Anti-money laundering and counter-terrorist financing measures

Brunei Darussalam

Mutual Evaluation Report

August 2023

The Asia/Pacific Group on Money Laundering (APG) is an inter-governmental organisation consisting of 42 members in the Asia-Pacific region, as well as organisations, and observers from outside the region.

Under Article 1 of the APG Terms of Reference 2019, the APG is a non-political, technical body, whose members are committed to the effective implementation and enforcement of the internationally accepted standards against money laundering, financing of terrorism and proliferation financing set by the Financial Action Task Force.

This document, any expression herein, and/or any map included herein, are without prejudice to the status of, or sovereignty over, any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Under the APG Terms of Reference, membership in the APG is open to jurisdictions which have a presence in the Asia-Pacific region.

For more information about the APG, please visit the website: www.apgml.org

This mutual evaluation report was adopted by the APG in July 2023 and contains a summary of the anti-money laundering (AML)/counter-terrorist financing (CTF) measures in place in Brunei Darussalam as at November 2022.

Citing reference:

APG 2023, *Anti-money laundering and counter-terrorist financing measures – Brunei Darussalam,* Third Round Mutual Evaluation Report, APG, Sydney
https://apgml.org/members-and-observers/members/member-documents.aspx?m=2bdc69a1-2844-4db3-8024-4000d87e9f0d

APG Secretariat
Locked Bag A3000
Sydney South
New South Wales 1232
AUSTRALIA
Tel: +61 2 5126 9110
E mail: mail@apgml.org
Web: www.apgml.org

Cover image: Masjid Omar 'Ali Saifuddien. Courtesy of iStock.com/wataruaoki

TABLE OF CONTENTS

EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in Brunei Darussalam (Brunei) as at the date of the on-site visit (7 to 17 November 2022). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Brunei's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

a) Brunei's understanding of money laundering and terrorist financing (ML/TF) risk is generally well developed with a range of assessments that are increasingly used to target risk mitigation activities. National and agency level policies and prioritisation, including resource allocation, increasingly focus on identified key risks.

b) Brunei's policy and operational coordination has been well coordinated, particularly in the last three years. This is not yet the case for combating proliferation financing at operational levels.

c) Brunei demonstrates strengths in the development and use of financial intelligence by the financial intelligence unit (FIU) and increasing development and use by many law enforcement agencies (LEAs) to support investigations of predicate offences, ML and TF and, in some cases, asset tracing.

d) Brunei has, in recent years, prioritised ML investigations, but there is further to go to sufficiently target key risks through the use of the ML offence by some LEAs. Real strengths are shown by prosecution authorities in cases of ML prosecutions.

e) LEAs' capability to trace and restrain proceeds of crime has some strengths, but major improvements are needed to target and confiscate proceeds in line with Brunei's risks.

f) Brunei adopts an overall preventive strategy to TF that relies heavily on background intelligence work and other preventive measures. The LEAs and intelligence agencies demonstrated operational readiness despite the lack of TF investigations to date.

g) Implementation of targeted financial sanctions against terrorism and TF (TF TFS) is reasonably well supported. Brunei has recently taken a risk-mitigation approach to protect non-profit organisations (NPOs) from misuse for TF.

h) Brunei has not yet established a framework for TFS for proliferation (PF TFS) of weapons of mass destruction (WMD).

i) There are some remaining gaps with the regulatory framework for preventive measures. Enhanced support for risk-based implementation is needed for some sectors, especially higher risk designated non-financial businesses and professions (DNFBPs).

j) There are reasonable market entry fit and proper systems to ensure financial institutions (FIs) are not controlled by criminals and their associates, but further support is needed for DNFBPs. Risk based supervision and enforcement is shown to be working well, although there is a need to better integrate AML/CFT prudential supervision and to supervise higher risk DNFBPs. Brunei takes a well-structured approach to enforcement in case of AML/CFT breaches.

k) Brunei has a new, wide-ranging legal framework for transparency of beneficial ownership (BO) information for companies, but significant challenges are noted with its implementation.

l) Brunei makes good use of international cooperation, largely in keeping with the risk profile.

Risks and General Situation

2. Brunei is a small jurisdiction with relatively low domestic and transnational crime risks, however Brunei's geographic proximity to higher ML/TF risk jurisdictions in the ASEAN region exposes it to foreign illicit financial flows which in turn creates internal ML/TF vulnerabilities and risks. Since the closure of its relatively small offshore financial centre, Brunei is not a regional financial centre. A large portion of Brunei's small financial sector is foreign FIs subject to strong home supervisor controls for AML/CFT (Singapore, Malaysia, United Kingdom). Brunei's risks of being used as a destination or transit location for criminal proceeds appear relatively low. Brunei faces a number of domestic and cross-border risk from proceeds generating crime and related ML, with theft, cheating (fraud), corruption and bribery, and smuggling particularly noted. Higher risk sectors include the banking, remittance and money changer sectors. Some risks are noted in the lending sector and in the small but emerging virtual assets service providers (VASP) sector.

3. Brunei faces threats from regional and international terrorism. Brunei does not have any known active terrorist persons or entities, nor have there been any foreign terrorist fighters (FTF) originating from Brunei. There have been no terrorist attacks within Brunei, however, Brunei has identified threats arising from terrorist groups operating within the South East Asian region and FTF returning to the South East Asian region, particularly regarding the potential raising of funds for terrorist purposes.

Overall Level of Effectiveness and Technical Compliance

4. Brunei's AML/CFT regime has undergone a number of reforms since the last assessment in 2010. Brunei has a generally strong legal and institutional framework for combating ML and TF, but no framework for combating PF. The technical compliance framework is particularly strong regarding law enforcement, confiscation, TF TFS, many preventive measures and the supervision of FIs, and international cooperation. Gaps remain with PF TFS, transparency of legal persons and arrangements, some preventive measures, and sanctions for non-compliance for DNFBPs.

5. Brunei achieves substantial results in a number of key areas including assessment and understanding of risk and risk mitigation; international cooperation; development and use of financial intelligence; and criminal justice measures against TF. Only moderate improvements are needed in these areas. More significant improvements are needed in other areas as indicated below.

Assessment of Risk, Coordination and Policy Setting (Chapter 2 - IO.1; R.1, R.2, R.33 & 34)

6. Brunei has a good understanding of its ML and TF risks based on a large number of risk assessments, but some areas (politically exposed persons (PEPs), challenges to transparency) and some emerging risks require further consideration. Brunei has conducted a national risk assessment, a number of updated, sectoral risk assessments and threat assessments. The existing assessments reflect a sound approach and the findings are reasonable and provide a basis for risk-based policies and activities. The private sector has not been deeply involved in conducting risk assessments, but the results are shared to improve the private sectors' understanding of ML/TF risk. The results of risk assessments are used to support the application of enhanced measures by some reporting entities in higher risk scenarios, and some exemptions on the basis of proven low risk.

7. Competent authorities have generally aligned their policies and activities to address many of the higher-risk areas. Brunei's National AML/CFT Strategy has guided the competent authorities well, but is currently outdated and a National Action Plan has been developed as an interim measure while a new Strategy is developed. In recent years there has been generally good interagency cooperation and coordination amongst most competent authorities on AML/CFT matters. Some policy coordination has taken place to develop draft legislation to combat proliferation financing (CPF), but operational coordination in this area is yet to be demonstrated. There have been challenges with policy and operational coordination in relation to the new framework for beneficial ownership of companies.

Financial Intelligence, ML Investigations, Prosecutions and Confiscation (Chapter 3 – IO.6, 7, 8; R.1, R.3, R.4, R.29-32)

8. Many of the LEAs regularly make use of financial intelligence related to predicate offences and ML. The use of intelligence has increased in recent years in regard to asset tracing financial investigations, parallel financial investigations, ML investigations and TF intelligence probes. LEAs receive financial intelligence from the FIU, with each LEA also producing its own financial intelligence to support investigations. The number of intelligence disseminations from the FIU has increased steadily during the assessment period, and LEAs regularly utilise the FIU channel to obtain information from reporting entities (REs).

9. The FIU's analysis processes are sound and result in the production of a good number, range and quality of analysis reports. The FIU has access to a wide range of information to conduct its analysis, but it would benefit from the availability of further BO information from the ROCBN and more comprehensive cash and bearer negotiable instruments (CBNI) reporting at the border. The FIU has clear processes for prioritising STRs and other financial information for analysis, particularly in relation to potential TF cases. While the FIU has well qualified and capable analysts, it would benefit from further human resources to maximise the value of financial intelligence.

10. The focus on parallel financial investigations has increased in all LEAs during the assessment period. All LEAs are aware of Brunei's key ML risks and the relevant high-risk predicate offences within their investigative remit. ML offences are mainly investigated by specialist financial investigation units within the LEAs. However, some of the units have only been established recently (e.g. the Customs unit

in late 2020) and are still building capacity and experience in conducting ML and parallel financial investigations.

11. Brunei's ML investigations and prosecutions have focused primarily on self-laundering activities with limited examples of stand-alone ML. There were no cases of ML from foreign predicate offences or ML through legal persons. This is considered to be somewhat in line with Brunei's ML risks. The majority of ML investigations and prosecutions are for small, reasonably straightforward cases with limited complex ML methods, with the exception of one large ML case recently concluded by the ACB. There is a high level of operational cooperation between the FIU, LEAs and the Attorney General's Chamber (AGC), with the AGC playing a significant role in providing advice to LEAs and, in many cases, identifying and carrying forward ML charges from predicate offence briefs of evidence.

12. Brunei includes confiscation as an overarching policy objective in its National Strategy, and LEAs have shown some progress in more proactively seizing property with a view to confiscation since the establishment of the Strategy in 2017. Through regular training, Brunei's authorities have taken some steps to raise investigators' and prosecutors' overall awareness of the confiscation powers available to them, and the need to prioritise confiscation as a criminal justice tool, but this is at a relatively preliminary stage. Brunei has had limited success in pursuing and confiscating criminal proceeds which have moved overseas, and practices for asset management and record keeping vary between agencies. Even taking into account the low crime rate in Brunei, the unavailability of comprehensive statistics undermines Brunei's ability to demonstrate effectiveness under IO.8.

13. There are concerns regarding the potential of poor detection of cash smuggling at the borders, especially in the context of Brunei's largely cash-based economy and the potential for cross-border movement of monies. No false cash declaration cases have been detected during the assessment period.

Terrorist and Proliferation Financing (Chapter 4 – IO.9, 10, 11; R.1, R.4, R.5-8, R.30, R31 & R.39)

14. Brunei authorities place a high priority on combating terrorism and TF and allocate significant well-coordinated resources to identify and mitigate TF threats. Brunei has demonstrated that terrorism and TF risks are generally well understood, and monitored closely by relevant LEAs and intelligence agencies through cooperative inter-agency processes. Brunei adopts an overall preventive strategy that relies heavily on background intelligence work (LEAs, FIU, security agencies and cooperation with foreign partners) and other preventive measures to address emerging terrorism and TF issues early. As a result, there are no TF investigations, prosecutions or convictions in Brunei to date. Brunei's institutional structures and procedures are currently generally adequate for an appropriate response should a TF case be identified, be it domestic or transnational in nature.

15. Brunei's legal and operational frameworks are generally sound to implement TF TFS. Authorities have issued guidance, conducted outreach to REs and included TF TFS implementation in their risk-based supervision of REs.

16. Brunei has assessed its risk and implemented a generally sound regulatory framework to combat the misuse of the NPO sector, in particular those that may be more vulnerable to misuse for TF. Brunei authorities have commenced engagement with the NPO sector on TF risk mitigation. Authorities have undertaken risk-based monitoring of the NPO sector, in particular the NPOs identified as being vulnerable to TF abuse under the purview of the Registrar of Societies (ROS).

17. At the time of the onsite visit Brunei had not issued and implemented a legal and operational framework for PF TFS. Some of the larger FIs demonstrate a degree of implementation of sanctions

screening based on their obligations to their home supervisor (group level) or based on general risk management, rather than domestic obligations. Brunei is yet to conduct outreach or guide REs on the pending TFS related to combating proliferation of WMD.

Preventive Measures (Chapter 5 - IO4; R.9-23)

18. Some of the core elements of preventive measures are in place for FI/DNFBP, but there are some remaining gaps with the regulatory framework for preventive measures and no comprehensive framework for including VASPs in the regulatory framework. Understanding of ML/TF risks and AML/CFT obligations varies across FIs and DNFBPs, with greater understanding amongst banks and larger FIs. Implementation of AML/CFT mitigation measures varies across sectors. Larger banks and FIs typically have automated systems and have policies and procedures for AML/CFT in place. However, the implementation of a risk-based approach has not been developed for most DNFBPs. FIs face some challenges with verification of beneficial ownership and control information due to weaknesses with aspects of transparency and points of verification. DNFBPs apply CDD, but there is an over-reliance on customer disclosures rather than verification of information.

19. Filing of suspicious transaction reports (STRs) has improved with further guidance and supervision but STRs are not always filed promptly based on the requirements in the 2019 guidance. Foreign-owned FIs are adhering to the strictest requirements across their group to file STRs promptly. The low volume of reporting for DNFBPs is not wholly in keeping with the risk of these sectors. FIs have developed internal procedures to prevent tipping off but there is an issue of lawyers understanding of STR obligations hindering compliance with STR obligations.

Supervision (Chapter 6 - IO3; R.14, R.26-28, R.34, R.35)

20. The FIU serves as the AML/CFT supervisor for both FIs and DNFBPs, despite no specific mandate in law in relation to oversight of DNFBPs, although this has never been challenged. The supervisor's understanding of ML/TF risks is well developed and dynamic, with the frequency, scope and intensity of supervisory activities reasonably undertaken on the basis of risk. The FIU has prioritised supervision of higher-risk entities in the banking and remittance sectors. The FIU takes a well-structured approach to full-scope and thematic supervision supported by sound inspection manuals and methods and in-depth risk information.

21. The FIU has set out the outcomes of its supervisory activities in reports and provides support to REs in addressing deficiencies. There is a structured approach to the application of proportionate sanctions for non-compliance and these actions were demonstrated to have improved the implementation of AML/CFT obligations.

22. Market entry controls are strong in the FI sector, particularly with remittance and money changer (money service businesses (MSBs)), but were not well demonstrated for DNFBPs.

Transparency and Beneficial Ownership (Chapter 7 - IO5; R.24-25)

23. Brunei reasonably assessed the risks associated with different types of legal persons. Since the last ME Brunei has wound up its 'offshore' financial centre and no companies or trusts can be formed under the previous legal framework for 'offshore' companies and trusts.

24. There are concerns with the levels of compliance with obligations to file basic information and the quality and accuracy of basic information held by the registrar (ROCBN). Since 2020, Brunei

companies and foreign companies registered in Brunei have been required to maintain and, in some cases, to file BO information. Few companies have obtained and maintained accurate and up to date BO information and only a limited number of companies have filed BO information with the ROCBN. Brunei has not yet provided guidance to companies or company service providers to support implementation of the new BO information requirements. Mechanisms to verify the accuracy of BO information filed by companies are not yet in place and Brunei has not yet monitored or enforced compliance with obligations for basic and BO information.

25. The FIU demonstrated regular access to the available basic and BO information in its intelligence and supervisory work. Other competent authorities are increasing their access and use of this data.

26. There appear to be few common law trusts settled in Brunei and few foreign trusts with a presence in the jurisdiction, but detailed data is not available. There are also few measures to support the transparency of trusts and capturing information on settlors or trustees for domestic or foreign trusts.

International Cooperation (Chapter 8 - IO2; R. 36-40)

27. Brunei has a sound framework and mechanisms for both formal and informal international cooperation. Brunei, in particular LEAs, is proactively seeking informal cooperation with foreign counterparts on ML/TF when cross-border elements are identified, informal cooperation is significantly and successfully relied upon in order to obtain intelligence for investigation and timely criminal justice outcomes in cases involving transnational crimes and/or proceeds being moved offshore. This is notably well developed in relation to international cooperation on counter-terrorism, including CFT. The use of formal international cooperation has been minimal, which is mostly in keeping with Brunei's risk profile.

28. Moderate improvements are needed for Brunei, including greater use of informal channels and more proactive communication to seek to overcome delays with requests to foreign partners. The cooperation mechanisms for AML/CFT supervisors need to be enhanced to facilitate exchange with foreign counterparts. Brunei should also enhance the cooperation and information exchange in relation to the transnational and cross border risk for cash movements.

Priority Actions

Brunei should:

a) Allocate significant additional support, outreach and guidance to deepen implementation of AML/CFT measures across FI/DNFBPs on a risk sensitive basis, particularly relating to STRs.

b) Issue the new legal framework for combating financing the proliferation of WMD and support comprehensive implementation of the TFS.

c) Implement the framework for transparency of companies to ensure basic information is accurate and up to date and collection and finding of BO information is well supported. This should include further cooperation and resourcing to the ROCBN and more guidance to companies and company service providers.

d) Further enhance ML investigations across LEAs, focusing on higher risk areas and more complex ML cases.

e) Further enhance asset tracing investigations, early restraint and more comprehensive confiscation. Enhance implementation of measures to detect cash smuggling at the border.

f) Prioritise engagement with the private sector on the preparation of additional targeted risk assessments and updates.

g) Further prioritise international cooperation by all competent authorities, particularly through formal channels, based on risks. This includes cooperation with home AML/CFT supervisors for foreign FIs operating in Brunei (Malaysia, Singapore, United Kingdom).

h) Amend and implement the revised legal frameworks to strengthen preventive measures (CARO amendments, etc.).

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

IO.1 - Risk, policy and coordination	**IO.2** - International cooperation	**IO.3** - Supervision	**IO.4** - Preventive measures	**IO.5** - Legal persons and arrangements	**IO.6** - Financial intelligence
Substantial	**Substantial**	**Moderate**	**Moderate**	**Moderate**	**Substantial**
IO.7 - ML investigation & prosecution	**IO.8** - Confiscation	**IO.9** - TF investigation & prosecution	**IO.10** - TF preventive measures & financial sanctions	**IO.11** - PF financial sanctions	
Moderate	**Moderate**	**Substantial**	**Substantial**	**Low**	

Technical Compliance Ratings (C – compliant, LC – largely compliant, PC – partially compliant, NC – non compliant)

R.1 - Assessing risk & applying risk-based approach	**R.2** - National cooperation and coordination	**R.3** - Money laundering offence	**R.4** - Confiscation & provisional measures	**R.5** - Terrorist financing offence	**R.6** - Targeted financial sanctions – terrorism & terrorist financing
LC	**LC**	**LC**	**C**	**LC**	**LC**
R.7 - Targeted financial sanctions – proliferation	**R.8** - Non-profit organisations	**R.9** - Financial institution secrecy laws	**R.10** - Customer due diligence	**R.11** - Record keeping	**R.12** - Politically exposed persons
NC	**LC**	**C**	**PC**	**LC**	**LC**
R.13 - Correspondent banking	**R.14** - Money or value transfer services	**R.15** - New technologies	**R.16** - Wire transfers	**R.17** - Reliance on third parties	**R.18** - Internal controls and foreign branches and subsidiaries
LC	**LC**	**PC**	**PC**	**LC**	**PC**
R.19 - Higher-risk countries	**R.20** - Reporting of suspicious transactions	**R.21** - Tipping-off and confidentiality	**R.22** - DNFBPs: Customer due diligence	**R.23** - DNFBPs: Other measures	**R.24** - Transparency & BO of legal persons
PC	**LC**	**LC**	**PC**	**LC**	**PC**
R.25 - Transparency & BO of legal arrangements	**R.26** - Regulation and supervision of financial institutions	**R.27** - Powers of supervision	**R.28** - Regulation and supervision of DNFBPs	**R.29** - Financial intelligence units	**R.30** - Responsibilities of law enforcement and investigative authorities
NC	**PC**	**PC**	**PC**	**C**	**C**
R.31 - Powers of law enforcement and investigative authorities	**R.32** - Cash couriers	**R.33** - Statistics	**R.34** - Guidance and feedback	**R.35** - Sanctions	**R.36** - International instruments
LC	**C**	**LC**	**LC**	**LC**	**LC**
R.37 - Mutual legal assistance	**R.38** - Mutual legal assistance: freezing and confiscation	**R.39** - Extradition	**R.40** - Other forms of international cooperation		
LC	**LC**	**LC**	**LC**		

MUTUAL EVALUATION REPORT OF BRUNEI DARUSSALAM

Preface

This report summarises the AML/CFT measures in place in Brunei Darussalam as at the date of the on-site visit from 7 – 17 November 2022. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Brunei's 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 Brunei, and information obtained by the evaluation team during its on-site visit to Brunei.

The evaluation was conducted by an assessment team including the following experts:

- Ms Cindy Chan, Macao, China, financial expert
- Mr Kenneth Chin, Singapore, legal expert
- Ms Praveena Rerkjaral, Thailand, financial expert
- Mr Dilan Siriwardana, Sri Lanka, financial expert
- Ms Emilia Wei, Chinese Taipei, law enforcement expert

  Mr Jalal Khan, of the Islamic Development Bank, participated in the assessment team for part of the evaluation.

The assessment process was supported by Henna Goodrick, Melissa Sevil and David Shannon of the APG secretariat, with additional support of other Secretariat members.

The report was reviewed by Mr Md Rokon Uz Zaman (Bangladesh), Ms Shengnan Yan (China), Mr Rocky Yuen (New Zealand), and the FATF Secretariat.

Statistical tables

Information shown in tables throughout this report has been sourced directly from Brunei government authorities, unless otherwise stated.

Exchange rates

An exchange rate of 1 BND = USD 0.72 is used through this report.[1]

Brunei Darussalam's previous MER

Brunei previously underwent a FATF Mutual Evaluation in 2010, conducted according to the 2004 FATF Methodology, which is available at www.apgml.org. In 2010, Brunei was compliant with two Recommendations; largely compliant with five; partially compliant with 25; and non-compliant with 16. One Recommendation was considered not applicable. 13 of the 16 Core and Key Recommendations were rated partially or non-compliant.

[1] 1 BND = USD 0.72 was the exchange rate as of the date of the onsite visit

1 Brunei exited APG's transitional follow-up process in 2017, as it had no remaining NC/PC ratings for the six core Recommendations and only one NC/PC rating for the ten key Recommendations (R.23).

In 2011, Brunei entered the FATF's International Review Group (ICRG) process due its 2010 MER results. Brunei exited the ICRG process in June 2013.

CHAPTER 1. ML/TF RISKS AND CONTEXT

1. Brunei Darussalam (Brunei) is situated on the island of Borneo in South East Asia. Its population is estimated at 459,500 with a total land area of 5,765 sq. km. Malaysia lies to the South, West and East, and the South China Sea lies to the North. The capital of Brunei is Bandar Seri Begawan. Malay is the official language, with English widely spoken.

2. Brunei adopts a national philosophy of Malay Islamic Monarchy, and in accordance with its 1959 Constitution, His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam is the Head of State and Head of government. Brunei has been ruled under a State of Emergency since 1962 which permits the Head of State to pass any legislation deemed necessary by Emergency Order[2].

3. In 2022, Brunei's nominal gross domestic product (GDP) was approx. BND 23 billion (approx. USD 16.7 billion). Brunei's economy is dominated by revenues from its substantial crude oil and natural gas reserves. GDP contribution of the non-oil and gas sector largely consists of the services, the non-oil and gas industrial sector and agriculture, forestry and fishery sectors.

System of Government

4. A Council of Ministers consisting of 14 members is appointed by the Head of State to deal with executive matters. His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam presides over the Cabinet as Prime Minister and also holds the position of Minister of Defence, Minister of Finance and Economy, and Minister of Foreign Affairs.

5. A Legislative Council with 30 appointed members, reactivated in 2004, plays an advisory role for the Head of State. Legislative Council members may introduce bills; however, a bill will only become law upon its assent, signing and sealing by His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam. The Legislative Council is precluded from engaging in certain matters unless otherwise approved by the Sultan, including matters relating to banking and currency, issues inconsistent with obligations under international treaties and agreements, and matters that may adversely affect His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam[3].

6. Additional councils established under the Constitution include the Religious Council, Privy Council, Customs and Tradition Council, and the Council of Succession, whose members are each appointed by the Head of State.

Legal and court system

7. Brunei's legal system is based on the English common law whereby legislations are enacted by the Head of State and case law is produced by an independent judiciary. Where there are no written laws on a particular matter, the courts would then turn to principles of law found in case authorities. In some instances, it is the practice of the judiciary to refer to cases from other common law jurisdictions as persuasive guidance.[4]

---

[2] 'Brunei Darussalam', Southeast Asian Region Countries Law, University of Melbourne, https://unimelb.libguides.com/c.php?g=930183&p=6721965#:~:text=Since%201962%20Brunei%20has%20been,judicial%20review%20of%20his%20actions, accessed 9 December 2022.

[3] 'Legal System in Brunei Darussalam', Chapter 3 – Government and the State, ASEAN Law Association, https://www.aseanlawassociation.org/wp-content/uploads/2019/11/ALA-BRU-legal-system-Part-3.pdf, accessed 9 December 2022.

[4] 'Legal System in Brunei Darussalam', Chapter 2 – Sources of Law, ASEAN Law Association, https://www.aseanlawassociation.org/wp-content/uploads/2019/11/ALA-BRU-legal-system-Part-2.pdf, accessed 9 December 2022.

8. There are three levels of court in Brunei where each level has a prescribed jurisdiction based on the sentencing powers conferred to each level under the law. All the judges and magistrates are appointed by the Head of State. Additionally, His Majesty the Sultan and Yang Di-Pertuan may also appoint non-local judges from a Commonwealth jurisdiction with specific requirements as Supreme Court Judges in the High Court or the Court of Appeal. The Intermediate Court has the same sentencing powers as the High Court, except in respect of capital offences. All appeals from the High Court and the Intermediate Court are heard in the Court of Appeal. In criminal cases, there can be no further appeal beyond the Court of Appeal. However, civil appeals from the Court of Appeal may be referred by His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam to the Judicial Committee of UK's Privy Council.

9. The Magistrates' Court presides over civil and criminal matters, which make up a majority of the cases heard in Brunei. Any appeals arising from the Magistrates' Court will be heard in the High Court.

10. Brunei also has a separate system of Islamic courts that apply and deal with Syariah family law, penal code and other related matters. Syariah Courts in Brunei include the Syariah Subordinate Courts, the Syariah High Court and the Syariah Appeal Court, each holding criminal and civil jurisdiction[5].

ML/TF Risks and Scoping of Higher-Risk Issues

Overview of ML/TF Risks

11. Brunei is a small jurisdiction with relatively low domestic and transnational crime risks. Brunei has only 13 reported cases per 1,000 people. Theft accounts for the largest percentage of crime in Brunei, however the average value of the proceeds is low and they are typically spent rather than laundered. However, Brunei's geographic proximity to higher ML/TF risk jurisdictions in the ASEAN region may expose it to foreign illicit financial flows which in turn creates internal ML/TF vulnerabilities and risks. Since the closure of its relatively small offshore financial centre, it is not a regional financial centre. A large portion of Brunei's small financial sector is foreign FIs subject to strong home supervisor controls for AML/CFT (Singapore, Malaysia, UK). Brunei's risks of being used as a destination or transit location for criminal proceeds appear low.

12. Brunei faces a number of domestic and cross-border risk from proceeds generating crime and related ML, with theft, cheating (fraud), corruption and bribery, and smuggling particularly noted. Higher risk sectors include the banking, remittance and money changer sectors. Some risks are noted in the lending sector and in the small but emerging VASP sector. Vulnerabilities in the money or value transfer service (MVTS) sector are noted, including links with the high number of foreign workers.

13. Brunei faces threats from regional and international terrorism. Brunei does not have any known active terrorist persons or entities, nor have there been any foreign terrorist fighters (FTF) originating from Brunei. There have been no terrorist attacks within Brunei, Brunei has not designated any persons or entities on its domestic sanctions list, and it has not sponsored or co-designated any persons or entities under relevant United Nations Security Council Resolutions (UNSCRs). However, Brunei has identified threats arising from terrorist groups and returning FTFs operating within the South East Asian region, particularly regarding the potential raising of funds for terrorist purposes.

14. Until 2017, Brunei operated an offshore international financial centre. This allowed for the establishment of international business companies (IBCs), limited partnerships, offshore trusts, insurance companies and offshore banks. The possible misuse of IBCs and other legal persons through this offshore financial centre had also been identified in the previous ME as an ML vulnerability, with

[5] Supra note 2.

over 5,000 IBCs registered in Brunei. However, Brunei ceased offshore operations in 2017 with most offshore licences expiring by December 2017. No companies or trusts can be formed under this previous legal framework for 'offshore' companies and trusts.

15. There are currently seven IBCs still listed in Brunei's IBC registry with each of these being owned or linked to Brunei government entities and supervised by the Brunei Darussalam Central Bank (BDCB). Brunei intends to repeal all relevant legislation governing its IBC regime once these government-linked IBCs have wound up their financing arrangements. The anticipated wind up dates for the entities range from 2024 to 2028.

Country's risk assessment

16. Brunei's first ML/TF national risk assessment (NRA) was completed in 2016 and was a self-assessment based on a tool developed by the World Bank. The NRA was led by the National Anti-Money Laundering and Combatting the Financing of Terrorism Committee (NAMLC) and was supported by working groups comprised of public and private sector representatives. The working group facilitated consultations with relevant departments, agencies and other organisations with AML/CFT responsibilities and knowledge. The NRA was informed by 2013-2015 data collected from public and private sector stakeholders, including law enforcement, intelligence and other government agencies, supervisory authorities, and the private sector.

17. Brunei's 2016 NRA has been subject to ongoing review. The ML Threat Assessment (TA) and TF Risk Assessment (RA) were updated in 2020. The 2020 TF RA is also based on an expanded methodology incorporating elements of the FATF TF Risk Assessment Guidance and the World Bank methodology used in the 2016 NRA. The assessment methodology for the 2020 TF RA differs from the 2016 NRA, with the ML threat assessments based on an analysis of a wider range of predicate offences.

18. Risk assessments have also been completed on virtual assets (VA) and VASPs (2020), cooperative societies (2019), legal persons (2020), and $10,000 Notes (2020). The Sectoral ML/TF RA was completed in 2021 and an NPO Sector Review in 2020.

19. The NRA identified a medium level of ML/TF risk, with cheating (fraud), corruption and bribery, and alcohol and tobacco smuggling found to be the most high-risk predicate crimes. Brunei's proximity to higher ML/TF risk jurisdictions in the ASEAN region[6] may expose it to foreign illicit financial flows, while its high number of foreign workers may create vulnerabilities in the money or value transfer service (MVTS) sector.

20. The ML TA and TF RA were finalised in 2020. There was no adjustment to the ML risk rating, which remained at *medium*, while the TF risk rating was adjusted to *medium-low*. The banking and remittance sectors were found to be high risk for ML due to their cash-intensive nature, availability of cross-border transactions, and exposure to high risk customers. The 2021 Sectoral RA reassessed the ML/TF risk of these sectors and lowered the risk level from *high* to *medium high*. This change was primarily due to the improving controls in the sectors following enforcement actions and other supervisory activity. The VA/VASPs RA found a *medium-low* risk for ML and TF. The 2021 Sectoral ML/TF RA, which included assessing the money lending sector and found the risk level for the sector to be *medium*. The 2021 Sectoral RA also assessed the money lending sector and found the risk level to be medium. This sector had not been assessed in 2016.

[6] Association of Southeast Asian Nations (ASEAN) includes Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

1

Scoping of higher risk issues

21. Based on material provided by Brunei and additional research, the assessment team focused on the following high or specific risk issues during the mutual evaluation:

- *Cheating (fraud)* – the NRA assessed this predicate category as the highest ML risk given a large amount of proceeds involved. Brunei is also affected by increased instances of frauds involving cybercrime, banking scams, online identify theft, and social media and phone scams.
- *Corruption and bribery* – the NRA assessed these predicates as a medium ML risk noting a majority of investigations involve small-scale corruption or bribery, with some high profile and larger scale cases occurring in recent years. The assessment team considered the impact of corruption, bribery and the role of PEPs in Brunei.
- *Smuggling* – The NRA assessed the threat from cigarette smuggling as medium, with smuggling from neighbouring jurisdictions appearing to have accelerated following increases to tobacco excise duties and retail licence fees. The sale and consumption of alcohol is prohibited in Brunei, apart from small amounts that can be imported for personal use by non-Muslims. Brunei has strict illicit drug controls and the 2016 NRA assessed Brunei's drug trafficking risk as low, however the 2020 Update found its ML threat to be increasing. The assessment team has considered the nature and materiality of ML/TF risks and responses to smuggling of goods, including drugs, tobacco and alcohol, and connections to transnational organised crime.
- *Human trafficking* – ML threats from human traffickers have been recorded, and a large number of migrant workers coupled with multiple trafficking indicators has been observed in Brunei. The NRA did not give a risk rating for human trafficking, but the offence was considered as part of the 2020 ML Threat Assessment and not found to be a significant ML threat.
- *Terrorism financing* – The 2020 Update found the TF risk in Brunei to be medium-low (down from medium in the 2016 NRA). The threat was assessed to largely originate from individuals who may be radicalised (or who harbour sympathies for regional or international terrorist organisations) raising and sending funds overseas via banking and remittance sectors. Brunei's proximity to areas with active terrorist and militant presence also gives rise to TF risks.
- *Foreign predicates* – The NRA assessed the overall ML threat as originating mainly from domestic predicate offences, with the threat of ML posed by foreign jurisdictions rated as low. However, geographic proximity to higher ML/TF risk jurisdictions in the ASEAN region exposes Brunei to foreign illicit financial flows. In addition, the high number of foreign workers may create vulnerabilities in the MVTS sector.

22. The assessment team also considered sector vulnerabilities, or sectors requiring specific assessment, as follows:

- *Banking and remittance* – The NRA considers the banking and remittance sectors as the most vulnerable to ML/TF, especially due to their cash-intensive nature and the presence of foreign workers in Brunei. The NRA also noted cross-border transportation of cash and bearer-negotiable instruments (CBNIs) as a key vulnerability due to a lack of enforcement and detection.
- *Money lenders* – The money lender sector was assessed to hold an overall medium risk level with high vulnerability. There are no licensed money lending operators in Brunei, but unlicensed operators have been detected. The sector is considered cash intensive and unlicensed lending is assessed as becoming more prevalent.
- *VA/VASPs* –VA and VASP sector is assessed to hold a low ML risk and medium low TF risk. The sector is unregulated with no locally incorporated VASPs. The assessment team considered that

differences in regulatory approaches by neighbouring jurisdictions and difficulties associated with transaction tracing could potentially be exploited to conduct cross-border activities including TF.

- *Luxury vehicles* – Car dealers are the third most common contributor of cash transaction reports, behind banks and remittance companies, and luxury vehicle purchases have been associated with ML cases in Brunei. The cash intensive nature of this sector poses some ML risks.
- *Offshore financial services* – The assessment team considered any potential residual risks following the conclusion of Brunei's offshore financial service operations in 2017, including the existence of any legacy TCSP services and risk understanding.

Materiality

Nature of the economy

23. Brunei's oil and gas sector contributed BND 2.6 billion (approximately USD 1.9 billion) to its economy in 2019, and approximately 52.5 per cent to its gross value added. Brunei's GDP grew by 7.1 per cent in 2019, principally due to an 8.1 per cent increase in the oil and gas sector (with the non-oil and gas sector growing by 5.9 per cent). Brunei recorded an inflation rate of 1.7 per cent for 2021. Progress in diversification has been made in recent years with the emergence of refinery and petrochemical and fertilizer sectors and the expansion of agricultural exports. Still, exports in Brunei continue to be highly concentrated in the oil and gas sector.

24. Significant foreign direct investment (FDI) occurs in the oil and gas sector, but Brunei is well behind its ASEAN neighbours in relation to its levels of FDI as a percentage of GDP. FDI has been between 2-3 per cent of GDP between 2016 and 2020

25. In 2019, Brunei recorded a labour force participation rate of 64.3 per cent and an unemployment rate of 6.8 per cent. Around two thirds of the population are employed in the private sector with an average income of 1,626 BND per person (approx. 1,200 USD).

26. Micro, Small and Medium size Enterprises (MSMEs) accounted for 97.3 percent of enterprises in 2019, contributing to 43.9 percent of private sector employment (55.7 percent of enterprise employment) and 27.0 percent of GDP[7]. The introduced several policies to facilitate MSMEs growth before the COVID19 pandemic.

27. In 2020 the IMF reported that Brunei further improved its Ease of Doing Business score from 69.6 (adjusted) in 2019 and was ranked 66 out of 190 economies and the 4th among ASEAN member states. Obtaining credit has been enhanced robustly thanks to the development of a credit bureau and a credit registry listing most of adult population.

28. There has been a Currency-Interchangeability Agreement between Brunei and Singapore since 1967 under which the Brunei Dollar (BND) is pegged to the Singapore Dollar (SGD) and both currencies are legal tender in both countries. The Agreement supports deep economic and financial linkages between the two countries.

29. Authorities report that Brunei is a highly cash-based economy with some sectors (noted above) particularly cash intensive. Comparative statistics of the extent of the cash-basis of the economy were not available. Until 2020, BND 10,000 (approx. USD 7,200) bank notes were in circulation in Brunei, however their issuance was ceased following a ML/TF risk assessment on BND 10,000 notes. Other very high value BND banknotes remain in circulation - the BND 1,000 banknotes (approx. USD 720) and BND 500 (approx. USD 360).

[7] Annual Census of Enterprises 2019, Department of Economic Planning and Statistics, MOFE. Asia Small and Medium-Sized Enterprise Monitor 2021, ADB.

1

Finance sector

30. Brunei's financial sector consists of a dual system comprising Islamic and conventional financial institutions (FIs). The sector is dominated by the banking sector to a high degree, which contributes approximately 83.5 per cent of total sector assets, followed by finance companies, and the takaful[8] (sharia compliant insurance) and insurance sector.

31. There are a relatively small number of foreign FIs present in the market from Malaysia (2 x bank and 1 x securities firm), Singapore (1 x bank, 4 x insurance and 1 x securities firm) and the United Kingdom (1 x bank and 1 x securities firm)

32. In 2016, Brunei developed the Financial Sector Blueprint 2016-2025, which provided a roadmap and a strategic framework to develop Brunei's financial services sector. Brunei does not have a securities or bond market at present, although the BDCB is leading the project on the establishment of a stock exchange.

33. The main professional body of banks is the Brunei Association of Banks (BAB), which has seven member banks and three observers. The main professional body for the takaful/insurance sector is the Brunei Insurance and Takaful Association, which has both Islamic and conventional members.

34. Brunei's offshore international financial services sector closed its offshore activities in 2017. Legislation relating to offshore banking and offshore companies and trusts are no longer operational. The last offshore bank exited in July 2017 and all licences for trust and company service providers (TCSPs) under the offshore sector expired by December 2017. None of the TCSPs that were previously licenced under Brunei's offshore financial centre remain as domestic TCSPs.

DNFBPs and VAs/VASPs

35. The Designated Non-Financial Businesses and Professions (DNFBPs) sectors in Brunei are relatively small and are principally domestically owned. The DNFBP sectors include 24 real estate agents, 21 law firms, 15 notaries, 4 accounting firms (three of which are affiliated with global 'big four' groups), and 22 dealers in precious metals and stones (DPMS). There are 8 trust and TCSPs that are identified by the FIU as DNFBPs, but a small number of other businesses (e.g. company secretary firms) also provide company services in Brunei. There is no casino as operating casinos is prohibited in Brunei.

36. There are no locally incorporated VASPs. However, there are some regulations that would appear to be applicable to some aspects of VA/VASPs. Foreign VASPs appear to be offering VA services to customers in Brunei.

Financial Inclusion

37. Studies indicate that financial inclusion in Brunei is significantly higher than in most ASEAN countries (2nd amongst the 10 ASEAN members) due to a relatively high number of bank accounts, bank branches and ATMs compared to the adult population[9]. This also reflects Brunei's small geographical area and, in recent times, improvements in payment systems and developments with fintech in the economy.

[8] Takaful is a scheme in accordance to '*Hukum Syara'* based on brotherhood, solidarity and mutual assistance which provides for mutual financial aid and assistance to the participants in case of need whereby the participants mutually agree to contribute for the purpose.

[9] Bhattacharyay, Biswanath and Bhattacharyay, Madhurima, Financial Sector Development in Brunei Darussalam: Depth, Access, and Efficiency: A Comparative Analysis (2022). CESifo Working Paper No. 9960, Available at SSRN: https://ssrn.com/abstract=4235475 or http://dx.doi.org/10.2139/ssrn.4235475

Exposure to trade and finance with the DPRK or Iran

38. Brunei established diplomatic relations with the Democratic People's Republic of North Korea (DPRK) in 1999, with some minor trade activity observed between the jurisdictions[10]. Diplomatic relations with the Islamic Republic of Iran (Iran) were established in 1990. Trade activity with Iran has been relatively minor[11], however open source information indicates recent diplomatic contact has included calls from Iran to enhance the jurisdictions' economic and trade relationship[12].

Structural Elements

39. Indicators for governance and integrity from the 2011 to 2021 World Bank World Wide Governance Indicators Country Snapshots[13] show Brunei has remained stable or has steadily improved on indicators regarding corruption control, government effectiveness, political stability and absence of violence/terrorism, and the rule of law. Regulatory quality indicators have remained largely stable despite a decline from 2011.

40. Media and press freedoms appear relatively restricted in Brunei. The World Bank governance indicator for 'voice and accountability' as included in Table 1.1 remains in the bottom 30th percentile. Reporters Without Borders' 2022 World Press Freedom Index report ranks Brunei 144th out of 180 countries and territories for press and media freedom[14].

Table 1.1 Governance Indicators 2011 and 2021 - World Bank World Wide Country Snapshot

Indicator	Percentile rank (0-100) 2011	Percentile rank (0-100) 2016	Percentile rank (0-100) 2021
Political stability & absence of violence/terrorism	86.7	91.4	92.9
Government effectiveness	76.3	82.2	91.3
Regulatory quality	84.4	69.7	81.7
Rule of law	75.6	70.7	79.3
Control of corruption	76.8	68.8	86.1
Voice and accountability	29.1	23.2	24.2

41. Non-government organisations, including Transparency International, and the ACB publications highlight a steady perception of corruption as being relatively low in comparison to most neighbouring jurisdictions in ASEAN. Brunei's Transparency International Corruption Perception Index ranking decreased from 32nd in 2017 to 35th in 2019 (out of 180 countries)[15]. Brunei authorities continue to prioritise combating corruption and demonstrate successful track record of identifying and prosecuting corruption cases, including both domestic and multi-jurisdictional matters. The successful

[10] Brunei/North Korea trade data, Observatory of Economic Complexity, https://oec.world/en/profile/bilateral-country/prk/partner/brn, accessed 9 December 2022.
[11] Brunei/Iran trade data, Observatory of Economic Complexity, https://oec.world/en/profile/bilateral-country/brn/partner/irn, accessed 9 December 2022.
[12] 'Iran, Brunei Darussalam FMs discuss Palestine, ties by phone', 30 April 2022, Mehr News Agency, https://en.mehrnews.com/news/186334/Iran-Brunei-Darussalam-FMs-discuss-Palestine-ties-by-phone, accessed 9 December 2022;
[13] 'Worldwide Governance Indicators', The World Bank, https://databank.worldbank.org/source/worldwide-governance-indicators, accessed 9 December 2022.
[14] 'Brunei', Reporters Without Borders, https://rsf.org/en/country/brunei, accessed 9 December 2022.
[15] No data from Brunei is available for the 2020 and 2021 Corruption Perception Indexes.

1

prosecution of a recent larger-scale corruption matter ('the Judicial Officers case') highlights both the success in taking action against corruption, but also challenges posed by applying anti-corruption measures to politically exposed persons in a small jurisdiction with relatively weak media or civil society organisations able to focus on integrity and transparency issues.

Judicial Independence

42. The Constitution does not specifically provide for an independent judiciary. However, in 1996 in a landmark legal decision, the appellate-level High Court ruled that the court has powers independent of the prosecution and ordered a discharge in a car theft case under review, which amounted to an acquittal under the Criminal Procedure Code. In general, the courts appear to act independently. Procedural safeguards include the right to defence counsel, the right to an interpreter, the right to a speedy trial, and the right to confront accusers. There have been no publicised instances of government interference with the judiciary or trials of political opponents.

43. Brunei demonstrated steps to manage potential conflicts of interest, particularly through the Judicial Officers case, which involved defendants who had previously worked at the AGC as prosecutors before their transfer to the Judiciary Department. In that case, a Visiting Judge, Justice Gareth John Lugar-Mawson, was assigned to hear the case to avoid any conflict of interests with the Defendants and witnesses who were also judicial officers. An external Queen's Counsel (as it was then) was appointed to lead the prosecution team comprising of local prosecutors to avoid conflicts of interest.

Background and other Contextual Factors

Challenges and opportunities towards greater transparency

44. A number of challenges to transparency of businesses, transactions and the economy overall are noted which add to Brunei's ML vulnerabilities:

a. The use of simple partnerships is very common as a business form in Brunei as there is no tax payable on enterprises run as partnerships. Simple partnerships are not legal persons separate from the partners that make up the partnership. There are few obligations to file details of partnership arrangements. Partnerships filing obligations do not include the partnership agreement or any beneficial ownership or control arrangements / contracts of partnerships. Partnership agreements do not have to file annual returns. The private sector appears to have some understanding of the risks of partnerships through their experience of CDD, including possible use of 'front' partners. The assessment team notes vulnerabilities with partnerships being misused by foreigners avoiding controls on foreign ownership of businesses. It is notable that Brunei authorities assessed simple partnerships in the 2020 RA on Legal Persons and noted relatively high numbers of STRs involving partnerships. There are AML/CFT obligations on any business offering partnership services, but these obligations are not well implemented.

b. Sole proprietorships are not legal persons, but they lack transparency. Their common use is related to no tax being payable on businesses run in this form. There are no obligations to file details of any beneficial ownership or control agreements / contracts of sole proprietorships. Concerns have been raised of trends with 'fronts' with the sole proprietorship being owned or controlled by third parties.

    i. Brunei has an activity-based definition of TCSPs in the CARO which extends AML/CFT obligations to a wide range of business that provide company and partnership services. This would include company secretaries. In practice, only a small number of company secretaries have been identified by the authorities as TCSPs and many of the professional company secretaries are not implementing the CARO obligations.

c. There are few incentives to incorporate small to medium enterprises (SMEs) primarily due to taxation arrangements. Restrictions on foreigners participating in the business sector creates an incentive to seek less transparent business structures.

d. Very few Brunei companies file audited financial statements. There are no publicly listed companies and only 'public companies' are required to file audited financial statements with the ROCBN. This is a relatively high threshold of shareholdings before a company is considered a public company.

45. Brunei has acted on a number of corruption risks as 'lessons learned' from the Judicial Officers case outlined in the report below. The relevant authorities have taken steps to identify and address the gaps in the process which allowed the convicted judicial officers to siphon off monies kept in the Official Receivers' bank accounts. Previously, only one Deputy Official Receiver was appointed as the authorised signatory to the account. Following this case, there are now two authorised signatories to an Official Receivers' account and both signatures are required before executing any banking instructions or transactions. Further, cash payments to Judgment Creditors by the Deputy Official Receivers are no longer allowed.

AML/CFT strategy

46. Brunei's NAMLC develops policies, and provides advice and strategic direction to competent authorities to support the development and implementation of national AML/CFT initiatives.

47. The NAMLC is chaired by the Deputy Minister of Finance and Economy (Fiscal), with the Commissioner of the Royal Brunei Police Force (RBPF) and Managing Director of BDCB as deputy co-chairs. NAMLC members consist of high-level representatives from BDCB, AGC, the FIU and various law enforcement agencies (LEAs) including the RBPF (Criminal Investigation Department and Intelligence Department), Internal Security Department (ISD), ACB, Immigration and National Registration Department, Narcotics Control Bureau (NCB) and Royal Customs and Excise Department (RCED).

48. The NAMLC endorsed Brunei's National Strategy on AML/CFT for 2017-2019 in 2017, and the Strategy has been extended until the completion of the ME. The Strategy was endorsed following completion of the 2016 NRA and details Brunei's focus areas for improvements to its national AML/CFT regime. The Strategy outlines objectives including development of sound institutional frameworks, improved ML/TF investigations and prosecutions, strengthened domestic and international cooperation, enhanced cross-border cash movement enforcement and improved compliance with international standards.

Legal & institutional framework

49. Brunei's AML/CFT legal framework is provided by the Criminal Asset Recovery Order, 2012 (CARO), the Anti-Terrorism Order, 2011 (ATO), and the Anti-Terrorism (Terrorist Financing) Regulations, 2013 (TFR) which were last updated in late 2022.

50. Brunei's AML/CFT legislation is supported by guidelines related to specific matters including the submission of STRs and transaction monitoring programmes, and more general guidance on reporting entities' AML/CFT obligations. Brunei issued new legislation in late 2022 and early 2023 to consolidate and extend some of the AML/CFT preventive measures.

51. The institutional framework for AML/CFT in Brunei is set out below:

Inter-agency coordination and cooperation bodies

- **National Anti-Money Laundering and Combatting the Financing of Terrorism Committee (NAMLC)**: coordinates, implements and monitors development and implementation of national AML/CFT initiatives. The FIU serves at the Secretariat to the NAMLC.

- **National Security Committee (NSC):** acts as the national body on security matters. The NSC is supported by committees for the sharing of operational information. The relevant working committees include the following:
    - **Intelligence Working Committee (IWC):** responsible for discussing and evaluating intelligence information and reports, including national threat assessments and intelligence estimates.
        - **Counter Terrorism Intelligence Working Group (CTIWG):** an operational taskforce comprising intelligence agencies that monitors terrorism and TF matters, and prepares national threat assessments and intelligence estimates. The CTIWG sits under the Intelligence Working Committee.
    - **Law Enforcement Working Committee (LEWC):** committee for LEAs to discuss and monitor law enforcement effectiveness and strategies for recommendation to the NSC. The LEWC also coordinates operations involving multiple domestic LEAs.

Implementing Agencies

- **Anti-Corruption Bureau (ACB)**: responsible for investigating corruption offences and corruption related ML cases.
- **Attorney General's Chambers (AGC)**: responsible for prosecuting offences, including ML/TF offences, legislative drafting and other law ministerial functions. The AGC is the central authority for Mutual Legal Assistance (MLA), including extradition.
- **Board of Valuers and Estate Agents (BoVEA)**: responsible for the licensing, registration and professional conduct and ethics regulation of valuers and estate agents.
- **Brunei Darussalam Central Bank (BDCB)**: Brunei's central bank and AML/CFT supervisor. Holds exclusive authority for the licensing, registration and supervision of FIs operating in Brunei and houses the FIU.
- **Financial Intelligence Unit (FIU)**: responsible for receiving, analysing and disseminating reports and information regarding ML/TF and serious offences. The FIU is situated within the BDCB and is also responsible for all AML/CFT supervision. The FIU is also the NAMLC Secretariat.
- **Immigration and National Registration Department (INRD)**: responsible for conducting investigations into people smuggling, human trafficking and undeclared CBNI movement as part of immigration affairs, national registration, and border control checkpoint management.
- **Internal Security Department (ISD)**: responsible for gathering intelligence information regarding investigations into internal security offences, terrorism and TF offences.
- **Ministry of Finance and Economy (MOFE)**: responsible for the administration of the CARO.
- **Ministry of Foreign Affairs (MFA):** responsible for receiving requests from foreign countries to designate a person or entity in accordance with UNSCR 1373.
- **Narcotics Control Bureau (NCB):** responsible for conducting investigations into drug related offences and ML cases related to such offences.
- **Public Accountants Oversight Committee (PAOC) of MOFE:** responsible for the supervision of public accountants.
- **Registry of Companies and Business Names (ROCBN) of MOFE:** responsible for administering business registration and company incorporation, including a small number of not-for-profit companies.

- **Registrar of Societies (ROS) of RBPF:** responsible for administering the Societies Act Cap. 203.
- **Revenue Division of MOFE:** responsible for the licensing of public accountants as per directions set by the MOFE or the Public Accountants Oversight Committee (PAOC).
- **Royal Customs and Excise Department (RCED) of MOFE:** responsible for investigating smuggling offences and ML cases regarding smuggling and undeclared cross border cash and BNI movement. RCED investigates people smuggling and human trafficking cases.
- **Royal Brunei Police Force (RBPF):** responsible for investigating crimes in accordance with the Penal Code, Criminal Procedure Code and other laws, including ML, TF and investigations involving predicate offences that do not fall under the jurisdiction of other LEAs. Manages cooperation as part of international investigations pursuant to its membership of INTERPOL.

52. Brunei's AML/CFT institutional framework also consists of two self-regulatory organisations:

- **Brunei Institute of Certified Public Accountants (BICPA):** responsible for promoting the accounting profession in Brunei. BICPA has no statutory basis or disciplinary powers.
- **Law Society of Brunei Darussalam (LSBD):** statutory responsibility for regulating the legal profession, and the professional practice, conduct and discipline of solicitors and advocates.

Financial sector, DNFBPs and VASPs

53. Not all of the financial and DNFBP sectors are of equal importance, given the specific risks and context of Brunei's financial sector. The materiality and level and types of ML/TF risks affecting individual FIs and DNFBPs vary greatly, as do the ML/TF risks facing particular sectors. The assessment team ranked the sectors on the basis of their relative importance in the Brunei context given their respective materiality and ML/TF risks. The assessors used this ranking to inform their conclusions throughout this report, weighting positive and negative implementation issues more heavily for important sectors than for less important sectors.

54. Implementation issues were weighted most heavily for banks and finance companies (both finance companies are subsidiaries of local banks) as they represent 92% of the total assets of the financial sector and are rated high risk for ML. MSBs are also weighted heavily given the cash intensive nature of their business and vulnerabilities in relation to cross border payments. The assessment team moderately weighted insurance and takaful, advocates and solicitors, accountants, CSPs, real estate agents and attached less weight to securities, pawn broking and DPMS. Table 1.2 below lists the types of FIs in Brunei's financial sector.

Financial institutions

55. Brunei's financial sector is dominated by its banking sector, which contributes approximately 83.5 per cent of total financial sector assets. The banking sector is comprised of one local Islamic bank, one local conventional bank, five foreign branches, one bank with a restricted license, and one Islamic trust fund.

56. The two finance companies operating in Brunei are subsidiaries of two local banks. In 2019, the total number of financing accounts for these entities was 113,307, with total assets of BND 1.91 billion (approx. USD 1.4 billion) and total deposits of 1.57 billion (approx. USD 1.15 billion). There is one pawnbroker (secured short term lending) in Brunei, which is a subsidiary of a local bank.

57. Brunei's insurance sector comprises of five life insurers, eight non-life insurers, one insurance broker and one insurance adjuster. Total recorded insurance sector assets for 2019 was approximately BND 1.76 billion (approx. USD 1.29 billion).

Table 1.2: Financial sector in Brunei

Sector	Entities	Regulatory authority	General legislation and guidance	Sector specific legislation and guidance
Banking	9	BDCB	CARO, ATO and TFR General Guidance Paper to FIs and DNFBPs on AML/CFT (General Guidance) Guidance Paper to FIs for the Obligation to Submit STR (STR Guidance) Guidance on Obligations Under the Anti-Terrorism (Terrorist Financing) Regulations, 2013 (DPER Guidance) Guidance Paper to FIs on AML/CFT Transaction Monitoring Autoriti Monetari Brunei Darussalam Order, 2010 (BDCB Order) Payment and Settlement Systems Oversight Order, 2015 (PSSOO)	Banking Order, 2006 Islamic Banking Order, 2008 Notice on Appointment of Key Responsible Persons (KRP) for banks, Islamic banks and finance companies Guidelines of Corporate Governance for Banks Disclosure on Risk Management, Credit Risk Management, Internal Audit Function, Compliance and Compliance Function and Internal Control Systems Perbadanan Tabung Amanah Islam (TAIB) Act Finance Companies Act (FCA)
Finance companies	2	BDCB		
Insurance	15	BDCB		Insurance Order, 2006 Notice on Corporate Governance for Insurance Companies and Takaful Operators
Securities	7	BDCB		Securities Markets Order, 2013 (SMO)
MVTS	18	BDCB		Money Changing and Remittance Businesses Act (MCRBA) Remittance System Guidelines Money changing and remittance licensing conditions
Money changers	24	BDCB		Money Changing and Remittance Businesses Act Money changing and remittance licensing conditions
Money lender	0	BDCB		Moneylenders Act
Pawnbroker	1	BDCB		Pawnbrokers Order, 2002
Dealers in high value goods	23	BDCB		CTR Guidance (issued in 2016, updated in 2019) CTR Specific Guidance for Motor Vehicle Dealers (2016)

58. The securities sector comprises of eight entities with a Capital Markets Services Licence, 153 with a Capital Markets Services Representative's Licence, 21 collective investment schemes, and one foreign trading facility.

59. The money changing sector consists of 24 money changers (four of which operate with a restricted license at hotels) which in 2019 recorded a total of approximately BND 170 million (approx. USD 126 million) of foreign currencies sold and approximately BND 32 million of foreign currencies bought (approx. USD 23.7 million).

60. The MVTS sector consists of 18 remittance businesses. A total of approximately BND 730 million (approx. USD 525 million) of outward remittance was recorded in 2019 with the majority of this being sent to Indonesia, the Philippines, Bangladesh and India. BND 5.37 million (approx. USD 3.95 million) of inward remittance was also recorded in 2019, with this amount originating primarily from the Philippines, the United States, Indonesia and Malaysia.

DNFBPs

Table 1.3: DNFBPs in Brunei

Sector	Entities	Professional body	Sectoral regulator	Sector specific legislation
Law firms	35	LSBD	Chief Registrar	Legal Profession Act
Real estate agents	24	None	BoVEA	Valuers and Estate Agents Order, 2009
Notaries	15	LSBD	Chief Justice	Legal Profession Act, Commissioners for Oaths
Accounting firms	12	BICPA	PAOC, MOFE	Accountants Order, 2010
DPMS	32	None	None	None
TCSP	8	None	None	None

61. All DNFBPs outlined in Table 1.3 are subject to AML/CFT obligations. The operation of casinos is prohibited in Brunei.

62. A small number of other businesses (e.g. company secretary firms) also provide company services in Brunei and would be captured by the CARO's activity-based definition of company and partnership service providers, but are not included in the list of TCSPs above.

63. There also 23 motor vehicle (new) dealers operating in Brunei which are required to submit CTRs in accordance with the CARO.

VASPs

64. At the time of the onsite visit there were no domestic VASPs operating in Brunei, however the BDCB had assessed the following legislation as being relevant for the regulation of such activities or operations in Brunei:

- The **Securities Markets Order, 2013 (SMO)** would be applicable for the licensing and regulation of VASPs where activities involve security token offerings.
- The **Money Changing and Remittance Businesses Act (MCRBA)** does not explicitly extend to VA/VASPs, it may capture VA/VASP activities involving exchanges between VA and fiat currencies. Brunei plans to amend the MCRBA to explicitly capture VASP activities.

- The **Notice on Requirement for Payment Systems** includes requirement to obtain approval for activities relating to the transfer of VAs (for payment purposes), as well as safekeeping and/or administration of VAs or instruments enabling control over VAs, participation in and provision of financial services related to issuers' offer and/or sale of VAs.

Overview of Preventive measures

65. Preventive measures are primarily set out in the CARO, ATO and TFR, and associated orders and enforceable guidelines, including the General Guidance (GGP), STR Guidance, and Guidance on Obligations Under the Anti-Terrorism (Terrorist Financing) Regulations, 2013 (DPER Guidance).

66. Brunei has exempted cooperative societies from complying with AML/CFT obligations on the basis of a 2019 ML/TF risk assessment.

Legal persons and arrangements

67. Brunei is not a regional centre for the formation or management of legal persons or arrangements. Brunei undertook an assessment of the ML/TF risks associated with legal persons, as well as those posed by partnerships and sole proprietorship businesses.

68. The following types of legal persons and businesses can be formed or registered in Brunei:

Table 1.4: Legal persons & businesses registered in Brunei (Nov 2022)

Type of legal person and business registration	Formed or registered under	Registered
Public company	Companies Act	19
Private company		9,933
Foreign company		524
Companies limited by guarantee		5
Partnership (simple)	Business Names Act	14,860
Sole-Proprietorship		95,407
limited liability partnerships (LLP)	Limited Liability Partnerships Order	0
Society	Societies Act	544
Cooperative society	Cooperative Societies Act	160

69. Common law express trusts are recognised and can be created under Brunei law, and foreign trusts can also be administered in Brunei. There is no statutory basis to form other legal arrangements in Brunei. While there are no clear rules on who may establish a common law trust in Brunei, the services of a lawyer or a TCSP are usually obtained to assist their establishment.

Supervisory arrangements

70. The BDCB, through the FIU, performs the role of Brunei's sole AML/CFT supervisor. A dedicated AML/CFT Supervision Unit within the FIU was established in 2017 to streamline the BDCB's supervisory responsibilities. Prudential supervisory units in the BDCB also supervise elements of AML/CFT.

71. The BDCB is the licencing authority and prudential or sector supervisor for all FIs. Table 1.3 outlines the regulatory authorities responsible for registration or licensing of DNFBPs.

International Cooperation

72. Brunei's Mutual Assistance in Criminal Matters Order, 2005 (MACMO) enables it to provide assistance in matters including evidence, written statements, protection orders, custody, search and seizure, and identifying and locating persons. The AGC is the competent authority for MLA in Brunei, with an MLA and Extradition Secretariat located within the AGC to transmit and execute MLA and extradition requests.

73. The Extradition Order, 2006 provides the legal basis for extraditing fugitive offenders. Brunei has simplified extradition mechanisms in place with its regional neighbours Malaysia and Singapore.

74. Several of Brunei's competent authorities maintain memberships in relevant international and regional organisations, including INTERPOL and ASEANAPOL (RBPF), the South East Asia Parties Against Corruption (ACB), World Customs Organisation (RCED), the Asset Recovery Interagency Network – Asia Pacific (AGC), the Egmont Group (FIU), and the Financial Intelligence Consultative Group comprising the FIUs of ASEAN members, Australia and New Zealand (BDCB-FIU).

75. Brunei competent authorities maintain various bilateral and multilateral agreements for cooperation with foreign counterparts.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key findings

a) Brunei has a good understanding of its ML and TF risks, mainly based on a broad range of risk assessments (RAs) and subsequent updates. Brunei demonstrated very strong identification, assessment and understanding of TF and related terrorism risks, owing to an overall focus on national security measures in Brunei.

b) The 2016 National Risk Assessment (NRA) has been kept up-to-date with a ML threat assessment (TA) and a TF RA issued in 2020. These key assessments have been supplemented with a sectoral RA in 2021 and additional RAs on legal persons, VASPs, cooperative societies and the BND 10,000 (USD 7,200) note, and a sectoral review of the NPO sector.

c) The assessments generally reflect strong inputs from a range of stakeholders, including LEAs and intelligence agencies. Most RAs are coordinated by the FIU through the NAMLC, with strong FIU operational and strategic analysis products contributing to the analyses. TF RAs are developed through joint agency processes, which include the FIU, LEAs and security intelligence agencies.

d) RAs draw on data from FI/DNFBPs but noting the possible impact of COVID-19, there has been no close collaboration with the private sector since the 2016 NRA.

e) The FIU has the strongest understanding of ML/TF risk amongst competent authorities. While the FIU monitors for emerging risks, some areas require deeper assessment. Risks from the lack of transparency in partnerships and sole proprietorships have not been comprehensively assessed.

f) The LEAs demonstrated a good understanding of ML and a deep understanding of the TF risks, and most LEAs demonstrated a good application of that understanding, particularly in recent work. The prudential supervisor has received and is aware of the ML/TF risk assessment findings, including the NRA, sectoral RA and institutional RAs.

g) The NAMLC has responded to the risks identified by the NRA through the National Strategy (2017-2020) which includes action points around seven key objectives. Through the 2020 extension of the Strategy, Brunei has completed the majority of the action points. However, no formal interim updates have been made to the Strategy to reflect recently updated RAs or priority implementation support for the new beneficial ownership requirements.

h) Based on the RAs and the National Strategy, Brunei has taken steps to address higher-risk areas. The FIU focuses on the analysis and dissemination of financial intelligence related to high-risk predicate offences, and LEAs have increased the number of ML investigations in those areas. Enhanced measures have been applied to higher-risk sectors, with the remittance sector reporting all transactions to the FIU, and car dealers being subject to CTR reporting. The exemption of cooperative societies is supported by a separate ML/TF RA on the sector.

i) Brunei's national coordination under the NAMLC works well to facilitate cooperation and information exchange between relevant agencies. The National Security Committee, and its Counter-Terrorism Intelligence Working Group (CTIWG) in particular, facilitate cooperation on CT and CFT. Informal cooperation between the LEAs, AGC and FIU is shown to work well. ROBCN has not been sufficiently included in policy and operational coordination.

j) While there has been some policy-level coordination in the process of establishing a CPF framework, operational-level cooperation is not yet evident to implement the framework.

Recommended Actions

a) Further update the National Strategy to reflect the recently updated RAs and priority implementation support needs (ROCBN and others) for the amended Companies Act.

b) Increase private sector contributions to the design and conduct of ML/TF RAs and the planning and support of risk mitigation measures (e.g. guidance arising from findings of RAs).

c) Consider conducting further RAs to more deeply identify and assess the ML threats and vulnerabilities, including possibly in relation to:
   a. PEPs
   b. Car dealers
   c. Cash economy issues, particularly vulnerabilities from BND 1,000 notes and risks related to cross-border CBNI movements
   d. Sole proprietorships and partnerships; and
   e. Changed ML vulnerabilities since the 2016 assessment.

d) Consider including ROCBN in national coordination structures (NAMLC) to deepen implementation of the revised Companies Act and various transparency initiatives.

e) Ensure the NAMLC Secretariat is sufficiently resourced to support monitoring the implementation of the National Strategy and Action Plan, coordination of RAs and the upcoming implementation of CPF measures.

f) Enhance the data available to support risk assessments, including the comprehensiveness of data related to predicate offences and seized assets.

g) Conduct more outreach to FIs and DNFBPs on the ML/TF risks applicable to their sector to better support risk-based implementation of AML/CFT obligations (IO.4 refers).

76. 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 and elements of R.15.

Immediate Outcome 1 (Risk, Policy and Coordination)

Country's understanding of its ML/TF risks

77. Brunei has taken a range of actions to identify and assess its ML and TF risks to support understanding of risks amongst AML/CFT stakeholders. The main ML risks identified in the 2016 NRA

relate to cheating, criminal breach of trust, corruption, and alcohol and tobacco smuggling. The NRA recognised that most ML cases are related to domestic predicate offences, the proceeds of which are self-laundered. Regarding TF, the RA identified that even though there are no terrorist activities or known terrorist groups that have been reported in the country, there is a possibility of Brunei being used as a place to raise or facilitate the movement of funds for TF purposes in foreign jurisdictions. The overall risk level was assessed to be *medium* for both ML and TF.

78. The assessments conducted are summarised in the table below, and described in more detail in the following paragraphs.

Table 2.1: Summary of Brunei's ML/TF assessments

Year	Risk assessment
2016	National risk assessment (NRA)
2017	Participation in regional risk assessment on NPOs and TF
2017	Participation in regional risk assessment on TF through cash movements
2019	ML/TF risk assessment of cooperative societies
2019	Participation in regional risk assessment on transnational laundering of corruption proceeds
2020	ML threat assessment (update to NRA)
2020	TF risk assessment (update to NRA)
2020	ML/TF risk assessment of legal persons
2020	ML/TF risk assessment of $10,000 (USD 7,500) notes
2020	NPO sector review
2020	ML/TF risk assessment on VA/VASPs
2021	Sectoral ML/TF risk assessment
2021	ML/TF risk assessment on VA/VASPs (update)
Ongoing	Institutional risk assessments (for supervisory purposes)

79. In 2020, Brunei conducted an updated ML threat assessment (ML TA) and identified a new order of predicate offences that impact ML based on the monetised amount of criminal proceeds, case studies and prosecutions, the amounts confiscated, number of STRs filed, organised crime or syndicate crimes involved, involvement of foreigners, the direction of movement of proceeds of crime and comparison related to other countries. Further, there has been an increase in the number of predicate offences that affect ML. Accordingly, cheating remained the primary predicate offence, followed by corruption, smuggling of alcohol and tobacco, criminal breach of trust, drug-related offences, operation of gambling houses, failure to declare CBNI, smuggling of other dutiable goods, theft and robbery.

80. Brunei has not updated the ML vulnerability assessment since the NRA. Brunei indicated that this was due to no material changes from the 2016 NRA. Since the ML threat in terms of the number and order of predicate offences differed from the NRA 2016, an assessment of ML vulnerability would be beneficial to identify and gauge the updated ML risks of Brunei. Further, as per the National Strategy, Brunei has indicated that the NRAs are intended to be updated every 3 to 5 years.

81. The 2016 NRA highlighted a number of issues related to data and statistics. These included challenges in the timely collection of certain types of data due to an absence of a centralised statistics database in most of the LEAs. Despite standardised formats, the statistics were kept in various places and using different methods (e.g. statistics on frozen, seized, and confiscated property and MLA

requests within RBPF are still maintained by the investigating officer and statistics are still maintained as a mix of digital copies and hard copies).

82. During the NRA updates, which used data from 2017–2019, Brunei used standardised formats and met with necessary agencies to address the data-related issues identified in the NRA. However, as per the ML TA 2020, Brunei has identified three areas for further improvement in relation to data: 1) increasing the comprehensiveness of data related to predicate offences, 2) increasing the uniformity of similar data collected from different agencies, and 3) ensuring the proper recording of assets seized. This indicates that some further improvements are required to the data collected.

83. The TF RA was updated in 2020 using a slightly different methodology to 2016, which included likelihood and consequences in addition to threat and vulnerability. The primary data source for this risk assessment was the intelligence community. The updated TF RA assessed the TF risk to be *medium-low* compared to *medium* in 2016. The current risk rating reflects measures taken to improve the gaps identified in the 2016 NRA, as well as a changed and more comprehensive RA methodology. The updated TF RA also identified that Brunei faces the risk that is emanating from the individuals in Brunei who may be radicalised or harbour sympathises for regional and international TF organisations. Further, it highlighted the possibility of those individuals raising funds and sending them overseas via the banking and remittance sectors to beneficiaries, who may be linked to terrorist organisations.

84. Authorities have taken considerable measures to detect, disrupt and prevent any internal or foreign threats of radicalisation or fundraising. Further, considering the vulnerability of the banking and remittance sectors, Brunei has taken measures to raise awareness of TF by issuing guidance, typologies papers and regularly engaging with the financial sector on TF risk issues.

85. The ML TA and TF RA reflect strong inputs from across a range of stakeholders, including LEAs and security intelligence agencies. Most RAs are coordinated by the FIU, with strong FIU operational and strategic analysis products contributing to the analyses using sound assessment methodologies and reasonable conclusions. The 2016 NRA had active participation from the private sector, but in the recent ML TA and TF RA the private sector's involvement was limited to data provision.

86. The results of the NRA 2016 were shared with the competent authorities in a few sessions. The updated ML TA and TF RA have been shared with the relevant enforcement and intelligence agencies mainly through the NAMLC. Additionally, the assessments were presented to the RBPF inspector cadets and IWC in 2021.

87. In addition to the NRA and subsequent updates, Brunei has conducted several other RAs in specific areas. The RA on BND 10,000 (approx. USD 7,200) denomination notes was conducted to assess the ML/TF risk of the usage of the note in Brunei. The RA on BND 10,000 notes identified inherent vulnerabilities such as possible counterfeiting, easy transportation of large values and the anonymity it can provide as well as threats such as usage in domestic ML and use in large withdrawals. Based on these findings, Brunei ceased issuing the BND 10,000 notes in November 2020. At the time of the onsite, some notes remained in circulation. Similar work would be beneficial in relation to the BND 1,000 (USD 720) note.

