register showing for each limited partner- the full name and address of each limited partner who is an individual, or in the case of a body corporate its full name, the place where it is incorporated and the address of its registered or principal office, a copy of the partnership agreement and each amendment made to it and a copy of each annual statement given to the Registrar. Pursuant to section 8 of the LPA, limited partnerships are required to maintain information on the name and its registered office.
291. **Criterion 24.5** – There are mechanisms to ensure that the information referred to in criteria 24.3 and 24.4 is accurate and updated on a timely basis.
292. **Companies:** Every company is required by section 41 to maintain a register of members. Section 72A of the Company Act requires companies to notify the Registrar of changes in their directors or shareholders within twenty-one (21) days of the changes. Every company is required by section 72 of the Company Act to file returns annually to the Registrar with information on the company's name, its registered office, the company's directors, members and shares issued. Further, section 68(3) of the Company Act provides for a company to change the situation of its registered office and give notice to the Registrar. There are no requirements for information on the voting rights of shareholders to be kept accurate and updated on a timely basis.
293. **Local companies:** Every company is required by section 77 of the CO to notify the Registrar of any change of its directors within fifteen (15) days after such change. Section 176(2) of the CO requires a company to notify the Registrar of any change in the address of its registered office within fifteen (15) days of such change. Every company is required by section 178 of the CO to maintain a register of directors and must notify the Registrar within one (1) month if a person ceases to be a director of the company. Public companies are required by section 179 to maintain a register of shares vested in a director. A person who is a substantial shareholder in a company and a person who has ceased to be a substantial shareholder in a company must provide written notification to the company of such change within fourteen (14) days after such change has occurred. In

- accordance with section 184, every company must maintain a register of substantial shareholders. There are no requirements for information on the voting rights of shareholders to be kept accurate and updated on a timely basis.
294. **Nevis limited liability companies:** Although section 28 of the NLLCO provides for the amendment of articles of organisation to be filed with the Registrar, there is no stipulation for this to be done in a timely manner. There are also no requirements for the other information mentioned in criteria 24.3 and 24.4 to be kept accurate and updated on a timely basis.
295. **Nevis international business corporations:** Although section 17 of the NBCO requires a registered agent to notify both the corporation and the Registrar of any changes of the registered office of the corporation, there is no stipulation for these notifications to be given in a timely manner. Additionally, there are no requirements for the other information mentioned in criteria 24.3 and 24.4 to be kept accurate and updated on a timely basis.
296. **Foundations:** Although section 10(2) of the FA provides for a foundation to change its name, there is no stipulation that the Registrar be notified in a timely manner. Section 66 of the FA requires every foundation to submit a return annually to the Registrar which includes its name and registered address, the full name and address of each individual councillor, or the full name of the corporate councillor, the place where it is incorporated and its registered address. While section 63(3) provides for the foundation's by-laws to be amended or replaced, there is no requirement for notification of such changes to be given to the Registrar in a timely manner.
297. **Nevis multiform foundations:** Pursuant to section 10(3) of the MFFO, a copy of an amended memorandum of establishment must be delivered to the Registrar within fourteen (14) days of the change. According to section 19(1) of the MFFO, a multiform foundation which fails to maintain a registered agent shall be subject to dissolution. Although section 21(8) of the MFFO requires notice of resignation of a member of the multiform foundation's supervisory board to be given to the Registrar, there is no stipulated period for the provision of the notice. Pursuant to section 95, a multiform foundation is required to submit a return annually to the Registrar which contains the full name and address of each member of the multiform foundation's management board.
298. **Limited partnerships:** Section 8 of the LPA requires that an amended declaration specifying the nature of the change in the limited partnership must be delivered to the Registrar within twenty-one (21) days. While section 21(2) of the LPA provides for a change in the address of a limited partnership's registered office by giving notice to the Registrar, there is no stipulated period for the provision of the notice. Every limited partnership must submit a statement annually to the Registrar containing its name, the address of its registered office and the full name and address of each general individual partner or in the case of a body corporate, its full name, the place where it is incorporated and the address of its registered office. Section 22(2)(g) as amended by the Limited Partnerships (Amendment) Act No. 9 of 2019 requires the annual return to contain the identifying particulars with respect to all general partners and limited partners who are individuals and have beneficial ownership interest in the limited partnership. However, there are no requirements for a limited partnership to keep information on its basic regulating powers accurate and updated on a timely basis.
299. **Criterion 24.6** – This criterion requires the use of one or more mechanisms to ensure that information on the BO of a company is obtained by the company and available at a specified location or can be otherwise determined in a timely manner. In some instances, St. Kitts and Nevis has utilized mechanisms (a), (b) and (c) of this criterion.
- (a) Where any change is made to the structure of a company registered under the Company Act, section 8(4) as amended by the Companies (Amendment) Act No. 13 of 2021 requires the submission to the Registrar the identifying particulars for any natural person who is added to the structure of the company and who has a controlling ownership interest or who otherwise

exercises control of the company through other means. There is no requirement for such notification to be given to the Registrar in a timely basis. Pursuant to section 22(2)(g) of the LPA as amended by the Limited Partnerships (Amendment) Act No. 9 of 2019, the general partners of every limited partnership must submit a statement annually to the Registrar which includes the identifying particulars of all individual general partners who have beneficial ownership interest in the limited partnership.

- (b) Mechanism (b)- Under section 102 of the NBCO, a registered agent and any authorised custodian of bearer share certificates must maintain evidence of the beneficial owners of bearer shares which includes evidence of the persons who are beneficial owners of that corporation where the owner of the shares contained in the bearer share certificate is a corporation.
- (c) Mechanism (c)- The main mechanism for the collection of BO information is FIs and DNFBOs in conformity with the AMLR, ATR and FSR as set out in the analysis for Rec 10. However, as mentioned, obtaining the identity of the relevant natural person who holds the position of senior managing official where no natural person is identified under (a) or (b) of criterion 10.10 is not addressed in the AMLR, ATR and FSR.
300. **Criterion 24.7** – Regulations 4 and 5 of the AMLR and ATR and paragraphs 38 to 96 of the FSR require FIs and DNFBOs to keep updated beneficial ownership information of their customers which includes legal persons under the Company Act, CO, NLLCO, NBCO, FA, MFO and LPA. However, no specific timelines are mentioned in the AMLR and ATR to ensure that beneficial ownership information is updated on a timely basis. Paragraph 45 of the FSR requires that the beneficial owners of a company must be regularly monitored, and verification carried out on any new beneficial owners.
301. **Criterion 24.8** – St. Kitts and Nevis utilizes mechanism (b) of this criterion since all relevant persons, registered agents, TCSPs and persons providing fiduciary services are required by regulations 8 and 9 of the AMLR, regulations 8 and 9 of the ATR and paragraphs 117 to 130 of the FSR to provide beneficial ownership information to competent authorities. According to section 2 of the FSRCA, registered agents, TCSPs and persons providing fiduciary services fall within the ambit of the DNFBO definition.
302. **Criterion 24.9** – Sections 195 (2) of the Company Act stipulates a 10-year retention period of company records after dissolution and section 477 (2) of the CO has a (five) 5-year retention period. The Registrar may, at any time after thirty years from the date of the dissolution of a limited partnership and company destroy any records relating to that limited partnership and company. (section 60 (2) of the LPA and section 222 (2) of the Company Act). Regulation 8 of both the AMLR and the ATR as amended require FIs and DNFBOs which includes every registered agent service provider and TCSP to ensure that customer due diligence records of business relationships with companies, corporations, foundations and partnerships are maintained for at least five (5) years following the termination of the relationship with legal persons. Sections 67 (3) of the NLLCO and 103 (3) of the NBCO require the books and records of a limited liability company and an international business corporation to be preserved for a minimum period of five (5) years from the date on which they are prepared. However, these provisions do not specifically require LLCs and the IBCs to maintain information and records for at least five (5) years after the date on which the company is dissolved or otherwise ceases to exist, or five (5) years after the date on which the company ceases to be a customer of the professional intermediary or the FI.
303. **Criterion 24.10** – The competent authorities, particularly law enforcement authorities have the power to obtain timely access to basic and beneficial ownership information held by FIs and DNFBOs. Section 55 of the Nevis Tax Administration and Procedures Ordinance (NTAPO), section 33 of the POCA, sections 4 and 5 of the FIUA, section 39 of the FSRCA, paragraphs 117

to 130 of the FSR and regulations 8 and 9 of the AMLR allow the FIU, law enforcement authorities and judicial authorities to have timely access this information.

304. **Criterion 24.11** – St. Kitts and Nevis utilises mechanisms (a) and (c) to ensure that bearer shares are not misused for money laundering or terrorist financing. Companies registered under the Company Act are prohibited by section 29 (2) from issuing bearer shares or bearer share certificates. However, IBCs and private exempt companies can issue bearer shares, but the Federation immobilises them to prevent their misuse in line with mechanism (c). Registered agents and authorised custodians of bearer share certificates are required by section 102 of the NBCO to keep each bearer share certificate issued as well as a record which contains evidence of the beneficial owners of the bearer shares. Pursuant to section 52 of the Company Act, bearer share certificates issued by a private exempt company shall be kept in St. Kitts at the offices of a person authorised to carry on finance business. The authorised person shall maintain a record of each bearer share certificate deposited in its custody and shall notify the Registrar if the certificate is transferred to another custodian. Further, paragraph 86 of the FSR stipulate that although the use of bearer shares should be discouraged, regulated businesses should ensure that bearer shares are retained permanently by that regulated business and kept on file for the company which issued such shares.
305. **Criterion 24.12** – There are no provisions in the legislation governing legal persons which require appointees to disclose the identity of their nominator or ultimate beneficiary to the company or to any relevant registry. However, the AMLR, ATR and the FSR provide mechanisms to ensure that legal persons who have nominee shares and nominee directors are not misused. Paragraph 171 of the FSR define “fiduciary services” to include the provision of nominee shareholders, directors, chief executives or managers for companies or partnerships. These services can only be carried out by TCSPs or registered agent service providers. Verification of the identity of clients which includes obtaining beneficial ownership information is an important component of the client acceptance procedures outlined in paragraphs 172 to 177 of the FSR which must be performed by every fiduciary. Additionally, FIs and DNFBPs are required by regulation 4 of the AMLR and the ATR to apply identification procedures before the establishment of a business relationship or before carrying out a one-off transaction. Identification procedures include the identifying the customer, determining whether the customer is legitimately acting for a third party and if so, identifying that third party.
306. **Criterion 24.13** – Pursuant to sections 41, 44 and 45 of the Company Act, sections 466, 511 and 530 of the CO, sections 13, 97 and 109 of the NLLCO, sections 14, 15, 119 and 149 of the NBCO, sections 60, 66 and 68(3) of the FA, sections 19, 30, 81, 95 and 96 of the MFO and sections 8, 21, 22 and 59 of the LPA, there are sanctions for legal persons who fail to keep accurate and updated basic information:
307. **Companies:** Sanctions for companies and their officers who fail to keep accurate and updated basic information range from a maximum fine of XCD 2,500 (USD 920) and in the case of a continuing offence to a further daily maximum fine of XCD 250 (US D92). The above penalties are neither proportionate nor dissuasive.
308. **Domestic companies:** Sanctions for officers of domestic companies for offences include from on summary conviction alternatively or concurrently a fine of XCD 5,000 (USD 1,840) and six months imprisonment or to being struck off the register. The action of striking defaulting companies off the register is a dissuasive sanction. Additionally, the fine and period of imprisonment are proportionate and dissuasive sanctions for the company’s officers.
309. **Nevis limited liability companies:** Sanctions for an LLC include a fine of XCD 30,000 (USD 11,042) and being struck off the register and a penalty of XCD 1,350 (USD 496). The action of

striking defaulting LLC off the register is a dissuasive sanction. However, the fines are not dissuasive for LLCs with significant financial assets and capital.

310. **Nevis international business corporation:** Sanctions for an IBC include fines from XCD 1,350 (USD 496) to a maximum fine of XCD 10,000 (USD 3,680). The Registrar is empowered to remove an IBC from the register where the IBC fails to maintain a registered agent for a period of 60 days or engages in criminal activity. The action of striking defaulting IBCs off the register is a dissuasive sanction. However, the range of fines is not dissuasive for IBCs with significant financial assets and capital.
311. **Foundations:** Penalties for foundations range from imposition of judicial order to a maximum fine of XCD 2,500 (USD 920). Penalties for councillors include a maximum fine of four times the filing fee (USD 220) and for a continuing offence, a daily maximum fine of one half of the prescribed filing fee. The above penalties are neither proportionate nor dissuasive.
312. **Multiform foundations:** Sanctions for multiform foundations include dissolution and a maximum fine of XCD 500 (USD 184) for each day an offence continues. Every member of the management board and the secretary who commits the stipulated offence is liable to a maximum fine of four times the filing fee (which is XCD 675 or USD 248) and for a continuing offence, a daily fine of XCD 135 (USD 50). A multiform foundation, its member or secretary who fails to take reasonable precautions to prevent loss, destruction or falsification of records or fails to correct inaccuracies is liable to a maximum fine of XCD 2500 (USD 920). The above penalties are neither proportionate nor dissuasive.
313. **Limited Partnerships:** Penalties for specific offences committed by a general partner include a maximum fine of XCD 2500 (USD 920) and a daily maximum fine of XCD 250 (USD 92) for a continuing offence. A maximum fine of four times the filing fee (XCD 270 USD 100) for an ordinary limited partnership and XCD 540 (USD 200) for an exempt limited partnership) and a maximum fine of one half of the filing fee for a continuing offence can be imposed on every general partner for non-adherence to the statutory requirements for the submission of annual statements. The above penalties are neither proportionate nor dissuasive.
314. **Beneficial Ownership Information** In relation to beneficial ownership information under the Company Act and the NBCO, sanctions for legal persons apply only where there is non-compliance with the requirements for bearer shares (section 52 and section 102 respectively). For instance, an authorised person who fails in accordance with section 52 of the Company Act to maintain both basic and beneficial ownership information about bearer shares or fails to notify the Registrar about the transfer of such shares commits an offence and shall on summary conviction, be liable in case of a company, to a fine of XCD 20,000 (USD 7,400); and in case of an individual, to a fine of XCD 20,000 (USD 7,400) or to imprisonment to a term not exceeding twelve months. Any person who forges or alters any bearer certificate is liable to imprisonment for a term not exceeding two years or a fine or both. While the above imprisonment terms can be considered proportionate and dissuasive the fines are not. There are no proportionate and dissuasive sanctions for failure by legal persons to keep accurate and updated beneficial ownership information under the Company Act and the FA.
315. **Criterion 24.14** – The legislative citations examined in Recommendations 37 and 40 would enable St. Kitts and Nevis to largely comply with the requirements in this criterion. The MACMA, the Mutual Exchange of Information on Taxation Matters Act Cap. 20.60, and the Rules for the Exchange of Information on Tax Matters, the POCA, the ATA, the FIUA, and the FSR (Exchange of Information) No.15 of 2002 provide measures for competent authorities to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically. The deficiencies in Recommendation 37 and 40 will also be applicable for the criterion.