88. ML/TF risks related to cross-border CBNI movements were considered in the NRA and the ML TA, which did not find the failure to declare cross-border CBNI movements as a high ML/TF threat. However, the assessment was based on a very limited number of cases related to CBNIs, and the conclusion may not sufficiently have considered the weaknesses in the CBNI declaration regime (see IO.8). Brunei has detected a small number of breaches of CBNI reporting requirements, which are

reflected in the risk assessment. While CBNI risks have been assessed, Brunei's understanding of risks associated with cross border movement of CBNI could be deepened further.

89. The ML/TF risk assessment on VA and VASPs was conducted to assess the risks posed by VASPs and virtual asset activities in Brunei by utilising information available to BDCB and the FIU. Brunei has no registered VASPs, but some STRs have been received on individuals that may be carrying out services related to VAs. Brunei has identified possible risks emanating from the potential misuse of VA and VASPs due to their anonymous nature and cross-border transferring ability, which could attract ML and TF offenders. The assessment found that the activities and VASPs present a medium low risk for both ML and TF. The RA highlighted the lack of a regulatory and licensing framework for VA/VASPs and recommended its establishment.

90. Brunei conducted a Sectoral RA in 2021 to reassess each sector's ML/TF risk. It evaluated the 12 sectors in Brunei and found that the banking, remittance, money lending and money changer sectors posed higher ML/TF risks compared to other sectors. The risk level of the banking and remittance sectors was assessed to *medium-high* compared to *high* in the 2016 NRA owing to the increase in enforcement action and on-site and off-site supervision since 2017, which have led to improvement in controls.

91. In addition to these two sectors, the RA covered money lending, money changers, securities sector, trust and company service providers, advocates and solicitors, real estate agents, insurance and takaful, dealers in precious metals, stones and jewellery, accountants, and pawn brokers sector. The RA was conducted mainly with the information and intelligence available to the FIU and the prudential supervisors, and the involvement of the private sector was limited to providing the quantitative data.

Table 2.2: Comparison of Sectoral Risk

Sectors	ML/TF risk 2021	ML Risk 2016	Remarks
Banking	Medium High	High	Risk rating decreased
Remittance	Medium High	High	Risk rating decreased
Money Lending (New)	Medium	N/A	Not assessed in 2016 NRA
Money Changers	Medium	Medium	Risk rating maintained
TCSPs	Medium Low	Medium Low	Risk rating maintained
Advocates & Solicitors	Medium Low	Medium	Risk rating decreased
Real Estate Agents	Medium Low	Medium Low	Risk rating maintained
Insurance and Takaful	Medium Low	Medium Low	Risk rating maintained
DPMS	Medium Low	Medium Low	Risk rating maintained
Accountants	Medium Low	Medium	Rik rating decreased
Pawn Broking	Medium Low	Medium Low	Risk rating maintained
Securities	Low	Low	Risk rating maintained

92. Brunei's assessment and understanding of risk are supported by its participation in several regional RAs: the regional RA on NPOs and TF, regional intelligence assessment on TF through cross-border cash movement, regional intelligence assessment and transnational laundering of corruption proceeds. Participation in these assessments has contributed to authorities' understanding of Brunei's ML/TF risks, and findings of the regional RAs have been incorporated in domestic RAs.

93. The FIU has considered the institutional-level risk of REs to implement risk-based AML/CFT supervision. These assessments consider the sectoral risk score calculated in the NRA 2016 and data collected from BDCB financial regulators, and responses to questionnaires from REs to enable the FIU

to rank the institutions according to their level of ML/TF risks. This risk assessment is reviewed and updated every 3 years, or when there are material changes in circumstances (e.g. changes in management or structure, introduction of new policies etc.). These RAs have identified banks, finance companies, remittances and money changers to have higher risks, in line with the sectoral risk assessment. For these RAs, information is collected from the prudential supervisor, and the results are shared with the prudential supervisors.

94. Brunei conducted an ML/TF risk assessment of legal persons in 2020. This assessment has identified the areas of ML/TF vulnerability posed by legal persons that can be established in Brunei. The risk assessment has identified the ML risk as *medium* and the TF risk as *medium-low*.

95. Brunei has not yet conducted a specific assessment of business structures that are not legal persons, but the FIU noted some understanding of vulnerabilities from misuse of partnerships and sole proprietorships. Partnerships are very common in Brunei, but they lack transparency and appear to present significant vulnerabilities that have not been sufficiently understood by competent authorities. The private sector appears to have some understanding of the risks of partnerships through their experience of CDD. The FIU has identified an emerging risk from this business form. Simple partnerships are not legal persons, but their use is very common as there is no tax payable on businesses run in this form. There are few obligations to file details of partnership arrangements. Partnerships are not required to file the partnership agreement or any beneficial ownership or control arrangements/contracts of partnerships. Concerns are noted with possible trends with 'front' partners, including foreigners avoiding controls on foreign ownership of businesses. ROCBN has few risk mitigation measures in place for partnerships.

96. Sole proprietorships are Brunei's most common business form due to favourable tax treatment, but they lack transparency. There are no obligations to file details of any beneficial ownership or control arrangements/contracts of sole proprietorships. As with partnerships, some concerns have been raised about trends with Bruneian 'fronts' for sole proprietorships. As per the NRA 2016, between 2016 and 2022 businesses registered as partnerships or sole proprietorships increased from 107,829 to 122,329. It is noted that 74% of the newly registered entities with ROCBN are sole proprietorships.

National policies to address identified ML/TF risks

97. Brunei's National Strategy on AML/CFT provides risk-based strategic direction and informs the competent authorities of the priority areas of ML/TF risk mitigation over three-year cycles. Based on the outcomes of the 2016 NRA, Brunei developed its third national Strategy for 2017-2020. The National Strategy focused on the gaps identified in the NRA through seven objectives based on 34 action points. The strategy cycle expired on 31 March 2020, but the NAMLC extended the National Strategy for another three years owing largely to delays in the completion objectives and action items, Brunei had completed 24 action points. At the time of the onsite additional five action points have been completed and only four action items remained to be completed (with one action having been overtaken). Brunei intends to develop the new National Strategy after the completion of the ME.

98. Additionally, over the last few years, most of the AML/CFT policy and legislative measures implemented by the Brunei authorities have focused on addressing the deficiencies identified in the NRA 2016 and the Mutual Evaluation of 2010. NMLAC and its secretariat have taken considerable steps, which include an extended national plan to prioritise and address the deficiencies even during COVID-19, convening online.

99. However, the National Strategy has not been formally adjusted to reflect the findings of the updated ML TA (2020), TF RA (2020), and other assessments conducted during the period, but some agency-level activities have sought to address the updated risks (see below under "Objectives and Activities of Competent Authorities").

100. Some of the other key action areas that continued under the extended strategy cycle include the lack of enforcement and detection of cross-border movement of CBNI, lack of access to accurate and up to date beneficial ownership information of businesses, and lack of an effective AML/CFT supervisory regime. These actions were incorporated in a National Action Plan in 2020. After the extension of the National Strategy, Brunei has focused on these areas through the Action Plan. Some of the corresponding actions have included amendments to the Companies Act, amendments to CARO giving the FIU supervisory powers and conducting awareness initiatives on CBNI issues. In relation to PF, the National Action Plan included developing and implementing procedures to combat the PF. Draft legislation for counter PF has been prepared. However, the CPF Order is yet to be enacted.

101. The ML/TF risk assessment on VA and VASPs has resulted in the introduction of a legislative structure to this sector. In order to address the risks of VASPs, Brunei has made defined VASPs as FIs so that they are required to adhere to CARO 2012 and its subsequent amendments.

102. The Money Changing and Remittance Business Act, chapter 174, covers the VASPs operating as exchanges between virtual assets, fiat currencies, and one or more forms of virtual assets. The Payment Settlement Systems (Oversight) Order 2015 covers the VASPs that engage in the transfer of VAs and safekeeping and/or administration of VA or instruments enabling control over VA. Brunei is considering more comprehensive legislation for VA and the VASP sector, but as an interim measure, the coverage in CARO and other legislation appears to be in line with the risks identified.

103. Some of the other risk assessments undertaken during the past few years have led to successful national policy changes. The ML risk assessment of $10,000 notes led to the discontinuation of the issuances of this "supernote" at the national level; The ML/TF risk assessment on cooperative societies 2019 has resulted in the exemption of this sector from AML/CFT requirements due to the identified low risks.; The ML/TF risk assessment on legal persons 2020 has contributed to the establishment of the of the framework for transparency of beneficial ownership with the amendments to the Companies Act.

Exemptions, enhanced and simplified measures

104. The results of RAs are used to support the application of enhanced measures since reporting entities are required to take enhanced due diligence measures where a transaction is identified as a higher risk in the NRA (see TC Annex, c.1.7).

105. Brunei has allowed cooperative societies to be exempted from the AML/CFT requirements due to their proven low risk for ML/TF. Brunei has conducted a RA of the cooperative societies and has identified that the cooperative societies face a lower level ML/TF threat. The main threat that cooperative societies identified was potential investment of illicit proceeds. However, these investments are limited to domestic sources and destinations that have adequate controls. Additionally, the cooperative societies face a lower level of AML/CFT vulnerability due to low average amounts involved, supervisory practices on the activities and lower percentage share towards the country's GDP (see TC Annex, c. 1.6).

106. Considering the cash-intensive economy and identified risks in relation to luxury vehicles, Brunei has implemented a requirement for car dealers to report CTRs for transactions over BND 15,000 (approx. USD 10,800).

107. As per the NRA, the remittance sector is considered one of the high-risk sectors. Brunei requires reporting of all transactions carried out by the remittance sector. The FIU analyses these transactions on a periodical and ad-hoc basis, and the findings are shared with CTIWG and relevant LEAs for further action.

Objectives and activities of competent authorities

108. Brunei's National Strategy on AML/CFT provides strategic direction and informs competent authorities about the priority areas of ML/TF risk mitigation. The National Strategy consists of 33 action points based on the 2016 NRA to address the shortcomings, and ML/TF risks are identified in terms of threats and vulnerability. These action points are collated into seven objectives and provide directions for the FIU, LEAs and AML/CFT supervisors.

109. Based on the National Strategy, the FIU has prioritised its operational analysis. Accordingly, with the exponential increase of STRs in the last five years, the FIU has prioritised and focused the analysis of STRs related to fraud, possible links to terrorism, and related to TF. Further, in its operational analysis, the FIU prioritises the crimes that pose higher ML risk as per the NRA and ML TA. This includes alcohol and tobacco smuggling, cheating, corruption, and criminal breach of trust. STRs are also given high priority if the modus operandi involves a higher-risk reporting institution, especially the remittance sector deemed high risk for ML/TF in NRA 2016.

110. Correspondingly, the disseminations of the FIU have also increased in relation to predicate offences highlighted above. Furthermore, there is an increase in the dissemination of STRs that have links to the remittance sector. The FIU has disseminated six intelligence packages relating to corruption and criminal breach of trust in relation to two judiciary offices to investigate by the ACB, which led to a successful investigation, prosecution and conviction of the largest ML case in Brunei.

111. Based on the National Strategy, LEAs have focused more on predicate offences related to AML/CFT. Accordingly, resources have been allocated, and officers have been trained and given awareness of ML/TF risk in Brunei. For example, RCED have focused their investigation on alcohol and tobacco smuggling, which were the top two smuggling items in line with the NRA. RBPF, has focused on cheating and fraud offences which is the largest ML threat and engaged in public awareness activities on how individuals can protect themselves from scams. ACB has also shifted their investigations to focus more on ML investigations as a result of the NRA and trained their investigators on ML. NCB has also focused on drug cases, which pose lower risks because the cases are mainly related to consumption rather than delivery.

112. The NRA identified that LEAs focused more on predicate offences rather than ML, resulting in low identification of ML activities. However, this has been addressed through the National Strategy, requiring LEAs to prioritise parallel financial investigations to pursue ML offences related to major threat areas identified in the NRA, i.e. alcohol and tobacco smuggling, cheating, corruption, and criminal breach of trust. Accordingly, a significant number of parallel financial investigation has been initiated and carried out from 2017 to 2022. An increase in ML prosecutions was also observed within the last two years.

113. From 2017 to 2022, 211 ML investigations were initiated. Out of these initiated investigations, 85 investigations have been submitted to AGC. These investigations largely related to cheating, corruption, and criminal breach of trust, as identified in NRA 2016 and ML TA 2020.

Table 2.3: ML investigations initiated and submitted to the AGC

	2017	2018	2019	2020	2021	2022	Total
Initiated	11	27	17	21	77	58	**211**
Submitted	1	8	2	12	27	35	**85**

114. Based on the findings of the NRA 2016 and as indicated in the action item in the National Strategy, a dedicated AML/CFT supervision unit was established under the FIU in 2017. The AML/CFT supervision of the sectors and selection of the institutions for supervision depend on the risk identified in the sectoral risk assessments and institutional risk assessments conducted by the FIU. Accordingly, higher priority has been given to higher-risk FIs and MSBs.

National coordination and cooperation

115. NAMLC is Brunei's policy-level coordination body for AML/CFT matters. NAMLC has worked well, particularly in the last 3 to 5 years, to develop and coordinate strategies and activities and to allocate further resources to priority AML/CFT reforms. NAMLC, with the FIU as Secretariat, is working well to drive reforms and to deepen cooperation on AML/CFT, as demonstrated by some of the achievements under the National Strategy, including the conduct, and updates of risk assessments, amendments to AML/CFT legislation, facilitation of awareness initiatives and investigation of higher threat predicate offences identified from the risk assessment. While the NAMLC Secretariat has been supported sufficiently by current FIU staff, additional resources may be required to support monitoring the National Strategy and Action Plan, coordination of RAs and the upcoming implementation of CPF measures.

116. NAMLC has played a significant role in developing AML/CFT legislation, coordinating policy proposals and directing relevant agencies to develop amendments to relevant legislation. During the reporting period there have been legislative amendments to the Companies Act, the CARO, the ATO 2011 and ATFR 2013 and the drafting of the counter-proliferation financing order.

117. At operational levels, the close engagement between LEAs, AGC and FIU has been noted in recent times on high-profile ML cases as well as on CT and CFT matters. Brunei's small size contributes to this effective coordination and cooperation. In relation to national security, there are several committees that coordinate among various LEAs. The national security committee (NSC) is Brunei's national body on security matters. Under NSC, various working committees cooperate on various matters, which include the Intelligence Working Committee (IWC) to discuss and evaluate intelligence information and reports, the Counter Terrorism Intelligence Working Group (CTIWG), which monitors terrorism and terrorism financing issues and cases in Brunei, and the Law Enforcement Working Committee (LEWC) to discuss and monitor the effectiveness of law enforcement. The participants of these committees demonstrated good coordination concerning matters related to terrorism and terrorism financing. Proactive information sharing on national security matters, including financial crime, terrorism and TF, is conducted through these committees.

118. Brunei has created case-specific task forces on an ad hoc basis. Task forces have also been established to address and prevent general concerns such as fraud and scams.

119. Since 2017, the FIU has been the exclusive AML/CFT supervisor for FIs and DNFBs. The supervisory findings of the FIU related to AML/CFT are shared with the prudential supervisors (Divisions 1, 2 and 3) and are used by the prudential supervisors in understanding overall compliance encompassing AML/CFT matters. However, the prudential supervisors do not participate in the supervision of AML/CFT matters.

120. Further, FIU collaborates with the prudential supervisors as part of the Regulatory Committee relating to new policies, regulations and any major supervisory actions of the various financial sectors. However, there is limited information sharing from the prudential supervisor to the AML/CFT Supervisor on the assessments conducted, except for the Specialized Market Unit (Division 3), which maintains a close relationship with FIU on AML/CFT matters, including joint supervision of MSBs.

121. The FIU shares the findings of the risk assessments with the prudential supervisor, and they are aware of the ML/TF risk assessment findings. This includes various NRAs, sectoral RAs and institutional RAs. However, the assessments done by the prudential supervisor on the sector or institutions are not shared with the FIU. Because of this limited sharing, a holistic view of the risk of a particular institution or sector may not be available to the FIU. However, the prudential supervisors provide information to the FIU to support the conduct of the sectoral and institutional AML/CFT RAs.

122. The prudential supervisor's Division 3 works closely with the AML/CFT supervisor. They share their risk assessment and other information related to institutions. Further, they carry out prudential supervision more closely with the FIU. Such an approach and close coordination with other supervision divisions would also benefit the work carried out by FIU. Both supervisors meet quarterly to coordinate on supervision matters related to money changers and remittance businesses. Further, both supervisors are participants of the BDCB regulatory committee, which focuses on policy direction, licensing, etc., related to regulatory and supervisory functions of FIs. Alert Prudential and AML/CFT supervisors also collaborate as part of the alert lists committee, formed to combat unauthorised financial activities which may be related to ML/TF.

123. In 2019, FIU had meetings with various authorities and professional bodies of the DNFBPs. This includes the Law Society of Brunei, the Brunei institute of chartered public accountants, and the board of valuers and real estate agents to discuss AML/CFT matters, including market entry requirements. However, such meetings have been limited since 2020, noting the impact of COVID-19.

124. Brunei is in the initial stage of implementing a national CPF framework. There has been some policy-level coordination between relevant agencies, where RCED is intended to lead matters related to combating the proliferation of WMD, and the FIU will lead matters associated with PF. The AGC and the FIU, as NAMLC Secretariat, were the main agencies involved in drafting the Counter-Financing of the Proliferation Order 2022 with input from the Safety, Health and Environment National Authority, Royal Customs and Excise Department, Ministry of Defence and Ministry of Foreign Affairs. However, operational level implementation requires the enactment of the drafted CPF legislation.

Private sector's awareness of risks

125. Some FIs (primarily banks and finance companies) demonstrated a high understanding and awareness of their ML/TF risks and other RAs. Other FIs have a more limited understanding of RAs and their ML/TF risk findings. This includes money remitters, which have been identified as high risk in the RAs. DNFBPs demonstrated some understanding of ML/TF risks and of their AML/CFT obligations.

126. Except for the 2016 NRA, the private sector's participation in risks assessments has been mostly limited to providing data. Brunei has not included the private sector in the design and conduct of the current assessment; the private sector is only aware of the final results of the RA. Noting the impact that COVID-19 might have had on this limited participation Brunei is encouraged to conduct future RAs with more participation of the private sector to share their insights on risk.

127. The FIU has taken various measures to make the FIs and the DNFBPs aware of the ML/TF risk assessment results. Regarding NRA 2016, FIU has conducted various outreach sessions, published the FIU bulletin, and shared it among FIs and DNFBPs. The recent ML threat and TF risk assessment updates were presented to FIs and DNFBPs in September 2022 and shared via bulletin in Jun 2022. While noting the impact of COVID-19, it appears there was a delay from when the RA was conducted and sharing the results with FIs and DNFBPs. As described above, the limited participation of the private sector in RAs and the delay in sharing the findings of the RAs could have hindered the communication and understanding of Brunei's most up-to-date ML/TF risks by the private sector.

128. Further, the findings of other recent RAs, Sectoral ML/TF RA 2021, and RA on VA/VASPs 2021 were shared with reporting institutions through a briefing in September 2022 and an FIU bulletin issued on 16 November 2022. However, RA on legal persons (completed in 2021) had not been shared with the reporting institutions. Considering the limited participation of the private sector in these RAs, timely sharing of the RA results would be beneficial for understanding the risks related to REs by the respective institutions.

129. The Registrar of Societies (ROS), FIU and other authorities have relatively recently increased their outreach and awareness raising of risks and risk mitigation with NPOs (see IO.10).

Overall conclusion on Immediate Outcome 1

130. Brunei has a good understanding of its ML and TF risks based on a large number of RAs, but some areas and emerging risks require further consideration (PEPs, challenges to transparency). The results of risk assessments are used to support the application of enhanced measures in higher risk scenarios, and cooperative societies have been exempted from AML/CFT requirements on the basis of proven low risk. Apart from the NRA in 2016, the private sector's participation in RAs has been limited to data provision. Competent authorities have generally aligned their policies and activities to address many of the higher-risk areas. Brunei's National AML/CFT Strategy has guided the competent authorities well, but is currently outdated and a National Action Plan has been developed as an interim measure while a new strategy is developed. There is generally good interagency cooperation and coordination amongst most competent authorities on AML/CFT matters. Brunei has identified the main authorities required for cooperation and coordination on enforcement activities relating to CPF, but the legal structure is yet to be enacted in Brunei. Banks and finance companies demonstrated a high understanding of their ML/TF risks, while other FIs' and DNFBPs' understanding of risk is not as well developed.

131. **Brunei has a substantial level of effectiveness for IO.1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key findings

IO.6

a) LEAs regularly make use of financial intelligence related to predicate offences and ML. The use of intelligence in asset tracing financial investigations, parallel financial investigations, ML investigations and TF intelligence probes has increased in recent years.

b) The FIU has access to a wide range of information to conduct its analysis. The FIU receives a reasonable amount of financial information from REs in the form of STRs, CTRs, reports on the circulation of BND 10,000 notes, CBNI reports and data on all remittance transactions. All reports (with the exception of CBNI reports) are received in digital form via the FIU's secure Integrated Financial Intelligence System (IFIS) platform. There has been only one instance of STR filing from DNFBPs. The assessment team also has some concerns about the comprehensiveness of CBNI reporting at the border.

c) The FIU has well qualified and capable analysts dedicated to the financial intelligence function. However, further human resources would be beneficial to maximise the value of financial intelligence.

d) The FIU's analysis processes are sound and result in the production of a good number, range and quality of analysis reports. There are clear processes for prioritising STRs and other financial intelligence for analysis, particularly in relation to potential TF cases. While the number of TF related STRs is small, the FIU conducts thorough and proactive analysis on any potential leads. This includes data mining in the FIU's own data holdings.

e) LEAs receive financial intelligence from the FIU with each LEA also producing its own financial intelligence to support investigations. The number of intelligence disseminations from the FIU has increased steadily during the assessment period. LEAs regularly utilise the FIU channel to obtain information from REs, typically only relying on direct requests to REs when necessary to secure evidence. The potential offences linked to the intelligence disseminations are broadly in line with the ML/TF risk assessments.

f) Good communication between the FIU, LEAs and the AGC assists in utilising financial intelligence and converting it to admissible evidence in parallel financial and ML investigations.

IO.7

a) The focus on parallel financial investigations has increased in all LEAs during the assessment period. All LEAs are aware of Brunei's key ML risks and the relevant high-risk predicate offences within their investigative remit. ML offences are mainly investigated by specialist financial investigation units within the LEAs. However, some

of the units have only been established recently (e.g. the RCED unit in late 2020), and are still building investigative capability.

b) The increased focus on parallel financial investigations has contributed to a recent rise in the number of cases submitted to the AGC for prosecution. There are 16 ML convictions, with the majority being convicted on defendants' guilty pleas.

c) Brunei's ML investigations and prosecutions have focused primarily on self-laundering activities with limited examples of standalone ML offences. There are currently no cases of ML from foreign predicate offences or ML through legal persons. This is considered to be mostly in line with Brunei's ML risks.

d) The majority of ML investigations and prosecutions are reasonably straightforward with limited complex ML methods. However, the ACB has recently concluded a large ML case predicated on criminal breach of trust and possession of unexplained property. The investigation and prosecution of the case demonstrates the investigative capability and good cooperation of the FIU, the ACB and the AGC.

e) There is a high level of operational cooperation between the FIU, LEAs and the AGC. The AGC has a significant role in ML investigations, often providing advice to LEAs prior to the case being submitted.

f) The majority of ML cases prosecuted in Brunei are initiated by the AGC from predicate offence cases that include sufficient evidence to support a ML prosecution. These cases are typically simple ML cases predicated on theft and cheating offences. While this trend demonstrates good use of financial evidence in predicate offence cases, it also indicates that LEAs do not always focus on pursuing ML offences.

g) The sentences applied in relation to ML offences are considered to be proportionate and dissuasive. In Brunei's largest ML case in 2020, the two defendants' sentences were 15 and 7.5 years' imprisonment, with most other sentences ranging from 1 to 5 years.

IO.8

a) Brunei's focus on confiscation is reflected as an overarching policy objective in its 2017-2020 National Strategy, with an emphasis on utilising the seizure, restraint and confiscation powers provided for by its legislative framework. Since 2017, LEAs more proactively seize property with a view to confiscation.

b) Through regular training, Brunei's authorities have sought to raise investigators and prosecutors overall awareness of the confiscation powers available to them, and the need to prioritise confiscation as a criminal justice tool. This has not sufficiently focused on tracing proceeds, including the pursuit of indirect proceeds, early restraint of asset and confiscation of instrumentalities and property of corresponding value.

c) The lack of comprehensive statistics undermines the ability of Brunei to monitor the operation of its asset recovery system and demonstrate its effectiveness under this immediate outcome. Brunei has acknowledged gaps in the timely availability of statistics for the purpose of assessment in its NRA 2016 and 2020.

d) Detection of smuggled or undeclared cash or BNI is not well supported at the border. There was a lack of communication of CBNI declaration requirements to travellers at the time of the onsite visit.

e) Practices for asset management and record keeping vary between agencies.

f) There have not been any seizures, freezing, and confiscation under the ATO and the Terrorist Financing Regulations in Brunei. This is deemed to be in line with Brunei's TF risk profile.

g) There is concern to the potential of poor detection at the control borders of cash smuggling, especially in the context of Brunei's largely cash-based economy and the potential for cross-border movement of monies.

h) Brunei has had little success in pursuing and confiscating criminal proceeds which have moved overseas.

Recommended actions

IO.6

a) While the FIU's financial intelligence function is well supported by existing analysts, it would benefit from further human resources. New FIU staff should receive sufficient training in analysing financial intelligence and using the analytical tools available to the FIU.

b) Consideration should be given to the FIU receiving cross-border wire transfer information and reports on the use of BND 1,000 notes to enrich the financial intelligence produced by the FIU.

c) The FIU should consider conducting further strategic analysis on the main trends identified, such as risks related to PEPs, car dealers, the use of BND 1,000 notes and sole proprietorships and partnerships (see also IO.1).

d) The FIU should pursue opportunities for enhanced private sector engagement, including providing further feedback to REs on the accuracy and relevance of information contained in STRs to further improve the quality and quantity of reporting.

IO.7

a) Continue to build financial investigation capacity in the LEAs, including operational training on financial investigation techniques and more complex cases, and ensure business continuity and skills transfer when officers change.

b) Continue pursuing parallel financial investigations focusing on high-risk predicate crimes, including corruption, cheating and criminal breach of trust, the investigation of indirect proceeds of crime and the role of 3rd party laundering.

c) LEAs should consider potential ML at an early stage of predicate offence investigations and continue to consult the AGC as cases progress.

d) Prioritise pursuing cases related to legal persons and any potential links to foreign proceeds, in line with the risk profile.

e) Ensure sufficient focus on pursuing different types of ML cases, including third-party and standalone ML.

IO.8

a) Maintain more detailed confiscation statistics from agencies to facilitate data analysis on risk typologies, monitor confiscation performance, identify emerging trends, and potential areas of improvement.

b) Provide more intelligence led support to RCED for detecting cash/BNI at the entry ports as well as clearer communication of CBNI declaration requirement - more prominent signs at entry ports and better enforcement of announcements on flights into Brunei.

c) Strengthen training on asset tracing, restraint and confiscation to raise awareness of operational staff across LEAs, especially since there may be lateral movements of personnel to other departments.

d) Streamline the CBNI reporting and monitoring process – Brunei to consider fully digitising CBNI reports by doing online declarations to minimise human error.

e) To augment Brunei's confiscation policy objective, consider establishing a standardised protocol on management and preservation of seized assets and/or the possibility of a centrally managed and funded asset management unit shared by the LEAs, having regard to the context and domestic requirements of Brunei.

f) Issue policies and provide training for confiscation of instrumentalities and indirect proceeds and not only those assets purchased directly with the proceeds of crime. This should include the increased use of benefit recovery orders to confiscate property of corresponding value.

g) LEAs to be more proactive and increase focus on pursuing and confiscating assets which have moved overseas by pursuing agency to agency international cooperation and MLA. AGC to follow up with requests made to foreign counterparts notwithstanding delays in responses (see IO.2)

132. 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 & R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

Immediate Outcome 6 (Financial intelligence ML/TF)

133. Established in 2007, Brunei's FIU is an operationally independent administrative-style body with no investigative powers. The FIU is housed within the BDCB and the Head of the FIU reports directly to the Managing Director of the BDCB. In addition to its financial intelligence function, the FIU is the primary AML/CFT supervisor in Brunei and plays an instrumental role in coordinating AML/CFT efforts in Brunei.

Use of financial intelligence and other information

134. Brunei LEAs regularly make use of financial intelligence related to predicate offences and ML. The number of asset tracing financial investigations, parallel financial investigations, ML investigations and ML prosecutions has increased in recent years (see IO.7 and IO.8 for details).

135. The FIU produces a good number, range and quality of analysis reports, and has access to a wide range of information to conduct its analysis. In addition, LEAs produce and use their own financial intelligence in investigations. LEAs generally have access to a broad range of information and intelligence to support investigations and build evidence, and can use production orders to obtain information from REs and other public or private bodies. LEAs would benefit from more comprehensive information from the ROCBN registry (see IO.5). Due to the lack of personal income taxes in Brunei, only corporate tax records are available to LEAs.

136. LEAs, in particular the ACB, demonstrate good use of financial intelligence in investigations with an enhanced ability to conduct financial analysis in financial investigations. This financial intelligence often supports predicate offence investigations and LEAs combine it with the intelligence reports from the FIU. The LEAs are well aware of the FIU's intelligence capabilities and regularly request financial intelligence to support investigations, particularly since the establishment of new financial investigations teams in LEAs (see further details in IO.7). The requests are generally triggered by the LEA identifying a money trail in their investigation.

137. All LEAs are able to make requests and receive FIU information securely through the FIU's secure platform IFIS, which uses the goAML database and analysis software developed by the United Nations Office on Drugs and Crime (UNODC). IFIS supports timely requests and responses, and helps to ensure the integrity of the exchange of information with the FIU. IFIS is also used for communication with REs, including the submission of STRs. While IFIS is generally fit for purpose, it could be configured further to support the availability of a greater range of statistics to the FIU.

Table 3.1: Number of requests of information sent to the FIU (as at 1 July 2022)

	2016	2017	2018	2019	2020	2021	2022*
Total no. of requests	**57**	**32**	**184**	**205**	**107**	**208**	**90**
RBPF	5	8	16	20	23	17	19
ACB	23	8	3	10	11	24	7
NCB	5	1	6	7	5	25	7
CTIWG (incl. ISD)	12	3	4	9	7	5	2
RCED	0	1	1	3	4	52	18
INRD	0	0	0	0	0	1	0
Revenue Division, MOFE	2	0	1	0	0	1	0
BDCB Regulatory Dept.	10	11	153	156	57	83	37

138. The number of requests for information from the FIU has increased during the assessment period with a current average of approximately 200 requests per year. This is a positive development; however, the additional demand may place a strain on the FIU's current resourcing levels. The number of requests from most LEAs has increased during the assessment period, but can fluctuate depending

on the status of ongoing investigations. In addition to responding to requests, the FIU supports the LEAs' investigations with spontaneous disseminations which are discussed further below.

139. The types of information requested from the FIU typically include bank account information on suspect individuals and companies (including beneficial ownership information), remittance records, CBNI or BND 10,000 reports, intelligence reports, CCTV footage and copies of deposit or withdrawal slips or cheques. Confirmation of financial information from overseas can be requested via Egmont channels. LEAs' recent direct access to ROCBN databases should likely reduce LEAs' requests to the FIU relating to the beneficial ownership information on companies.

140. LEAs can request information directly from REs and are required to do so when securing evidence. However, LEAs also regularly rely on the FIU to obtain and analyse information and records from REs. The FIU channel (by submitting a request via IFIS) is often used where the information is required quickly or the LEA is in the early stages of investigation and wishes to identify potential evidence or narrow the scope of the investigation. The FIU would usually provide financial statements or their extracts to the relevant LEA as it is quicker than obtaining the statements through formal channels (production orders), to enable the LEA to quickly make operational decisions.

141. The FIU's response times to LEAs' requests vary depending on the complexity of the request, but are generally reasonable. Urgent requests can be expedited and responded to within 1-2 business days. Longer timeframes (1-2 months) apply to requests such as older records or CCTV footage from REs.

Case Study 1 – Investigation triggered by FIU dissemination – 'Dinar Dirham'

FIU disseminations to RBPF in September 2016 led to an investigation of a number of persons, previously unknown to RBPF, who were suspected to be illegally receiving deposits from the general public for the purpose of a placing them into an unlicensed and potentially fraudulent cryptocurrency investment scheme.

Intelligence indicated that the Dinar Dirham cryptocurrency investment scheme included at least four persons suspected of being involved in attempts to defraud several hundred victims. Bank statements indicated that the persons were actively collecting deposits into their personal savings accounts of amounts totalling over BND 1 million (USD 720,000).

The FIU continued to share information with the RBPF and the AGC (in an advisory capacity) on the suspects' profiles, the victims' details, relevant financial statements as well as the modus operandi of the scam.

In November 2016, the four individuals were arrested by the RBPF for the offence of receiving deposits without a license (an offense against section 93 of the Banking Order, 2006). Preliminary findings from this arrest found that the suspects were offering investment returns between eight to 15 percent per month to their victims.

On 13 Dec 2021, a non-conviction-based forfeiture order was filed in relation to this case where a total amount of tainted property of BND 612,724 (approx. USD 440,000) was forfeited to the Government and transferred to the Criminal Assets Confiscation Fund. The funds were transferred in February 2022. All the charges (Illegal Deposit Taking and ML) on the four individuals were withdrawn.

142. Good communication between the FIU, LEAs and the AGC assists in utilising financial intelligence and converting it to admissible evidence in parallel financial and ML investigations, and the parallel financial intelligence functions of LEAs and the FIU do not appear to conflict. Each LEA responsible for ML investigations has a specific focal person at the FIU which improves the quality of the communication between the FIU and LEAs.

143. The FIU's intelligence and AML/CFT supervision divisions work well together, and financial intelligence is used to support the supervisory function. The intelligence division regularly reviews its data holdings and has raised compliance issues with the supervisor (e.g. suspected missing STRs or outdated CDD details). Financial intelligence also supports the planning of onsite and offsite supervision.

144. As discussed further in IO.9, LEAs demonstrated their strong capabilities in investigating TF matters despite the lack of TF investigations or prosecutions. The FIU, the ISD and other parts of the intelligence community (e.g. RBPF and RCED intelligence functions) are proactive in identifying information that may be relevant to terrorism or TF offences.

STRs received and requested by competent authorities

145. The FIU receives a reasonable amount of financial information from REs in the form of STRs, CTRs, reports on the circulation of BND 10,000 notes (USD 7,400), and data on all remittance transactions. The FIU can also access beneficial ownership information through ROCBN (although this information is not comprehensive), identity and travel records from the INRD, telecommunications data and credit reports. The FIU can obtain any additional information that it deems necessary to carry out its functions from any RE or person (section 31 of CARO and section 52 of ATO).

146. All reports (with the exception of CBNI reports) are received in digital form via the FIU's secure platform IFIS. CBNI reports are collected as hardcopies by RCED and INRD and entered manually into the IFIS system. The assessment team has some concerns about the comprehensiveness of CBNI reporting at the border (as discussed under IO.8).

147. The FIU has access to all remittance and foreign currency exchange transactions which are received from the BDCB as the prudential supervisor and stored in IFIS. The FIU conducts analysis on the records on a quarterly basis to identify any patterns of suspicious activity in the sector, or any issues related to compliance with STR reporting obligations.

148. STRs are primarily reported by the banking and remittance sectors, with some limited reporting by other FIs. There has been only one instance of STR filing from DNFBPs (a TCSP in 2017) during the assessment period. There have been some instances where STRs have not been filed promptly, particularly prior to the new STR guidance being issued in 2022 (see IO.4). The operational impact on the FIU's analysis is considered to be limited.

149. Most STRs are of good quality, and include comprehensive details with limited instances of defensive filing or false positives from REs. The FIU can reject STRs that do not include the requisite information (as per the STR Guidance Paper issued by the FIU). Where STRs are rejected, the FIU requires and monitors re-submission by the RE as soon as possible. In practice, very few STRs (less than 1% per month in 2022) are rejected, generally due to minor quality issues or missing attachments. A very minor number (less than 0.1%) of rejected STRs are not re-submitted to the FIU.

Table 3.2: Number of STR submissions by entity type

Entity Type	No. of entities (9/ 2020)	2016	2017	2018	2019	2020	2021	2022**
Bank (including Perbadanan TAIB)	9	82	210	459	2,063	3,160	2,558	1,048
Finance Company	2	0	3	6	3	4	1	0
Insurance (and Takaful)	10*	0	0	0	1	1	1	0
Securities	8	-	-	-	-	0	0	0
Money Changer	20	0	2	0	7	2	1	0
Remittance Company	18	1	3	2	7	20	42	17
Pawnbroker	1	-	-	-	-	0	0	0
Trust and Company Service Provider	8	0	1	0	0	0	0	0
Advocates & Solicitors	21	-	-	-	-	0	0	0
Accountants	4	-	-	-	-	0	0	0
Real Estate Agents	16	-	-	-	-	0	0	0
Dealers in Precious Metals, Stones	22	-	-	-	-	0	0	0
Total	**139**	**83**	**219**	**467**	**2,081**	**3,187**	**2,603**	**1,065**

*5 of the entities are life insurers

** As of July 2022

150. The number of STRs, particularly from the banking sector, increased significantly after 2018. This is due to increased compliance with the reporting obligations and improvements in transaction monitoring. The increase in reporting coincided with the establishment of the AML/CFT supervision function within the FIU as well as the issuance of additional guidance to REs (as discussed under IO.3 and IO.4). The FIU advised some STRs were also submitted more than once where the suspicious behaviour continued over a period of time, therefore increasing the overall number of reports.

151. The FIU were able to elaborate on predicate offence trends linked to STR reporting over time. This included particular typologies identified by REs (e.g. the use of mule accounts), which were subsequently discussed with REs.

152. As the number of STRs has grown, REs' ability to identify red flag indicators has also improved. The table below includes details on the red flag indicators identified by REs (noting that a RE may identify more than one category of REs per STR).

Table 3.3: Red flag indicator categories identified in STRs

Red Flag Indicator Category	2017	2018	2019	2020	2021	2022*
General[16]	124	417	1,904	2,985	2,241	714
Documentation	10	89	88	441	343	103
Customer behaviour	108	310	1,279	1,872	1,374	433
Transaction	138	438	1,948	3,052	2,384	916

[16] The "general" category of red flag indicators captures a wide range of indicators and behaviours not directly related to documentation, customer behaviour or transaction. This includes adverse media and possible typologies such as the use of gatekeepers, offshore financial centres, virtual assets and legal persons.

153. CTRs for cash transactions above BND 15,000 (USD 11,200) are received from REs and dealers in high value goods including vehicles, in line with particular risks in the sector. Lawyers reported a small number of CTRs, accountants reported no CTRs and only one real estate agent reported a CTR during the assessment period (see table 3.5). The FIU conducts analysis of CTRs on a quarterly basis to identify suspicious patterns of activity. This routine analysis exercise has triggered "data analysis triggered reports" (DATRs), which are a type of intelligence report created by the FIU from its own data holdings, and led to further intelligence work.

Table 3.4: Cash transaction report (CTR) submissions from all REs

Year	2017	2018	2019	2020	2021	2022*
Reports received	5,075	5,357	6,074	6,478	10,344	4,071
Amount reported (BND millions)	3,918	4,159	4,791	3,491	4,528	2,760
Total transactions	308,651	303,580	346,585	285,825	475,063	252,973

Table 3.5: Cash transaction report (CTR) submissions by sector

Total No. of Transactions	2017	2018	2019	2020	2021	2022
Accountant/Auditor	-	-	-	-	-	-
Advocates & Solicitors	10	12	12	6	5	6
Bank	306,007	299,958	342,149	277,818	464,303	249,360
Car Dealer	476	473	463	676	497	221
Finance Company	536	592	534	825	436	181
Insurance/Takaful	29	29	36	24	17	10
Money Changer	409	256	554	162	26	61
Real Estate Agent	-	-	1	-	-	-
Remittance Company	1,184	2,260	2,836	6,314	9,779	3,134
Total	**308,651**	**303,580**	**346,585**	**285,825**	**475,063**	**252,973**

154. Brunei has ceased the issuance of BND 10,000 (USD 7,200) notes but some notes remain in circulation (see IO.1 for further details). REs are required to submit a report to the FIU when they handle BND 10,000 notes, and return the notes to the BDCB. The table below demonstrates a significant decline in the number of BND 10,000 reports sent to the FIU, due to the decreased circulation of the notes during the assessment period. No specific reports are available on the circulation of BND 1,000 (USD 720) notes.

Table 3.6: Number of BND 10,000 notes recorded (as at July 2022)

	2016	2017	2018	2019	2020	2021	2022
No. of notes recorded	20,301	15,350	14,133	12,592	11,434	2,224	1,060

155. The FIU provides limited feedback to REs on STRs beyond requesting further information through IFIS when necessary. There are no known instances of tipping off. However, the authorities recognise there may be an increased risk of tipping off given Brunei's small close-knit community and regular communication between various authorities and the private sector.

Operational needs supported by FIU analysis and dissemination

Analysis

156. The FIU has adequate tools and software (including IFIS) for analysing financial intelligence. It actively uses multiple databases to supplement the information received from REs. Despite the high performing staff dedicated to the analysis function, the additional staff dedicated to analysis would enable the FIU to provider faster analysis and decrease the time it takes to respond to LEA requests. Apart from staffing, the FIU has sufficient resources to complete its work and no concerns were identified with regard to the FIU's operational independence.

157. STRs are used as the primary information source for most intelligence reports but the FIU uses multiple other sources of information to supplement the analysis. These sources include financial information such as bank records and account opening documents, CTRs, CBNI reports, data on remittance and foreign currency exchange transactions, open source information and other records such as hire purchase agreements. The FIU will benefit from being able to access more comprehensive beneficial ownership information through the ROCBN registry as it becomes fully operational (see IO.5 for further details). The FIU is able to access the limited tax information available in Brunei (no personal income tax is collected in Brunei).

158. The analysts' work is guided by an SOP on operational analysis, including multiple prompts for additional information gathering and decision points for escalating cases. The SOP sets out the steps for STR analysis and analysis of mass data (CBNI reports, remittance transactions and 10K reports).

159. There are clear processes and SOPs for prioritising STRs and other financial intelligence for analysis, particularly in relation to potential TF cases. While the number of TF related STRs is small (less than 1% of total STRs), the FIU conducts thorough and proactive analysis on any potential leads. This includes data mining in the FIU's own data holdings. The FIU also adopts robust internal processes (including SOPs) to support the scope and quality of potential disseminations. This adds to the skills of analysts and the quality of materials available for dissemination.

160. The FIU staff working on financial intelligence specialise in various areas of analysis such as data mining or TF and each are designated focal persons for the different LEAs. This assists in maintaining relationships between the FIU and LEAs and assisting LEAs in their investigations.

Dissemination

161. IFIS is utilised well by all LEAs and REs with all intelligence disseminations and requests for information transmitted securely through the system. The FIU is permitted to send information to all LEAs and other competent authorities without the need for MOUs or similar arrangements. The FIU Director makes decisions on intelligence disseminations autonomously, and the dissemination process is guided by a FIU SOP on the dissemination of intelligence products.

162. LEAs receive financial intelligence from the FIU with each LEA also producing its own financial intelligence to support investigations. The number of intelligence disseminations from the FIU has increased steadily during the assessment period with 27 disseminations in 2021 (see table 3.7 below for details). The potential offences linked to the intelligence disseminations are broadly in line with the ML/TF risk assessments.

Table 3.7: Intelligence reports disseminated by the FIU

Receiving Agency	2017	2018	2019	2020	2021	2022 (June)	Total
RBPF	2	3	14	8	4	1	32
RCED	-	-	2	1	-	-	3
AGC	1	-	3	-	-	-	4
ACB	-	5	1	2	6	-	14
NCB	-	-	1	1	-	1	3
Other authorities	4	2	3	2	17	4	32
Total	**7**	**10**	**24**	**14**	**27**	**6**	**88**

Table 3.8: The use of FIU's intelligence disseminations by domestic agencies

Number of	2017	2018	2019	2020	2021	2022	Total
Tactical / strategic intelligence reports disseminated by the FIU to domestic agencies	4	10	24	14	25	6	83
Reports that assisted in initiating an investigation	1	0	3	0	2	0	6
Reports that supported an existing investigation	0	5	3	8	6	1	23

163. While the majority of STRs have not triggered an investigation or supported an existing one, the LEAs reported that the intelligence disseminations are useful for scoping and information gathering. FIU disseminations may also trigger investigations later when further information has been received or collected by the LEA. The FIU also collects feedback from LEAs on an annual basis to better understand the usefulness of intelligence disseminations.

164. The FIU often supplements reports to LEAs by organising a meeting with the receiving agency to present the findings of the intelligence report. There is also close communication between the FIU and LEAs and cases are generally discussed prior to and following information being shared via IFIS.

Case Study 2 – PP v Ramzidah binti PDKDK Hj Abdul Rahman and Hj Nabil Daraina bin PUKDPSSU Hj Awang Badaruddin

The ACB initiated information gathering and intelligence assessment with the FIU on two persons suspected to be obtaining large sums of funds through illicit means and using it to fund a luxurious lifestyle.

The collaboration resulted in the swift action of the ACB in commencing formal investigations by conducting immediate seizures of assets suspected to have been procured using the victims' funds and the freezing of their bank accounts. The case involved a suspected BND 15.7 million (equivalent to USD 11.7 million) that were embezzled by the suspects (both were Judicial Officers working for the State Judiciary Department at the time) from debtors' Official Receiver accounts.

In addition to identifying financial and other assets owned by the suspects both domestically and internationally, the FIU also assisted the ACB in ascertaining the

truthfulness of the suspects' claims of having received funds from a Malaysian national, inheritance from a deceased relative in Thailand, as well as the suspects' having opened fixed deposit accounts at other banks in Brunei. This information and intelligence was provided to the ACB as well as to the AGC as the case escalated beyond the investigation stage into prosecution and trial.

The successful of prosecution of this case can be said to be heavily dependent on key evidence found through intelligence exchange between the ACB and the FIU, particularly information gained from the BND10,000 monthly issuances and receipt reports that are filed by all banks within the country to the FIU.

165. The range and focus of FIU disseminations both spontaneously and upon request are broadly aligned with the identified categories of high-risk offences as set out in the various RAs. The FIU has demonstrated its ability to quickly respond and to disseminate all relevant holdings in cases where potential TF is identified or suspected.

Strategic analysis

166. While the FIU's focus is on operational intelligence, it produces some strategic analysis to assist in identifying new trends and typologies, contribute to the FIU's operational analysis and feed into risk assessment and AML/CFT reform processes. The strategic analysis is produced by the same FIU analysts focusing on operational analysis, and the FIU would benefit from further human resources to support its strategic analysis function.

167. The FIU's strategic analysis products are categorised into three tiers:

Table 3.9: Strategic analysis products produced by the FIU

Tier	Type of document	Examples
1	Policy recommendation papers, risk assessments	The 2016 NRA and subsequent RAs
2	Intelligence estimates, typologies, red flag indicators, threat assessments	Intelligence estimates provided for the NSC and IWG
3	Statistics reports, trends analysis, case studies	Trends analysis of CBNI reports

168. The FIU has issued an internal SOP on strategic intelligence analysis which sets out the production and dissemination process for strategic analysis. The production cycle for the strategic analysis reports is determined by the Strategic Tasking and Coordination meetings held twice a year, taking into account the results of prior environmental scanning. Strategic intelligence update meetings are held monthly to track progress on strategic analysis products. Additional reports may be produced based on ad hoc discussions, requests for intelligence or emerging trends.

169. Brunei demonstrated cases where strategic intelligence reports were used by policymakers and by regulators and supervisors to support risk-mitigation responses to emerging threats and typologies. Samples of strategic analysis reports demonstrate their quality and the FIU has conducted strategic analysis on a number of key areas (e.g. business email compromise, TF through cross-border cash movements). The FIU disseminates some strategic analysis products to REs via the FIU Bulletins and includes analysis in its annual report, which is available to REs and the general public on the BDCB website.

170. The FIU is proactive in identifying areas for analysis and possible spontaneous dissemination, however there are a number of contextual challenges where further work is required, in particular in relation to PEPs and corruption / ML risks. The 'Judicial Officers' case was a successful ML and asset recovery case, but the underlying facts of the case highlight risks from PEPs and the potential unwillingness to support the identification of, reporting of and responding to possible cases of suspicion involving PEPs. Further strategic analysis of elements of PEP related ML risks are needed. Other areas for potential further analysis include the use of BND 1,000 notes, car dealers and partnerships and sole proprietorships (see IO.1).

Cooperation and exchange of information/financial intelligence

171. Competent authorities demonstrated a high degree of cooperation, coordination and exchange of financial intelligence... The FIU cooperates closely with other competent authorities on a case by case basis when there are operational needs, and through meetings held periodically to evaluate the level of cooperation, coordination and information exchange. This is very regular in relation to complex matters.

172. IFIS is used as the formal channel for exchanging information both between competent authorities and between the FIU and the private sector, and all the relevant parties have access to the IFIS platform[17]. Informal cooperation and exchange of information is supported by a high level of domestic cooperation and good working relationships between competent authorities (as discussed under IO.1). Focal points are designated for cooperation between the FIU and all relevant competent authorities on exchange of financial intelligence.

173. The NAMLC provides the institutional framework for building trust between AML/CFT agencies. The FIU and other competent authorities in Brunei are all considered public officers and are therefore subject to similar secrecy requirements under Brunei's legislation, including the Official Secrets Act, Cap 133. This common requirement ensures a solid basis for expectations on information handling and transfer of data, by hardcopy, softcopy and verbal means. Additional obligations are imposed under both the CARO and the ATO, and the FIU adheres to the BDCB Document Handling Policy, IT and Information Security Policy, and Risk Management Policies. To date, there have not been any breaches of the confidentiality requirements by any party.

174. In addition to operational information exchange with the private sector, Brunei has previously implemented an ad hoc form of public-private partnership (PPP) between the RBPF, FIU and a bank. In the first coordinated effort of its kind, the PPP saw coordinated actions by the RBPF, FIU and the bank towards swiftly ensuring the successful launch of an investigation.

175. The FIU and other competent authorities exchange information with foreign counterpart FIUs and competent authorities when necessary. The FIU seeks and provides international cooperation, primarily through Egmont channels in relation to ML/TF and predicate offences. The FIU does not require MOUs to exchange information with any foreign FIU, but it has signed MOUs with eight jurisdictions. Brunei, through the FIU, has become a member of the Financial Intelligence Consultative Group (FICG), which has facilitated the exchange of ML/TF information between the FIUs of Brunei and other ASEAN members and Australia. Most of the outgoing requests during the review period were sent on behalf of the LEAs, as the STRs do not contain cross-border elements (see IO.2).

[17] The competent authorities with IFIS access are RBPF, NCB, ACB, RCED, Ministry of Defence, INRD, ISD and Revenue Division, Ministry of Finance & Economy.

Overall conclusion on Immediate Outcome 6

176. Competent authorities, in particular LEAs, regularly develop and use a broad range of financial intelligence and other relevant information to investigate predicate offences, ML and possible TF and to trace criminal proceeds. LEAs (and especially the ACB) have capabilities to develop intelligence, and make use of FIU-disseminated financial intelligence in investigations. The FIU accesses a very wide range of data sources including through active international cooperation, but would benefit from the availability of further BO information from ROCBN, and more comprehensive CBNI reporting at the border. The FIU has well-developed analytical capability to produce good quality financial intelligence. The FIU cooperates very well with LEAs in assisting and facilitating investigations and makes good use of information available to it. The FIU has good systems and skilled and experienced staff, but a greater investment in human resources is needed to make it even more effective.

177. **Brunei has a substantial level of effectiveness for IO.6.**

Immediate Outcome 7 (ML investigation and prosecution)

178. Brunei's legal and institutional frameworks demonstrate compliance with the international standards with the exception of a small gap in relation to proceeds of market manipulation and minor shortcomings with LEA powers. These small scope gaps do not have a significant impact on effectiveness.

ML identification and investigation

179. Brunei's legal system provides a range of powers and responsibilities for LEAs to investigate and prosecute ML offences (see R.30 and 31). Each agency is authorised to conduct ML investigations associated with the predicate offences falling within its ambit as well as predicate offences that may be referred from other investigating agencies. ML offences are mainly investigated by specialist financial investigation units within the LEAs. However, some of the units have only been established recently (e.g. the RCED unit in late 2020), and are still building capacity and experience in ML investigations. The key LEAs authorised under the CARO are:

Table 3.10: LEAs and their respective areas of responsibility

LEA	Key predicates	Investigative capacity
Royal Brunei Police Force (RBPF)	All predicate offences and ML	All RBPF officers are authorised to conduct ML investigations. The Commercial Crimes Investigation Division (CCID) investigates more complex cases and cases involving assets over BND 150,000 (approx. USD 108,000).
Anti-Corruption Bureau (ACB)	Corruption and associated ML	All ACB officers are authorised to investigate ML offences, with some more specialised staff (including two forensic accountants).
Narcotics Control Bureau (NCB)	Narcotics offences and associated ML	The CARO Unit is assigned to conduct parallel financial and ML investigations.
Royal Customs and Excise Department (RCED)	Customs and excise related offences and associated ML	The Financial Investigation Unit is assigned to conduct parallel financial and ML investigations.

180. The LEAs are generally sufficiently resourced and have received training in conducting parallel financial investigations and ML investigations. To enhance the LEAs' overall level of experience and expertise, LEAs should continue building financial investigation capacity, and ensure business continuity and skills transfer when officers change. Additional training should focus on operational training on financial investigation techniques and more complex cases,

181. The focus on parallel financial investigations and ML investigations has increased in all LEAs during the assessment period, with a total of 211 ML investigations initiated during the assessment period. 85 cases were submitted to the AGC for consultation on next steps (e.g. pursue a prosecution or continue the investigation), with six of these cases proceeding with ML charges.

Table 3.11: ML investigations initiated and submitted to the AGC

	2017	2018	2019	2020	2021	2022	Total
RBPF	2	16	5	0	31	16	**70**
ACB	0	3	7	4	1	1	**16**
NCB	8	8	4	11	8	8	**47**
RCED	1	0	1	5	37	33	**78**
Total initiated	11	27	17	21	77	58	**211**
Submitted to the AGC	1	8	2	12	27	35	**85**

182. In addition to the ML investigations, the AGC may choose to prosecute ML charges based on the predicate offence investigation submitted to the prosecutors for assessment. The majority of Brunei's ML prosecutions have originated from the AGC's assessment of a predicate offence investigation that includes sufficient evidence to support a ML prosecution. These cases are typically simple ML cases predicated on theft or cheating (see table 3.12 for details).

183. This suggests that LEAs take reasonable steps to include financial evidence in predicate offence briefs, however it also points to a lack of early focus on potential ML and evidence collection strategies to comprehensively investigate ML matters. The LEAs' focus on predicate offending may also hinder the identification of third parties involved in the laundering of proceeds. However, the number of ML prosecutions without a preceding ML investigation has reduced over the past several years, aligning with the increased focus on ML investigations.

Table 3.12: ML prosecution cases initiated by the AGC based on predicate offence investigations

Year	ML prosecutions	Types of predicate offence(s) investigated leading to the ML prosecution
2017	1	Unauthorised access to computer; Theft
2018	0	N/A
2019	6	Theft; Cheating
2020	5	Theft
2021	2	Theft
2022*	2	Cheating
Total	16	

184. In total, there have been 22 ML cases under prosecution since 2017. Six cases were referred from the LEAs (all in relation to theft and cheating offences) and 16 cases were initiated by the AGC based on a predicate offence investigation. Out of these 22 cases, 16 concluded with convictions with the majority (14) on the defendants' guilty pleas. There were five cases pending trial at the time of the onsite, and one case was withdrawn.

185. There is a high level of operational cooperation between the FIU, LEAs and the AGC. The AGC has a significant role in ML investigations, often providing advice to LEAs prior to the case being submitted.

186. The majority of ML investigations and prosecutions that have been undertaken have been reasonably straightforward with few complex ML methods. However, the ACB has recently concluded Brunei's only complex ML case, which involved corrupt conduct by judicial officers. The ML case was predicated on criminal breach of trust and possession of unexplained property. The investigation and prosecution of the case demonstrates the investigative capability and good cooperation of the FIU, the ACB and the AGC.

Case Study 3 – PP v Ramzidah (Judicial Officers Case)

In July 2018, two Judicial Officers, Ramzidah binti Pehin Datu Kesuma Diraja Haji Abdul Rahman ("Ramzidah") and Haji Nabil Daraina bin Pehin Udana Khatib Dato Paduka Seri Setia Ustaz Haji Awang Badaruddin ("Nabil"), were arrested for embezzlement and money laundering for allegedly taking BND 15 million (USD 11m) from the trust accounts of the High Court held for bankruptcy proceedings.

The ACB case commenced when ACB received information on 28 December 2017, indicating that Ramzidah and Nabil were living lavishly in a manner that exceeded their expected income.

The ACB utilised a multi-disciplinary investigation team to investigate this complex case. The team consisted of investigation officers from different fields or specialization such as intelligence, financial investigation, forensic and a designated investigator who would carry out investigation under the Prevention of Corruption Act or other prescribed offence. This team worked together to identify proceeds of crime to plan for seizure, asset management and confiscation.

Following an appeal heard in June 2021, Ramzidah's sentence was increased from 10 years imprisonment to 15 years after being found guilty on 10 charges of ML, while Hj Nabil's sentence was increased from 5 years to 7.5 years after being found guilty on 4 charges of ML.

187. LEAs demonstrated the ability to investigate ML cases, with the ACB having the deepest experience with complex financial crime cases that require tracing money trails, lifting the corporate veil and tracing funds sent overseas. LEAs work closely with prosecutors, in particular in finalising more complex briefs of evidence. In many cases, the FIU assisted complex financial investigations. In this regard, the team noted good domestic cooperation and coordination in ML investigations, particularly in more recent years.

188. Brunei has relied heavily upon informal cooperation in cases involving transnational crimes and/or proceeds being moved offshore. Brunei has strong relationships with regional counterparts in Singapore and Malaysia, which is in keeping with the transnational risk profile. LEAs have demonstrated their good use of informal cooperation to obtain information to assist investigations. A degree of effectiveness is demonstrated in the 'Judicial Officers' case for ACB and FIU seeking assistance from their foreign counterparts (see IO.2).

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

189. While the number of ML investigations has remained relatively stable during the assessment period, the number of cases submitted to the AGC for prosecution has increased significantly: from one case in 2017 to 35 cases in 2022. In total, the LEAs have investigated 211 ML offences since 2017. There are 16 ML convictions, with the majority being convicted on defendants' guilty pleas. A number of investigations are ongoing with several ML trials foreseen in the future.

190. All LEAs are aware of Brunei's key ML risks and the relevant high-risk predicate offences within their investigative remit. The ML investigations and prosecutions are broadly in line with the identified risks (including risk assessments such as the NRA), and the overall low domestic crime rate in Brunei.

191. Brunei has identified cheating (fraud) and criminal breach of trust as the predicate offences with the highest ML risk. These offences are investigated primarily by RBPF. The RBPF has initiated parallel financial investigations in about 8% of cheating investigations, and in about 18% of criminal breach of trust investigations. The largest criminal breach of trust case was the 'Judicial Officers' case which was investigated by the ACB as it was corruption-related criminal breach of trust by judicial officers.

Case Study 4 – PP v Nerissa Domalaon Fernandez

Nerissa Domalaon Fernandez ("Nerissa") was employed at an electrical company where her responsibilities included depositing cash sales money into the company's bank account. Between December 2018 and January 2019, Nerissa received approximately BND 60,000 (approx. USD 45,000) in cash but did not deposit the funds into the company's account, instead spending the money on her personal expenses and on her family in the Philippines.

RBPF investigations revealed that Nerissa sent BND 1,450 (approx. USD 1,080) to the Philippines via remittance companies in 10 separate transactions. She was charged for criminal breach of trust and money laundering offences and sentenced to a total of 5 years and 4 months' imprisonment.

192. For corruption and bribery offences, nearly all (99%) of ACB's investigations are financial investigations from the beginning of the investigation. A total of 16 ML investigations have been initiated from a total of 267 predicate offence investigations during the assessment period.

193. The ACB's successful completion of the complex 'Judicial Officers' case is an illustration of the strength of identifying, investigating and prosecuting ML, but it also highlights contextual challenges in relation to wider targeting of PEPs and corruption / ML risks. The underlying facts of the case highlight corruption and risks from PEPs and challenges with the identification of, reporting of and response to possible cases of suspicion involving PEPs.

194. In the 'Judicial Officers' case, ACB used its investigative powers under the Prevention of Corruption Act although corruption was not charged as the predicate offence. The initial charges for both defendants included possession of unexplained property under the Prevention of Corruption Act (s 12(1)(b)), but these charges were stayed at the onset of the trial. Overall, further concerted targeting of ML investigations of corruption and PEPs is needed.

195. The 2016 NRA also identified alcohol and tobacco smuggling as high-risk predicate offences. The RCED has only recently started focusing on parallel financial and ML investigations, with a specialised financial investigations unit established in 2019. While the numbers of RCED parallel financial and ML investigations prior to 2019 were very low, particularly considering the number of predicate offence investigations (see IO.8), there has been a sharp increase since the establishment of the new unit.

Table 3.13: Summarised statistics of predicate offences escalated to ML investigations

ML investigation (Predicate offence / Year initiated)	2017	2018	2019	2020	2021	2022*	Total
Cheating (fraud)	2	14	4	0	14	16	**50**
Smuggling (except drugs-related)	1	0	1	5	31	32	**70**
Corruption and Bribery	0	3	7	4	1	1	**16**
Criminal Breach of Trust	0	1	0	0	7	0	**8**
Drugs-related offences	8	8	4	11	8	8	**47**
Illegal Money Lending	0	0	1	0	0	0	**1**
Misappropriation of property	0	0	0	0	3	0	**3**
Failure to declare CBNI	0	0	0	0	1	0	**1**
ML (standalone)	0	0	0	1	7	1	**9**
Customs Order (referred to RBPF from RCED)	0	1	0	0	0	0	**1**
Operating a gambling house	0	0	0	0	5	0	5
Total	**11**	**27**	**17**	**21**	**77**	**58**	**211**

* Statistics as at 1 July 2022

The table does not intend to depict a comprehensive list of predicate offences, but rather for ease of reading, it lists only offences where ML investigations have been conducted within the assessment period.

Table 3.14: Statistics of ML prosecutions according to predicate offence

ML Prosecutions (Predicate offence)	2017	2018	2019	2020	2021	2022	Total
Cheating	1	0	2	1	0	2	**6**
Customs or Excise Order	1	0	0	0	0	0	**1**
Forgery	0	0	0	1	0	0	**1**
Criminal Breach of Trust	0	1	2	0	0	0	**3**
Illegal Deposit Taking	0	0	0	1	0	0	**1**
Theft	1	0	0	2	5	1	**9**
Drug Offence	0	0	0	1	0	0	**1**
Unauthorised Access to Computer	1	0	0	0	0	0	**1**
Total	**4**	**1**	**4**	**6**	**5**	**3**	**23***

* The total number of ML prosecutions is 22. However, one ML case in 2017 involved two predicate offences (theft and unauthorised access to computer) which has increased the total number in this table to 23.

Types of ML cases pursued

196. ML investigations and prosecutions have focused primarily on self-laundering activities with limited examples of standalone ML offences. There are currently no cases of ML through legal persons or through corporate structures (partnerships or sole proprietorships), which is not wholly in keeping with Brunei's risks (see IO.5). There has been only one ML investigation involving a foreign predicate offence (as discussed in the case study below).

Case Study 5 – Foreign predicate offence

Five defendants from the People's Republic of China entered Brunei with counterfeit ATM cards. They were associated with an international crime syndicate which produced counterfeit cards. In particular, the defendants admitted that they were acting for a mastermind in China who remains unidentified by the Brunei authorities to date.

The defendants pleaded guilty to various offences of unauthorised access into the ATM, theft and money laundering. They were sentenced in August 2017 and upon appeal the defendants' sentences ranged between four to seven years.

197. Brunei has prosecuted six third-party ML cases, six cases of ML as a standalone offence and 19 self-laundering cases. However, these numbers are higher than the total number of prosecutions (22 as one ML case may include two or more types of ML conduct. The examples of third-party and standalone ML cases generally do not involve complex ML methods and the amount of proceeds is low.

198. Overall, the focus on self-laundering activities is considered to be mostly aligned with the ML risks in Brunei. The domestic crime rate is low and there have been no identified cases of professional third-party ML. ML charges have been pursued in a number of cases where the proceeds are derived from simple predicate offences such as theft (with the third party receiving stolen items) and the level of criminal proceeds is low. This is particularly true for some ML charges initiated by the AGC without a preceding ML investigation.

Case Study 6 – PP v Morsidi bin Hj Ya'akub (third party laundering)

In August 2019, the defendant was approached by a person known to him to assist in selling a Dell Inspiron laptop. He agreed and they went together to sell it in exchange for drugs. On a different occasion, the defendant also came into possession of a set of rims, which he sold for BND100 (approx. USD 72).

The laptop and set of rims were proceeds of crime as they were reported stolen by the owners. The circumstances in which he received this property gave rise to knowledge or reasonable grounds to believe or suspect that they were derived or realised directly or indirectly from the commission of an unlawful activity. In selling off the property and converting it, he had committed money laundering.

The defendant was charged for two counts of money laundering under section 3(1)(b) of the CARO, 2012 and sentenced to 18 months' imprisonment on each charge to run concurrently.

Effectiveness, proportionality and dissuasiveness of sanctions

199. Brunei has prosecuted 22 ML cases during the assessment period and 16 have concluded with convictions (two after trial and 14 from the defendants' guilty pleas).

Table 3.15: Number of prosecutions and convictions (to June 2022)

	2017	2018	2019	2020	2021	2022	Total
Prosecutions	3	1	6	9	1	2	**22**
Convictions	3	0	5	6	2	0	**16**

200. The maximum punishment for ML offences for natural persons is a fine not exceeding BND 500,000 (approx. USD 360,000), imprisonment for a term not exceeding 10 years, or both. The maximum sentence for a legal person is a fine not exceeding BND 1,000,000 (USD 720,000) but there have been no prosecutions or convictions involving legal persons to date. The fines and imprisonment terms are similar to those applicable to other comparable offences such as forgery for the purpose of cheating (s 468 of the Penal Code) and falsification of accounts (s 477A of the Penal Code).

201. The sentences applied in relation to ML offences are considered proportionate and dissuasive. The sentencing range for most ML cases has been between 1 and 5 years' imprisonment. In Brunei's largest ML case in 2020, the two defendants' sentences were 15 and 7.5 years' imprisonment (on appeal, with the initial sentences being 10 and 5 years). No fines have been applied during the assessment period.

202. Significant sentences have also been applied in cases of lower level offending. In one case (PP v Izwan Zulhasree bin Muhd Aliyas), the defendant was charged for two counts of cheating and two counts of ML after defrauding two victims and obtaining BND 90 (approx. USD 67) as proceeds. Upon conviction, the defendant was sentenced to a total of two years' imprisonment.

Use of alternative measures

203. Brunei has pursued some alternative measures in cases where a ML case has been investigated but it has not been possible to secure a ML conviction. This includes using one case of non-conviction based forfeiture instead of proceeding to trial in a case where witnesses were unable or unwilling to testify in court. In that case a total amount of tainted property of BND 612,724.30 (approx. USD 455,000) was forfeited.

Overall conclusion on Immediate Outcome 7

204. Brunei has prioritised the pursuit of ML in more recent years, with an increasing number of ML investigations. ACB has the most developed financial investigation capacity and has successfully pursued one high profile PEP/corruption-related ML case involving transnational elements. Other LEAs have recently improved their ML investigation capacity. Brunei demonstrated strong ML prosecution capacity overall. While there are only a small number of ML cases and most of these are self-laundering, the level of investigations, prosecutions and convictions of ML is largely in keeping with Brunei's risk profile and AML/CFT policies.

205. **Brunei has a moderate level of effectiveness for IO.7.**

Immediate Outcome 8 (Confiscation)

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

206. Brunei has a comprehensive framework for freezing, seizing and confiscating criminally linked assets. This includes both conviction-based and non-conviction forfeiture.

207. Brunei's focus on confiscation is reflected as an overarching policy objective in its National Strategy, stating clear objectives to utilise the seizure, restrain and confiscation powers provided for by its legislative framework, including but not limited to the CARO and ATO.[18] This focus on confiscation and strategic direction from high levels of government sets the tone for implementation and compliance at the agency level. Further, Brunei's proactive effort to align its legislative framework on confiscation with FATF recommendations further demonstrates the importance national authorities place on confiscation and provisional measures, and its political will to be in line with international standards.

208. LEAs, including the RBPF, ACB, NCB, and RCED, are the frontline agencies handling early property seizure and asset restraint to facilitate eventual confiscation of the proceeds of crime. ACB has the most developed understanding of asset recovery, but other LEAs have a developing understanding, but are supported by the AGC. The AGC has a dedicated unit, supervised by two specialist senior legal counsels, to oversee and handle asset recovery matters, and plays an advisory role to LEAs on confiscation matters, either at the conclusion of financial investigations or earlier in the investigation process. AGC has a documented policy for prosecutors to always consider asset recovery in each case where a defendant has benefited from a serious offence, and to consider confiscation proceedings in all appropriate cases. This helps ensure that confiscation considerations remain a priority during prosecutors' assessment of each case.

209. Through training conducted by the AGC, FIU and other various counterparts, Brunei's LEAs have sought to raise the overall awareness of its investigators, prosecutors, and other LEA officers of the confiscation powers available to them, and the need to prioritise confiscation as a criminal justice tool. Comparatively, Brunei has a heavier policy objective focus on confiscating criminal proceeds than on instrumentalities and property of equivalent value.

210. Since the establishment of the National Strategy 2017-2019 regarding confiscation of criminal assets, LEAs now more proactively seize property with a view to confiscation. Some LEAs have a developing understanding of the need to preserve high-value items (e.g. luxury goods etc.) seized and managed under their custody but this is noted to be in the nascent stage and can be further developed.

211. Brunei lacks a formalised protocol across the different agencies regarding seized asset management and preservation of these assets to accompany its increased focus on confiscation as a policy objective. With the prioritisation of confiscation as a policy objective and the anticipated corresponding increase in seized assets under the various LEA's management as a result of this policy focus, Brunei LEAs' asset management regime will face challenges unless it is augmented by considered and standardised documented policy and actions to manage and preserve assets under their custody.

190. In the absence of comprehensive statistics, it is unclear whether the prioritisation of confiscation as a policy objective is uniformly applied to all cases in general or only in a handful of select cases, as demonstrated by the shared case studies. Currently, statistics from each LEA on the percentage of cases which have led to confiscation have not been provided.

[18] Objective 3 and 4

Confiscations of proceeds from foreign and domestic predicates, and proceeds located abroad

Asset tracing and restraint

212. Brunei is able to appropriately use a variety of tools in identifying, tracing, and restraining criminal assets. The production and use of financial intelligence by LEAs and FIU (see IO.6) demonstrates the overall capacity to trace assets and to take restraint action. Case studies and discussions with LEAs, prosecutors and the FIU indicate that restraint and seizures are performed in a timely manner, but this is not sufficiently supported by available data. Brunei did demonstrate a number of cases involving formal and informal international cooperation on asset tracing (Thailand and UK).

213. ACB appears to have the best developed capacity for asset tracing, while other LEAs demonstrated only limited experience. Brunei demonstrated successful action by the ACB to restrain over BND 5.1 million (USD 3.7 million) in assets in the 'Judicial Officers' (see Case Study 3) which supported subsequent successful confiscation. This case included international cooperation to conduct asset tracing investigations in a number of jurisdictions, although ultimately no assets were located outside of Brunei.

Table 3.16 (data taken from table 3.18): Restraint Orders under CARO 2012 (as at 1 July 2022)

Year	2016	2017	2018	2019	2020	2021	2022
Restraint Orders (CARO s. 115)	1	0	0	10	13	0	3

Case Study 7 – Judicial Officers Case – 2020 Restraining Order

Following the conviction of Ramzidah Rahman for offences of criminal breach of trust, and together with Nabil Daraina Badaruddin for offences of money laundering, the Prosecution made an application pursuant to s.49 CARO for a restraint order over properties directly or indirectly owned or controlled by the convicted persons. The property included monies held in Brunei local banks in accounts belonging to the Defendants and their two children, 19 vehicles purchased at BND3,203,655 (approx. USD 2,330,000) and 456 luxury items worth BND1,316,274 (approx. USD 960,000) which included watches, handbags, accessories and shoes belonging to both the Defendants.

The restraint application was made as these properties are tainted property which may be subject to a confiscation order under section 60 CARO at a later date. Having been satisfied that there were reasonable grounds for suspecting that the properties are tainted property, the Court granted the application and issued a restraining order under section 50 CARO on 27 February 2020. Ramzidah, Nabil and both their children were prohibited from dissipating, taking possession of or dealing with in any manner of the properties restrained.

214. However, beyond a small number of case studies, Brunei provided only limited data in relation to actions taken to restrain assets that may become subject to confiscation. Brunei did not demonstrate that restraint action is regularly taken sufficiently early in the investigation to ensure assets are not dissipated.

Asset Management

215. Each LEA has its own facilities and procedures to manage assets under their custody. Practices for asset management vary between agencies, and are not yet formalised or standardised according to best practices consolidated across the different agencies. LEAs did not raise any significant problems with asset management.

Table 3.17: ACB's assets under management, pending confiscation as of Nov. 2022

Investigation initiated	Particulars	Value seized / frozen (BND)	Value restrained (BND)	Remarks from ACB
2018	Vehicles (21 vehicles)	3,283,132	3,203,665	Confiscation order issued
	Luxury items (Handbags, Shoes & Watches)	1,316,274		
	Cash in bank account	636,559	636,559	
2019	Vehicles (12 vehicles)	96, 000		Under investigation
	Cash in bank account	1, 755		Under investigation
2020	Cash in bank	52,740		
	Vehicles (12 vehicles)	1,030,989		Under investigation
	Multiple car parts and accessories	n/a		
2021	Cash	12,200		
	Apple Mac book Air	n/a		
	Projector	n/a		
	Umbrella golf 30 units	n/a		
	Vehicle (1)	66,800		Awaiting prosecution
2022	Cash	727		Under investigation
	Mini motorcycle	n/a		
	Mobile phone	n/a		
2022	Cash	5,213		
	Carpets, other types of cloth	2,914		
	Grocery items	95		
2012*	Cash in bank	2,068,067		Subject to confiscation order issued in 2022

216. Each LEA maintains its own records of assets under management. Brunei has provided statistics to the assessment team on the assets under each LEA's management and it is noted that the records kept by each agency reflect disparate presentation formats, different types of information tracked, and demonstrates different levels of granularity. ACB's data presented above is the most comprehensive.

Confiscation

217. The assessment team has received some figures in which Brunei outlines some success in pursuing and confiscating property, as well as case study examples demonstrating confiscation actions taken. However, these figures lack the detail to comprehensively demonstrate effectiveness. Brunei NRA 2016 and the ML RA 2020 acknowledged gaps in the timely availability of statistics for the purpose of assessment.

218. Examples of some top-line figures and case studies provided by Brunei are set out below. Available data does not demonstrate that the same amounts restrained were also confiscated.

Table 3.18: Assets confiscated under CARO 2012 (as at 1 July 2022)

Year	2015	2016	2017	2018	2019	2020	2021	2022
CARO restraint Orders s. 115	0	1	0	0	10	13	0	3
Confiscation orders	1	2	0	0	2	3	1	3
Types of assets confiscated	Cash	Cash	n/a	n/a	Cash	Money in bank accounts and stolen items	Cash, money in bank accounts	Money in bank accounts
Amounts subject to confiscation orders[19] (By Currency)	BND 850,617	BND15,179 SGD162891 MYR3,055	0	0	BND 31,797 USD 26,681	BND 33,786	BND 612,724	BND 3,346,562
Approx. USD equivalent	620,000	12,300	0	0	49,580	24,325	441,200	2,409,000
Total approx. equivalent USD				**3,556,405**				

Table 3.19: Confiscation under the CPC section 357 (as at 1 July 2022)

	CPC Confiscation Orders	Amount confiscated (all BND cash)	Approx. USD equivalent
2017	11	BND 37,224	26,800
2018	10	BND 9,383	6,750
2019	23	BND43,979	31,700
2020	11	BND5,420	3,900
2021	14	BND26, 867	19,340
2022	4	BND4,948	3,600
Totals:	**73**		**92,090**

219. All confiscation orders issued under the CPC were for cash and as such were realised. Some CPC confiscation orders included unexcisable goods for which value was unable to be realised in Brunei and are not included in the table above.

Table 3.20: List of assets confiscated to the Criminal Asset Confiscation Fund 2015-June 2022

Date of Court Order	LEA	Offences	Amount (by currency confiscated)
16 June 2015	ACB	• Corruption related offences	BND850,617
4 June 2016	NCB	• Non-conviction based forfeiture (Drug-related activities)	BND11,110 SGD1,110 MYR3,055
6 October 2016	NCB	• Non-conviction based forfeiture (Drug consumption)	BND4,069

[19] Amounts ordered to be deposited to the Criminal Asset Confiscation Fund

18 November 2019 (Case Study 8)	RBPF	• Money laundering • Theft • Unauthorised access to computer programme	BND19,986 USD26,681
17 December 2019	RCED	• Money laundering • Possession of un-excisable goods	BND11,821
27 August 2020	RBPF	• Theft • Cheating	BND1,534
10 September 2020	RBPF	• Money laundering • Cheating	BND2,800
16 September 2020	RCED	• Possession of un-excisable goods	BND29,232 SGD50 MYR150
5 October 2020	RBPF	• Computer misuse	BND50,050
21 December 2021	RBPF	• Non-conviction based forfeiture (Illegal deposit taking)	BND612,724
25 January 2022	RCED	• Possession of un-excisable goods	BND40,000
23 June 2022	ACB	• Criminal Breach of Trust • Money Laundering	BND5,815
23 June 2022	ACB	• Criminal Breach of Trust • Money Laundering	BND31,971
		TOTAL (2015 – June 2022)	(converted to BND) BND2,288,811
		Approx. USD equivalent	USD 1.65 million

Case Study 8 –Confiscation of cash proceeds in 2019 – s.60 of CARO

On 16 June 2019, the High Court granted an application made by the Prosecution for a confiscation order under s.60(1) CARO in respect of cash identified as tainted property.

Five Chinese nationals had entered Brunei in June 2016 and used counterfeit Automated Teller Machine (ATM) cards to gain access to the ATM and to withdraw cash. The defendants withdrew over BND20,000 (approx. USD15,800) from various foreign accounts. Three of the defendants visited money changers to convert the stolen cash to USD.

A police report was lodged by three banks in Brunei relating to persons having used counterfeit credit cards to withdraw substantial amounts of cash from several ATMs.

Based on the CCTV footage obtained from one bank and police investigations, all five men were identified and they were arrested at Brunei International Airport. The RBPF recovered the converted cash found on them, amounting to BND19,986 and USD26,681 which were subsequently seized using powers under the Criminal Procedure Code.

The five defendants were charged with ML, theft and offences under the Computer Misuse Act. Upon conviction all the seized cash was ordered to be forfeited and transferred to the Criminal Asset Confiscation Fund.

Case Study 9 – Confiscation of instruments of crime in 2020 - PP v Muhammad Yasriazizi bin Mohd Shahrol Amira

In March 2020, the Defendant pleaded guilty to theft and cheating offences. The defendant had stolen a bicycle, gold jewellery and an ATM card and had withdrawn cash from an ATM and bought a set of tyres, a fuel pump, wrench tools and jack stands with a total value of BND1,534 (approx. USD 1,115). These items were declared as tainted property by the High Court and ordered to be forfeited by virtue of section 68 CARO. The proceeds from its disposal by the RBPF were ordered to be transferred to the CARO fund.

Case Study 10 – non-conviction based confiscation of cash– s.83 of CARO – NCB investigation

Azren Zaini was arrested in 2009 by the NCB for an alleged offence of drug trafficking. Also seized during the raid were cash (BND11,110; SGD1,110 and MYR3,055) (approx. USD 9,500) which were believed to be the result of his drug trafficking activities. In December 2014, the Respondent was convicted of possession of methylamphetamine but was not prosecuted for drug trafficking. The respondent alleged that the seized cash was profits made from his quail farm business but investigations by the NCB indicated that they were in fact from the proceeds of sale of his drug-related activities and the cash was seized as tainted property.

On 12 August 2015 authorities sought a non-conviction based confiscation order for the cash pursuant to s.83 of the CARO 2012 by virtue of consent by both parties.

In June 2016 consents order (s.132 CARO) were signed and granted by the High Court whereby the seized cash was forfeited to the Criminal Assets Confiscation Fund.

220. Data and case studies demonstrate that in the vast majority of cases, confiscation orders have been for cash.

221. The use of non-conviction based forfeiture, particularly in one relatively high value fraud case, helps to demonstrate effectiveness.

222. Based on the statistics made available to the assessment team, it was not possible to distinguish between domestic and foreign predicate offences, between amounts frozen and forfeited, as well as between proceeds and instrumentalities of crime. There were also no statistics available on any confiscated amounts shared with foreign jurisdictions. Consequently, Brunei has yet to fully demonstrate effectiveness under this core issue.

223. There have not been any seizures, freezing and confiscation under ATO and the Terrorist Financing Regulations in Brunei. The assessment team closely considered the counter terrorism and TF matters and RAs conducted by LEAs in Brunei and the lack of any restraint or confiscation in this regard is deemed to be in line with Brunei's TF risk profile.

224. Apart from the *Ramzidah* case (case study 3) and the *David Chong* case (a 2013 case outside of the scope of this assessment), Brunei has not pursued any other benefit recovery orders to confiscate

property of corresponding value. LEAs and AGC should more proactively pursue the confiscation of proceeds of crime through benefit recovery orders and make greater use of the full range of seizure and confiscation powers available to them to pursue proceeds of crime that are not directly linked to offences being prosecuted. Also, apart from the *Ramzidah* case which was ultimately unsuccessful, Brunei has not confiscated or made many overseas requests in relation to proceeds which have been moved to other countries.

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

225. The total number of CBNI reports annually has been generally consistent between 2015 and 2019. From 2020 there has been a significant drop in the number of CBNI reports submitted. This is attributed to the COVID-19 pandemic which has led to the Government of Brunei imposing border restrictions.

Table 3.21: Breakdown of CBNI reports

Year	2016	2017	2018	2019	2020	2021	2022
Outgoing (collected by INRD)	441	557	452	487	85	15	14
Incoming (collected by RCED)	839	1,008	778	747	175	23	44
Cargo or Post (collected by BDCB)	0	0	50	37	1	16	10
Total	**1,280**	**1,565**	**1,280**	**1,271**	**261**	**54**	**68**

226. In relation to cross-border CBNI declarations, no false declaration cases were detected from 2016-2022. There were 1 to 3 cases annually of failure to declare from 2015-2022, which resulted in fines of BND 5,000 (approx. USD 3,600) being imposed. None of these cases related to ML/TF. The low case numbers raise the assessment team's concern to the potential of poor detection at the control borders, especially in the context of Brunei's largely cash-based economy and the potential for cross-border movement of monies. Challenges with training and systems are noted.

227. Through its National Strategy 2017-2019, Brunei's Objective 6 seeks to improve its cross-border control and it is noted that this remains a work in progress. The results of Operation Maharlika III (shown below) and the resulting cash seizure reveal the inherent risks of cash smuggling in Brunei.

Case study 11 – Operation MAHARLIKA III (Customs)

The Customs administrations of Brunei, Indonesia, Malaysia and the Philippines joined forces in support of an operation MAHARLIKA 3 mounted by the World Customs Organization (WCO) and INTERPOL targeting suspected transnational terrorist organizations and organized crime groups operating in the maritime border areas between the four nations. The operations also involved the RBPF and the ISD. The Operation, was executed from 24 February to 20 March 2020. Customs administrations were specifically asked to strengthen enforcement efforts targeting the smuggling of precursor chemicals and components used in the manufacture of Improvised Explosive Devices (IEDs), as well as bulk cash smuggling.

The operational results from Operation MAHARLIKA 3 included the detection of 300,000 Malaysian Ringgit (approx. USD 68,000) of undeclared cash in a vehicle driven by a Malaysian national transiting in Brunei while travelling from Labuan to Miri in Malaysia. The case was

brought forward to the court under s.32(2) of CARO, and information was provided to INTERPOL.

The cash was seized during the operation. The suspect was convicted for failure to declare cross-border movement of cash and the seized funds were ordered to be returned.

Table 3.22: Breaches of CBNI reporting requirements, 2015 to June 2022

Year	2016	2017	2018	2019	2020	2021	2022
Failure to declare (no. of cases)	0	1	3	3	1	(1)	0
Failure to declare correctly (no. of cases)	0	0	0	0	0	0	0

*The bracketed case in 2021 involved counterfeit currency and the case was transferred to the RBPF for further investigation.

Case Study 12 – Enforcement of cash declaration obligation

A person travelling by car from Miri, Malaysia to Brunei by car and was stopped at Sungai Tujoh Control post and asked to pay excise duty for excise goods found in the car. An inspection was conducted by RCED to ensure that all the excise goods has been declared and duties are paid. During the inspection, customs officials found a bag containing: BND24,472 and SGD18,000. The RCED conducted investigation and made assessments into the source and purpose of the funds. In March 2018 the person was charged for the offence of failing to declare cross-border cash movement (s.37(2) CARO) and pleaded guilty to the offence. He was sentenced to BND5000 in default of five (5) months imprisonment. The undeclared cash was not seized or confiscated.

228. Sanctions imposed thus far have been invariably low fines on the small number of cases detected for failure to declare cash or BNI at the border. The assessors did not consider the sanctions imposed to date sufficiently deterrent to dissuade the laundering of physical currency and BNIs. Further, it was noted that in practice, there appears to be insufficient measures at the border control posts to inform travellers into Brunei of the mandatory declaration requirement. The assessment team has a concern that this could potentially be regarded as a cost of business for potential perpetrators of ML/TF. Brunei has not detected or prosecuted any cases so far relating to ML/TF involving cross border cash smuggling, again raising the concern of potential poor detection or investigation capabilities regarding CBNI.

229. CBNI reports are received in hardcopy by the FIU and subsequently entered into the IFIS system for subsequent financial intelligence analysis. This is done via manual data entry, posing an unnecessary risk of human error and also work duplication. This ultimately affects the ability of the FIU to conduct accurate, meaningful, or timely analysis of the CBNI reports received to detect and combat ML or TF. The statistics provided by Brunei on the quality of the CBNI reports received clearly demonstrates this point.

Table 3.23: Statistics of quality of CBNI reports – to December 2022

Year	Reports	Good quality	Low quality	% of low-quality report
2018	1280	843	437	34.14
2019	1281	862	419	32.71
2020	265	171	94	35.47
2021	54	35	19	35.19
2022	482	353	129	26.76
Totals	**3362**	**2264**	**129**	**32.8% on average**

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

230. The assessment team notes the increased efforts to pursue criminal asset recovery measures in recent years. However, the unavailability of comprehensive statistics remains a recurring issue which does not allow Brunei to demonstrate its effectiveness under this immediate outcome.

231. The following offences were identified in the ML TA 2020 to pose the greatest risks of ML:

- Cheating (fraud)
- Corruption
- Smuggling of alcohol and tobacco
- Criminal breach of trust (CBT)
- Drug-related offences
- Operating a gambling house
- Failure to declare CBNI
- Smuggling of other dutiable goods
- Theft
- Robbery

Table 3.24: Proceeds confiscated by predicate offence investigated (2017 to 9 Nov 2022)

Predicate offence	Predicate investigations	parallel investigations	Assets seized, frozen (BND)	Assets restrained (BND)	Confiscation (BND)
Cheating	2,401	167	2,615,946	-	59,406
Corruption & Bribery	267	99	6,505,150	3,840,224.10	3,415,713
Criminal Breach of Trust	232	41	1,356,716	-	-
Drug Smuggling & Trafficking	332	-	2,467,693	*	40,635
Other drug- offences (abuse, etc.)	4,597	-	*	*	*
Failure to declare CBN	7	-	277,167	-	-
Operating a Gambling House	108	-	208,190	-	10,262
Smuggling - Alcohol & Tobacco	3,679	-	1,278,580	100,075.42	730,707
Smuggling - other dutiable goods	1,128	-	862,287	-	74,131
Theft, Break-in and Robbery	11,608	-	168,333	-	56,278
Forgery (for purposes of cheating)	320	26	*	*	*
Illegal Money Lending	1	1	*	*	*
Misappropriation of property	554	3	*	*	*

* Brunei reported that no data was available for these categories at the time of data extraction

232. Drug related offences rank 5th in the ML TA 2020 but yet there have been only limited confiscation to date. These results appear inconsistent with the ML risk profile and policy objective to prioritise confiscation.

233. Smuggling of tobacco and alcohol offences rank 3rd in ML TA 2020, yet the number of ML investigations initiated is extremely low relative to the number of investigations initiated on the predicate offences. The dedicated financial investigation unit at RCED recently established in November 2020 would appear to address this although results are yet to be seen based on statistics currently available to the assessment team.

234. There appear to be challenges with following proceeds of crime which have moved out of the jurisdiction as Brunei has yet to demonstrate successful case examples of pursuing such proceeds. The assessment team noted that requests were made in the *Ramzidah* case but the authorities faced challenges in response delays from foreign counterparts and appropriate identification of tainted property, ultimately being unable to obtain a favourable outcome in this case for confiscation of properties which have moved out of jurisdiction. Notwithstanding the delay from foreign counterparts, Brunei could have been more proactive in following up to obtain a response.

Overall conclusion on Immediate Outcome 8

235. Brunei has strong legislative measures and has placed emphasis through an overarching National Strategy to pursue confiscation of criminal assets. However, the absence of comprehensive

records-keeping undermines Brunei's ability to fully demonstrate effectiveness under this immediate outcome and/or whether its policy focus has been effectively implemented at the agency level.

236. Overall, in the context of the size of the economy and nature of crime in Brunei, the confiscation results are generally positive although they can be improved and further targeted according to Brunei's ML/TF risks. There is a lack of guidelines for managing seized/confiscated assets and a need to improve CBNI detection and investigations. Brunei needs to enhance authorities' capabilities to trace assets, to conduct earlier restraint of proceeds and to confiscate more proceeds of crime. There is a need to increase training and education on the range of powers available to asset recovery agencies, including the increased use of benefit recovery orders and more proactive pursuit of criminal proceeds which have moved out of the country.

237. **Brunei has a moderate level of effectiveness for IO.8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

TF offence (IO.9)

a) Brunei amended its legal and institutional TF framework to address minor gaps in compliance with international standards just prior to the onsite visit. The legislative framework is in place to allow TF cases to be identified and investigated but it has not been used in practice.

b) Notwithstanding the recent amendments to the legal framework, the FIU and LEAs have demonstrated that terrorism and TF risks are generally well understood and closely monitored by relevant LEAs and intelligence agencies.

c) TF is considered high priority by all the authorities. LEAs, the FIU and intelligence agencies work closely to share and evaluate information on potential TF matters.

d) Brunei adopts an overall preventive strategy that relies heavily on background intelligence work and other preventive measures to address emerging terrorism and TF issues early. As a result, there are no TF investigations, prosecutions or convictions in Brunei to date. This is in line with Brunei's TF risk profile.

e) Brunei's institutional structures and procedures are currently generally adequate for an appropriate response should a TF case be identified, be it domestic or transnational in nature.

TFS related to TF and NPOs (IO.10)

a) Brunei has a comprehensive legislative framework for the implementation without delay of TF TFS.

b) There are clear structures for properly empowered competent authorities to actively identify potential terrorists and financiers and to take action to designate if required. Brunei has not designated any individuals or entities at the national level under UNSCR 1373, nor co-sponsored or been co-designator under UNSCRs 1267/1989 and 1988, which is consistent with the TF risk profile. Brunei has not received a request to give effect to designations of another country.

c) Changes to the UNSCR consolidated list take effect automatically under the provision in the ATO. Changes are received by the FIU through subscription to the UNSCR list and emails are automatically forwarded to REs. The FIU also updates the list on the BDCB website, and provides an Excel spreadsheet version of the list to all REs within 24 hours of the change. A questionnaire is also sent to all REs to confirm they have screened against the new list, with a response required within 3 days.

d) Enforceable guidance has been issued to FIs and DNFBPs on their obligations to implementation TF TFS legal requirements.

e) Implementation of TF TFS appears to be occurring across the FIs and some DNFBPs with screening taking place at onboarding and daily screening against existing customers.

f) Brunei has completed a comprehensive assessment of the NPO sector, identifying both the subset of NPOs at risk of TF abuse and classifying TF risks in the sector as low. This assessment informed risk-based efforts to prevent abuse of the NPO sector in Brunei with outreach and engagement to the sector on TF risk only recently commencing.

g) There are comprehensive registration and annual filing requirements for societies regulated by ROCBN, but the single NPOs regulated by the ROCBN in the higher risk category (companies limited by guarantee) is not subject to the same level of oversight as societies.

h) There are generally strict controls on the operation of societies and the charitable collection of donations and their use. The Societies Act provides for sanctions for non-compliance by NPOs which have not been applied by ROS to date. Refusals for registration have been made by the ROS as the result of due diligence checks.

i) While Brunei has not had any cases involving the freezing of funds/assets of UNSCR designated persons, this is consistent with the overall TF risk profile and competent authorities and reporting entities are aware of roles and responsibilities in the overall targeted financial sanctions regime.

Proliferation financing (IO.11)

a) Brunei does not implement TFS relation to proliferation of WMD (PF TFS) without delay and has not yet established its planned framework to combat financing the proliferation of WMD (PF). NAMLC is the coordination body for policy consideration related to PF, RCED has been given responsibility for combating the proliferation of WMD, and the FIU has been given the responsibility to prevent PF.

b) Brunei has taken measures to issue CPF legislation which should address the requirements for PF TFS, but this had not entered into force at the time of the onsite visit. The new Order will address and go beyond R.7 to cover wider issues of financing the proliferation of WMD by non-state actors (pursuant to UNSCR 1540).

c) Currently, there is no mechanism to monitor or ensure compliance of FIs and DNFBPs for PF TFS obligations. No guidelines or instructions have been issued to reporting institutions on how they should adhere to the new regime or to support their implementation of TFS against PF.

d) Some REs have an awareness of PF TFS and conduct screening for possible matches with sanctioned persons and entities, but this is based on their home supervisory obligations or overall risk management settings.

Recommended actions

TF offence (IO.9)

a) Continue to update risk information and assess domestic, regional and global terrorism and TF risk developments relevant to the risk profile of Brunei.

b) Continue to strengthen and promote sharing of intelligence amongst security agencies, LEAs the FIU and to the private sector particularly in relation to external TF threats to assist detection of possible TF matters.

c) Develop stronger and more detailed policies, procedures or mechanisms for handling and identifying TF commensurate with the perceived medium-low risk and size of Brunei, focusing on financial investigations and the role of respective agencies should such a case arise.

d) Continue to provide further training to LEAs, FIU, prosecutors and judiciary in TF and related financial investigations through regular exchanges and training with regional counterparts to learn updated best practices, as well as conducting further regular national desktop exercises involving the banking sector.

TFS related to TF and NPOs (IO.10)

a) Given the TF risk from neighbouring countries, consider giving effect to those countries' domestic designation lists and/or providing these to REs with clear expectations on how they should be used.

b) Competent authorities should share further information on TF risk and undertake outreach with REs and the public on TFS obligations.

c) Continue to support implementation of TF TFS, especially by providing specific support to smaller FIs and DNFBPs.

d) Implementation of BO requirements under IO.5 needs to be strengthened to enhance sanctions screening.

e) Enhance outreach to the NPO sector especially NPOs deemed vulnerable to TF abuse to sustain the ability to mitigate risks while supporting compliance with controls on transparency and CFT.

f) Consider requiring NPOs to be registered as societies under ROS and apply sanctions for non-compliance.

Proliferation financing (IO.11)

a) Implement the drafted CPF Order into force as soon as possible

b) Develop and implement a comprehensive and targeted plan for all stakeholders to implement the new CPF framework.

c) Conduct outreach to the private sector and issue guidance on requirements under the new PF TFS framework and how the REs can adjust existing TFS against terrorism to apply to combatting PF.

d) Ensure sufficient supervisory capacity (offsite and onsite) to support the new responsibility for supervision of CPF Order obligations.

e) Plan and implement thematic supervision to REs to gauge implementation/readiness to enforce requirements under PF TFS and consider assessing PF risk to further support implementation by the private sector and to guide outreach/supervision activities and other implementation steps.

238. 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.

Immediate Outcome 9 (TF investigation and prosecution)

239. Brunei's legal and institutional frameworks demonstrate compliance with the international standards, with some minor remaining deficiencies (see R.5). The legislative framework is in place to allow TF cases to be identified and investigated, but it has not been used in practice. The ATO was amended immediately prior to the onsite visit to address a number of technical shortcomings. There are small gaps in relation to covering conduct under the Convention on the Physical Protection of Nuclear Material, the level of sanctions applicable to legal persons, and LEA's powers during investigations. These small gaps do not significantly impact on effectiveness.

240. Brunei's TF risk has been assessed to be *medium-low* in the TF risk assessment 2020, revised from *medium* in Brunei's first NRA in 2016. The assessment team considers the factors in both risk assessments well considered, supporting the derived conclusions. Taking into account the preventive measures and controls in place, a residual risk level of *medium-low* appears to be reasonable.

241. Brunei is situated in a region that has active terrorist and militant presence, but there are no terrorist groups (or any known organised crime groups) that are based in the country. The main risk comes from the threat of individuals in Brunei who may be radicalised or harbour sympathies for regional and international terrorist organisations, potentially sending funds overseas through the banking and remittance sectors.

242. Investigation of TF is the primary responsibility of the RBPF, with intelligence support provided by the ISD, the FIU and the CTIWG as appropriate. The CTIWG, an operational taskforce comprising of five (5) intelligence agencies, plays an important role in Brunei's counter-terrorism framework by monitoring terrorism and TF issues in Brunei.

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

243. LEAs have demonstrated that TF risks are generally well understood and closely monitored by relevant law enforcement and intelligence agencies. TF is considered high priority by all the authorities, including the FIU, which immediately gives attention to the limited number of TF STRs. The AGC, particularly the Serious Crime, Sexual and Domestic Violence Unit, Criminal Justice Division (CJD)

of the AGC, is Brunei's competent authority to conduct prosecutions and appeals in relation to terrorism related offences.

244. To date there has been no TF investigation, prosecution, or conviction in Brunei under the ATO or CARO, and no funds have been seized or confiscated for TF or terrorism. This appears consistent with Brunei's assessment of TF risk, particularly in light of the demonstrated detailed intelligence work to consider any potential terrorism or TF matter.

Table 4.1: Terrorism and TF investigations, prosecutions and convictions

	2016 – Aug 2022
Terrorism investigations under ATO/CARO	0
Terrorism cases under ISA	3
TF investigations under ATO/CARO	0
TF prosecutions under ATO/CARO	0
TF convictions	0
Amount of TF assets/funds seized	0
Amount of TF assets/confiscated	0

245. There have been three cases where individuals have been detained under the ISA during the assessment period. In these cases, the CTIWG conducted preliminary assessments on the financial activity of the individuals but did not find sufficient TF elements to trigger an investigation. The majority of the cases involve foreign individuals who were subsequently deported and denied further entry in Brunei.

TF identification and investigation

246. Despite the lack of TF investigations or prosecutions, Brunei has demonstrated that substantial intelligence work, including international cooperation with counterparts, takes place behind the scenes to actively identify TF cases. Brunei authorities are quick to address any potentially emerging issues as part of Brunei's overall preventive strategy.

247. There is very close and regular collaboration on national security issues between LEAs, the FIU, the ISD and other competent authorities. This is particularly strong in relation to CT and CFT matters, and involves all potential TF matters being closely scrutinised and supported by detailed information sharing. The FIU prioritises the small number of TF-related STRs, and conducts thorough and proactive analysis on any potential leads (see IO.6). Any relevant financial intelligence arising from STRs or broader intelligence work is shared and discussed at the CTIWG (see case studies 14 and 17 for examples).

Case Study 13: Deportation of four foreign nationals for links to extremism and terrorism

In April 2017, the ISD detained and deported four (4) foreign nationals for their involvement in extremism and terrorism-linked activities. CTIWG investigations, led by ISD, found that two of the suspects were in possession of propaganda materials related to Islamic State (IS) while all four suspects admitted to downloading and sharing videos and other materials related to IS through the internet. Furthermore, one of the individuals was found to have been in contact with a suspected member of a terrorist organization, who is based overseas.

With the assistance of the FIU, the CTIWG conducted an assessment into the financial activity of the four (4) individuals. However, no elements of terrorism financing were found at the time.

The individuals were detained under Section 55 of the Internal Security Act, and were subsequently deported and banned from re-entering Brunei. The CTIWG worked closely with the INRD to obtain additional information on their personal information, employment details, and travel details in and out through the border of Brunei. Furthermore, after deportation, ISD has also requested to INRD for them to be denied entry into Brunei. Additionally, the ISD shared its findings on the four individuals with its counterparts overseas.

248. Brunei's current TF multi-agency SOP is a flowchart outlining the basic life cycle of a TF investigation, and covers the roles of the CTIWG, ISD, RBPF, AGC and FIU. This could be and should be strengthened by including further details on the process and the role of each agency. However, the assessment team considers that the current framework is generally adequate for an appropriate response should a TF case be identified, be it domestic or transnational in nature. The relevant agencies demonstrated a good understanding of the SOP and their respective roles in identifying and investigating a potential TF offence.

249. Brunei conducts national exercises on counter-terrorism, including TF, to maintain the relevant agencies' operational readiness and test the existing SOPs. These exercises rotate through three distinct components (tabletop exercises, communications test exercises, and physical exercises) and are conducted annually within a 5-year cycle, with further ad-hoc training aligned with major national events. The participants have included telecommunications, oil and gas companies, but not the banking sector or other REs. Brunei first included financial investigation mock exercises within its national exercise in 2019, but subsequent exercises were not conducted due to the pandemic. Brunei authorities have expressed intention to include more financial tracing training and the inclusion of the banking sector in future national exercises in a bid to strengthen their operational readiness to tackle TF cases should they occur.

250. Brunei authorities have generally received sufficient training to respond to any TF-related matters. Brunei authorities have expressed understanding of the rapidly evolving terrorism landscape and have acknowledged the need for continuous training to keep abreast of CT and TF trends, both regionally and globally. This should include exchange programmes for operational staff to be acquainted with new technologies and to foster international cooperation.

251. LEAs and intelligence agencies in Brunei have sufficient capability and resources to facilitate international cooperation on terrorism and TF matters, but no TF cases have been identified as a result. The LEAs and intelligence agencies have regular bilateral, regional and international exchanges with

their counterparts, and relevant information is shared amongst the CTIWG at its monthly meeting or sooner if required. Between 2019 and October 2022, the FIU disseminated two spontaneous TF-related reports to foreign counterparts (Indonesia and Australia).

Case Study 14: Outgoing international request – ISD

Between 10 July and 25 September 2019, the Malaysian Police carried out a series of operations in Eastern and Western Malaysia which resulted in the arrest of 16 individuals suspected to be linked to several terrorist organizations.

The ISD sent two requests to Malaysia (October 2019 and July 2020) for information on these persons arrested in Miri, Sarawak (Eastern Malaysia), one of which had previously worked in Brunei. These persons were all subsequently included in the INRD's List A (prohibiting entry into Brunei).

TF investigation integrated with -and supportive of- national strategies

252. Brunei adopts a whole-of-government approach in dealing with security issues including terrorism and terrorism financing. Brunei's strategy in counter-terrorism is anchored in a holistic approach, which includes the participation of various agencies and covers a broad spectrum of measures including preventive efforts, capacity-building, as well as to preserve social and religious unity. Brunei's commitment to combating terrorism, including TF, is evidenced by the substantial allocation of resources, the clear division of responsibilities between the relevant agencies, and inter-agency coordination structures for CT work. The NAMLC is the key AML/CFT policy development and coordination mechanism in Brunei. It endorses and oversees the implementation of the National Strategy on AML/CFT (National Strategy).

253. The CTIWG monitors regional terrorism developments and maintains close working relationships with foreign counterparts, particularly nearby regional countries such as Malaysia, Indonesia, Thailand, and the Philippines. As highlighted above, Brunei conducts national exercises on counter-terrorism, including TF, to maintain the national agencies' operational readiness. RBPF, the key TF investigative agency, is an active participant in these national exercises to prepare itself to handle a possible TF case should one arise.

Case Study 15: Collaboration between intelligence and law enforcement agencies

Whilst there have not been any TF or terrorism cases to demonstrate how Brunei in practice responds to such matters, Brunei has implemented joint agency taskforces in the past in relation to other high priority criminal offences. These taskforces have successfully demonstrated that various LEAs are able to work together, exchange information and intelligence and establish trust with each other. Therefore, were there to be a terrorism or TF case in Brunei, the interagency framework is in place and ready to be implemented. The intelligence and law enforcement agencies in Brunei have held ad-hoc joint taskforces in cases of high priority and where strong leads have been preliminarily identified for investigation. In these cases, different agencies come together and discuss persons of interest and agree upon actions to be taken forward with the investigation process, including

identifying any assets or accounts to be frozen where necessary. Moreover, the FIU also has the capability to request financial information from its foreign counterparts to assist in the investigations.

In 2017, collaboration between the RBPF, FIU and the AGC led to the arrest of four (4) individuals involved in a fraudulent gold investment scheme. Throughout the intelligence gathering process, the FIU assisted in freezing the relevant bank accounts using provisions under CARO, and also utilized Egmont channels to conduct information exchange relating to the case, with a regional FIU in a country that was identified to be a destination of proceeds of crime.

Effectiveness, proportionality and dissuasiveness of sanctions

254. To date, there have been no TF convictions in Brunei. Persons guilty of a TF offence under Section 4 of the ATO, 2012 or Sections 5 to 8 of the ATO, 2011 are liable on conviction to a fine not exceeding BND5,000,000 (approx. USD 3,600,000), imprisonment for a term not exceeding 30 years or both.

255. Brunei's legislation provides effective, proportionate and dissuasive sanctions, taking into account the prescribed punishments for similar serious criminal offences and the courts have a very wide spectrum in which to sentence an offender, depending on the circumstances of the offence. The sanctions for TF have, understandably, not been tested in the courts of Brunei.

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

256. Although there have been no TF convictions in Brunei, there have been incidents whereby Brunei has detected and disrupted potential TF activities through the use of other social, security and regulatory measures (see case studies 14 and 17 for examples). In these instances, the persons were detected through intelligence which prompted authorities to take early preventive steps to disrupt any potential terrorism activity.

257. Other than prosecution, CT measures employed by Brunei include detention under the ISA, deportation and blacklisting of individuals. For example, section 3 of the Internal Security Act provides powers to the Minister to order a detention if there are satisfactory grounds to prevent that person from acting in any manner prejudicial to the security of Brunei or to the maintenance of public order. Other preventive measures include close monitoring of potential radicalisation of individuals by ISD, operating a de-radicalisation programme involving the ISD and the Ministry of Religious Affairs, and the publication of deportations to raise awareness to the public on the risks of radicalisation.

Case Study 16: Local man detained under ISA

In 2017, the Counter Terrorism Intelligence Working Group (CTIWG) conducted information sharing related to a Bruneian man, Person F, through a series of meetings. Preliminary monitoring had found that Person F's social media showed an interest in radicalism and militant elements. Due to this, the CTIWG undertook intelligence-gathering into Person F, with the ISD taking the lead.

ISD's investigations found that the man had undergone self-radicalisation through the internet since 2014 after learning of the Syrian conflict in the Middle East and of the existence of the Islamic State (IS). He had acquired information on IS through IS-related propaganda materials, including deliberately misinterpreted Islamic teachings. He was found to be obsessed with IS ideology and had admitted to pledging allegiance to IS. He was found to have had intentions to migrate with his family to Syria to live under the Islamic Caliphate of IS. He was found to have disseminated those propaganda materials to family and friends.

The CTIWG requested for financial information from the FIU on Person F, in particular for cross-border transactions. The FIU found that Person F had conducted a number of remittance transactions to overseas. The FIU conducted screenings of the beneficiaries but at the time did not find adverse information on the beneficiaries that were based overseas. However, intelligence agencies had found that one of the beneficiaries of one (1) Western Union transaction, was suspected to be affiliated with terrorists. This link to terrorist beneficiaries identified by intelligence agencies above was found to be weak and therefore, no TF was found.

Early preventive measures were undertaken and the individual was detained under Section 3(1)(a) of the ISA. Assessments were carried out and discussions with the foreign counterpart resulted in the decision to detain the person and not take further criminal action. In addition, there was a focus on rehabilitation to prevent any further radicalisation.

The individual is no longer under detention.

Table 4.2: Recorded number of deportees for terrorism-related cases in Brunei

Year	2017	2018	2019	2020 – Aug 2022
No. of Deportees	4	1	-	-

Overall conclusion on Immediate Outcome 9

258. There are no domestic or international terrorist organisations operating in Brunei. Brunei's primary TF threat is individuals in Brunei who may be radicalised or harbour sympathies for regional and international terrorist organisations. Brunei has demonstrated adequate understanding of its TF risk and has a legislative framework in place, which is yet to be tested in practice. Brunei continues to adopt a preventive approach while utilising various other preventive measures at its disposal to counter terrorism, which is positive. There is very close and regular collaboration on national security issues between LEAs, the FIU, the ISD and other competent authorities. This is particularly strong in relation to CT and CFT matters and involves all potential TF matters being immediately and closely scrutinised and supported by detailed information sharing. In the absence of any TF prosecutions or convictions in Brunei which is in line with its risk assessment, heavier weight is placed on Brunei's infrastructure and operational readiness to react to potential TF activities. Current TF policies and procedures can be further strengthened with an emphasis on continuous training to all relevant authorities and officers to maintain Brunei's operational readiness to react effectively in the event any terrorism-related or TF activities should surface.

259. **Brunei has a substantial level of effectiveness for IO.9.**

Immediate Outcome 10 (TF preventive measures and financial sanctions)

General Framework

260. Brunei's has a comprehensive legal framework for TF TFS pursuant to (i) UNSCRs 1267/1989 and 1988 and (ii) UNSCR 1373 which is established under the ATO 2011, and ATR 2013 (TFR) and their subsequent amendments which came into effect 1 November 2022. The FIU has also issued enforceable guidance on UNSCR obligations to FIs and DNFBPs. However, as there was no change to the UNSCR 1267 list between enactment of the regulations on 1 November 2022 and the end of the ME onsite visit (17 November 2022). The implementation of the amendments has not been tested, but it has no material impact on Brunei's level of effectiveness for IO.10.

Implementation of targeted financial sanctions for TF without delay

261. Brunei has a comprehensive regime to support designations at the national level for the relevant UNSCRs consisting of clear structures to empower competent authorities, legal framework, and guidance. A *de facto* obligation to immediately freeze is effected through a general prohibition for any person located in Brunei, or a citizen located outside of Brunei to deal with designees' property, to be involved in transactions with designees, to provide financial services to them, or to make any property or service available for their benefit. Brunei has not designated any individuals or entities at the national level under UNSCR 1373, nor co-sponsored or been co-designator under UNSCRs 1267/1989 and 1988. The FIU is the competent authority for the implementation and enforcement of TFS on TF in Brunei.

262. The CTIWG and IWC are the primary groups involved in the designation process in Brunei and actively involved in identifying potential terrorists and financiers. The CTIWG is responsible for identifying any additional information related to potential designations and provides this information to the IWC for recommendation to the minister for designations. However, CTIWG and IWC have not identified any terrorists or terrorism financing networks or potential targets for designation, which is consistent with Brunei's TF risk profile.

263. This same process is also used for UNSCR 1373 designations. Brunei has not designated any individuals or entities at the national level under UNSCR 1373, nor co-sponsored or been co-designator under UNSCRs 1267/1989 and 1988. Brunei has not received a request to give effect to the domestic designation list of another country, however its shared border with Malaysia means that there is potential value of utilizing Malaysia's domestic designation list.

264. Although there have been no domestic designations made in Brunei, and no cases involving funds/assets of UNSCR designated persons, competent authorities are well aware of roles and responsibilities in the overall TFS regime and are ready to proceed with designations should they arise.

265. Under Brunei law, the definition of "designated person" (ATO Amendment No. 2, 2012) automatically incorporates persons or entities designated under the 1267/1989, 1988, 1373 and domestic sanctions regime. Any changes to the UNSCR lists come into effect automatically. As such there is no delay between UN designations and the entry into force of freezing obligations in Brunei.

266. Enforceable guidance was issued in 2016 to all FIs and DNFBPs on their obligations to implement TF TFS legal requirements and sets out the procedure and mechanisms to be adopted in the implementation of TF TFS in accordance with the relevant UNSCRs. Guidance has also been issued on obligations under the TF Regulations. Awareness of TF TFS obligations was also included as part of the

outreach document issued by the ROS to NPOs registered as societies on 31 October 2022.-However, no outreach to the general public on their TF TFS obligations has taken place, although indicated their intentions to do so in the future.

267. A number of outreach activities have been undertaken to FIs and DNFBPs regarding implementation of TF TFS, including the issuance of two FIU bulletins in October 2021 and November 2022. The FIU has conducted targeted, risk-based outreach through sectoral briefings and focused group sessions in 2020 to MSBs, insurance companies, and a bank that the FIU identified as having weaker understanding of TFS obligations. These outreach sessions included the higher risk entities providing cross-border services.

268. As outlined above, changes to the UNSCR lists come into immediate effect in Brunei, and these changes are received by the FIU through email subscription to the UNSCR list which are automatically forwarded to REs. The FIU also updates the list on the BDCB website and provides an Excel spreadsheet version of the list to REs within 24 hours of the changes. A questionnaire is also sent to all REs to confirm they have screened against the new list, with a response required within 3 days to allow the FIU to monitor the effective implementation of targeted financial sanctions.

269. Implementation of TFS occurs across FIs, with screening taking place at onboarding and daily screening against existing customers using automated processes. Banks, insurance companies, remitters and some DNFBPs such as lawyers and accountants utilise commercial databases for screening. The screening tools utilized by FIs incorporate additional sanctions lists, including those of home supervisors, in addition to the screening required by Bruneian authorities. Some DNFBPs, such as real estate agents, are manually screening customers using the Excel spreadsheet provided by FIU or searching the updated list on the BDCB website, which is an adequate approach given Brunei's risk and context, and the size and nature of these businesses.

270. FIs generally are aware of their obligations in relation to TF TFS. DNFBPs demonstrated less robust understanding of their TF TFS obligations and how they would respond should they receive a match to any designated entities.

271. No false positive name matches with UNSCR designees have been reported in Brunei. False positives against other persons included on other sanctions lists on commercial databases have been detected on six occasions and STRs filed with the FIU. These were potential matches to other sanctions lists, not UNSCR lists, but are indicative of the capacity of banks to fulfil their TF TFS obligations and identify potential matches to UNSCR designated persons and entities.

272. The deficiencies in the collection and maintenance of BO information (see IO.5) also affects the effectiveness of sanction screening for FIs and DNFBPs.

273. REs are obliged to file STRs if there is a suspicion or reasonable basis to suspect a transaction may have linkage to or be used for, terrorism, terrorist acts, terrorists, terrorist groups, or those who finance terrorism (S. 47(1), ATO). In the past five years, the FIU has only received two STRs from the banking sector relating to potential TF elements and name matches to databases as above.

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

274. Brunei has a very broad and active NPO community, with 544 societies of varying purposes registered with ROS in 2022, of which 163 were identified as meeting. NPOs may also be formed as companies limited by guarantee which are registered with ROCBN. Currently, there is only an aid/care organisation that meets the FATF definition of NPO, registered with ROCBN.

275. Brunei completed a risk assessment of the NPO sector in 2020, identifying the subset of NPOs at risk of TF abuse and classifying TF risks in the sector as low. This assessment drew on a wide range of sources and was comprehensive, with plans to update this in the future. This sectoral review identifies the features and types of NPOs likely to be at risk of TF abuse. The review and concluded these to include 163 societies (including charities/welfare, education, youth and religious organisations and five not-for-profit companies limited by guarantee) that meet the FATF definition of NPO and are considered to be at risk of TF abuse. A further review of these companies limited by guarantee in October 2022 indicated that only one actually fell into the subset of NPOs under the FATF definition. The review also examined the nature of threats posed by terrorist entities to NPOs which are at risk, and reviewed the adequacy of measures that relate to the subset of the NPO sector that may be abused for TF. NPOs in Brunei are either registered as societies under the Societies Act or as companies under the Companies Act. The NPO sector consists entirely of domestic entities – no international NPOs are currently present in Brunei although a number of NPOs collect funds in Brunei for expenditure by partner NPOs in foreign countries, including conflict zones for the purposes of humanitarian aid.

276. The understanding of TF threats is well established in Brunei (see IO.1). The 2016 NRA identified that Brunei's main TF threats come from local individuals who sympathize with radical groups, and foreign individuals with links to regional terrorists and militant groups, and potentially sending funds to beneficiaries in the Southeast Asian region known to have the presence of militant or terrorist groups, and other high-risk jurisdictions outside of Southeast Asia. The NRA and NPO Sector review recognised that there is an inherent risk of some NPOs, which support charitable activities overseas, being abused to channel funds overseas for potential TF purposes.

277. The 2020 TF risk assessment identified two potential red flag indicators for TF: sending financial aid overseas to beneficiaries in high-risk jurisdictions, and instances where the Brunei authorities have no visibility of the outcome/destination of the funds. These red flag indicators have been shared with NPOs through awareness initiatives including a briefing in October 2022 and an awareness handbook.

278. In Brunei NPOs must be registered as either societies with ROS or not-for-profit companies limited by guarantee with ROCBN. The ROS, which is under RBPF, has the power to deny registration, suspend registration, cancel registration and take action against societies that are deemed to be unlawful. ROS has previously taken action to suspend or deregister societies in the past, although for reasons other than TF abuse.

279. The regulatory framework is generally robust and includes additional measures for NPOs engaged in the higher risk activities of raising and disbursing funds, particularly overseas. NPOs must adhere to strict requirements to be registered with the ROS and submit an annual return to retain their licence. NPOs under the purview of the ROCBN are not subject to the same comprehensive registration requirements but do have obligations to file annual returns, financial statement, and provide information on directors and shareholders at registration and update on an annual basis.

280. ROS conducts background checks of office bearers for NPOs using information obtained from ISD, the Supreme Court in relation to bankruptcy checks, the RBPF, and mental health unit to ensure the proposed office bearer is fit to hold the position. The location of the ROS within the RBPF provides access to the information and intelligence required to ensure the office bearers of NPOs are fit and proper to hold such positions.

281. Brunei has displayed a strong understanding of the risk that domestic NPOs could be misused to raise funds or support foreign terrorist group risks. Supervisors, LEAs, FIs, DNFBPs, and NPOs displayed a reasonable understanding of the TF risks associated with NPOs, particularly in relation to donations and funding projects overseas.

282. Brunei implements a robust framework for NPOs raising and disbursing funds, including for overseas locations to promote accountability, integrity, and public confidence in the administration and management of NPOs. All NPOs must seek approval to receive donations under the Subscriptions Control Act before soliciting donations. Donations from domestic donors are received through various channels and details of donations received and how those donations have been disbursed are required to be filed with the ROS.

283. For NPOs seeking to send funds or undertake charitable works overseas, additional controls are in place to prevent abuse for TF purposes. Section 3 of the Subscription Control Act (SCA), provides that any collection of donations requires authorization and application in writing to the Minister. An application for approval must be submitted to the ROS with details of the foreign NPO they are seeking to work with, or their planned activities overseas. In practice, NPOs also provide a report back to these agencies upon return. The ROS has provided advice on dealing with foreign NPOs and recommended due diligence activities be carried out. Societies are required to inform ROS who the recipient NPOs are in the foreign countries and provide documentation of the NPO. ROS may establish contact with the registration authority of NPOs in another jurisdiction should the need arise.

284. Monitoring is undertaken by the CTIWG, particularly for societies' activities in countries that have an active conflict zone or terrorist presence. In addition, some NPOs undertake additional steps to monitor and respond to risks by consulting with relevant embassies in Brunei, participate in person in charity works conducted overseas, and maintain a detailed account of how funds have been expended.

285. All registered societies are required to submit to the ROS annual returns, details on activities throughout the year, financial statements, description of any asset or property owned, any money or property, any pecuniary benefit or advantage committee members and particulars of new office bearers. These returns are reviewed by officers within the ROS at any time by notice. The ROS applies greater scrutiny to reports provided by NPOs that are considered at-risk than those provided by other societies. The oversight of NPOs registered under ROCBN includes the submission of annual returns including audited financial statements, information on directors and shareholders collected at registration and updated, but the ROCBN does not have a systematic programme in place to monitor compliance with these obligations and oversee the activities of NPOs under their purview.

286. There are a broad range of sanctions available in the Societies Act for non-compliance by NPOs. These have not been applied by ROS to date.

287. As of yet, there have been no confirmed cases of any NPOs in Brunei being abused for terrorism and TF purposes (domestic or foreign), nor has there been any STRs filed by reporting entities on any NPOs suspected of TF related activities.

288. ROS has taken steps to raise awareness with the NPO sector on risks and good governance and accountability, and further steps are planned. In 2022 the NAMLC Secretariat shared the results of the NPO sector review in 2020 with NPOs, to increase awareness of the potential risks associated with the NPO, and in 2021, the ROS issued an awareness document to registered societies, highlighting the potential TF-related risks and provided advice to mitigate those risks. Outreach sessions to NPOs were held in late 2022 and further outreach is planned in 2023.

289. Brunei also demonstrated the readiness and its effectiveness to share information for international cooperation on NPO sector by ROS through the RBPF's Interpol Unit. It is not clear that the ROS or other authorities have cooperated with foreign NPO regulators on registration or risk information of foreign recipient NPOs working with Brunei NPOs.

290. In the event that LEAs require information on NPOs that are companies limited by guarantee, the ROCBN can provide company information upon request from the LEAs and international counterparts Brunei has not received any requests or information on Brunei NPOs from foreign counterparts.

Deprivation of TF assets and instrumentalities

291. To date, Brunei has not had any cases involving the freezing of funds/assets of UNSCR designated persons or restraint of property connected to terrorism or TF cases. As such there have not been any matters involving the seizing or confiscating any TF-related assets or instrumentalities. This is in keeping with Brunei's risk profile.

292. However, in 2013, the CTIWG conducted intelligence exchange relating to a foreign national, who was found to be linked to the bombing of three churches in Medan, Indonesia in May 2000. This individual had entered Brunei on a work pass and was employed in Brunei within the private sector. The FIU sent instructions to banks to carry out special monitoring of their bank accounts. No suspicious transactions were reported by the bank. The individual was detained under the Internal Security Act on 21 February 2014. Following the arrest, the FIU immediately issued a freezing order to the bank under Section 33(2) of the CARO. In 2016, the individual was deported overseas, and placed on restricted list for entering into Brunei. No funds were made available to them, as the account had remained blocked until their deportation in 2016. Although outside the period under the review, this demonstrates the capacity of Brunei to freeze property connected to terrorism and/or TF.

Consistency of measures with overall TF risk profile

293. Brunei's TF risks are well understood, risk assessments on TF and NPO have been conducted, and there is a strong, whole-of-government commitment to mitigating TF risks, including through the freezing and confiscation of terrorist assets. The absence of any freezing or confiscation action is in line with the medium low risk of TF in Brunei. Brunei undertakes a preventive approach to its wider CT/CFT strategy (see discussion in IO.9) and the frameworks for implementation of UNSCR 1267 and 1373 are consistent with this national approach.

294. The implementation of TF TFS obligations is reasonably comprehensive in Brunei, albeit more advanced in FIs than DNFBPs. The FIU has taken steps to promote a clear understanding and effective implementation of TF TFS obligations for FIs and DNFBPs and has plans for future outreach.

295. Brunei has a sound, risk-based approach to protecting NPOs from abuse for TF and the framework in place for disbursing funds is particularly strong as these have been identified as at –risk

activities. Monitoring and oversight of NPOs is well developed by the ROS and not well established in the ROCBN. To better prevent the misuse of NPOs by terrorists, Brunei may consider requiring NPOs to be registered under ROS and subject to their oversight.

Overall conclusion on Immediate Outcome 10

296. In keeping with this risk profile, Brunei's legal framework and other safeguards are generally comprehensive and there is capability to target terrorist financiers and impose TF. Implementation of the TF TFS regime by FIs is generally well supported, including through the issuance of detailed guidance and the conduct of outreach, but implementation is more advanced in FIs than DNFBPs. NPO demonstrated risk-based monitoring of the NPO sector, in particular the NPOs identified as being vulnerable to TF abuse, as well as proactive outreach and engagement. Only one NPO regulated by the ROCBN has been categorised as being vulnerable to abuse for TF. Strong frameworks are in place related to the collection and disbursement of funds, particularly overseas.

297. **Brunei has a substantial level of effectiveness for IO.10.**

Immediate Outcome 11 (PF financial sanctions)

Implementation of targeted financial sanctions related to proliferation financing without delay

298. Brunei does not have a framework to implement TFS against PF without delay as at the onsite visit. Brunei has made the establishment and implementation of a framework for combating PF a priority in the 2016 National Strategy which has two objectives for implementing TFS against PF and WMD. One objective focused on adopting legislation to fully implementing the provisions of UNSCR that address financing activities related to the proliferation of WMD by state (state-related UNSCRS) or non-state actors (UNSCR 1540). The other objective focused on developing and implementing appropriate procedures to combat the financing of the proliferation of WMD in line with international requirements.

299. NAMLC has been the coordination body for policy consideration related to the establishment of a CPF framework since 2016. RCED has been given the responsibility for combating the proliferation of WMD, and the FIU has been given the responsibility to prevent the financing of WMD. However, the CPF framework was not enacted at the time of the onsite.

300. The development of draft CPF legislation[20] reflects interagency cooperation. However, significant delays were noted between the 2016 strategy to issuing PF legislation, with the final legislation not having entered into force at the time of the onsite visit. The AGC and FIU considered CPF policy and draft legislation between 2018 and 2022, resulting in a draft Counter Proliferation Financing (CPF) Order awaiting signature and promulgation in late 2022. Further discussions have also been held with the MFA and the RCED by the FIU regarding CPF and their obligations once the new laws come into effect.

301. Guidelines have not yet been developed for reporting and other entities outlining their anticipated PF TFS obligations. Outreach and awareness raising was not undertaken ahead of the CPF Order entering into force.

302. The CPF goes beyond the minimum standards of R.7 to cover wider issues of financing the proliferation of WMD by non-state actors (pursuant to UNSCR 1540). As part of this, the CPF Order will criminalise the proliferation of WMD by non-state actors, and as such, STR obligations will apply to related transactions, and the new PF offence will be a predicate to ML.

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

303. In the absence of a PF TFS regime, some FIs and DNFBPs nonetheless conduct screening of customers' names against commercial databases at the point of onboarding and on an ongoing, often automated, basis, including as and when the UN list is updated. This includes commercial banks, especially foreign banks, finance companies, insurance companies, security market operators, money remitters, and some money service businesses. This screening is typically limited to those entities subject to group-wide or global policies

[20] Upon entry into force, the CPF Order will address the elements of TFS against PF as required under R.7. The CPF Order will allow designations by the UNSC relating to Iran and DPRK to take immediate effect in Brunei and will prohibit any person from making property or financial services available to designated persons and entities and to person or entities that may contribute to proliferation activities. Upon entry into force, the CPF Order will also appoint the BDCB as the competent authority responsible for implementing and enforcing the targeted financial sanctions under the CPF Order.

304. In the absence of a framework for PF TFS, there have been no reported incidents of a positive match where funds or other assets of designated persons and entities were identified, nor were financial transactions related to proliferation identified by these REs. There is no data to support and validate the extent to which the funds and other assets of designated persons and entities are identified and financial transactions are prevented.

305. There are no requirements or internal policies and procedures related to FIs and DNFBPs that require the identification of funds or other assets of designated persons and entities to prevent financial transactions related to proliferation, although some FIs may have their own internal policies based on group-wide approaches.

FIs and DNFBPs' understanding of and compliance with obligations

306. Commercial banks, finance companies, insurance companies, security market operators, money remitters and some money service businesses have some knowledge of the relevant UNSCRs, mainly through their connection with offshore parent companies, international networks or through alerts from commercial databases to which they subscribe. Additionally, larger and international FIs have demonstrated some understanding of UNSCR requirements related to PF, but not in the specific context of Brunei.

307. However, there is a lack of knowledge and understanding of the UNSCRs on proliferation by most of the DNFBPs and some FIs, and an insufficient understanding of the risk of PF in their sectors.

308. There has been limited awareness amongst REs ahead of introducing the new draft CPF Order. No guidelines or instructions have been issued to reporting entities on how they should adhere to the new regime. This awareness is mainly limited to the existence of new legislation being issued, but consultation drafts were not provided to FI/DNFBPs. Additionally, authorities had not undertaken any outreach to inform reporting entities of the new law's requirements and the consequences of sanction evasion except for a bulletin issued by FIU in November 2022 to inform FIs and DNFBPs of the CPF Order that is to be enacted.

Competent authorities ensuring and monitoring compliance

309. Currently, there is no mechanism to monitor or ensure compliance of FIs and DNFBPs for TFS-PF obligations[21].

Overall conclusion on Immediate Outcome 11

310. Brunei does not have a legal and institutional framework to implement PF TFS without delay. Some of the larger FIs demonstrate a degree of implementation of sanctions screening based on their home supervisor responsibilities or on general risk management. Brunei is yet to guide the REs on PF TFS.

311. **Brunei has a low level of effectiveness for IO.11.**

[21] Upon entry into force, the CPF Order is expected to give a range of supervisory and enforcement powers to the BDCB to be carried out by the FIU. The supervisory function will include the monitoring and assessing of PF risk by all REs, monitoring compliance to the CPF Order and development and implementation of a risk-based supervisory regime. The FIU will be responsible for providing CPF guidance and feedback to REs.

CHAPTER 5. PREVENTIVE MEASURES

Key Findings and Recommended Actions

Key Findings

a) Understanding of ML/TF risks and obligations varies across FIs and DNFBPs. This is generally high for banks, larger FIs, but lower for DNFBPs, particularly real estate agents.

b) There are no VASPs currently incorporated in Brunei, but there are potential challenges due to foreign VASPs, regulatory arbitrage, and an inadequate framework to regulate VASPs.

c) Enterprise-wide ML/TF risk assessments have been conducted by banks and insurance companies with risk ratings for individual customers and products, while MSBs and some DNFBPs have simpler ML/TF risk assessments. Some smaller FIs and DNFBPs rely mostly on the conclusions of the NRA and SRA for their risk assessments.

d) Implementation of mitigation measures varies across sectors. Measures are generally stronger in larger banks and FIs that have automated systems, and have policies and procedures for AML/CFT in place. Some small entities, especially those in the DNFBP sector, use less sophisticated processes and lack comprehensive AML/CFT polices. The implementation of a risk-based approach has not been developed for most DNFBPs and some banks tend to avoid risks by de-risking instead of mitigating them (e.g. MSB clients).

e) FIs face challenges with verification of BO information due to weaknesses with aspects of transparency and points of verification. DNFBPs apply CDD, but most of them are not thorough enough and there is an over-reliance on customer disclosures rather than verification of information. Challenges with transparency noted in IO5 affect CDD.

f) FIs appear to be taking steps to identify local PEPs, including family members. Brunei's small size makes this generally manageable for domestic PEPs. Some DNFBPs have a limited understanding of their PEP obligations and rely on less sophisticated processes to screen for PEPs.

g) The number and quality of STRs has increased in recent years, but STR filing by DNFBPs is negligible which is not in keeping with the risk of these sectors. Sectors that do file STRs (e.g. banks and remitters) requested more feedback. Revised STR guidance issued in October 2022 has led to more prompt STR filing, but this change needs time to demonstrate effectiveness.

h) FIs have developed internal procedures to prevent tipping off, but measures to prevent tipping-off are not well established in all DNFBPs. There is an issue of lawyers understanding of legal privilege and their STR obligations, which hinders their compliance.

i) FIs, including some MVTS, apply robust internal controls and procedures to ensure compliance with AML/CFT requirements, including AML/CFT policies and procedures, and having a designated compliance officer. The foreign FIs that are part of an international group implement group-wide AML/CFT programs despite the deficiencies identified in R.18. Internal controls within DNFBPs vary, with some entities not having a compliance officer, nor formalised AML/CFT policy and procedures in place.

Recommended Actions

a) Brunei should work with REs to ensure STR are reported promptly. Supervisory authorities should conduct further awareness/outreach activities to the DNFBP sector to improve their understanding of the scope of their obligation to submit STRs and AML/CFT compliance expectations. In particular, Brunei should issue guidance to lawyers on balancing STR obligations and legal privilege.

b) The FIU should work with FIs to develop further typologies that support their focused mitigation of existing and emerging ML risks and continue efforts to encourage FIs to mitigate risks with proportionate measures instead of de-risking (e.g. MSBs).

c) Brunei should work with DNFBPs to enhance their sectoral and entity-wide risk assessment and risk understanding.

d) Tailor guidance and targeted support to DNFBPs to support better implement risk-based internal controls and the other AML/CFT preventive measures.

e) Support the implementation of CDD by TCSPs and other DNFBPs, noting the new obligations on companies to maintain BO information and the role often played in forming and managing companies, including maintaining BO registers within the company.

f) Supervisors should provide focused support (guidelines and outreach) to deepen implementation of BO requirements, including obligations for REs to verify BO information.

g) Improve DNFBPs' ability to identify PEPs (domestic and foreign), their family members and close associates by issuing guidance and other support actions.

h) Brunei should continue to assess the risks associated with VASPs and establish an appropriate framework for regulation.

i) Amend and implement strengthened legal framework for preventative measures, particularly the CARO.

312. 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.

Immediate Outcome 4 (Preventive Measures)

313. Assessment team findings in this chapter are based on interviews with private sector representatives, statistics, case files and examples of enforcement actions, and other information provided by supervisors and information concerning the relative materiality and risks of each sector. The assessors met with a range of FIs and DNFBPs and given the relatively small number of supervised entities and the issues in supervision identified in IO.3, the assessors were able to gain a reasonable view of the state of implementation by FIs, but a less clear view across DNFBP sectors.

314. Considering the relative materiality and risk in Brunei, implementation issues were weighted most heavily for banks and finance companies (both finance companies are subsidiaries of local banks) as they represent 92% of the total assets of the financial sector and are rated high risk for ML. MSBs are also weighted heavily given the cash intensive nature of their business and vulnerabilities in relation to cross border payments. The assessment team moderately weighted insurance and takaful, advocates and solicitors, accountants, CSPs, real estate agents based on the nature of the products and services they provided and less heavily for securities, pawn broking and DPMS.

315. Brunei does not have any locally incorporated VASPs and no foreign VASPs activity was identified operating within the jurisdiction. The VA/VASP risk assessment noted the inherent risks involved with the misuse of cross-border and anonymized transactions, the potential challenges of foreign VASPs, regulatory arbitrage, and the lack of adequate Brunei laws and frameworks to supervise and regulate VA/VASPs (refer to IO.1).

Understanding of ML/TF risks and AML/CFT obligations

316. Supervisors have taken steps to promote FIs' and DNFBPs' understanding of their AML/CFT obligations and ML/TF risks. This included involving the private sector in the 2016 NRA, conducting outreach sessions, providing outcomes of risk assessment and providing guidance (overall and ad hoc) (Refer to IO3).

317. The AML/CFT obligations are outlined in CARO, ATO and ATR. The FIU has issued General Guidance to advise and guide FIs and DNFBPs when developing and implementing their AML/CFT programmes in line with Part II of CARO. The REs are also required under the General Guidance to keep risk assessments up to date and should take into account the threats and vulnerabilities of sectors in which they operate, as set out in the NRA.

318. Larger FIs demonstrate a strong understanding of AML/CFT obligations and their ML/TF risks and incorporate findings of the NRA and SRAs in their risk assessment frameworks. Banks in Brunei appear to have a good level of understanding of ML/TF risks and AML/CFT obligations, followed by the insurance companies, securities companies, and then remittance businesses and money changing businesses. These REs demonstrated awareness of the findings of the NRA and, to a lesser extent, the sectoral risk assessment and risk updates from 2020.

319. The majority of the banks and insurance companies, particularly branches of international banks and insurance companies, display a mature understanding of the AML/CFT obligations and are able to implement proper risk assessment and mitigation framework. This is mainly attributed to the assistance that the branches receive from their respective parent institutions, head or regional offices, and the application of group-wide policies.

320. Six out of the seven securities companies in Brunei are subsidiaries of local or foreign banks and their services and products are quite limited with some only acting as a representative office for their regional office abroad. The securities companies understand that their ML/TF risk is low. Assessment of risks is typically conducted by the parent bank at a group level, and securities products are generally understood to pose low ML/TF risks. The local securities company has conducted an internal risk assessment. Its products are limited to Islamic Private Equity funds that are not offered to retail customers.

321. Money changing businesses acknowledge their cash-intensive business carries a risk of ML. The businesses also acknowledge a risk of counterfeit notes being used. Remittance businesses recognize their specific vulnerabilities in relation to cross-border payments and the risk of transactions involving scams.

322. DNFBPs' understanding of their ML/TF risks and obligations varies and is less-developed than FIs. The incorporation of companies and the buying and selling of properties (including property trusts) are the main areas identified by DNFBPs as posing higher risk, which is not in line with the NRA as the purchase and sale of properties can only be conducted by lawyers. The eight TCSPs primarily deal with incorporation of companies and corporate secretarial services, but are not well supported in their

understanding and implementation of the new legal framework for companies (see IO.5). In general, accountants and auditors, lawyers have demonstrated a reasonable understanding of ML risks and AML/CFT obligations and a basic understanding of their TF risks. However, such understanding is less developed in other DNFBPs, such as the real estate, TCSPs and DPMS sector. Awareness of and involvement in authorities' assessments of risk was varied across and within sectors.

323. Enterprise-wide ML/TF risk assessments have been conducted by banks and insurance companies with risk ratings for individual customers and products, the risk assessments are updated regularly with the assistance of head office. MSBs and some DNFBPs such as accountants, auditors, and lawyers have simpler ML/TF risk assessments. Other DNFBPs have some awareness of the requirement to undertake a ML/TF risk assessment but are yet to do so, and have instead relied on the risk information provided by the FIU.

Application of risk mitigating measures

324. Overall, FIs especially banks apply adequate mitigating measures commensurate with their risks. Banks, and their subsidiary finance and securities companies, have AML/CFT policies and procedures in place to implement a risk-based approach. These apply at the onboarding and transaction monitoring stages, where customers and products are risk-rated and enhanced measures applied to higher risk activities, including the requirement for senior management approval to engage with high-risk customers. Some banks have also taken the position of not engaging with higher risk countries at all. MVTS have also taken risk mitigation measures, including some restricting remittance relationships to only government-owned FIs in foreign jurisdictions.

325. FIs, especially banks and insurance companies, draw up a risk profile of their clients in order to determine the level of due diligence measures to be applied using a variety of factors. The banks and insurance companies interviewed confirmed that they assign a risk rating to clients and apply proportionate measures. In line with Brunei's risk and context, MSBs are typically classified as high risk. Examples of mitigating measures for MSB accounts are stringent requirements and the need for approval of senior management prior to establishing a business relationship. Some banks choose not to take MSBs as clients at all, as they are perceived as too risky, but this approach is to avoid rather than mitigate the risks associated with MSBs. This raises some concerns regarding the impact on financial inclusion.

326. Supervisors have noted a marked improvement in the transaction monitoring systems implemented within banks – systems are generally tailored to specific risks faced by the bank, and consider the red flag indicators issued by the FIU through its STR guidance paper. Banks and insurance 'companies also have a good understanding of TF risks. Mitigating measures include regular screening against the Consolidated List published by BDCB, and monitoring customer activity against specific TF scenarios to create alerts involving conflict zones and neighbouring countries. In particular, for insurance companies, they include screening against the Consolidated List for both clients and beneficiaries. Large policy pay-outs require senior management approval and are conducted through banks.

327. Money changers have implemented effective measures and equipment to detect counterfeit notes, including training for tellers to identify counterfeit currency. Money changers were able to detect suspicious customer behaviour involving higher frequency of visits with no clear purpose. To further mitigate the risk of non-reporting of suspicious transactions and the cross-border transaction risks, the licensing conditions require the monthly submission of daily reports of all transactions conducted by remittance businesses, and transactions through money changing businesses amounting $1,500 and

above. The MSBs have to conduct proper CDD to ensure all transactions contain the required information and will refuse transactions appearing to be conducted on behalf of a third party.

328. The quality of ML/TF risk mitigation measures applied varies across the DNFBPs, where accountants, advocates and solicitors implement more risk mitigation measures. Most legal professionals have protocols to implement due diligence measures which are generally in line with the risks identified for their activity, such as risks related to incorporation of companies and real estate transactions. The ML/TF risks relating to the sale and purchase of real estate from foreign proceeds are reduced as Brunei restricts property ownership to citizens of Brunei and banned the purchase of property by power of attorney or trust deed in 2012.

5

Application of enhanced or specific CDD and record keeping requirements

329. Banks have adequate CDD measures in place at the time of entering into the business relationship and on an ongoing basis during the relationship. Record keeping is strong in Brunei, records are generally kept for more than 7 years with physical records kept in archives and digital copies of records that tend to be available beyond 7 years.

330. Insurance companies undertake business through insurance agents, with the involvement of compliance team or underwriting departments. CDD is also conducted during claims and the pay-out process.

331. Generally, all money changing and remittance businesses are able to provide complete CDD information in the reports submitted to BDCB demonstrating sufficient CDD is conducted by them.

332. FIs in Brunei generally apply reasonable CDD measures to the BO (or 25%), including seeking information to understand source of wealth. FIs face challenges with verification of beneficial ownership and control information due to weaknesses with aspects of transparency and points of verification on legal persons and business forms such as partnerships and sole proprietorships (see IO.5). MVTS also face challenges to identify beneficial ownership, but refuse to process remittances on behalf of third parties. FIs reject customers when CDD cannot be completed at on-boarding and for walk in customers, banks file STRs in accordance with CARO but STRs are rarely filed in these cases for other FIs.

333. For corporate and business customers, additional information and supporting documents including certificate of incorporation /registration and latest annual return is obtained, and CDD obligations extend to the individuals who make up the partnerships. FIs and some DNFBPs, especially the accountants and lawyers conduct company searches against the ROCBN database. Law firms also conduct screening against bankruptcy searches. Challenges are noted with the poor quality of information available at ROCBN for verification of CDD. These challenges are exacerbated by the preponderance of businesses in the form of partnerships. As outlined in IO5, partnerships are not required to file details of control or annual returns.