316. **Criterion 24.15** – The FIU has participated in the exchange of information, for intelligence purposes, pertaining to companies and associated company officers and beneficial owners. Additionally, the FIU is required by its SOPs to provide feedback to foreign agencies after receipt and proper evaluation of information provided by them to the FIU. The CATM, FSRC, WCCU have all requested basic and BO information from other countries. However, there are no legislative provisions for these authorities to monitor the quality of assistance they have received from other countries.

Weighting and Conclusion

317. There are no requirements for companies registered under the Company Act to maintain information on its basic regulating powers and for the register of shareholders to contain the associated voting rights of the shareholders. Limited partnerships are not required to maintain information on their basic regulatory powers. There are no requirements for NLLCs to maintain information on the company's name, proof of incorporation, legal form and status, basic regulating powers, list of directors and a register of shareholders or members. There are no requirements for IBCs to maintain information on the IBC's name and list of directors. The ML/TF risks of legal persons have not been assessed and identified. There are no requirements for most of the information mentioned in criteria 24.3 and 24.4 to be kept accurate and updated in a timely basis for LLCs and IBCs. Not all legal persons are required to be registered by a registered agent or TCSP. While the terms of imprisonment prescribed for breaches of the relevant laws are proportionate and dissuasive, the fines are not.
318. **Recommendation 24 is rated partially compliant.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

319. Recommendation 25 (formerly R. 34) was rated LC in the 3rd MER due to the inability to assess whether information on private domestic trusts was adequate and accurate. This deficiency remained outstanding at the end of the 3rd Round follow-up process. The FATF requirements to this recommendation have significantly changed.
320. **Criterion 25.1** – The requirements of criterion 25.1 are fully satisfied in relation to trusts registered under the TA and the NIETO. Trust business carried on under the TA and the NIETO are regulated business activities for AML/CFT purposes (according to the First Schedule of the POCA) and are subject to CDD and beneficial ownership requirements of the AMLR and the ATR. Regulations 14 (1) and 16 of the AMLR and ATR stipulate that regulated businesses which include trusts registered under the TA and NIETO must comply with the FSR. According to the FSR, “fiduciary services” are those carried out by persons authorised to conduct trust and/or corporate business under the FSRO and/or licensed as a registered agent service provider by the Nevis Island Administration i.e., professional trustees. Therefore, fiduciaries must implement the verification and record keeping procedures outlined in paragraphs 173 to 180 of the FSR in order to obtain both basic and beneficial ownership information for their clients. Fiduciaries must maintain records for a period of five (5) years following the discontinuation of service provided to professional service clients or other clients.
321. **Criterion 25.2** – Trust business carried on under the TA and the NIETO are regulated business activities for AML/CFT purposes (according to the First Schedule of POCA) and are subject to CDD and beneficial ownership requirements. Regulated businesses are required by regulations 4, 5 and 7 of the AMLR and regulations 4, 5 and 7 of the ATR to conduct ongoing verification procedures of all customers, including keeping updated beneficial ownership information. Paragraphs 40 to 96 of the FSR imposes the same obligation on fiduciaries including professional

trustees. Regulations 14 (1) and 16 of the AMLR stipulate that regulated businesses which include trusts registered under the TA and NIETO must comply with the FSR.

322. **Criterion 25.3** – Trustees are not required to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction. According to paragraph 43 of the FSR, a trustee who is an individual is considered a verification subject and the FIs and DNFBPs are required to obtain all identification documents as stipulated by the KYC procedures outlined in paragraphs 74-81 of the FSR. In accordance with paragraphs 45-46 of the FSR, a corporate trustee is subjected to similar KYC procedures outlined in paragraphs 82-83.
323. **Criterion 25.4** – Trustees within St. Kitts and Nevis are not prevented by law or enforceable means from providing competent authorities with any information relating to a trust. There are also no laws or enforceable means which would prevent FIs and DNFBPs from disclosing information, upon request, on beneficial ownership and assets held or managed in respect of the trust.
324. **Criterion 25.5** – Section 23 of POCA allows for the police to obtain production orders to access information from FIs, DNFBPs and other natural and legal persons. This will allow for access to information held by trustees. (a) Regulation 8(4) of the AMLR and ATR requires a relevant person to keep the records stipulated in sub regulation (2) of the AMLR and ATR i.e., CDD information to be made available on a timely basis to the relevant competent authority for the purposes of complying with any appropriate enactment. The records include CDD requirements which cover beneficial ownership. (b) Every fiduciary is required by paragraph 174 of the FSRC's Guidance Notes to maintain on its file updated details and proof of the client's address. Trustees as clients of FIs and DNFBPs are verification subjects according to paragraph 43 of the FSRC's Guidance Notes. (c) There is no requirement for information on any asset of the trustee held or managed by a FI or DNFBP.
325. **Criterion 25.6** – The FSRC is authorised by section 3 of the FSRC Act to assist a foreign regulatory authority which has requested assistance in connection with inquiries being carried out by it or on its behalf in respect of any regulatory functions. If the FSRC is satisfied that assistance should be provided with respect to a request by a foreign regulatory authority, it may, request any person to furnish it with information, documents or any assistance with respect to any matter relevant to the request, as a regulatory authority may specify. The legislative citations examined in R. 37 and 40 would enable St. Kitts and Nevis to comply with the requirements in this criterion. The MACMA, the Mutual Exchange of Information on Taxation Matters Act, and the Rules for the Exchange of Information on Tax Matters, the POCA, the ATA, the FIUA, and the FSR (Exchange of Information) no.15 of 2002 provide measures for competent authorities to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically.
326. **Criterion 25.7** – Section 39 of the TA provides a single civil sanction for failure to perform duties of a trustee. However, the sanction for failure is dependent upon the value of the property involved. Therefore, this sanction would only be proportionate and dissuasive for trusts managing properties of significant financial value and not for properties of minimal financial value. Criminal sanctions are available under sections 4(9)(1), 3 (7) and 8(10) of the AMLR and ATR for non-compliance by trustees with their obligations mentioned herein. Administrative sanctions are available under section 4 of the Financial Services (Implementation of Industry Standards) Regulations, 2011 for breaches by trustees of the obligations imposed on them herein.
327. **Criterion 25.8** – The requirement for trust information to be made easily available to competent authorities is set out in regulation 8(4) of the AMLR and the ATR. Regulation 8(10) stipulates that failure to keep records in a manner consistent with the regulation is liable on conviction to a fine of XCD 25,000, (USD 9,201). This sanction would only be proportionate and dissuasive for trusts managing properties of minimal financial value and not for properties of significant financial value.

Weighting and Conclusion

328. While most of the requirements of the criteria have been met, St. Kitts and Nevis did not demonstrate that there are proportionate and dissuasive sanctions for trustees who do not carry out their obligations under this Recommendation. Trustees are also not required to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction.

329. **Recommendation 25 is rated partially compliant.**

Recommendation 26 – Regulation and supervision of financial institutions

330. Recommendation 26 (formerly R.23) was rated PC in the 3rd MER. Deficiencies included fit and proper requirements being not applicable to credit unions, domestic insurance companies and money service providers and indirectly imposed on directors or managers of institutions covered by the FSRO. Further, there were no fit and proper requirements under the CICA for owners or directors under the international banking law for senior managers. The insurance sector was not supervised on a group basis. The Banking Act did not have provisions for the ECCB to inspect for AML/CFT and the ECSRC lacked powers to inspect and sanction for AML/CFT measures. These deficiencies were addressed by the ECCB, FSRC and ECSRC increasing resources, training and expertise and fit and proper requirements were incorporated in relevant legislation. In St. Kitts and Nevis 7th follow-up report in 2013, this recommendation was re-rated largely compliant. Since then, the FATF requirements on this recommendation have changed.

331. **Criterion 26.1** – Section 4(2)(d) of the FSRCA designates the FSRC with the responsibility for monitoring compliance of regulated persons with POCA, ATA and such other Acts, regulations, codes or guidelines relating to ML or FT. Under section 3(a)(iii) of the MFSAA, 2021 “*regulated person*” means any person carrying on a regulated business activity as defined under section. 2 of the AMLR. A regulated person is defined as any person carrying on a regulated business activity as defined under the POCA 4.28; this covers all FIs and DBFNPS categories as set out by the FATF. Additionally, under the section 3(a)(ii) of the MFSAA 2021 the definition of a “*regulated entity*” includes (a) an entity regulated under this Act and any enactment specified in Schedule 1; and (b) a regulated business activity carried on pursuant to the provisions of section 2 and Schedule 1 of the POCA. In the MFSAA 2021, section 3(ii)a expands the definition for “*financial services and related products*” in the FSRCA to include: all activities of licensed FIs and DNFBPs in St. Kitts and Nevis.

332. **Criterion 26.2** – Section 7 of the BA prevents the approval of the establishment of shell commercial banks while sections 7 and 8 of the NIBO prevent the establishment of shell international banks in Nevis. Banks are required to be licensed under sections (3)(1) and (3)(4) of the BA, 2015 and insurance companies registered under section 10(1)(a) while section 213 of the IA requires registered companies to pay a licensing fee at registration in January of each year. The requirements to meet registration approval under the IA are consistent with licensing requirements and the terms registration and licensing appear to be used interchangeably in the IA. Under the SA, Cap 21.16 security market participants are required to be licensed under section 46. Other FIs required to be registered or licensed are co-operative societies which are required to be registered under section. 9 of the CSA and money service providers licensed under sections 4(1) – (4) of the MSBA.

333. **Criterion 26.3** – Section 8(2) of the BA stipulates that a condition for the granting of a banking licence is that proposed directors and officers are fit and proper. Section 22 of the BA requires the ECCB to make such investigations and inquiries necessary to evaluate whether a shareholder or proposed shareholder is a fit and proper person pursuant to sections 97 and 98; whether the board of directors of the shareholder or proposed shareholder are fit and proper persons pursuant to section 97. Section 97 of the BA requires every person who is, or is likely to be a director, significant

shareholder or officer of a bank or bank holding company to be a fit and proper person. Significant shareholder is defined in sections 2 as a person who owns more than 10% of shares or who exercises or controls more than 10% of the voting rights of a bank. Fit and proper criteria are set out in sections 97(2) and 98 of the BA. The criteria are extensive and include qualifications, competence, integrity, criminal record, financial employment history and associations. Section 101 requires notification of the appointment of any new director or officer to the ECCB with final approval of such appointments based on them satisfying the fit and proper criteria. Section 22(h) of the BA requires that in approving ownership or control of a domestic bank consideration must be given to the identity of the ultimate beneficial owner of the shares and whether such owner is a fit and proper person.

334. Regarding insurance companies, sections 202 and 203 of the IA requires that a director, officer or manager of a local insurance company, the principal representative of a foreign insurance company must be a fit and proper person. Section 15(1)(e) (g) of the IA makes provisions for the Registrar to conduct necessary investigations to determine if proposed directors and persons who constitute the management of the applicant are fit and proper in accordance with criteria in section 202 and significant shareholders are suitable. The fit and proper criteria are set out in section 202 and administered by requiring directors, managers and significant shareholders to complete a personal questionnaire covering probity, qualifications, competence, criminal history, business experience, history and associations. A significant shareholder as defined in section 2 of the IA is a person who either alone or with an affiliate, is entitled to exercise or control more than 20 per cent of the voting rights at a general meeting of a registered insurance company. The provisions relevant to preventing criminals or their associates from holding the function of a director or officer or manager do not include being a beneficial owner.
335. Sections 199(10), (11) and (12) of the CSA, No. 31 of 2011 require that all directors, officers and managers of a credit union must be fit and proper persons to hold these positions. Fit and proper criteria are set out in sections (11) and (12) of the CSA No. 31 of 2011. Section (13) stipulates that the registrar would prescribe a personal questionnaire form for the fit and proper test to accompany an application form for a credit union. Section 53 of the CSA also sets out the criteria for members of the Board and Committees. All new directors, managers and officers are required to undergo fit and proper tests.
336. Section 6(4) of the MSBA requires that an applicant for a licence is fit and proper. Section 6(5) of the MSBA stipulates that each of the applicant's significant shareholders, directors, executive management, agents and officers must be assessed based on fit and proper criteria which include financial status, qualifications, competence and reputation. Associates and employees of the applicant and significant shareholders, directors or officers of any other company or firm in the same group of companies as the applicant may be also considered. Significant shareholder is defined in sections 2 of the MSBA as a person who exercises or controls 10% or more of the voting power of the licensee or of another company of which the licensee is a subsidiary. Under sections 9(2) of the MSBA the above measures are repeated at the annual renewal of license of the MSB. The above measures while implementing relevant measures to prevent criminals or their associates from holding a significant or controlling interest or holding a management function do not include beneficial owners.
337. Section 9(1)(c) of the NIIO stipulates that the controller, directors and chief executive (if any) of an applicant must be fit and proper for registration to be approved. Regulation 3 of the NIIR 2004 requires the directors and all control persons of applicants for registration to complete a fit and proper questionnaire to collect information on financial status, qualifications, competence and reputation. Control persons include each manager, shareholder and beneficial shareholder who is a natural person holding more than ten (10%) percent of the applicant's capital or voting rights. Further section 16 of the NIIO requires approval from the Registrar to affect any material changes

- including directors, managers and shareholders. This process is also done annually at the renewal of registration.
338. Regarding applicants for an international banking licence, sections 13(2)(f) of the NIBO, requires the regulator to conduct an examination to determine the character and experience of the directors and shareholders having more than five percent of the shares to ensure that only fit and proper persons are in the management and control of the company. Section 22(5) authorizes a licensee to apply to the Regulator for written approval of the appointment of a director or other senior officer. Approval is dependent on section 80 of NIBO which sets out the minimum criteria for determining fit and proper status. Section 80(1) of the NIBO stipulates that a director, shareholder or manager of a licensee shall be a fit and proper person. Sections 80(2) and (3) of the NIBO outline the relevant criteria including taking into account whether the person has committed an offence involving fraud, dishonesty or violence or contravened any provision designed for protecting members of the public against a financial loss due to dishonesty, incompetence or malpractice, etc. The persons holding a significant or controlling interest or holding a management function are subject to ongoing fitness and propriety assessments during the renewal of the licence and such assessments are also triggered when there are changes in these functions. While the above provisions implement relevant measures to prevent criminals or their associates from holding a significant or controlling interest or holding a management function they do not include beneficial owners, however the fit and proper questionnaire used by FSRC Nevis Branch makes provision for the fit and proper test to be applied to beneficial owners While the above cited measures cover a range of FIs, no requirements for preventing criminals or their associates from holding a significant or controlling interest or holding a management function in the securities sector was provided.
339. **Criterion 26.4 – (a)** Section. 4(2)(d)(ii) of the FSRC Act mandates the FSRC to apply regulatory and supervisory measures to monitor regulated persons for implementation of core principles that apply for prudential purposes, but which are also relevant to ML/TF. **(b)** Section 4(1) and (2)(a) and (d) of the FSRC Act provides that the FSRC is the ultimate body for the regulation of activities relating to financial services listed in First Schedule of POCA and matters relating to ML and TF and this covers all other financial institutions for AML/CFT purposes.
340. **Criterion 26.5 – (a)** the FSRC Risk Based Supervisory Framework provides a method for assessing the ML/TF risks of financial institutions as part of the overall assessment of the FIs prudential risk. Upon completion of an onsite examination regulated entity's inherent risks are identified and assessed. Risk management systems of the regulated entities are also evaluated including policies, internal controls and procedures The onsite examination also conducts detailed analysis to determine an entity level of compliance with AML/CFT laws and regulation and the effectiveness of regulated entities ML/TF risk mitigating measures. These three areas are used to develop a composite overall risk rating of the entity which forms the basis for determining monitoring intervals and follow-up examinations. **(b)** the measures in FSRC Risk-Based Supervisory Framework do not include consideration of ML/TF risk in the country. **(c)** the measures in the FSRC Risk Based Supervisory Framework do not include the requirements in this sub-criterion.
341. **Criterion 26.6 –** Per the RBS Framework (pg 25-26) the frequency and scope of monitoring depends on the size, complexity, and risk profile of the institutions but procedures are performed at a minimum quarterly and more frequently for higher risk institutions. Also, in the planning stage, reviews of regulated entities are prioritized taking into account their systemic importance, their risk profiles, their volatility, material changes in strategies, any significant changes in management or corporate governance, Appendix G of the RBS framework (pg.44) outlines the various intervention methods the regulator uses to ensure compliance. It should be noted that the risk profile indicated above is a prudential risk profile and ML/TF risk is one of the areas that form part of the overall risk profile.