334. The services provided by the DNFBPs are generally "one-off" transactions that do not necessarily warrant ongoing monitoring, and DNFBPs are not permitted to onboard customers in a non-face-to-face manner. In relation to the sale and purchase of real estate, these are largely facilitated by banks, with agents conducting basic CDD. Customer identification and source of income are requested to ensure the real identity of the customers and ensure customers are citizens of Brunei. Lawyers and banks conduct further CDD on the customers, including identification and verification in person of the buyer and seller. Sector-specific guidance to DNFBPs is under development.

335. Though DNFBPs apply CDD, there is an over-reliance on customer disclosures rather than verification of information.

Application of EDD measures

336. Banks and finance companies update customer information and review customer risk ratings annually for high risk customers and every three years or more for non-high-risk customers. Banks also update customer information and review customer ratings upon triggered events such as suspicious transaction reports, adverse media, material changes in the ownership, nature of business or customer becomes a PEP.

Politically exposed persons

337. FIs have procedures in place to identify PEPs in most sectors that require enhanced measures and additional processes for management approval. FIs and DNFBPs are required to apply the same due diligence controls for domestic and foreign PEPs. An official list of domestic PEPs is not provided to the REs, but most of the interviewed entities indicated there is not much of a challenge in identifying domestic PEPs because of the close and small community in Brunei.

338. Banks generally have a good understanding of the requirement to identify and apply stringent enhanced measures on PEPs. PEPs are automatically classified as high risk by banks. In addition to screening via commercial databases or customised tools, open searches are also conducted by banks as an additional layer to obtain adverse media information and further information on the customers' relatives. It is rare that banks have foreign PEPs. The types of PEPs observed in Brunei's banks include domestic PEPs such as any current or former Ministers, Ministers' spouse or child, members of the royal family, legislative council members or judges.

339. Insurance, finance and securities companies subscribe to commercially available databases to conduct name screening for PEPs during on-boarding and ongoing reviews and they generally comply with the requirements of their parent companies. More simplified measures are applied but they still cover the key aspects of enhanced due diligence on PEPs including obtaining information on the PEP's source of wealth, senior management approval, ongoing monitoring, and periodic review.

340. Some MSBs rely on their counterpart remittance systems to screen for PEPs. There was a lack of awareness among some money changers of how to deal with someone who was identified as a PEP.

341. Although DNFBPs are aware of the legal requirements for the application of enhanced measures for PEPs and their associates/family members, their due diligence is sometimes not sufficiently thorough, especially for real estate agents.

342. DNFBPs rely on less sophisticated systems for identifying high risk customers with most relying on manual processes, with the exception of larger law firms and accountancy firms who utilise commercial databases. Public information on local PEPs is also taken into consideration when identifying PEPs.

Correspondent Banking

343. Only banks in Brunei maintain correspondent banking relationships. Banks have detailed and rigorous processes in place for the establishment of, and ongoing due diligence on, correspondent banking relationships which are commensurate with their risks. These include obtaining the necessary information on the ownership and control of the respondent bank, open source searching and the use

of the Wolfsberg AML/CFT questionnaire to assess AML/CFT controls. Some banks engage lawyers to conduct CDD on the respondent banks prior to the establishment of correspondent banking relationships. Senior management approval from the chief executive officer or regional/country head for foreign branches, and respective head of business lines are required for the establishment of correspondent banking relationships in all banks.

344. Banks have policies and procedures in place to prohibit correspondent banking relationship with banks that have relationships with shell banks.

New technologies

345. Brunei does not have obligations in place for new technologies, products or business practices, and there is no requirement to undertake the risk assessments prior to the launch or use of new products, practices and technologies (Refer to R.15). Though in practice, it is advised and banks will do ML/TF risk assessment and present appropriate risk mitigation measures for submission of application and approval for new products/services. The FIU may refuse a new product or service if the ML/TF risks are not sufficiently mitigated, or the entity has ongoing AML/CFT compliance concerns.

346. BDCB has only received two applications from banks between 2018 and 2020 for the introduction of new technologies.

Wire transfers

347. Banks and remittance businesses understand wire transfer requirements and appear to have functioning policies and procedures in place in relation to conducting wire transfers in accordance with these requirements. There is no distinction between domestic and cross-border wire transfers requirements. KYC/CDD including any enhanced due diligence on the customers has to be completed before wire transfers are conducted by both FIs and remittance businesses.

348. Generally, the regulators found that all remittance companies are able to provide complete information in the reports. Non-compliance or significant deficiencies identified, i.e. for wire transfer rules, might lead to non-renewal of licence for remittance companies. No adverse findings have been made by the supervisors on the compliance with wire transfer rules for the banks.

Targeted financial sanctions

349. The screening mechanisms applied by larger FIs typically extend beyond just the UNSCR lists. Smaller institutions, including some money changers, as well as some DNFBPs, typically rely on the Excel spreadsheet of the consolidated list provided by the FIU to manually screen customers.

350. FIs are generally aware they must not have dealings or enter into business relations with designated persons or entities and to report immediately to the FIU within 24 hours upon identifying a designated person or entity. DNFBPs' awareness and understanding of their obligations is less developed. See IO.10 for further details.

Higher risk countries identified by the FATF

351. The FIU updates and informs all FIs and DNFBPs of the list of high risk countries, through IFIS. Generally, FIs and DNFBPs are aware of and have processes in place for transactions relating to high-risk countries that have been identified and listed by the FATF for having strategic deficiencies in their

AML/CFT regime. Such customers, products or transactions are considered as high risk by FIs, and would be subject to enhanced monitoring.

Reporting obligations and tipping off

352. The larger banks implement automated tools/systems to identify transactions or funds that might be suspected of ML/TF. At the same time, banks also rely on the vigilance of their staff and their knowledge of customers to identify suspicious transactions as well as attempts. The alerts generated, whether systematic or manual, are subject to further investigations in order to confirm or dismiss the suspicion and to complete the file sent to the FIU. The other FIs have less advanced systems for detection of STRs and some DNFBPs even rely on manual processes for monitoring of suspicious transactions.

353. The reporting of suspicious transaction reports by FIs has increased exponentially over the past 5 years as shown in Table 5.1. Most are submitted by the banks, in line with their higher risks and banks' more developed understanding of ML/TF risks and enhanced transaction monitoring systems and processes. This is also attributable to several supervisory actions and outreach (refer to IO.3) on a number of banks and other sectors on transaction monitoring systems, cash transaction reporting and instances of non-detection of suspicious transactions since 2017 by the FIU. The FIU has also observed an improvement in the quality of STRs over this period with reports typically containing more than one suspicious transaction, customer and contextual information to provide greater clarity on the suspicious activity, and their own analysis utilising a number of red flag indicators. More tactical/ operational intelligence reports related to STRs were disseminated by the FIU and the number of reports that supported an existing investigation have increased in the past 5 years (refer to IO.6).

Table 5.1: Number of STRs received by entity type 2016 - 2022

STRs received	2016	2017	2018	2019	2020	2021	2022
Bank	82	210	459	2,063	3,160	2,558	1,048
Finance Company	0	3	6	3	4	1	0
Insurance / Takaful Company	0	0	0	1	1	1	0
Money Changer	0	2	0	7	2	1	0
Remittance Company	1	3	2	7	20	42	17
Company Service Provider	0	1	0	0	0	0	0
TOTAL	**83**	**219**	**467**	**2,081**	**3,187**	**2,603**	**1,065**

354. Revised STR Guidance was issued in October 2022 and provided to REs in November 2022, but some REs were not aware of it at the time of the onsite visit. The revised guidance removed a previous provision that permitted up to 60 days to conduct any verification/ investigative process required to establish suspicion. Although in practice most FIs submitted STR in a shorter time frame under the previous guidance, delays were observed. The recentness of the revised guidance means that its effectiveness could not yet be demonstrated. Foreign-owned FIs, however, indicated they implement the strictest requirements across their group and most FIs would, in practice, file STRs promptly, meaning in less than five days after forming a suspicion, even under the former STR Guidance.

355. The FIU has issued guidance on STRs and tipping off. FIs generally display good knowledge regarding the obligation of not tipping-off and support compliance by their staff through internal policies and procedures and training initiatives, including strict confidentiality requirements for staff

and standard response to customers when refusing a transaction or business, such as "administrative reasons".

356. Practical measures to prevent tipping-off are not well established in DNFBPs. There is an issue of legal privilege for lawyers hindering compliance with STR obligations as indicated in the onsite interview.

357. No instances of tipping off have been observed by the competent authorities.

5

Internal controls and legal/regulatory requirements impeding implementation

358. The quality of internal controls varies across sectors, with greater strengths in the larger FIs. The levels of these controls in FIs reflect their size and risk profile, with banks, particularly international banks, demonstrating more mature AML/CFT framework and training programmes. International banks and international branches of insurance companies have support from their regional or head offices for AML/CFT compliance and audit functions, and conduct gap analyses to ensure compliance with the highest level of compliance in the group's AML/CFT programme and in line with the local regulatory requirements.

359. MSBs are mostly small-scale businesses with less sophisticated structures and AML/CFT frameworks in place.

360. Internal controls within DNFBPs vary, and some entities like real estate agents and DPMS lack compliance officers and formalised AML/CFT policy and procedures. Some of the larger accounting and law firms have more established procedures, including compliance officers and systems to ensure compliance with AML/CFT obligations. Overall, the secrecy/confidentiality provisions do not inhibit internal controls.

Overall conclusion on Immediate Outcome 4

361. Understanding of ML/TF risks and obligations varies across FIs and DNFBPs. This is generally high for banks and larger FIs, but lower for DNFBPs. As outlined above, implementation issues are more heavily weighted for FIs, particularly banks and finance companies, as compared to DNFBPs.

362. Implementation of mitigation measures varies across sectors. They are generally strong in larger banks and FIs that have automated systems, and have policies and procedures for AML/CFT in place, however, the implementation of a risk-based approach has not been developed for most DNFBPs. FIs face some challenges with verification of beneficial ownership. DNFBPs apply CDD, but there is an over-reliance on customer disclosures rather than verification of information.

363. STRs are generally filed promptly, however the 60-day verification process in the 2019 STR guidance may have led to some delays. Foreign-owned FIs are adhering to the strictest requirements across their group to file STRs promptly. The low volume of reporting for DNFBPs is not wholly in keeping with the risk of these sectors. FIs have developed internal procedures to prevent tipping off, but there is an issue of legal privilege for lawyers hindering compliance with STR obligations. No formalised AML/CFT policy and control procedures are in place for some DNFBPs.

364. **Brunei has a moderate level of effectiveness for IO.4.**

CHAPTER 6. SUPERVISION

Key Findings and Recommended Actions

Key Findings

a) Fit and proper controls for banks and NBFIs are implemented to prevent criminals and their associates from entering the market, however checks of beneficial ownership are overly reliant on declarations / documents provided by applicants. The implementation of market entry controls on money service businesses (MSBs) is particularly strong. Implementation of market entry requirement for DNFBPs was not well demonstrated.

b) BDCB has sufficient access to key data to implement reasonable fit and proper checking at the point of licensing banks and NBFIs. However, some gaps with on-going fit and proper checks on key responsible persons (KRPs) are noted. The strong focus on ongoing KRP fit and proper for securities is not in keeping with the findings of the sectoral risk assessment.

c) The FIU's AML/CFT supervisors obtain useful analysis products from the FIU intelligence team to support supervision and elements of fit and proper.

d) The 2017 consolidation of the structural framework for AML/CFT supervision solely by the FIU has added to effectiveness, but the new framework has required additional resources and some challenges.

e) The cooperation between AML/CFT and prudential supervisors is demonstrated in their sharing of annual supervision plans and their joint on-site inspection of MSBs, but could be enhanced for supervision of other entities.

f) Prudential supervisors do not sufficiently focus on AML/CFT risk. At present, prudential supervisors do not consider CDD or other AML/CFT considerations and sharing information with the FIU is not sufficiently deep.

g) The frequency, scope and intensity of offsite and onsite AML/CFT supervision is increasingly based on identified risks. The FIU has used the results of offsite supervision to help to target onsite inspections. In keeping with the risks, the bulk of supervisory focus has been on FIs, with DNFBPs mostly only subject to offsite supervision. AML/CFT supervision of DNFBPs has not been wholly in keeping with Brunei's risk profile.

h) In the risk-based approach, FIU has prioritized supervision of the banking sector, insurance, securities, and remitters in keeping with the risk-based approach and limited FIU capacity. The FIU has been progressively strengthening its supervisory resources.

i) The FIU takes a thorough approach to full-scope and thematic supervision supported by sound inspection manuals and methods and in-depth risk information and has focussed on higher-risk entities.

j) The outcomes of supervision are clearly set out in reports and support REs to take action to address deficiencies. The FIU issues supervisory letters with opportunities for remediation prior to the issuance of a direction and potential sanctions for failing to comply with the directions. In some cases, directions on breaches have been issued with significant monetary penalties and action plan to remedy deficiencies. The FIU supervisors follow up consistently to ensure remedial actions plans are followed. In relevant cases the FIU has sent letters to home supervisors on deficiencies penalised.

k) The FIU has an explicit and transparent framework to govern use of administrative sanctions and it takes a structured approach to ensure that proportionate sanctions are to be applied for identified non-compliance. Supervisory findings and recommended sanctions are submitted to the BDCB Regulatory Committee for consideration and endorsement. The fines imposed on FIs for AML/CFT breaches are proportionate and dissuasive with size and profit of REs by using a compound ratio method.

l) Supervisory activities, including enforcement actions, have added to improved compliance. Beyond fines, the overall effects of remedial measures, enforcement actions and reputation damage appear to have positively influenced risk-based implementation of AML/CFT obligations.

6

Recommended Actions

a) Expand the obligations on market entry fit and proper requirements to DNFBPs, and regularly verify the fit and proper of KRP as part of supervisory actions.

b) Ensure verification measures are used to determine the accuracy of BO information provided by applicants or regulated entities on fit and proper requirements.

c) Enhance information sharing between agencies, including international cooperation between supervisors for licensing and ongoing supervision of foreign banks operating in Brunei.

d) Expand the onsite supervision on a risk basis to priority DNFBPs (lawyers and real estate)

e) Enhance supervisory resources (systems and people) to further improve supervisory activities.

f) Enhance the coordination with prudential regulators on AML/CFT matters, including cooperation between supervisors, the FIU and LEAs (also see IO.2).

g) Review the legal framework to ensure that the legislation more clearly sets out powers to supervise FIs and DNFBPs consistent with current practice.

h) Brunei should continue to assess the risks associated with VASPs and establish an appropriate framework for risk-based supervision of VASPs.

365. 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 & R.34 & 35 and elements of R.1 and 40.

Immediate Outcome 3 (Supervision)

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

366. As detailed in Chapter 5, the relative materiality and risk in Brunei were weighted most heavily on banks and finance companies. MSBs are heavily weighted given the cash intensive nature of their business and vulnerabilities in relation to cross border payments. Insurance and takaful, advocates and solicitors, accountants, TCSPs, real estate agents were moderately weighted given the cash intensive nature of their business and vulnerabilities in relation to cross border payments, nature of the products and services they provided. Less weighting was placed for securities, pawn brokers and DPMS. There are no locally incorporated VASPs nor foreign VASPs operating in Brunei.

Banks, insurance, securities and other FIs

367. FIs are required to be licenced and/or registered under the sector-specific legislation and overseen by the BDCB, except Perbadanan TAIB[22], which was created by the Brunei government by statue and is not separately licenced. Licensing controls are generally robust in the financial sector for entry into the market. Brunei receives very few new licensing applications.

368. The BDCB, through the Alert List Committee (ALC), proactively seeks to identify unlicensed financial activities through information received from reporting entities as well as the public, and through daily monitoring of social media sites for advertisements or mentions of suspected unlicensed financial services or activities. Between 2019 and 2021, the BDCB detected 108 suspected unlicensed activities which were included in the public BDCB Alert List and/or referred to the RBPF for further action. These detections were in relation to suspected money lending, remittance or money changing, cryptocurrency, Forex and investment.

369. Fit and proper controls for banks and NBFIs are implemented to prevent criminals and their associates from entering the market, primarily through the requirement for BDCB to approve key responsible persons (KRPs) for each institution, following an assessment of their fitness and propriety. This includes background checks for involvement in criminal activity, with the relevant LEAs and the ISD, checks against the list of individuals blacklisted by the Brunei Association of Banks; and checks against external agencies. Despite some minor deficiencies in the coverage of KRPs (see TC annex), BDCB has sufficient access to key data to implement reasonable fit and proper checking at the point of licensing and appointment of KRPs for bank and NBFIs. However, identifying and checking beneficial owners are overly reliant on declarations / documents provided by applicants.

370. Although implementation of fit and proper controls at market entry is strong, improvements to ongoing fit and proper checks are required. Sector-specific guidance requires the fit and proper checking of KRP for new licensees, changes to KRPs within an institution, and on an ongoing basis for KRPs throughout their employment. This places the onus on FIs to undertake self-reporting on appointments of new KRPs and to assess the fitness and propriety of staff without having access to the same databases and information which is readily accessible to government agencies. With the exception of MSBs and securities KRPs, the frequency of fit and proper checking by FIs or the BDCB is not mandated. The BDCB also conducts certain checks on FIs to ensure that the policies and procedures are in place to implement ongoing fit and proper checks of KRPs as part of off-site supervision.

371. The implementation of market entry controls and ongoing fit and proper checks on MSBs are particularly strong and in line with their risk profile. The checks conducted by the BDCB for MSB licence renewal (either six-monthly or yearly) include written tests, interview sessions, and checks on the information provided for any adverse information against the FIU's database, open sources, and commercial databases. Similarly, fit and proper checks are conducted on an annual basis for those holding a securities market operator licence which is not in keeping with the low risk of securities for AML/CFT.

DNFBPs

372. For DNFBPs, fit and proper checks are not as extensive as those for FIs and focus on applicants providing evidence of professional qualifications and self-declarations that they have not been

[22] While it is regulated and supervised by the BDCB (S. 2 and 42, CARO), it is exempted by law from licensing requirements with respect to the Banking Act, Moneylenders Act, and Finance Companies Act (S. 19(3), Ch. 163, Perbadanan Tabung Amanah Islam Brunei (TAIB) Act).

convicted of a civil, felony or criminal offence in any court or competent jurisdiction nor involved in the management of a company convicted of any offence under any written law in any jurisdiction. Brunei did not demonstrate deep implementation of fit and proper market entry requirement through government authorities for DNFBPs.

373. There is no licensing framework in place for DPMSs or TCSPs, outside of being registered as a business with the ROCBN. As outlined in chapter five, DPMSs in Brunei are generally for fashion/costume jewellery and it is rare for transactions over USD15,000 to occur. TCSP activities are primarily conducted by advocates and solicitors, and accountants. Since the winding up of Brunei's offshore international financial centre in 2017, TCSPs only provide services for domestic entities, with no TCSPs remaining from the previous offshore regime or able to form international business companies or international trusts.

Table 6.1: Licensing and registration for DNFBPs

DNFBP	Professional body	General registration / licensing authority
Real estate agents	None	Board of Valuers and Estate Agents (BOVEA)
DPMS	None	ROCBN and MOFE
Advocates and Solicitors	Law Society of Brunei Darussalam	Chief Registrar, Supreme Court
Notaries		Chief Justice
Accountants	Brunei Darussalam Institute of Chartered Public Accountants	Public Accountants Oversight Committee, MOFE
TCSPs	None	ROCBN

Supervisors' understanding and identification of ML/TF risks

374. The FIU maintains a good understanding of ML/TF risk relevant to risk-based supervision, which is primarily informed by the NRA 2016, ML threat update 2020, TF risk assessment update 2020, and ML/TF risk assessment on legal persons 2020, NPO sector review 2020 and ML/TF risk assessment on VA/VASPs. In 2021, the sectoral risk assessment (SRA) considered the inherent vulnerabilities as well as the quality of AML controls in place within the sectors. This risk assessment also considered TF risks which were not included in the 2016 NRA to assess the overall ML/TF risks in each sector.

375. The sectoral ML/TF risk within the financial and DNFBPs sectors for 2021 are as follows:

Table 6.2: Sectoral ML/TF risk ratings

Sectors	ML/TF risk 2021	NRA 2016
Banking	Medium High	High
Remittance	Medium High	High
Money Lending	Medium	N/A
Money Changers	Medium	Medium
Trusts and Company Service Providers	Medium Low	Medium Low
Advocates & Solicitors	Medium Low	Medium
Real Estate Agents	Medium Low	Medium Low
Insurance and Takaful	Medium Low	Medium Low
Dealers in Precious Metals, Stones and Jewellery	Medium Low	Medium Low
Accountants	Medium Low	Medium
Pawn Broking	Medium Low	Medium Low
Securities	Low	Low

376. Supervisors' understanding of ML/TF risks has been further enhanced by enterprise -level risk assessments conducted on FIs and DNFBPs. These commenced in 2018 for FIs and 2019 for DNFBPs and utilise responses to AML/CFT questionnaires distributed to FIs and DNFBPs, in combination with information from the national and sectoral risk assessments to determine individual risk-ratings for each reporting entity, on an ongoing basis. The FIU has used the outcomes of its institutional risk assessments, and previous supervisory actions to support the supervisory activities undertaken on the basis of risk.

377. As a key reference for the AML/CFT supervisor, the institutional risk assessment is updated and reviewed periodically, including when informed of a change in management and structure or any new policy and legislation affecting the sector. The latest update to these institutional risk assessments was in early 2022.

378. The FIU shares the findings of the risk assessments with the prudential supervisor, and they are aware of the ML/TF risk assessment findings. The FIU considers the major risks faced by institutions or sectors in developing institutional level risk assessment of FIUs and collaborates with the prudential supervisors as part of the Regulatory Committee and the consideration of new products, KRPs, and new licences. However, the assessments done by the prudential supervisor on the sector or institutions are not consistently shared with the FIU. Because of these sharing restrictions, a holistic view of the risk of a particular institution or sector may not be available to the FIU.

379. The understanding of emerging risk in Brunei is dynamic and responsive to change. In 2021, the FIU assessed the money lending sector for the first time. This is despite an absence of licensed money lenders in Brunei and in response to growing demand for alternative lending and the detection of such activity through social media and complaints received by BDCB.

380. Similarly, the 2020 ML/TF risk assessment of VA and VASPs concluded a low risk for ML and medium low risk for TF, and noted no VASPs in operation in Brunei. The BDCB has indicated this risk assessment may be reviewed and updated depending on the development of VASP activities in Brunei.

Risk-based supervision of compliance with AML/CFT requirements

381. The structural framework for AML/CFT supervision was consolidated in 2017, with the FIU taking on the role of AML/CFT supervisor for FIs and DNFBPs, despite no specific mandate in law to do so (see TC annex). The powers exercised by the FIU in its role as AML/CFT supervisor have not been challenged and the provisions contained within s.34 of the BDCB Order and s. 137 of CARO are broad enough to ensure compliance by FIs with AML/CFT requirements. A further restructure occurred in June 2021 in the BDCB making changes to the prudential supervision and regulation teams who work alongside the FIU in relation to the various financial sectors.

382. AML/CFT supervision is solely conducted by the FIU. AML/CFT and prudential supervisors share annual supervisory plans and have undertaken joint supervision of MSBs (by Supervision Division 3). AML/CFT and prudential supervisors collaborate through the Regulatory Committee and in discussion of new products, but outside of this there is limited collaboration in the conduct of AML/CFT supervision. Prudential supervisors do not include the elements of AML/CFT in prudential supervision, particularly KYC and CDD, as required under the prudential standards. This reduces the opportunity for synergies between both prudential and AML/CFT supervisors, particularly as they are all housed in the same organisation (BDCB). Nor do prudential supervisors share the outcomes of their

supervision unless a significant issue is identified. The FIU as AML/CFT supervisor does share information with prudential supervisors, but the exchange of information between supervisors could be enhanced.

383. The frequency, scope and intensity of the FIU's offsite and onsite supervision is increasingly based on identified risks from NRA, SRA, and institutional risk assessments. In keeping with the risk profile, the FIU has prioritized supervision of the banking sector, insurance, securities, and remitters. Given the outcomes of risk assessment and limited FIU capacity, the FIU has been progressively strengthening resources in recent years. Resources had been obtained to allow two new staff members to start working in FIU supervision in late 2022 to add to the existing three.

384. The FIU uses risk information well and takes a thorough approach to full-scope and thematic supervision supported by sound inspection manuals and methods. The FIU utilises the AML/CFT Supervision of Reporting Entities Manual for Supervisors (RBA Supervision Manual), which contains the detailed explanation of the procedures currently used by the AML/CFT supervisors to conduct risk-based AML/CFT supervision.

385. Brunei authorities began AML/CFT supervision in 2012 through onsite inspections focused on the banking and remittance sectors. Between 2012 and 2016, full-scope AML/CFT onsite inspections were conducted on six out of eight banks in Brunei.

386. The 2016 NRA confirmed the banking and remittance sectors as high risk, and the FIU continued to focus its onsite and offsite supervision work on the banking and remittance sectors.

Table 6.3: AML/CFT onsite inspections conducted on FIs 2016 – 2022

REs	2016	2017	2018	2019	2020	2021	2022
Banks	1	1	1	2	1	1	0
Money changing business	14	41 (incl. 18 thematic examinations)	17	16	22	0	8
Remittance businesses	11	38 (incl. 18 thematic examinations)	39 (incl. 19 thematic examinations)	19	35	0	23
Insurance / Takaful	-	-	-	1	0	0	0
TOTAL	26	80	57	38	58	1	31

387. Since 2016 the FIU has continued to apply a risk-based approach to its supervisory practices, with resources focused primarily on higher risk institutions as identified through offsite reviews and institutional risk assessment. Remittance and money changing businesses continue to be subject to annual on-site inspections as part of their licence renewal process and the high risk they present for ML/TF.

388. The FIU adopts a reasonable risk-based supervisory framework to supervise and monitors its FIs, despite limited resources. Priority is given to high-risk entities, all of which have been subject to onsite inspection. On-site inspection for a firm is usually conducted by three supervisors, the expertise on the different types of FIs is the challenge for supervisors. Onsite inspections are full-scope, with the FIU undertaking a comprehensive approach to sampling records and interviewing relevant staff. The length of on-site inspection varies from 1 day to 6 months depending on the issue and size of the institution.

389. Given the number of FIs, the FIU relies heavily on institutional risk assessment to maximise and utilize its supervisory reach to its higher-risk entities sectors. To expand the supervision regime covers all FIs, FIU needs more resources to enhance the overall supervisory effectiveness, especially for NBFIs, and for lower-risk institutions.

390. The FIU also conducts thematic supervision on transaction monitoring for FIs, including remittance businesses. This has involved a combination of onsite and offsite (through questionnaires) examination of transaction monitoring, sanctions screening and the detection and reporting of suspicious transactions. The outcome of the thematic review has resulted in the identification of several deficiencies such as gaps in policies and procedures, transaction monitoring system, and compliance function. These matters were highlighted through supervisory letters issued to the identified institutions.

391. In 2021, the FIU continued to focus more on offsite examinations because of the COVID-19 situation that restricted onsite examination. Additionally, two thematic offsite reviews were conducted:

a. COVID-19 Control Measures On 10 August 2021, the FIU issued the FIU Info Circular relating to COVID-19 Control Measures which determined essential operations to AML/CFT requirements. A survey was circulated to assess the measures implemented by all FIs and DNFBPs in ensuring the essential operations continue to be conducted.

b. UN Consolidated List of Designated Individuals and Entities in Quarter 4-2021, the FIU conducted a thematic assessment of the REs implementation of screening obligations against the UN Consolidated List of Designated Persons and Entities. The outcome of the assessment led the FIU to issue twelve supervisory letters and also reminder emails to FIs and DNFBPs to respond to the survey promptly and to conduct the screenings.

~~392.~~ Supervision of the DNFBP sector was initiated through the issuance of an ML/TF risk evaluation questionnaire to the advocates and solicitors' sector, following the identification of this sector as high risk in the 2016 NRA. This was part of an offsite supervision exercise to understand the nature and scale of the legal sector and to assess the sector's overall understanding of its AML/CFT obligations, in preparation for an institutional risk assessment. Through the responses to the questionnaire, supervisors were able to determine the sector's level of awareness and collect relevant data and information of the types and quality of measures they have in place. In 2019, this exercise was extended to other DNFBP sectors, i.e. accountants, real estate agents, and trust and company service providers, with response rates between 36% for real estate agents and 100% for lawyers and accountants.

393. The FIU has conducted some onsite visits to other DNFBPs, primarily as outreach and to gain an understanding of their awareness of their AML/CFT obligations and the ML/TF risks in Brunei. For example, the FIU conducted in person visits to DPMS rather than issuing questionnaires to better understand the nature of their business and awareness of AML/CFT obligations. While offsite supervision of DNFBPs has occurred, there have been no onsite inspections.

394. Although some market entry controls are undertaken by professional bodies and through the licensing and registration mechanisms, the core AML/CFT supervision of DNFBPs by FIU is in the development stage. As DNFBPs are largely considered to be low-risk, there is a significant focus on offsite supervision, raising awareness of AML/CFT obligations and outreach. FIU should also apply a full risk-based approach to supervision of DNFBPs and ensure it has all the powers to do such in the relevant legislation. There are improvements needed on the understanding of ML/TF risks within

different DNFBP sectors, including institution-specific risk understanding, which may require additional resources within the FIU.

Remedial actions and effective, proportionate, and dissuasive sanctions

395. The outcomes of supervision are clearly set out in supervisory reports and support REs to take action to address deficiencies. Monitoring the progress of remedial actions recommended after onsite inspections is done through the issuance of supervisory letters to the institutions to seek input on the progress of remedial actions implemented at least six months after the issuance of the onsite inspection reports. Institutions may opt to give additional updates through face-to-face meetings with the FIU.

396. Three of the 27 supervisory letters issued in 2019 and three supervisory letters issued in 2020 resulted in directions and fines. The remaining 24 supervisory letters issued by the FIU in 2019 did not warrant these more serious penalties, i.e. issuance of directions and fines, as the issues identified were resolved in a timely manner and were deemed satisfactory by the FIU. In relevant cases the FIU has sent a letter to home supervisors of foreign institutions on deficiencies penalised.

Table 6.4: Breakdown of supervisory actions taken 2017 – 2022 for FIs

	2017	2018	2019	2020	2021	2022
Supervisory letters issued	**7**	**10**	**45**	**55**	**26**	**22**
CTR	0	5	34	4	0	17
STR	5	1	2	4	8	1
Transaction monitoring system	0	1	1	36	2	2
Sanction Screening	N/A	N/A	N/A	N/A	12	0
Monthly reports	0	0	1	4	0	0
Onsite inspection (remedial actions)	2	3	7	2	2	0
Offsite supervision	0	0	0	5	2	2
Directions issued	**0**	**1**	**3**	**4**	**0**	**0**
CTR	0	0	2	2	0	0
Transaction monitoring system	0	1	1	2	0	0
Fines issued	**0**	**0**	**2**	**2**	**0**	**0**
CTR	0	0	1	1	0	0
Transaction monitoring system	0	0	1	1	0	0
Letter to home supervisor	**0**	**0**	**1**	**0**	**0**	**0**

397. The intelligence and supervisory arms of the FIU also work closely together to detect non-compliance and to encourage remedial actions through the use of "compliance tickets". Compliance issues may be detected during the FIU's analysis of incoming reports from reporting entities. Highlighted issues include delays in submission of STRs, non-detection or failure to submit STRs, and non-submission of CTRs. The AML/CFT supervision team within the FIU is notified of these issues for further review and necessary supervisory actions. Between 2018 and October 2020, 13 supervisory letters (including letters of non-compliance and letters to show cause) have been issued to FIs (mostly banks) as a result of these compliance tickets, with non-submission of CTRs and STRs being the most prevalent issue. However, no sanctions implemented on individuals or senior leadership.

398. Brunei has a range of criminal, civil, and administrative sanctions to deal with natural and legal persons who are non-compliant with the AML/CFT requirements for FI and DNFBPs. The sanction under CARO include post-conviction monetary fines and imprisonment. Penalties available upon conviction, unless specifically spelled out, amount to a maximum fine of BND 250,000 (approx. USD 180,000).

399. The range of administrative sanctions include written warnings; orders to comply with specific instructions; barring individuals from employment within the sector; replacing or restricting the powers of managers, directors, principals, partners or controlling owners, including the appointing of an ad-hoc administrator; a temporary administration of the FI or DNFBP; suspending, restricting or withdrawing the license of the FI or DNFBP, however these administrative sanctions only apply to violations related to CARO. A range of non-monetary administrative sanctions are available under the BDCB Order.

400. The FIU can also utilise the three-tiered approach to licensing periods for money-changers and remittance businesses as a form of remedial action where persistent violations or significant improvements are required by the entity. This includes the option to award six months' license or non-renewal of license. Licensees who are given licences for 6 months are informed in writing, highlighting their weaknesses with recommended actions and are required to rectify them within a specified timeline. They are also required to attend a one-on-one training (clinic sessions) where they will be given further guidance to comply with licensing conditions e.g. failure to timely submit regulatory returns and weaknesses identified with regards to AML/CFT e.g. the compliance officer's knowledge is weak and requires improvement.

401. Brunei has an explicit and transparent framework for the use of administrative sanctions. The FIU takes a structured approach to ensure that proportionate sanctions are to be applied for identified non-compliance. Enforcement actions for failure to immediately rectify weaknesses, identified through onsite or offsite inspection or to comply with AML/CFT statutory requirements are submitted to the BDCB regulatory committee for consideration and endorsement. In calculating the fine for any violations, the AML/CFT supervisors use a Compound Calculator tool that was created in August 2019 to ensure consistency in the approach taken when applying sanctions for AML/CFT violations while taking into consideration the different size and type of sectors. The tool takes many factors into consideration such as institution's ability to pay, the degree to which serious offences may have an impact on ML/TF investigations, the impact of the offence, and the frequency of the offence.

Case Study 17 - Fine imposed on International Bank D

In 2019, a review of CTRs received by the FIU led to the AML/CFT supervisors to identify that a branch of International Bank D in Brunei had failed to submit CTRs for a period of more than two years. Two letters of non-compliance were issued to the bank to address the non-compliance; however, minimal actions were taken by the bank and hence a direction was issued containing specific instructions for the bank to review and submit the omitted CTRs.

The bank failed to comply with the direction adequately and was subsequently issued a fine (unpublicised amount). Following the imposition of the fine, the bank was issued a list of remedial actions to be addressed and requested to submit monthly reports detailing the actions.

In addition to the fine imposed, the bank was required to submit monthly reports to the FIU on the remedial actions taken to address the cash transaction reporting issues and to prevent future non-compliance with CTR filing requirements. Further improvements were observed and implemented at the bank, such as:

- Increased support from the bank's parent group;
- Timely submission of CTRs from 2019 onwards;
- Changes to the bank's compliance department;
- Improvements to the Bank's policies and procedures; and
- The bank's group internal audit conducted reviews of cash transaction reporting requirements at other international branches of parent group.

Monthly reporting by the bank has ceased approximately a year after the issuance of the fine as the AML/CFT supervisors deemed the remedial actions taken by the bank to be satisfactory.

402. Previous enforcement actions are considered when supervisors review and update the institutional risk assessments which may be updated when there are significant changes in the circumstances observed within the institution. The severity of the non-compliance issues will be taken into account under regulatory concerns to calculate the ML/TF threats faced by the institution to identify the net risk score.

403. The FIU has adequate sanctions available under the CARO which can be imposed on DNFBPs for breaches found. As Brunei is in the early stages of DNFBPs supervision, no on-site inspections have been conducted, and no sanctions has been imposed on any DNFBPs.

Impact of supervisory actions on compliance

404. Supervisory actions, including enforcement actions, have greatly added to improved compliance. Beyond fines, the overall effects of remedial measures, enforcement actions and reputation damage appear to positively influence risk-based implementation of AML/CFT obligations. This is despite penalties not being publicised.

405. The positive effects observed broadly relate to increased emphasis on AML/CFT compliance within reporting entities and greater adherence to reporting obligations. Brunei demonstrated banks have significantly improved compliance with AML/CFT obligations following the issuance of a significant fine for non-compliance - see case study below. Other outcomes in relation to identification of non-compliance has seen enhanced internal policy and procedures, and improvements to the quality and quantity of STRs submitted to the FIU.

Case Study 18– Improved compliance within Domestic Bank B following the issuance of a fine

Following onsite inspections conducted in 2015 and 2017 as well as close monitoring and follow up of remedial actions recommended by the supervisors Domestic Bank B was issued a fine (of an unpublicised amount) for failing to comply with the direction to improve its transaction monitoring. Following this, the bank increased its compliance function from seven employees to 26 employees, including the appointment of a designated compliance officer at the senior management level allowing them to restructure, reorganise and expand their responsibilities to include proper review into the organisation's AML/CFT processes, training, and assurance. The bank also improved its transaction monitoring system to enhance detection of suspicious transactions

The improvements made to the bank's internal controls and procedures resulted in overall improvements to the quality and quantity of STRs submitted to the FIU.

406. As a result of the thematic reviews into transaction monitoring and sanctions screening, more remittance companies are implementing automated database systems to store customers' CDD information and transaction records. Such systems also provide automated features for sanction screening and transaction monitoring. The FIU is assessing and monitoring this development in remittance businesses, particularly for bigger and higher risk companies that are transitioning from manual to automated processes. No statistics were available on the number of REs moving to automated

systems, but case study reflect the progress of the implementation in the aspect of increasing of STR submission.

Case Study 19: Remittance Company A

The 2018 thematic onsite detected Company A conducts manual transaction monitoring and screening, with systems mainly records transactions details for purposes of fund reconciliation with its counterparts.

Between 2019 to 2020, engagement with the company has been conducted in the form of offsite reviews and outreach/awareness through briefings and clinics. This engagement included a focus on the obligation for effective transaction monitoring.

In 2022, an onsite examination conducted on Company A found that an automated system has been in place since 2020 utilised for daily transaction monitoring, specifically for EDD purposes and CTR reporting. The onsite examination highlighted the need for further usage and application of red flag scenarios to enable Company A conduct effective suspicious transaction monitoring and reporting.

Following the implementation of the system, Company A is observed to have increase reporting of STRs, as per the table below:

Year	No. of STRs from Company A
2018 – 2020	0
2021	7
2022	14

407. The Brunei Association of Remittance and Money Changing Companies was established in Q2 2020 with the aim of coordinating efforts and initiatives towards the development of the sector as well as to strengthen the overall compliance including AML/CFT requirements within the sector.

408. As the FIU expands supervisory actions to DNFBPs, the FIU has undertaken outreach and sought to collaborate with professional bodies and industry associations to enhance compliance, with a view to issue sector specific guidance on AML/CFT. However, the light outreach to DNFBPs has not yet generated great progress on compliance with AML/CFT obligations. The low-level supervisory activity contributes to the less-developed understanding and compliance amongst DNFBPs.

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

409. Supervisors promote a clear understanding by FIs and DNFBPs of their AML/CFT obligations and ML/TF risks through various activities, such as by ensuring private sector involvement in the 2016 NRA, conducting outreach sessions, providing outcomes of risk assessment and providing guidance (overall and ad hoc).

410. All relevant guidance on AML/CFT measures have been issued by the FIU as the primary AML/CFT supervisor for all FIs and DNFBPs. The guidelines cover CDD, record keeping, prescribed measures on PEP, correspondent banking, MVTS, wire transfers, screening of customers against

Consolidated list of Designated, Persons, obligation to report STR and CTR, enhanced measures on high risk customers, AML/CFT Programme Framework, ML/TF risk assessment of customers. No guidelines have been issued tailored to the specific needs of DNFBPs, particularly smaller and lower capacity DNFBPs, to assist them in meeting their AML/CFT obligations.

411. Outreach sessions are conducted on a risk basis, focusing on the higher risk sectors/institutions or sectors/institutions identified as having weaker understanding of AML/CFT obligations and ML/TF risks. Sectoral briefings are also conducted periodically to all FIs and DNFBPs on the main areas of AML/CFT statutory requirements. The frequency of AML/CFT outreach conducted by the supervisors to the banking sector is lower compared to the other sectors. This is due to the banking sector having a higher level of understanding of AML/CFT statutory obligations and understanding of ML/TF risks in comparison to other sectors.

Table 6.5 – Outreach activities 2016-2020[23]

Year	Topics for outreach sessions
2016	• NRA focus group (4 sessions to DPMSs, lawyers, accountants and TCSPs)
2017	• IFIS introduction and CTR reporting (2 sessions to MVTS and DPMSs) • Briefing on AML/CFT requirements (1 session to MVTS) • CTF Conference (one session to all FIs)
2018	• Briefing on AML/CFT requirements (1 session to MVTS) • Transaction monitoring system (1 session to MVTS)
2019	• Briefing on AML/CFT requirements (2 sessions to MVTS and one session to all FIs and DNFBPs – regarding ME)
2020	• Transaction monitoring system (3 sessions to MVTS and insurance companies • Identification and verification of customer and beneficial ownership (4 sessions to banks, insurance companies and MVTS) • TF and TFS obligations (4 sessions to banks, insurance companies and MVTS)

412. Noting banks' higher risk for ML/TF in Brunei, the FIU conducts meetings with compliance officers from individual banks to share information and provide awareness on current STR trends and typologies. These meetings also serve as a platform for compliance officers to discuss AML/CFT compliance issues.

413. Awareness on current STR trends and typologies are primarily conducted through the FIU bulletin and other publications such as information circulars. These bulletins have largely replaced the compliance officers' forum which met regularly until 2020. The assessment team considered some merit in reinvigorating the compliance officers' forum to enhance awareness of ML/TF risks and emerging trends among compliance officers for both FIs and DNFBPs.

Overall conclusion on Immediate Outcome 3

414. Fit and proper controls for entering the market for banks and NBFIs are implemented by BDCB, however checks are overly reliant on declarations by applicants, and some gaps with on-going fit and proper on KRP are noted.

[23] COVID-19 related restrictions affected Brunei's ability to conduct in-person outreach sessions between 2020-2022

415. The new framework of BDCB has required additional resources and faced some challenges. The cooperation between AML/CFT and prudential supervisors is demonstrated in their sharing of annual supervision plans and their joint on-site inspection of MSBs, but it could be enhanced for supervision of other entities. Prudential supervisors do not sufficiently focus on AML/CFT risk, CDD or other AML/CFT considerations and sharing information with the FIU is not sufficiently deep.

416. The frequency, scope and intensity of offsite and onsite AML/CFT supervision is based on identified risks among the banking sector, insurance, securities, and remitters respectively. In keeping with the risk-based approach and limited FIU capacity, the supervisory target has been focused on FIs, due to the high level of risk understanding and limited weighting given to the DNFPs sectors. DNFBPs mostly only subject to offsite supervision, which is not in keeping with DNFBPs' risk profile.

417. The outcomes of supervision are clearly set out in reports and supervisory findings and recommended sanctions are submitted to the BDCB Regulatory Committee for consideration and endorsement. The fines imposed on FIs for AML/CFT breaches are proportionate and dissuasive with size and profit of FIs by using a compound ratio method. However, the penalties have not been publicised and outreach sessions are conducted on a risk-based approach.

418. **Brunei has a moderate level of effectiveness for IO.3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

Key Findings and Recommended Actions

Key Findings

a) Since the last ME Brunei has, in substance, closed its 'offshore' international financial centre and no companies or trusts can be formed under the previous framework. Of the approximately 10,000 international business companies (IBCs) that were registered at the time of the last ME, only seven IBCs remain and these are wholly government-owned.

b) There are challenge with the availability of accurate and up to date basic information. Companies filing of basic information with the central public register (ROCBN) had been weak. A data remediation project had commenced at the time of the onsite visit, but was not well progressed.

c) In 2020 Brunei reasonably assessed the risks associated with different types of Brunei legal persons and registered businesses. The risks are well understood by the FIU and AML/CFT supervisor, but not so well by ROCB and other competent authorities.

d) Since 2020 Brunei companies and foreign companies registered in Brunei are required to maintain BO information. Newly incorporated companies and newly registered foreign companies are also required to file such information with the ROCBN. In part reflecting challenges arising during COVID-19 period, Brunei had not established programmes to raise awareness with companies or company services providers the new BO obligations or to better support implementation of the new measures.

e) It does not appear that many companies have obtained and maintain accurate and up to date BO information. Only a limited number of companies have filed BO information with the ROCBN.

f) The ROCBN has limited mechanisms to verify the accuracy of BO information filed by companies. ROCBN has not yet implemented programmes for monitoring and enforcing companies' compliance obligations to register basic information and the new obligations to register BO information.

g) The FIU is a regular user of ROCBN data, including available BO data. At the time of the onsite visit all other LEAs had recently been granted direct access to ROCBN data, but only the FIU had prioritised and has a good awareness of how to access data from ROCBN or how to obtain BO information from companies.

h) Authorities also rely on CDD conducted by FIs and DNFBPs to obtain BO information of legal persons and trusts. LEAs have some experience, most often with the assistance of the FIU, of obtaining BO information in the course of investigating legal persons.

i) There appear to be few common law trusts settled in Brunei or few foreign trusts with a presence in the jurisdiction. There are also few measures to support the transparency of trusts and capturing information on settlors or trustees for domestic or foreign trusts with a presence in Brunei. As a practical matter, foreign trusts are not prohibited.

j) Implementation of enhanced controls on nominee shareholders and nominee directors was not well demonstrated, but risks for these structures appear to be relatively low. Bearer shares and bearer warrants are not permitted.

k) Authorities have sought or provided only limited international cooperation in relation to transparency of legal persons.

Recommended Actions

a) Conduct a comprehensive review and sufficiently increase ROCBN resources (systems and staff) to effectively undertake the increased responsibilities of beneficial ownership registry. As part of this role the ROCBN should undertake outreach and awareness raising and issue guidance to support companies and TCSPs understand and effectively implement the legal framework for maintaining and registering BO information.

b) Set out a clear prioritised plan and strategy to implement the amended Companies Act as it relates to BO information and further raise awareness of risks of misuse of legal persons.

c) The ROCBN should monitor the completeness and accuracy of information filed on basic and beneficial ownership, including proactive measure to verify BO information filed, and as necessary carry out enforcement action for compliance failures.

d) ROCBN should monitor and enforce obligations on companies to maintain beneficial ownership information within the companies, including considering roles played by TCSPs in forming and managing companies.

e) Support the implementation of CDD by TCSPs to support authorities' access to accurate BO information.

f) Implement enforceable measures to ensure trustees, (for both domestic and foreign trusts) disclose their status when forming a business relationship to support CDD.

g) Raise awareness / implement SOPs for LEAs and other competent authorities to access BO information held by ROCBN, companies and FI/DNFBP including company service providers.

h) Enhance international cooperation to obtain BO and control information on legal persons and arrangements with countries with shared risks, especially Brunei's immediate neighbours.

419. The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25, and elements of R.1, 10, 37 and 40.

Immediate Outcome 5 (Legal Persons and Arrangements)

420. At the time of the onsite, Brunei law recognised a number of types of legal persons and registered business types as per the table below:

Table 7.1: Legal persons & businesses registered in Brunei (as of 30 Nov 2022)

Type of legal person and business registration	No. registered
Public company	19
Private company	9,933
Foreign company	524
Companies limited by guarantee	5
Limited liability partnership (LLP)	0
Society	544
Cooperative society	160

Legal persons	**11,185**
Business Name (Partnership)	14,860
Business Name (Sole-Proprietorship)	95,407
Businesses registered as partnerships or sole proprietorships	**110,267**

421. As outlined in chapter 1, sole proprietorships and partnerships are not separate legal persons, but these are by far the most popular form for running a business as they do not pay any tax in Brunei. The assessment team notes a number of risks with simple partnerships and sole proprietorships. While these forms of business are not legal persons *per se*, their risks remain unmitigated and many of the controls are relevant to the issues outlined in this chapter relating to weaknesses in filing with ROCBN. As outlined in IO1, there are challenges with transparency of these business entities in Brunei. Partnerships risks are highlighted by the private sector through their experience of CDD and noted in the 2020 risk assessment and by the FIU as an emerging risk. Simple partnerships have few obligations to file details of partnership arrangements. Partnerships are not required to file the partnership agreement nor any beneficial ownership or control arrangements / contracts of partnerships. Concerns are noted with possible trends with 'front' partners, including for foreigners avoiding controls on foreign ownership of businesses. The CARO does define TCSPs to include those that organise or provide partnership activities including acting as partners of a partnership (s.2), but these are not well implemented.

422. For legal arrangements, Brunei permits the creation of common law trusts. Foreign trusts operate in Brunei. The number of trusts operating in Brunei appears to be small, but data is not available, partly because trustees are not liable for tax in Brunei and data is not available from other sources. It is not apparent that the settlement or operation of trusts is a common occurrence, taking into account the tax laws, Syariah laws on wills and prohibitions on foreigners purchasing land through a trust.

423. There are few statutory requirements to support transparency of the beneficial control of trusts in Brunei. DNFBPs having trusts as clients, including providing trust services to a domestic trust or a foreign trust are regulated under CARO for CDD purposes. However, the regulations and guidelines do not go into detail regarding obligations on DNFBPs providing trust services as opposed to other transactions.

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

424. Information on the creation and registration of for-profit legal persons is publicly available from the web portal BusinessBN[24]. This site is a government website that provides information on all matters pertaining to operating businesses in Brunei. It includes information on the different legal structures that are available. The site includes registration guides for applicants. The guides include details of registration obligations, including legal persons' form and articles as well as directors and shareholders. Information on the creation of common law trusts is not separately available.

425. As at 1 January 2021, the ROCBN website (www.rocbn.gov.bn) has transitioned to the One Common Portal (OCP) website (www.ocp.mofe.gov.bn). The OCP is a single platform to manage business obligations from business registration, company incorporation and subsequent filing of information as well as online tax filings.

24 www.business.gov.bn

426. Information on the creation and registration of Societies is available with the ROS, which is part of the RBPF. Information on how to register a society is available on the RBPF website[25] and is available online through the Guidelines on how to apply for registration of a society and the relevant registration form on the ROS website.

427. Information on the formation of cooperative societies can be obtained upon request from the Headquarters or district branches of the Cooperative Development Unit, Ministry of Finance and Economy (CDU).

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

428. Brunei has identified and assessed some the ML/TF risks and vulnerabilities of the different types of legal persons created or registered in Brunei. This was undertaken through the ML/TF Risk Assessment on Legal Persons in Brunei (2020) and the NPO Sector Review (2020) and the ML/TF Risk Assessment on Cooperative Societies (2020). The design and findings of these risk assessments are reasonable and provide a firm basis to design risk mitigation measures for legal persons. The risks are well understood by the FIU and AML/CFT supervisor, but not so well by other competent authorities.

429. In relation to the ML/TF risk assessment of legal persons, the assessment considered six broad areas of vulnerability: comprehensiveness of legal framework; availability of and accessibility to beneficial ownership information; effectiveness of monitoring suspicion; effectiveness of ML investigations of legal persons; effectiveness of international cooperation; and geographical location (this factor only for TF). The assessment found the main vulnerability of legal persons formed or registered in Brunei relates primarily to the lack of transparency of beneficial ownership information. The assessment identified companies as the form of legal persons carrying the highest ML risk. The FIU takes some steps to monitor possible indicators of misuse of legal persons. The FIU is able to filter STRs according to relevant 'red flag indicators' that suggest to misuse of legal persons, for example, suspicion of the use of 'shell companies'.

430. Businesses that carry out company secretary services are covered by CARO obligations and a number have registered as TCSPs. Brunei has not separately regulated company secretaries, although they are present in the market and may present a risk. The operations of company secretary businesses were not considered in the risk assessment.

Mitigating measures to prevent the misuse of legal persons and arrangements

431. Brunei has, in substance, closed down its 'offshore' international financial centre which has mitigated the ML risks identified in the last MER related to Brunei international business companies (IBCs) and international trusts. No companies or trusts can be formed under the previous framework. The risk mitigation steps taken in closing down the international financial centre included de-registering approximately 10,000 IBCs. Only 7 wholly government-owned IBCs remain incorporated at the time of the onsite visit and the timing of their dissolution is set down by government related to existing contractual obligations. The final wind up date is anticipated to be mid-2028. The International Trusts Order 2000 has been repealed and none of the TCSPs licenced under the previous regime remain licenced or are able to form companies or trusts under the previous offshore regime. There are no longer any trusts settled under the ITO 2000 and no basis to settle new trusts under the previous regime.

25 www.police.gov.bn

432. In relation to any remaining risks from Brunei's previous international financial centre Brunei has offered and supported international cooperation with foreign partners that may have a connection to previous participants in the offshore sector. Authorities demonstrated an understanding of relevant risk issues and take steps to consider potential remaining risks.

433. Market practice for incorporation sees a variety of use of professional intermediation in the establishment or continuing operation of companies in Brunei. Only some DNFBPs have a continuing relationship providing company services, although this may change with the more complex requirements on companies related to BO information. ROCBN has some information on the company service providers most often working with ROCBN to have an intermediary role with company registration or filing returns. All of Brunei's (for profit) legal persons can be established by any natural persons or by businesses offering company services on behalf of the legal persons to undertaken registration with the relevant competent authority.

434. Reflecting the risks identified with a lack of transparency of beneficial ownership and control of legal persons, the Company Act was amended in 2020 to introduce important new obligations on companies to maintain BO information and in some cases, to file such information with ROCBN.

435. The new BO register obligations have not been well publicised and do not appear to be well understood by companies or company service providers. ROCBN has not yet designed and implemented programmes to support companies of company service providers (whether registered DNFBPs or other businesses) in understanding and effectively implementing the new legal framework for companies. Only CPA accountants appear to have an understanding of the new obligations.

436. While the assessment of risk did not find particular risks from nominee shareholders and directors in the Brunei context, the Companies Act amendments in 2020 further strengthened controls of nominee directors, including penalties if companies fail to maintain details of any nominee directors. However, unlike nominee shareholders, the details of nominee directors are not required to be filed with the ROCBN and Brunei has not demonstrated that the new obligations on companies regarding nominee directors are being implemented and that accuracy and quality of this information is checked.

437. Brunei did not demonstrate a clear prioritised plan to implement the amended Companies Act, particular as it related to BO obligations. National AML/CFT policies have not sufficiently addressed priority activities for implementing the new framework for BO information. ROCBN has not been included in NAMLC activities to coordinate AML/CFT priorities which may reflect and lead to a lack of priority focus on their important role in Brunei's AML/CFT framework.

438. ROCBN has not been sufficiently resourced to take on the large role of maintaining the beneficial ownership registry and supporting and overseeing implementation of the new obligations in the Companies Act. ROCBN does not yet have adequate resources to implement programmes to guide and support the private sector (companies and company service providers) in their obligations to obtain and verify up to date BO information. ROCBN does not yet have adequate systems or capacity to ensure the accuracy of reported BO information, data integrity and the compliance by companies with the new obligations. ROCBN will need to have systems to verify BO information filed by companies and foreign companies registered in Brunei.

439. Brunei has CDD obligations in place that require FIs and DNFBPs to collect BO information generally in keeping with R.10 and R.22 and to make CDD information available to competent authorities upon request. The guidance for lawyers and accountants does not sufficiently cover CDD in scenarios where they provide company and trust services rather than simply having legal persons or

legal arrangements as customers. Additional guidance is needed for DNFBPs undertaking trust and company services.

440. Challenges remain with FI/DNFBPs being able to verify BO information provided by Brunei companies. The amended Companies Act should assist corporate customers of FI/DNFBP to provide details of their beneficial ownership and control, however there is no system to support FI/DNFBP in their obligation to verify the BO information provided by their customers. ROCBN has not yet developed a mechanism to support the private sector's verification of BO information in the CDD process.

441. While noting that there appear to now be very few trusts settled in Brunei, there are few measures to support the transparency of trusts and capture information on settlors or trustees for domestic or foreign trusts settled in Brunei or operating in the jurisdiction. FIs or DNFBPs who have domestic or foreign trusts as customers are required to identify and verify all parties to the trusts. There are some gaps when DNFBPs are employed to settle a trust and do not also serve as a trustee. Trustees are not required to disclose their status to FIs or DNFBPs, which may reduce the ability of CDD and EDD to mitigate the risks of misuse of legal arrangements.

Timely access to adequate, accurate and current basic and beneficial ownership information

442. ROCBN hosts the OCP system which can be accessed by competent authorities to see all basic and, since 2020, available beneficial ownership information filed with the ROCBN. Between 2017 and 2019 ROCBN granted online access to the ACB, ISD, FIU and tax authorities. The RBPF Human Trafficking Division was granted direct access in 2021. All other LEAs were granted direct online access in late 2022. Prior to that time, other LEAs could access ROCBN information based on written requests or through requests to the FIU, which was the more usual practice. The FIU has been regular user of ROCBN data, including new BO data, but other authorities have not prioritised its use. LEAs have some experience of accessing BO information from the ROCBN (indirectly through the FIU) or from companies or from FI/DNFBP. The Assessment Team considered Brunei's context of low levels of incorporation and relatively simple corporate structures (since the winding up of the offshore centre), which was borne out by the case studies identified by the FIU and LEAs.

Table 7.2: Requests involving companies received by the FIU (basic or BO information or other company information available to the FIU)

Agency	2018	2019	2020	2021	2022 (Aug)	Total
ACB	1	4	6	3	1	**15**
RBPF	2	5	4	4	5	**20**
CTIWG	0	0	0	0	0	**0**
ISD	0	0	1	2	0	**3**
Total	**3**	**9**	**11**	**9**	**6**	**38**

Table 7.3: LEA requests involving basic and beneficial ownership information received by the FIU

Agency	2016	2017	2018	2019	2020	2021	2022(Aug)	Total
RBPF	0	0	0	4	3	0	3	**10**
ACB	0	0	1	2	0	0	0	**3**
Total	**0**	**0**	**1**	**6**	**0**	**0**	**3**	**13**

443. Until direct access was granted to LEAs, on average, it took the FIU two weeks to respond to LEA requests for such information.

Case Study 20: Use of shell companies to commit potential fraud

In 2019, The FIU received an STR indicating suspicion of fraud involving obtaining financing through banks using fraudulent means. Person X would use their own company, Company 1, to issue a letter confirming the status of employment and income of Person A, despite it being a shell company. The letter is then submitted to the Bank for calculating the maximum financing entitlement available to Person A.

Company 1 would transfer 'income' to Person A for two or three months consecutively and the Person A's bank account statement that shows the 'regular' deposits as 'proof' of employment. Once the financing application was approved, Person A would be obliged to repay Person X, often with an added fee.

The FIU accessed the ROCBN data to gather information indicating the involvement of other companies. Person X appeared to be the owner of several sole proprietorships and a partner in a partnership, Company 2. The partner in Company 2 also has sole proprietorships registered to their name, such as Company 3. Using ROCBN information the FIU was then able to identify a network of associated persons.

444. The availability of accurate basic information is a challenge for Brunei. This is despite timely online access to information by competent authorities and a long-standing obligation to file basic information with a central public register (ROCBN) for companies, including registration of foreign companies. There are serious concerns with the adequacy and accuracy of basic information held on the ROCBN register. At the time of the onsite visit ROCBN had identified 3,379 companies as not filing their annual returns for more than 5 years.

445. In 2019 ROCBN commenced a data cleaning project for basic information held on the register. As part of this it is the responsibility of all ROCBN assistant registrars to flag and correct data. While this is a much-needed project, it is not wide enough in scope and is not adequately resourced to address the weaknesses with availability and accuracy of data held by the ROCBN on legal persons and business registrations. As of August 2021 ROCBN, commenced a process of phone interviews with online applicants for registration under the Business Names Act to verify information submitted.

446. The availability of accurate BO information on the ROCBN database is less certain again. Only companies formed since late 2021 have been required to file BO information with ROCBN. At the time

of the onsite visit only 226 companies which have filed their register of controllers with the ROCBN. Those companies have not been subject to any checks on the adequacy and accuracy of the BO information filed with the ROCBN. Those companies are still subject to enforceable requirements to keep accurate and up to date BO information at the company. Both new and old companies have not been subject to any checks on the adequacy and accuracy of the BO information filed or kept within the company.

447. In October 2020, the ROCBN commenced a process to screen registration of BO information involving phone interviews with applicants (the director(s)) for incorporation under the Companies Act. The purpose of these interviews is to confirm the roles of the directors and identify whether or not intermediaries are being used. This adds to some aspects of verification of data filed and contributes to confirming ownership of newly registered companies.

448. The availability of adequate, accurate and up to date BO information with companies was not demonstrated. All existing companies have had obligations to maintain their own BO register since late 2020, but the new obligations have not been well publicised and implementation has not been well supported. ROCBN has not yet designed and implemented programmes to support companies and company service providers to understand and effectively implement the 2020 legal framework for companies. There has not been any activities to check on compliance with existing companies on their steps to populate an accurate and up to date register of their beneficial owners.

449. . Brunei authorities provided examples of obtaining information from ROCBN and from FIs on basic and beneficial ownership of legal persons in the context of responding to LEAs requests related to asset tracing and ML investigations. Provided information was useful in the analysis and investigation process. The FIU demonstrated examples of using CDD information and investigative strategies and more recently information held by the ROCBN to obtain BO information of legal persons in the course of developing financial intelligence or conducting financial investigations.

Case Study 21: Use of company to launder funds

In September 2020, whilst undergoing "Operation MK" where the NCB identified and arrested a drug trafficking syndicate and was in the process of freezing bank accounts, transfers of BND 172,000 (approx. USD124,000) were identified through a number of banks and then eventual cash withdrawals. Whilst gathering information during this active incident, the FIU was able to obtain information from the ROCBN database and from banks on companies owned by the individuals.

Subsequently it was discovered that BND 67,000 (approx. USD49,300) was deposited in cash to a company account at Bank 1, where the company is a sole proprietorship owned by Person C. The deposit was done within 2 hours after the BND 72,000 was withdrawn from Person C's account. A portion of these funds, BND 20,100, were then withdrawn in cash before a direction to freeze the account could be issued by the FIU, which was later supported by AGC through the issuance of a court order to restrain the funds pending the progress of the investigation.

The NCB, AGC and FIU worked closely together to coordinate the asset tracing for this case. This case is currently pending prosecution.

450. The FIU is authorised to obtain CDD information collected from FIs or DNFBPs in order to understand the beneficial ownership or control of a legal person or arrangement. The FIU is authorised

to request all FIs to help them with identifying which FI or DNFBP has a particular legal person as a customer. The FIU has used this all-institutions approach to identify which FI/DNFBP may be holding CDD information to help to identify BO information.

Case study 22 – FIU support to LEAs in obtaining basic and BO information

In 2019, the FIU received a request from an LEA for basic and BO information for a group of locally-incorporated companies. The LEA requested the ownership, investors and distribution of annual profits and dividends for two companies that were linked to each other. The FIU sent out a request to all banks for CDD information and received and shared relevant information with the LEA within two weeks.

451. LEAs demonstrated some steps to obtain beneficial ownership information in the course of financial investigations, but this requires more regular use. ACB and RBPF demonstrated that they have accessed CDD information from FIs and DNFBPs to obtain BO information of legal persons and arrangements.

452. FIU demonstrated regular use of mechanisms to obtain information to identify BOs of legal persons. Direct access to ROCBN and related information requests allow the FIU to access relevant data in a reasonable timeframe.

Case Study 23: Foreign request for beneficial ownership information

In 2019, the FIU sent a request for information to PPATK regarding an individual who was reported for utilizing personal accounts for business purposes and not providing supporting documents for transactions. It was reported that funds were allegedly wired to the individual's joint personal account from a remittance company in Indonesia. The FIU then requested for beneficial ownership and licensing details from PPATK to confirm the legitimacy of the individual's claims.

This information was received for intelligence purposes only.

453. LEAs demonstrated a small number of instances of pursuing beneficial ownership of foreign corporates. In those instances where BO information was sought from outside of Brunei, the RBPF has utilised the INTERPOL channels.

Effectiveness, proportionality and dissuasiveness of sanctions

454. Available sanctions for non-compliance with obligations on legal persons and legal arrangements to maintain and file information are set out in R.24 and R.25. There are some strengths in the available sanctions, but weaknesses are identified in relation to some key obligations.

455. ROCBN has only taken very limited actions against companies for failure to file accurate and timely basic information. As outlined above, ROCBN has identified 3,379 companies as not filing their annual returns for more than 5 years. 35 companies have been struck off over the last 5 years. This is not in keeping with the serious concerns with accuracy and adequacy of basic information.

456. No action has been taken to enforce the new BO obligations on companies to maintain and to register BO information. The assessment team notes that serious challenges have arisen with implementation of the new framework as it entered into force during the period of serious disruptions due to COVID-19. ROCBN has further to go as an active registrar and, following the Company Act amendments in 2020, has not yet taken steps to implement comprehensive enforcement frameworks for the new requirements.

457. As outlined in IO.3, the FIU has applied sanctions in cases of failures to undertake proper CDD. No cases have been identified where FI/DNFBP failed to comply with a request to provide competent authorities with BO information obtained in the course of CDD.

Overall conclusion on Immediate Outcome 5

458. In 2020 Brunei reasonably assessed the risks associated with different types of Brunei legal persons and businesses. There are concerns with the levels of compliance with reporting basic information and the quality and accuracy of basic information held by the ROCBN, but a data remediation project had commenced at the time of the onsite visit. Statutory amendments in 2020 require Brunei companies and foreign companies registered in Brunei to maintain BO information. Newly incorporated companies and newly registered foreign companies are also required to file such information with the ROCBN. However there has been a lack of support to companies and company service providers to implement the new BO obligations and no steps to enforce compliance with the new obligations and few enforcement actions in relation to basic information obligations. The FIU is a regular user of ROCBN data, including BO data, and FIU has reasonably regulatory obtained and shared such information on behalf of LEAs. LEAs have some experience of obtaining BO information in the course of investigating cases involving legal person, most often with the assistance of the FIU. Authorities have sought or provided only limited international cooperation in relation to transparency of legal persons.

459. **Brunei has a moderate level of effectiveness for IO.5.**

CHAPTER 8. INTERNATIONAL COOPERATION

Key Findings and Recommended Actions

Key Findings

a) Brunei has a sound framework for both formal and informal international cooperation, Brunei's ML threat is primarily contained within Brunei's borders and proceeds of crime originate mainly from predicate offences committed domestically.

b) The limited number of MLA and extradition cases in the review period is in keeping with Brunei's transnational ML/TF risk.

c) It is difficult to determine constructive and timely provision of assistance as MLA requests had either been withdrawn or, for those made in mid-2022, had not been successfully executed by the end of the onsite.

d) Brunei obtains evidence through MLA in ML cases, including regular and constructive informal cooperation to support successful formal cooperation. Simplified extradition mechanisms are in place with Malaysia and Singapore to recognise warrants and summonses issued in each jurisdiction, reflecting proximity and regional risk.

e) Brunei has sought cooperation with foreign countries to trace the proceeds of criminal activity which have moved overseas, and to seek MLA related to restraint and confiscation of assets. However, some challenges were noted in obtaining timely responses to requests, despite Brunei making efforts to overcome the challenges in the limited number of cases where capital flight has occurred.

f) LEAs demonstrated good use of informal cooperation to obtain information to assist investigations, but data is not systematically kept by some LEAs. Joint operations are conducted with neighbouring jurisdictions to combat crimes and to monitor cross-border threats. Intelligence sharing of CBNI reports and other cash smuggling information with neighbouring jurisdictions has not been prioritised in keeping with the cash economy risks.

g) Authorities demonstrated well-developed international cooperation in exchanging intelligence in relation to combating terrorism and TF. This is particularly well developed with Brunei's immediate neighbours and with other regional partners and includes LEAs, ISD and the FIU. The use of informal cooperation has been utilized by Brunei effectively in view of its TF risk profile.

h) The FIU is proactive in providing spontaneous disseminations to FIUs in the Asia Pacific region for STR and non-STR based information, and has also received spontaneous disseminations. Most of the outgoing requests during the review period are sent on behalf of the LEAs as the majority of STRs do not contain cross-border elements.

i) Brunei has not requested international cooperation related to AML/CFT supervision nor received any AML/CFT related requests during the review period. Brunei only demonstrated limited experience of information sharing between AML/CFT supervisors in keeping with the risks. The FIU relies on the BDCB prudential supervisors to share AML/CFT issues with counterparts.

j) Competent authorities have limited experience of cooperation with foreign counterparts to exchange basic and BO information, which is in keeping with the risk profile. The deficiencies identified in IO5 may hinder the effectiveness of assistance to foreign counterparts.

Recommended Actions

a) Brunei should make even greater use of informal channels to support formal MLA requests and consider more proactive communication to seek to overcome delays with requests to foreign partners.

b) The FIU should enhance international cooperation with its AML/CFT supervisory counterparts in keeping with Brunei's risk and context, including amendments in legal provisions and the enhancement of international cooperation mechanisms with priority foreign supervisors for FIs and DNFBPs. This might include proactive sharing of updated AML/CFT risk information with foreign supervisors, sharing supervisory plans and outcomes, etc.

c) Brunei should seek to enhance information sharing with neighbouring countries on bulk cash smuggling, including considering sharing outcomes of analysis of CBNI reports, as well as cross-border crimes such as smuggling of drugs and tobacco.

460. The relevant Immediate Outcome considered and assessed in this chapter is IO2. 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.

Immediate Outcome 2 (International Cooperation)

Providing constructive and timely MLA and extradition

461. Brunei has a sound legal basis to provide the widest possible range of MLA including extradition in relation to ML/TF and associated predicate offences. Brunei's MLA framework allows the provision of a wide range of assistance to any foreign country on the principle of reciprocity, i.e. even in the absence of a treaty. Nonetheless, Brunei is a party to the ASEAN Treaty on MLA in Criminal Matters (ASEAN MLAT). Simplified extradition mechanisms are in place with Malaysia and Singapore to recognise warrants and summonses issued in each jurisdiction, reflecting proximity and regional risk.

462. Brunei's ML threat is primarily contained within Brunei's borders, as the various risk assessments highlight. The STRs and the cases also showed that proceeds of crime originate mainly from predicate offences committed domestically. The minimal use of formal international cooperation for AML purposes is in line with Brunei's risk profile.

463. AGC acts as the Central Authority for MLA, including extradition. Brunei has established the MLA Secretariat in the AGC Communications and Strategy Division (CSD). The MLA Secretariat deals with all incoming and outgoing MLA in accordance with the provisions of the MACMO, CARO, any applicable MLA treaty and other relevant domestic laws. The resources of the MLA Secretariat team have been sufficient to meet the low numbers of outgoing and incoming requests.

464. The AGC Information Management System (AIMS) is used to track and assign requests internally within the agency for MLA and extradition. The system also monitors and notifies / reminds

case officers of any deadlines that are set. AGC gives priority to requests made on an urgent basis particularly involving asset recovery, and those involving serious crimes.

465. There is no centralised mechanism in place to manage and repatriate assets confiscated at the request of foreign counterparts, and no such requests were received between 2016 and 2022. This issue would be dealt with on a case-by-case basis, the assessment team considered that it is sufficient due to the very low number of cases and that crime proceeds are contained within Brunei's borders.

Mutual Legal Assistance

466. AGC has posted templates and guidelines on its website to best support countries to prepare requests to Brunei for assistance in criminal matters. The Central Authority also recommends authorities from the requesting countries undertake informal consultations with the MLA Secretariat before making a request for MLA, particularly in the most serious cases, to ensure the assistance sought or the request will meet the legal requirements of Brunei. Informal consultations can be made via email to the Secretariat's email address which is publicly available on the AGC's MLA Secretariat webpage. From 2017 to 2022, three informal consultations were received in which one turned into a formal MLA request. The other two were enquiring on the process of MLA and relevant legislation.