Weighting and Conclusion

342. The FSRC is the designated AML/CFT supervisor for banks, insurance and securities entities. The measures to prevent criminals or their associates from holding a significant or controlling interest or holding a management function are only applicable for banks, insurance companies, money service providers and international banks and insurance companies. The measures do not include beneficial owners in all instances. There are minimal requirements for risk-based supervision of FIs.
343. **Recommendation 26 is rated partially compliant.**

Recommendation 27 – Powers of supervisors

344. Recommendation 27 (formerly R. 29) was rated PC in the 3rd MER since the ECCB's powers to inspect did not directly extend to AML/CFT, the ECSRC lacked powers to inspect for AML/CFT measures and there were limited sanctions under the AMLR and the ATA. The deficiencies were addressed by amendments in the ATA and the AMLR. In St. Kitts and Nevis' 6th follow-up report in 2012, this recommendation was re-rated compliant. Since then, the FATF requirements on this recommendation have changed.
345. **Criterion 27.1** – As noted in criterion 26.1 section. 4(2)(d) of the FSRCA designates the FSRC with the responsibility for monitoring compliance of regulated persons with POCA, ATA and such other Acts, regulations, codes or guidelines relating to ML or FT. The MFSAA, 2021, subsection. 3(ii)(a) expands the definition for “*financial services and related products*” in the FSRCA to include all activities of licensed FIs and DNFbps in St. Kitts and Nevis. Powers of the FSRC are set out in the FSRCA and include onsite inspections, information gathering, and sanctions as outlined in criterion 27.4 below.
346. **Criterion 27.2** – Subsection 4(2)(g) of the FSRCA authorises the FSRC to examine the affairs or business of a FI to ensure that the provisions of the Act are being complied with by the FI. These provisions include monitoring compliance with AML/CFT requirements. Also, section 38(1) of the FSRCA authorises the FSRC to examine or cause an examination of any FI whenever in its judgement such examination is necessary to determine that the requirements of the Act have been complied with in the conduct of the entity's business. The legal provisions above allow for the FSRC to carry out inspections.
347. **Criterion 27.3** – Section 39(1) of the FSRCA provides for the FSRC to be able to compel the production of documents, records or information in the custody or control of an FI. This provision will include information relevant to monitoring compliance with AML/CFT requirements.
348. **Criterion 27.4** – Sections 40(1)(b) and 40(2) of the FSRCA allow the FSRC to impose a range of sanctions for breaches of AML/CFT requirements. These sanctions include a written warning, a written agreement for a program of remedial action, cease and desist orders, restricting or varying the operation of a licence and revocation of the licence to operate. Please see the analysis in criterion 27.1.

Weighting and Conclusion

349. **Recommendation 27 is rated compliant.**

Recommendation 28 – Regulation and supervision of DNFbps

350. Recommendation 28 (formerly R.24) was rated NC in the 3rd MER. The deficiencies included casinos not subject to an effective AML/CFT supervisory regime, no provision in the FSCA for the

FSRC to regulate and supervise non-financial services and lawyers questioned the FSRC authority to conduct on-site inspections for AML/CFT purposes. In the 9th follow up report the deficiencies were partly addressed by amendments to the FSRCA. Since then, the FATF requirements on this recommendation have changed.

351. **Criterion 28.1** – The specific requirements of the criterion are analysed as follows: **(a)** Section 103 & (4) of the Gaming Control Act (GCA), 2021 criminalises all unlicensed gaming activity. Section (11) of the GCA, 2021 requires any person who wants to engage in casino, internet gaming, racing, lottery, slot parlour, and sport betting activities has to apply for a licence from the FSRC. **(b)** Section (22) requires applicants for a gaming license to satisfy fit and proper requirements in the Third Schedule. The persons identified in the Third Schedule includes owners, directors, members, officers and managers of the applicant; all holding companies; any directors or officers of a holding company exercising control or influence over the operations of the applicant; all shareholders of a holding company owning greater than 5 percent of the stock of the holding company; key gaming employees, any other person who in the opinion of the Commission, can exercise control or influence over the operations of the applicant. Under section 18(2)(c) the gaming license is renewed annually, and the above measures are applicable. The above list does not include beneficial owners and fit and proper criteria are not defined. **(c)** Section 43A(1) of the FSRCA, as amended (2018) and section 3 of the GCA, 2021 provides for the supervision of casinos for compliance with AML/CFT requirements.
352. **Criterion 28.2** – Section 4(2) of the FSRCA designates the FSRC as the ultimate regulatory body for the supervision and monitoring of regulated entities' compliance with POCA, ATR and such other laws, regulations, codes or guidelines relating to ML/TF. Section 3 of the FSRCAA, no. 12 of 2018, makes the FSRC responsible for supervising DNFBPs which includes casinos and all other DNFBP categories. It further amended the definition of financial services or related products in (f) to include DNFBPs.
353. **Criterion 28.3** – Section 3 of the FSRCAA, no. 12 of 2018 provides for all the categories of DNFBP including car dealers and car rental agencies to be subject to systems for monitoring compliance with AML/CFT requirements.
354. **Criterion 28.4** – **(a)** The analyses in R27.1, 27.2 and 27.4 are applicable insofar as they relate to the powers of the FSRC. The FSRCAA, no. 12 of 2018 establishes the FSRC as the competent authority responsible for supervising DNFBPs. **(b)** The Financial Services (Trust and Corporate Business) Regulations (2019), sections 5(4) make provision for the information and documents which should be submitted for shareholders, directors and senior management for a licensing application for a TCSP. The information submitted includes data necessary to conduct a fit and proper assessment of the relevant persons. However, the above listed persons do not include beneficial owners. There are no measures for competent authorities to ensure that criminals or their associates are prevented from being professionally accredited or holding (or being the beneficial owner of) a significant or controlling interest or holding a management function in lawyers, accountants, real estate brokers and dealers in precious metals and precious stones. **(c)** The analysis in 27.4 is applicable regarding supervisors being authorised to impose sanctions in line with Recommendation 35. per sections 40(1)(b) and 40(2) of the FSRCA that allow the FSRC to impose a range of sanctions for breaches of AML/CFT requirements. These sanctions include a written warning, a written agreement for a program of remedial action, cease and desist orders, restricting or varying the operation of a licence and revocation of the licence to operate. These provisions comply with the requirements of this sub-criterion.
355. **Criterion 28.5** – The analysis for 26.5 which deals with the FSRC's supervision of FIs is applicable for the supervision of DNFBPs per the FSRCAA, no. 12 of 2018.

Weighting and Conclusion

356. Casinos are required to be licensed. The FSRC is the designated supervisory authority responsible for monitoring and ensuring compliance of all DNFBPs with AML/CFT requirements. The FSRC has relevant supervisory sanctioning powers. Fit and proper measures for TCSPs are minimal and no information has been provided about how the competent authorities ensure that criminals or their associates are prevented from being professionally accredited or holding or being the beneficial owner of a significant or controlling interest or holding a management function in lawyers, accountants, real estate brokers and dealers in precious metals and precious stones. The fit and proper measures applicable to casinos are also limited.

357. **Recommendation 28 is rated partially compliant**

Recommendation 29 - Financial intelligence units

358. Recommendation 29 (formerly R.26) was rated PC in the 3rd MER due to the absence of a time-period for the filing of TF related STRs, concerns about the confidentiality and security of information held by the FIU and the FIU's independence and autonomy. As indicated in the 9th FUR the deficiencies were addressed by an amendment to the ATA and the AMLR; the re-location of the FIU, establishment of a training function for FIU staff and processes to give more autonomy to the Director of the FIU.

359. **Criterion 29.1** – The FIU was established in 2001 by virtue of section 3 of the FIUA and is an administrative type. It was established for the purpose of combatting ML and TF. Section 4(1) of the FIUA provides for the FIU to collect, receive, analyse and act upon STR information and disseminate information on suspicious transactions to competent authorities.

360. **Criterion 29.2** – (a) Under subsection 4(3)(1)(a) of the FIUA, the functions of the FIU include the receipt of suspicious transaction information. Regulation 10(4) of the AMLR and section 16(6) of the ATA mandate FIs and DNFBPs to report STRs relative to ML and TF to the FIU. Section 4(3) of the FIUA mandated the FIU to receive all disclosure of information, as is required by the POCA and the ATA, if such disclosures are relevant to its function. (b) There are no requirements under national legislation that requires reporting entities to submit disclosures to the FIU.

361. **Criterion 29.3** – (a) Section 4(1)(e) of the FIUA authorises the FIU to do anything that is related or incidental to its functions, which includes the analysis of STRs. This section has been utilised by the unit to obtain information to conduct its functions. Additionally, without limiting the generality of section 4(1)(e), section 4(3)(d) of the FIUA permits the FIU to make an application for a production order requesting materials of a financial nature from a reporting entity which it considers relevant to its functions in respect of a suspicious transaction. (b) The FIU has access to the possible widest range of databases to conduct its functions. Section 10(i)(a) of the MAFATFA 2020 allows the FIU to have access to databases from the FIs and DNFBPs, competent authorities and other businesses. Further, the FIU's SOPs, page 4, para 17 sets out the procedure when conducting data-gathering that involves indirect access to the various databases of the FIs, DNFBPs, RSCNPF, Immigration, Customs, Traffic Department, Business License Department, etc.

362. **Criterion 29.4** – (a) Under section 9(3) of its SOP the FIU conducts operational analysis. The FIUs' operational analysis includes value added STRs, results from information relating to financial profiles from drug arrests and results of analysis of information from other sources. One of the objectives of the FIU's analysts in conducting operational analysis, as detailed in the SOP, includes identification of links, association and patterns. (b) Under the section 9(4) of the SOP the FIU may produce strategic analysis including identifying ML/TF related trends and patterns. However, the output is mainly designed to raise awareness for reporting entities. It should be noted this provision is discretionary.

363. **Criterion 29.5** – Section 4(1)(b) of the FIUA authorises the FIU to disseminate information on suspicious transactions it has received to competent authorities. Section 8(1) of the FIUA requires the FIU upon conducting its analysis and having reasonable grounds to suspect that a ML/TF offence has been committed to submit a report to the COP for the necessary actions. Section 10(i)(b) of the MAFATFA 2020 provides for the FIU to disseminate financial intelligence and information to national and foreign authorities. Procedures for the dissemination of information via secure means are set out in pg. 11 of the SOPs. It stipulates that hand delivered information should be double enveloped and dispatched via the most secure available means and information is also disseminated via secure email and the Egmont Secure Website Information Sharing Portal.
364. **Criterion 29.6** – The FIU protects its information in the following ways: **(a)** Section 12(1) of the FIUA stipulates that any individual, including members of staff who receive information in any form, as a result of his or her connection with the FIU shall not disclose that information to any person, except so far as required or permitted under the Act. The violation of the foregoing confidentiality requirement is a criminal offence under section 12(2). Requirements regarding the handling, storage, protection and access to information is further reinforced in the FIU SOP. **(b)** The FIU SOP (page 16-27) outlines the security procedure for staff of the FIU. All members of staff are required to read the SOP. Pages 19-20 of the SOP outline the different levels of security clearance for staff, regarding access to particular databases. The SOP also stipulates that FIU staff should be provided with the necessary identification and password access. The access to information by FIU staff is at the judgement of the Director and the level of access is granted based on several factors. As noted above under criterion 29.5 there are procedures for the dissemination of information via secure means set out in pg. 11 of the SOPs. **(c)** The FIU SOP detailed some of the measures that are required for staff and visitors to the FIU. The SOP also detailed the level of access by visitors. It also sets out the security system and access to information technology within the FIU.
365. **Criterion 29.7** – In relation to the operational independence and autonomy of the FIU; **(a)** The Director of the FIU is appointed by the Minister in writing in accordance with the FIUA. Section 3(2) of the FIUA designates the Director as responsible for managing the day-to-day affairs of the FIU. Therefore, the Director is responsible for making decisions regarding analysis and dissemination. Section 9 of the FIUA makes provision for the Minister to give direction to the Unit in relation to its functions as it appears to the Minister to be requisite in the public interest and the FIU is mandated to give effect to those directions. The Minister power is limited since instructions are general in nature and does not interfere with the independence and autonomy of the FIU. **(b)** Subsection 4(3)(g) of the FIUA as amended in Section 10(f) of the FIUA of the MAFATFA 2020 allows for the FIU to enter into agreements or arrangements with domestic and foreign competent authorities. **(c)** The FIU is a body created by statute. The Unit is housed within the Ministry of Finance. However, its functions are separate and distinct from those of the Ministry of Finance. **(d)** Section 3(h) of the FIUA makes the Director of the FIU responsible for the recruitment of personnel who he/she may consider necessary. The recruitment of consultants for the FIU falls within the remit of the Minister. Section 3 (g) and (h) provide the authority to the Director to independently deploy staff. Section 3 (2) empowers the Director to manage the day-to-day operations of the FIU.
366. **Criterion 29.8** – The FIU was granted membership into the Egmont Group in June 2004.

Weighting and Conclusion

367. The FIU is the national centralised agency responsible for the receipt, analysis and dissemination of STRs relative to ML/TF. The FIU has the authority to request additional information from reporting entities and access to databases. The FIU functions include operational and strategic analysis. There are provisions for the FIU to protect its information although some minor deficiencies exist. There are measures for the FIU to enter into agreements and arrangements but only in relation to foreign counterparts.

368. **Recommendation 29 is rated largely compliant.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

369. Recommendation 30 (formerly R. 27) was rated NC in the 3rd MER due to a lack of measures to waive or postpone the arrest of suspected persons and or the seizure of cash with the view to identify persons involved and ML and TF were not properly investigated. These deficiencies were addressed by provisions in the Police Act and the establishment of the WCCU as noted in the 9th FUR. Recommendation 30 contains much more detailed requirements than the former Recommendation 27.
370. **Criterion 30.1** – Section 5(1) of the Police Act designates the RSCNPF as constitutionally responsible for the prevention and detection of all crimes, including ML and TF within St. Kitts and Nevis. The WCCU is a specialised unit within the RSCNPF specifically tasked with the functions of investigation of financial crimes, ML and TF.
371. **Criterion 30.2** – The different investigative departments within the RSCNPF collectively charged with the responsibility of investigating the different (local and foreign) associated predicate offences are all required to report suspected ML/TF cases to the WCCU. The WCCU by virtue of being responsible for the investigation of specific financial crimes that are predicates for ML or TF is responsible for conducting parallel financial investigations when ML or TF is suspected of being involved.
372. **Criterion 30.3** – The RSCNPF in conjunction with the DPP is responsible for expeditiously tracing and initiating freezing and seizing of property that is or may become subject to confiscation. Section 14(1) of POCA provides for the DPP to obtain restraining orders to freeze property.
373. **Criterion 30.4** – Section 3 of the TAPA as amended in the MFSAA, 2021 designates the Comptroller of Inland Revenue as the competent authority for the investigation of tax crimes. Where these investigations involve or are relate to the financial investigations of predicate offences, the CATM would then inform the FIU and liaise with or turn these matters over to the WCCU for continuing investigations. Part III of POCA, section 7 gives customs officers the powers to investigate predicate offences, seize and detain cash and monetary instruments. Sections 10 and 11 of the Customs Act give the officers the same powers, authorities and privileges as are given by law to a police officer.
374. **Criterion 30.5** – The RSCNPF through the WCCU and the Criminal Investigation Department (CID) is charged with the responsibility of investigating corruption offences and would therefore have powers indicated in criterion 30.3.

Weighting and Conclusion

375. **Recommendation 30 is rated compliant.**

Recommendation 31 - Powers of law enforcement and investigative authorities

376. Recommendation 31 (formerly R. 28) was rated LC in the 3rd MER due to lack of effectiveness. As noted in the 9th FUR this was addressed by amending POCA to allow for greater flexibility in investigations. Recommendation 31 contains much more detailed requirements than the former Recommendation 28.
377. **Criterion 31.1** – LEAs conducting investigations and prosecutions of ML, associated predicate offences and TF are able to access information and documents in specific circumstances: **(a)** Section 23 of POCA allows a police officer to obtain production orders when he/she has reasonable grounds for suspecting that a person has committed a serious crime or has been convicted for an offence and

that person has in his possession or control any documents. The definition of person includes body corporate and unincorporated. Production orders are used to access information from FIs, DNFBPs and other natural and legal persons, **(b)** Section 28 of POCA provides for a police officer who has reasonable grounds for suspecting that a person has committed an offence or has been convicted for an offence, to apply to a judge for a search warrant for the premises. Subsection 5(2)(f) of the Police Act allows a police officer to stop and search persons based on reasonable suspicion. **(c)** Sections 4, 5, 8 and the First Schedule of the Interviewing of Suspects Act, No. 38 of 2012 provide for investigators to take witness statements in a wide range of circumstances. **(d)** Subsection 28(1)(c) of POCA equips a police officer with the necessary powers to seize and obtain evidence located at any property by virtue of a search warrant based on reasonable grounds for suspecting that a person has committed a serious crime.

378. **Criterion 31.2** – Competent authorities conducting investigations can use the following investigative techniques: **(a)** Section 6 of the Police Act was amended in the MAFATFA, 2020 to allow the conduct of undercover operations. **(b)** Section 4 of the Interception of Communication Act allows for an authorised officer (COP, Director of the FIU etc) to request the DPP to apply to a judge for an interception direction. Interception can be applied for ML and TF offences. **(c)** Section 16 of the Electronic Crime Act provides for a Magistrate being satisfied, based on an ex-parte application by a police officer that specified computer data is required for criminal investigation or proceeding, to grant a production order mandating an individual in St. Kitts and Nevis to produce the specified computer data or print out or other intelligible output of data. Such an order can also be made to an internet service provider. Section 15 of the Electronic Crimes Act provides for a police officer by warrant to seize any computer, data, program, information, document or have access to check and inspect the operation of any computer or to use any computer to search for any data it contains. **(d)** Section 6 of the Police Act was amended in the MAFATFA, 2020 to allow for the use of controlled delivery.
379. **Criterion 31.3** – **(a)** Production orders are used by LEAs to obtain information relating to accounts. It therefore means that the LEA should have knowledge that the account exists. Section 23(3)(b) of POCA clearly states that the property must be specified in the affidavit of the applicant. Section 7 of the Interpretation Act CAP 1.02 prescribes that where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises. Therefore, the above provisions would provide mechanisms to identify in a timely manner, whether natural or legal persons hold or control accounts. **(b)** Section 23(2) allows for an ex parte application for a production order which means that there would be no notice given to the applicant of the information being sought.
380. **Criterion 31.4** – On the basis of a signed MOU between FIU, RSCNPF, DPP and CED, law enforcement officials conducting investigations of ML, associated predicate offences and TF are authorised to request from the FIU all relevant information.

Weighting and Conclusion

381. **Recommendation 31 is rated compliant.**

Recommendation 32 – Cash Couriers

382. Recommendation 32 (formerly R. SR. IX) was rated NC in the 3rd MER. Deficiencies include cases of cross border seizures of cash and bearer instruments not properly investigated, no coordination domestically between the relevant authorities, no records on the seizure of cross border cash and bearer negotiable instruments and sanctions not being proportionate and not implemented. As noted in the 9th FUR, these deficiencies were addressed by improved cooperation through inter-agency meetings and the Customs Division continuing to facilitate and participate in regular training;

locally, regionally and internationally. Customs also signed an MOU as a member of the CCLEC allowing for information exchange.

383. **Criterion 32.1** – St. Kitts and Nevis has implemented a declaration system and disclosure system for incoming and outgoing cross-border transportation of currency and BNIs. The declaration system requires any person entering, importing or exporting currency or negotiable instruments or arriving or leaving St. Kitts and Nevis to make a declaration. The CED has implemented a declaration system (Cash Enquiry/Detention Questionnaire Form C/FIU 1) for incoming and outgoing cross-border transportation of currency and BNIs exceeding USD10,000 or its equivalent. Under section 7(2) of POCA a Customs Officer or a member of the Police Force shall require the person to sign a declaration as to the amount of money being imported into or exported from St. Kitts and Nevis. Every importer and exporter of goods is required by sections 38 and 50 of the Customs Act to submit an import declaration and export declaration respectively in relation to such goods. However, the declaration forms under sections 38 and 50 were not provided and it is unclear whether the form and manner of the declarations as well as the time period for their submission have been prescribed. The disclosure system is evident from sections 19, 28 and 31 of the Customs Act and section 11 of the Immigration Act Cap.6.02 whereby travellers must truthfully answer questions and comply with the requests made by the authorities.
384. **Criterion 32.2** – St. Kitts and Nevis has implemented a declaration system and disclosure system for incoming and outgoing cross-border transportation of currency and BNIs. The CED has implemented a declaration system (Cash Enquiry/Detention Questionnaire Form C/FIU 1) for incoming and outgoing cross-border transportation of currency and BNIs exceeding USD10,000 or its equivalent. This requirement is made known to passengers via the customs declaration form as well as notices which are strategically placed in the customs area. This form must be completed whether or not there is suspicion of ML/TF.
385. **Criterion 32.3** – With respect to the disclosure system implemented by St. Kitts and Nevis, travellers are required by sections 19, 28 and 31 of the Customs Act, 2014 and section 11 of the Immigration Act to truthfully answer questions and provide the authorities with the appropriate information upon request.
386. **Criterion 32.4** – Section 10 of the Customs Act provides that every customs officer has the same powers, authorities and privileges as are given by law to a police officer. Section 19 (2) of the Customs Act specifies a person shall: (a) answer any question put to him or her by the customs officer; and (b) at the request of the customs officer, produce any documents within that person's possession or control, relating to the vessel or aircraft and its voyage and any persons or goods which are or have been carried by the vessel or aircraft.
387. **Criterion 32.5** – Section 183 of the Customs Act provides a penalty for false declaration or disclosure. A person committing such an offence is liable on conviction on indictment to a fine of XCD 100,000 (USD 37,000) or to imprisonment for five (5) years, or to both such fine and imprisonment for the person. The sanction can be considered proportionate and dissuasive.
388. **Criterion 32.6** – Under the MOU between the LEAs there is a system where declaration information is shared with the FIU.
389. **Criterion 32.7** – The Interagency MOU paragraphs 15,16 and 17 amended as of 2020 allow for collaboration between the FIU, Immigration, Customs, DPP and Police in identifying and investigating AML/CFT matters including those arising from Recommendation 32.
390. **Criterion 32.8** – (a) Section 7 of the POCA allows a Customs officer or a member of the RSCNPF, after consultation with the Comptroller of Customs, to seize and detain any money being imported or exported into or from the jurisdiction if they have reasonable grounds, it is the proceeds of, or is intended by any person for use in ML, drug trafficking or any other unlawful activity. The monies

can be detained for an initial period of 72 hours, followed by a continued detention of 3 months by a magistrate. Similar provisions exist at sections 38/39 of the ATA. **(b)** Section 7(4) of POCA provides for a magistrate to accept a false declaration signed by a person importing or exporting money as *prima facie* evidence for detention of the money.

391. **Criterion 32.9 – (a-c)** Section 116 of the Customs Act imposes a mandatory duty on the Comptroller to provide administrative assistance to member states in customs matters in accordance with the agreements between the parties. Section 4(3)(f) of the FIUA Cap 21:09 allows the FIU to provide information relating to the commission of a ML/TF offence to any foreign intelligence unit, subject to any conditions the FIU may consider appropriate. Furthermore, the FIU and the DPP are required by section 59 (1) of the POCA to cooperate with the competent authority of another State in matters relating to ML offences. CARICOM IMPACS was established with the responsibility for research, monitoring and evaluation, analysis and preparation of background documents and reports as well as project development and implementation of CARICOM crime and security agenda. It is a focus of collaboration among CARICOM members for preventative measures against crime and strengthening of security. Clause 14 of the MOU states that Customs will immediately notify the FIU of individuals and/or entities suspected and/or charged with ML and or associated predicate offences. Pursuant to sections 9(5) and 9(6) of the Customs Act, the Comptroller may disclose or authorise the disclosure of any document or information in accordance with any law, treaty, agreement, or arrangement concluded by St. Kitts and Nevis. Currency and documents relating to relevant financial transactions such as ML are listed as information which may be disclosed. The CED submits all CBRs made on the C/FIU 1 Form to the FIU for storage in their database. There is no requirement for the CED to keep information on declaration or disclosures, section 4(3) of the FIUA requires the FIU to retain a record of all information it receives for a minimum period of five (5) years.
392. **Criterion 32.10 –** Section 10(i)(b) of the MAFATFA 2020 provides for declaration information to be shared by the FIU with foreign counterparts on the sole basis of ML/TF, associate predicate offences investigations. There are no restrictions on trade payments and the movements of capital. The FIU also requires that the information disseminated should not be shared with third party without consent. The information held by the FIU is also subject to the department's confidentiality requirements as set out in section 12 of the FIUA. Section 9 of the Customs Act outlines the confidentiality provisions for the CED. Paragraphs 7 and 10 of the Interagency MOU provide that the information exchanged by the parties will be subject to strict controls and safeguards to ensure that the information is treated confidentially and used only in an authorised manner.
393. **Criterion 32.11 – (a)** Persons transporting funds and BNIs that have a nexus to ML/TF are subject to criminal penalties as prescribed in accordance with POCA and the ATA. Subsections 4(1)(a)(b) of the POCA stipulates that for the offence of ML, a natural person can be subject to a fine not exceeding XCD 250,000 (USD 92,016), or to imprisonment for a term not exceeding 20 years. A body corporate that commits a similar offence of ML can be subject to a fine not exceeding XCD 700,000 (USD 257,647). Similar sanctions are contained in sections 13(2),14(2) and 15(2) of the ATA (see R.5) with financial penalties and terms of imprisonment. The financial sanctions available for ML are not proportionate or dissuasive, especially for a body corporate. **(b)** Proceeds, including cash and BNI suspected to be derived from or intended for criminal conduct can be subjected to confiscation proceedings under section 38 of the POCA (see R.4).

Weighting and Conclusion

394. Section 9 of the Customs Act, No. 19 of 2014 requires that CED maintains all information received in confidentiality. The penalties for persons carrying out the physical cross-border movement of cash and BNIs suspected of being connected to ML/TF and predicate offences are not considered to be proportionate and dissuasive.

395. **Recommendation 32 is rated largely compliant.**

Recommendation 33 – Statistics

396. This Recommendation (formerly R.32) was rated PC in the 3rd Round MER due to the lack of comprehensive statistics by the FIU about international wire transfers, production orders, monitoring orders and restraining orders. Additionally, the CED did not keep comprehensive statistics on cross border seizures, neither were there statistics on matters referred to FIU by the CED. The 9th FUR noted that the FIU established a register for recording international wire transfers and a proper system to maintain records relating to ML and TF investigations. Since then, the FATF requirements for the recommendation have changed

397. **Criterion 33.1 – (a)** The FIU maintains statistics on STRs received, forwarded to the police and closed with no further action. **(b)** The WCCU maintains statistics on the number of ML/TF investigations, prosecutions and convictions, MLAT requests and informal requests. **(c)** The CED maintains an excel database for customs offences. A database is also maintained for cash and negotiable instruments declared and seized at the borders and the WCCU maintains statistics on property frozen, seized and confiscated. **(d)** The FIU, FSRC, AG, MOF, MOFA also maintain statistics for mutual legal assistance and other international requests for co-operation made and received.