Table 8.1: MLA requests received

Year	Requests	Offence type	Nature of request
2022 (June)	1	Theft	• Request to locate and record statement of individual of interest
	1	Causing hurt	• Request for banking information
2021	0	-	• -
2020	0	-	• -
2019	1	Bribery Criminal breach of trust Cheating Money laundering	• Request for obtaining evidence

*The requesting countries are not disclosed by Brunei as it contained a proviso of confidentiality. No requests for the period from 2016 to 2018.

467. Only three MLA requests have been received in the period 2019 – 2022. The low number of MLA requests received and not all requests being successfully executed, limits the fair assessment of the timeliness of the process of execution for MLA and its effectiveness. The 2022 request was not responded to prior to the onsite visit as it was still active and the request received in 2019 was withdrawn by the requesting country following consultations with Brunei.

468. AGC does not have an SOP or guidance for prioritization and timely execution of MLA requests as the number of requests is very small. However, AGC has demonstrated there is sufficient staff to proceed with every request as soon as it is received and Brunei is ready to respond to future requests should they increase in volume.

Extradition

469. As detailed above, extradition requests are managed by the AGC through AIMS as mentioned above. Only one extradition request was received by Brunei Darussalam from 2016 to June 2022, which is in line with Brunei's risk profile. The single extradition case (2017) demonstrated that the assistance was provided in a constructive and timely manner.

Case Study 24: Incoming Extradition request

On 5 August 2017, Brunei commenced action pursuant to an INTERPOL Red Notice issued on 13 July 2017 against Person A by the Republic of Korea. Person A was wanted for alleged fraud offences in the Republic of Korea. It was identified that Person A had entered Brunei prior to the issuance of the Red Notice and on 19 August 2017, Person A was apprehended at the departure gate of the Brunei International Airport. Following further engagement between Brunei authorities and the Republic of Korea, Person A was formally handed over to officers from the Ministry of Justice, Republic of Korea in November 2017 in accordance with the Extradition Order.

Following a further request from the Republic of Korea, the Attorney General gave consent to the indictment of the additional charges to be brought against Person A on 15 January 2019 for the trial of Person A on charges other than those for which extradition was initially granted.

470. No TF-related requests for MLA or extradition have been received from 2016 to June 2022. As outlined in IO.9, TF-related inquiries are generally dealt with via informal cooperation between LEAs and intelligence authorities. No requests for simplified extradition have been received from Singapore and Malaysia for the above period, which is in keeping with the risk profile of Brunei. Authorities indicate that any such requests will be dealt with priority by the competent authorities of Brunei once the warrants or summonses from Malaysia and Singapore satisfy the rules in the extradition arrangement.

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

471. Brunei initially seeks assistance through informal channels from its international counterparts on the rare occasions where cross-border elements are identified during the course of a financial investigation. This was the experience in the 'Judicial Officers case'. Brunei's has successfully used informal cooperation in order to obtain timely criminal justice outcomes in cases involving transnational crimes and/or locating proceeds suspected of being moved offshore. Formal channels are pursued as required in major cases, which to date have focused primarily on identifying and locating criminal assets.

472. Brunei is a member of the Asset Recovery Interagency Network – Asia Pacific (ARIN-AP). LEAs have used their strong partnerships with foreign counterparts for assistance as opposed to ARIN-AP for asset tracing. Brunei may consider greater use of ARIN-AP, particularly in cases where assets have moved outside the region.

Mutual Legal Assistance

473. MLA can be initiated by both the AGC and the LEAs. The AGC has developed an MLA Checklist for LEAs, which has been useful in guiding investigating agencies on the information needed to prepare an MLA request. Brunei demonstrated that LEAs work closely with the AGC to ensure the necessary information, as detailed in the Checklist, has been obtained through informal channels and embedded in order to make an effective MLA request, where required.

Table 8.2: MLA requests sent

Year	Requests sent	Country	Offence type	Nature of request
2022	1	Malaysia	Importation of drugs	Request for assistance to record witness statements
2021	0	--	--	--
2020	0	--	--	--
2019	2	Malaysia*	Money laundering Criminal breach of trust Possession of unexplained wealth	Request for assistance in arranging the attendance of a witness
		Thailand*	Money laundering Criminal breach of trust Possession of unexplained wealth	Request for assistance to trace any bank accounts, assets or businesses registered under the Defendants' names and relevant family members
2018	1	United Kingdom*	Money laundering Criminal breach of trust Possession of unexplained wealth	Request for banking evidence and obtain evidence of asset held/dissipation of criminal proceeds
2017	0	--	--	--
2016	1	Malaysia	Money laundering Failure to declare cross border cash movement	Request for Production Order for various documents FIs to complete investigations against the Accused

*These three requests related to the 'Judicial Officers case'

474. Brunei has made five MLA requests in the period 2016-2022. Three of these requests related to the 'Judicial Officers case'. That case demonstrates that Brunei has been proactive in seeking cooperation with foreign countries to trace the proceeds of criminal activity when cross-border elements are identified, and to seek MLA related to restraint and confiscate assets. However, some challenges were noted in obtaining timely responses to requests, despite Brunei making a number of efforts to overcome the challenges.

Case Study 25: Informal and formal assistance for the Judicial Officers Case

The case involving two former judicial officers (see also Case Studies 2 and 3) demonstrated the use of informal and formal channels of international cooperation.

From the initial analysis of the financial details of the defendants, some of the funds also made their way overseas through bank telegraphic transfers. Both the FIU and the ACB sought informal assistance with counterparts in Singapore and the UK for information on any bank records and assets related to the defendants in their respective jurisdictions. Authorities in Singapore were unable to identify any proceeds, however, the authorities in the UK conducted intelligence gathering on bank accounts and assets owned by the defendants which were then used to substantiate the request subsequently made through formal Mutual Legal Assistance channels.

Brunei received documents which were evidence of the properties leased by the defendants in the United Kingdom and were used as evidence in the trial against them. After the conclusion of trial against the defendants, in November 2019, Brunei received additional evidence pertaining to the remaining request for banking evidence.

The prosecution had also sought to secure admissible evidence from the Malaysian national alleged by one of the defendants to have provided BND5 million as a gift. However, the witness was unable to be secured during the dates when the hearing was held in September 2019 and the prosecution proceeded with the case without the witness.

Extradition

475. From 2016 to 2022 Brunei made only one extradition request (2016) related to murder. This request is still pending execution. Brunei has continued to offer cooperation to support resolution of the request. No ML/TF-related extradition request has ever been made.

476. From 2016 to 2022 Brunei, through the RBPF, made four requests for simplified extradition. All four requests were sent to Malaysia and were executed within the same year of the request. They were related to theft, arson, environmental crime and smuggling.

Seeking other forms of international cooperation for AML/CFT purposes

477. The legal framework of Brunei does not have explicit provisions of information exchange with foreign counterparts for AML/CFT purposes, except for the FIU (see R.40). The AML/CFT competent authorities do not require MOUs or Agreements to cooperate with international counterparts. Each authority utilizes its own mechanisms that enable direct engagement with foreign counterparts with the necessary confidentiality and security requirements in place (See c.40.1). The arrangements or mechanisms in place are consistent with Brunei's risk profile, and Brunei has particularly strong relationship with regional counterparts in Singapore and Malaysia.

Financial Intelligence Unit

478. The FIU actively makes and responds to international cooperation requests and cooperates closely with foreign partners to ensure successful information exchange. The FIU has been a member of the Egmont Group since 2014. The FIU utilizes the Egmont Secure Web (ESW) to request information, where all exchanges are secured by end-to-end encryption. The FIU has signed MOUs with eight foreign FIUs to support cooperation, although it does not require an MOU to facilitate information exchange with any foreign FIU.

479. The top three potential predicate offences, as shown in Table 8.3 for requests sending to foreign counterparts are in line with the risk profile of Brunei, however, most of the outgoing requests are sent on behalf of LEAs such as RBPF, NCB and ACB. As explained by the FIU, most of the STRs reported are domestic in nature, so tracing of proceeds or information from foreign jurisdictions is seldom needed. No TF-related requests were sent by the FIU to international counterparts between 2016 – October 2022 as the authorities responsible for TF investigations in Brunei utilise their informal networks for these purposes (see IO.9).

480. FIU requests were mostly sent to Malaysia (almost 50%), followed by Indonesia and Hong Kong, China. The FIU has requested basic information of companies, bank account and transactional information, land/property register information, identification of other non-cash type of assets, regulatory / administrative information on entities and screening against FIU database for any related information.

Table 8.3: Outgoing Requests Sent by the FIU (by potential predicate offence)

Category	Potential Predicate Offence	2016	2017	2018	2019	2020	2021	2022 (Oct)	*Total*
ML	Business Email Compromise	0	0	0	2	0	0	0	*2*
	Cheating	1	0	1	3	1	0	1	*7*
	Criminal Breach of Trust	0	0	6	0	0	0	0	*6*
	Drug Trafficking	0	0	0	1	0	0	0	*1*
	Fraud	0	0	0	1	0	0	0	*1*
	Illegal Deposit Taking	0	1	1	0	0	0	0	*2*
	Scam	0	0	1	0	0	0	0	*1*
	Smuggling	1	0	0	0	0	0	0	*1*
	Standalone	1	0	0	2	0	0	0	*3*
	ML Total	*3*	*1*	*9*	*9*	*1*	*0*	*1*	*24*

481. During the period of 2016 to October 2022 the FIU received 16 ML-related intelligence reports from foreign counterparts. Of these, one was disseminated to RBPF and matching information was provided to the respective foreign counterpart, please refer to Case Study 26. The intelligence reports were mostly received from Australia, Malaysia, Singapore and Syria (the four countries – 50%).

482. During the period of 2016 to October 2022 the FIU received 13 TF-related reports mostly from Australia, Indonesia and Syria. No matches were found by the FIU in relation to these matters, however, the FIU disseminated all TF-related reports to the CTIWG where consent was obtained from the foreign counterpart FIU.

Case Study 26: Incoming spontaneous dissemination - FIU

In April 2020, the FIU received an intelligence report from a foreign FIU relating to crimes involving child exploitation. The foreign FIU provided a list of individuals who were suspected to be based in Brunei alleged to have sent funds to the foreign jurisdiction for child exploitation purposes.

Upon receiving the report, the FIU conducted a screening against its database of remittance transactions, and found the corresponding transactions as well as additional transactions. In response, the FIU provided a disclosure in return with the information obtained in Brunei which may be highly useful to the receiving FIU. This information was also subsequently disseminated to the Royal Brunei Police Force, the case is ongoing but no ML is involved.

Financial Supervisors

483. The BDCB has 10 MOUs and informal mechanisms with foreign counterparts, which provide a further basis for international cooperation on supervision of the banking, securities and insurance

sectors. From 2016 to 2022, the BDCB prudential supervisors made a total number of 39 requests to foreign regulatory bodies. The requests include matters relating to policy, KRPs, supervisory frameworks, and capacity building.

484. The 10 MOUs signed by BDCB are utilized by the FIU for AML/CFT purposes and financial supervisors for prudential and regulatory purposes, though only one MOU has the explicit provision for AML purposes.

485. Supervisors have not made any AML/CFT-related international cooperation requests. The BDCB participates in a number of supervisory colleges which includes elements of AML/CFT supervision. The FIU relies on the BDCB supervisors to share AML/CFT issues with counterparts in Malaysia, Singapore and Hong Kong, China through supervisory colleges if needed, and prudential supervisors will seek input from the FIU before attending these colleges. In cases where there is no existing arrangement for international cooperation with foreign AML/CFT supervisors, the FIU makes use of BDCB's International Unit channels of information exchange with foreign partners. The effectiveness of the existing mechanisms for the FIU to carry out its role as AML/CFT supervisor of FIs needs to be enhanced.

486. International cooperation between AML/CFT supervisors of DNFBPs has not occurred which reflects the risk and the fact that supervision of DNFBPs by the FIU is at an early stage. Amendments in legal provisions are needed to enhance powers for DNFBP supervision to support international cooperation when required.

Law Enforcement Authorities

487. LEAs rely primarily on informal mechanisms for cooperation with their foreign counterparts.

Table 8.4: Number of outgoing requests made by LEAs 2016 – 2022 (August)

Agency	2016	2017	2018	2019	2020	2021	2022	Total
RBPF	8	3	12	3	8	4	5	43
ACB	7	9	13	9	3	0	0	41
NCB	1	2	2	2	2	1	2	12
RCED	0	0	0	0	0	0	0	0
ISD	20	16	16	31	20	1	1	105
Total	**36**	**30**	**43**	**45**	**33**	**6**	**8**	**201**

488. Most of the requests sent by the LEAs were to the Philippines, followed by Malaysia, Singapore and Indonesia (around 80% for the four countries), which is in line with the major transnational crime risks for Brunei. These outgoing requests are mainly fraud and security-related. LEAs also receive intelligence reports from foreign counterparts, in particular ACB receiving most intelligence from Malaysia.

489. LEAs in Brunei have sufficient staffing and mechanisms in place to facilitate international cooperation in a timely manner on both ML and TF matters. LEAs share feedback on the quality and effectiveness of information exchange mainly through regular meetings with foreign counterparts.

490. Below are some of the case studies indicating successful cooperation for predicate offences (please also refer to Case Study 14 in IO.9):

Case Study 27 - Joint operation between Marine Police, RBPF and Malaysia Coast Guard

Information and intelligence were shared between the operational focal points regarding smuggling of contraband via high speed boat from Labuan, Malaysia to Limbang, Malaysia via Brunei's maritime territory.

On 6 December 2018 a Search and Rescue Operation was conducted following a report of a sinking vessel. Through the intelligence gathered and shared by the Malaysia Coast Guard, the Marine Police, RBPF identified the rescue victims (eight foreign nationals) as the smugglers. The perpetrators were sentenced to two years' imprisonment for smuggling activities.

Case Study 28 - Outgoing international request– ACB

In 2016, ACB sought assistance from Malaysia's anti-corruption agency, the MACC, to locate and arrest a person who was being investigated for offences under the PCA. The assistance resulted in the arrest of the person in Sarawak, Malaysia, who was later surrendered to the ACB. The defendant was subsequently convicted of only corruption.

Providing other forms international cooperation for AML/CFT purposes

Financial Intelligence Unit

491. Requests are received through the ESW and are assigned to an analyst to be recorded on IFIS, the FIU's database. The FIU gives priority consideration to requests involving TF or PF, or those marked as urgent by the requesting counterpart, or those relating to business email compromise.

492. The FIU has particularly close working relationships with the FIUs in Malaysia (BNM) and Indonesia (PPATK) as Brunei's immediate neighbours. These relationships are bolstered by Brunei and these countries being members of the Financial Intelligence Consultative Group (FICG). Brunei has collaborated on a number of FICG projects with BNM and PPATK on regional topics like terrorism, NPOs, cross border cash movements, and corruption.

493. From 2016 – October 2022 the FIU received 20 requests related to ML and five related to TF. Most requesting FIUs made only a single request. The potential predicate offences involved with the requests from foreign FIUs have mostly related to fraud/scams and corruption, which is in line with Brunei's risk profile. The TF requests were handled on a priority basis.

494. The FIU has provided responses to all of the requests received. The FIU strives to respond to requests within three months depending on the complexity of the request. Most of the incoming requests were met by Brunei on a timely basis, with around 30% of them with a response time of over three months.

495. The FIU also provides information to international counterparts spontaneously. Data for 2016 to 2018 is unavailable, however from 2019 to October 2022, the FIU provided 24 spontaneous reports to foreign FIUs, including two TF-related reports (to Indonesia and Australia). The ML-related reports are both STR and non-STR based issues, in which the potential predicate offence mostly related to counterfeit currency, unlicensed money lending/money remittance and business email compromise. The majority of international disseminations were sent to FIUs in the ASEAN region and Australia, with the remainder sent to other regions.

Financial Supervisors

496. For the period of 2016 to 2021, the prudential supervisors within BDCB received 23 requests from foreign regulatory bodies and one of which related to insider trading (Please see Case Study 11). Most of the requests during the review period were related to general information on FIs licensed with BDCB, entities on the alert list and on fit and proper of individuals, including the appointment of KRPs. No requests related to other AML/CFT issues were received. All the requests were responded to between 6 to 32 working days and BDCB has not denied any requests received.

Law Enforcement Authorities

Table 8.5: Incoming requests received by LEAs 2016 – 2022 (August)

Agency	2016	2017	2018	2019	2020	2021	2022	Total
RBPF	3	2	7	4	18	10	3	47
ACB	3	3	3	2	2	0	0	13
NCB	0	0	1	2	0	1	1	5
RCED	0	0	0	0	0	0	0	0
ISD	12	18	20	11	0	1	1	63
Total	**18**	**23**	**31**	**19**	**20**	**12**	**5**	**128**

497. Most of the requests received by the LEAs were mainly from Malaysia and Singapore, which is in line with the major transnational crime risks for Brunei. These requests primarily related to fraud/cybercrime and terrorism matters including terrorist incidents and threat assessments. LEAs also proactively sent intelligence reports to foreign counterparts, predominantly to Malaysia.

498. Below are some cases showing the effective cooperation:

Case Study 29 - Joint operation in 2017 between NCB and Malaysian Authorities

The NCB obtained intelligence on a drug trafficking syndicate based in Sarawak, Malaysia that was trafficking drugs into Brunei. The information was shared with the NCB's counterparts based in Sarawak, and a joint operation between the two Authorities was subsequently initiated.

The joint operation resulted in the arrest of the main suspect and his two associates. In addition, the authorities seized 2.106kg of marijuana, 80g of methamphetamines, 1,100 pills believed to be *erimin*, and 560 pills believed to be ecstasy.

Case Study 30 – Spontaneous dissemination by RCED

The RCED has provided one (1) spontaneous dissemination in 2020 through the Alert-Notice System. Following the closure of Brunei's borders in 2020 due to the COVID-19 pandemic, RCED sent out an alert to Malaysia to share and provide early warning of a Modus Operandi whereby parcel runners or transporters were identified to be a vulnerability and potentially used for illicit smuggling activities during the pandemic.

499. Brunei, as a cash-intensive economy, cooperates mainly with Malaysia through meetings or informal channels on cash smuggling. The competent authorities consider that associated crime risks are predominantly contained within the domestic environment, as such, intelligence or information exchange on CBNIs or cash smuggling has not been a priority for RCED or the FIU. However, one joint operation, "Operation MAHARLIKA III (Customs)", demonstrated successful cooperation on undeclared cash (see Case Study 12 in IO.8).

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

500. Most international requests for information on basic and beneficial ownership information of legal persons are received by the FIU or LEAs. Basic information is accessible to foreign counterparts through the One Common Portal (OCP) and requests for BO information can be made and responded directly by ROCBN but no requests have been received to date.

501. Competent authorities can obtain basic and beneficial ownership information of companies via the beneficial ownership information through the OCP and the ROCBN database respectively. The limitations on the information contained within the database also impact the effectiveness of international exchange of basic and beneficial ownership information (see IO.5). The FIU, all LEAs and the ISD have direct access to the ROCBN beneficial ownership database. The FIU has received and made requests (11 incoming and 2 outgoing) from and to foreign counterparts in relation to basic or BO information for legal persons. In addition, the FIU has sent two requests on behalf of LEAs for basic or BO information

502. Limited requests have been made by LEAs on basic and beneficial ownership information from foreign counterparts for the review period (only two from RBPF), however, LEAs have requested FIU to obtain information on their behalf as explained in the previous paragraph. On the other hand, RBPF has received three requests from their foreign counterparts. The following is an example of a request received by the RBPF:

Case Study 31 - RBPF – incoming international request for information on a Bruneian company

Authorities in Jurisdiction A believe that some companies within their jurisdiction are financing terrorism through smuggling activities, and are utilizing commercial connections with other companies abroad.

The RBPF received a request from the Jurisdiction A on 3 May 2017 for details on Company X, which is based in Brunei and is suspected to have such commercial links to the companies in Jurisdiction A. The information requested includes:

a. Details of Company X's services;
b. Information on the company's management and registered address; and
c. Criminal records.

With information gathered from the ROCBN, the RBPF responded to Jurisdiction A's request on 19 June 2017. However, on 23 July 2017, Jurisdiction A informed the RBPF that the original request is withdrawn.

503. The deficiencies identified in IO.5 for the accuracy of beneficial ownership information, data integrity and the compliance by companies with the new obligations may hinder the effectiveness of international cooperation.

Overall conclusion on Immediate Outcome 2

504. Brunei has a sound framework or mechanisms for both formal and informal international cooperation. No MLA has been successfully executed in the review period making it difficult to determine constructive and timely provision of assistance. However, Brunei's ML threat is primarily contained within Brunei's borders and due to Brunei's risk profile for TF, the use of formal international cooperation is minimal. Brunei, in particular LEAs, is proactively seeking informal cooperation with foreign counterparts when cross-border elements are identified. Informal cooperation is significantly and successfully relied upon in order to obtain intelligence for investigation and timely criminal justice outcomes in cases involving transnational crimes and/or proceeds being moved offshore.

505. Moderate improvements are needed for Brunei, including greater use of informal channels to support formal MLA requests. The cooperation mechanisms for AML/CFT supervisors need to be enhanced to facilitate exchange with foreign counterparts. Brunei should also enhance the cooperation and information exchange in relation to the transnational and cross border risk for cash movements.

506. **Brunei has a substantial level of effectiveness for IO.2.**

TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis of the level of compliance with the FATF 40 Recommendations of Brunei Darussalam 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.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

2. This is a new Recommendation which was not assessed in the 2010 ME.

3. *Criterion 1.1* - Brunei has undertaken various risk assessments to identify and assess money laundering and terrorism financing (ML/TF) risks. These include a 2016 ML/TF national risk assessment (NRA), sectoral risk assessments, institutional risk assessments and participation in several regional risk assessments of TF.

4. Brunei completed its first NRA in November 2016. The NRA considered data from 2013–2015 including qualitative and quantitative data and information from LEAs, intelligence agencies, supervisory authorities and government and private sector entities were used. However, issues related to the availability and quality of data affected the identification of ML/TF threats and vulnerabilities and ultimately impacted the NRA. The NRA acknowledged the lack of a centralised database, data quality issues, non-availability of statistics, and issues related to qualitative information.

5. Following the 2016 NRA, Brunei conducted a TF Risk Assessment and an ML Threat assessment using data from 2017–2019. For these updates, Brunei employed measures such as standardised data formats and meetings with necessary agencies to address the data related issues identified in the NRA. The ML threat was assessed using a similar methodology to the NRA to remain *medium-low*. The TF risk assessment used a slightly different method and considered TF likelihood and impact in addition to TF threats and TF vulnerabilities. The update found TF risk to *medium-low* rather than *medium* in the 2016 NRA.

6. Brunei conducted its NRA using the World Bank Group ML/TF NRA tool. This included an assessment of threats, sectoral and national vulnerabilities, quality of mitigations and rating of overall risks, using a 5-level rating scale. The findings of the NRA indicate the ML and TF risk of Brunei to be *medium*. Further, in the 2020 TF risk update, the TF risk was lowered to *medium-low*. Additionally, as per the ML threat assessment update, ML threat was maintained unchanged at *medium-low* level as in 2016.

7. Brunei participated in three regional risk assessment projects between 2017–2019:

a) Regional Risk Assessment on Non-Profit Organisations and Terrorism Financing;

b) Terrorism Financing through Cross-Border Cash Movements (CBM) Regional Intelligence Assessment (Sensitive); and

c) Regional Risk Assessment: Transnational Laundering of Corruption Proceeds.

8. In its capacity as the AML/CFT supervisor, the FIU has conducted institutional-level risk assessments on all reporting entities (REs) (i.e. FIs and DNFBPs) taking into account the results of the identified sectoral ML/TF risks in the 2016 NRA and the specific institutions risks.

9. Additional assessments are conducted based on emerging risks, or to identify potential gaps in Brunei's AML/CFT framework. The following risk assessments have been completed since the 2016 NRA:

- ML risk assessment of Cooperative Societies (2019);

- ML threat assessment and TF risk assessment (NRA updates) (2020);
- ML/TF risk assessment of legal persons (2020);
- NPO Sector Review (2020);
- ML risk assessment of $10,000 notes (2020);
- ML/TF risk assessment on virtual assets service providers (2021); and
- Sectoral ML/TF risk assessment (2021).

10. *Criterion 1.2* - The National Anti-Money Laundering Committee (NAMLC) is the coordinating body for ML/TF risk assessments, including the 2016 NRA process. The NRA was conducted by a NAMLC working group comprising 60 representatives from relevant AML/CFT stakeholders from both the public and private sectors. In its capacity as Secretariat to the NAMLC, the FIU was the designated coordinator of the NRA project in 2016. The National AML/CFT Strategy designates the FIU as the agency responsible to conduct updates to the NRA or subsequent ML/TF risk assessments.

11. *Criterion 1.3* - The National Strategy on AML/CFT 2017-2019 (Action point 2.2) requires the NRA to be updated on a scheduled basis. Brunei has indicated that NRA is intended to be updated every three to five years. Further, the NRA is also subject to update and review depending on the risks or when new ML/TF activity occurs, new intelligence or typologies become available, or when significant changes are made to products and services.

12. *Criterion 1.4* - Brunei has taken various measures to share the findings of the NRA with its stakeholders. The findings of the ML threat and TF risk assessment updates have been shared with relevant competent authorities. Brunei has shared the findings of the 2016 NRA amongst relevant competent authorities through a NAMLC workshop in November 2016. The workshop also coordinated the action plan required to mitigate the risks identified. The 2016 NRA results and the risk-based action plan was presented to NAMLC members in November 2017.

13. The results of the TF risk assessment have been shared with competent authorities during two sessions conducted by the FIU: a workshop for 25 participants from domestic counter-terrorism agencies and a conference for 150 participants from both the public and private sectors.

14. The results of the NRA have also been shared with the private sector through a number of sessions which included the compliance officers of banks, money changers and remittance companies, insurance companies, and other FIs and DNFBPs from 2017 to 2020. Additionally, the FIU has shared a summarised NRA findings through a bulletin in December 2018 to banks and remittance companies. Further, an infographic of the key findings of the 2016 NRA has also been shared with FIs and DNFBPs.

15. With regard to regional risk assessments, the FIU has shared findings of the 'Financial Intelligence Consultative Group (FICG) Regional Risk Assessment on NPO and TF' and the 'TF through Cash Movements Regional Risk Assessment 2017' with bank compliance officers.

16. The results of the institutional risk assessments conducted by the FIU in its capacity as the AML/CFT supervisor are shared with the BDCB, but not shared with the RIs and are used only for supervisory purposes.

17. The findings of the ML Threat Assessment Update 2020 and the TF Risk Assessment Update 2020 have been shared and presented to relevant LEA and intelligence agencies, the ROS and the National Security Committee Secretariat, NAMLC, and Intelligence Working Committee. Further, the findings were shared with FIs and DNFBPs via the FIU Bulletin and in a session attended by Bank and Remittance Sector in 2022.

18. The findings of the ML/TF Risk Assessment on VASPs 2021 and the Sectoral ML/TF Risk Assessment 2021 are shared through an FIU bulletin in November 2022. ML/TF risk assessment on legal persons 2021 is conducted as an internal assessment and not shared with REs.

19. *Criterion 1.5* - Upon completion of the NRA in 2016, Brunei has taken a risk-based approach to the allocation of resources through the development and implementation of the National Strategy 2017–2019 and its associated Action Plan. Brunei has not updated the National Strategy based on the updated risk assessments, but extended the time period with the objective of completing the few action items that was not completed.

20. The 34 action items which were identified during the NRA process are included within the seven objectives and prioritised so that high priority action items were given a shorter timeframe. Within each objective, multiple agencies have been identified with the responsibility for delivering the required actions with timelines. Out of 34 action items in the 2017–2019 National Strategy, 26 items have been completed and seven are ongoing and may continue as part of the next national strategy. One of the action items is no longer applicable.

21. *Criterion 1.6* - Brunei has exempted cooperative societies from complying with AML/CFT obligations. The ML/TF risks of the sector were initially not assessed as part of the 2016 NRA. However, the omission of the sector was discovered in a later review of REs, and a risk assessment of the sector was conducted in 2019. The risk assessment identified the sector as relatively small with a low level of ML/TF risk. As the risk assessment had confirmed this, the sector remains exempted and is not incorporated into the proposed amendments to the CARO.

22. As of 2019, there were 158 registered cooperative societies in Brunei, 59 of which were active. They primarily serve as a channel for their members to invest in businesses and service activities in Brunei (e.g. retail and agriculture), with some societies also offering small loans to their members. While AML/CFT obligations do not apply to the sector, there are other controls in place. These include requirements to keep a register of members and submit annual reports and audited financial statements to the Registrar of Cooperatives.

23. *Criterion 1.7* - Brunei has introduced some enhanced measures for FIs and DNFBPs to manage and mitigate the risks identified. FIs and DNFBPs are required to exercise enhanced identification, verification and ongoing due diligence procedures on higher risk customers identified by the institution (S.9 of CARO). The 2019 General Guidance Paper (GGP) on AML/CFT clarifies that FIs and DNFBPs are expected to demonstrate that such measures are more extensive, intrusive, detailed, and/or in depth than standard measures (Items 5.1 and 5.2).

24. Further, the GGP outlines the requirements on FIs and DNFBPs to identify and analyse ML/TF risks present within the entity and to apply control measures, and to incorporate any sectoral threat and vulnerability findings from the NRA (Item 3).

25. The NRA indicated Brunei to be a highly cash-based economy. In line with that FIs, DNFBPs and motor vehicle dealers (as dealers in high value goods) are also obligated under Section 16 of CARO to report all cash transactions amounting BND 15,000 (approx. USD 10,800) or more to the FIU.

26. *Criterion 1.8* - Simplified measures for FIs or DNFBPs for some of the FATF recommendations are not allowed in Brunei's AML/CFT legislation.

27. *Criterion 1.9* - In practice, FI/DNFBPs' risk assessment methodology and implementation of measures to mitigate the risks by FIs and DNFBPs are assessed as a part of onsite and offsite inspections conducted by the FIU. However, given the recent publication of the guidance, the supervision of obligations under R.1 has only commenced in 2020. Beginning in

2020, the onsite report structure was amended to emphasize ML/TF risks and apply measures according to those identified risks.

28. As supervising AML/CFT authority for all FIs and DNFBPs, the FIU is responsible for monitoring FIs and DNFBPs for compliance with AML/CFT obligations. In order to assist these entities, the GGP sets out requirements on FIs' and DNFBPs' implementation of measures, in line with the AML/CFT obligations under CARO.

29. The indirectly enforceable GGP (see criterion 1.10) outlines the requirements on the RE to identify and analyse ML/TF risks present within the entity and to apply control measures that are commensurate with the identified risks (Item 3). It also describes factors which should be included in the risk assessment methodologies of FIs and DNFBPs for determining their ML/TF risks. These factors include customer risk, business relationship risk, product/service risk, delivery channel risk and geographic location risk.

30. *Criterion 1.10* - There are limited enforceable requirements in the CARO (s.9a) for REs to assess and respond to customer risk. Detailed obligations are set out in the GGP, as set out below. The provisions of the GGP are not directly enforceable without a link to corresponding provisions under CARO.

31. However, section 137 of CARO provides an extremely broad omnibus provision that allows the FIU to issue directions as it considers necessary for the prevention of money laundering and other related matters. The applicable sanctions for failing to comply with a section 137 direction are BND 1,000,000 (approx. USD 720,000) and an additional BND 100,000 (approx. USD 72,000) for each subsequent day of non-compliance. While this provision has not been tested in court, it is considered sufficient to make the GGP indirectly enforceable.

32. *1.10(a)* – Item 3.3 of the GGP requires FIs and DNFBPs to sufficiently document the inherent risk analysis, including the risk factors used to identify high-risk customers and the threats and vulnerabilities of the sectors they operate in, as stated in the NRA.

33. Item 2.17 of the GGP places the requirement on FIs and DNFBPs to have in place written policies and procedures that include the institutions' assessment and measures in place to address the risk exposure to the misuse of technology and technological developments.

34. *1.10(b)* – The 2019 GGP provides the risk factors that REs may consider when assessing ML/TF risks, which include customer risks; business relationship risks; product or service risks (including the risk of misuse of technological developments), delivery channel risks; and geographic location risks (Items 3.2 and 3.3). However, this does not include transaction risk. It further stipulates that the findings of the NRA should be incorporated into the risk assessment, and that the assessment outcomes should enable the reporting entity to identify their high-risk customers in order to comply with the requirements to implement enhanced measures for such customers under CARO.

35. *1.10(c)* – The GGP requires the FI/DNDFBPs' designated AML/CFT compliance officers to ensure risk assessments are kept up to date (Item 2.11.1). There are no specific time frames attached to updating the risk assessments.

36. *1.10(d)* – There are no enforceable obligations on FIs and DNFBPs to have appropriate mechanisms to provide risk assessment information, including institutional risk assessments, to competent authorities. Section 26(b) and (c) of CARO may require FIs and DNFBPs to provide risk assessment information but the section can only be enforced in relation to a breach of CARO.

37. In practice, FIs and DNFBPs are required to provide risk assessment information to the AML/CFT supervision team of the FIU through the AML/CFT questionnaire. The information from

the FIs and DNFBPs are used to conduct institutional risk assessments and risk rank the entities. Currently there are no provisions in the Brunei law to enforce this requirement or address non-submission of the questionnaire.

38. *Criterion 1.11* - There are a number of enforceable requirements in the CARO (s.22(2)) for REs to implement risk mitigation controls. These are complemented by indirectly enforceable guidance, the GGP, as set out below.

39. *1.11(a)* – Section 22(2) of CARO requires FIs and DNFBPs to designate a compliance officer at the management level who shall be responsible for the implementation of and ongoing compliance with the AML/CFT obligations under CARO. This includes the requirement under section 22(1) of CARO for FIs or DNFBPs to develop and implement programmes to prevent ML and TF. Such programmes shall include internal policies, procedures and controls to fulfil obligations pursuant to CARO.

40. As noted in criterion 1.10 and 1.10(a) above, item 3 of the GGP outlines the requirements on FIs and DNFBPs to develop a risk assessment methodology in order to effectively identify and analyse ML/TF risks present within the entity and apply control measures that are commensurate with those identified risks. FIs and DNFBPs are also required to take into account the NRA findings in their own assessment.

41. Item 2.11.3 of the GGP clarifies the requirement on the senior management and/or the Board for approving and ensuring the AML/CFT policies and procedures are up-to-date. Further, FIs and DNFBPs are required to have in place written policies and procedures that specify the institutions' assessment and measures in place to address the risk exposure to the development of new products and business practices, including new delivery mechanisms and the use of new or developing technology for new and pre-existing products in line with section 22(1)(d) of CARO (item 2.17 GGP).

42. *1.11(b)* – Section 22(1)(e) of CARO requires independent audit arrangements to review and verify compliance with and effectiveness of the measures taken in accordance with this order which is applicable to the above sections. Further, even though specific requirements to enhance the controls were not observed in CARO, Brunei indicated any remedial actions highlighted by the audit (both internal and external) are monitored and followed up by the BDCB. If the remedial actions are not addressed and/or implemented by the financial institution, it would warrant supervisory action. This includes enforcement actions such as issuance of directions with associated penalties if specific actions are not met.

43. *1.11(c)* –FIs and DNFBPs are required to identify customers whose activities may pose high ML/TF risks and to exercise enhanced identification, verification and ongoing due diligence procedures for such customers (s.9(a), CARO).

44. FIs and DNFBPs are required to identify customers who pose a high risk for ML/TF and to apply enhanced measures on such customers (Items 5.1 – 5.3, GGP). In addition, reasonable measures for enhanced due diligence in relation to PEPs that are required by the BDCB are outlined in Item 5.12 of the GGP.

45. *Criterion 1.12* - . Simplified measures to manage and mitigate risks are not practiced in Brunei's AML/CFT legislation.

Weighting and Conclusion

46. Brunei has identified and assessed its ML/TF risks and has taken measures to share the findings of risk assessments with all the key stakeholders. Additionally, Brunei has implemented several risk mitigation responses through guidance, which is considered indirectly enforceable through directions issued by the FIU. Supervision of R.1 requirements has taken place, but has only commenced recently in 2020

Recommendation 1 is rated largely compliant.

Recommendation 2 - National Cooperation and Coordination

47. In the 2010 MER, Brunei was rated partially compliant with former R.31. The main deficiencies were the lack of effective use of policy-level coordination mechanisms to develop and implement AML/CFT policies and the lack of coordination mechanisms for AML/CFT at the operational level.

48. *Criterion 2.1* - Brunei's National AML/CFT Strategy sets out the commitment of the Government to prevent and detect ML and TF, the key focus areas to improve Brunei's AML/CFT regime and the responsibility of the NAMLC to oversee the identified key focus areas. The Strategy is scheduled to be reviewed every three years.

49. The progress of the Action Plan associated with the Strategy is updated during NAMLC meetings which are scheduled to be convened biannually. The 3rd cycle of the National Strategy commenced on 1 April 2017 and ended on 31 March 2020.

50. The National Strategy 2017–2019 incorporated the key findings of the NRA with the introduction of an Action Plan, which included 34 actions identified in the NRA 2016 (divided into seven objectives) and assigned responsible agencies and timeframes to complete the actions. At the time of the onsite, four of the 34 action items are still in progress. Two of these items relate to legislative amendments related to CFT and CARO, respectively. Further, two if the remaining action items relate to implementing countering proliferation finance for state and non-state actors up to international standards. Further, one of the actions out of 34 items is no longer applicable.

51. Progress reviews of the National Strategy were conducted throughout the 3rd cycle in 2017–2019. Given its recent expiry, the NAMLC extended the Strategy until 2022 to ensure that all action items are completed. The incomplete action items and additional priorities have been adopted as part of the extension of the current National Strategy.

52. *Criterion 2.2* The NAMLC was established in 2008 to develop, review, endorse and oversee the implementation of national policies on AML/CFT and to serve as the advisory and coordinating committee on matters relating to AML/CFT. Since 2018, the Chair of NAMLC is the Deputy Minister of Finance and Economy. The FIU acts as the NAMLC Secretariat and is responsible for the monitoring of the implementation and developments under the National AML/CFT Strategy.

53. The NAMLC reports to the Minister of Finance and Economy and includes nine agencies: MOFE, RBPF, BDCB, AGC, ACB, NCB, ISD, RCED and INRD.

54. *Criterion 2.3* The NAMLC is the mechanism to enable policymakers and competent authorities to cooperate and exchange information concerning the development and implementation of AML/CFT policies and activities. NAMLC meetings are to be held at least twice

a year but have only been held once a year in 2015—2017 and 2019. Two meetings were held in 2018, three in 2020 and one meetings each in 2021 and 2022.

55. Drafting of AML/CFT policies, including the National Strategies, is typically led by the NAMLC Secretariat under the direction of the Chair and in consultation with the other member agencies. Operational-level bilateral meetings are held on an ad hoc basis to facilitate the drafting process. The draft policies or strategies are then tabled at NAMLC meetings for endorsement.

56. Operational-level cooperation is achieved mainly through ad hoc bilateral meetings between the NAMLC agencies and through working committees to share information on operational matters. As the NAMLC Secretariat, the FIU organises bilateral meetings with the NAMLC agencies based on case-specific operational matters. These meetings are generally conducted to discuss the progress made in implementing the action points of the National AML/CFT Strategy, review cases reported to the FIU, and develop AML/CFT activities.

57. The NAMLC facilitates the coordination and exchange of information between members as well as regionally and internationally, and there are no provisions prohibiting information exchange between competent authorities. The FIU is able to receive information from other authorities, and competent authorities can ask for any information from the FIU that is held by the FIU or can be obtained by the FIU through IFIS (s.30(a)(i&ii) of the CARO). Additionally, the authorities can exchange information with each other informally and without any agreements or MOU. Information may be requested through formal letters. Further, the FIU may facilitate information sharing between agencies by arranging 'information-sharing' meetings between different agencies.

58. In addition, case-specific taskforces are also established on an ad hoc basis to cooperate and share intelligence, conduct assessments on existing potential threats and coordinate investigation efforts through a multi-discipline approach, primarily in relation to predicate offences. The taskforces include: FIU-RBPF-AGC to discuss intelligence related to a specific case of criminal activity, RBPF-AGC-FIU-Telecommunications sector to discuss information and offences related to vice and fraud; and FIU-RBPF Intelligence to conduct a multi-party risk assessment on viral scams. Additionally, in 2020 to 2021, Brunei formed the ad-hoc National Intelligence Estimates (NIE) on TF Taskforce, which was established under the Intelligence Working Committee (IWC) to assess the issue of TF threats to Brunei for inclusion into the NIE. These taskforces are continuing until the objectives are fulfilled and with the fulfilment of the objectives they could be dissolved.

59. The National Security Committee (NSC) is the national body on security matters in the country. It has initiatives that enable various relevant agencies to create working committees to share information on operational matters, such as those outlined below:

a) Intelligence Working Committee (IWC) provides a working platform to discuss and evaluate intelligence information and reports including national threat assessments and intelligence estimates;

b) Counter Terrorism Intelligence Working Group (CTIWG) is an operational taskforce comprising of intelligence agencies, that monitors terrorism and terrorism financing issues and cases in Brunei and prepares the national threat assessments and intelligence estimates for the IWC; and

c) Law Enforcement Working Committee (LEWC) provides a working-level platform for law enforcement agencies in Brunei to discuss and monitor the effectiveness of law enforcement in Brunei, and to discuss law enforcement strategies for recommendation to the NSC. The LEWC also coordinates nation-wide law enforcement operations that involves multiple domestic law enforcement agencies.

60. *Criterion 2.4* - Policy level cooperation and coordination mechanisms are in place and have operated to develop a draft legal framework to combat WMD proliferation financing (CPF). The NAMLC has developed a policy and supported inter-agency cooperation to prepare a draft legal framework the CPF Order 2022, but the order had not been issued as of the onsite visit. The AGC and the FIU, as NAMLC Secretariat, were the main agencies involved in drafting the Counter-Financing of the Proliferation Order 2022 with input from the Safety, Health and Environment National Authority, RCED, Ministry of Defence and Ministry of Foreign Affairs.

61. *Criterion 2.5* - Data protection and privacy and other similar provisions do not generally interfere with the coordination, cooperation and sharing of information for AML/CFT. Competent authorities are governed by the Official Secrets Act, Chapter 153 ("OSA"). The secrecy obligations under this Act do not prohibit sharing of information or cooperation between the authorities for AML/CFT purposes.

62. The FIU is bound by the confidentiality provisions under Section 32 of CARO. However, Section 33 allows the FIU to refer any report or information on ML, associated predicate offences or TF activities, to any domestic law enforcement agency or supervisory authority.

63. CARO and ATO have overriding provisions for AML/CFT obligations. Section 29 of the CARO overrides the secrecy and confidentiality obligations of FIs and DNFBPs for the purposes of fulfilling the AML/CFT obligations under CARO and Section 59(4) of the ATO overrides any restrictions upon the disclosure of information imposed by law, contract or rules of professional conduct, and requires all persons to disclose any terrorism or TF-related information to the RBPF.

Weighting and Conclusion

64. Brunei has taken a number of steps to improve national coordination and cooperation. Based on the findings of the NRA in 2016, a National AML/CFT Strategy and an associated Action Plan are in place and guide the implementation of AML/CFT measures. The NAMLC is the central coordinating mechanism, supplemented by ad-hoc taskforces. Brunei has used the NAMLC as the CPF policy coordination framework for CPF, but has not developed mechanisms for cooperation or coordination to implement CPF measures.

Recommendation 2 is rated largely compliant.

Recommendation 3 - Money laundering offence

65. In its 2010 MER, Brunei was rated partially compliant with the former R.1 and R.2 concerning criminalisation of money laundering. The main deficiencies included the limited coverage of serious offences as predicate offences for ML, not covering the 'use' of property which is proceeds of drug offences and the lack of proportionate and dissuasive financial penalties for legal persons. The 2012 follow-up report found that Brunei addressed many of the legislative gaps identified in the MER through the issue of the new Criminal Asset Recovery Order 2012 (CARO) and that the level of compliance with former R.1 was equivalent to LC. CARO was also found to have addressed some of the deficiencies in former R.2.

66. *Criterion 3.1* - ML is criminalised under section 3 of the CARO in line with the relevant articles of the Vienna and Palermo Conventions. Under the section, a person commits the offence of money laundering if the person:

a) engages, directly, or indirectly in a transaction that involves money, or property, that is the proceeds of crime;

b) acquires, receives, converts, exchanges, carries, possesses, conceals, uses, disposes of, remove from or brings into Brunei any money, or property that are proceeds of crime;

c) converts or transfers money or property derived directly or indirectly from a serious offence, with the aim of concealing or disguising the illicit origin of that money or property, or of aiding any person involved in the commission of the offence to evade the legal consequences thereof;

d) conceals or disguises the true nature, origin, location, disposition, movement, title of, rights with respect to or ownership of the property derived directly or indirectly by the commission of a serious offence; or

e) renders assistance to a person falling within paragraph (a), (b), (c) or (d).

67. The ML offence extends to situations where the person knows or has reasonable grounds to believe or suspect that the money or property is derived or realised directly or indirectly from the commission of an unlawful activity, or fails to take reasonable steps to ascertain whether the property is proceeds of crime.

68. *Criterion 3.2* - Predicate offences are defined as "serious offences" under section 2 of CARO. "Serious offence" means an offence against a provision of –

a) any written law of Brunei for which the maximum penalty is death, imprisonment for a term of not less than 6 months, fine of not less than BND1,000 (approx. USD 725) or more severe penalty; or

b) a written law of a foreign country, in relation to acts or omissions which, had they occurred in Brunei, would have constituted an offence for which the maximum penalty is imprisonment for a term of not less than 6 months or more severe penalty including an offence of a purely fiscal character.

69. A range of offences within each category of FATF designated offences fall within this threshold, but there are shortcomings. Brunei has criminalised the evasion of income taxes applicable to corporations under the Income Tax Act, and these provisions apply to foreign corporate income. As there are no income taxes applicable to individuals, similar provisions do not apply to personal foreign income of individuals. It is unclear to what extent foreign income tax offences, apart from corporate income taxes, are covered as predicate offences in Brunei. Further, while the Competition Order 2015 introduces offences for some anti-competitive behaviour, Brunei does not operate a stock exchange and there are no specific offences covering market manipulation as a predicate offence.

70. *Criterion 3.3* - Brunei utilises a threshold approach in determining predicate offences that can be subject to ML investigations and prosecutions. As per criterion 3.2, predicate offences are defined as "serious offences" under section 2 of CARO. The deficiencies related to the scope of predicate offences apply under this criterion.

71. *Criterion 3.4* - The ML offence extends to property which is defined under section 2 of CARO as assets of every kind, whether tangible or intangible, movable or immovable, however acquired. The definition of proceeds of crime is also contained under section 2 of CARO and includes any property or benefit derived or realised directly or indirectly from a serious offence.

72. *Criterion 3.5* - A conviction for a predicate offence is not necessary for proving that property is the proceeds of crime (section 3(2) of CARO).

73. *Criterion 3.6* - Part (b) of the definition of serious offence under CARO sets out that ML is punishable even if the predicate offence is conducted abroad, provided that the conduct would have constituted a serious offence if it had occurred in Brunei. The deficiencies related to the scope of predicate offences apply under this criterion.

74. *Criterion 3.7* - Section 3 of CARO is sufficiently wide in scope to cover self-laundering and it is possible to charge the accused with both the predicate and the ML offence.

75. *Criterion 3.8* - Under the common law principles applicable in Brunei, it is possible for the intent and knowledge required to prove the ML offence to be inferred from objective factual circumstances.

76. *Criterion 3.9* - Section 3 of CARO stipulates that anyone involved in money laundering activities is liable on conviction to a fine not exceeding BND500,000 (approximately USD 360,000), imprisonment for a term not exceeding 10 years, or both. The sanctions for natural persons convicted of ML offences are proportionate and dissuasive, being broadly in line with other similar offences, with the exception of drug trafficking offences where significantly higher penalties (including the death penalty) apply.

77. *Criterion 3.10* - Criminal liability and sanctions for ML apply to legal persons and are without prejudice to the criminal liability of natural persons (section 3 of CARO). A body corporate can be imposed with a fine not exceeding BND1,000,000 (approx. USD 720,000) if convicted. Even though these fines are double the applicable fines for natural persons, they may not be sufficiently dissuasive for legal persons. There are no express provisions under Brunei's laws that preclude parallel criminal, civil or administrative proceedings against legal persons. Such measures are also without prejudice to criminal liability of natural persons.

78. *Criterion 3.11* - There are ancillary offences to the ML offence: section 140 of CARO states that attempts, aiding and abetting, counselling and procuring the commission of the ML offence are covered. Section 120A and 120B of the Penal Code also allow for the offence of criminal conspiracy to be applied to the ML offence. For the ML offence, the punishment for criminal conspiracy is the same as for abetment under section 140 of CARO.

Weighting and Conclusion

79. Brunei meets most of the criteria; however, technical deficiencies remain in the coverage of the ML offence relating to foreign personal income tax offences and market manipulation. The available criminal sanctions for legal persons may not be sufficiently dissuasive.

Recommendation 3 is rated largely compliant.

Recommendation 4 - Confiscation and provisional measures

80. Brunei was rated partially compliant with former R.3 in the 2010 MER. The main deficiencies highlighted were: 1) the Criminal Conduct (Recovery of Proceeds) Order 2000 ("CCROP") had a narrow range or property subject to confiscation as it was limited to proceeds from offences with custodial sentences of more than five years; 2) the intended instrumentalities were not clearly covered; 3) very significant procedural shortcomings inhibited effective implementation of CCROP and Drug Trafficking (Recovery of Proceeds) Act 2000 ("DTROP"); and 4) while the CPC, MDA and PCA were utilised, there had been a complete lack of use of the CCROP or DTROP to restrain and confiscate laundered proceeds of crime. Brunei has since amended its forfeiture laws in June 2012, with the new Criminal Asset Recovery Order 2012 ("CARO") repealing and replacing overlapping instruments such as the CCROP, DTROP and Anti-Money Laundering Act, Chapter 209 ("AMLA").

81. The 2012 follow-up report found that Brunei had addressed the technical deficiencies identified in the 2010 MER through the issue of the CARO in 2012 and that the level of compliance with former R.3 was equivalent to LC.

82. *Criterion 4.1* - CARO allows for the application of confiscation orders against convicted offenders for tainted property or proceeds of crime (section 60); forfeiture of cash (section 45); benefit recovery orders (section 75); non-conviction based forfeiture orders (sections 83 and 84); and unexplained wealth orders (sections 89 and 90).

83. Confiscation orders under section 60 of CARO relate to "tainted property". Tainted property, in relation to a serious offence, is defined as follows:

a) property used in or in connection with or intended for use or in connection with the commission of the offence, if it was in the person's possession at the time of, or immediately after, the commission of the offence;

b) property derived, obtained or realised as a result of or in connection with the commission of an offence if it was acquired by the person before, during or within a reasonable time after the period of the commission of the offence of which the person is about to be charged, charged or convicted;

c) proceeds of crimes;

d) that the income of that person from sources unrelated to criminal activity of that person cannot reasonably account for the acquisition of that property; and

e) tainted property includes property of a corresponding value to property defined in paragraphs (a), (b), (c) and (d); or

f) property which, due to any circumstance such as, but not limited to, its nature, value, location or place of discovery, or the time, manner or place of its acquisition, or the person from whom it was acquired, or its proximity to other property referred to in the foregoing paragraphs, can be reasonably believed to be property falling within the scope of paragraph (a), (b), (c) or (d).

84. Section 2 of CARO further defines proceeds of crime as:

a) any property or benefit derived or realised directly or indirectly from a serious offence;

b) any property or benefit derived or realised from a disposal or other dealing with proceeds of a serious offence.

This includes, on a proportional basis, property into which any property derived or realised directly from the offence was later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived or realised from such property at any time since the offence; and any property used or intended to be used in the commission of any serious offence.

85. The definitions of 'tainted property' and 'proceeds of crime' are broadly drafted and would include the categories of property considered under this criterion, whether held by criminal defendants or third parties, namely property laundered, proceeds including income or other benefits, or instrumentalities used or intended for use in ML or predicate offences, and property of corresponding value.

86. The Anti-Terrorism Order 2011 ("ATO") creates many offences relating to financing terrorism and terrorist groups, including wide offences of the provision of property or services and a prohibition on dealing with terrorist funds. These offences all carry penalties that deem them a serious offence (imprisonment of 6 months or more, fine of not less than BND1,000 (approximately USD 720)) under the CARO, which may subject the property to confiscation.

87. In addition to CARO, Brunei also has various other supplementary legislation which allows for the confiscation of criminal proceeds and the instrumentalities of crime, including the Criminal Procedure Code ("CPC"), Prevention of Corruption Act ("PCA"), ATO, Societies Act,

Misuse of Drugs Act ("MDA"), Wild Flora and Fauna Order, and Customs Order. It is noted that confiscation orders under CARO are used particularly in cases involving high value property whereas the supplementary legislation are used where it involves predicate offences and when it is more cost effective to do so.

88. *Criterion 4.2 - (a) identify, trace and evaluate property that is subject to confiscation* - LEAs in Brunei have comprehensive powers to investigate matters that involve property that is subject to confiscation. These powers are contained in the CARO (Part VI sections 100-120), the CPC (sections 56-70) as well as various other legislations (including PCA, MDA and Customs Order), which enables competent authorities to identify, trace and evaluate property that is subject to forfeiture by providing broad categories of property subject to forfeiture, and the powers and duties of the law enforcement officers and agencies in exercising these seizure powers.

89. *Criterion 4.2 - (b) carry out provisional measures, such as freezing or seizing, to prevent any dealing transfer or disposal of property subject to confiscation* - The CARO contains comprehensive restraint and seizure provisions (sections 49, 50, 56) allowing authorised officers to seize cash based on suspicion it may be tainted property and prevent any dealing, transfer or disposal of property subject to confiscation (sections 111, 114, 115). "Tainted property" is broadly defined. Notably, the FIU has the power to freeze transactions for a specified period of time based on suspicion of ML, TF or a serious offence. Section 57 CARO criminalises contravention of a restraining order by disposing of or otherwise dealing with property that is subject to a restraining order. Section 115 CARO prohibits the disposal of property specified in the prohibition order without the consent of the public prosecutor and anybody who contravenes this section is guilty of a criminal offence.

90. *Criterion 4.2 - (c) take steps that will prevent or void actions that prejudice the country's ability to freeze or seize or recover property that is subject to confiscation* - The CARO allows the voiding of actions which may prejudice confiscation as the ultimate goal, as dealings with seized property after seizure (and as long as such seizure remains in force) are to be void (Sections 70 and 112). CARO ensures the validity of seizure, or sale in consequence thereof, are not affected by certain objections such as any objection relating to the manner in which the seizure or sale was effected, or any failure to conform to any procedural provision in effecting the seizure or sale (Section 113).

91. *Criterion 4.2 - (d) take any appropriate investigative measures* - Other investigative measures available are elaborated in R.31.

92. *Criterion 4.3* - Protection of third parties, including *bona fide* third parties, are provided for in the CARO. The protections are present at both the restraint (sections 52 and 53) and confiscation stages (section 71). Section 83(2) further provides for protection for *bona fide* third parties in the event of non-conviction based confiscation and section 47 provides protection for third parties in relation to seized and forfeited cash.

93. *Criterion 4.4* - The CARO contains provisions that provide for the management of restrained (section 53), seized (section 110 and 114) and confiscated property, including the establishment of a Criminal Assets Confiscation Fund (section 123) under the charge of the Permanent Secretary. The powers contained in the CARO (section 53) allow the Court to order an "authorised officer" or "any other person appointed by the Court" which provides a wide scope of persons whom may manage proceeds of crime assets, allowing people with specific expertise in different assets to manage those assets. The provisions set out the mechanisms for management of the property and the various specific purposes for which the property can be applied towards. Section 115 CARO prohibits the disposal of property specified in the prohibition order without the consent of the public prosecutor and anybody who contravenes this section is guilty of a criminal offence. Section 357 CPC sets out provisions for the disposal of property regarding which

any offence appears to have been committed, or which appears to have been used for the commission of any offence.

Weighting and Conclusion

Recommendation 4 is rated compliant.

Recommendation 5 - Terrorist financing offence

94. Brunei was rated partially compliant with former SRII in the MER 2010. Recommended actions included to extend the definition of terrorist act in Brunei to include those acts intended to influence an international organisation; redefine "property" to cover all species of funds used for TF and to be consistent with the international standards; criminalise TF committed by terrorist organisations; extend the TF offence to collecting funds to be used by terrorist organisation or by an individual terrorist; and to include TF as a predicate offence to money laundering. The 2012 FUR found compliance with former SR.II to be equivalent to LC.

95. Brunei has addressed many of the deficiencies by criminalising TF through the enactment of the ATO 2011. The ATO has been amended through the ATO (Amendment) Order 2012 (ATO (Amendment)), the ATO (Amendment) (No. 2) Order 2012 (ATO (Amendment No. 2)) and the ATO (Amendment) Order 2022.

96. *Criterion 5.1* - Brunei has criminalised TF through sections 4 to 8 of the ATO coupled with the amendments made to section 4 by the ATO (Amendment) Order 2012. Section 4 criminalises the provision, collection, receiving, possession or making available by any means, directly or indirectly, of property with the intention, knowing, or having reasonable grounds to suspect that the property will be used in whole or in part to commit a terrorist act, by a terrorist group or by a terrorist. The definition of "property" (as expanded by the ATO (Amendment) (No.2) Order 2012 and ATO (Amendment) Order 2022) is commensurate with the TF Convention definition of "funds", mirroring the requirements and providing an expanded list of different forms of property.

97. Further offences under sections 5 to 8 criminalise the provision of services and use of property for terrorist purposes, the arrangement for acquisition, retention or control of terrorist property and dealing with terrorist property.

98. The definition of "terrorist act" is in line with the TF Convention, however it is not clear that financing all acts which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex to the TF convention, as Brunei is not party to all the annexed treaties. Brunei is not yet a party to the Convention on the Physical Protection of Nuclear Material although Brunei has enacted the Radiation Protection Order 2018. It is unclear whether the prohibitions against the handling of 'radioactive material' under the Radiation Protection Order 2018 is sufficiently wide to capture the definition of 'nuclear material' under the Convention. Art 7(1)(d) of the Convention which refers to an act which constitutes the carrying, sending, or moving of nuclear material into or out of a State without lawful authority is addressed within section 6 of the Radiation Protection Order 2018 on control of import, export etc. of radioactive materials. Art 7(1)(a) of the Convention is partly criminalised to the extent that the possession, transfer or disposal of nuclear material without lawful authority is an offence under section 12 of the Radiation Protection Order 2018 for "disposal of radioactive waste" and section 15 of the Radiation Protection Order 2018 for "transport of radioactive waste". Nevertheless, specific provisions on nuclear materials are not available for Art 7(1)(b), (c), (f), (g) and (h) of the Convention.

99. *Criterion 5.2* - Any person who provides, collects, receives, possesses or makes available by any means, directly or indirectly, any property, intending, knowing or having reasonable grounds to know or suspect that the property will be used in whole or in part to commit or facilitate the commission of a terrorist act, or to be used by a terrorist group or by a terrorist is guilty of an offence (Section 4(1) of ATO (amended)). The ATO (as amended) confirms that a person commits a TF offence (Section 4(2)) even if:

a) a terrorist act does not occur;
b) the funds will not be used to facilitate, or to engage in, a specific terrorist act; or
c) the funds will be used to facilitate, or to engage in, more than one terrorist act.

100. *Criterion 5.2bis* - Section 5 of the ATO has been updated by the Anti-Terrorism (Amendment) Order 2022 which came into effect on 1 November 2022 to address the requirement under this criterion, thereby meeting the requirement. TF offences now explicitly criminalise the financing of travel of individuals for the purposes of terrorism. This includes the perpetration, planning, or perpetration of, or participation in, terrorist acts or the providing or receiving of terrorist training.

101. *Criterion 5.3* - The use of the phrase "however acquired" in the definition of property under section 2 ATO is theoretically sufficiently broad to include funds or assets from both legitimate and illegitimate sources. Notwithstanding, the interpretation in relation to TF is yet to be tested in Brunei.

102. *Criterion 5.4* - Section 4(2) of the ATO (as amended) specifically provides that TF offences should not require that the funds or other assets: (a) were actually used to carry out or attempt a terrorist act(s); or (b) be linked to a specific terrorist act(s).

103. *Criterion 5.5* - There is no legislative provision which expressly states that the intent and knowledge of proving an offense of TF is to be inferred from objective factual circumstances. However, it is a fundamental principle of Brunei law that the intentional element of any crime may be inferred from objective factual circumstances. Brunei authorities referred the team to the case of Ramzidah binti PDKDK Hj Abdul Rahman and 1 other (see HCCT/11/2018).

104. *Criterion 5.6* - Persons guilty of a TF offence under Section 4 of the ATO (Amendment) or Sections 5 to 8 of the ATO are liable on conviction to a fine not exceeding BND5,000,000 (approximately USD 3.6m), imprisonment for a term not exceeding 30 years or both. The significant criminal sanctions are sufficiently dissuasive and proportionate.

105. *Criterion 5.7* - Legal persons are expressly liable in the same manner and extent as natural persons for TF under section 4 of ATO as section 2 of ATO (Amendment no.2) specifies that the definition of 'person' extends to entities. Although there is no express legislative provision that criminal sanctions against the legal person are without prejudice to the criminal liability of natural persons, Brunei has stated that the Attorney General has unfettered discretion to initiate prosecutions against both legal and natural persons. The maximum fine for a legal person is the same as natural persons at BND5,000,000 (approximately USD 3.6m), and may not be sufficiently dissuasive.

106. *Criterion 5.8* - Ancillary offences to the TF offence are found in both the ATO (at section 57) and also the relevant provisions of the Penal Code at Chapter V which applies across all written laws of Brunei. The ancillary offences also apply to attempted TF offences due to the fact that section 58 of the ATO creates an offence of attempting any offence punishable under the Act. Further, the ATO definition of a *terrorism financing offence* covers attempts to commit an offence, conspiracy, inciting others, aiding, abetting, counselling or procuring the commission of a TF offence.

107. *Criterion 5.9* - The TF offences are predicate offences for ML as they constitute a "serious offence" for the purpose of CARO.

108. *Criterion 5.10* - The definition of 'terrorist act' in section 2 ATO includes conduct in or outside of Brunei and therefore the TF offence would substantively apply to the funding of terrorists and terrorism outside of Brunei. However, the TF offence does not cover financing related to the conduct within the Convention on the Physical Protection of Nuclear Material.

Weighting and Conclusion

109. Brunei has addressed many of the deficiencies by criminalising TF through the enactment of the Anti-Terrorism Order (ATO) 2011 and subsequent amendment orders (latest amendment being in 2022). However, some minor deficiencies still remain. Whether the definition of 'property' includes funds from both legitimate and illegitimate sources is yet to be tested in Brunei, and the criminal sanctions against legal persons may not be sufficiently dissuasive. It is not clear that financing all acts which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex to the TF convention as Brunei is not yet a party to the Convention on the Physical Protection of Nuclear Material. This is not weighted heavily in the context of Brunei.

Recommendation 5 is rated largely compliant.

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

110. In the 2010 MER, SR.III was rated Partially Compliant. The MER identified a variety of issues including a lack of statutory powers to give directions to FIs regarding freezing designees' funds without delay pursuant to UNSCR 1267, issues relating to legal and procedural frameworks for implementation of UNSCR 1373, lack of guidance given to FIs and entities which may hold designees' assets regarding their obligations to take action and freeze, lack of procedures for de-listing and unfreezing delisted persons' property in a timely fashion, and lack of procedures for person to challenge frozen property before the courts. While the 2012 follow-up report determined no progress had been made, this Recommendation was ultimately re-rated Largely Compliant due to progress made in the course of the 2016 and 2017 follow-up reviews.

Criterion 6.1

111. *c.6.1(a)* - While there is no explicit designation of a competent authority or court for responsibility to propose persons or entities to the 1267/1989 and 1988 Committees for designation, the UNSCR Guidance (pp. 17-20, 21-24) issued by BDCB sets out that the intelligence and LE member-agencies of the National Security Committee (NSC) may freely propose designees to the NSC and ultimately the Minister responsible for anti-terrorism matters and in turn for that Minister to have the authority to propose designation to the relevant Committee. This Guidance operates jointly with Regulation 11(1) of the TFR 2013, which allows for the Government of Brunei to propose designation to the 1267/1989 and 1988 Committees.

112. *c.6.1(b)* - Brunei has mechanisms for the identification of targets for designation, pursuant to a legal requirement for this work to comply with the procedures laid out in UNSCR 1988 and 1989 and their successor resolutions (Regulation 11, TFR 2013). The UNSCR Guidance issued by the BDCB in 2016 (pp. 23) establishes procedures for determining whether proposed targets merit designation based on the UNSCR listing criteria (pp. 17). It involves intelligence collection by the CTIWG (comprising of Brunei's intelligence agencies, FIU and LEAs), assessment by the Intelligence Working Committee and NSC, and final approval by the Minister responsible for anti-terrorism matters.

113. *c.6.1.(c)* - The UNSCR Guidance (pp. 18, 22) explicitly states the CTIWG must collect all relevant information and assess whether a subject meets the criteria for listing under a specific UNSCR on the basis of reasonable grounds. There is no provision in the Guidance that makes proposals for designation contingent on existing criminal proceedings.

114. *c.6.1(d)* - Proposed designations are required to comply with the procedures established in the relevant UNSCR (Regulation 11(3), TFR 2013). The UNSCR Guidance (pp. 20-21) specifies the NSC should complete the relevant standard forms for listing whether in relation to UNSCR 1267/1989/2253 or 1988, which are annexed in that Guidance.

115. *c.6.1(e)* - A detailed statement for a proposed designation is required to accompany any name put to the abovementioned mechanism outlined in c.6.1(b) (Regulation 11(2), TFR 2013). This requirement is clarified in the UNSCR Guidance (pp. 18, 22) to include specific findings and reasoning demonstrating the relevant listing criteria are met by the proposed designee; information about any other relevant acts or activities associated with the proposed designee; details of any connection with a currently-listed designee; supporting evidence and documents; and the source of the supporting information (e.g. whether from intelligence, law enforcement, judiciary, the media, or admissions from the proposed designee).

116. However, Brunei has indicated it prefers not to disclose its designating state status.

Criterion 6.2

117. *c.6.2(a)* - The Minister responsible for anti-terrorism matters has authority to designate persons or entities that meet the criteria set forth in UNSCR 1373 whether put forward on Brunei's own motion or at the request of another country (Regulations 6(1) and 7(1), TFR 2013).

118. *c.6.2(b)* - The mechanism for proposing designations set out under c.6.1(b) applies. This designation is taken place according to the designation criteria of UNSCR (pp. 14)

119. *c.6.2(c)* - A foreign country can make a request through the Ministry of Foreign Affairs, which then routes it to the NSC Secretariat for assessment as per the mechanism set out in c.6.1(b) (Regulation 7(1), TFR 2013; UNSCR Guidance). There is no specific time frame attached to the "prompt determination" as it could depend on case by case basis and there has been no request received by Brunei in the last five years to assess the time taken in practice.

120. *c.6.2(d)* - As per c.6.1(c), the evidentiary threshold of reasonable grounds or a reasonable basis applies to the decision of proposing a designation. Proposals for designations whether in the specific case of UNSCR 1373 or otherwise are not contingent on existing criminal proceedings.

121. *c.6.2(e)* - There is a general direction (UNSCR Guidance, pp.13) for Brunei authorities to provide as much identifying information as possible upon designation, and to update as more identifying information becomes available. Brunei has not requested another country to give effect to actions initiated under UNSCR 1373's freezing mechanisms, but it states in practice it would apply the abovementioned direction in the UNSCR Guidance whether in a domestic context or if requesting another jurisdiction.

Criterion 6.3

122. *c.6.3(a)* - As per c.6.1(b) and c.6.2(b), member agencies of the NSC—which include the RBPF and ISD—are able to identify potential targets for designation (UNSCR Guidance, pp. 13). They have investigative powers which allow them to collect and solicit information for identifying persons which meet designation criteria (Part III of the ATO).

123. *c.6.3(b)* - There are no express provisions or mechanisms that require/allow authorities to operate *ex parte* against proposed designees, however, Brunei can implicitly operate *ex parte* against a potential designee. In Brunei no designation is invalid because its subject was not given notice nor a chance to comment whether it should be made, nor because notice of the designation was not given (Regulation 9(4), TFR 2013). In practice there is no requirement to notify a proposed designee when they are being considered for designation and notification is only required to be given post-designation (UNSCR Guidance, pp. 25-6).

124. *Criterion 6.4* - Brunei implements TFS without delay.

125. A *de facto* obligation to immediately freeze is effected through a general prohibition for any person located in Brunei, or a citizen located outside of Brunei to deal with designees' property, to be involved in transactions with designees, to provide financial services to them, or to make any property or service available for their benefit (Regulation 4, TFR 2013).

126. The definition of "designated person" (ATO Amendment No. 2, 2012) automatically incorporates persons or entities designated under the 1267/1989, 1988, 1373 and domestic sanctions regime. Any changes to these lists come into force immediately.

127. Additionally, REs are expected to proactively screen new and existing customers on a regular basis and to freeze a designee's property immediately (Art. 7, Guidance on Obligations under the TFR).

128. Any person or entity (who may not be a reporting entity) that has knowledge that they may be dealing with terrorist property are also required to cease such dealings immediately under Regulation 4 of the TFR 2013. To further support this immediate cessation, according to Regulation 19 of the TFR 2013, REs and non-reporting entities, who suspect they may be dealing with a designated person or a designated person's property, to submit an application to the FIU to confirm the matter. The FIU shall inform the authority, and the authority shall issue a notice of restriction to the concerned party in control of that property to ensure that it continues to be frozen. This process occurs within the same day upon knowledge received that a concerned party is in control of terrorist property. Item 16 of the Guidance on Obligations under the Anti-Terrorism (TF) Obligations requires freezing without delay, noting that this should not be postponed until confirmation from the FIU. Non-compliance with the letter is a breach of Regulations 3, 4, and 5 of the TFR, 2013.

129. The UNSCR Guidance (pp. 26) sets out that the MoFA is to inform the Minister responsible for anti-terrorism matters, the NSC, and the FIU of any changes to the 1267/1989/2253 or 1988 Committees' listings. The FIU also receives a notification on UN designations directly via email.

130. The existing regulation implement TF TFS without delay despite the lack of an explicit legal provision. The FIU is responsible for maintaining the BDCB Consolidated List which contains domestic designees as well as those set out in the UN sanctions lists, and to ensure an electronic version is publicly-available online (Regulation 16(1) and (2), TFR 2013). The FIU subscribes to the UNSCR list and is notified via email of any changes and this email is automatically forwarded to all REs. In practice the FIU updates the list within hours of any change and distributes it to the public and REs via the FIU website and email in a matter of hours to notify that the list has been updated. If a reporting entity has reasonable grounds to suspect or believe they are dealing with a designee, they are required to identify and immediately freeze funds or assets which belong to them.

Criterion 6.5

131. *c.6.5(a)* - All persons—whether natural or legal—are prohibited from dealing directly or indirectly in a designee's property (Regulation 4, TFR 2013). This includes funds derived or generated from property owned or controlled, directly or indirectly, by that designee. This prohibition constitutes a de facto freeze on funds or other assets of a designee, as they prohibit the transfer, conversion, disposition, or movement of any fund or other assets that are owned/controlled by a designee. Custody remains with the persons or entity who would otherwise deal with the funds or assets in question.

132. *c.6.5(b)(i)* There is an obligation to freeze all property (Regulation 4, TFR 2013).

133. *c.6.5(b)(ii)* Freezing obligations extend to property wholly or jointly owned or controlled by a designated person or entity.