Weighting and Conclusion

398. **Recommendation 33 is rated compliant.**

Recommendation 34 – Guidance and feedback

399. Recommendation 34 (formerly R.25) was rated PC in the 3rd MER due to no feedback for AML/CFT trends and typologies, the FSR was limited to ML issues, the FIU did not provide feedback to disclosures and sanitised cases to DNFBPs and there was no sector-specific AML/CFT guidance to DNFBPs, except for TCSPs. As noted in the 9th FUR these deficiencies were addressed by the FIU providing feedback and issuing reports on trends and typologies, guidance notes on TF and sector specific guidance for DNFBPs.

400. **Criterion 34.1 –** Section 4(2)(h) of the FIUA requires the FIU to inform the public and the financial and business entities of their obligations under measures to detect, prevent and deter the commission of ML/TF offences. Several guidelines, brochures and information leaflets have been issued by the FSRC and seminars, meetings and training sessions held with regulated entities and compliance officers. The FIU provides feedback acknowledging the submission of STRs and formal notification of the final disposition of the STR to the persons from whom they were received.

Weighting and Conclusion

401. **Recommendation 34 is rated compliant**

Recommendation 35 – Sanctions

402. This Recommendation (previously R.17) was rated NC in the 3rd MER due to sanctions for key offences under the AMLR not being proportionate, dissuasive or effective, penalties for reporting offences under the ATA varied widely, offences under the AMLR were not applicable to senior managers and the FSRC had not applied the range of sanctions provided by the FSCA and the AMLR. As indicated in the 9th FUR these deficiencies were addressed by amendments to the ATA, AMLR/ATR and FSRC.

403. **Criterion 35.1:** A range of proportionate and dissuasive criminal, civil and administrative sanctions are available as follows:

(a) Sanction for targeted financial sanctions (R. 6): There are no sanctions that exist for breaches of sections 117,118 and 119 of the ATA as amended by the MAFATFA 2020.

(b) Sanctions of NPOs (R.8): The only sanction applicable under the NGOA is cancellation of revocation and termination of all tax exemption privileges granted under the Act.

(c) Customer Due Diligence (R. 10): Under the AMLR Regulation (4)(2)(e) with regards to breaches of identification procedures in relation to business relationships, a person is liable on conviction to a fine of XCD 50,000 (USD 18,403) and an additional fine of XCD 250 (USD 92) for each day that the offence continues and; under Regulation 4(9)(1) breaches of identification procedures for one-off transactions are liable on conviction to a fine of XCD 50,000 (USD 18,403) and, if the contravention continues an additional fine of XCD 500 (USD 184) for each day that the relationship in question is allowed to continue in violation of this regulation.

(d) Record Keeping (R. 11): Under regulation 8(10) where an FI or DNFBP fail to keep records in a manner consistent with this regulation, then the FI or DNFBP commit an offence and shall be liable on conviction to a fine of XCD 25,000 (USD 9,201).

(e) PEPs (R.12): Under regulation 5(6) an FI or DNFBP who acts in contravention of sub regulations (2), (3), (4) or (5), commits an offence and is liable on conviction to a fine of XCD 150,000 (USD 55,209).

(f) Correspondent banking (R.13): Under regulation 4(13) where an FI or DNFBP acts in contravention of sub regulation 12, it commits an offence and shall be liable on conviction to a fine of XCD 50,000 (USD 18,403).

(g) MVTS (R. 14): Section45 of the MSBA extends the penalty for an offence under the MSBA to directors, managers and officers. Sections46 of MSBA provides for breach of the act with a general penalty of a fine not exceeding XCD 50,000 (USD 18,403) and imprisonment for a term of two (2) years or both such fine and imprisonment.

(h) New Technologies (R. 15): Under section16 of the VAA a person who commits an offence under the Act is liable on conviction to a fine not exceeding XCD 100,000 (USD 36,806) and imprisonment for a period not exceeding five years. Under section 2 of VAA “a person is defined as natural and legal person”.

(i) Wire Transfers, reliance on third parties, internal control & higher risk countries (Rec 16, 17, 18 & 19): Under regulation 14 of the AMLR a person who fails to comply with the requirements under these recommendations is liable to a general penalty on summary conviction to a fine not exceeding XCD 25,000 (USD 9,201) and an additional fine of XCD 100 (USD 40) for each day of a continuing contravention.

(j) Reporting of Suspicious transactions (R. 20): Under section (11)(d) of the AMLR a FI or DNFBP, its staff, directors, owners or other authorised representative who wilfully discloses the fact that a suspicious transaction report or related information is being reported or provided to the FIU commits an offence and shall be liable on conviction to a fine of XCD 100,000 (USD36,806).

(k) Tipping off, DNFBP: CDD & Other measures (R. 21-23): The analysis for FIs under the relevant recommendations are also applicable. The penalties for legal persons which range from XCD 25,000 (USD 9,201) to a maximum of XCD 150,000 (USD 55,209) cannot be considered dissuasive especially for large FIs. Also, natural persons are liable to equivalent penalties as legal persons.

404. **Criterion 35.2** – The general sanctions in Regulation 14 and the MSBA are applicable to both directors and senior managers for FIs and DNFBPs. The sanctions of other specific recommendations identified in criteria 35.1 are not applicable to directors and senior manager of FIs and DNFBPs.

Weighting and Conclusion

405. The sanctions under the ATA, the AMLR and the ATR are not proportionate and dissuasive for legal persons. Sanctions stipulated do not apply to senior managers and directors in all instances.

406. **Recommendation 35 is rated partially compliant.**

Recommendation 36 – International instruments

407. This Recommendation (previously R.36) was rated PC in the 3rd MER because Articles 20 and 29 of the Palermo Convention and Articles 11 and 16 of the Terrorist Financing Convention were not implemented. As indicated in the 9th FUR the deficiencies were addressed by a review of the powers of police officers under the Police Act

408. **Criterion 36.1** – St. Kitts and Nevis ratified the Vienna Convention on 19th April 1995 and the Palermo Convention on the 21st of May 2004. It signed the Terrorist Financing Convention on 16th November 2001. St. Kitts and Nevis is not a party to the United Nations Convention against Corruption (the Merida Convention).

409. **Criterion 36.2** – Regarding compliance with the relevant Articles of the Conventions the following was noted: (a) In relation to the Vienna Convention there are no measures to cover the following provisions of the Convention: (a) Article 15 paragraph 2(a), 17, 19(2) (b) (c),(b).

410. In relation to the Palermo Convention there are no measures to cover the following provisions of the Convention: (a) Article 13, paragraphs 5,6,7 and 9, (b) Article 18, paragraphs 18, 24 (c), 24(2)b), 26, 29, 31 paragraphs 2,3, and 6; (d) Article 25, paragraphs 3; (e) Article 27, paragraph 1, subparagraphs (a) and (b), points (ii) and (iii), subparagraphs (c)-(f), and paragraphs 2 and 3(c).

411. In the case of the Terrorist Financing Convention there are no measures to cover the following provisions of the Convention: (i) Articles 3, and 14, (ii) Article 18. St. Kitts and Nevis has not implemented the Merida Convention (Articles 14-17, 23-24, 26-31, 38, 40, 43-44, 46, 48, 50-55 and 57-58).

Weighting and Conclusion

412. St. Kitts and Nevis is not a party to the United Nations Convention against Corruption (the Merida Convention). There are no measures for implementation of several Articles in Vienna, Palermo and Terrorist Financing Conventions.

413. **Recommendation 36 is rated partially compliant**

Recommendation 37 - Mutual legal assistance

414. Recommendation 37 (formerly R.36 & SR. V) was rated C and PC respectively in the 3rd MER. The deficiencies of SR. V were law enforcement was not authorized to conduct investigations on behalf of foreign counterparts, and the ECSRC did not supervise for compliance with TF and could not share information on this issue. The deficiencies were addressed by amending the POCA, establishing a Regulatory Oversight Committee and signing a MOU for sharing of information.

415. **Criterion 37.1** – St. Kitts and Nevis has a legal basis for providing a wide range of MLA through section 25 of the MACMA, subsections 59(1) – (4) of the POCA and section 110 of ATA. There is

no indication of timelines in the measures outlined above. However, section 7 of the Interpretation Act Cap 1.02 prescribes that where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

416. **Criterion 37.2** – The AG is the Central Authority who receives requests either directly from the requesting country or via the MOFA. Once received, the matter is assigned and analysed based on the type of assistance requested and in the majority of cases appropriate assistance is provided. Even in the absence of a MLAT or some other formal arrangement with a requesting state, unless the request involves a Court application, assistance is generally provided. The Central Authority has an Apex driven software system named AGIS. This software is used to assist the Central Authority in its case management of MLATs, however, the case management system does not allow for timely prioritization, follow-up procedures to monitor the progress of requests and the provision of regular feedback by St. Kitts and Nevis
417. **Criterion 37.3** – Subsections (2) and (3) of section 18 of the MACMA contain mandatory and discretionary grounds for the AG to refuse foreign assistance requests. None of the grounds are unreasonable or unduly restrictive conditions.
418. **Criterion 37.4** – (a) The grounds for refusal outlined in section 18 of the MACMA do not include fiscal matters. (b) Secrecy and confidentiality measures on FIs or DNFBPs are not listed as part of the reasons to refuse mutual legal assistance under section 18 of the MACMA.
419. **Criterion 37.5** – Section 17(3) of the MACMA allows a Commonwealth country to specify if its request ought to be kept in a confidential manner. However, this is not extended to the information contained in the request. Nevertheless, section 12 restricts the usage of information obtained in response to a request for MLA. St. Kitts and Nevis cannot use such information for any other purpose unless with the consent of the requesting state. Furthermore, Article 5 of the Mutual Assistance (Treaty between the Government of St. Kitts and Nevis and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters) (Application) Regulations requires the requested state to use its best efforts to keep confidential a request and its contents, if such confidentiality is requested by the central authority of the requesting state. If the request cannot be executed without breaching such confidentiality, the central authority of the requested state shall so inform the central authority of the requesting state, which shall then determine whether the request should nevertheless be executed.
420. **Criterion 37.6** – Dual criminality is the basis for rendering MLA in St. Kitts and Nevis in all criminal matters under the MACMA. In accordance with section 18(2)(d), the AG is required to refuse a request which relates to the prosecution or punishment of a person in respect of conduct that, if it had occurred in St. Kitts and Nevis, would not have constituted an offence under the criminal law of St. Kitts and Nevis. There are no exemptions for requests that do not involve coercive actions.
421. **Criterion 37.7** – Dual criminality is required by section 18(2)(d) of the MACMA. Once the competent authority is satisfied that the conduct underlying the offence has been criminalized, the fact that they do not fall into the same category or carry the same name is not an impediment to rendering MLA. Under sections 25, 26 and 27, requests for MLA must involve an offence as defined by section 2 of MACMA.
422. **Criterion 37.8** – (a) Sections 25, 26 and 27 of the MACMA permit the central authority to invoke such powers and procedures available under the laws of St. Kitts and Nevis to provide assistance based on the request of the foreign state. Consequently, domestic powers relating to the production, search and seizure of information, documents or evidence (including financial records) from FIs, or other natural or legal persons and the taking of witness statements can be employed. (b) Section 6

of the Police Act was amended in the MAFATFA, 2020 to provide the police to use the full range of investigative techniques required under R. 31 and broad investigative powers.

Weighting and Conclusion

423. Dual criminality is a condition for rendering assistance under the MACMA, even where the request does not involve coercive actions. A prerequisite for the provision of mutual legal assistance by St. Kitts and Nevis under sections 25, 26 and 27 of the MACMA is that the offence under the laws of the requesting state must qualify as an offence in accordance with the criteria outlined in section 2 of the MACMA.

424. **Recommendation 37 is rated largely compliant.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

425. This recommendation was rated LC in the 3rd Round MER due to no arrangement for sharing assets under the ATA and no provision about instrumentalities used in or intended for use in the commission of an offence. These deficiencies were still outstanding at the end of the 3rd Round follow-up process.

426. **Criterion 38.1** – Section 59(2)3(4) of the POCA grants St. Kitts and Nevis the authority to respond to requests by foreign countries to identify, freeze, seize or confiscate property, proceeds or instrumentalities connected to ML offences. Section 25(2) of the MACMA speaks to identifying, locating and assessing the value of proceeds of crime when requested by a foreign country. Section 110 of ATA provides that whenever St. Kitts and Nevis is party to a counter terrorism convention it is authorised to offer mutual assistance in criminal matters in respect of offences falling within the scope of the counter terrorism convention. Section 7 of the Interpretation Act Cap 1.02 prescribes that where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

427. **Criterion 38.2**– MACMA provides for assistance for conviction-based proceedings. Section 8 of the MACMA allows for the provision of assistance in cases where there are reasonable grounds for obtaining an article or thing that is relevant to a criminal matter by search and seizure. There is no requirement for a conviction as a prerequisite for such assistance. Where the assistance originates from a Commonwealth country, assistance may be in respect of an offence committed, or suspected on reasonable grounds to have been committed against the law of that country and includes forfeiture proceedings, proceedings to restrain dealing with property proceedings for the imposition of pecuniary penalties calculated by reference to the value of property, arising out of criminal proceedings whether such proceedings be characterized as criminal or civil proceedings.

428. **Criterion 38.3** – (a) Section 59(2) of POCA provides for the FIU or the DPP to take appropriate actions to satisfy a request from a foreign competent authority to freeze, seize or forfeit the property, proceeds, or instrumentalities connected to ML offences. Additionally, section 59(6) provides for the DPP to cooperate with a foreign competent authority to execute searches and seizures. (b) Section 13 of POCA provides procedures in respect of the maintenance of property seized under the Act. This involves measures, where applicable, for the public trustee to take custody and control of the property in question This provision is only applicable to property that is restrained. Subsections 58 (P) and 58(Q) of POCA provide for the management and disposal of frozen property. Subsection 58BB of POCA provides for the appointment of a trustee for civil recovery who will have powers to manage and dispose of recoverable property under Schedule 4 of POCA. Recoverable property as defined under section 2 of POCA includes property obtained from unlawful conduct which will include confiscated property. These provisions allow for the co-ordinating seizure and confiscation actions with other countries.

429. **Criterion 38.4** – Section 64(1) of the POCA states the following: “Where a forfeiture or confiscation of monies is made under this Act or the Organised Crime (Prevention and Control) Act, pursuant to a request from a foreign authority **(a)** there shall be deducted a twenty percent administrative fee from such monies which shall be deposited into the Fund; and **(b)** the remaining eighty percent may either **(i)** be repatriated to the foreign authority where so requested; or **(ii)** be deposited into the Fund. The sharing of confiscation is determined by negotiations between St. Kitts and Nevis and the foreign country, and it is based on the circumstance of the confiscation.

Weighting and Conclusion

430. **Recommendation 38 is rated compliant.**

Recommendation 39 – Extradition

431. This Recommendation was rated C in the 3rd Round MER
432. **Criterion 39.1** – Pursuant to section 3 of the Proceeds of Crime Amendment Act No. 30 of 2008, ML is an extraditable offence. The Fugitive Offenders Act Cap 4.08 (FOA) provides for the extradition of persons to the United Kingdom (UK) or its dependencies where a person has been accused or convicted of an offence which is punishable by one year’s imprisonment or more and that offence is an offence if it was committed in St. Kitts and Nevis. Consequently, both ML and TF are extraditable offences in respect of the UK and its dependencies, on the other hand, a more restrictive standard is applied to designated Commonwealth countries or the Republic of Ireland. For those countries, an extraditable offence is one which falls within the schedule of offences listed in the FOA. The designated countries are listed in the Second Schedule to the FOA. Once ML is an offence in the UK or any of its dependencies and attracts a minimum penalty of one-year imprisonment, it is an extraditable offence. Section 109 of the ATA allows a counter terrorism convention to be used as a basis for extradition where St. Kitts and Nevis and the requesting state are both parties to this convention. Where there is an extradition arrangement between these two (2) states then that arrangement shall automatically apply to offences under the counter terrorism convention. If the two parties do not have any extradition arrangement, then by order of the Minister the convention shall be treated as an extradition arrangement. Consequently, TF is an extraditable offence.
433. ML is an extraditable offence only for the UK and its dependencies. According to section 7 of the FOA, on the submission of a request to the Governor General for the return of an accused or convicted person by the Government of the United Kingdom (UK), the Republic of Ireland, a designated Commonwealth country or a UK dependency, an authority to proceed would be issued unless the order for the return of the person could not be lawfully made. A warrant for the arrest of the accused person or a certificate of the conviction and sentence in the requesting country as well as the relevant facts and law must be submitted with the request. There are systems in place to process extradition requests expeditiously.
434. Extradition requests are sent directly from the MOFA to the central authority and from there to the DPP for prosecution. Persons are extraditable on the basis of the warrant and the judgment of the Magistrate. Extradition proceedings would not commence without an order to proceed from the Governor General and even after a committal order is issued by the Magistrate, the final decision rests with the Governor General as to whether or not he will issue a warrant for that person to be returned to the requesting state. He then decides whether to issue an order to proceed which is then forwarded to a Magistrate. If, a Magistrate issues an arrest warrant before receiving that order from the Governor General, that Magistrate must forward to the Governor General notice of the proceedings and copies of the warrant and any information or evidence before the Court in order to

satisfy him to issue the order to proceed. The Magistrate will examine the evidence to determine whether it is sufficient.

435. If the Court is satisfied with the nature of the evidence, then a warrant of committal is issued. If there is an appeal, after that appeal is exhausted then the Governor General may issue a warrant for the fugitive to be extradited. After the Magistrate issues a committal order, the fugitive cannot be extradited until 15 days after the order was issued. Therefore, there are no unreasonable or unduly restrictive conditions placed on the execution of requests. The central authority has an Apex driven software by the name of AGIS, which is an executive information management system for file processing and management however, the case management system does not allow for timely prioritization, follow-up procedures to monitor the progress of requests and the provision of regular feedback by St. Kitts and Nevis.
436. **Criterion 39.2** – Article 3 of the St Kitts and Nevis and the United States of America Treaty Act Cap. 4.32 provides that where all conditions in the Treaty relating to extradition are satisfied, extradition shall not be refused based on the nationality of the person sought. No similar measures exist for extradition with other countries. Additionally, pursuant to section 3 of the POCA, ML is an extraditable offence.
437. **Criterion 39.3** – In St. Kitts and Nevis, the basis for MLA and extradition is dual criminality. However, section 5(1)(c) of the FOA Cap. 4.11 does not require that both countries place the offence within the same category of offence or denominate the offence by the same terminology, provided that the act or omission constitutes an offence in St. Kitts and Nevis or in the case of an extra-territorial offence, in corresponding circumstances outside of St. Kitts and Nevis. Article 3(a) of the St. Kitts and Nevis and the United States of America Treaty Act Cap. 4.32 provides that an offence shall be an extraditable offence whether or not the laws in the contracting states place the offence within the same category of offences or describe the offence by the same terminology.
438. **Criterion 39.4** – There are no measures for simplified extradition mechanisms.

Weighting and Conclusion

439. Both ML and TF are extraditable offences in St. Kitts and Nevis. The FOA Cap. 4.11 does not provide a simplified extradition mechanism for consenting persons who waive formal extradition proceedings. The case management system does not allow for timely prioritization, follow-up procedures to monitor the progress of requests and the provision of regular feedback by St. Kitts and Nevis
440. **Recommendation 39 is rated partially compliant.**

Recommendation 40 – Other forms of international cooperation

441. This Recommendation was rated PC in the 3rd MER due to law enforcement not being authorized to conduct investigations on behalf of its foreign counterparts and the ECSRC not being able to share information about AML issues since it did not supervise for AML purposes. These deficiencies were addressed by implementing measures to allow law enforcement to conduct investigations on behalf of their foreign counterparts and an MOU for the sharing and exchange of information between supervisory authorities was developed.
442. **Criterion 40.1** – Legislation allows for a wide range of international cooperation in relation to ML, associated predicate offences and TF. The St. Kitts and Nevis (Mutual Exchange of Information on Taxation Matters) Act Cap 20.60 provides for the mutual exchange of information on taxation matters between St. Kitts and Nevis and other jurisdictions. St. Kitts and Nevis is a party to 24 TIEAs. The Federation is also party to 21 DTAs with foreign countries. The FIU is empowered by section 4(3) of the FIUA to provide information relating to the commission of a ML /TF offence to

any foreign intelligence unit. The FIU can order any person to freeze a person's bank account for a period not exceeding five days, based upon the request of a foreign intelligence unit or law enforcement authority. As an Egmont Group member, the FIU observes the principles of information exchange. Section 59 of the POCA stipulates that the FIU and the DPP shall cooperate with the competent authority of another state to identify, trace, freeze, seize or forfeit property, proceeds or instrumentalities connected to ML offences including associated predicate offences and TF. It also provides that the DPP shall cooperate with the competent authority of another state for the purpose of obtaining testimony, facilitating the voluntary presence or availability of persons (including those in custody), to give testimony locating or identifying persons, service of documents, examining objects and places, executing searches and seizure, providing information and evidentiary items and making provisional measures. The CED is a signatory of a MOU with CCLEC which consists of approximately 38 countries, which allows St. Kitts and Nevis to provide and have access to broad international cooperation in Customs matters. St. Kitts and Nevis is a member of ARIN CARIB which facilitates quick response to foreign requests from regional law enforcement agencies. The ARIN CARIB Secretariat is connected to other international networks which facilitate international co-operation. Regulations 3 to 5 of the FSR (Exchange of Information) 2002 makes provision for regulators to share information with foreign counterparts.

443. **Criterion 40.2 – (a)** St. Kitts and Nevis has a legal basis to provide cooperation through sections 59(1-4) of POCA and sections (4)(3) of the FIUA, sections 16 of FSRCA – Exchange of Information and under section 3 of the St. Kitts and Nevis (Mutual Exchange of Information on Taxation Matters) Cap 20.60 2009. As indicated in 40.1, the FIU, DPP, CED, CATM FSRC and the RSCNPF have the power to share information as provided above in the statutes. **(b)** The FIU is authorised to use the most efficient means to co-operate under section 4(3) of the FIUA. Under section 3 of the Mutual Exchange of Information on Taxation Matters Act, 2009, in accordance with the First Schedule of this Act, tax information is required to be provided on a prompt basis. With regard to sections 59(1-4) of POCA and section 16 of FSRCA Exchange of Information the provisions of section 7 of the Interpretation Act Cap 1.02 prescribes that where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises. This provision covers the DPP, FSRC, and CED. **(c)** The FIU actively participates in the information exchange process via the Egmont Group Secure Website with regional and international partners whereby sharing is done based on reciprocity. The Convention on Mutual Administrative Assistance in Tax Matters (MAC), TIEAs and DTCs provide clear and secure gateways for a wide network of treaty partners through which requests could be facilitated. The RSCNPF facilitate requests and sharing of information through ARIN CARIB, RSS and Interpol. **(d)** Section 4 of the FIU SOP sets out the procedure to be followed by the FIU when dealing with a request for assistance. All requests for assistance directed to the FIU are dealt with within 4 weeks from date of receipt with an average response time of 7 days. The Rules for the Exchange of Information on Tax Matters that is scheduled to the Act as well as the Exchange of Information Unit's Procedures Manual provides clear processes for the prioritization, timely execution of requests, and safeguarding of information received. **(e)** Section 6 of the SOP outlines processes for safeguarding of information received. The Rules for the Exchange of Information on Tax Matters that is scheduled to the Act as well as the Exchange of Information Unit's Procedures Manual provides for the safeguarding of information received. With regards to the above measures while (a) and (b) are fully met for all competent authorities, there are no provision for the FSRC, CED and DPP for measures outlined in (c), (d) and (e) of this criterion.
444. **Criterion 40.3 –** CAs have formal and informal bilateral and multilateral arrangements to cooperate with a wide range of foreign counterparts. Pursuant to the St. Kitts and Nevis Mutual Exchange of Information on Taxation Matters Act No.7 of 2009, St. Kitts and Nevis is party to 24 TIEAs. The Federation is also party to 21 DTAs with foreign countries. St. Kitts and Nevis is also a member of the ARIN CARIB which facilitates quick response to foreign requests from regional law

enforcement agencies. The FIU is permitted by section 4(1) of the FIUA to liaise with ML intelligence agencies as well as with CAs and agencies involved in combating TF outside of St. Kitts and Nevis. As noted above, St. Kitts and Nevis is an Egmont Group member. Furthermore, under section 4(3)(g), the FIU may enter into any written agreement or arrangement with any foreign intelligence unit, which is considered by the FIU to be necessary or desirable for the discharge or performance of its functions. To date, the FIU has signed seven (7) MOUs. Additionally, St. Kitts and Nevis is a signatory to the Multilateral Competent Authority Agreement (MCAA) which covers a wide range of foreign counterparts. St. Kitts and Nevis is also a signatory to the Convention on Mutual Administrative Assistance in Tax Matters (MAC) which covers exchange of information that is spontaneous upon request. TIEAs and DTCs are also used for exchanges of information upon request. These bilateral and multilateral agreements or arrangements were negotiated and signed within 3 to 12 months.

445. **Criterion 40.4** – Competent authorities endeavour to expedite responses upon request for assistance or information in a timely manner. The FIU generally responds to requests within seven (7) days. When responding to requests for assistance, the FIU may seek feedback from the requesting party on the usefulness of the information sharing. The typical response for TIEAs is usually within sixty (60) days but generally does not exceed 90 days. Furthermore, there are no prohibitions to competent authority providing feedback to competent authorities from which they have received assistance, on the use and usefulness of the information obtained.
446. **Criterion 40.5** – (a) There are no prohibitions or unduly restrictive conditions in St. Kitts and Nevis on the sharing of information or assistance because of fiscal matters. Section 3(b) of the St Kitts and Nevis (Mutual Exchange of Information on Taxation Matters) Act Cap 21.09 indicates the rules for information exchange are set out in “*the Rules for the Exchange of Information on Tax Matters*” as detailed in the First Schedule. (b) Secrecy laws do not prevent authorities from receiving and sharing information via specified legal avenues. There are no laws requiring FIs or DNFBPs to maintain secrecy or confidentiality. (c) There are no measures dealing with the requirements of criterion (c). (d) St. Kitts and Nevis does not prohibit or place restrictive conditions on the exchange of information because the nature or status of the requesting counterpart authority is different from that of its foreign counterpart.
447. **Criterion 40.6** – St. Kitts and Nevis has in place controls and safeguards to ensure that information exchanged by competent authority is used only for the requested purpose and by the authorities, for which the information was sought or provided, unless prior authorization has been given by the requested competent authority. Section 14(1) of the St. Kitts and Nevis (Mutual Exchange of Information on Taxation Matters) Act Cap. 20.60 stipulates that the requesting party shall not, without the prior written consent of the authority, transmit or use information or evidence provided pursuant to this Act for purposes, investigations or proceedings other than those stated in the request. The FIU under section 10(i)(b) of the MAFATFA 2020 “may on its own motion or upon request, disseminate financial intelligence and information to national and foreign authorities subject to any conditions as to use and confidentiality that it may require from those authorities;”. The FSRC under regulation 5 of the FSR (Exchange of Information) No. 15 of 2002 requires information supplied by the FSRC to a foreign regulatory authority shall not be disclosed to any other person or authority by the foreign regulatory authority without the consent of the person from whom the FSRC obtained the information. Section 59 of POCA provides for the exchange of information for FIU and DPP. In relation to the RSCNPF, St. Kitts and Nevis is part of the ARIN CARIB which facilitates the sharing of information internationally. Additionally, the St. Kitts and Nevis is a part of the RSS and through the Asset Recovery Unit of the RSS, the sharing of information is facilitated among all members. St. Kitts and Nevis is a member of the Interpol which also facilitates the sharing of information. The CED shares information through CCLEC.

448. **Criterion 40.7** – There are no explicit provisions under POCA, and the ATA that require CAs in St. Kitts and Nevis to maintain appropriate confidentiality for any requests for cooperation and the information exchanged consistent with both parties’ obligations concerning privacy and data protection. Section 59(5) of POCA provides a confidentiality clause concerning privacy and data protection. Section 12(1) of the FIUA stipulates that a person who obtains information in any form as a result of his or her connection with the FIU shall not disclose that information to any person except so far as it is required or permitted under law. The authorities have advised that in accordance with section 13 of the (Mutual Exchange of Information on Taxation Matters) Act Cap 20.60, any information received by St. Kitts and Nevis, or a scheduled country shall be treated as confidential and may only be disclosed within the parameters specified in the Rules for the Exchange of Information on Tax Matters. In relation to the CED, section 9 of the Customs Act requires all custom officers to maintain all information received as confidential. In relation to the RSCNPF schedule 10 (Regulation 6) of the police regulations makes provision for confidentiality and breach of confidence.
449. **Criterion 40.8** – Section 4(1)(e) of the FIUA provides for the FIU to do anything that is related or incidental to liaising with foreign counterparts which will include the requirements of the criterion, and subsection 4(2)(j)(iii) of the FSRCA authorises the FSRC to provide regulatory assistance to foreign regulatory authorities which will include conducting inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts information that would be obtainable by them if such inquiries were being carried out domestically. The Egmont Group Principles of Information Exchange also governs communication among FIUs. Section 5 of the Mutual Exchange of Information on Taxation Matters Act Cap. 20.60 empowers the CATM to execute requests including taking testimonies or statements of persons, providing information, articles of evidence and executing searches and seizures and the Rules for the Exchange of Information on Tax Matters allows for the exchange of tax information with foreign counterparts that would be obtainable for domestic inquiries.
450. **Criterion 40.9** – The FIUA, and POCA provide a legal basis for the FIU to provide cooperation on ML, associated predicate offences and TF. Subsections 4(1)d) and (e) and 4(3)(c),(f) and (g) of the FIUA; and POCA sections 59 empower the FIU to provide cooperation on ML, associated predicate offences and TF. Although the St. Kitts and Nevis’ FIU is an administrative model, it has provided cooperation to different models of FIUs such as law enforcement, judicial and hybrid.
451. **Criterion 40.10** – Section 5 of the FIU’s SOP stipulates that the FIU should consider providing the foreign agency with feedback on the information provided and its benefits. This provision is discretionary and the FIU is not required to maintain statistics on this. However, the information can be provided upon request by the FIU.
452. **Criterion 40.11** – Subsections 4(1)(d), 4(3)(c), 4(3)(f) and 4(3)(g) of the FIUA authorise the FIU to exchange all information required to be accessible or obtainable directly or indirectly by the FIU on ML and under section 59 (7) of POCA any other information which they have the power to obtain or access, directly or indirectly, at the domestic level subject to a level of reciprocity.
453. **Criterion 40.12** – Under section 3(3) of the FSR (Exchange of Information) the FSRC has a legal basis to cooperate with its foreign counterparts, with respect to the exchange of supervisory information related to or relevant for AML/CFT purposes. The FSRC has to take into account whether the nature and seriousness of the matter and the importance of the information being sought warrants disclosure of the information. Section 16 of the FSRCA provides for the exchange of information to enable regulatory authorities to discharge their functions and enables disclosures to facilitate civil and administrative investigations and proceedings to enforce laws, regulations, and rules.