134. *c.6.5(b)(iii)* In the case of contractual dealings, any property owned or controlled in part or in fully by a designee that continues to produce benefit shall be frozen (Regulation 17 (2), TFR, 2013).

135. *c.6.5(b)(iv)* Obligations extend to freezing any property of persons and entities acting on behalf or at the direction of a designated person or entity (Regulation 4, TFR 2013).

136. *c.6.5(c)* - Natural and legal persons in Brunei and citizens located outside of the country are prohibited from most of the actions in line with this sub-criterion Regulation 4(c)-(e), TFR 2013). In addition, the 2022 ATO amendments (s.8(1)(d)) impose a comprehensive prohibition that prevents natural and legal persons in Brunei and citizens located outside of the country from making property, or financial or other related services, available, directly or indirectly, wholly or jointly, for the benefit of a designee, or for persons and entities acting on behalf of, or at the direction of a designee.

137. In line with the relevant UNSCRs, the Minister may grant an authorisation, which is published in the gazette, to undertake any specified activity or transaction or a class of specified activities or transactions carried that would otherwise be prohibited under the revised ATO (2022 ATO amendments (s.8(2)).

138. *c.6.5(d)* - The FIU is the competent authority responsible for TF TFS implementation, including communicating designations and providing guidance to implementing parties. The FIU maintains a consolidated list of designated persons which is made available to the public via the BDCB website. Updates to the list are communicated to FIs and DNFBPs via the FIU IFIS and the email received from the UNSC is also automatically forwarded to REs (see c.6.4 above). The FIU's TFR Guidance, issued to FIs and DNFBPs supervised by BDCB, sets out clear guidance to REs to search for and identify designees' property, to be able to identify and report false positives, conduct freezing without delay, and submit STRs to the FIU.

139. *c.6.5(e)* - REs are obliged to file STRs if there is a suspicion or reasonable basis to suspect a transaction may have linkage to or be used for, terrorism, terrorist acts, terrorists, terrorist groups, or those who finance terrorism (S. 47(1), ATO)

140. Regulation 20(c) of the TFR requires FIs and DNFBPs to report any assets that are frozen or actions taken in compliance with the prohibition requirements of the relevant UNSCRs including attempted transactions.

141. *c6.5(f)* - The rights of *bona fide* third parties are established under Regulation 21 of the TFR, which allows access to property on reasonable grounds after the appropriate Authority is satisfied of their claim.

Criterion 6.6 -

142. *c.6.6(a)* - There are publicly-known procedures in place for submitting de-listing requests relating to the various UNSCRs, whether in relation to the UN Office of the Ombudsperson regarding the 1267/1989 list or the UN Focal Point mechanism in relation to the 1988 lists (Regulations 13 to 15, TFR 2013) in line with the procedures adopted by the 1267/1989 Committee or the 1988 Committee, as appropriate. The Government of Brunei can also apply to remove names from either list directly to the relevant UN Sanctions Committee on behalf of a designee that is a Brunei citizen (Regulation 13(3), TFR 2013).

143. *c.6.6(b)* - There are publicly-known procedures in place to de-list and unfreeze the funds or other assets of persons and entities which do not or no longer meet designation criteria as per UNSCR 1373 (Regulation 8, TFR 2013). A designation made by the Minister responsible for anti-terrorism matters, pursuant to Regulations 6 and 7 of the TFR 2013, expires at the end of three years unless they are renewed should the designee still meet the relevant criteria. The Minister can vary or revoke a designation at any time when a designee no longer meets the relevant criteria (Regulation 8(3), TFR 2013).

144. *c.6.6(c)* - There is legal basis for a person designated under Regulation 6(1) and 7(1) of the TFR to apply to revoke their designation (Regulation 8(4), TFR 2013), and to petition the Minister responsible for anti-terrorism matters (Regulation 10(1), TFR 2013). Procedurally, there is publicly-known guidance on the process for submitting petitions to de-list in line with the UNSCR 1373 mechanism (UNSCR Guidance, pp. 28-30) and to appeal for removal from Brunei's Consolidated List (BDCB CFT FAQ 10).

145. However, there are no procedures to allow review, upon request, of the designation decision before a court or other independent competent authority. The Minister responsible for anti-terrorism matters can form a committee to consider petitions to revoke the designation, and on their own accord or at the committee's recommendation make a decision to retain or revoke the designation (Regulation 10(2) to (4), TFR 2013).

146. *c.6.6(d)* - There are publicly-known procedures in place for petitioning to de-list and unfreeze funds or other assets of designees who do not or no longer meet designation criteria, but there is no scope under the TFR 2013 to allow the 1988 Committee to review in accordance with any applicable guidelines or procedures adopted by said committee. However, there is scope for the person whose name is included in the 1988 Sanctions List or the legal representative or estate of this person's to apply for revocation of designation through the Focal Point mechanism under UNSCR 1730 (Regulation 13(2)(b)(ii), TFR 2013).

147. *c.6.6(e)* - The UNSCR Guidance (pp. 31) provides publicly-available information on the availability of the UN Office of the Ombudsperson to accept de-listing petitions.

148. *c.6.6(f)* - There is a publicly-known procedure for a person subject to a false positive to lift a freezing order. According to the UNSCR Guidance (pp. 44), a person in control of frozen property can petition the FIU in writing to consider whether they are subject to a false positive supported with documentary evidence of their identity and a detailed statement. This procedure is also publicly-available on the BDCB website's Frequently Asked Questions page. Additionally, the TFR Guidance (pp. 4-6) advises REs to be aware of false positives, and sets out procedures for obtaining BDCB assistance to determine whether a person is truly a designee.

149. *c.6.6(g)* - The FIU immediately updates the BDCB Consolidated List upon being notified of a de-listing, and updates an electronic copy available on the FIU's website and advises all REs via email. The FIU has an SOP on this process requiring it to be completed within 24 hours. However, there is no guidance to REs on their obligations to respect a de-listing or unfreezing action.

150. *Criterion 6.7* - There are detailed controls for accessing frozen funds and other assets in line with UNSCR 1452 (Regulation 14, TFR 2013) for the purpose of meeting basic and extraordinary expenses as well as contractual obligations. A designee can petition for exemption for basic and extraordinary expenses (Regulation 18, TFR 2013) subject to approval from the relevant UN Sanctions Committee. The UNSCR Guidance (pp. 38-9) clarifies the abovementioned regulations also apply in the case of UNSCR 1373.

Weighting and Conclusion

151. Brunei has a comprehensive legislative framework to give immediate effect to designations pursuant to UNSC Resolutions 1267/1989 and 1988, and to meet the requirements pursuant to UNSCR 1373. There are some deficiencies related to de-listing and unfreezing.

Recommendation 6 is rated largely compliant.

Recommendation 7 – Targeted Financial sanctions related to proliferation

152. The financing of proliferation is a new Recommendation added in 2012.

153. *Criterion 7.1* – In the absence of a legal framework, Brunei does not implement proliferation financing targeted financial sanctions (PF TFS) without delay.

154. *Criterion 7.2* –Brunei has not established the necessary legal authority nor have the competent authorities responsible for the implementation and enforcement of PF TFS been identified. There are no obligations on natural and legal persons to freeze the funds and other assets of designated persons or entities.

155. *Criterion 7.3* – In the absence of a legal framework for PF TFS, there are no measures for monitoring and ensuring compliance by REs.

156. *Criterion 7.4* – There are no publicly known procedures in place to submit delisting requests of those who do not or no longer meet the criteria of designation, including a procedure to unfreeze funds or assets in the case of false positives or a procedure to authorise access to funds or assets in accordance with the relevant procedures in the UNSCRs.

157. *Criterion 7.5* – In the absence of a legal framework for PF TFS, there are no relevant measures to permit addition of interest or other earnings due, or to make a payment due under a contract entered into prior to designation.

Weighting and Conclusion

158. Brunei does not have measures in place to implement PF TFS in order to comply with the relevant UNSCRs.

Recommendation 7 is rated non-compliant.

Recommendation 8 – Non-profit organisations

159. In its 2010 MER, Brunei was rated PC with the former SR VIII on the basis that lack of review to assess the sector's potential vulnerabilities to terrorist financing, lack of effective monitoring of the sector, lack of outreach to NPOs regarding specific vulnerabilities to abuse and no clear obligations for record keeping by Societies.

Criterion 8.1 -

160. *8.1(a)* – Brunei completed a review of its NPO sector in 2020, and a targeted review of five NPOs registered under the Companies Act in 2022. As part of this the authorities surveyed the NPO sector to determine the subset of organisations that fall under the FATF definition of NPO including:

- Societies registered under the Societies Act (Chapter 203). There are 544 registered societies regulated by the ROS, of which the charities/welfare, education, youth, and religious NPOs, 163 in total, are likely to be at risk of TF abuse and fall within the FATF definition to be at risk of TF abuse.
- Not-for-profit companies limited by guarantee registered under the Companies Act (Chapter 39). There is one registered company limited by guarantee regulated by the ROCBN that meets the FATF definition of NPO to be at risk of TF abuse
- Collection and distribution of *zakat* under the Religious Council and Kadis Courts Act (Chapter 77, s. 114 to 121). The Religious Council is a government body with the power to collect, manage and distribute all *zakat* and *fitrah* payments in Brunei. The Religious Council is not considered to be an NPO sector body and zakat does not fall within the FATF definition.

161. *8.1(b)* – Brunei has analysed the NPO sector's TF risks through the 2016 NRA and the FICG Regional Risk Assessment (RRA) on Non-Profit Organizations and Charities for Terrorism Financing 2017. The 2017 NPO RRA analyses the NPO sectors and high risk NPO subsets for ASEAN, Australia and New Zealand region.

162. The 2016 NRA identified that Brunei's main TF threats come from local individuals who are suspected to be sympathisers of radical groups as well as foreign individuals who are suspected to have links to regional terrorists and militant groups. These individuals were found to have used funds from legitimate sources, and have used the remittance or banking sectors to send funds to beneficiaries in the Southeast Asian region known to have the presence of militant or terrorist groups. There is also a TF risk that arises from individuals sending remittances to high risk jurisdictions outside of Southeast Asia. These actors pose a threat to NPOs and may turn to NPOs to channel funds overseas for terrorism financing purposes.

163. The 2017 NPO RRA identified that for Brunei, the TF threat level to the NPO sector is low, while the regional threat level was deemed to be medium.

164. The 2020 NPO Sector Review considered the previous risk assessments, as well as the 2020 TF Risk Assessment update and identified that for Brunei, the TF threat level to the NPO sector has changed from a medium rating to a medium-low rating. Brunei identified the nature of threats posed by NPOs carrying out humanitarian and financial aid to high-risk TF jurisdictions. The 2020 NPO Sector Review also noted the continuing threat posed by local individuals who may be sympathisers of radical groups who may use NPOs to divert funds for TF purposes.

165. 8.1(c) – Brunei has reviewed the adequacy of measures that relate to the subset of NPOs that may be abused for TF support. It was noted this work is part of the 2020 NPO Sector Review.

Brunei has reviewed the adequacy of measures, including laws and regulations that relate to the subset of the NPO sector that may be abused for TF support in order to be able to take proportionate and effective actions to address the risks identified. Actions taken include registration screening, background checks, mandatory annual filings and review, and encouraging accountability, integrity and public confidence through good governance.

166. *8.1(d)* – Brunei has conducted assessments during 2016 and 2017 and 2020 of the NPO sector as follows:

Year	Scope of assessment
2016	National (FIU, BDCB as coordinator) – Brunei NRA on ML & TF. In the TF Risk Assessment, a brief assessment of the NPO sector identified and acknowledged the potential TF vulnerabilities associated with the NPO sector in Brunei.
2017	FIU, BDCB - Brunei, in partnership with the Australia's AUSTRAC and Indonesia's PPATK, led the FICG Regional Risk Assessment on NPOs and charities for TF, which identified the emerging TF risks for the NPO sector across the ASEAN, Australia and New Zealand region.
2020	National (FIU, BDCB as coordinator) - NPO Sector Review
2022	Targeted review of the five companies limited by guarantee identified in the 2020 NPO Sector Review

Criterion 8.2

167. *8.2(a)* - The Subscriptions Control Act, the Societies Act and the Companies Act include provisions related to NPOs:

a) The provisions available in the Societies Act are comprehensive and adequate to supervise and monitor NPOs, which are overwhelmingly identified to be Societies registered under the Societies Act. Societies are required to submit information to the Registrar annually and as needed using the prescribed forms.

b) In terms of governance, the Societies Act itself acts as the primary code of governance for societies to adhere to as it provides for a broad range of binding requirements and (as outlined further below) sanctions for non-compliance, including to suspend societies, disqualify office bearers, and dissolve a society.

c) For NPOs that are companies by limited guarantee, the Companies Act contains provisions to promote accountability, integrity and public confidence in NPOs as analysed in the NPO Sector Review.

d) The Minister of Finance has powers to remove, replace or appoint such directors or additional directors of any company in unusual circumstance which impacts public interest and society.

e) In terms of financial accountability, the ROCBN does not monitor the collection and dispersion of funds carried out by incorporated companies that are NPOs. However, they are required to keep books of accounts with respect to: all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place; all sales and purchases of goods by the company; the assets and liabilities of the company.

168. *8.2(b)* -Brunei has undertaken some outreach and educational programmes in accordance with the 2022 awareness outreach action plan. This outreach plan, includes issuing

awareness flyer for NPOs, conducting of onsite visit to NPOs registered as societies, publishing awareness material on the ROS website and organising workshops with NPOs on good governance. These programmes are designed to increase NPOs awareness and capacity to protect them from TF abuse. No activities have been undertaken to raise awareness among the donor community of the vulnerabilities of NPOs to TF.

169. *8.2(c)* - The ROS has engaged with NPOs on their proposed activities on a case-by-case basis and provided some guidance on best practices to protect them from TF abuse. In April 2021, a one-page flyer was issued by the ROS to all registered societies regarding the TF risks associated with NPOs. The ROS has also conducted a range of engagement work with NPOs and issued a best practices document to all NPOs titled Building Resilience – Guide to Protecting NPOs from TF Abuse in October 2022. The ROCBN has not worked with NPOs registered under the Companies Act on best practices outside of the requirements for all legal persons.

170. *8.2(d)* - Work is in progress for ROS to develop guidance or advisories related to the conduct of transactions by NPOs as part of awareness raising. The awareness flyer issued in April 2021 advised societies that conducting transactions via regulated financial channels was best practice in mitigating TF risks, and similar advice issued during the October 2022 workshop on NPO good governance. The workshop organised on October 2022 and the best practices handbook circulated to NPOs also provided advice to NPOs on conducting transactions through regulated financial channels. The ROCBN has not worked with NPOs registered under the Companies Act on conducting transactions via regulated financial channels.

171. *Criterion 8.3* -All societies in Brunei are required to be registered under the Societies Act. This allows information on NPOs to be maintained and made available to competent authorities and to maintain information on their activities and office bearers. All societies in Brunei are required to keep annual financial statements and to submit them to the ROS, and to furnish the ROS with reports on how funds are accounted for and spent in a manner consistent with the NPO's stated activities. The ROS applies a higher level of scrutiny of reports from the 163 at-risk NPOs under its purview than other societies.

172. To address risk associated with foreign donations, societies are not allowed to have any affiliation with overseas parties without the express written permission of the Registrar (s.19, Societies Act). Societies are required to document the identities of both donors and beneficiaries, including foreign ones. The ROS requires registered societies to provide information of the identities of domestic donors and beneficiaries under the Societies Act.

173. Between December 2020 and June 2022, the NAMLC held a series of workshops with government agencies and relevant societies to increase understanding of the findings of the NPO Sector Review and apply a risk-based approach to monitoring. In October 2022, the NAMLC Secretariat also coordinated a capacity building workshop on FATF Recommendation 8 & the NPO Sector Review for ROS, ROCBN and the FIU.

174. ROCBN maintains minimal oversight over the NPOs that are limited by guarantee, and this oversight is limited to requirements under the Companies Act.

Criterion 8.4

175. *8.4(a)* - The ROS has the authority to monitor the compliance of registered societies with the requirements of the Societies Act. The ROCBN has the authority to monitor not-for-profit companies limited by guarantee, primarily through review of annual returns, but only in keeping with the requirements under the Companies Act.

176. Since 2005, ROS has cancelled the registration of 68 societies due to failures to furnish their annual returns to the ROS under section 22 of the Societies Act.

177. 8.4(b) – Brunei imposes penalties under the Societies Act for breach of requirements, including penalties upon 'unlawful societies' and their office bearers. The Societies Act makes it a criminal offence to be an officer bearer of an unlawful society (s. 30), and sets out penalties for this offence. The maximum penalty liable on conviction is a fine not exceeding BND 15,000 (approx. USD 10,800) or imprisonment for a term not exceeding 5 years. Paying money for the purposes of an unlawful society is also an offence under s.42 of the Societies Act. The ROCBN has powers to refuse registration of a new company if it is satisfied that the proposed company is likely to be used for an unlawful purpose or for purposes prejudicial to public peace, welfare or good order in Brunei, or if it would be contrary to national security (s. 19A, Companies Act).

178. The Societies Act provides the ROS with powers to cancel the registration (s. 13), suspend activities (s. 17) or dissolve NPOs (s. 22(9)). The Societies Act provides a penalty for persons who furnish false information, liable on conviction to a fine not exceeding BND 5,000, imprisonment for a term not exceeding 2 years or both (Section 51). Act also provides a general penalty for offences on conviction to a fine not exceeding BND 10,000, imprisonment for a term not exceeding 3 years or both (s. 51). These sanctions are considered to be effective, proportionate and dissuasive.

Criterion 8.5

179. *8.5(a)* –The ROS may share relevant information on NPOs to the CTIWG through the Department of Criminal Intelligence (DCI) of the RBPF. This may happen on request or spontaneously, as both the ROS and the DCI are under the RBPF. In the event that any information is needed on NPOs that are companies, the FIU has direct access to ROCBN system and may seek this information at any time from an assigned focal person at the ROCBN.

180. The CTIWG coordinates and conducts information sharing related to terrorism and TF matters between six national intelligence agencies on terrorism and TF cases on the operational level.

181. CTIWG has coordinated and conducted information sharing on NPO related incidents:

- Monitoring of individuals that have sent funds to a high risk NPO based overseas
- Monitoring of a local NPO that collects donations in Brunei to be taken overseas.

182. *8.5(b)* – To assist with investigations on NPOs suspected of either being exploited by, or supporting terrorist organisations, powers are conferred under section 32 of the Societies Act for entry and search including powers to seize and detain any article found. Section 33 outlines the power of the registrar or an assistant registrar to summon witness and to investigate.

183. The ATO grants the RBPF powers to conduct investigations into NPOs that are suspected of exploiting or directly supporting terrorism financing, confers the power to arrest, detain suspected persons and the power to enter and search (Sections 20 - 23).

184. According to ATO, the RBPF has powers to conduct investigations into NPOs that are suspected of exploiting or directly supporting TF. The ROS may refer any potential suspect NPOs to the Commercial Crime Investigation Division, RBPF which would conduct the investigation. Brunei agencies responsible for investigating TF, the RBPF and the ISD, have attended trainings and other initiatives relating to terrorism financing investigation work. Moreover, Brunei adopts a whole of government / whole of nation approach in tackling terrorism threats including TF.

185. 8.5(c) – The Societies Act empowers the RBPF to request the ROS to provide information from the register at any time during the course of an investigation as the ROS is under the purview of the RBPF. For NPOs that are companies limited by guarantee, records that are kept by the ROCBN may be searched in accordance with Section 290 of the Companies Act. The ROCBN can

provide company information to government departments upon request. In practice, the FIU coordinates requests from law enforcement agencies on company information, which can be obtained through a designated focal person at the ROCBN.

186. The FIU can assist investigators to obtain company information electronically as it has direct access to company information from 2015 onwards, through the ROCBN online portal that allows the user to search for a company by name. Information that can be obtained through this online portal includes the name of a company, incorporation date, registration number, registered business address, nature of business, names of owners or directors, names of shareholders and documents that have been submitted by the company including Annual Returns.

187. Section 56(1) of the CPC allows authorised officers to obtain any property or document necessary for the investigation.

188. *8.5(d)* – The RBPF, the FIU, BDCB may also disseminate this information to other relevant intelligence agencies such as the ISD and the CTIWG. Usually in practice, information exchange and intelligence-led discussions on terrorism and terrorism financing suspects are conducted through the CTIWG and promptly shared informally between members of the CTIWG.

189. *Criterion 8.6* - The ROS, being under the RBPF, may utilise Interpol channels for information sharing. The Interpol Unit are the focal points for international requests at RBPF including the ROS. Each Interpol member country has its own National Central Bureau, and all Bureaus are connected to a secure network communication platform that operates 24 hours every day. The National Central Bureau enables communication and information exchange with another country's Bureau. The National Central Bureau has the capability to receive any international requests, including terrorism-related ones, and to disseminate it to the relevant unit in RBPF.

Weighting and Conclusion

190. Brunei has undertaken a number of assessments of the TF threats to the NPO sector and demonstrates a risk-based approach to monitoring of this subset of NPOs. Authorities have commenced outreach to NPOs to raise awareness of their TF risks and how to mitigate those risks and vulnerabilities through best practices and good governance. The oversight of NPOs by ROS is particularly strong and weighted more heavily than the activities by ROCBN due to the number of NPOs under each agency's purview (163 and 1, respectively).

Recommendation 8 is rated largely compliant.

Recommendation 9 – Financial institution secrecy laws

191. In the 2010 MER, Brunei was rated compliant with the former Recommendation 4. Brunei had a wide range of powers which allowed FIs to lift secrecy provisions in defined circumstances, and disclose information to the authorities in the course of implementing the FATF standards.

192. *Criterion 9.1* - Secrecy or confidentiality restrictions in any law that prevents a FI from fulfilling its AML/CFT obligations are removed by the CARO (s. 29). CARO designates the FIU as the competent authority to receive and analyse STRs and CTRs from FIs. The FIU is permitted to obtain any information it deems necessary to conduct its functions (S. 31(1), CARO; S. 52, ATO). There are no legal or regulatory constraints on the information-sharing between FIs required by R. 13, 16, and 17.

193. The FIU has powers to disseminate reports and information to LEAs or the Commissioner of the Police (s.33(1), s.51, ATO). The FIU is allowed to share information with any foreign counterpart agency based on the principle of reciprocity or mutual agreement, and to make inquiries on their behalf (S. 34, CARO; S. 54, ATO). The laws of Brunei do not inhibit information sharing between competent authorities, either domestically and internationally.

194. There are specific powers available to lift secrecy when authorised officers require information to investigate or prosecute a criminal offence. These are set out in regulations on a sectoral basis, whether with respect to banks (the Banking Order 2006, Islamic Banking Order 2008), insurance companies (S. 77, Insurance Order 2006 and S. 77, Takaful Order 2008), or securities companies (S. 48, SMO 2013). The secrecy provisions do not apply if disclosure is required or authorised by the Court. The secrecy provisions are overridden to allow: police officers or public officers to obtain information, as duly authorised under specific laws, for investigation or prosecution of a criminal offence; FI to make a complaint or report under any specified written law for an offence alleged or suspected to have been committed under any written law; and FIs to make disclosures in compliance with provisions in the respective order or a directive issued by the Authority.

195. The TAIB is permitted to disclose any information relating to its affairs—as well as that of any director, officer or employee acquired in the performance of their duties and functions—or when disclosure is required by the courts or any law (S. 15(1), Ch. 163, TAIB Act).

196. Finance companies, money-changing and remittance businesses, and pawnbrokers are not subject to any secrecy provisions nor impediments to share information in their respective laws and regulations (Finance Companies Act, MCRBA, Pawnbrokers Order).

197. The FIU is empowered to obtain information from persons subject to reporting obligations (set out in S. 15 and 16, CARO) any information necessary to carry out its functions, within the time limits set and in the form specified by the FIU (S. 31(1), CARO; S. 52, ATO). The FIU can also disseminate information to LEAs (S. 33, CARO; S. 51, ATO) and foreign counterparts (S. 34, CARO; S. 54, ATO) on the basis of reciprocity or mutual agreement, and make inquiries on behalf of a foreign counterpart.

198. The shortcomings identified under R.13, R.16 and R.17 are not due to financial secrecy provisions. Section 29 of the CARO overrides the secrecy or confidentiality provisions in any other written law that prevents FIs from fulfilling their obligations under the CARO in the circumstance required by R.13, R.16 and R.17. This information sharing would be in keeping with the permitted circumstances as listed in the Third Schedule of the Banking Order 2006 and the Islamic Banking Order 2008.

Weighting and Conclusion

Recommendation 9 is rated compliant.

Recommendation 10 – Customer due diligence

199. In the 2010 MER, Brunei was found to be NC on former R.5. The MER listed a number of technical deficiencies in relation to CDD. The 2012 FUR found that with the introduction of the CARO and the issuance of BDCB notices to relevant FIs, significant progress was made in addressing the deficiencies and Brunei's level of compliance with former R.5 was re-rated equivalent to LC.

Regulatory Framework for CDD

200. The CARO sets out prescribed CDD measures applicable to FIs in Section 5, and Section 2 sets the definition of financial institutions. The General Guidance (GGP) has been issued by the BDCB pursuant to the CARO (s. 15 & 30(c)) and the ATO (s. 66) to provide further clarification on the existing obligations under the respective principal orders.

201. The GGP has been issued to guide FIs when developing and implementing their AML/CFT programmes in line with Part II of CARO.

202. Non-compliance with the guidelines are offences under Section 139 of the CARO and Section 57 of the ATO, as well as being subject to administrative sanctions, and grants the BDCB the power to compound any offences made under the CARO and any regulations made thereunder. The BDCB can also issue directions under both CARO and the BDCB Order to FIs who have failed to comply with the General Guidance, with proportionate and dissuasive sanctions available for non-compliance with any direction issued.

Detailed CDD requirements

203. *Criterion 10.1* - Persons are prohibited from opening, operating, or authorising the opening of an account with a person carrying on any relevant business in a false, fictitious, anonymous or incorrect name (s. 4(1), CARO). Persons are defined as "any legal or natural person" (s. 2, CARO), which includes FIs.

When CDD is required

Criterion 10.2

204. *c.10.2(a)* - FIs are required to undertake CDD measures when establishing a business relationship (S. 5(1), CARO).

205. *c.10.2(b)* - FIs are required to undertake CDD measures when carrying out transactions above BND 15,000 (equivalent to EUR 9,700; prescribed under S. 2, CARO), including where transactions are carried out in a single operation or several operations that appear to be linked (s. 5(1)(b) CARO). This is well below the FATF's designated threshold of EUR 15,000.

206. *c.10.2(c)* – FIs are required to undertake CDD measures when carrying out wire transfers of BND 1,500 (approx. USD 1,080), or its equivalent in foreign currencies or more (s. 5(1), CARO). Transactions under BND 1,500 are not required to include originator or beneficiary information under CARO as required by R.16. However, Item E.1 of the licensing conditions for remittance business (issued under S7 of the MCRBA) requires licensees to submit daily remittance transaction reports, which includes information on originator and beneficiary.

207. *c.10.2(d)* - FIs are required to undertake CDD measures when there is a suspicion of ML/TF (s. 5(1), CARO).

208. *c.10.2(e)* - FIs are required to undertake CDD measures when there are doubts about the veracity or adequacy of previously obtained identification data (s. 5(1), CARO).

Required CDD measures for all customers

209. *Criterion 10.3* - FIs are required to identify and verify customers who are individuals, legal persons, legal arrangements, and any persons acting on behalf of a customer (s. 2 and s. 6(1), CARO). FIs are required to take reasonable measures to satisfy the true identity of a natural person or legal person and legal arrangement, which seeks to enter a business relationship with them, or carry out a transaction or series of transactions (s. 7(1)(a), CARO).

210. The above-mentioned requirement to verify the customer is explicitly stated to be satisfied if the counterparty can supply official records reasonably capable of establishing the true identity of the applicant' in the case of a natural person (s. 7(1)(a), CARO), or producing 'a certificate of incorporation' and the latest annual return filed to the Registrar of Companies in the case of a legal person (s. 7(1)(b), CARO).

211. Further identification and data obligations for CDD verification are set out in CARO (s. 6(1)). For natural persons, FIs are required to obtain full names, addresses, identity card numbers, or any details of official identity documents including date and place of birth (s. 6(1)(a)). For legal persons, FIs are required to obtain the company's name, head office address, legal form, provisions governing authority to bind the legal person, ownership and control information (s. 6(1)(b), CARO). For legal arrangements, FIs are required to obtain the names of the trustees, settler, beneficiary, and any other parties who have authority to manage, vary, or control the arrangement (s. 6(1)(c), CARO).

212. The GGP sets out identification data that must be used to verify identities. For natural persons, FIs may/must solely rely on 'identity cards or official documents bearing a photograph of the person' issued by any government or their agencies (Item 4.11.1, GGP). For legal persons, FIs must rely on a recent certificate of incorporation to verify their address and proof of incorporation, 'information on persons who have authority to bind' a legal person that is a customer, and verify a legal person's directors and their directorship appointments through the certificate of incorporation or any document which authenticates the legal person's existence (Item 4.11.2, GGP). For legal arrangements, FIs must obtain proof of the trust's existence and obtain information on all persons who have authority to bind the trust (Item 4.11.3, GGP), and the beneficial owners of legal arrangements, the names should be recorded along with supporting information clearly establishing the link between the person and the customer (Item 4.11.4 GGP), and FI will verify identification against the trust deed/instruments. For partnerships, any company or association or body of persons, corporate or unincorporated, are defined a 'person' (s. 3, Interpretation and General Clauses), which is one of the customer definitions, who has to treated under CDD requirements also. (s. 2 and 5 of CARO).

213. For legal arrangements, the names of the trustees, settlor, and the beneficiary of express trusts and any other parties with authority to manage, vary or otherwise control the arrangement are required to be verified with official records which are reasonably capable of establishing the true identity of the applicant (S. 6(1)(c) and S. 7(1)(a), CARO). There are no obligations to identify and verify the legal arrangements separately from their respective natural persons.

214. *Criterion 10.4* - FIs are required to identify and verify the identity of any persons acting on behalf of a customer, and obtain evidence that they are authorised to do so (s. 6(1)(d), CARO). This requirement is reiterated in Item 4.12 of the GGP, that is, to perform CDD on anyone authorised to act on behalf of a customer, any non-compliance would be an offense under s.24, CARO.

215. *Criterion 10.5* - Beneficial owners are defined in statute in line with the FATF standards (s. 2, CARO). FIs are required to identify the beneficial owner (s. 5(2), CARO), and there is no exemption for publicly-held companies. FIs are required to take reasonable measures to verify

the identity of beneficial owners (s. 7(1), CARO). This requirement is clarified to include determination of natural persons who are ultimate beneficial owners of complex corporate structures (Item 4(b), GGP).

216. *Criterion 10.6* - FIs are required to obtain sufficient information to understand the purpose and intended nature of the business relationship (s. 6(1)(e), CARO). FIs are required to understand the purpose and intended nature of the business relationship (Item 4.11.5 GGP). However, there are no explicit requirements to obtain the information on the nature of customer's business and its ownership and control structure.

Criterion 10.7

217. *c.10.7(a)* – FIs are required to conduct ongoing due diligence including scrutinising transactions, to ensure they are consistent with their knowledge of the customer, activities and risk profile (s. 13(1)(b), CARO). However, there are no explicit requirements to ensure the source of funds is consistent with the transactions being conducted.

218. *c.10.7(b)* – FIs are required to maintain current information and records pertaining to the customer and beneficial owner (s. 13(1)(a), CARO) but there is no explicit mention of undertaking reviews of existing information. Enhanced due diligence procedures are required for higher-risk customers (s. 9(a), CARO).

Specific CDD measures required for legal persons and legal arrangements

219. *Criterion 10.8* - FIs are required to obtain sufficient information to understand the ownership and control of legal persons and arrangements (S. 6(1)(i), CARO), which is elaborated in the enforceable elements of the GGP to include establishing their names and beneficial ownership (Item 4.4) and the nature of their business (item 4.11.5).

220. *Criterion 10.9* - Section 6(1)(b)(c) of CARO sets the types of information that FIs are required to obtain and verify for customers who are legal persons or legal arrangements. These requirements are ~~l~~argely consistent with c.10.9, except in the case of c.10.9(c) as there is no requirement to obtain and verify principal place of business information, if it is different from registered office address. The GGP (Items 4.11.2 and 4.11.3) provides clarifications on the requirements under S. 6 of the CARO.

221. *Criterion 10.10* - The term 'beneficial owner' is defined in line with the FATF definition (S. 2, CARO).

222. *c.10.10(a)* - FIs are required to identify a legal person's beneficial owner (S. 5(2), CARO) and obtain and verify the information of the beneficial owner's identity as required by (S. 6(1), CARO).

223. Section 6(1)(b) of CARO requires FIs to identify and verify 'ownership and control' of a customer's beneficial owner and take reasonable measures to satisfy itself of the true identity of the beneficial owner (S. 7(1) of CARO).

224. FIs are required to establish the names and beneficial ownership of legal persons, and resolve corporate structures until they can identify natural persons as the beneficial owner/s. It also notes this may require extensive research (Item 4.4, GGP).

225. *c.10.10(b)* –FIs are required to undertake reasonable measures to establish the true identity of any person who is an applicant for a transaction is acting on behalf of (S. 5 , S. 7(3), CARO) , and Items 4.4 and 4.5 of the GGP require for FIs to identify and take reasonable measures to verify the identity of beneficial owners exercising control of a legal person or arrangement

through other means, when there is doubt concerning the stated beneficial owner or there is no natural person exerting control through ownership interests. But there are no requirements to identify for whose ultimate benefit the applicant may be acting in the proposed transaction, whether as trustee, nominee, agent or otherwise.

226. *c.10.10(c)* – There is no explicit obligation in CARO for the absence of the natural persons who ultimately has a controlling ownership interest in a legal person, or there is doubt whether that person is the BO of where no natural person exerts control through ownership interest, the identity of the natural persons who holds an equivalent position of senior managing official of the legal person are required to obtain. However, Item 4.5 of the GGP requires that in cases where FI are in doubt about whether a natural person is a beneficial owner, the FI must verify the identity of the person who is the senior managing official of the customer.

Criterion 10.11

227. *c.10.11(a)* – In the case of trusts, FIs are required to obtain the names of trustees, the settler, and beneficiary of express trusts. They are also required to obtain the names of any other parties with authority to manage, vary, or otherwise control the trust. Neither the protector (if any), nor, specifically, the class of beneficiaries is explicitly required. FIs are also required to verify these names (S. 6(1), CARO) in the specific context of their broader obligation to identify a customer's beneficial owner (S. 5(2), CARO). There are explicit requirements for FIs to verify the identity of beneficial owners and verifying parties with control over the trust, and it is not clear if the verification obligations extends to the basis for those parties exercising ultimate control over the trust.

228. c.10.11(b) – the obligations to identify and verify parties apply to customers who are trusts or other legal arrangements (S.6 (1) (c),CARO)

CDD for Beneficiaries of Life Insurance Policies

229. *Criterion 10.12* - There are no CDD requirements in place for FIs pertaining to life insurance beneficiaries or other investment-related insurance policies in line with c.10.12(a), (b), or (c).

230. *Criterion 10.13* - FIs are required to consider beneficiaries of life insurance policies as risk factors in determining overall ML/TF risk (Item 3.5, GGP). This is part of the overall requirements to take into account the risk factors and identify their high-risk customers as set out in S.9(a), CARO. However, there is no explicit requirement to include this as a risk factor as to whether enhanced CDD is required, nor a requirement to take enhanced CDD and associated reasonable measures.

Timing of verification

231. *Criterion 10.14* - FIs are required to conduct CDD before establishing an account or a business relationship (S. 8, CARO).

232. However, there is scope under Section 8(a) and 8(b) for BDCB to permit FIs to conduct business prior to the completion of CDD, but only if ML/TF risks are effectively managed, verification delays are essential to not interrupt the normal conduct of business, and CDD is undertaken as soon as reasonably practicable.

233. *Criterion 10.15* - Only securities dealers and insurance/takaful companies are permitted to commence business with a customer prior to CDD completion (Item 4.18, GGP). Securities dealers are permitted to process the purchase or deposit the proceeds of a sale of a security for a new customer if CDD might incur financial disadvantage due to changes in market prices (Item 4.18.1, GGP). Insurance and takaful companies have scope to complete CDD within ten days of

issuing a policy to a customer, provided the total premiums paid by the customer over the policy's lifetime does not exceed BND 15,000 (approx. USD 11,000) (Item 4.18.2, GGP)).

234. Both securities dealers and insurance/takaful companies are given the scope to complete CDD 'as soon as reasonably practicable' after commencement of business (Item 4.18, GGP). This privilege is conditional on ML/TF risk being "effectively managed" (S. 8(a), CARO), and no further transaction may be undertaken by the customers until the verification process is complete (Item 4.18.1, GGP), for timing of customer identification and verification process to manage ML/TF risk, FI are required to develop and implement this obligation under S.22(1) (a) of CARO.

235. FIs are required to develop and implement ML/TF management program under CARO, and no further transaction may be undertaken by the customers until the verification is complete. However, there is no explicit requirement on risk management procedure concerning the conditions under which a customer may utilise the business relationship prior the verification. Both of securities dealers and insurance/takaful companies are given the scope to complete CDD 'as soon as reasonably practicable" after commencement of business (S.8(a), S.22(1) (a) of CARO, Item 4.18.1, GGP.)

Existing customers

236. *Criterion 10.16* - Ongoing CDD measures are required to be applied to existing customers on a risk-sensitive basis. There are requirements for FIs to take materiality and risk into account in terms of timing and intensity of ongoing CDD (S. 13(2), CARO). There are no explicit requirements for FIs to conduct CDD on existing relationships at appropriate times, taking into account whether and when CDD has been previously performed and the adequacy of data obtained.

237. The underlying criteria which FIs are required to take into consideration are a risk-sensitive basis depending on the type and nature of the customer, business relationship, type of transaction, and other criteria prescribed by the Minister or Authority through regulation (S. 13(2), CARO).

Risk-based approach

238. *Criterion 10.17* - FIs are required to exercise enhanced identification, verification, and ongoing due diligence procedures for customers who pose high ML/TF risks (S. 9(a), CARO). FIs are required to conduct ongoing due diligence including ensuring such high-risk customers' obligations are fulfilled (S. 13, CARO). FIs are required to demonstrate these measures are more extensive, intrusive, detailed, and/or in-depth than the norm (Items 5.1 & 5.2, GGP).

239. *Criterion 10.18* - Simplified due diligence is not permitted in Brunei at the time of the onsite visit.

Failure to satisfactorily complete CDD

Criterion 10.19

240. c.10.19(a) –FIs are not permitted to establish an account or maintain a business relationship with a customer if they are unable to comply with CDD measures set out under Sections 5 to 10 of CARO (S. 11, CARO). For non-compliance with CDD measures set out in Section 11 and Item 4.25, 4.26, of the GGP, issued under S.30(c) of CARO would be an offence under Section 139, CARO. However, there is no explicit obligation to not complete a transaction with an occasional customer where CDD has not been completed.

241. c.10.19(b) - FIs are required to report to the FIU 'where appropriate' if they are unable to comply with the CDD measures set out in Sections 5 to 10 of CARO and therefore do not establish an account or maintain a business relationship with a customer.

242. *Criterion 10.20* - FIs are not permitted to pursue the CDD process, and instead must file an STR if they form a suspicion of ML/TF and reasonably believe the process may tip-off the customer. Tipping off is liable for fines of up to BND 500,000, five years of imprisonment, or both (S.15(6), S.20(3) of CARO, Item 7, Guidance Paper to FIs for the Obligation to Submit STR).

Weighting and Conclusion

243. FIs are obliged to conduct CDD on their customers, beneficial owners and any person acting on behalf of customer, the related evidences for verification, including the purpose and nature of each business relationship. FIs are required to conduct ongoing monitoring procedure for identification and verification requirement depending on the risk-sensitive basis of customers, business relationship, product or transaction.

244. FIs are prohibited from establishing and account or maintaining the relationship until verification process is completed, however risk-based procedures are considered in the securities dealers, and delayed verification period on insurance/takaful. There are deficiencies with an explicit requirement to not complete a transaction with the occasional customer where CDD has not been fulfilled, risk management of life insurance beneficiaries, and identification of BO.

Recommendation 10 is rated partially compliant.

Recommendation 11 – Record-keeping

245. Brunei was rated Partially Compliant with former R.10 in the 2010 MER. The report concluded that record keeping obligations did not cover the records obtained for verification purpose and business correspondence with customers, and it has also identified that effective implementation across all sectors couldn't be established as widespread AML/CFT supervision of record keeping requirements had not been undertaken.

246. Following the MER, Brunei addressed record-keeping requirements in the CARO 2012 and the rating was revised to largely compliant in 2012 follow-up.

247. *Criterion 11.1* - FIs are required to maintain all records of transactions for at least seven years from the date of the transaction or from the date upon which action was last taken, which includes any other actions taken by the institution with regards to the business relationship, e.g. updates to customer information or any reviews conducted (s. 14(1)(a) & 14(4), CARO). Records that are subject to ongoing investigations or prosecutions are to be retained beyond the seven-year period, until they are no longer needed (Item 6.3, GGP). In the case of closed accounts, records are to be kept for seven years from the date the accounts were closed (Item 6.2, GGP).

248. *Criterion 11.2* - FIs are required to keep records obtained through CDD measures for seven years, including CDD undertaken on occasional transactions above the threshold (s. 14(1)(b), 14(3) and 14(4), CARO). However, there are no specific obligations to maintain account files and business correspondence and the results of any analysis undertaken.

249. *Criterion 11.3* - Record-keeping requirements in the CARO include the name, address, and occupation (or, where appropriate, business or principal activity) of each person conducting the transaction or series of transactions and, where applicable, on whose behalf the transaction is being conducted, the method used to verify the identity of the customer, nature and date of the transaction, type and amount of currency involved, type and identifying the number of FI/DNFBP involved in the transaction, details of whether a transaction involves negotiable instrument, the

name and address of the FI/DNFBP and the employee who prepares the record. These details are quite granular and sufficient to reconstruct individual transactions.

250. *Criterion 11.4* - FIs are required to ensure all required records are maintained and made available in a timely manner in response to a lawful request (s. 23(c) CARO).

Weighting and Conclusion

251. FIs are required to maintain all necessary records on transactions, both domestic and international, for seven years. The same time period is applicable to keep all records obtained through CDD measures. However, there are no clear requirements regarding the maintenance of account files, business correspondence, and the results of any analysis undertaken. Transaction records are sufficient to permit the reconstruction of transactions, and FIs are required to ensure that all CDD information and transaction records are available swiftly to domestic competent authorities upon request.

Recommendation 11 is rated largely compliant.

Recommendation 12 – Politically exposed persons

252. Brunei was rated non-compliant NC for the former R.6 on MER 2010 with the recommendation Brunei should issue enforceable instructions to require all reporting parties to implement the full range of obligations in relation to PEPs.

253. Brunei's progress was recognized in the 2013 follow up reports noting that Brunei had significantly addressed deficiencies as the 2012 CARO includes extensive obligations in line with the MER recommendations.

254. *Criterion 12.1* - Brunei has imposed specific enhanced CDD requirements on FIs in relation to PEPs (s. 9(2) of CARO; item5.6-5.13 GGP). The definition of "politically-exposed person" (s. 2 CARO) is broadly in keeping with the FATF standards and includes:-

- any person who is or has been entrusted with a prominent public function including, but not limited to a head of state or of government, a senior politician, a senior government, judicial or military official;
- any person who is or has been an executive of a state-owned company;
- any person who is or has been a senior political party official, and
- any person who is or has been entrusted with a prominent function by an international organization, and shall include any immediate family member or close associate of such persons.

255. *12.1 (a)* - FIs are required to determine whether customers or a beneficial owners are PEPs (CARO, S.9 (b)).

256. *12.1 (b)* - FIs are required to obtain approval from senior management before establishing a business relationship with a customer, or later, as soon as an existing customer is identified as a PEP (CARO, s.9(b)(i)).

257. *12.1 (c)* - FIs are required to take reasonable measures to identify the source of wealth, funds and other assets of the customer, but this does not explicitly extend to the source of wealth, and source of funds of beneficial owners (CARO, s.2, S.9(b)(ii)).

258. *12.1 (d)* - In cases where a customer or their beneficial owner is a PEP, FIs are required to conduct increased and ongoing monitoring of the customer and the business relationship, including all CDD and reporting requirements (CARO, s.2, S.9(b)(iii)).

259. *Criterion 12.2* - The minimum requirements outlined above under the CARO (s.9(b)) and GGP (Items 5.6-5.13) apply to both foreign and domestic PEPs, going beyond just those cases where high risk business relationships are found with a domestic PEP. FIs are required to take reasonable measures to identify–the source of wealth, funds and other assets of the customer who is a domestic PEP, but this does not explicitly extend to the source of wealth, and source of funds of beneficial owners (CARO, S.9(b)(ii)) of the domestic PEP.

260. *Criterion 12.3* - The definition of PEPs includes PEPs includes immediate family members and close associates (CARO S.2). The GGP requires FIs to use the definition of "relative" and "associate" as defined in CARO for the purposes of complying with the "immediate relative" and "close associate" requirements" (Item 5.7, GGP). The definitions of "associate" and "relative" are cast widely to meet the FATF requirements (Section 2 of CARO). All requirements of enhanced measures for PEPs (domestic and foreign) are applied equally to their relatives and associates.

261. The requirements contained in CARO relating to family members and close associates of PEPs are contained in items 5.11 and 5.13 of the GGP. It clarifies that FIs must determine if a customer is a PEP or is a relative or close associate of a PEP. If FIs determine that a customer is a PEP, FIs are required to further determine if its existing customers consist of relatives or close associates of the PEP, for necessary measures to be applied on such customers.

262. *Criterion 12.4* - FIs are required (CARO s.9(2)(b)) to determine if beneficiaries of life insurance policies or family takaful products are PEPs. This requirement extends to beneficiaries (individuals or the beneficial owners of legal persons or the property in legal arrangements) designated by the holders of life insurance policies or family takaful products (Item 5.11, GGP).

263. Determination of the beneficiary may occur at the time of payout, (if the FI determines that the beneficiary is PEP, senior management approval must be obtained before proceeding with the payout (S. 9 (b) (i) of CARO).

264. FIs must provide increased and ongoing monitoring of the business relationship with the policyholder to prevent ML/TF or other similar offences (S.9 (b) (iii) of CARO,). If the FI suspect or have reasonable grounds to suspect that a transaction or attempted transaction involving property is related or linked to ML or a serious offence, after forming the suspicion report, the FI is required to submit an STR to the FIU promptly (S.15 (1) of CARO).

Weighting and Conclusion

265. FIs are required to nearly all risk management on PEPs in keeping with the international standards. However, there are gaps in relation to obligation to identify source of wealth / source of funds for beneficial owners of the customer.

Recommendation 12 is rated largely compliant.

Recommendation 13 – Correspondent banking

266. Brunei was rated NC with correspondent banking requirements in the former R.7 in MER 2010. There were no binding obligations on FIs to govern the establishment and operation of correspondent relationships. Brunei addressed deficiencies in BDCB notices and CARO 2012, CDD requirement for correspondent banks and prohibited relationships with shell banks.

Criterion 13.1

267. *c.13.1(a)* – FIs are required to collect information on the nature of the respondent's activities (S. 10(b), CARO) and evaluate the respondent FI's reputation and the quality of its supervision from open sources (S. 10(c), CARO). However, there is no explicit requirement for FIs to gather sufficient information for the purpose of fully understanding a respondent FI's business. There is no explicit requirement to determine whether a respondent FI has been subject to ML/TF investigation or regulatory action.

268. *c.13.1(b)* - FIs are required to evaluate respondent's AML/CFT controls (S. 10(c), CARO).

269. *c.13.1(c)* - FIs entering cross-border banking relationships are required to obtain approval from senior management prior to establishment (S. 10(d), CARO).

270. *c.13.1(d)* –FIs entering a cross-border banking relationship are required to establish an agreement on the responsibilities of each party (S. 10(f), CARO). It is unclear whether responsibilities refer to AML/CFT responsibilities. There is no requirement for clear understanding of these responsibilities.

Criterion 13.2

271. *c.13.2(a)* – With respect to payable-through accounts, FIs are required to satisfy themselves that respondent banks fulfil two CDD obligations, specifically customer identification and ongoing monitoring of customers (S. 10(g), CARO). Pecuniary fines of up to BND 250,000 (approx. USD 184,000) apply under CARO's general offence provision (S. 139, CARO).

272. These limited-requirements appear to be supplemented by Item 4.17 of the GGP, which states FIs should ensure respondents are subject to AML/CFT supervision, and apply "adequate domestic AML/CFT measures" which at a minimum should be consistent with S. 5 to 10 of CARO (i.e. identification requirements, information to be obtained on customers, verification procedures, timing of verification, high-risk customers and PEPs, and identifying and opening account obligations for cross-border correspondent banking relationships).

273. *c.13.2(b)* - FIs are required to satisfy themselves that respondent banks are able to provide CDD information upon request for payable-through accounts (S. 10(g), CARO).

274. *Criterion 13.3* - FIs are prohibited from entering into or continuing correspondent cross-border banking relationships with shell banks. FIs are prohibited to maintain relationships respondent FIs which permit its accounts to be used by a shell bank (S. 10(h) and (i), S.27, CARO, and Item 14.16, 14.17, GGP).

Weighting and Conclusion

275. There are no explicit requirements for–FIs to gather sufficient information to fully understanding respondents business, to determine whether they have been subject to ML/TF investigation or regulatory action. It is unclear if AML/CFT responsibilities are required to be agreed to when FIs enter a cross-border banking relationship.

Recommendation 13 is rated largely compliant.

Recommendation 14 – Money or value transfer services

276. In the MER 2010, SR VI was rated Partially Compliant. The MER noted deficiencies with enforceable rules to require money remitters to conduct CDD requirements, monitor unusual transactions and implement wire transfer controls, and to ensure both offsite and onsite supervision of money remitters include AML/CFT. Brunei issued a BDCB notice and included provisions in the CARO to include money remitters in the definition of 'financial institution'.

277. *Criterion 14.1* - There are two types of MVTS providers in Brunei: non-bank remittance businesses and payment system operators. Non-bank remittance businesses are required to be licensed by the BDCB, failure to comply is an offence and upon conviction is liable for BND 10,000 fine (approx. USD 7,200) and/or up to a year of imprisonment (S. 6, Ch. 174, MCRBA). The payment system operators need to obtain approval from BDCB as per the Notice on Requirement for Payment Systems (Notice PSO/ N-1/ 2020/ 1) issued on 4 December 2020. The Notice is issued under Section 54(1) of the BDCB Order, 2010, and failure to comply with the Notice on Requirement for Payment Systems is liable to a fine not exceeding BND 20,000 (approx. USD 14,400) upon conviction. Based on the discrepancy of the penalties for the offences, fines do not seem proportionate & dissuasive.

278. *Criterion 14.2* - There is a legal and supervisory framework in place for non-bank remittance businesses, which prohibits unregistered persons from undertaking such business. Specific units within BDCB —the Supervision III and the Alert List Committee—as well as the FIU are able to receive information to identify unregistered non-bank remittance businesses. Information sources include the general public, MVTS businesses, and STRs.

279. Brunei has taken actions to identify illegal MVTS, but the application of proportionate and dissuasive sanctions is yet to be seen. In practice, the Alert List Committee has identified 11 cases of unregistered non-bank remittance businesses from 2018 to 2020. Four cases were referred by the public, and seven were detected by the abovementioned units or Alert List Committee members. Five of these cases were referred for monitoring by the Alert List Committee, one was referred to the RBPF and is still under investigation, and verbal reminders or warnings were issued for the remaining four cases. There appear to be no sanctions issued except for verbal warnings and the case referred to RBPF is still under investigation. It is unclear in practice what thresholds merit a range of responses, whether a verbal warning, Committee monitoring or referral for police investigation. No sanctions were imposed during this period. Additionally, the FIU received 23 STRs from 2016 to 2020 relating to suspected cases of unlicensed MVTS. Further, BDCB through the recommendations of the BDCB Alert List Committee had made a police report on entities assessed between 2019 and 2021, including six (6) entities linked to potential unlicensed remittance activities.

280. In relation to Payment System Operators, Brunei recently issued the notice on requirement on payment systems to operate in Brunei. The scope and responsibilities of ALC mentioned above has been extended to unauthorized payment system operators. The Supervision III (SUP III), within the BDCB is responsible for receiving any information or complaints from the public on natural or legal persons that may be conducting unauthorized financial activities. Information gathered by the SUP III is presented to the BDCB's ALC.

281. *Criterion 14.3* - Non-bank remittance businesses (S. 2, CARO) and payment system operators (S. 44, BDCB Order, pursuant to the definition of FI (a)(vii) under S. 2, CARO) are defined as FIs. However, there is no explicit designation of an AML/CFT supervisory authority for FIs although BDCB is the designated supervisor for all FIs including non-bank remittance businesses and payment system operators (S. 42(1), 44(1) of BDCB Order).

282. Non-bank remittance businesses are subject to a risk-based supervision framework by the Supervision III unit of the BDCB. This framework is centred on a license renewal schedule adjusted according to residual risk ratings, which includes assessment of AML/CFT compliance. In practice, the FIU conducts joint supervision with Supervision III for MVTS.

283. Payment system operators are now subject to AML/CFT monitoring by the FIU. As per Paragraph 4.1 of the Notice on Requirements for Payments Systems –No. PSO/N-1/2020/1-Amendment No.1, payment system operators are required to register with the BDCB. PSOs registered under the BDCB are defined as financial institutions and are subject to the AML/CFT requirements under CARO. Prudential supervision of registered PSOs is conducted by the Supervision III (Payments Services & Conduct) Division under the BDCB.

284. *Criterion 14.4* - Non-bank remittance businesses are required to have a license to lawfully operate (S. 5(1), MCRBA) or else be liable to a pecuniary fine of BND 10,000 (approx. USD 7,200) and/or imprisonment for up to a year (S. 5(2), MCRBA). Currently, the licensed MVTS providers are not permitted to have agents.

285. *Criterion 14.5* - Brunei does not permit non-bank remittance businesses or payment system operators to use agents.

Weighting and Conclusion

286. Adequate powers are available for BDCB to conduct AML/CFT supervision for non-bank remittance businesses and payment system operators. There have been no sanctions for unregistered or unlicensed MVTS businesses yet.

Recommendation 14 is rated largely compliant.

Recommendation 15 – New technologies

287. Brunei's 2010 MER rated former R.8 as Non-Compliant. The MER highlighted deficiencies relating to the lack of obligations for FIs to have policies and measures to prevent the misuse of technological developments for ML/TF, the lack of policies and procedures in place to address any specific risks associated with non-face-to-face business relationships or transactions, and the lack of CDD procedures applying to non-face-to-face business relationships or transactions. The recommendation has changed significantly since 2010 and new criteria have been assessed in this MER.

288. *Criterion 15.1* - Brunei has conducted some elements of ML/TF risk that may arise in relation to the development to new products and businesses practices, but this was chiefly done through the Risk assessment related to VAs and VASPs. The VA/VASP risk assessment briefly ventures into the use of new and developing technology being used in new and existing products at the national level concerning VA and VASPs.

289. There are some obligations on FIs to identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices (sections 22(1)) and 22(1)(d)). However, the obligations are focused on technology for storing, recording, and transferring value and they do not comprehensively cover the requirement to identify and assess ML/TF risks that might arise from the development of new products and business practices, including new delivery mechanisms and the use of new or developing technologies for both new and pre-existing products. Further, amendments to the legislation are pending.

Criterion 15.2

290. *c.15.2(a)* – There is no explicit requirement for FIs to assess risks before the launch or use of new products, business practices, or technologies.

291. *c.15.2(b)* – FIs are required to develop and implement AML/CFT programs that prevent the misuse of technological developments (S. 22(1)(d), CARO). However, there are no explicit requirements covering development and implementation of AML/CFT programs that prevent misuse of new products or business practices.

Criterion 15.3

292. *c.15.3(a)* – Brunei has taken initial steps to identify and assess ML/TF risks arising from VA or VASP activities. In late 2020 the FIU completed an ML/TF Risk Assessment on VASPs using the information gathered from 2018-2020, and the assessment was finalized in January 2021. The risk assessment was performed based on the information available to the BDCB, and the information sources include; ML/TF NRA 2016, 2020 updates to NRA, information from ALC under BDCB and FIU's Integrated Financial Intelligence Database.

293. The risk assessment noted the inherent risks involved with the misuse of cross-border and anonymized transactions, the challenges of foreign VASPs, regulatory arbitrage, and the lack of adequate Brunei laws and frameworks to supervise and regulate VA/VASPs. The risk assessment identified indications of natural persons conducting services relating to VA, based on six STRs received from 2018 to 2020. No locally-incorporated legal persons or foreign-incorporated entities conducting VASP activity were identified. The risk assessment rated VA/VASP activities as “medium-low” ML risk and "medium-low" risk for TF.

294. *c.15.3(b)* – Brunei has not decided to prohibit VA/VASPs. Brunei has decided to implement a licensing and regulatory framework for VA / VASPs through the amendment of the MCRBA and under the SMO and the Notice on Requirements for Payment Systems. The 2021 ML/TF Risk Assessment on VASPs has recommended establishing a licensing and regulatory framework to address VA activities and VASPs and enhance technical capabilities, including establishing market surveillance and enforcement mechanisms.

295. Based on the risks identified in the VA/VASP RA, Brunei has drafted amendments to the CARO, which had not been enacted at the time of the onsite visit, to consider VASPs as FIs, requiring them to adhere to CARO's provisions.

296. *c.15.3(c)* –There are no explicit requirements for VASPs to take appropriate steps to identify, assess, manage, and mitigate their ML/TF risks as required by c.1.10 and c.1.11.

Criterion 15.4 -

297. *c.15.4(a)* - There is no requirement for VASPs which are legal persons, to be licensed or registered in the jurisdiction they are created. There is no requirement for VASPs that are natural persons to be licensed or registered in the jurisdiction where their place of business is located.

298. Brunei indicates that FIs undertaking certain VA transactions face relevant regulatory controls. This position was derived from a review of existing legal and regulatory measures in place. The issuance of security tokens is regulated under the Securities Markets Order, 2013 (SMO), and can only be lawfully performed by a Capital Markets Service Licence. The operation of securities exchange, clearing houses and trading facilities is regulated and can only be lawfully performed by market operators. While there has not been an instance in the market, Brunei indicates that the requirement for natural and legal persons to be licensed or registered under the Notice on Requirement for Payment Systems is also applicable to VASPs if they engage in

payment systems. Additionally, Money-Changing Remittance Business Act (MCRBA) Chapter 174, after amendments will be applicable to include activities of VA exchanges. Additionally, none of the laws comprehensively cover all the VASP activities, i.e. activities of VASPs that do not engage in security tokens.

299. *c.15.4(b)* - Licensed FIs that conduct securities-related transactions with VA are captured under SMO. In such cases the fit and proper provisions assessed in c.26.3 apply.

300. *Criterion 15.5* - Brunei has not taken action to identify natural or legal persons that carry out VASP activities without the requisite license or registration and apply appropriate sanctions to them. Brunei has mechanisms to identify unlicensed activities through the BDCB Alert List Committee, ad hoc working groups with LEAs and the Intelligence Working Committee, which focuses on identifying persons engaging in activities related to MCRBA, SMO or PSSO. There is no specific measure to monitor VASP or VA activities. Under the current framework, this may only extend to natural or legal persons payment settlement related VASP activity (Updated Notice No. PSO/ N-1/ 2020/1 – Amendment No 2) as other legislations are yet to amend to include VA and VASP activities.

Criterion 15.6 -

301. *c.15.6(a)* –. There is no risk-based supervision or monitoring in place for those limited range of VASP activity currently subject to regulation (being those undertaking securities-related transactions involving VA and payment system operators).

302. *c.15.6(b)* – Supervisors, including the BDCB have the limited powers available in the SMO, Notice on Requirement for Payment Systems and the MCRBA.

303. *Criterion 15.7* - There are no guidelines or feedback in place to assist VASPs in applying measures to combat ML/TF and assist detection and reporting of suspicious transactions.

Criterion 15.8

304. *c.15.8(a)* – The limited VA/VASP activities covered under the SMO, Notice on Requirement for Payment Systems and the MCRBA would also be subject to the sanctions available under those instruments.

305. *c.15.8(b)* – Sanctions apply to the director, manager, or any other person holding a controlling interest in a legal person (S. 141, CARO; "body corporate" defined as a legal person in S. 2, CARO). However, these provisions only apply to VASPs that undertake securities-related transactions involving VA (i.e. if licensed under the SMO) and VASPs that undertake payment settlement activities (i.e., licensed under Notice on Requirement for Payment Systems) or VA exchanges operating under the MCRBA.

Criterion 15.9

306. *c.15.9(a)* – FIs that may be conducting the limited VASP activities covered under the SMO, Notice on Requirement for Payment System and the MCRBA would be REs and subject to the full set of obligations under the CARO and enforceable guidelines. The analysis set out in recommendations 10-21 in this report would apply equally to them and this would extend to the obligation to conduct CDD on occasional transactions with the equivalent value of USD/EUR 1,000 or above.

307. *c.15.9(b)* – The FIs mentioned above would be subject to the requirements as set out in R.16 below. Other VASP are not subject to the requirements as required by c.15.9(b)(i) to (iv).

308. *Criterion 15.10* - The limited VA/VASP activities covered under the SMO, Notice on Requirement for Payment Systems and the MCRBA would be covered by TFS on TF as detailed in

R.6, but not yet R.7. There is no legal basis for implementing targeted financial sanctions relating to the proliferation of Weapons of Mass Destruction. There are no broader measures in place as required by c.7.2(d), c.7.2(e), c.7.3, and c.7.4(d), and therefore no coverage of VASPs.

309. *Criterion 15.11* - Brunei's international cooperation framework is able to be utilised in relation to ML, predicate offences or TF relating to VA/VASPs. Brunei is able to provide and obtain assistance in criminal and related matters and the FIU and LEAs are able to share information with foreign counterparts in relation to ML, predicate offences or TF that may involve VA or VASPs. Supervisory authorities for FIs and regulators for companies are able to share information to prevent or detect ML, predicate offences or TF that may involve VA/VASPs. Supervisory cooperation would be possible in the very limited coverage of VASP activities covered under the SMO, Notice on Requirement for Payment Systems and the MCRBA. The analysis of R.37-40 applies.

Weighting and Conclusion

310. Brunei does not have obligations in place for new technologies, products or business practices, and there are no requirements to undertake the risk assessments prior to the launch or use of new products, practices and technologies. Brunei has recently completed an ML/TF risk assessment on VA/VASPs. A very narrow range of VASP activity are regulated under the MCRBA, PSSO and SMO and related CARO obligations. Supervision of VASPs has not commenced and no action has been taken to identify and sanction persons or entities providing VA services without a licence. Brunei's risk and context has been considered when weighting the deficiencies outlined above.

Recommendation 15 is rated as partially compliant

Recommendation 16 – Wire transfers

311. Brunei was rated NC for SR VII former recommendation, due to the wire transfer obligations contained in the proposed draft AGC Notices was comprehensive for banks conducting wire transfers, but do not extend to non-bank remittance service providers, in FUR 2013 Brunei significantly addressed this deficiency when they included such requirements in the respective BDCB notices and CARO 2012, CDD requirement for wire transfer.

Criterion 16.1

312. *c.16.1(a)(i), (ii), and (iii)* – The originator's name, unique identifying number, and address are required to accompany all cross-border wire transfers (S. 6A(1) and S. 5(1)(c), CARO). This information is required to be obtained and verified against source documentation (S. 7, CARO), which meets the requirements to ensure the accuracy of the accompanying information.

313. *c.16.1(b)(i) and (ii)* – There is the requirement in place for beneficiary information to accompany cross-border wire transfers of BND 1,500 (or equivalent currency) or more (S. 6(2) d), (e), CARO).

314. For both c.16.1(a) and (b), FIs are required to identify their customers when conducting wire transfers—including cross-border transfers—involving value of BND 1,500 (approx. USD 1,080) or more, and verification requirement information for accuracy as required by c.16.1 (S. 5(1)(c) of CARO).

315. *Criterion 16.2* - Individual cross-border wire transfers are required to be accompanied by originator and beneficiary information. This requirement appears to still apply, whether they are part of a bundle or not, in spite of a lack of an explicit obligation for originator and beneficiary information to be accompanied in bundled transfers.

316. *Criterion 16.3* - There are no obligations in place for FIs to ensure cross-border wire transfers below the threshold of BND 1,500 (S. 5(1)(c), CARO) are accompanied by originator and beneficiary information as required by c.16.3(a) and (b). This deficiency does not apply in the specific case of remittance companies which are required to record and report to BDCB all cross-border transfers of any amount (S. 7, MCRBA).

317. *Criterion 16.4* - FIs are required to verify customer information if they suspect ML/TF, and prior to carrying on business (s. 8, CARO).

318. *Criterion 16.5* - There are no distinctions drawn between domestic and cross-border wire transfers. Domestic wire transfers are required to be accompanied by the same information as cross-border wire transfers; that is the originator's name, unique identifying number, and address, as per c.16.1 (S. 5(1)(c) CARO).

319. *Criterion 16.6* is not applicable in Brunei.

320. *Criterion 16.7* - Records of transactions are required to be maintained for at least seven years and the records are required to contain information types relevant to originator and beneficiary information in line with the FATF standards (name, address, account number) (s. 14(3)(a) and 14(4), CARO).

321. *Criterion 16.8* - Ordering FIs are required to take reasonable measures to obtain and verify missing originator information prior to executing wire transfers. Otherwise, the wire transfer must be refused (s. 6(7), CARO). However, there is no requirement to do the same if there is missing beneficiary information.

322. *Criterion 16.9* - Intermediary FIs are required to ensure all information received with a wire transfer is retained. General obligations are in place for all FIs—including intermediary FIs—to maintain records of all transactions carried out and obtained customer's identification documents for at least seven years (s. 14(4), CARO).

323. *Criterion 16.10* - Intermediary FIs are covered by general requirements for all FIs to maintain records for at least seven years from the date of transaction (s. 14(4), CARO).

324. *Criterion 16.11* - Intermediary FIs are required to take reasonable measures to identify cross-border transfers that lack required originator information (s. 6(7), CARO). However, there is no obligation to perform the same for transfers lacking missing beneficiary information.

325. *Criterion 16.12* - There are no obligations for intermediary FIs to have risk-based policies and procedures in place 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.

326. *Criterion 16.13* - FIs are required to take reasonable measures to obtain and verify missing originator information from wire transfers, including cross-border transactions (s. 6(7), CARO). However, there are no requirements to obtain and verify missing beneficiary information in cross-border wire transfers.

327. *Criterion 16.14* - Beneficiary FIs are covered by the general obligation for all FIs to identify and verify their customers prior to establishing business relations or carrying on further business (s. 8, CARO). There is no threshold and this requirement applies for both domestic and cross-border transactions. Beneficiary FIs are also covered by general recordkeeping obligations to maintain a copy of the identifying information for at least seven years (s. 14(1)(b) and 14(4), CARO).

328. *Criterion 16.15* - There are no obligations for beneficiary FIs to have risk-based policies and procedures in place 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.

329. *Criterion 16.16* - Brunei remitters are not permitted to open domestic branches or foreign subsidiaries or branches without the approval and authorisation of BDCB. Therefore, they do not operate overseas whether directly, or indirectly through agents (Item B.4 of the licensing conditions for remittance businesses, and Notice No. PSO/N-1/2020/1 of the notice on requirement for payment systems). Non-bank remitters are required to obtain and hold a remittance license from BDCB, issued under the MCRBA. Remitters are defined as FIs (s. 2, CARO) and therefore the obligations and deficiencies set out under c.16.1 to c.16.15 and c.16.18 apply to them.

Criterion 16.17

330. *c.16.17(a)* –. There is no explicit requirement for an MVTS provider to take into account all the information from ordering and beneficiary sides to determine whether an STR must be filed, but overall STR reporting obligations would still apply to MVTS.

331. *c.16.17(b)* – While there are no explicit obligations in place requiring MVTS providers to file STRs in any jurisdiction affected by a suspicious wire transfer, MVTS providers are required to make transaction information relevant to a suspicious transaction available to the FIU (s. 15(1), CARO).

332. *Criterion 16.18* - In keeping with the analysis at R.6, in the context of processing wire transfers, FIs are required to take freezing action and comply with prohibitions from conducting transactions with designated persons and entities, as per obligations set out in UNSCRs 1267 and 1373, and their successor resolutions.

Weighting and Conclusion

333. There are a number of gaps regarding ordering and intermediary FIs' obligations on wire transfers and particularly with respect to beneficiary information. There are no obligations for intermediary or beneficiary FIs to have risk-based policies and procedures in place. There is no explicit requirement for MVTS provider to take into account all information from ordering and beneficiary sides to determine whether an STR must be filed.

Recommendation 16 is rated partially-compliant.

Recommendation 17 – Reliance on third parties

334. In the 2010 MER Brunei was rated non-compliant with former Recommendation 9, in particular due to the lack of enforceable requirements on FIs to put in place workable procedures to rely on third parties. Brunei initially addressed these deficiencies through issuance of BDCB notices. The requirements for relying on intermediaries and third parties for CDD are dealt with in the CARO. The deficiencies were considered not adequately addressed in the follow-up process as discrepancies were found in the requirements of the BDCB notice and the CARO.

335. *Criterion 17.1* - FIs are authorised to rely on intermediaries or other third parties to obtain customer identification information including beneficial owner information. The ultimate responsibility for compliance with the CDD requirements lies with the FI itself and not the third party it relies upon for CDD (s. 5(3) 5(6), CARO).

336. *c.17.1(a)* – FIs may rely on intermediaries or third parties to perform identification procedures, if the information on the identity of each customer and beneficial owner as well as the nature of the business, can be provided immediately as required by c.17.1(a). However, s. 5(3)(b) of CARO does not cover the information on the nature of the business to be provided immediately.

337. *c.17.1(b)* – FIs may rely on intermediaries or other third parties to perform identification procedures if they are satisfied that the third party is able to provide, without delay, copies of identification information and other documents relating to due diligence obligations upon request (s. 5(3)(c)(i), CARO).

338. *c.17.1(c)* – FIs are authorised to rely on intermediaries or third parties only if they are satisfied they are subject to AML/CFT regulation, or are established in a country subject to AML/CFT requirements consistent with the FATF standards and has adequate measures in place (s. 5(3)(c)(ii), CARO).

339. *Criterion 17.2* - FIs are authorised to rely on third parties only if they are satisfied the third party is established in or is subject to the jurisdiction of a country where such person is subject to requirements consistent with the FATF standards, and has adequate measures in place (s. 5(3), CARO). The BDCB as the relevant authority has power to specify jurisdictions which meet this criteria (s. 5(5), CARO), however, it has not exercised this power to date.

340. *Criterion 17.3* - There are no provisions which enable FIs to rely on a third party that is part of the same financial group. Third parties that are part of the same financial group are subject to the same obligations set out in c.17.1 (s. 5(3), CARO).

Weighting and Conclusion

341. There is a very minor gap for FIs to rely on intermediaries or third parties to perform identification procedures as there is no requirement for the information on the nature of the business to be obtained immediately.

Recommendation 17 is rated largely compliant.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

342. In the 2010 MER Brunei was rated non-compliant with former Recommendation 15. In the absence of binding regulations/guidelines, there was an absence of comprehensive rules to implement internal controls. In its 2013 follow-up report, Brunei was assessed to have addressed these deficiencies in Sections 22 and 28 of CARO.