454. **Criterion 40.13** – Regulation 4 of the FSR (Exchange of Information) 2002 provides for the FSRC to obtain information from any person with regard to any request from a foreign regulatory authority concerning its regulatory functions. The above measures provide for the ability to include information held by FIs.
455. **Criterion 40.14** – As mentioned in criterion 40.12, there are extant MOUs between OECS Financial Services Regulators, the ECCB and ECSRC as well as between the Caribbean Association of Insurance Regulators. Pursuant to section 94 of the Banking Act 2015, the ECCB may enter into an agreement or arrangement for coordination, cooperation, and the exchange of information with a foreign supervisory authority or foreign institution. In addition, section 4(2)(j) (iii) of the FSRCA, and regulations 3 to 5 of the FSR (Exchange of Information) permit the FSRC to provide assistance to a foreign regulatory authority for the purposes of executing its regulatory functions. Therefore, there are no restrictions on the sharing of regulatory, prudential, and AML/CFT information by financial supervisors.
456. **Criterion 40.15** – The FSRCA, regulations 3 to 5 of the FSR (Exchange of Information) clauses 14 and 15 of the 2010 ECCB/FSRC MMOU and clauses 15 to 16 of the 2018 ECCB/FSRC/FIU MMOU allow the regulatory authority to conduct inquiries on behalf of its foreign counterparts. Section 4(2)(iii) of the FSRCA requires the FSRC to “*maintain contact and develop relations with foreign regulatory authorities, international associations of regulatory authorities and other international associations or groups relevant to its functions and to provide regulatory assistance to foreign regulatory authorities in accordance with this or any other Act*” There are no restrictions that would prevent a competent authority from authorising or facilitating the ability of foreign counterparts to conduct inquiries themselves in the country.
457. **Criterion 40.16** – Under section 5(b) of the FSR (Exchange of Information), clause 20 to 28 of the 2010 ECCB/FSRC MMOU and clauses 23 to 27 of the 2018 ECCB/FSRC/FIU MMOU financial supervisors must have the prior authorisation of the requested financial supervisor for any dissemination of information exchanged or use of that information for supervisory and non-supervisory purposes. If the financial supervisor is under a legal obligation to disclose or report the information, it is required by clause 27 of the 2010 ECCB/FSRC MMOU and clause 27 of the 2018 ECCB/FSRC/FIU MMOU to promptly notify the requested authority which supplied the information, indicating what information it is compelled to release and the circumstances surrounding its release.
458. **Criterion 40.17** – LEAs are able to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF, including the identification and tracing of the proceeds and instrumentalities of crime under section 4 of the FIU, section 59 of POCA and section 108 of the ATA. The information will include information accessible under production orders. The CED’s MOU with CCLEC allows St. Kitts and Nevis to provide and have access to broad international cooperation in respect of Customs matters. St. Kitts and Nevis is a member of the ARIN CARIB which facilitates quick response to foreign requests from regional agencies.
459. **Criterion 40.18** – Section 59 of the POCA allows LEAs in St. Kitts and Nevis (the FIU and DPP) to use their respective powers, including investigative techniques available within national laws, to carry out inquiries and gather information on behalf of foreign counterparts. Police officers actively engage in the exchange of information with foreign LEAs and Interpol.
460. **Criterion 40.19** – The MOA between the FIU, the CED, the DPP and the RSCNPF enables these LEAs to jointly investigate and prosecute persons suspected of ML, criminal activity related to ML predicate offences and TF activities. Section 59 of the POCA also allows FIU and the DPP to form joint investigative teams with foreign competent authorities to conduct cooperative investigations.

461. **Criterion 40.20** – The FIU is permitted to share information with non-counterparts indirectly, and has processed requests submitted by prosecutorial and LEAs that were forwarded via FIUs. With regard to the other CAs, there is no prohibition against these authorities to provide and exchange information indirectly with non-counterparts.

Weighting and Conclusion

462. Legislation allows for a wide range of international cooperation in relation to ML, associated predicate offences and TF. St. Kitts and Nevis has a legal basis to provide cooperation through POCA, ATA, FIUA, FSRCA and the St. Kitts and Nevis (Mutual Exchange of Information on Taxation Matters) Cap 20.60. The FSRC has a legal basis to cooperate with its foreign counterparts. LEAs can jointly investigate and prosecute persons suspected of ML, criminal activity related to ML, associated predicate offences and TF activities. LEAs can exchange domestically available information with foreign counterparts. The FIU can provide feedback in a timely manner for which they have received assistance. The FIU is not mandated to provide feedback to their foreign counterparts. There is no prohibition against a CA denying the request for assistance because there is a domestic inquiry, investigation or proceeding underway unless the assistance would impede the inquiry. There is no provision for the FSRC, CED and DPP for measures outlined in 40.2 (c-e).

463. **Recommendation 40 is rated largely compliant.**

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations

| Recommendations | Rating | Factor(s) underlying the rating |
|---|--------|---|
| 1. Assessing risks & applying a risk-based approach | LC | <ul style="list-style-type: none"> The published NRA 2019 did not include a risk assessment of legal persons and legal arrangements. There was minimal analysis of TF risk. The follow-up also included minimal analysis of TF risks and a description of the framework and mechanism of legal persons and legal arrangements in the country. There is no requirement for FIs and DNFBPs to ensure that higher risk identified in the NRA is incorporated into their risk assessments. The Action Plan was developed without a TF Risk Assessment of the NPO sector and legal persons and arrangements. No resource allocation of the assessment was available due to the recent completion of the NRA 2021. The lower risk customer identified in the regulation is not consistent with the country's assessment of its ML/TF risks. |
| 2. National cooperation and coordination | PC | <ul style="list-style-type: none"> Minimal analysis of TF risk in the NRA there was no TF actionable items in the NAP. There are no measures for the cooperation and co-ordination in combatting the financing of PF. There are no similar measures for the other relevant CAs in St. Kitts and Nevis. |
| 3. Money laundering offences | LC | <ul style="list-style-type: none"> Criminal liability and sanctions do apply to legal persons which engage in ML. The fines maybe dissuasive for indigenous FIs it is not for large international FIs. |
| 4. Confiscation and provisional measures | PC | <ul style="list-style-type: none"> There is no provision that allows for the confiscation of instrumentalities used in or intended for use in the commission of an associated predicate offence. Confiscation for property laundered is only applicable for convictions for ML offences and not convictions for predicate offences. There are no measures for the confiscation of criminal proceeds held by third parties in St. Kitts and Nevis. There are no measures for forfeiture of property of corresponding value for convictions for associated predicate offence. There are no measures for the disposal of restraint property or management and disposal of confiscated property. There is no mechanism for management of forfeited property. |
| 5. Terrorist financing offence | LC | <ul style="list-style-type: none"> There is no requirement that a TF offence need not be link to a specific terrorist act(s). Fines for a body corporate are not dissuasive for a large institution with significant financial assets and capital. The fine for a legal person is not proportionate and dissuasive when compared with that for a natural person. |

| Recommendations | Rating | Factor(s) underlying the rating |
|---|--------|--|
| 6. Targeted financial sanctions related to terrorism & TF | PC | <ul style="list-style-type: none"> • No regulations were made to address c6.1(d) and (e). • There are no measures to comply with the requirements for sub-criterion 6.2 (e). • There are no measures to comply with the requirements for sub-criterion 6.3 (b) • There is no requirement for all natural and legal persons to freeze without prior the funds or other assets of designated persons and entities. • Nationals or other persons or entities within St. Kitts and Nevis are not prohibited from making available any funds or other assets, economic resources, or financial or other resources, directly or indirectly, wholly or jointly for the benefit of entities owned or controlled, directly or indirectly by designated persons or entities. • There is no requirement for the prohibition to be in place unless license, authorized or otherwise notified in accordance with the relevant UNSCRs. • No regulations have been issued on mechanisms for communication designations to the FIs, DNFBBs and any other persons or entity once a designation is made providing clear and relevant guidance on the treatment of any funds or assets held. • No regulations have been issued for procedural requirements or freezing and prohibiting of dealing without delay in funds or other assets of designated persons or entities and outlining procedural requirements including measures for the protection of the rights and interest of third parties acting in good faith. • The requirements for sub-criterion 6.6 (a-e & g) have not been met. |
| 7. Targeted financial sanctions related to proliferation | PC | <ul style="list-style-type: none"> • There are no measures contracts, agreements or obligations that arose prior to the date on which accounts became subject to targeted financial sanctions pursuant to UNSCRs. • Section 3(3) of the APA does not contain mechanism for communicating other designations such as those made by the UNSCR Committees to FIs and DNFBBs immediately upon taking such action and providing clear guidance to FIs and other persons or entities including DNFBBs that may be holding targeted funds or other assets on their obligations in taking action under freezing mechanisms. • No publicly known procedures to submit de-listing request to the security council. |
| 8. Non-profit organisations | PC | <ul style="list-style-type: none"> • The risk assessment seemed to be limited to St. Kitts and there was no mention of multiform foundations and other NPOs operating in Nevis. • The assessment was not comprehensive and did not identify the nature of threats posed by terrorist entities to the NPOs nor identify those that are most likely to be at risk for TF abuse. • No review of the adequacy of measures related to this subset of NPOs that maybe abuse for TF • There are no mechanisms to address sub-criteria 8.1(d) • NPOs in Nevis are not subject to the requirements of sub-criterion 8.2 (a) The Donor community has not been included in the awareness outreach program conducted in St. Kitts and Nevis. • There are no measures to address any developments and refinement of best practices to deal with risk and vulnerabilities. • NPOs in Nevis are not subjected to the requirements of sub-criterion 8.2 (d) • The requirements of criterion 8.3 does not apply to NPOs in Nevis. • No evidence has been provided to demonstrate that risk-based measures apply to NGOs at risk of TF abuse |

| Recommendations | Rating | Factor(s) underlying the rating |
|---------------------------------------|--------|--|
| | | <ul style="list-style-type: none"> • NPOs in Nevis are not subjected to the requirements of sub-criterion 8.4 (a) • While the sanction can be considered dissuasive, it is not proportionate with the offence since its applicable to all breaches of the registrar of companies. • NPOs in Nevis are not subjected to the requirements of sub-criterion 8.4 (b)CATM No investigative expertise and capability to examine NPOs suspected or either being exploited by, or actively supporting terrorist activity or terrorist organisations. • NPOs in Nevis are not subjected to the requirements of sub-criterion 8.5 (c) • NPOs in Nevis are not subjected to the requirements of sub-criterion 8.5 (d) • NPOs in Nevis are not subjected to the requirements of sub-criterion 8.6 |
| 9. Financial institution secrecy laws | C | This Recommendation is fully met. |
| 10. Customer due diligence | PC | <ul style="list-style-type: none"> • No requirements for understanding the purpose and intended nature of the business relationship by the FI. • For foundations, there are no measures for identifying and verifying the identity for foundations. • For companies there is no, the requirements names of senior management for other types of legal persons and legal arrangements and does not cover the requirement for information on address of registered office or principal place of business. • For partnerships and trust, there is no requirements for name, legal form and proof of existence, powers to regulate and bind and address of registered office and principal place of business. • The requirement for identifying beneficial owner or controller does not include consequential measures as required • There are no measures for where no natural person is identified, the identity of the relevant person who holds the position of senior manager. • No requirement to adopt risk management procedures concerning conditions under which a customer may utilise a business relationship prior to verification. • No requirements for the verification of identity of persons in equivalent or similar positions in other types of legal arrangements. • There is no requirement for the identification, verification for the beneficiary of a life insurance policy that is designated by characteristics, or by class or other means. • There is no requirement to adopt risk management procedures concerning conditions under which a customer may utilise a business relationship prior to verification. • No requirement for the identification of the beneficial owner and the application of CDD measures to existing customers on the basis of materiality and risk and the conduct of CDD at appropriate times, taking into account whether and when CDD measures have previously been undertaken and the adequacy of data obtained. • There is no prohibition on using SDD whenever a specific high-risk scenario is applied and no requirement for simplified measures taken to be commensurate with lower risk factors. • There are no measures allowing for the cessation of CDD if continuation of such process will result in tipping-off a customer and instead filing a STR. |
| 11. Record keeping | LC | <ul style="list-style-type: none"> • No measures for CDD and measures to be swiftly available to domestic competent authorities. |
| 12. Politically exposed persons | C | This recommendation is fully met |
| 13. Correspondent banking | C | This recommendation is fully met. |
| 14. Money or value transfer services | LC | <ul style="list-style-type: none"> • Sanctions are not proportionate and dissuasive for international MVTs providers in St. Kitts and Nevis. |