343. *Criterion 18.1* - FIs are required to develop and implement AML/CFT programmes, which include appropriate internal policies, procedures, and controls (s. 22, CARO). These include (a) designation of compliance officers at management level, (b) adequate screening procedures to ensure high standards when hiring employees, (c) an ongoing employee training programme and (d) an independent audit function to test the system.

344. Implementation of AML/CFT programmes is clarified in the GGP (Item 2.1 and 2.3) to be a key control measure against ML/TF risks. The size and scope of the AML/CFT Programme should be appropriate to the size, business model and complexity of REs.

345. *Criterion 18.2* - While there are legal requirements for FIs to apply AML/CFT measures (s. 22, CARO), there are no enforceable means specifically requiring implementation of group-wide AML/CFT programs.

346. c.18.2(a) – There are no enforceable means requiring group-wide implementation of policies and procedures for sharing information for the purposes of CDD and ML/TF risk management, including STRs.

347. c.18.2(b) – There are no enforceable means requiring group-wide implementation of provision of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes.

348. c.18.2(c) – There are no enforceable means requiring financial groups to implement group-wide AML/CFT programs that include adequate safeguards on the confidentiality and use of exchanged information.

349. There are no explicit requirements to prevent tipping-off for FIs that are a branch or subsidiary with its compliance function located at an overseas head office.

350. *Criterion 18.3* - FIs are obliged to require any foreign branches and majority-owned subsidiaries to implement AML/CFT measures to the extent permitted by their host country's laws and regulations. In the event that this is not possible, FIs are required to advise their supervisory authority, which in turn may take measures to comply with laws of Brunei (s. 28, CARO).

351. However, there are no explicit requirements for financial groups to apply appropriate additional measures to manage ML/TF risks, if the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements.

Weighting and Conclusion

352. There are no legal provisions for the implementation of group-wide programmes against ML/TF. There are also no explicit provisions of policies and procedures for sharing information required for the purposes of CDD and ML/TF risk management including STRs. There is also a lack of explicit requirement in safeguarding the use and confidentiality of information exchanged. There are no explicit requirements for financial groups to apply appropriate additional measures to manage ML/TF risks. Brunei's risk and context, particularly the lack of any Brunei FIs having foreign branches or subsidiaries, has been taken into account when weighting the deficiencies with this rating.

Recommendation 18 is rated partially compliant.

Recommendation 19 – Higher-risk countries

353. In its 2010 MER Brunei was rated non-compliant with the former R.21 as obligation were not in place.

354. *Criterion 19.1* - FIs are required to conduct enhanced measures on business relations and transactions involving persons from or in countries identified as having weak compliance with AML/CFT international standards (s.12 (b & d) CARO), however there is no requirement that these are proportionate to the risks. The GGP provides clarification on the procedures to fulfil requirements under the CARO to conduct enhanced identification, verification and ongoing due diligence procedures on customers whose activities may pose as high risk for ML and TF. This extends to FIs being required to treat as high risk and apply enhanced measures those countries or jurisdiction being monitored or identified as having strategic deficiencies, as well as those under FATF countermeasures (art 5.4 GGP).

355. *Criterion 19.2* - Brunei lacks a statutory basis for competent authorities to apply countermeasures proportionate to the risks: (a) when called upon to do so by the FATF; and (b)

independently of any call by the FATF to do so. The provision in the GGP is risk-based measures focused on individual customers, clarifies procedures for customers from high risk countries, including those that are subject to a call by the FATF. However, the GGP does not require the application of countermeasures.[26]

356. *Criterion 19.3* - The FIU maintains a list of countries specified by the FATF as referred to under criterion 19.1 and 19.2 above, and disseminates this to FIs and DNFBPs via its Integrated Financial Intelligence System. The list is updated after the issuance of the FATF public documents after the FATF plenary meetings normally held in February, June and October. No other measures are in place to alert FIs of concerns about weaknesses in the AML/CFT systems of other countries other than the FATF listings.

Weighting and Conclusion

357. Brunei requires FIs to apply enhanced due diligence to on business relations and transactions involving persons from or in countries identified as having weak compliance with AML/CFT international standards, with the list managed by the FIU. However, there is no statutory basis to apply countermeasures to higher-risk countries.

Recommendation 19 is rated partially compliant.

Recommendation 20 – Reporting of suspicious transactions

358. In its 2010 MER Brunei was rated non-compliant with the former R.13 and partially compliant with SR.IV. There was no direct requirement in law or regulation to report STRs to the FIU or direct requirement to report TF-related STRs to FIU set out in law or regulation. Brunei's progress on ML and TF-related STR reporting was upgraded in APG follow-up to a level equivalent to LC in 2012.

359. *Criterion 20.1* - The reporting obligations are set out under the CARO (for proceeds of criminal activity), or ATO (for funds related to TF). FIs are required to promptly report transactions or attempted transactions suspected to involve ML, TF or serious offence to the FIU (s. 15(1) CARO and s. 47(1) ATO). The definitions of ML, TF and serious offence are in keeping with the standards, although there are some gaps in the coverage of predicate offences (tax and securities) which reduces the scope of coverage of ML. However, 'serious offence' is defined under CARO and the definition of serious offence would extend to tax and securities offences which are considered offences in a written law of a foreign country and carries a penalty of imprisonment of 6 months or more.

360. As per IO.4 the 60 days that was in the previous STR guidelines referred to any verification / investigative process required to establish suspicion. Once suspicion was established (which could be the same time as initial detection), then REs had to report ML related STRs within 5 days. The October 2022 STR Guidance required FIs to report to the FIU within three days for ML related STRs and within 24 hours for TF related STRs following an established suspicion which would be considered prompt.

361. The FIU imposes an extensive list of information requirements for a STR, particularly to 'mature' or larger institutions such as banks. Banks are required to provide a comprehensive narrative as well as supporting documents for STRs, essentially conducting a preliminary analysis of the activities prior to it reaching the FIU analysts and upon discussion and feedback from the REs.

[26] Amendments to s.9A(2) of the CARO will require FIs to apply countermeasures proportionate to the risks, whenever required by the FATF or by Darussalam

362. Smaller institutions such as money changing and remittance businesses are not expected to provide the same level of comprehensive information as banks and usually provide basic indicators that contributed to raising suspicion only.

363. *Criterion 20.2* - The STR obligations extend to attempted transactions (s. 15(1) CARO and s. 47(1) ATO). These obligations are not threshold-based. Item 4 of the STR Guidance Paper clarifies what constitutes reportable suspicious transactions, and includes attempted transactions. The Paper also specifies that there is no threshold for reporting STRs.

Weighting and conclusion

364. The minor scope gap in the coverage of predicate offences for ML may reduce the scope of STR reporting obligations.

Recommendation 20 is rated largely compliant.

Recommendation 21 – Tipping-off and confidentiality

365. In its 2010 MER Brunei was rated PC with the former R.14 on the basis that safe harbor provision were only directed to STR report to police officer and no clarification on which party STR could be disclosed to.

366. *Criterion 21.1* - In Brunei, the secrecy or confidentiality provisions in any other written laws are overridden by Section 29 of the CARO for the compliance with the obligations contained under the CARO.

367. FIs and their directors, officers and employees are protected from criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract for reporting STRs or provide information in good faith to the FIU (s. 18 CARO and s. 49 ATO). However, there is no explicit provision to extend safe harbor protection even if the person filing the report did not know precisely what the underlying criminal activity was, and regardless of whether the illegal activity actually occurred. Brunei authorities indicate that the safe harbor is available even if the person filing the report did not know precisely what the underlying criminal activity was, and regardless of whether the illegal activity actually occurred, as STRs do not have to identify the suspected offence.

368. *Criterion 21.2* - FIs and their directors, officers, and employees in Brunei are prohibited from disclosing the fact that an STR related to ML or TF or related information is being filed with the FIU (s. 20 CARO and s.48(2) ATO). A further prohibition on tipping off for disseminations of terrorism or TF-related STRs to the police is included in the ATO (s. 55(2)). The STR Guidance concerns measures to prevent tipping off in cases of STRs related to ML and proceeds of crime, such as not proceeding with the due diligence process and immediately submitting an STR to the FIU if fulfilling the CDD measures could result in tipping off (STR Guidance Item 7).

Weighting and conclusion

369. Tipping off covers all FIs/DNFBPs for ML and TF. Safe harbour protections are extended to those filing STRs; however, some concern remains as to whether this includes situations where the person filing the report did not know precisely what the underlying criminal activity was, and regardless of whether the illegal activity actually occurred.

Recommendation 21 is rated largely compliant.

Recommendation 22 – DNFBPs: Customer due diligence

370. Brunei was rated NC with the former R. 12-DNFBPs CDD in MER 2010. Only Registered Agents and Trustees as DNFBPs were included in the AML/CFT regime, Brunei was rated NC for the former R.12, R.16 & R.24, and PC for R.20 & R.25 in relation to DNFBPs. Generally, Brunei has addressed these deficiencies through the issuance of appropriate BDCB notices, through the CARO, 2012, definition, CDD requirement for DNFBPs.

371. Criterion 22.1 - The CARO (s. 2) defines DNFBPs in line with the FATF standards, including casinos, real estate agents, dealers in precious metals and stones as well as jewelers, lawyers and accountants, and trust and company service-providers (when the latter two undertake specified activities under c.22.1(d) and (e)). The activity-based definition of company service providers extends to businesses undertaking partnership services. Casinos and gambling establishments are effectively prohibited in Brunei (s. 4, Ch. 28 of the Common Gaming Houses Act).

372. DNFBPs are covered by the same CDD requirements which apply to FIs (s. 4 to 14, CARO). Therefore, the relevant gaps identified in R.10 equally apply for DNFBPs under c.22.1.

Criterion 22.2

373. DNFBPs are required to maintain records of all transactions (s. 14(1), CARO). These records are required to include identifiers including names and addresses, as well as particulars of any given transaction (s. 14(3), CARO). This information is required to be kept for at least seven years (s. 14(1), (4), CARO).

374. DNFBPs are required to keep records of CDD measures for seven years (s. 14(1)(b), S. 14(3), and S.14(4), CARO). Legal obligations specifically require retention of records sufficient to identify necessary information about a customer and their relevant transactions. However, there are no specific obligations to maintain account files and business correspondence, and results of any analysis undertaken.

375. Record keeping requirements as set out under c.11.3 are sufficiently granular for DNFBPs to permit reconstruction of individual transactions.

376. DNFBPs are required to ensure all records are maintained and made available in a timely manner in response to a lawful request (S. 23(c), CARO).

Criterion 22.3

377. DNFBPs are required to determine if a customer or a beneficial owner is a PEP. If they are determined to be a PEP, DNFBPs are required to take all reasonable measures to identify the source of wealth, funds and other assets of the customer, but this does not explicitly extend to the source of wealth, and source of funds of beneficial owners-(s. 9(b)(i) to (iii), CARO).

378. For DNFBPs Brunei applies the same obligations to both domestic and foreign PEPs, and the controls on FIs for PEPs apply equally to DNFBP. DNFBPs are required to take all reasonable measures to identify the source of wealth, funds and other assets of the customer who is a domestic PEP, but this does not explicitly extend to the source of wealth, and source of funds of beneficial owners (CARO, s.9(b)(ii)) of the domestic PEP.

379. DNFBPs are required to collect additional information on PEPs' relatives and close associates (s. 9(b) of the CARO; s. 24(a) of CARO). The deficiencies noted in c.12.3 in relation to the scope of relatives and business associates apply to DNFBPs.

Criterion 22.4

380. There are no explicit obligations for Brunei competent authorities or DNFBPs to identify and assess ML/TF risks arising from development of new products and business practices.

381. DNFBPs are obliged to undertake risk assessments prior to the launch or use of new or developing products, business practices, or technologies.

382. DNFBPs are required to develop and implement AML/CFT programmes which include policies and procedures to prevent misuse of technological developments, including those related to electronic storage and transfer of funds-or value-(s. 22(1)(d), CARO). However, the deficiencies identified with obligations on FIs apply equally to DNFBPs.

Criterion 22.5

383. DNFBPs are permitted to rely on third parties to perform identification procedure (s. 5(3), CARO). DNFBPs are ultimately responsible for compliance with their AML/CFT obligations under CARO when relying upon third parties (s. 5(6), CARO).

384. DNFBPs are required to be immediately provided with customer and beneficiary information immediately upon account opening or commencement of the business relationship (s. 5(3)(b), CARO), but not the nature of the business.

385. DNFBPs are required to obtain copies of identification information and other documents relating to the obligation of due diligence without delay, and upon request (s. 5(3)(c)(i), CARO).

386. DNFBPs are required to be satisfied that the third party is regulated for AML/CFT purposes, or is established in a country where it is subject to AML/CFT requirements consistent with the FATF standards, and has adequate measures in place to comply with the requirements (s. 5(3)(c)(ii), CARO).

Weighting and Conclusion

387. The gaps outlined in R.10-12, 15 and 17 equally apply for DNFBPs. There is ambiguity in the legal obligations for DNFBPs to retain account files, business correspondence and results of any analysis undertaken. There are no obligations for authorities or DNFBPs to identify and assess ML/TF risks arising from new products and business practices, undertake risk assessments prior to the launch or use of products, business products, or technologies.

Recommendation 22 is rated partially compliant.

Recommendation 23 – DNFBPs: Other measures

388. In the 2010 MER Brunei was rated non-compliant with former Recommendation 16. Amongst the DNFBPs, only TCSPs were subject to STR reporting, tipping off, safe harbour and internal control obligations.

389. *Criterion 23.1* - DNFBPs are legally obliged to promptly file STRs or attempted transactions if they involve a serious offence, ML or TF to the FIU (s. 15, CARO; s. 47(1), ATO). The minor gaps for predicate offences (foreign personal income tax offences and market manipulation) have an impact on STR reporting obligation. The definition of "promptly" differs between STRs related to ML (up to three days) and STRs related to TF (within 24 hours) (Item 5 of the revised STR Guidance).

390. Obligation on DNFBPs extend to all suspicious transactions, including attempted transactions, regardless of the amount of the transaction.

391. *Criterion 23.2* - DNFBPs are subject to the deficiencies identified in R.18, however, DNFBPs in Brunei do not operate under the same structure as financial groups, and therefore the group-wide programmes against ML/TF as set out in c. 18.2 are not applicable.

392. *Criterion 23.3* - DNFBPs are required to pay special attention to business relations and transactions with persons including legal persons and arrangements, from or in countries that do not or insufficiently apply the relevant international standards to combat money laundering and the financing of terrorism (s. 12(b), CARO).

393. DNFBPs are required to identify customers whose activities pose high ML/TF risks and to conduct enhanced identification, verification, and ongoing due diligence on such customers (s. 9(a), CARO). This is supplemented by an expectation (Item 5.4 GGP) to apply additional procedures on high-risk customers from high-risk jurisdictions, including those subject to a call by the FATF.

394. There are no legislative or regulatory requirements which determine the application of countermeasures by DNFBPs.

395. The FIU maintains a list of countries specified by the FATF. This list is disseminated to REs via its Integrated Financial Intelligence System. The list is updated after the issuance of the FATF public documents following FATF plenary meetings.

396. *Criterion 23.4* - DNFBPs are subject to the same requirements as FIs with respect to complying with tipping-off.

397. Section 18 of the CARO provides that no criminal, civil, disciplinary or administrative proceedings for breach of banking or professional secrecy or contract shall lie against DNFBPs or their respective directors, principals, officers, partners, professionals or employees who in good faith submit reports or provide information to the FIU. The secrecy or confidentiality provisions in any other written laws are overridden by s. 29 of the CARO for the compliance with the obligations contained under the CARO. Similar safe harbour provisions are also set out in s. 49 of the ATO.

398. However, there are no provisions which explicitly provide protection for DNFBPs, directors, officers, and employees in relation to STRs even when the reporting entity does not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

399. DNFBPs and their directors, officers, and employees are prohibited from disclosing the fact that an STR or related information is being filed with the FIU (s. 20, CARO; S. 48(2), ATO).

Weighting and Conclusion

400. There are minor shortcomings with obligation on DNFBPs, including no requirements for countermeasures as in R.19 and the minor deficiencies identified in R.18 and R.21.

Recommendation 23 is rated largely compliant.

Recommendation 24 – Transparency and beneficial ownership of legal persons

401. Brunei was rated 'partially compliant' for Rec. 33 (now Rec. 24) in its' 2010 MER. The deficiencies identified were 1) lacking transparency concerning the beneficial ownership and control of legal persons; 2) overly restrictive secrecy provisions on RATLO agents impede them providing access to adequate, accurate and current information on the beneficial ownership of legal persons; 3) lack of controls over share warrants; and 4) risks presented by nominee shareholders and nominee directors not sufficiently managed; 5) absence of measures to ensure transparency and to prevent unlawful use of legal persons; and 6) corporate information and information on beneficial ownership and control structure might not always be adequate, accurate and current.

Context for legal persons

402. Since the last MER, Brunei Darussalam has done away with its international finance centre and related framework for offshore entities. Brunei Darussalam repealed the Registered Agents and Trustees Licensing Order (RATLO) 2000 and the International Business Companies Order (IBCO). In October 2020, the Companies Act was amended to introduce detailed obligations on beneficial ownership of legal persons and controls on nominee directors.

403. Section 1 of the report sets out the numbers of different types of legal persons created in or registered in Brunei Darussalam. The following types of legal persons can be created:

Companies (formed under the Companies Act, Chapter 39);
i. Private companies
ii. Public limited companies
iii. Foreign companies
Societies (formed under the Societies Act, Chapter 203); and
Cooperative societies (formed under the Cooperative Societies Act, Chapter 84).

404. Foreign companies are formed overseas but registered in Brunei Darussalam to undertake business. There is no stock exchange.

405. The Limited Liability Partnerships Order 2010 provides the basis for formation of limited liability partnerships which are legal persons under the laws of Brunei. However, the LLP Order 2010 is not yet in operation and no limited liability partnerships have been formed.

406. Simple Partnerships and sole proprietorships (formed under the Business Names Act, Chapter 92) are business entities but are not legal persons as these business forms do not bestow separate legal personality to the partners. Partners and sole proprietors have unlimited liability, and are personally liable for the partnership's debts and losses incurred by other partners.

Company formation and risk assessments

407. *Criterion 24.1* - Brunei Darussalam has publicly-accessible mechanisms online for information on the different types, forms and basic features of domestic legal persons and registration of foreign legal persons. Information on the creation and registration of for profit legal person is publicly available from the web portal *BusinessBN*[27]. This government website includes registration guides for applicants. The guides include details of registration obligations, including legal persons' form and articles as well as directors and shareholders.

408. Information on the creation and registration of Societies is available with the ROS, which is part of the Royal Brunei Police Force (RBPF). Information on how to register a society is

27 www.business.gov.bn

available on the RBPF website[28] and is available online through the *Guidelines on how to apply for registration of a society* and the relevant registration form on the ROS website.

409. Information on the formation of cooperative societies can be obtained upon request from the Headquarters or district branches of the Cooperative Development Unit (CDU) of the MOFE.

410. The processes and mechanisms for obtaining and recording beneficial ownership information are set out in the amended Companies Act (s. 310F) and the Companies Rules 2020 (Rules 3-5). ROCBN has a guide on filing beneficial ownership information at the point of company formation, but it is limited and does not extend to ongoing obligations on companies to collect and maintain BO information as required under the Companies Act (Amendment) Order, 2020 and the Companies (Register of Controllers and Nominee Directors) Rules, 2020 (Companies Rules 2020), which entered into force on 31 October 2020.

411. *Criterion 24.2* - Brunei completed a ML/TF risk assessment of legal persons in Brunei in 2020. The 2020 risk assessment considered the ML/TF risks associated with all types of legal persons created in Brunei, as well as foreign legal persons registered in Brunei. The risk assessment included findings on overall risk and relative strengths and weaknesses of measures in place to address the risks identified. In 2020 Brunei also completed two risk assessments of not for profit legal persons: the NPO Sector Review; and the ML/TF Risk Assessment on Cooperative Societies (2020).

Basic Information

412. *Criterion 24.3* - All companies are required to submit their memorandums of association and articles to the Registrar – the ROCBN (s. 15, Companies Act) and must include the company name, address of registered office, legal form and status and basic regulating powers (s. 14 Companies Act). A certificate of incorporation is issued by the Registrar if all the requirements are met. This certificate is also recorded and accessible through ROCBN's database.

413. Every company is required to keep a register of its directors at its registered office, and to submit this information from the date of appointment of the first directors of the company, as well as to notify the Registrar within one month of any changes to the directors (s. 143, Companies Act). The register of directors is open for inspection during office hours by any member (s. 143, Companies Act). Companies are required to submit an annual return, which includes information on the particulars of shareholdings, directors, and numbers of shares covered by share warrants (s. 107, Companies Act).

414. Every company incorporated outside Brunei is required to register before it establishes a place of business or commences to carry on business in Brunei (s. 299, Companies Act).

415. The ROCBN maintains legal ownership information which may be accessed via the ROCBN online portal (www.roc.gov.bn) by the public for a small fee.

416. Societies are required to file address and details of president, secretary and treasurer with the ROS the following (s. 8 of the Societies Act). Any person may, with a lawful purpose, obtain a copy of any documents filed by societies with the Registrar (s. 25(1) Societies Act). Only the society members may obtain copies of the accounts of the society (s. 25(2) Societies Act).

417. Cooperative societies, are required to submit the names, occupation, address and identification of members in a prescribed form to the Registrar (s. 6, Cooperative Societies Act).

28 www.police.gov.bn

The Registrar receives and maintains copies of a cooperative societies regulating powers (by-laws), including any accepted amendments (s. 7 & 10, Cooperative Societies Act).

418. *Criterion 24.4* - Every company incorporated in Brunei is required to maintain a register of members with names and addresses and occupations (if any) along with the details of shares held by each members and shareholders and the dates of becoming/ceasing to be a member (s. 95, Companies Act). Every company incorporated in Brunei, upon registration with ROCBN, is required to provide details of members and file annual returns with updated ownership information with names, addresses or occupations as well as the number of shares held at the date of return (S. 107, Companies Act). Ownership changes (transfers and new allotments) in the interim are also recorded during the year by notices provided to the ROCBN and within 28 days of any change being recorded by the company in its register (s. 66 & 68 of the Companies Act).

419. Registered societies are required within 60 days of holding an annual general meeting or within 60 days of the end of each calendar year to file with the Registrar the list of office-bearers, the number of members of the society residing in Brunei, and the address of the society or of the place of business of the society (s. 22(1), Societies Ac)).

420. Cooperative societies are required to keep a copy of the governing Act and of the rules and of its by-laws and a list of its members open to inspection (s. 12, Co-operative Societies Act).

421. *Criterion 24.5* - While there are obligations to update basic information on a timely basis, Brunei did not demonstrate that there are mechanisms that ensure that the information filed with registrars is accurate and updated on a timely basis. ROCBN has recently commenced a data cleaning project for its basic information holdings, but this is at an early stage.

Beneficial Ownership Information

422. *Criterion 24.6* - Brunei adopts a number of mechanisms to ensure that beneficial ownership information is available and can be determined in a timely manner by competent authorities.

423. *c.24.6 (a & b)* – Since October 2020 Brunei has required companies and other legal persons, including registered foreign companies, to obtain and hold up to date beneficial ownership through an obligation related to maintaining a register of 'controllers' (s. 310 A – 310 K, Companies Act). 'Controllers' is defined as 'an individual who has significant interest in, or significant control over, the company or the foreign company, as the case may be' of the Companies Act) and, in some cases (only for those companies formed since 2021), to file that information with the ROCBN.

424. Beneficial information collected by companies, including information filed with the Registrar may be accessed by any public agency to enable it to administer or enforce any written law in Brunei (s.310 M of the Companies Act). Except in circumstances as may be prescribed, companies or the Registrar may not disclose beneficial ownership information to members of the public (s. 310 F(11) and s. 310 N(5), Companies Act).

425. The obligation to maintain details of controllers is defined in s.310B and the 17th Schedule to the Companies Act. The definition combines a threshold of ownership (directly or indirectly of more than 25% of shares that confer rights to vote on the operation of the company) as well as other test for control, including having the right to exercise, or actually exercises, significant influence or control over the company or foreign company. Controllers also include an individual or a legal entity that does not have a share capital if the individual or legal entity holds, whether directly or indirectly, a right to share in more than 25% of the capital, or more than 25% of the profits, of the company or foreign company.

426. The companies and registry mechanisms are not yet well implemented to ensure that up to date and accurate beneficial information is available upon request.

427. *c.24.6(c)* Brunei also relies upon information collected by FI/DNFBP in the course of implementing CDD requirements, set out under CARO, to ensure BO information can be determined.

428. FIs/DNFBP are obliged to make such information available to authorities in a timely manner. Detailed obligations to obtain and verify CDD information in relation to beneficial owners of legal persons are in place, as per the analysis contained in R.10 and R.22. FIs and DNFBPs are required to perform CDD when commencing a business relationship with a legal person and the CDD obligations to update the information on file is only triggered when the transactions by the entity no longer matches the FI/DNFBP's understanding of its profile. This is done on a risk-sensitive basis.

429. *Criterion 24.7* - Companies, including foreign companies registered in Brunei, are required to keep information on beneficial ownership and control accurate and up to date. This includes enforceable obligations on companies to investigate and obtain information on their beneficial owners and obligations on persons who are beneficial owners to declare their status to the company and provide information, including any changes to status (S.310G-K, Companies Act). At the time of the onsite visit these obligations were not clearly being enforced.

430. In relation to BO information collected as part of CDD, FIs/DNFBPs are required to identify the BOs and obtain such information as is necessary to understand the ownership and control of the legal person (s. 5(2), CARO). FIs and DNFBPs are required to exercise ongoing due diligence, including maintaining current information and records relating to the beneficial owner (s. 13(1)(a), CARO). However, the update procedure is triggered only when the customer's business activities no longer matches their risk profiles. The CDD regime for BO information has limitations as it might result in the FIs and DNFBPs taking years to update the BO information in the absence of a risk event to trigger an update, as opposed to the BO information being updated whenever a change in beneficial ownership happens.

Criterion 24.8

431. *c.24.8(a)* – Companies incorporated in Brunei must have at least one resident director in Brunei (s. 138, Companies Act). A foreign company must have an agent and a registered office in Brunei to which all communications and notices may be addressed (s.299(1)(e), Companies Act). The resident directors/agent is accountable to the authorities to provide the information and assistance required to ensure companies co-operate with competent authorities to the fullest extent possible in determining the beneficial owner.

432. *c.24.8(b)* – TCSPs are designated as a DFNBP under CARO and are therefore subject to identification and verification requirements under CARO (s. 5 and 6) which includes obtaining and verifying identities of directors of the company and beneficial ownership. However, it is unclear whether such TCSPs are expressly authorised by the company to share such information with competent authorities.

433. *c.24.8(c)* –in relation to basic information, MOFE may appoint inspectors to investigate and report on the membership of a company, for the purposes of determining the true persons who are or have been financially interested in the success or failure (real or apparent) of the company or able to control or materially to influence its policy (s. 135(I), Companies Act). In relation to beneficial ownership information, a company is required to provide beneficial ownership information to the Registrar or any officer authorised by the Registrar in writing (s.310 M, Companies Act).

434. *Criterion 24.9* - FIs and DNFBPs are required to maintain basic and beneficial ownership information as well as all transaction records for at least 7 years from the date of transaction or upon which action was last taken, including when the company ceases to be a customer of the FI or DNFBP (s. 14(4), CARO).

435. Basic and beneficial ownership information filed with ROCBN is kept indefinitely, but most companies are not yet required to file BO information with the ROCBN.

436. The Companies Act is silent on obligations for companies (or its administrators, liquidators or other persons involved in the dissolution of the company), to maintain basic and beneficial ownership information 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.

Other Requirements

437. *Criterion 24.10* - The following competent authorities are empowered to access basic and beneficial ownership information held by legal persons:

- LEAs are empowered through search warrants, subpoenas and production orders to access ownership information held by the Registrar, legal persons and FIs. Competent authorities, in particular LEA would be able to access the basic and beneficial ownership information held by ROCBN or upon request as required (s. 290 and s. 310 M, Companies Act)

- The Registrar and any other officer authorised by him in writing, with powers to require a company or foreign company to produce its register of beneficial owners, its register of nominee directors and any other document relating to those registers or the keeping of those registers (s. 310M of the Companies Act).

- The Head of FIU has broad powers to access company information held by FIs and DNFBPs (s. 31 CARO and s. 52 ATO).

- RBPF, ACB, NCB and RCED (as authorised officers) have powers to enter and search premises for any property, record, report or document and take possession of such property (Sections 100, 101, 104, 106 and 120, CARO). In practice these powers would appear to apply to both basic and beneficial ownership information. These powers can be used when officers have, as a minimum, suspicion of a serious offence or an offence criminalised in CARO. Refusal and failure to comply is liable for pecuniary fines—cumulative on a daily basis—and/or imprisonment. The ACB and NCB may also be conferred police powers set out under the CPC that would facilitate obtaining access to ownership information (s. 19A of the PCA for the ACB; s. 2C of the MDA for NCB), including the issuing of a written order to a person to attend and produce property or records (s. 56(1), CPC).

438. *Criterion 24.11* - Bearer shares are not permitted under the Companies Act. Share warrants may be issued but these may not be in bearer form. The prohibition of bearer shares has been in effect since 1 January 2015 (s. 73, Companies Act). Holders of a share warrant were required to surrender their warrants for cancellation by 31 December 2015 and have their name entered as a member in the register of members (s. 97(2), Companies Act (Amendment) Order 2014). After 31st December 2015, existing share warrants were deemed void and not honoured. No warrants were surrendered. Any bearer shares being issued and any applications to the Registry to file the issuance will not be accepted by the Registry.

Criterion 24.12

439. *c.24.12(a) – Nominee shareholders* are required to disclose the identity of each person on whose behalf those shares are held to the company (s. 65(3), Companies Act). These disclosures are required to be made in writing to the company within a month of acquisition of nominee shares (s. 65(4), CARO). The information is available to competent authorities upon request. Such information is obliged to be held by the company in its register (s. 65(5), CARO). Information on nominee shareholders is not required to be filed with the Registrar.

440. *Nominee directors*, whether natural or legal persons, are required to disclose the identity of the person on whose behalf they are acting for to the company. Companies are required to keep a register of nominee directors (s .310 L, Companies Act and Rules 6 & 7 of the Companies (register of controllers and nominee directors) Rules, 2020). The information is available to competent authorities upon request. Information on nominee directors is not required to be filed with the Registrar.

441. *Criterion 24.13* - For companies that fail to maintain a register of members, register of directors or that fail to submit annual returns, the company and every officer of the company who is in default would be liable to a default fine of BND 100 (approx. USD 72) (s. 314, Companies Act). These penalties are not proportionate or dissuasive.

442. Criminal penalties are available to enforce the obligations on nominees, although the controls on nominee shareholders requires a fraud offence to be proven. A nominee shareholder who fraudulently provides information to the company which he knows or has reason to believe to be false or misleading is guilty of an offence and liable on conviction to a fine not exceeding $5,000, imprisonment for a term not exceeding 2 years or both (Section 65(7) of the Companies Act). Failures of directors or companies to comply with the requirements to provide information in relation to nominee directors is an offence that shall be liable to a fine of BND5000 (approx. USD3600) upon conviction (s. 310 L, Companies Act)

443. Failure to comply with the requirements of CARO as outlined in the responses to c.24.7 and c.24.9 are offences which carry a penalty of a fine not exceeding BND 1,000,000 (approx. USD 720,000), imprisonment for a term not exceeding one year or both. In the case of a continuing offence, to a further fine of BND 100,000 (approx. USD 72,000) for each day during which the offence continues after conviction. These sanctions are applicable to both natural and legal persons (s. 23 & 24, CARO).

444. *Criterion 24.14* - Brunei's ability to provide international cooperation in relation to information on legal persons is described in R.37 and R.40. Basic information such as the company name, status of the company, date of incorporation, registered address, list of directors, list of shareholders can be purchased online. Brunei authorities may obtain BO information and there are no legal constraints on the domestic competent authorities which inhibits the use of their powers in responding to an MLA request.

445. *Criterion 24.15* - The FIU monitors the quality of assistance received from foreign counterparts in instances where the Brunei FIU is the authority involved in international exchange of basic and beneficial ownership information. Beyond the FIU, other agencies do not monitor the quality of assistance received from other countries in response to requests for basic and BO information nor requests for assistance in locating beneficial owners residing abroad.

Weighting and Conclusion

446. Brunei has assessed the ML and TF risks associated with all types of legal persons. Measures have been introduced to mitigate risks from nominee directors. The mechanisms to ensure that up-to-date information on legal persons beneficial information is available have been significantly expanded, although implementation of obligations on companies to maintain BO registers and to file BO information with the ROCBN are not well implemented. The sanctions for non-compliance with filing basic information and maintaining BO information are not sufficiently dissuasive.

Recommendation 24 is rated partially compliant.

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

447. Brunei was rated partially compliant for Rec 34 (now Rec 25) in the 2010 MER. The deficiencies identified were 1) lacking transparency concerning the beneficial ownership and control of legal arrangements; 2) overly restrictive secrecy provisions on RATLO agents impede them providing access to adequate, accurate and current information on the beneficial ownership of international trusts.

448. Since the last MER Brunei has done away with its international finance centre and related framework for offshore trusts. Brunei repealed the Registered Agents and Trustees Licensing Order (RATLO) 2000 and the International Trusts Order 2000.

449. In Brunei, trusts are governed by common law principles and consist of settlors, trustees and beneficiaries. Brunei does not currently have any additional laws which supplement the common law (for instance, a Trustee Act). Trust law is not widely practiced in Brunei, and most trusts established in Brunei are in the form of testamentary trusts. Common law express trusts are recognised and can be created under Brunei law. Foreign trusts can also be administered in Brunei. However, there are no clear rules on who may establish a common law (domestic) trust. In practice, the services of a lawyer or TCSP are usually obtained (both are DNFBPs). Until May 2016, it was possible to create International Trusts governed by the International Trust Order, 2000. However, they can no longer be created since the decision to wind up the International Financial Centre operations in 2016. Brunei is unable to provide information on the number of trusts operating domestic and foreign trusts in Brunei.

Criterion 25.1

450. *c.25.1(a)* – There are no express requirements in law or regulation (including case law) to require trustees to obtain and hold adequate, accurate and current information on the identity of the settlor, trustee(s), protector, and beneficiaries or class of beneficiaries, and any other natural persons exercising ultimate effective control over a trust. There are limited obligations on trustees when they are an FI or DNFBP and only in the context of performing CDD sufficient to understand the intended purpose and nature of the business relationship (s. 6(1)(e), CARO). The CDD obligations on customers of FI/DNFBP who are trustees do not clearly extend to situation where the FI/DNBP acts to settle a trust or act as a party to a trust.

451. *c.25.1*(b) – There are no requirements imposed on trustees to hold basic information on regulated agents of, and service providers to, a trust.

452. *c.25.1(c)* – Professional trustees such as lawyers and accountants are considered DNFBPs under the definition in CARO and are therefore required to maintain prescribed records for at least 7 years from the date the relevant transaction was completed

453. *Criterion 25.2* - There is no requirement that the information held pursuant to R.25 by trustees is kept accurate and up-to-date as possible.

454. *Criterion 25.3* - There are no obligations on trustees in Brunei to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold in the Recommendations.

455. *Criterion 25.4* - Trustees are not prevented by law or enforceable means from providing competent authorities with information they hold relating on the trust, or from providing FIs and DNFBPs, upon request, with information on the beneficial ownership and assets of the trust. However, the scope of information held is limited.

456. *Criterion 25.5* - LEAs can compel the production of records held by the trustees or the trust and company service provider by virtue of their powers outlined in detail under the response to c.24.10 and c.31.1(a). However, it is doubtful whether the LEAs have timely access to information in the case of non-professional trustees.

Criterion 25.6

457. *c.25.6(a)* –While the FIU and LEAs can obtain information from FIs and DNFBPs and provide such information to foreign counterparts agency to agency or through MLA channels, it is unclear whether this can be done 'rapidly' as required under this criterion.

458. *c.25.6(b)* – International exchanges of trust-related information can be accomplished through MLA requests and, where that information is available to domestic authorities, through agency to agency exchanges. The FIU is empowered to share information with foreign counterparts on the principle of reciprocity (s. 34, CARO).

459. *c.25.6(c)* – The FIU may assist in obtaining information pursuant to their statutory powers (s. 31, CARO and s. 54, ATO). LEAs can also exercise their powers as noted in criterion 25.5. As noted above, international exchanges of trust-related information can be accomplished through MLA requests and where that information is available to domestic authorities.

460. *Criterion 25.7* - There are no sanctions applicable to trustees who fail to perform their duties relevant to meeting their obligations under this Recommendation.

461. *Criterion 25.8* - There are no proportionate and dissuasive sanctions (civil, criminal or administrative) for trustees failing to grant authorities timely access to information referred to in c.25.1, unless the trustee is a DNFBP or FI. The intentional or negligent failure of FIs or DNFBPs to grant competent authorities timely access to trust information held in their records is a criminal offence with a penalty of a fine not *exceeding* BND 1 million (USD 720,000), imprisonment for a term not exceeding one year or both. In the case of a continuing offence, to a further fine of BND 100,000 (approx. USD 72,000) for each day during which the offence continues after conviction (S. 23 of CARO).

462. However, any deficiencies in c.25.1 would impact whether Brunei can fully meet c.25.8, as Section 23 of the CARO cannot be enforced without an express legal requirement for FIs and DNFBPs to hold the information required under c.25.1.

Weighting and Conclusion

463. Trust formation does not appear to be widely practiced in Brunei. Fiduciary obligations under common law apply to trustees in Brunei. Brunei law also does not impose enforceable obligations or proportionate and dissuasive sanctions on trustees to collect the required beneficial ownership information. There are no explicit obligations on trustees to an express trust to inform FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold.

Recommendation 25 is rated non-compliant.

Recommendation 26 – Regulation and supervision of financial institutions

464. Brunei was rated NC for former R.23 in the 2010 MER, in the lack of adequate supervision of the relevant authorities in utilising their powers for both off-site and on-site inspection of all the relevant sectors of FIs. Since that time, a number of regulations have been issued and FIU has expanded on-site and off-site inspection to cover all relevant sectors. The prudential regulator (BDCB) issued notice on corporate governance and appointment key responsible person on the process of licensing and monitoring.

465. *Criterion 26.1* - There is no specific designation of responsibility for regulation and supervision over FIs' compliance with regard to AML/CFT requirements, though BDCB has designated responsibility for licensing and registration, and supervision over FIs (s. 42 and 44, BDCB Order 2006). Under s.26 of CARO, certain powers to ensure compliance with AML/CFT requirements are granted to 'Any supervisory or regulatory authority', which the FIU, as AML/CFT supervisor, has used as the basis for its supervisory action. In practice, BDCB has exercised powers available to it and has taken principal responsibility for AML/CFT regulation and supervision through the FIU.

466. *Criterion 26.2* - FIs are covered by registration and licensing requirements under sector-specific laws and orders, which are administered by BDCB, with exception of the Perbadanan which was created by the Brunei Government by statute and is not separately licenced.

467. Banks, including Islamic banks*:* A license is required to undertake banking business, including that of international and Islamic banks (s.4, Banking Order; s.4, Islamic Banking Order).

468. Insurance and takaful operators*:* A license is required to undertake insurance or takaful business in Brunei, in addition to incorporation under the Companies Act (s. 5 Insurance Order; s. 5, Takaful Order).

469. Securities businesses*:* A license is required to undertake investment, safekeeping and administration of assets, managing and establishing securities—including collective investment schemes and investment advice—which constitute regulated activities under the SMO (s. 22 and 23, SMO).

470. Finance companies*:* A license is required to undertake finance company business (s. 3(1), FCA), which is expressly defined in law (s. 2, FCA).

471. Money-changing and remittance businesses: Non-bank money changers and remittance businesses are required to be licensed to undertake remittance business (s. 5(1) and 6(1), MCRBA).

472. Payment system providers: A license is required to undertake these activities (the Notice Requirement on Payment System, 2020, and s. 54, BDCB Order)

473. Moneylenders: A license is required to undertake this activity (s. 3(1), Moneylenders Act).

474. Pawnbrokers: A license is required to undertake pawn-broking activities (s. 9, Pawnbrokers Order).

475. Shell banks: Are prohibited from being established or operated in Brunei (S. 27(1), CARO).

476. Perbadanan TAIB: is a wholly government owned Islamic FI established through statute and can perform banking, financing, commercial and investment operations. While it is regulated and supervised by the BDCB (s. 2 and 42, CARO), it is exempted by law from licensing requirements with respect to the Banking Act, Moneylenders Act, and FCA (s. 19(3), Ch. 163, Perbadanan TAIB Act).

477. *Criterion 26.3* - Sector specific legislation sets out fit and proper requirements and assessment criteria for FIs' directors, managers and major shareholders. Disqualification provisions also apply, albeit in the limited circumstance of being convicted of an offence involving fraud or dishonesty.

478. New licences and appointments of new key reporting persons (KRPs) are required to meet the fit and proper criteria both prior to and during the employment. FIs are expected to obtain their assessment of the KRP's compliance with the fit and proper criteria which is set out in the relevant orders. Providing false and misleading information for KRP application is an offence (s. 106, Banking Order 2006, s. 107 of Islamic Banking Order, 2008, s. 33 FCA, and any regulations issued thereunder). The range of fit and proper obligations is uneven across different types of FIs. Notably the checks on the fit and proper for money changers and remitters on an ongoing basis is particularly strong (during annual license renewal).

479. Banks, including Islamic banks: The BDCB must be satisfied prior to the issuing of a banking licence (S. 8(2)(a) and (b), Banking Order) that applicants meet fit and proper criteria—'probity', 'competence', and 'sound judgment' (s. 8(3), Banking Order). Similar controls are in place for Islamic banks (s. 8, Islamic Banking Order), which test applicants' reputation in the financial community and that its key senior personnel are 'fit and proper persons' as well as the 'the need to protect the public interest' and 'the need to protect the security, reputation, and economic interests of Brunei'. These fit and proper thresholds are supplemented with notices, which set out additional guidance as well as some obligations—including negative questions centred on criminal convictions and negative findings by competent authorities.

480. Supervisors rely on the background checks carried out by banks, such as police check and bankruptcy check, for a positive response. Item 3.3 of the Notice to Banks on Appointment of Key Responsible Persons allows the Authority to take the necessary actions if the KRP is found to be not fit and proper, by writing a preliminary notice for objection and make representations of KRP. The obligation to establish that he or she is a fit and proper person is on the person, rather than for the Authority to show.

481. However, there are no explicit requirements to positively test applicants' responses, e.g. require provision of official certificates attesting to no criminal record (Appointment of Key Responsible Persons to Banks, Notice no. BU/N-6/2017/41; and Notice no. BU/N-7/2017/42 for Islamic banks).

482. Disqualification criteria allow competent authorities to remove persons from holding directorships or management appointments, or similar functions, in any bank. In the case of Perbadanan TAIB, His Majesty the Sultan and Yang Di-Pertuan of Brunei may terminate any directorship if they are convicted of an offence involving dishonesty, fraud, or moral turpitude or is guilty of misconduct relating to their duties (S. 9(d) and (e), Perbadanan TAIB Act).

483. Insurance and takaful companies*:* Under the Insurance Order, insurers are required to inform competent authorities that a proposed managing director/director/chief executive/principal officer (s. 41(1)(a)) or controller (s. 42(1) to (2)) meets the 'minimum criteria' of a fit and proper person. Holders of significant or controlling stakes in insurers are defined in law as "controllers" (s. 3, Part II of the Insurance Order). Proposed controllers of insurers require approval from the competent authorities based on fitness and propriety criteria (s. 42(1) and (2), Insurance Order)]. The fit and proper criteria and assessment consider matters are included in Item 3, and 4 of the Guidelines No. TIU/G-1/2017/6), which also include criminal record, and civil penalty enforcement matters.

484. These requirements are supplemented with guidelines (Items 3 and 4 of the Guidelines on Fit and Proper Criteria for Key Responsible Persons and Key Persons in Control Functions in Insurance and Takaful), issued as the best practices for insurers when assessing fit and proper criteria as required under the Notice No. TIU/N-6/201710 under the Minister's power granted under s. 88 of the Insurance Order, 2006 and s. 90 of Takaful Order, 2008. Sanctions for non-compliance with guidelines on KRP and breach of duty are provided under S.78 of the Insurance Order and s. 79 of Takaful Order, for non-compliance of fit and proper duty on KRP under s. 41 of the Insurance Order and s. 42 of the Takaful Order.

485. While the competent authorities may object to the appointment "if it appears" that fit and proper criteria are not met, there are no fitness and propriety checks required to be conducted independently of the insurer's written notice.

486. Furthermore, the only criminal-related disqualification criterion which applies is whether a proposed officer or controller has been convicted of any offence involving dishonesty or fraud (s. 43(1), Insurance Order). Identical provisions and therefore deficiencies apply for takaful companies (s. 42 to 44, Takaful Order 2008).

487. Securities businesses*:* Granting of a Capital Markets Service License or Representative's License is subject to a fit and proper test (s. 157(5), SMO). Implementing regulations require authorities to consider honesty, integrity, and reputation on a case-by-case basis. This requires consideration of a candidate's criminal convictions if any (obliging consideration of severity, relevance to proposed role, explanations provided by the candidate, and evidence of rehabilitation) and overall reputation (Regulations 29, SMR 2014; pursuant to 157(5), SMO).

488. There is a process to revoke licenses if fitness and propriety is no longer met, which requires provision of a warning notice then a decision notice which can be contested (s. 38(10(a), SMO). The CMSL holders are subject to annual reviews of their license, which includes assessment of their fitness and propriety (s. 157(4) and 160 of SMO, R.29 of SMR). Holders are also required to notify any changes related to licence, directors or key management or organization structure to SMO, and holders must ensure that they comply at all times with the requirements for initial licensing, which includes their fitness and propriety requirements (s. 157(4),(5) S.161 of SMO).

489. Operators of securities investment business or a securities exchange are subject to a fit and proper test, by declaration in the application for Capital Market Services License, such as whether they have similar licences granted in other jurisdiction, and any prohibition order received, any proceeding of disciplinary or criminal nature, or have been convicted of any

offence (Regulation 51(4)(c), SMR). Those with licences granted from other jurisdictions are normally verified and confirmed with the licensing authority, and verification of past employment. In order to prevent the entry of criminals or their associates beyond the suggested consideration of any matter which may harm the integrity or reputation of Brunei (Regulation 51(5)(e), SMR) or the holistic consideration of factors which might not give reasonable cause to doubt fitness and propriety if considered individually (Regulation 51(5)(g), SMR).

490. Revocation of license to operate can apply if the operator of a securities exchange or clearinghouse is deemed not 'fit and proper' to provide such services (s. 67(2)(e), SMO 2013).

491. Finance companies*:* It is a requirement for finance companies to satisfy the competent authority of its management's character (s. 6(2)(b) FCA) and whether the public interest will be served if a license is granted (s.6(2)(f) FCA). There is no explicit requirement to test shareholders with a major stake in the company for fitness and propriety. A notice setting out further obligations for applying fit and proper checks (Notice on Appointment of Key Responsible Persons to Finance Companies [Notice no. BU/N-8/2017/43]) was issued under Section 54 of the BDCB Order, which obliges FIs to comply with directions issued by competent authorities or else be liable for a fine of BND 20,000. This notice applies to senior management figures and directors. It does not explicitly cover shareholders with a major stake in the company. There is a detailed list of fit and proper criteria to be considered by the competent authorities (Item 5.2 of the Notice).

492. Money changing and remittance businesses*:* While there is a requirement for competent authorities to satisfy themselves on an applicant's good character as part of the licensing process (s. 7(3)(a), MCRBA), in practice this appears to be implemented through tests including an interview, written examination, and screening against criminal background and compliance database checks at the point of application.

493. Background checks is the process of screening the name of money changer and remittance business owners via Brunei's Integrated Financial Intelligence System (IFIS) and a well-known commercial database, including seeking information on applicants from LEAs,, as part of an applicant's character assessment (s. 7(3)(a) MCRBA chapter 174). The ongoing fit and proper checks for MSBs are particularly strong.

494. Payment system providers: The applicant is required to satisfy the authority that directors, chief executives officer, shareholders, and employees fulfil fit and proper requirement (Para 7.1(b) of the Notice No. PSO/ N-1/ 2020/ 1 – Amendment No.1 Requirements for Payment Systems).

495. Pawnbrokers*:* The licensing officer has scope to grant a licence with conditions and terms as they see fit (s. 8, Pawnbrokers Order). There are no legal or regulatory measures which prevent criminals or their associates from holding a management or equity position in a pawn broking business.

496. Money lending businesses*:* There are no legal or regulatory measures to prevent criminals or their associates from holding a management position, or a controlling or significant stake in money lending businesses. However, Brunei states there are no such businesses licensed to perform this activity.

497. Perbadanan TAIB is a state-owned statutory body and is bound by the provisions of the Perbadanan TAIB Act. KRP are granted consent by higher authority, and notified to BDCB, supplemented with a summary of their qualifications and experience (s.17 Perbadanan TAIB Act).

Criterion 26.4

498. *c.26.4(a)* – Brunei undertakes regulation and supervision having regards to the ML/TF risks of the sector and largely in line with the core principles. There is no external report available to demonstrate Brunei's level of compliance with BASEL, IOSCO and IAIS principles for AML/CFT. For group supervision, Brunei does undertake group supervision for AML/CFT purposes. For prudential supervision, the BDCB does not undertake group supervision.

499. *c.26.4(b)* – BDCB regulates and supervises remitters and money changers. Supervision III is responsible for licensing and supervision, while the Supervision III imposes licensing conditions upon licensees which are aligned with the CARO and pursuant guidelines. In terms of supervision, remitters and money changers are subject to a risk-based supervision framework focussed on their ML/TF risks. The frequency of their mandatory license renewal process is contingent on the quality of compliance and residual risks (rated from low [2 years], moderate [1 year], and high [6 months]), and may involve full-scope and thematic onsite examinations.

Criterion 26.5

500. *c.26.5(a) and (b*) - The FIU supervisors prioritise their AML/CFT supervision—as well as its frequency and intensity—according to the findings of their institutional risk assessments (which covers inherent risk, controls, threats, and weighting with the 2016 NRA's risk findings). FIU supervisors are able to conduct institutional risk assessments due to Brunei's context with a relatively smaller FI sector.

501. The results dictate supervisory work plans for the year. Their supervisory manual (2020) provides for a risk-based approach on the intensity of supervision, ranging from complexity of off-site tools including questionnaires to the depth of inspection activity. Onsites are only conducted for high-risk institutions where there are significant deficiencies in an FI's controls.

502. The BDCB has only limited documentation and information to support institution specific ML/TF risk assessments, including the ML/TF risk profile of individual FIs.

503. *c.26.5(c)* - The characteristics of FIs or groups of FIs are a factor in frequency/intensity of AML/CFT supervision.

504. *Criterion 26.6* - It is supervisory policy for the BDCB to maintain institutional profiles. It is policy for these profiles to be reviewed and updated every three years, as well as when there is a change in an FI's circumstances. Examples of these changes include management, structural or operational change, or if there are new policies or legislation in effect. This periodic and events-based policy was put into effect in 2018 the BDCB implemented a supervisory policy of maintaining institutional profiles, and ensuring those profiles are reviewed and updated every three (3) years and as and when there is a change in the FI's circumstances.

Weighting and Conclusion

505. There is no clear designation of the responsibility for AML/CFT supervision, though in practice this is conducted by the FIU.-There are a number of deficiencies in fit and proper controls across FIs.

Recommendation 26 is rated partially-compliant.

Recommendation 27 – Powers of supervisors

506. *Criterion 27.1* - Competent authorities have the power to impose sanctions for breaches of AML/CFT obligations (s. 26 and 42(1), CARO). However, they do not appear to have an explicit set of powers to supervise/monitor FIs' compliance with AML/CFT requirements, this is only implied in the ability to impose sanctions for non-compliance. In the absence of explicit provisions on supervision, the BDCB may also utilise s.34 of the BDCB Order and s.137 of CARO to ensure compliance with AML/CFT requirements.

507. *Criterion 27.2* – The BDCB has authority to inspect, banks (s. 53(1), Banking Order; s. 53(1), Islamic Banking Order), finance companies (s. 26, FCA), insurers and takaful companies (s. 45, Insurance Order; Section 46, Takaful Order), and capital market intermediaries, market operators, and collective investment schemes (s. 42, SMO).

508. The BDCB has the authority to conduct inspections on money changers and remittance companies. The BDCB is the designated competent authority to conduct inspection or to authorise any officers to conduct inspections on money changing and remittance businesses (s. 12(1) MCRBA Cap.174).

509. Pawnbrokers are licensed and supervised under the Pawnbrokers Order 2002, there is only one pawnbroker supervised under the Pawnbrokers Order 2002, and the institution is part of a local bank. CARO defines pawnbrokers as a FI which is licensed, approved and regulated by the BDCB (s. 2(a)(vii)).

510. The Minister of Finance and Economy has power to give directions to the Perbadanan TAIB (S. 6, Perbadanan TAIB Act). Perbadanan TAIB is a statutory body regulated and supervised by the BDCB (s. 2 and 42, CARO).

511. *Criterion 27.3* - FIs are also obliged to produce information concerning their operations as required by the BDCB, which could extend to some aspects of AML/CFT controls (s.42(3), BDCB Order 2010). However, there is no explicit authority requiring production of the widest range of information relevant to monitoring compliance with AML/CFT requirements, although REs do provide this when requested.

512. *Criterion 27.4* - Any supervisor, regulator, or competent disciplinary authority that discovers a breach of CARO's provisions by a reporting entity is authorised to impose a gradated range of disciplinary sanctions. The disciplinary sanctions range from written warnings and orders to comply and provide reports on measures undertaken, to suspend, restrict, or withdraw the FI's or DNFBP's license (s. 26(a) to (h), CARO).

Weighting and Conclusion

513. There are no explicit powers to supervise or monitor FIs' compliance with AML/CFT requirements. There is no explicit authority for supervisors to require production of information of information relevant to monitoring AML/CFT compliance.

Recommendation 27 is rated partially compliant.

Recommendation 28 – Regulation and supervision of DNFBPs

514. In the 2010 MER Brunei was rated non-compliant with former Recommendation 24. There was no legal basis for the FIU, Ministry of Finance or any other regulatory authority or SRO to supervise DNFBPs (apart from TCSPs) for AML/CFT. Detailed regulatory requirements had not been extended to TCSPs or any other DNFBPs. Amongst the DNFBPs, only TCSPs were subject to STR reporting, tipping off, safe harbour and internal control obligations. In the progress report 2013 of Brunei, these deficiencies were addressed through the issuance of the CARO that provides legal basis for the FIU to conduct AML/CFT supervision and monitoring of DNFBPs.

515. *Criterion 28.1* - The Common Gaming Houses Act explicitly proscribes a range of activities which has the practical effect of prohibiting casinos and other gaming establishments. These proscribed activities include owning/operating/managing such an establishment, providing use of real property for, and otherwise instigating, promoting, or facilitating gaming (s. 4 and 8), and visiting or patronising such businesses (s. 6 and 7).

516. *Criterion 28.2* - There is no specific designation of responsibility for regulation and supervision over DNFBPs' compliance with specific regard to AML/CFT requirements by law, though a dedicated AML/CFT Supervision Unit was set up under the FIU in July 2017, to streamline the responsibilities within BDCB. Under s.26 of CARO, certain powers to ensure compliance with AML/CFT requirements are granted to 'Any supervisory or regulatory authority', which the FIU, as AML/CFT supervisor, has used as the basis for its supervisory action. The FIU has assumed the primary responsibility for AML/CFT supervision of all FIs and DNFBPs.

517. *Criterion 28.3* - The FIU undertook full responsibility for AML/CFT supervision since July 2017. It ensures DNFBPs have taken appropriate actions and sufficient measures in complying with AML/CFT obligations specified in CARO, ATO, the GGP and Guidance on Obligations under ATR.

518. The FIU conducted institutional risk assessments for DNFBPs in 2019, which took into account the 2016 NRA's findings. This enabled the FIU to adopt a risk-based approach to AML/CFT supervision, and apply greater focus to higher-risk institutions. The FIU also issued a supervisory manual for REs, containing procedures for conducting risk-based AML/CFT supervision. This includes conducting onsite examinations only for high-risk institutions where significant deficiencies in their controls have been detected. Brunei reports all institutions are subject to regular offsite examination with respect to implementation of remedial actions to remedy self-identified deficiencies.

Criterion 28.4

519. *c.28.4(a)* –AML/CFT supervisors do not have clear powers to monitor DNFBPs for compliance—including powers for onsite inspection or compel production of relevant information—though they do have powers to impose measures and sanctions for non-compliance with AML/CFT requirements (s. 26 & s. 137, CARO).

520. *c.28.4(b)* –There are limited fit and proper controls for DNFBPs. Applicants for registration as valuers or estate agents have to declare whether they have been convicted of a criminal offence, and/or if they have been subject to investigation and conviction of a criminal offence in Brunei or any other country. The BVEA has the power to approve or reject applicants. A penalty can be imposed for any persons who makes or attempts to make false or fraudulent declaration such as criminal records, certificate, application or representation whether in writing or otherwise (s. 22, Valuers and Estate Agents Order).

521. Applicants to become advocates, solicitors, and notaries are required to provide documentary evidence to the Chief Justice that no disciplinary proceedings were pending or

contemplated against them, and that their professional conduct was not under investigation (S. 5, Legal Profession Act). Petitioners are required to provide two Certificates of Good Character which verify their good character and attest to having no detriments (The Legal Profession [Practicing Certificate] Rules).

522. Applicants for accountants are subject to a fit and proper test (s. 14(4) of the Accountants Order 2010), which includes consideration of whether they have previously had their license to practice as a public accountant withdrawn, suspended, cancelled, or revoked in any other country.

523. There are no market entry requirements for TCSPs or DPMS.

524. *c.28.4(c)* – Supervisors can impose a range of disciplinary sanctions on DNFBPs for non-compliance with AML/CFT requirements as illustrated in c.35.1. These include warning letters, to temporary administration, suspension, restrictions, and ultimately withdrawal of their license. Post-conviction monetary fines and imprisonment are also included. However, the same deficiencies in c.35.1 apply, there is a lack of administrative fines for non-compliance with most AML/CFT preventive measures.

Criterion 28.5

525. c.28.5(a) – The frequency and prioritisation of DNFBP supervision is determined by the NRA findings (sectoral risk assessments), institutional risk assessments as well as regulatory concerns, -the ML/TF risks for all of the DNFBPs sectors are assessed as "medium low". Questionnaires essentially function as self-assessments of AML/CFT compliance. Following the formal establishment of the BDCB's AML/CFT Supervision Unit within the FIU in 2017, supervisors first sought to establish an understanding of the inherent vulnerabilities of each institution. This approach allowed supervisors to effectively manage resources by placing greater focus on institutions that were more vulnerable than others, thus allowing prioritisation of onsite inspections in order to test the institution's AML/CFT control measures. Since the beginning of 2018, AML/CFT supervisors have focused their onsite and offsite supervision work on the banking, remittance, and advocates and solicitors' sectors, as these sectors were identified as having high and medium high risks for ML in the NRA 2016. Due to the COVID-19 pandemic, planned supervisory work in 2020 had to be shifted and extended to 2021.

526. c.28.5(b) – Supervisory activity takes into account DNFBPs' ML/TF risk profile. An institutional risk assessment was conducted in 2019. The FIU assessed the inherent vulnerabilities of the businesses/professions within the DNFBP sectors by utilising the vulnerability matrix of factors as such income, number and types of customers etc. Factors used to assess DNFBPs vary depending on the complexity and professionalism of their respective sectors.

Weighting and Conclusion

527. There are moderate shortcomings in Brunei's supervisory framework for DNFBPs including lack of designation of supervisory authority, lack of market entry requirements in trust and company service-providers, dealers in precious metals, precious stones and jewellery; there are deficiencies with respect to the lack of administrative fines for non-compliance with most AML/CFT preventive measures; and there are no explicit legal provisions for conducting inspections and to compel production of any information relevant to monitoring compliance for AML/CFT supervisor.

Recommendation 28 is rated partially compliant.

Recommendation 29 - Financial intelligence units

528. In its 2010 MER, Brunei was rated NC with the former R.26. The key deficiencies included the FIU not having a clear legal authority to receive or disseminate STRs related to ML or TF. There were weaknesses in the FIU's analysis function, including a lack of matching STRs with other data. No disseminations of STRs had been made to LEAs since the formation of the FIU. With the introduction of the ATO 2011 and the CARO 2012, plus Brunei's full membership of the Egmont Group, the 2017 FUR found that Brunei had addressed the deficiencies identified in its MER and compliance with former R.26 was found to be equivalent to LC.

529. *Criterion 29.1* - The CARO designates the FIU as the agency responsible for receiving, requesting, analysing and disseminating information concerning money laundering, suspected proceeds of crime and terrorist financing. The FIU is an administrative-type body with no investigative powers. It has also been designated as the primary AML/CFT supervisor. The FIU was established in 2007 under the Ministry of Finance and was absorbed into the BDCB in 2011.

Criterion 29.2 -

530. *29.2(a)* – The FIU serves as the central agency for the receipt of STRs from FIs and DNFBPs. The obligations for FIs, DNFBPs and their respective directors, principals, officers, partners, professionals and employees to promptly report suspicious transactions to the FIU are prescribed under section 15 of CARO and Section 47 of ATO. The FIU's function to receive the reports is prescribed under section 30(a) of CARO.

531. FIs and DNFBPs are required to submit these reports through the FIU's Integrated Financial Intelligence System (IFIS). Only electronic report submissions through IFIS are accepted. Electronic report submissions commenced in June 2014 and the FIU has not received any paper-based reports since then. IFIS utilises goAML software which is a database and analysis tool developed by United Nations Office of Drugs and Crime (UNODC).

532. *29.2(b)* – The FIU also serves as the central agency for the receipt of the following reports:

533. *Cash transaction reports (CTRs):* section 16 of CARO requires FIs, DNFBPs and dealers in high value goods to submit CTRs to the FIU within 5 working days for any currency transaction of BND15,000 (approx. USD 11,000) and above. This applies to single transactions and transactions that appear to be linked within 24 hours, and attempted transactions. GGP provides guidance to REs, including on linked transactions.

534. *Cross-border movement of physical cash and bearer negotiable instruments reports (CBNI reports):* persons moving cash amounting to BND15,000 or more into or out of Brunei are required to make a declaration by submitting a report to the FIU as required under section 37 of CARO. Reports are given to an officer of customs or an immigration officer and forwarded to the FIU (s. 37(4)(c)(i), CARO).

535. *Monthly issuance and receipt of BND 10,000 notes reports (10K reports):* Banks are required to report any issuance and receipt of BND and SGD 10,000 denomination notes to the FIU. The issuance of BND 10,000 notes was ceased in November 2020 (Notice No. CM/N-1/2020/1). The Notice requires banks to stop the recirculation of BND 10,000 notes and return any stock or deposited notes to BDCB.

536. *Remittance transaction reports:* the FIU receives monthly reports from remittance companies through the Supervision III of BDCB.

Criterion 29.3

537. *29.3(a)* –The FIU is authorised to obtain from any entity or person, any additional information that the FIU deems necessary to carry out its functions. This includes obtaining information from not only the entity reporting an STR, but also from REs which were not the origin of the STR (s. 31 CARO and s. 52 of ATO). The requests are sent to REs through IFIS and the timeframes to provide additional information are determined by the FIU on a case-by-case basis.

538. *29.3(b)* – The FIU is able to access information collected by other BDCB units upon request. It also has direct access to the BDCB's Centralised Statistics System including data submissions from entities licenced by the BDCB.

539. The FIU can access a range of government databases (s. 31 CARO and s. 52 of ATO). FIU has direct access to the ROCBN database containing business and company registration information (from 2015 onwards with older information accessible upon request). The FIU can also request other information and records from telecommunications companies, the RBPF, INRD and RCED.

540. The FIU to obtain any telecommunication records of a person under investigation for committing or attempting to commit, a money laundering offence, serious offence or a terrorism financing offence (s. 119, CARO). The FIU has established focal persons at the INRD, RCED, and the DCI of the RBPF. These arrangements do not require the signing of an MOU to exchange information.

Criterion 29.4

541. *29.4(a)* – The Intelligence Analysis Team within the FIU, which consists of four staff, conducts operational analysis. The analysis draws on a broad range of available and obtainable information.

542. There are a number of triggers for operational analysis, including receipt of STRs, receipt of spontaneous disseminations from other agencies, and matches to the IFIS database from various watch lists. As outlined below, all STRs are subject to screening and initial assessment, normally within three days of receipt, with analysis escalated to the 'case proposal' stage for further information gathering and analysis as appropriate.

543. The FIU has adopted Tactical Analysis SOPs that outline in detail the analysis process steps. Operational analysis is triggered after a risk-prioritisation rating is done. This assessment is semi-automated utilising some data mining features in goAML combined with some manual intervention. The FIU adopts a 3-point scale for risk priority: High, Medium and Low. All TF-related matters are automatically treated as high risk.

544. *29.4(b)* - The FIU does not have a dedicated strategic analysis team, but intelligence analysts undertake research as required. The FIU has access to a broad range of information to support its strategic analysis function.

545. The FIU has adopted the Strategic Analysis Operating Procedures to set out the process for analysis. Strategic analysis products are categorised as follows:

- Tier 1 (yearly): Policy recommendation papers and risk assessments;
- Tier 2 (quarterly): Intelligence estimates, typologies, red flag indicators and threat assessments; and
- Tier 3 (monthly): Statistics reports, trends analysis and case studies.

546. The production cycle for the strategic analysis reports is determined by the Strategic Tasking and Coordination meetings held twice a year, taking into account the results of prior

environmental scanning. Additional reports may be produced based on ad hoc discussions, requests for intelligence or emerging trends.

547. *Criterion 29.5* - Section 33(1) of CARO allows the FIU to disseminate results of the analysis to the appropriate LEAs, both spontaneously and on request. The FIU is empowered to share information with any foreign counterpart agency that performs similar functions based upon reciprocity or mutual agreement (s. 34(1) CARO and s. 54(1) ATO). Procedures are in place to ensure that disseminations to any Egmont Group members are to be conducted through the Egmont Secure Network or other electronic means for non-Egmont members.

548. Any documents shared through IFIS to the stakeholders are required to have an additional unique password applied to the intelligence or information package. The passwords are unique to each intended recipient officer as all officers within each agency have access to their agencies' common 'message board' within IFIS.

Criterion 29.6

549. *29.6(a)* –FIU personnel are required to keep any information obtained within the scope of his or her duties confidential (s. 32(1) CARO and s. 53(1) ATO). Any current or former employee of the FIU or other person who has duties for or within the FIU who intentionally reveals such protected information is subject to a fine not exceeding BND50,000, imprisonment for a maximum term of five years, or both (s. 32(2) CARO and s.53(2) ATO).

550. All natural and legal persons are prohibited from disclosing STRs and CTRs or any information contained in the report, other than for the due administration of the Orders (s. 17 of CARO and s. 48 of ATO). Penalties for breaches apply under section 139 of CARO and section 57 of ATO.

551. The FIU adheres to the BDCB Document Handling Policy, IT and Information Security Policy and Risk Management Policies.

552. *29.6(b)* – Prior to recruitment, all BDCB (and therefore FIU) staff undergo a standard security vetting process which includes clearance from the law enforcement agencies. Only successful applicants may be accepted by BDCB. All FIU staff are required to follow the Handling of Classified Information Manual and receive training on handling and dissemination of confidential information.

553. *29.6(c)* – The FIU's building access is managed by the MOFE and the overall security of BDCB offices is managed by BDCB Security Unit. Access to the FIU's office is managed by FIU-IT function, where access is only provided to FIU personnel and Managing Director of BDCB. Access to the FIU's filing and storage area are provided to FIU personnel only. Security access to the IFIS workstations area is provided to Intel analysts, FIU-IT function only. IFIS workstations are configured for access by relevant personnel only. In addition to this, information stored on the main database (IFIS) is regulated by different access levels, depending on the role of the FIU personnel. The system has an audit trail on the application that records any searches, changes or deletions made.

Criterion 29.7

554. *29.7(a)* – Section 30(b) of CARO allows the FIU to disseminate information autonomously. Information is disseminated in the form of Intelligence Reports, which are approved independently by the Head of FIU. The Head of FIU has the authority to decide on the dissemination of intelligence or information. Section 150 of the CARO protects the FIU from any liability of actions done under the Order. Section 24(1) of the BDCB Order provides that the Authority (BDCB) may appoint such employees as it may decide.

555. *29.7(b)* – The FIU is able to make arrangements for information exchange with domestic and foreign counterparts. Section 33(1) of the CARO provides that an MOU is not required to exchange information with domestic law enforcement agencies. Provisions for the FIU's foreign exchange of information are set out in the CARO (s. 30(g) and 34(4)(d)) and the ATO (s. 54).

556. *29.7(c)* – While the FIU is located within BDCB, the FIU has its own distinct core functions and structure. The FIU is managed by the Head of FIU who reports directly to the Managing Director of BDCB on administrative (but not operational) processes.

557. *29.7(d)* – The FIU's budget allocation is provided by BDCB and confirmed on an annual basis prior to the start of BDCB's financial year. The budget application process begins with creating a business plan for the FIU for the subsequent year and calculation of expected expenditure. The business plan requires the approval of the Head of FIU. A proposal request for budget allocation from the FIU is submitted to the Finance division under BDCB. From there it is tabled for discussion and approval of the Board of Directors of BDCB, after which the outcome is relayed to the Head of FIU at the end of December. Upon approval of the budget, it may be immediately expended with the approval of the Head of FIU.

558. If necessary, the FIU can apply to the NAMLC Chair for additional resources from the Criminal Assets Confiscation Fund (s.123(5), CARO) or the Government of Brunei. Such additional budget allocations have not been used to date.

559. *Criterion 29.8* - The FIU became a member of the Egmont Group in June 2014.

Weighting and Conclusion

Recommendation 29 is rated compliant.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

560. Brunei was rated partially compliant with the former R.27 in its 2010 MER. The law enforcement authorities mandated to investigate ML and TF only conducted predicate offence investigations and no ML or TF investigations had been conducted in Brunei.

561. *Criterion 30.1* - The responsibilities of investigating predicate offences fall on various LEAs. However, only officers of the RBPF, ACB, NCB and the RCED are designated as "authorised officers" to conduct ML investigations under CARO.

562. For terrorism and TF offences, the RBPF is the main agency under the ATO mandated to pursue investigations. Section 26 of the ATO allows the powers of investigation into terrorism and TF offences which are conferred to the RBPF to be additionally exercised by authorised officers of the ISD. In practice, matters pertaining to terrorism and TF offences are referred to the ISD. However, to date, no investigations have been initiated by either the RBPF or ISD on TF offences.