| Recommendations | Rating | Factor(s) underlying the rating |
|---|--------|---|
| 15. New technologies | PC | <ul style="list-style-type: none"> • St. Kitts and Nevis has not conducted a national assessment of ML/TF risk in relation to new products, new business practices and new or developing technologies. • The risk assessment done on VASP was limited and did not provide credible data on ML/TF risk. • The sanction fines in the VAA are not considered dissuasive for a natural or legal persons. • The above measures do not deal with actions to identify natural or legal person that carry on VASP activities without requisite registration. • There is no range of disciplinary and financial sanctions for the Supervisory Authority of VASP • The Authorities have not established guidelines and provide feedback for VASP. • The analysis of recommendation 35 applies and the deficiencies identified are also relevant. • No measures have been implemented to set an occasional transaction threshold of above USD/EUR \$1000 for VASPs to conduct CDD. • No legislation for Virtual Asset transfer to meet the requirement of sub-criterion 15.9 (b). • The analysis under these criteria 6.5(b), 6.6(e), 7.2(d), 7.2(e), 7.3 and 7.4(d) is also applicable for VASPs. |
| 16. Wire transfers | LC | <ul style="list-style-type: none"> • The deficiency noted in Recommendation 11 is applicable to sub-criterion 16.7 and 16.14 • Legislation does not include a requirement for an MVTS provider to file an STR in any other country affected by the same suspicious wire transfer and make relevant transaction information available. |
| 17. Reliance on third parties | LC | <ul style="list-style-type: none"> • There are no requirement for FIs to immediately the elements (a-c) of the CDD measures set out in recommendation 10 from a third party. • There are no requirements for FIs to take steps to satisfy themselves that other relevant documentation relating to CDD requirements will be made available from the third party upon request without delay. |
| 18. Internal controls and foreign branches and subsidiaries | LC | <ul style="list-style-type: none"> • There is no requirement for the appointment for the compliance officer to be appointed at management level. |
| 19. Higher-risk countries | LC | <ul style="list-style-type: none"> • There is no mechanism to apply counter measures independently of any call by the FATF to do so. |
| 20. Reporting of suspicious transaction | C | This recommendation is fully met. |
| 21. Tipping-off and confidentiality | C | This recommendation is fully met. |
| 22. DNFBPs: Customer due diligence | LC | <ul style="list-style-type: none"> • The analysis for R.10 is applicable for DNFBPs with the additional partial compliance of criteria 10.1, 10.9 and 10.11 for all DNFBPs. • Limited information has been submitted by the jurisdiction about the requirements of R.15. • The analysis of the requirements for reliance on third parties in R. 17 for FIs is also applicable to DNFBPs since it is based on provisions of the AMLR which also cover DNFBPs. |
| 23. DNFBPs: Other measures | LC | <ul style="list-style-type: none"> • The analysis of the requirements for internal controls in R. 18 for FIs is also applicable to DNFBPs since it is based on provisions of the AMLR/ATR which also cover DNFBPs. • The analysis of the requirement for higher-risk countries in R. 19 is also applicable to DNFBPs. |

| Recommendations | Rating | Factor(s) underlying the rating |
|---|--------|--|
| 24. Transparency and beneficial ownership of legal persons | PC | <ul style="list-style-type: none"> • For foundation, the information in the registry on foundations is not publicly accessible. For MFF, information on the registrar is available publicly, except where a notice is given to the registrar where the information should not be publicly available. • Limited Partnership, no requirements for the registry to record the limited partnerships basic regulating powers. • No requirement for a company to maintain information on its basic regulating powers and for the register of shareholders to contain associated voting rights of the shareholders. • No requirements for local companies to maintain information on the company's name and for the register of members, to contain the associated voting rights for the members. • No requirements for NLLCs, to maintain information on the company's name, proof of incorporation, legal form and status, basic regulating powers, list of directors and a register of shareholders or members. • No requirements NBCO (IBCs), to maintain information on the IBCs name and list of directors. • No requirement for companies/Local companies to ensure that information on the voting rights of shareholders is kept accurate and updated on a timely basis. • There is no requirement for NLLCs and IBCs, to obtain information other information mentioned in criterion 24.3 and 24.4 to be kept accurate and updated on a timely basis. • There is no requirement for notification of amendments in a foundations by-law to be given to the registrar in a timely manner. • No requirements for a limited partnership to ensure that information on its basic regulating powers is accurate and updated on a timely basis. • No requirements to ensure that BO information obtained by FIs and DNFBPs are updated on a timely basis. • Deficiencies in Recommendation 37 and 40 are also applicable. • The fines are not dissuasive for LLCs and IBCs with significant financial assets and capital. Penalties for foundations, multiform foundations and Limited partnerships are neither proportionate and dissuasive. There are no proportionate and dissuasive for failure by legal persons to keep accurate and updated BO information under the Companies Act and the Foundations Act. No provisions for LLCs and the IBCs to maintain information and records for at least five years after the date on which the company is dissolved or otherwise ceases to exist, or five years after the date on which the company ceases to be a customer of the professional intermediary or the FI. |
| 25. Transparency and beneficial ownership of legal arrangements | PC | <ul style="list-style-type: none"> • Trustees are not required to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction. • There is no requirement for information on residence of the trustee. • No requirement for information on any asset of the trustee held or managed by a FI or DNFBP • No provision for proportionate and dissuasive sanctions for failing to grant to competent authorities' timely access to information regarding trust. |
| 26. Regulation and supervision of financial institutions | PC | <ul style="list-style-type: none"> • Insurance companies, MSB, the provisions relevant to preventing criminals or their associates from holding the function of a director or officer or manager do not include being a beneficial owner. • Securities: no requirements for preventing criminals or their associates from holding a significant or controlling interest or holding a management function. • The FSRC Risk Based Supervisory Framework provides a method for assessing the ML/TF risks of financial institutions as part of the overall assessment of the FIs prudential risk. • The measures in FSRC risk-based supervisory framework do not include consideration of ML/TF risk in the country. • The measures in the FSRC risk based supervisory framework do not include the requirements in this sub-criteria 26.5 (c). • The risk profile of an individual FI or group is a prudential risk profile and MLTF risk forming one part of the overall risk profile. |

| Recommendations | Rating | Factor(s) underlying the rating |
|---|--------|---|
| 27. Powers of supervisors | C | This recommendation is fully met. |
| 28. Regulation and supervision of DNFBBs | PC | <ul style="list-style-type: none"> Casinos: The measures to prevent criminals or their associates from holding a significant or controlling interest of holding a management function from being an operator do not include beneficial owners and fit, and proper criteria are not defined. TCSPs: The measures to prevent criminals or their associates from holding a significant or controlling interest of holding a management function from being an operator do not include beneficial owners and fit. There are no measures to ensure that criminals or their associates are prevented from being professionally accredited or holding (or being the beneficial owner of) a significant or controlling interest or holding a management function in lawyers, accountants, real estate brokers and dealers in precious metals and precious stones. The analysis for 26.5 which deals with the FSRC's supervision of FIs is applicable for the supervision of DNFBBs. |
| 29. Financial intelligence units | LC | <ul style="list-style-type: none"> The requirement to produce strategic analysis is discretionary rather than mandatory. The recruitment of consultants for the FIU falls within the remit of the Minister |
| 30. Responsibilities of law enforcement and investigative authorities | C | This recommendation is fully met. |
| 31. Powers of law enforcement and investigative authorities | C | This recommendation is fully met. |
| 32. Cash couriers | LC | <ul style="list-style-type: none"> It is unclear whether the form and manner of the declarations for importer and exporter of goods as well as the time period for their submission has been prescribed. The financial sanctions available for ML are not proportionate or dissuasive, especially for a body corporate |
| 33. Statistics | C | This recommendation is fully met. |
| 34. Guidance and feedback | C | This recommendation is fully met. |
| 35. Sanctions | PC | <ul style="list-style-type: none"> The sanctions under the ATA, the AMLR and the ATR are not proportionate and dissuasive for legal persons. (R. 6 to 8-23). Some sanctions are not proportionate since they are equivalent to natural and legal persons. The sanctions of other specific recommendations identified in criterion 35.1 are not applicable to directors and senior manager of FIs and DNFBBs. |
| 36. International instruments | PC | <ul style="list-style-type: none"> St. Kitts and Nevis is not a party to the United Nations Convention against Corruption (the Merida Convention). In relation to the Vienna Convention there are no measures to cover the following provisions of the Convention: (a) Article 15 paragraph 2(a), 17, 19 (2) (b) (c), (b) In relation to the Palermo Convention there are no measures to cover the following provisions of the Convention: (a) Article 13, paragraphs 5,6,7 and 9, (b) Article 18, paragraphs 18, 24, (c) 24 2 (b), 26, 29 (information on only one agency was provided), 31 paragraphs 2,3, and 6; (d) Article 25, paragraphs 3; (e) Article 27, paragraph 1, subparagraphs (a) and (b), points (ii) and (iii), subparagraphs (c)-(f), and paragraphs 2 and 3; In the case of the Terrorist Financing Convention there are no measures to cover the following provisions of the Convention: (i) Articles 3, and 14 (ii) Article 18. |
| 37. Mutual legal assistance | LC | <ul style="list-style-type: none"> The case management system does not allow for timely prioritization, follow-up procedures to monitor the progress of requests and the provision of regular feedback by St. Kitts and Nevis. Dual criminality is the basis for rendering MLA in St. Kitts and Nevis in all criminal matters under the MACMA in St. Kitts and Nevis. There are no exemptions for requests that do not involve coercive actions. |
| 38. Mutual legal assistance: freezing and confiscation | C | This recommendation is fully met. |

| Recommendations | Rating | Factor(s) underlying the rating |
|--|--------|--|
| 39. Extradition | PC | <ul style="list-style-type: none"> • The case management system does not allow for timely prioritization, follow-up procedures to monitor the progress of requests and the provision of regular feedback by St. Kitts and Nevis. • There are no measures for simplified extradition mechanisms. |
| 40. Other forms of international cooperation | LC | <ul style="list-style-type: none"> • The above measures while a) and (b) are fully met for all competent authorities, there are no provision for the FSRC, CED and DPP for measures outlined in (c) ,(d) and (e) of criterion 40.2. • There are no measures dealing with the requirements of sub -criteria 40.5 (c). • The requirements for the FIU to provide feedback to their foreign counterparts on information provided and its benefits, is discretionary. |

Glossary of Acronyms

| | DEFINITION |
|------------|--|
| AG | Office of the Attorney General |
| AML | Anti-Money Laundering |
| AMLNC | Anti-Money Laundering National Committee (referred to as NAMLC) |
| AMLR | Anti-Money Laundering Regulations (No. 46 of 2011) |
| AMLAR | Anti-Money Laundering (Amendment) Regulations |
| APA | Anti-Proliferation (Financing of Weapons of Mass Destruction) Act |
| APIS | Advance Passenger Information System |
| APR | Anti-Proliferation (Financing of Weapons of Mass Destruction) Regulations |
| ARIN-CARIB | Asset Recovery Interagency Network for the Caribbean |
| ATA | Anti-Terrorism Act |
| ATAA | Anti-Terrorism (Amendment) Act 2009 |
| ATR | Anti-Terrorism (Prevention of Terrorism Financing) Regulations (No.47 of 2011) |
| ATAR | Anti-Terrorism (Prevention of Terrorism Financing (Amendment)) Regulations |
| BNIs | Bearer Negotiable Instruments |
| BOs | Beneficial Owners |
| CAs | Competent Authorities |
| CARICOM | Caribbean Community and Common Market |
| CATM | Competent Authority for Tax Matters |
| CBI | Citizenship by Investment Program |
| CBRs | Cross Border Reports |
| CCLEC | Caribbean Customs Law Enforcement Council |
| CDs | Case Disclosure |
| CDD | Customer Due Diligence |
| CIU | Citizenship by Investment Unit |
| CO | Companies Ordinance |
| CED | Customs and Excise Department |
| CFT | Combating the Financing of Terrorism |
| CSA | Co-operatives Societies Act |
| DNFBPs | Designated Non-Financial Business and Professions |
| DPP | Officer of the Director of Public Prosecution |
| DPMS | Dealers in precious metals and precious stones |
| ECCB | Eastern Caribbean Central Bank |
| ECCU | Eastern Caribbean Currency Union |
| EDD | Enhance Due Diligence |
| FA | Foundations Act |
| FIs | Financial Institutions |
| FIU | Financial Intelligence Unit |
| FIUA | Financial Intelligence Unit Act |
| FSR | Financial Services (Implementation of Industry Standards) Regulations |
| FSRC | Financial Services Regulatory Commission |
| FSRCA | Financial Services Regulatory Commission Act 2009 |
| FSRCAA | Financial Services Regulatory Commission Amendment Act |
| GCA | Gaming Control Act |
| GDP | Gross Domestic Product |
| IA | Insurance Act |
| IBCs | International Business Companies |
| IT | Information Technology |
| JRCC | Joint Regional Communication Centre |
| KYC | Know Your Customer |

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| LEAs | Law Enforcement Agencies |
| LLCs | Limited Liability Companies |
| LP | Limited Partnerships |
| LPA | Limited Partnership Act |
| MACMA | Mutual Assistance in Criminal Matters Act |
| MAFATFA | Miscellaneous Amendment (Financial Actions Task Force) Act 2020 |
| MFFs | Multi-Form Foundations |
| MFO | Multi-form Foundation Ordinance |
| MFSAA | Miscellaneous Financial Services Amendment Act 2021 |
| MLA | Mutual Legal Assistance |
| ML | Money Laundering |
| MOF | Ministry of Finance |
| MOFA | Ministry of Foreign Affairs |
| MOUs | Memorandum of Understanding |
| MMOU | Multi-lateral Memorandum of Understanding |
| MSBs | Money Service Businesses |
| MSBA | Money Services Business Act 2008 |
| NAP | National Action Plan |
| NBCO | Nevis Business Corporation Ordinance |
| NGO | Non- Governmental Organisation |
| NIETO | Nevis International Exempt Trust Ordinance |
| NIIO | Nevis Insurance International Ordinance |
| NIIR | Nevis Insurance International Regulations |
| NLLC | Nevis Limited Liability Company |
| NLLCO | Nevis Limited Liability Company Ordinance |
| NPO | Non-Profit Organisation |
| NRA | National Risk Assessment |
| POCA | Proceeds of Crime Act |
| POCAA | Proceeds of Crime (Amendment) Act 2009 |
| PF | Proliferation Financing |
| RBA | Risk Based Approach |
| RSS-ARU | Regional Security System – Asset Recovery Unit |
| RSCNPF | Royal St. Christopher & Nevis Police Force |
| SDD | Simplified Due Diligence |
| SOPs | Standard Operating Procedures |
| STR | Suspicious Transaction Reporting |
| SGF | Sustainable Growth Fund |
| TA | Trust Act |
| TAPA | Tax Administration & Procedures Act |
| TCSPs | Trust and Company Service Providers |
| TPR | Terrorist Property Report |
| TF | Terrorist Financing |
| TFS | Targeted Financial Sanctions |
| VA | Virtual Assets |
| VAA | Virtual Assets Act |
| VASP | Virtual Assets Service Providers |
| WCCU | White Collar Crimes Unit |
| UNSCR | United Nations Security Resolution Council |



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Anti-money laundering and counter-terrorist financing measures – St. Kitts and Nevis

Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in St. Kitts and Nevis as at the date of the on-site visit [15th – 26th March 2021]. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of St. Kitts and Nevis' AML/CTF system, and provides recommendations on how the system could be strengthened.