Table: Authorities designated to investigate ML, associated predicate offences, and TF

Agency	Investigation powers for ML	Investigation powers for TF	Associated predicate offences
RBPF	✓	✓	All predicate offences
NCB	✓		Narcotics offences
ACB	✓		Corruption offences
RCED	✓		Smuggling offences relating to customs & excise duties Undeclared cross-border movement of CBNI
INRD			Immigration and passport offences People smuggling and human trafficking offences Undeclared cross-border movement of CBNI
ISD		✓	Internal Security offences Terrorism and TF offences

563. *Criterion 30.2* - Part VI of CARO provides powers of investigation to the RBPF, ACB, NCB and RCED (as authorised officers), including powers to investigate for the purpose of recovery of assets, and to investigate for ML offences and special powers of investigations in relation to statutory declarations (section 102 of CARO). Further details on the circumstances when parallel financial investigations are pursued accordingly are below:

a. INRD authorised officers within the INRD are empowered to require production of property or records to support the investigations, including for the purposes of identifying and tracing proceeds of crime (s. 19 Prevention of People Smuggling Order, 2019 and s. 20 of the Anti-Trafficking in Persons Order, 2019). However, INRD does not conduct ML investigations and only investigates people smuggling and human trafficking as predicates. Cases may be referred to the RBPF for further investigation.

b. RBPF is empowered by the CARO to conduct parallel financial investigations for any offence under RBPF's purview. In particular, parallel financial investigations are pursued automatically when the predicate offence involves criminal breach of trust, cheating (fraud) and forgery. RBPF does not use a threshold-based approach.

c. ACB conducts financial investigation on all corruption cases opened under Section 12 of the PCA. It pursues ML investigation once information on bank accounts and property ownership is collected and assessed, and found disproportionate with the suspect's known legitimate income.

d. NCB pursues parallel financial investigation for cases that involve proceeds exceeding a threshold of BND$5,000 (approximately USD 3,600) or upon instruction from the Director of NCB on a case-by-case basis. Parallel investigations are considered as ML investigations.

e. RCED refers cases to the Deputy Public Prosecutor for advice prior to initiating a parallel investigation.

564. The RBPF, ACB, NCB and RCED refer cases to other LEAs where investigation findings indicate that the predicate offence involved is more relevant for another LEA. For the ACB, referrals are considered by an evaluation committee while other LEAs consider referrals upon identifying criminal offences outside the scope of their jurisdiction.

565. As mentioned under criterion 30.1, RBPF is the main agency mandated to pursue TF investigations. At the same time, ISD may also exercise the TF investigation powers upon conferral to an authorised officer by the Director of ISD. The authorised officer must also report to the Commissioner of Police.

566. *Criterion 30.3* - All LEAs are designated to undertake identification, tracing and seizing of goods that may become subject to confiscation under the various legislations. Section 100 of CARO also provides powers to RBPF, ACB, NCB and RCED (as authorised officers) to identify, trace, and seize property that is suspected of being proceeds of crime.

567. *Criterion 30.4* - Financial investigations are only conducted by LEAs.

568. *Criterion 30.5* - In addition to the powers under CARO, ACB officers are also granted powers to identify, trace and initiate freezing and seizing of assets. Under the PCA (sections 20, 21, 23 and 23A), there are powers to search and obtain assistance, and to seize documents, require production of accounts and require statutory declaration.

Weighting and Conclusion

Recommendation 30 is rated compliant.

Recommendation 31 - Powers of law enforcement and investigative authorities

569. Brunei was rated largely compliant with the former R.28 in its 2010 MER. The LEAs had power to compel production, search and seize, however these powers were not being used in the pursuit of ML and TF investigations.

Criterion 31.1

570. *31.1(a) – The production of records held by FIs, DNFBPs and other natural or legal persons*

571. Officers of the RBPF, ACB, NCB and RCED are designated under CARO as "authorised officers" and provided powers to enter and search premises for any property, record, report or document (section 100 of CARO). This may be done without a warrant, provided that the officer has a reason to suspect that a person has committed an offence under CARO or that there is tainted property in relation to a serious offence on the premises. Authorised officers are also permitted to compel the production of records under section 101(1)(b).

572. LEAs are empowered through search warrants, subpoenas and production orders to access basic and beneficial ownership information held by the ROCBN, legal persons and FIs. LEAs are able to access the information held by ROCBN upon request as required (section 290 and 310M of the Companies Act) (see R.24 for further details).

573. For predicate offences, the production of records can be compelled under other legislative instruments. These include a broad power for any Court or police officer to compel the production of any property or document necessary for the investigation, inquiry, trial or other proceeding under the Criminal Procedure Code (CPC, section 56). The ACB, NCB, RCED and ISD may be conferred police powers under the CPC.

574. Section 24 of ATO allows any police officer with the authorisation of the AGC to inspect any banker's book. This include ledgers, day books, cash books, account books and all other books used in the ordinary business of a bank. Powers conferred upon a police officer under section 24 may be exercised by any officer authorised in writing by the Director of ISD in that behalf (s.26(1) of ATO). However, the ATO only applies to TF cases.

575. While the FIU does not conduct investigations, it has powers under section 31(1) and 31(2) to obtain additional information from FIs and DNFBPs, and enter their premises to inspect and take copies of any records.

576. *31.1(b) – The search of persons and premises* - CARO provides powers to authorised officers to search persons and premises (s.100 CARO). Where the offence is not related to CARO, further search powers exist under the CPC, ATO, PCA, MDA, the Customs Order, the Excise Order and the ISA. The authorised officers under CARO and the ISD may also be conferred police powers under the CPC, allowing them to use the provisions which would typically only apply to RBPF.

577. *31.1(c) – Taking witness statements* - Section 101 of CARO provides authorised officers with powers to examine persons, including taking witness statements. Section 57(1) of the ISA enables these witness statements to be admitted in evidence.

578. For offences outside of CARO (predicate offences and TF), the CPC gives RBPF powers to compel the attendance of a witness and obtain their statement. Other LEAs (ACB, NCB, RCED and ISD) may be conferred these powers.

579. *31.1(d) – Seizing and obtaining evidence* - Section 100 of CARO provides powers to authorised officers to seize and obtain evidence. For predicate offences, powers to seize and obtain evidence are included under the CPC (s 26, 56, 61(iii), 390), the PCA (s 18(2), 21(1), 23B), MDA (s 21), the Customs Order (s 115, 116) and the Excise Order (s 121, 122). For TF, the relevant powers are included under s 23 of ATO.

Criterion 31.2

580. *31.2(a) - Undercover operations* - Section 128 of the CARO permits all authorised officers to conduct undercover operations in order to secure evidence of offences against CARO.

581. There are no express provisions permitting undercover operations for the investigation of predicate offences or TF. However, the CPC (s. 112) provides a broad power for the RBPF to "take such action as the police officer deems necessary to prevent the repetition or aggravation of any offence". Other LEAs may be conferred these police powers under CPC. The NCB has used section 112 powers to collect information and conduct surveillance.

582. *31.2(b) – Intercepting communications* - Section 118 of the CARO provides powers to "authorised officers" to intercept communications and obtain telecommunication records for the purpose of investigating offences under CARO. The ATO (s. 25) provides powers to authorised officers investigating terrorism and TF related offences to intercept communication and obtain telecommunication records.

583. For other offences, section 5(1)(c) of the Telecommunications Act provides that, in the interest of public safety, His Majesty the Sultan and Yang Di-Pertuan of Brunei may authorise officers to intercept communications. The INRD also has powers to intercept telecommunications under s. 20 of the Prevention of People Smuggling Order 2019.

584. *31.2(c) – Accessing computer systems* - Section 100 of CARO allows the RBPF, ACB, NCB and RCED (as authorised officers) to access documents, which, by definition, includes anything recorded, stored, processed, retrieved or produced by a computer. Section 56 of the CPC gives RBPF the power to compel the production of any property, and other LEAs may be conferred this power.

585. The Computer Misuse Act, Chapter 194 (s.18(1) & (2)) grants powers to the RBPF to access computer and data for the purpose of investigating offences under the Act. This includes access to any program or data held in a computer with intent to commit an offence (including those involving property, fraud, dishonesty or which causes bodily harm and which is punishable on conviction with imprisonment for a term of not less than two years).

586. *31.2(d) - Controlled delivery* - There are no express provisions to allow controlled delivery, however there are also no provisions that restrict the use of this technique. There are two case examples showing how ACB and NCB have used this technique, relying on the provisions of section 112 of the CPC.

Criterion 31.3 -

587. *31.3(a)* – Section 56 of the CPC gives RBPF the power to compel the production of any document and other LEAs may be conferred this power. The FIU can also assist law enforcement in identifying whether natural or legal persons hold or control accounts within the country pursuant to section 31(2) of CARO. The FIU may seek information from all relevant banks, or all banks as the case may be, via the Integrated Financial Intelligence System (IFIS). The timeframes for the FIU's requests are determined on a case-by-case basis.

588. *31.3(b)* – Section 120(1) of CARO provides authorised officers as well as the FIU with powers to compel production of property records. This includes obtaining records from "any other" person who keeps those records. It is an offence to disclose the existence of such order to any person without authorisation from an authorised officer or the FIU.

589. Tipping off is prohibited under Section 20(1) of CARO. It is an offence for FIs and DNFBPs to disclose any information related to investigation into a serious offence to its customers. The FIU can assist LEAs in obtaining information on financial assets.

590. *Criterion 31.4* - Competent authorities can ask for any information from the FIU that is held by the FIU or can be obtained by the FIU, through IFIS. The RBPF (and other LEAs where conferred police powers under the CPC) can do this under section 56 of the CPC and the ACB under section 23(1) of the PCA. Section 33(1) of CARO provides the FIU with powers to share any information relevant to an offence to any LEA as well as to send a copy to the relevant supervisory authority.

Weighting and Conclusion

591. Brunei has broad provisions allowing for the collection and production of documents and evidence in criminal proceedings. However, there are no express provisions allowing competent authorities to conduct undercover operations or controlled deliveries in relation to all predicate offences.

Recommendation 31 is rated largely compliant.

Recommendation 32 – Cash Couriers

592. Brunei was rated non-compliant with former SR.IX in its 2010 MER as there was no declaration or disclosure system in Brunei. In 2011, Brunei amended the previous AMLA to include reporting on cross-border movements of physical currency and bearer negotiable instruments ("BNI"). Brunei also implemented a declaration system for incoming and outgoing passengers and for persons taking or sending cash into or out of Brunei.

593. *Criterion 32.1* - Brunei implements a declaration system for incoming and outgoing CBNI through Section 37 of CARO on *Reports about cross-border movements of cash,* and Section 39 of CARO on *Reports about transportation of cash into or out of Brunei by cargo, courier, postal service or any other means.* Cash is defined as physical currency (of any jurisdiction) and BNI.

594. *Criterion 32.2* - Persons carrying cash amounting to BND $15,000 (approximately US$10,600 or EUR 9,700), or the equivalent in foreign currency, or more across Brunei borders are required to complete and submit a CBNI form to an officer of the RCED or INRD. Persons who

receive or transmit CBNI of $15,000 or more into or out of Brunei by cargo, courier or postal services are required to make a declaration by submitting a completed CBNI form directly to the FIU. The reports must be made within five business days from the receipt or transmission.

595. *Criterion 32.3* - Brunei has adopted a declaration system.

596. *Criterion 32.4* - CARO empowers authorised officers to request and obtain further information from the carrier with regard to the origin of the CBNI and their intended use (s. 40(1)(c)(v)). This is a broad power which may be exercised by an authorised officer whether a carrier has made a false declaration or not. Section 31(2)(b), CARO is interpreted to mean the FIU is authorised to request and obtain further information considered relevant to money laundering activities, serious offences and the financing of terrorism which includes matters in relation to the cross-border movement of cash reporting regime. In practice, the FIU has used this authority to request for information from FIs and from overseas international counterparts in relation to persons of interest highlighted through analysis of the cross-border cash movement reports.

597. *Criterion 32.5* - Persons who make a false declaration are subject to criminal sanctions provided for under s.37(2) of CARO (fine not exceeding BND50,000 (approximately USD 36,000), imprisonment not exceeding 3 years, or both) and s.39(3) (fine not exceeding BND50,000, imprisonment not exceeding 3 years, or both). Brunei does not adopt civil or administrative sanctions but actively uses criminal sanctions under s.37(2) of CARO as the main enforcement means against failure to declare and false declarations of cross-border movement of cash. There have been no cases involving false declarations to date.

598. *Criterion 32.6* **-** CBNI reports completed by travellers are given to immigration or customs officers. These reports are then forwarded to the FIU within 5 working days from date of receipt, pursuant to Section 38 of CARO. Reports on cross-border CBNI through mail and cargo are required to be submitted directly to the FIU within 5 working days of receipt or delivery of CBNI under Section 39(5)(c) of CARO. The reports are subsequently digitised and stored in a database while the FIU keeps the hardcopy records.

599. *Criterion 32.7* **-** Both the RCED and the INRD are members of the NAMLC, which oversees the country's compliance with the FATF Recommendations. Objective 6 of the National Strategy 2017-2019 specifically outlines the measures to enhance enforcement and detection of cross-border movement of cash. This objective is a result of gaps identified during the National Risk Assessment 2016 and the action plan created to meet the objective includes specific measures that are to be improved and implemented during this cycle of the National Strategy.

600. The NAMLC takes up the role of overseeing the progress of the action plan in achieving this objective. As of 2020, the 5 action items under Objective 6 to enhance detection and enforcement of cross border movement of cash have been completed (as set out in the NAMLC progress report).

601. The FIU conducts monthly meetings with focal persons from RCED and INRD to identify implementation issues relating to CBNI, as well as to share information and discuss operational matters such as on-going cases as well as trends in non-declaration. These focal persons are also the primary liaisons with the FIU for any CBNI matters. The FIU also has a designated focal person assigned to liaise with RCED and INRD on CBNI matters.

602. Annual refresher courses are delivered to the RCED and INRD officers. The course, delivered by representatives from the FIU, RCED, INRD and AGC, includes topics on the powers available to the officers with regards to Part III of CARO concerning CBNI requirements**,** operational guidelines for the enforcement of such requirements as well as information on the latest statistics and trends based on declarations received and analysis output done by the FIU.

603. *Criterion 32.8* - Section 42 of CARO provides powers to authorised officers to seize CBNI in a limited number of scenarios, which would include ML/TF offences and the offence of making a false declaration under section 37(2) of CARO. If the authorised officer continues to have reasonable grounds for suspicion, or for the purposes of investigation, Section 43 of CARO provides powers to the authorised officers to detain the seized cash for a period of 72 hours. This may be extended upon application to the High Court.

604. *Criterion 32.9* - The FIU receives all CBNI reports within 5 working days of receipt. These reports are digitised and stored by the FIU in its IFIS database, retaining the information as required under this criterion in the digital system. Section 33(1) of CARO allows the FIU to share CBNI information with domestic LEAs, for the purposes contained in Recommendations 36 to 40. The FIU may also directly share CBNI information with foreign counterparts under Section 34 of CARO. This includes any MLA requests or extradition requests.

605. *Criterion 32.10* - CBNI information held by the FIU is subject to the confidentiality requirements contained in section 32 of the CARO which states that any information obtained by FIU personnel within the scope of duty, even after the cessation of those duties must be kept confidential. This provision covers all information obtained such as STRs, CTRs and CNBI reports or any information contained in reports, whereas secrecy and confidentiality requirements for RCED and INRD are contained in Section 135 of the CARO which states that no person shall disclose any information or matter which has been obtained by him in the performance of his duties or the exercise of his functions under CARO. All staff of BDCB are required to abide by the BDCB's Handling of Classified Information manual and are provided training on handling and dissemination of confidential information.

606. *Criterion 32.11* - Persons carrying out a cross-border transportation of CBNIs that are related to ML, TF or predicate offences are subject to prosecution for ML under Section 3 of CARO (fine of not more than $500,000 (approximately USD 360,500), imprisonment of not more than 10 years or both), and for TF under Section 4 of the ATO (Amendment) or Sections 5 to 8 of the ATO (a fine not exceeding BND 5,000,000 (approximately USD 3.6m), imprisonment for a term not exceeding 30 years or both). The sanctions are considered to be proportionate and dissuasive.

607. There have been no cases of cross-border transportation of CBNI involving ML/TF to date. Section 45 of CARO specifically covers forfeiture of CBNI that are related to ML/TF or predicate offences.

Weighting and Conclusion

Recommendation 32 is rated compliant.

Recommendation 33 – Statistics

608. Brunei was rated partially compliant with the former R.32 in its 2010 MER. The assessment highlighted deficiencies in keeping statistics on a number of areas including predicate offence investigations, supervision and sanctions.

Criterion 33.1

609. As per Brunei's National AML/CFT Strategy 2017 – 2019 (Objective 2.4), NAMLC agencies are required to collect and submit statistics to the NAMLC Secretariat on a quarterly basis, using a standardised reporting format provided by the NAMLC Secretariat. However, there is no legal requirement to submit statistics, but non-submission is followed up through the NAMLC.

610. *33.1(a)* – The statistics related to STRs are stored in the FIU's database management and analysis tool IFIS. The FIU maintains a range of statistics on STRs received and disseminated. These include the number of STRs received (broken down by sector, suspected predicate offence and red flag indicator), number of natural/legal persons or accounts reported through STRs, and number of cases disseminated (broken down by receiving agency).

611. *33.1(b)* - RBPF, ACB, NCB and RCED maintain records related to the number of investigations, prosecutions and convictions for ML and TF. It is noted that there are no TF related investigations or convictions to be reported. Further, in relation to ML, Brunei has the statistics on the sentences laid down by the Court for ML convictions on individuals. However, categorisation of ML investigations can be further improved based on the predicate offence and specific financial sectors as highlighted in the NRA.

612. *33.1(c)* -Brunei maintains statistics related to seizure and confiscation, but statistics on amounts frozen are not collected by NAMLC. Statistics on frozen, seized, confiscated property and MLA requests within RBPF are still maintained by the investigating officer. Brunei has reported total values per year for seizures and confiscations, and as mentioned in the NRA, further improvement to categorisation could be made based on predicate offence and based on sectors, proceeds of crimes and instrumentalities, and origin of properties (domestic and foreign). Further, the ML threat assessment in 2020 highlighted that the value of all assets seized during investigations is not recorded and the majority of statistics only include values of seized bank accounts. Further, statistics are still maintained as a mix of digital copies and hard copies.

613. *33.1(d)* – The MLA Secretariat maintains records on the number of MLA requests received and made and the number of extradition requests received and made. The FIU maintains records on the number of international requests received and sent by the FIU. With regard to requests received from the FIU, breakdowns are available based on type of information requested, by crime type and by duration of response.

Weighting and Conclusion

614. Statistics on amounts frozen are not collected and there are minor deficiencies in categorisation of data.

Recommendation 33 is rated largely compliant.

Recommendation 34 – Guidance and feedback

615. In the 2010 MER Brunei was rated partially compliant with former Recommendation 25. No STR and other guidelines to assist DNFBPs implement and comply with their respective AML/CFT requirements had been issued. In addition, there were no guidelines on reporting of unusual and suspicious transaction related to money changers and money remitters. In the APG follow-up of Brunei, the deficiencies noted for R.25 have been addressed through issuance of BDCB notices on 4 April 2012 for DNFBPs.

Criterion 34.1

Guidance

616. All relevant guidance on AML/CFT measures has been issued by the FIU, BDCB, as the primary AML/CFT supervisor for all FIs and DNFBPs. The guidelines cover CDD, record keeping, prescribed measures on PEP, correspondent banking, MVTS, wire transfers, screening of customers against Consolidated list of Designated, Persons, obligation to report STR and CTR, enhanced measures on high risk customers, AML/CFT Programme Framework, ML/TF risk assessment of customers.

617. STRs: The BDCB is required to issue guidelines in relation to suspicious transaction reporting to FIs and DNFBPs (s.15(6) CARO, s.47(5) ATO). BDCB may issue guidelines in relation to customer identification, record keeping and reporting obligations, and the identification of suspicious transactions (s.30(c) CARO). Detailed STR reporting guidelines have been issued to FIs, it was revised in October 2022 to be applicable to DNFBPs.

618. TF TFS: The relevant regulatory or supervisory authority is authorised to issue directions and guidelines to any person or any class of persons under their regulation or supervision as they consider necessary in order to discharge or facilitate the discharge of any obligation by virtue of a resolution or decision of the UN Security Council relating to terrorism (s. 138(1) CARO, s. 66(1) ATO). In addition, the FIU has issued a guidance on implementation of TF TFS.

619. A range of Guidelines have been issued pursuant to CARO and ATO as follows:

- General Guidance Paper to the FIs and DNFBPs on AML/CFT (11 July 2019);
- Guidelines for FI and DNFBPs (28 October 2022);
- Guidance on Implementation of the UNSCR Concerning Targeted Financial Sanctions Relating to the Prevention and Suppression of Terrorism and TF (15 February 2016);
- Cash Transaction Reporting General Guidance Paper for FIs and DNFBPs (27 December 2016)
- Cash Transaction Reporting Specific Guidance for Banks and Finance Companies
- Cash Transaction Reporting Guidance Paper for Motor Vehicle Dealers (10 April 2015);
- Cash Transaction Reporting Specific Guidance for Advocates and Solicitors, Notaries, Other Independent Legal Professions and Accountants (27 December 2016);
- Cash Transaction Reporting Specific Guidance for Money Changer and Remittance Companies (27 December 2016);
- Cash Transaction Reporting Specific Guidance for TCSPs (December 2016);
- Guidance on Obligations Under The Anti-Terrorism (Terrorist Financing) Regulations, 2013 (May 2018);
- Guidance Paper to Financial Institutions on AML/CFT Transaction Monitoring Programme (16 January 2020)
- Notice on Measures for Non-Face-to-Face Customer Onboarding and Ongoing CDD (FIs) (1 September 2022)
- Guidelines on Measures for Non-Face-to-Face Customer Onboarding and Ongoing CDD (FIs) (1 September 2022)

620. At the time of the onsite visit the FIU was collaborating with the Law Society of Brunei to draft a general guidance paper specific for the advocates and solicitors, notaries and other independent legal professions to assist the entities with their AML/CFT obligations. No specific guidance has been prepared by other SRBs.

Feedback

621. The FIU periodically provides feedback to FIs, DNFBPs and relevant government departments, offices, agencies and institutions regarding outcomes relating to the reports or information provided from them (s.31(2)(h), CARO). Feedback was provided to FIs and DNFBPs generally and targeted to institutions identified as having significant deficiencies in their compliance with AML/CFT statutory obligations or particular risks, feedback on individual STR may be provided to REs at the data compliance checking stage and feedback was also provided by the FIU on detection and reporting of STRs through the following channels from 2017 to 2022:

- Issuance of a STR Trends Paper in 2017 to FIs.
- FIU bulletins to the banks from 2018 onwards with general feedback on STRs received.

- Regular group meetings with the compliance officers from banks and finance companies to update the institutions on trends.
- Findings from the thematic onsite examination including feedback for improving detection of suspicious transactions were shared to the sector.
- Feedback on the STRs submitted when necessary.
- The FIU issued a preferred template for the narrative fields in an STR containing information to be collected by FIs.
- The issuance of nine (9) information circulars from 2018 – 2022 and general alerts regarding suspected scam activity.

622. FIU has the necessary powers to provide feedback to DNFBPs on the reporting of STRs. Specific feedback to DNFBPs on reported STRs has not been provided as the FIU has only received 1 STR submitted from the DNFBP sector between 2016 and November 2022. The FIU conducted an outreach and feedback session to DNFBPs at the end of 2020 to assist with understanding AML/CFT obligations, including the detection of STRs.

623. Feedback was provided to assist FIs with improving their compliance with obligations to submit cash transactions to the FIU and to improve the quality of CTRs submitted.

Weighting and Conclusion

624. The BDCB has issued a range of guidance and provided targeted and general feedback to FIs and DNFBPs to assist them in applying AML/CFT measures. Detailed STR reporting guidelines have been issued to FIs and DNFBPs. Sector specific DNFBP guidance is still being developed.

Recommendation 34 is rated largely compliant.

Recommendation 35 – Sanctions

625. Brunei was rated partially compliant with the former R.17 in the MER 2010. The report highlighted the lack of administrative, and financial penalties for breaches of licensing conditions, including implementing AML/CFT controls. The range of effective sanctions available to regulatory authorities had not been used in relation to non-compliance with AML/CFT controls. The rating did not change during the follow-up process. Since the 2010 MER Brunei has made a number of amendments to the BDCB Order, CARO, and other statutes that provide additional sanctions to enforce AML/CFT obligations.

626. *Criterion 35.1* - Brunei has a range of criminal, civil, and administrative sanctions to deal with natural and legal persons non-compliant with the AML/CFT requirements set out under Recommendations 6, 8, and 9 to 23. These sanctions are established under CARO. They include post-conviction monetary fines and imprisonment. Penalties available upon conviction, unless specifically spelled out, amount to a maximum fine of BND 250,000 (approx. USD 185,300).

627. Additionally, there is a catch-all penalty for breaching any provision of the CARO, regulations issued pursuant to it, or "any specification or requirement made, or any order in writing, direction, instruction or notice given, or any limit, term, condition or restriction imposed" pursuant to the CARO (S. 139, CARO). When the penalty for non-compliance for specific requirement of the CARO is not defined, the penalties provided for in S.139 would apply.

628. Failure or refusal of FIs to comply with directions issued under the BDCB Order (S. 34(1), CARO) and related regulations or instructions is an offence, which carries the penalty of a fine not exceeding BND 1 million (approx. USD 720,000) (S. 34(2), CARO). In the case of a continuing

offence, an additional daily fine of BND 100,000 (approx. USD 72,000) applies after conviction (S. 34.2, CARO).

629. Section 137 (1) of the CARO grants the BDCB powers to issue directions concerning any person or any class of person as the BDCB considers necessary for the prevention of the ML and other matters related thereto.

630. Failure or refusal of any person or any member of a class of person to comply with any direction issued under Section 137 (1) of the CARO is an offence under Section 137 (2) of the CARO which carries a penalty a fine not exceeding BND1,000,000 (approx. USD 720,000) and in the case of a continuing offence, to a further fine of BND100,000 (approx. USD 72,000) for every day during which the offence continues after conviction.

631. The range of administrative sanctions are available for the full set of obligations under the CARO (S. 26). CARO provides for a range of administrative sanctions including written warnings; orders to comply with specific instructions; barring individuals from employment within the sector; replacing or restricting the powers of managers, directors, principals, partners or controlling owners, including the appointing of an ad-hoc administrator; a temporary administration of the FI or DNFBP; suspending, restricting or withdrawing the licence of the FI or DNFBP (S. 26, CARO). However, these administrative sanctions only apply to violations related to CARO. A range of non-monetary administrative sanctions are available under the Societies Act and the BDCB Order.

632. However, the assessment team has some minor concerns with the range of sanctions and their dissuasiveness. First, there are no administrative sanctions applicable for non-compliance with CFT obligations set out in the ATO. Second, there are no administrative fines available for non-compliance with most preventive measures.

633. Fines to enforce AML obligations are achieved through the process of compounding offences. The BDCB is granted powers to compound any offences committed under the CARO or BDCB Order and any regulations made thereunder that are prescribed as a compoundable offence, by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding half of the maximum fine prescribed for that offence (S. 139A, CARO (Amendment)). BDCB has the same power to compound any offence under the BDCB Order or any regulations made thereunder (S. 74(1) of the BDCB (Amendment) Order, 2018 and Section 34(2) of the BDCB Order). As of November 2022, the BDCB has issued five directions under Section 34(1) of the BDCB Order to FIs, where three of the directions issued resulted in fines imposed. No directions were issued under S. 74 of the BDCB (Amendment) Order, 2018 for AML/CFT purposes to date.

634. Compounding does not require a preparation of a criminal case. In practice it takes two to seven months—and sometimes longer—to implement. The AML/CFT supervisors began issuing directions in 2018 to FIs pursuant to Section 34 of the BDCB Order, containing a series of conditions FIs are required to comply with within the designated timeframe in the Direction. These conditions are based on the key supervisory findings to assist the institutions to comply with AML/CFT statutory requirements. FIs are unable to negotiate the conditions nor the timeframe to comply with what is outlined in the Directions.

635. After the deadline of the Directions, AML/CFT supervisors assess the compliance to the conditions of the Direction. Findings of the assessment would be discussed and deliberated by the Regulatory Committee which comprises of the prudential supervisors chaired by the Deputy Managing Director (Regulatory and Supervision). Any advice and input from the Regulatory Committee would be considered and incorporated before submission to the Managing Director for final approval.

636. *For R.6 (TF TFS):* Any reporting entity that fails to implement requirements for TF TFS commits an offence and is liable upon conviction to fines not exceeding BND 1 million (approx. USD 750,611 as of 15 December 2020). In the case of a continuing offence, they are liable for an additional fine of BND 100,000 (USD 72,000) for each day the offence continues after conviction (S. 67 and S. 70, ATO (amendment)).

637. Regulatory and supervisory authorities have the power to issue directions and guidelines to discharge or facilitate the discharge of any obligation by virtue of a UNSC resolution or decision (S. 138, CARO). Failure to comply with the requirements under S. 138(1) of the CARO is an offence under S. 138(4) of the CARO, which carries a penalty of a fine not exceeding BND 20,000 (approx. USD 14,400).

638. *For R. 8 (controls on NPOs):* The Societies Act provides a dissuasive and proportionate range of criminal, civil and administrative sanctions applicable by the ROS or the courts. The ROS has powers to cancel the registration (S. 13, Societies Act), suspend activities (S. 17, Societies Act) or dissolve NPOs (S. 22(9), Societies Act) if they or persons acting on behalf of them were found to be in violation of the Societies Act, or when it is deemed necessary in the interest of the public or the NPO.

639. Section 18 of the Societies Act gives powers to the ROS to disqualify office bearers and staff of societies from their positions if they were found to be convicted of any offences against the Societies Act, or other threshold-based and list-based offences described in the section. The Societies Act imposes penalties upon 'unlawful societies' and its office bearers extending to fines, imprisonment or combination of both (S. 41 to 47). The Societies Act penalises furnishing false information, which is a fine not exceeding BND 5,000, imprisonment for a term not exceeding 2 years or both (S. 51). Section 52 of the Societies Act sets out the general penalty, when the offences against the act are not covered by any other penalty. For such offences, a fine not exceeding BND 5,000, imprisonment not exceeding two years, or both is prescribed for any person. The assessment team views the fine as neither proportionate nor dissuasive.

640. *For R.9 to 23* – It is a criminal offence for REs to breach the relevant provisions in CARO, any person who is in breach is liable to fines of up to BND 1 million, imprisonment for up to a year, or both. Additional fines of BND 100,000 (approx. USD 72,000) per day for which the offence continues post-conviction apply (S. 4(a) to (c), CARO). All of these obligations and R.9 and R.13 are subject to the general offence and penalty (S. 139, CARO) as well as a range of administrative sanctions (S. 26, CARO). However, these administrative penalties do not include monetary fines.

641. In relation to controls on MVTS, the sanctions set out in the CARO in relation to CDD and other requirements apply equally to MVTS.

642. *For R. 20 and R. 23* – FIs and DNFBPs that fail to comply with STR obligations are subject to sanctions, with penalties extending to a fine of up to BND 50,000 (approx. USD36,000), imprisonment of up to 5 years, or both (S. 19, CARO; and S. 50, ATO). As per Brunei, in the case of body corporates, sanctions are applied to the director, manager, or any other person who holds a controlling interest of the RE. The financial penalties for non-reporting of STRs are found to be low compared to other penalties for lesser offences and therefore do not appear proportionate or dissuasive.

643. *For R. 21 and R. 23* – Tipping off is an offence under CARO and ATO, punishable by imprisonment for five years or a fine, or both (S. 20, CARO; and S. 55, ATO). Fines available in the CARO are up to BND 500,000 (approx. USD 370,609) while the ATO provides for fines up to BND 5 million (approx. USD 3.6 million) (S. 57(2), ATO). Failure to maintain the confidentiality of the reports is an offence under Section 139 (General Offence) of the CARO as outlined above.

644. Criterion 35.2 - Sanctions for failings under the CARO extend to the director, manager, secretary or other similar officer of that body corporate, or of any person who was purporting to act in that capacity; or other person who holds a controlling interest in that body corporate, i.e. of an FI or DNFBP (S. 141, CARO). Under Section 142 of the CARO, where a person is liable under the CARO to a penalty for any act, omission, neglect or default, they shall be liable to the same penalty for the act, omission, neglect or default of his employee, director, controller, or agent if the act, omission, neglect or default was committed by:

(a) their employee in the course of the employee's employment;

(b) their director in carrying out the function of a director;

(c) their controller in carrying out the function of a controller; or

(d) their agent when acting on his behalf.

645. The Societies Act (S. 18 and S. 41 to 47), MCRBA (S. 14) and ATO (S. 60) extends sanctions to officeholders, senior management, and directors.

Weighting and Conclusion

646. Brunei demonstrated a range of criminal, civil and administrative sanctions for non-compliance with AML/CFT apply to FIs and DNFBPs. However, there are some deficiencies with respect to the lack of administrative fines for non-compliance with AML/CFT preventive measures.

Recommendation 35 is rated largely compliant.

Recommendation 36 – International instruments

647. In the 2010 MER Brunei was rated largely compliant with former R. 35 and partially compliant with SR.I. The main deficiencies were that Brunei had not fully implemented the UN Terrorist Financing Convention and UN Security Council Resolutions 1267 and 1373. The ATO 2011, the ATO (Amendment)(No.2) 2012, together with the Anti-Terrorism (Terrorist Financing) Regulations 2013 had been fully implemented to ensure obligations set out under UNSCRs 1267 and 1373 were carried out and the 2017 FUR found the level of compliance with former SR.I to be equivalent to LC.

648. *Criterion 36.1* - Brunei became a party to the Vienna Convention in November 1993. Brunei acceded to the UN Terrorist Financing Convention on 4 December 2002. Brunei ratified the UN Convention Against Corruption in December 2008. Brunei acceded to the Palermo Convention on 25 March 2008.

649. *Criterion 36.2* - Consideration of Brunei's implementation of the conventions is determined by consideration of Brunei's compliance with the relevant FATF Recommendations that cover the various convention articles. There are minor gaps with the criminalisation of ML, TF, related MLA and some law enforcement powers. There are some gaps with powers of supervisors and some preventive measures, including STR reporting.

650. Brunei primarily implements the Vienna Convention through the Misuse of Drugs Act (MDA). In addition, the following legislations apply: the CPC**;** the Customs Order, 2006**;** the Excise Order, 2006**;** and the Prisons Act**.**

651. The Palermo Convention is implemented through the following legislations: the CARO; the Penal Code; the CPC; the Prevention of Corruption Act (PCA); the Customs Order; the Excise

Order; the Internal Security Act (ISA); MACMO; the Extradition Order; the Evidence Act; and the Prisons Act.

652. The Merida Convention is implemented through the following legislations: the PCA; MACMO; the Extradition Order; the CPC and the CARO.

653. The TF Convention is implemented through: the CARO; the ATO (revised in November 2022); the CPC; the ISA; the MCRBA; the MACMO; and the Extradition Order, 2006.

Weighting and Conclusion

654. Brunei is party to each of the required conventions and has taken a range of measures to implement, albeit with some requirements not fully implemented.

Recommendation 36 is rated largely compliant.

Recommendation 37 - Mutual legal assistance

655. In the 2010 MER Brunei was rated partially compliant with former Recommendation 36 and SR.V. The MER found that limited predicate offences and deficiencies with the TF offence might impede effectiveness of MLA for ML and TF offences. Additionally, provisions to give effect to foreign restraint and confiscation orders were only available for a very limited range of offences. Brunei has addressed these deficiencies through the enactment of the CARO and the ATO 2012. The revised definitions of 'proceeds of crime' and 'serious offense' and the provisions in the CARO giving greater scope for MLA, will give effect to foreign restraint and confiscation orders. The 2012 FUR found Brunei's level of compliance with former R.36 and SR.V to be equivalent to LC.

656. *Criterion 37.1* - Brunei's MLA framework provides for a wide range of measures to seek and provide assistance in supporting investigations, prosecutions, and related criminal proceedings in ML, TF and predicate crimes. Minor gaps in the scope of coverage of predicate offences (foreign personal income tax offences and market manipulation) may undermine the ability to provide assistance.

657. Under Section 3 of the Mutual Assistance in Criminal Matters Order, 2005 (MACMO), Brunei may provide assistance in the following matters:

a) obtaining evidence;
b) taking written statements;
c) securing production orders;
d) obtaining attendance of persons in a foreign country;
e) custody of persons in transit;
f) search and seizure;
g) locating and identifying persons; and
h) arranging service of process.

658. LEAs of Brunei can respond to requests by foreign countries (Part V, Chapter II of CARO) for the following:

a) issuing restraining orders
b) enforcement of foreign restraining, confiscation and benefit recovery orders,
c) taking custody and control of property specified in foreign restraining orders

d) locating proceeds of crime

e) sharing confiscated property; and

f) locating or seizing property suspected to be tainted property.

659. Assistance is able to be provided in any "criminal matter" which is defined to include a criminal investigation, any criminal proceeding and an ancillary criminal matter. "Ancillary criminal matter" is defined to "include" the "restraining of, or dealing with or the seizure, forfeiture, confiscation of any property and the obtaining, enforcement and satisfaction of a confiscation order". Therefore, the MACMO applies to ML, TF and relevant predicate offences and their related proceedings.

660. The MACMO applies to any foreign country (S.4 and 20) and there are no provisions that prevent rapid cooperation from being provided.

661. Brunei can provide MLA based on its MLA treaties, ASEAN MLAT on criminal matters and under the principle of reciprocity (S.4 MACMO).

662. *Criterion 37.2* - A Mutual Legal Assistance and Extradition Secretariat has been established to transmit and execute requests (Regulation 5 of the Mutual Assistance in Criminal Matters Regulations, 2005 (MACM Regulations)). The Secretariat consists of officers from the Criminal Justice Division and the International Affairs Division of the AGC, noting that the Attorney General is the Central Authority for Brunei (S.21 MACMO). A standard request form is available on the AGC website to facilitate and expedite the granting of MLA requests. These forms are annexed to the MACM Regulations. The AGC Information Management System (AIMS) is used to track and assign requests internally within the agency. The requests are maintained in the system by the Special Duties and Transnational Crime Unit of the Criminal Justice Division which carries out the execution of any work related to MLA. The system also monitors and notify / remind case officers of any deadlines that are set. Requirements for the case management system are further set out in Regulation 5 of the MACM Regulations. There is, however, no clear process for timely prioritisation and execution of MLA requests, however, in practice, priority is given to requests made on an urgent basis and those involving serious crimes and asset recovery. Examples of serious crimes are crimes against persons such as murder, assault and financial crimes such as corruption, fraud, criminal breach of trust and money laundering. Urgent cases would depend on the time indicated for the execution of the MLA request and the stage of the case.

663. *Criterion 37.3* - Brunei's MLA legislation, the MACMO, sets out grounds for refusal of MLA. Section 24(1) sets out those instances in which assistance "shall" be refused, from granting of the request would prejudice national sovereignty/security/other crucial public interests, to request relates to a military offence and to request related to criminal matter in Brunei. Section 24(2) further sets out examples of where the Attorney General "may" refuse assistance, enabling discretion to be applied. There are no provisions in Section 24 of MACMO that found out to be unreasonable or unduly restrictive.

664. *Criterion 37.4* - Refusal of MLA requests on the sole ground that the offence involves fiscal matters or on the ground of laws imposing or confidentiality requirements on FIs or DNFBPs are not listed under Section 24 of MACMO or any other statute as grounds for mandatory or discretionary refusal of MLA.

665. *Criterion 37.5* - All MLA requests in Brunei are executed under the auspices of confidentiality. Foreign jurisdictions who make requests to Brunei should indicate their wishes on confidentiality as per Section 23 (e) (vi) of the MACMO. Confidentiality is maintained when there is an explicit request under the MACMO. Article 9 of the ASEAN MLAT provides for confidentiality. In addition, it is an offence for government officials to disclose confidential

documents obtained due to his position (s.5 (e) of the Official Secrets Act (OSA)). An official who violates this prohibition is liable to administrative penalty and criminal proceedings.

666. Section 27(8) of the MACMO ensures that when assisting in the taking of evidence, the evidence taken under this section is not admissible in evidence or otherwise used for any other proceedings in Brunei except in proceedings for the perjury or contempt of court against the person giving the evidence. This restricts the use of evidence taken as above and the confidentiality of the acquired information in the course of MLA.

667. *Criterion 37.6* - Dual criminality is not a mandatory condition that needs to be fulfilled for rendering assistance through MLA. It only serves as a discretionary ground that can be exercised by the Attorney General in refusing an MLA request (s.24 MACMO). Nevertheless, the fact that the dual criminality discretionary requirement is possible in the absence of coercive actions required in an MLA request, constitutes a minor deficiency for this criterion.

668. *Criterion 37.*7 - Dual criminality only serves as a discretionary ground that can be exercised by the Attorney General in refusing an MLA request (s.24 MACMO). There are no pre-requisites in any provisions for both countries placing the offence within the category of offence, or denominate the offence by the same terminology when applying dual criminality. For tax crimes, dual criminality is not a requirement for providing MLA requiring non-coercive or coercive assistance.

669. *Criterion 37.8* - LEAs are authorized to use their full set of investigative powers in responding to an MLA request from a foreign jurisdiction. These would include powers for compulsory measures:

(i) the production of records held by FI, DNFBPs and other natural or legal persons;
- obtain production orders for documents, records and reports – (S.29 to 30 MACMO);
(ii) the search of persons and premises including - search and seizure – (Sections 42 to 47 of MACMO) and body search – (s.21 of the CPC);
(iii) taking witness statements, including taking written statements – (s.34 of MACMO);
(iv) seizing and obtaining evidence. (s.26 of MACMO).

670. Nothing in the MACMO prohibits the use of special investigative techniques that are available to specific LEAs except for undercover operations and controlled delivery as mentioned under criterion 31.2. Other available powers include: i) locating and identifying persons (Section 48 of MACMO); and ii) arranging for the service of process (Section 49 of MACMO).

671. At the request of a foreign regulator, the BDCB can cooperate and exercise its investigative powers (S. 43 of the SMO) to appoint one or more competent persons to investigate any matter (s.49 & 50 of the SMO).

672. Chapter VI of the CPC also contains wide search and seizure powers and production of documents orders.

Weighting and Conclusion

673. Brunei's legal framework on mutual legal assistance in criminal matters provides for broad MLA with the Attorney General as the central authority coordinating the execution of MLA. There are minor shortcomings in that: (i) No clear process for timely prioritization and execution of MLA requests, (ii) the principle of dual criminality in the MLA Law is at the discretion of the Attorney General, irrespective of the involvement of coercive actions in a request and (iii) Minor gaps in the scope of coverage of predicate offences and special investigative powers may undermine the ability to provide assistance.

Recommendation 37 is rated largely compliant.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

674. Brunei was rated partially compliant for previous MER 2010. The main deficiencies identified were 1) reliance on CCROP for provisional measures and confiscation is limited by the scope of coverage of CCROP; 2) property which may be subject to confiscation is limited to narrow range of predicate offences covered under the CCROP, excluding terrorist financing. The repealing of the CCROP and the replacement by CARO has corrected many of the identified deficiencies in the 2010 MER.

675. *Criterion 38.1* - Under section 93 CARO, the AG of Brunei may make an application for a restraining order on behalf of a requesting foreign jurisdiction, and the resulting restraining order will operate as if the serious offence had been committed in Brunei (with some modifications). The application is made under s.49 CARO relating to "tainted property", under which its broad definition covers the types of property considered under this criterion, namely laundered property from; proceeds from; instrumentalities use/intended for use in ML, predicate offences TF or property of corresponding value. This is available for Brunei to provide for the recognition of foreign confiscation and restraining orders by virtue of the provisions of Part V of CARO. Section 94(1) allows the AG to apply to the High Court for registration of a foreign confiscation or benefit recovery order. Sections 94(2) and (3) provide that the High Court shall register these orders on certain conditions. Section 94(12)-(14) confirms that where foreign restraining, confiscation and benefit recovery orders have been registered, Part IV applies in relation to the order as though the serious offence which is the subject of the order had been committed in Brunei and the order had been made pursuant to that Part subject to some modifications. Under section 97 CARO, where the AG has granted the request for assistance from a foreign country to locate or seize property suspected to be tainted property, the provisions under Part VI CARO (which allows asset tracing and subsequent freezing/seizing) applies mutatis mutandis. The processes above allow for Brunei to take expeditious action to identify, freeze and seize property.

676. *Criterion 38.2* - Section 94(2) CARO provides that the High Court may register a foreign restraining order if the Court is satisfied that the order is in force in the foreign country. Section 94(3) CARO provides that the High Court may register a foreign confiscation order or a foreign benefit recovery order if the Court is satisfied that 1) the order is in force in the foreign country and not subject to appeal; and 2) where the person who is the subject of the order did not appear in the confiscation proceedings in the foreign state, and the person was given sufficient notice, had absconded or had died before such notice could be given. There is no provision for this where the perpetrator is unknown. It is unclear whether section 83(11) CARO which deals with non-conviction based forfeiture order for tainted property would apply to foreign restraining orders, foreign confiscation orders and foreign benefit recovery orders, although the assessment team noted that Brunei is pending legislative amendment to clarify this.

677. *Criterion 38.3* - Section 98(1)(b) CARO expressly allows the Attorney General to enter into arrangements for coordinating seizure, freezing, restraint and confiscation proceedings with the competent authority of a foreign country. Sections 94, 95 and 110 CARO deals with the management and custody of seized or restrained property by an authorised officer. The provisions highlighted in criterion 4.4 also applies to property seized/restrained/confiscated pursuant to requests from foreign countries.

678. *Criterion 38.4* - Section 98(1)(a) CARO expressly allows for the sharing of confiscated property with foreign states.

Weighting and Conclusion

679. Pending legislative clarification, it is unclear whether Brunei has authority to provide assistance to foreign requests for co-operation made on the basis of non-conviction based confiscation proceedings.

Recommendation 38 is rated largely compliant.

Recommendation 39 – Extradition

680. Brunei was rated largely compliant with former R.39 and partially compliant with SR.V. The 2010 MER found that Brunei should ensure the weaknesses in ML and TF offences are remedied to ensure dual criminality requirements in Brunei and requesting countries do not undermine the effectiveness of the extradition provisions.

Criterion 39.1

681. *39.1* (a) - Brunei's principal legislation concerning extradition is the Extradition Order, 2006. Under the Extradition Order, an extraditable offence is an offence which carries an imprisonment of over one year in both the requesting country and Brunei. As the maximum penalty for both TF and ML is not less than one year, both are deemed to be extraditable offences by virtue of Section 3(1)(b) of the Extradition Order. Minor scope gap with predicate offences for ML may have an effect on extradition.

682. *39.1* (b) – The Attorney General is the Central Authority for Brunei and an MLA and Extradition Secretariat has been established in the AGC to transmit and execute requests. A case management system is maintained by the Special Duties and Transnational Crime Unit of the Criminal Justice Division which carries out the execution of any work related to MLA and extradition. There is no standard operating procedure for response to extradition requests and each request is dealt with on a case-by-case basis. However, in practice, priority is given to requests made on an urgent basis and those involving serious crimes and asset recovery. Given the relatively small number of requests received, Brunei does not report any difficulties managing the requests received.

683. *39*.1 (c). The Extradition Order contains a number of restrictions on the surrendering of fugitives. Section 4 represents the circumstances which constitute grounds for an extradition objection. Section 17 stipulates that these are grounds by which the AG shall refuse extradition. These restrictions reflect well-established principles and do not appear to be unreasonable or restrictive. Brunei currently only has bilateral extradition arrangements with Singapore and Malaysia, but the Extradition Order provides for Brunei to extradite criminals in the absence of a bilateral agreement.

684. *Criterion 39.2* - Under Section 17(3)(d) of the Extradition Order, Brunei may refuse to extradite its own nationals although it represents only a discretionary ground for refusal of extradition. A fugitive is not precluded from extradition merely on the sole basis of citizenship of Brunei. Section 55 of the Extradition Order provides for prosecution where extradition cannot be executed, although this is again at the discretion of the Attorney General.

685. *Criterion 39.3* - Dual criminality is required for extradition in Brunei per the definition of extradition offence (except for some tax offences and if the offence is deemed in any written law or treaty to which Brunei is a party to be an extradition offence). However, Section 3 of the Extradition Order confirms that dual criminality is based on the underlying conduct and not on technical differences in elements of taxonomy of the offence.

686. *Criterion 39.4* - Brunei has simplified extradition mechanisms only with its regional neighbours Malaysia and Singapore through the Extradition (Malaysia and Singapore) Act, Chapter 154 and Summonses and Warrants (Special Provisions) Act, Chapter 155. A provisional arrest can also be ordered on the basis of a Magistrate's opinion that the circumstances would justify the issue of a warrant as well as taking into account any information in an INTERPOL notice. This is provided for under Section 6 (1) of the Extradition Order. Brunei also has a simplified extradition process for consenting persons who waive extradition proceedings. This is provided for under Section 11 of the Extradition Order.

Weighting and Conclusion

687. Although there are no specific procedures guided by legislation, the AGC is in charge of the case management and execution of extradition requests in practice and have not reported any difficulties faced in its management.

Recommendation 39 is rated largely compliant.

Recommendation 40 – Other forms of international cooperation

688. In the 2010 MER Brunei was rated largely compliant with former Recommendation 40 and partially compliant with SR.V. The main deficiencies were that the FIU could not proactively provide information to foreign FIUs and could not provide TF related information proactively, only on request. The enactment of the CARO and the ATO greatly improved on Brunei's international cooperation arrangements.

689. *Criterion 40.1* - Brunei's LEAs, the FIU and BDCB are able to cooperate with foreign counterparts through various arrangements, including multilateral and bilateral MOUs, agreements and treaties, regional or international bodies (such as Egmont, ASEANAPOL and INTERPOL, International Association of Anti-Corruption Authorities, WCO, Asset Recovery Interagency Network, Financial Stability Board Regional Consultative Group for Asia, IOSCO, IAIS etc.), as well as through meetings (including supervisory colleges) and informal communication (such as email or phone). Brunei has particularly strong relationship with regional counterparts in Singapore and Malaysia based on capacity building arrangements.

690. The FIU can exchange information with foreign counterparts on the basis of reciprocity or mutual agreement on the basis of cooperation arrangements (Section 34 (1) of CARO and Section 54 (1) of ATO). It has entered into MOUs (8) with some jurisdictions. The FIU exchanges information with foreign counterparts both spontaneously and upon request. The FIU is a founding member of the Financial Intelligence Consultative Group (FICG), established under the auspices of the Counter Terrorism Financing Summit of 2016, which is made up of the FIUs of ASEAN countries, Australia and New Zealand.

691. The RBPF has an MOU with the Singapore Police Force and the Australian Federal Police relating to transnational crime, including money laundering and terrorism. The ACB signed an MOU with the Malaysian Anti-Corruption Commission, the National Anti-Corruption Commission of Thailand, and the Government Inspectorate of Vietnam. The ACB is a co-founding member of the South East Asia Parties Against Corruption (SEA-PAC) which comprises of ten anti-corruption agencies. The NCB participates in a number of international meetings including the ASEAN Ministerial Meeting on Drug Matters, the Head of National Drug Law Enforcement Agencies Meeting, and the Asia Pacific Operational Drug Enforcement Conference etc., which facilitate information exchange. In addition, NCB holds bilateral meetings with Central Narcotics Bureau of Singapore and Narcotics Crime Investigation Department of Malaysia annually in tackling challenges relating to drug matters.

692. The ISD has signed MOUs with a foreign counterpart for the exchange of security-related information. An MOU was also signed between ASEAN and Australia on cooperation to counter international terrorism. ISD also participates in several regional and international conferences and meetings such as South East Asian Regional Commonwealth Security Conference.

693. The BDCB has signed 10 MOUs (including group/consolidated supervision) with foreign counterparts for exchange of information and is also members of IOSCO and IAIS. The BDCB can share information with foreign counterparts by participating in supervisory colleges for banking and insurance sector which does not necessarily require the signing of MOUs or legislative provisions. The FIU as AML/CFT supervisor for FIs, utilise the existing mechanism of the BDCB for information exchange with foreign counterparts.

694. Competent authorities do not need to exchange information based on reciprocity. There are no express provisions for competent authorities to ensure the rapid provision of assistance as required by this criterion.

Criterion 40.2 -

695. *40.2(a)* - The FIU can exchange information with foreign counterparts on the basis of reciprocity or mutual agreement on the basis of cooperation arrangements in its capacity as a financial intelligence unit (Section 34 (1) of CARO and Section 54 (1) of ATO). The FIU may also liaise with or enter into any agreement or arrangement with any international organisation regarding the exchange of information (Section 34 (2) of CARO).

696. LEAs: There are no explicit international cooperation provisions outlined in law for LEAs.

697. Tax authorities: Under the Income Tax Act, it is allowed to enter into agreements for relief from double taxation and the exchange of information with the Government of any country or territory outside Brunei (Section 41, Part XIVA, Income Tax Act).

698. The BDCB has a very wide basis to cooperate with foreign regulatory authorities which exercise functions which correspond to those exercisable by the Authority under the SMO and has powers relating to the detection of financial crime (Section 49, SMO). For other FI supervisors including the AML/CFT supervisor (FIs and DNFBPs), there is no express legal provision for providing international co-operation.

699. The BDCB can allow parent supervisory authorities to conduct inspection of any branch or office of a bank incorporated outside of Brunei for the sole purpose of the parent supervisory authority carrying out supervisory functions (s.56 (1) (a) of the Banking Order and s.56 (1) (a) of the Islamic Banking Order).

700. *40.2(b)* - The range of mechanisms for international cooperation provides Brunei's competent authorities with options to use the most efficient means. There are no explicit restrictions on agencies with respect to the means for cooperation. The FIU and LEAs use secured network or platform for information exchange (such as Egmont Secure Network System (ESW), Interpol Global Police Communication Network System and WCO Customs Enforcement Network (CEN)) while supervisors are able to utilise supervisory colleges, email exchange or conference calls to exchange information.

701. *40.2(c)* - Brunei has a range of clear and secure gateways, mechanisms or channels to facilitate and allow for the transmission and execution of international cooperation requests between competent authorities: The FIU, as a member of the Egmont Group, has access to the ESW. FIU exchanges with non-Egmont members is provided through secured delivery of letters or through an agreed-upon email address and fax number. The BDCB is subjected to the

requirements under the BDCB Handling of Classified Manual that directly addresses means to transmit information whether in softcopy (through email or other file-sharing service) or hardcopy format (through personal dispatch or post), according to the assigned classification of the document. The RBPF is a member of INTERPOL and can use their gateways for information exchange. Customs is a WCO member and can use the WCO CEN to exchange information securely. Other LEAs use secured official email platform to exchange information.

702. *40.2(d)* - The FIU's Procedure Manual 2019 outlines the procedures for receipt of information gathering and submitting responses relating to requests from foreign stakeholders, but there are no clear processes for the prioritisation and timely execution of requests.

703. For other competent authorities, there are no formal written documents of clear processes for the prioritisation and timely execution of requests. However, in practice, there are certain processes for execution of requests for LEAs, urgent requests will be handled with priority. The Royal Brunei Police Force will contact relevant authorities directly via telephone to ensure the request is attended to immediately, in case of urgency, the entire process will be completed within 6 to 24 hours instead of the standard average of 1 to 3 days. The Royal Customs and Excise Department normally takes 5 working days subject to the type of information being requested. Any case that requires immediate investigation will be expedited. For the ISD, any requests that involve terrorism related cases are given priority and an immediate response will be provided.

704. For supervisors, the time taken to process certain information exchange based on existing MOUs is within 10 working days. Banking supervisors treat requests on a case-by-case basis, each request is processed according to the deadline given by the requesting agency. For the securities sector and insurance sector, requests are dealt with on a case-by-case basis; and the average timeframe in processing the request is within 2 to 3 weeks.

705. *40.2(e)* - Section 32 of the CARO outlines the obligations regarding confidentiality and use of information by FIU personnel and this applies to all information including those obtained through exchanges with foreign counterparts.

706. The FIU and the supervisors implement processes laid out in BDCB's Handling of Classified Information Manual in ensuring the safety and security of any documents and information handled. The manual outlines processes for storing hardcopies and softcopies of documents at 5 classification levels: unclassified, restricted, confidential, secret and top secret, as well as their transport/delivery.

707. All LEAs are subject to secrecy and confidentiality requirements and therefore are required to protect any information they hold and not misuse it (Section 5, OSA). In addition, LEAs have policies or processes in place for system or physical restrictions to classified information.

708. *Criterion 40.3* - Brunei competent authorities can cooperate with foreign counterparts without the need of entering into any bilateral or multilateral agreements or arrangements, thus this criterion - .

709. *Criterion 40.4* - Some competent authorities have demonstrated their provision of feedback upon request to foreign counterparts. This has occurred via feedback forms (the FIU), at bilateral meetings (RBPF and ACB) or by other means such as mail (supervisors). However, besides the FIU, there is no documented basis or statistics to show that feedback for the use and usefulness for the information obtained has been provided and in a timely manner for LEAs and BDCB.

710. *Criterion 40.5* -The competent authorities do not prohibit or place unreasonable or unduly restrictive conditions on information exchange or assistance, and do not refuse requests

for assistance on any of the four grounds listed in this criterion. As a member of the Global Forum on Transparency and Exchange of Information, a signatory of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), and Multilateral Competent Authority Agreement (MCAA), as well as a signatory of the Avoidance of Double Taxation Agreements (ADTA), involvement of tax/fiscal matters does not limit the international cooperation of Brunei.

711. *Criterion 40.6* – The FIU's policy with regards to intelligence received from counterparts is to maintain confidentiality of the information and not to disclose it outside the FIU without prior consent from the counterpart, unless the counterpart has pre-agreed to the dissemination of the intelligence to domestic partners. All MOUs signed by the FIU have embedded confidentiality clauses that require the information obtained through exchanges be used only for authorised purposes.

712. All LEAs are subject to secrecy and confidentiality requirements under Section 5 of the OSA and therefore are required to protect any information they hold and not misuse it. Royal Brunei Police Force, Narcotics Control Bureau and Internal Security Department have policies and controls in place to store and safeguard the proper use of the information received.

713. MOUs signed between the BDCB and foreign counterpart authorities contain a confidentiality clause that requires prior written consent from the BDCB for disclosure to third party of information obtained through the MOU. If disclosure is required or permitted by relevant laws or by an order of a court, a notification from the counterpart is required. Similarly, when dealing with foreign counterparts in the absence of MOU, the procedure as stated above shall apply.

714. The BDCB's Handling of Classified Information Manual outlines requirements relating to handling of any classified information received or disseminated by any BDCB officer or staff. This includes consulting with a relevant Head of Function when considering whether the recipient of information has a genuine and legitimate need for access to the information in order to carry out their official duties, prior to sharing the information.

715. *Criterion 40.7* - It is required for the staff of FIU to keep any information obtained within the scope of their duties confidential, including any information shared with foreign counterparts (Section 32 (1), CARO). All MOUs signed by the FIU have embedded confidentiality clauses that require the information obtained through exchanges be handled securely, be used only for authorised purposes and be protected in a way similar to those received from domestic sources. The MOUs also gives the FIU the discretion to refuse to provide information.

716. All LEAs are subject to secrecy and confidentiality requirements under Section 5 of the OSA and therefore are required to protect any information they hold and not misuse it. Narcotics Control Bureau and Royal Customs and Excise Department have the discretion to refuse to provide information.

717. Staff of the BDCB are not allowed to disclose information obtained while performing their duties provided by the powers of the Authority prescribed under the BDCB Order or any other written law, except when permitted by order of the court or another law (Section 29 (1), the BDCB Order).

718. Sections 56 (1) (b), (2) and (5) of the Banking Order and Islamic Banking Order set out the confidentiality conditions for supervisory authorities of banks incorporated outside of Brunei to comply with when conducting inspections of any branch or office located in Brunei.

719. There are requirements to safeguard the confidentiality of information exchange when providing cooperation in the securities sector (Section 47(1) and 49, SMO).

720. The BDCB can refuse to share information with foreign counterparts in the event that the information cannot be kept confidential. MOUs of BDCB with foreign counterparts include provisions to refuse information sharing requests where the confidentiality clause in the MOUs are breached.

721. *Criterion 40.8* - There are legal bases for the FIU and the BDCB (for securities sector only) 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 (Section 34 of CARO, Section 54 of ATO, Section 48, 49 and 50 (1) of SMO).

722. There are no explicit provisions for other competent authorities to conduct inquires on behalf of foreign counterparts and exchange with their counterparts all information that would be obtainable by them if such inquiries were being carried out domestically, however, the cooperation by other competent authorities with foreign counterparts is generally on a case-by-case basis under the provision of agreements or MOUs.

723. *Criterion 40.9* - As per 40.2 (a), s.34 (1) of CARO and s.54 (1) of ATO allows the FIU to share information on ML/TF and associated predicate offences with any foreign counterpart agency that performs similar functions based upon reciprocity or mutual agreement.

724. *Criterion 40.10* - The FIU is able to provide feedback to its foreign counterparts upon request based on MOUs or whenever possible on case by case basis under reciprocity. Feedback includes the usefulness of information received, feedback for spontaneous dissemination as well as response to a request for information sent to a foreign counterpart agency.

725. *Criterion 40.11* - In keeping with the analysis at 40.2(a), the FIU is empowered to obtain information needed for their request and exchange the information with foreign counterparts on the basis of reciprocity or mutual agreement (s.34 of CARO and s.54 of ATO).

726. The FIU is authorized to obtain, any additional information that the FIU deems necessary to carry out its functions from any entity or person. This includes obtaining information from not only the entity reporting an STR, but also from reporting entities which were not the origin of the STR (Section 31 of CARO). The information exchanged with foreign counterparts ranges from the various reports received from reporting entities to other types of information it requires from the reporting entities to other databases to which the FIU has direct or indirect access (Refer R.29.3).

727. The FIU has access to the widest possible range of financial, administrative and law enforcement information that it requires to properly undertake its functions.

728. *Criterion 40.12* - The BDCB, in its capacity as securities regulator and supervisor, has very wide powers to cooperate with foreign regulatory authority which exercise functions which correspond to those exercisable under the SMO (Section 49, SMO). S.49 indicates that BDCB '… may take such steps as it thinks fit to cooperate with a foreign regulatory authority', which would extend to exchange of supervisory information related to or relevant for AML/CFT purposes. There is no explicit legal basis for other financial supervisors as well as AML/CFT supervisor for providing exchange of supervisory information related to or relevant for AML/CFT purposes.

729. *Criterion 40.13* - The BDCB, in its capacity as securities regulator and supervisor, has very wide powers to cooperate with foreign regulatory authority which exercise functions which correspond to those exercisable under the Authority under the SMO and has powers relating to the detection of financial crime (Section 49, SMO). S.49 indicates that BDCB '… may take such steps as it thinks fit to cooperate with a foreign regulatory authority', which would extend to exchange with foreign counterparts information domestically available to them, including information held by financial institutions, in a manner proportionate to their respective needs.

There is no explicit legal basis for other financial supervisors as well as AML/CFT supervisor for the purpose of this criterion, however, the BDCB has 10 MOUs with the counterpart authorities relating to the supervision (including group/consolidated supervision) of banks, insurance companies and securities companies. In practice, the BDCB exchanges domestically available information based on the provisions in the MOUs with foreign counterparts as well as other mechanism as indicated in c40.1.

730. The FIU as AML/CFT supervisor for FIs may utilise the existing mechanism of the BDCB for information exchange with foreign counterparts.

731. *Criterion 40.14* -In its capacity as supervisor of the securities sector, the BDCB is allowed to cooperate with a foreign regulatory authority which exercise functions which correspond to those exercisable by the Authority under the SMO and has powers relating to the detection of financial crime (s.49, SMO). S.49 indicates that BDCB '… may take such steps as it thinks fit to cooperate with a foreign regulatory authority', which would also cover the requirement of this criterion. In addition, Regulation 46(3) of the SMR requires records to be provided to foreign regulatory authorities in response to appropriate requests relating to investigations made by the foreign regulatory authorities including the identification of the customer, the client or the beneficial owner as well as the transaction information.

732. There is no explicit legal basis for other financial supervisors as well as AML/CFT supervisor for the purpose this criterion, however, the provisions of the 10 MOUs signed with foreign counterparts cover the exchange of information for supervisors to be able to exchange information for regulatory information, prudential information, however, there is only one MOU with explicit provision for the exchange of AML information. In practice, the BDCB exchanges regulatory, prudential and AML/CFT information based on the provisions in the MOUs with foreign counterparts as well as other mechanism as indicated in c40.1.

733. The FIU as AML/CFT supervisor for FIs may utilise the existing mechanism of the BDCB for information exchange with foreign counterparts.

734. *Criterion 40.15* – The BDCB is empowered to allow parent supervisory authorities to conduct inspection of any branch or office of a bank incorporated outside of Brunei for the sole purpose of the parent supervisory authority carrying out supervisory functions (s.56 (1) (a) of the Banking Order and s.56 (1) (a) of the Islamic Banking Order).

735. In relation to securities, the BDCB is empowered to provide cooperation and investigations in support of foreign regulatory authorities according to Multilateral MOU concerning Consultation and Co-operation and the Exchange of information adopted by the IOSCO, for foreign regulatory authorities exercising functions which correspond to those exercisable by the BDCB, and for foreign regulatory authorities having the powers to the detection of financial crime (s. 49 and 50 (1) of SMO).

736. There is no explicit provision for the insurance sector, however, the BDCB can deal with requests on a case by case basis.

737. *Criterion 40.16* -The BDCB has joined the IOSCO Multilateral MOU and is a member of the IAIS and is bound by their relevant agreements. These agreements have explicit provisions regarding prior authorization of disclosure of information in place for supervisory purposes only. There is no specific reference provided by Brunei for prior authorization, but all information requests received by BDCB is generally dealt with by the International Unit. The International Unit will then engage with the relevant supervisors to obtain the necessary information to be disclosed to the requesting foreign counterpart.

738. The BDCB's MOUs with foreign partners contain provisions on permitted use and disclosure of information exchanged. In case of any disclosure that is required or permitted by relevant laws or by an order of a court, there is a provision in the MOU requiring to inform the foreign regulatory authority prior to executing the requested disclosure.

739. For securities sector, the capital market unit's (Supervision II) SOP on requests require that the requesting authority provide a written undertaking not to disclose to a third party any material received pursuant to the request unless they are compelled to do so by the law or a court of the foreign country and if there is a need to further disseminate the information for any purpose, the requesting authority is expected to obtain prior consent. Supervision II has experienced providing consent to a foreign counterpart to share and disseminate the information exchanged.

740. *Criterion 40.17* - There are no express provisions allowing LEAs to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF, however, LEAs can exchange this information through their Agreements/MOUs, and membership to regional groups and international Conventions to which Brunei is a party (Refer R.40.1). LEAs can exchange this information under the instructions of the Attorney General as set out in (Section 96 and 97 of CARO). For informal cooperation, LEAs do not need to exchange information based on reciprocity.

741. *Criterion 40.18* - Authorities are able to use their domestic powers, including to conduct inquiries and obtain information on behalf of foreign counterparts, both prior to any formal MLA requests and upon instructions of the Attorney General who has granted an MLA request for assistance in accordance with powers under MACMO or Sections 96 and 97 of CARO. However, the gaps identified in c.31.2 related to controlled delivery and undercover operations constitute a minor deficiency. Authorities are able to obtain information on behalf of foreign counterparts through membership of, or agreements with, Interpol, WCO etc. which govern the use of information. Many exchanges of information are also governed by MOUs which all contain further details on the information being provided including restrictions as to its use. Brunei has demonstrated, in practice, LEAs can obtain information on behalf of foreign counterparts prior to any MLA request being received and granted.

742. *Criterion 40.19* - Brunei's domestic legal framework is silent on the possibility of LEAs to form joint teams allowing for the investigation with foreign counterparts. However, these joint operations are possible in the context of Interpol or other similar organisations and these joint operations and arrangements are demonstrated in practice.

743. *Criterion 40.20* - There are no legal instruments specifically allowing competent authorities to share information indirectly with non-counterparts. However, there are no express provisions that prohibit competent authorities from sharing this information, subject to the authorisation of the relevant competent authorities.

Weighting and Conclusion

744. Brunei's competent authorities can provide the broadest possible international cooperation in relation to ML, the associated predicate offences and TF, however there are minor shortcomings in international cooperation provisions for LEAs and BDCB for some of the criteria mentioned above.

Recommendation 40 is rated largely compliant.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
1. Assessing risks & applying a risk-based approach	**LC**	c.1.4: The results of the latest risk assessment have not been shared with REs. c.1.5: The allocation of resources based on the understanding of risks does not reflect updated RAs. c.1.9: Supervision of R.1 requirements has taken place, but has only commenced recently in 2020. c.1.10 & 1.11: many of the specific requirements for REs to assess and respond to risk are set out in guidance that is indirectly enforceable.
2. National cooperation and coordination	**LC**	c.2.4: There is no cooperation or coordination mechanism to implement CPF measures.
3. Money laundering offence	**LC**	c.3.2, 3.3, 3.6: Foreign personal income tax offences and market manipulation are not covered as predicate offences. c.3.10: The applicable fines for legal persons may not be sufficiently dissuasive.
4. Confiscation and provisional measures	**C**	
5. Terrorist financing offence	**LC**	c.5.1: It is not clear that financing all acts which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex to the TF convention. c.5.7: The fines applicable to legal persons are not may not be sufficiently dissuasive c.5.10: The TF offence does not cover financing related to the conduct within the Convention on the Physical Protection of Nuclear Material.
6. Targeted financial sanctions related to terrorism & TF	**LC**	c.6.6: The minor gaps in the process to consider petitions for de-listing and guidance on obligations in cases of de-listing.
7. Targeted financial sanctions related to proliferation	**NC**	Brunei lacks a legal and institutional framework to give effect to the obligations under R.7
8. Non-profit organisations	**LC**	c.8.2: there are some weaknesses with obligations on at-risk NPO sectors and with outreach and guidance. c.8.3: there are weaknesses with supervision and monitoring of at-risk NPO sectors. c.8.6: limited authority of ROCBN to monitor limited by guarantee companies that are NPOs.
9. Financial institution secrecy laws	**C**	
10. Customer due diligence	**PC**	c.10.3: no obligations to identify and verify the legal arrangements separately from their respective natural persons c.10.6: No explicit requirement for FIs to understand purpose and intended nature of the business relationship c.10.6: No explicit requirement for FIs to review existing information and to ensure source of funds is consistent with the transactions being conducted c.10.8: No enforceable requirement for FIs to understand the nature of a customer's business c.10.9(c): There is no requirement to verify its identity through a principal place of business if different to the registered office c.10.10: (b) No obligations to resolve corporate structures until identification of natural persons as beneficial owners is complete; no enforceable obligation for FIs to identify and take reasonable measures to verify beneficial owners' identities who exercise control of a legal person/arrangement through other means, when there is doubt concerning the stated beneficial owner or no natural person exerting control through ownership interests; (c) no obligations to verify the identity of a person who is the senior managing official of a customer

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
		c.10.11: no clear obligations to identify those exercising ultimate control over a trust c.10.12: No CDD requirements for FIs pertaining to life insurance beneficiaries or other investment-related insurance policies. c.10.13: No requirement to include beneficiaries of life insurance policies as risk factors when determining overall ML/TF risk c.10.15: No obligations to adopt risk management procedures concerning the conditions under which a customer may utilise business relationship prior to CDD verification for securities dealers and insurance/takaful companies c.10.16: No requirements for FIs to conduct CDD on existing relationships at appropriate times, taking into account whether and when CDD has been previously performed and the adequacy of data obtained c.10.19: there is no explicit obligation to not complete a transaction with an occasional customer where CDD has not been completed
11. Record keeping	**LC**	c.11.2: there are no specific obligations to maintain account files and business correspondence, and results of any analysis undertaken
12. Politically exposed persons	**LC**	c.12.1(c): FIs are not explicitly required to determine the source of wealth, and source of funds of beneficial owners of foreign PEPs c.12.2(b): FIs are not explicitly required to determine the source of wealth, and source of funds of beneficial owners of foreign PEPs
13. Correspondent banking	**LC**	c.13.1: No explicit requirement for FIs to gather sufficient information for the purpose of fully understanding a respondent's business; no explicit requirement to determine whether a respondent FI has been subject to ML/TF investigation or regulatory action; no explicit requirement to understand AML/CFT responsibilities between correspondent and respondent FIs. c.13.2: no enforceable requirement for FIs to ensure respondents are subject to AML/CFT supervision, and apply adequate domestic AML/CFT measures consistent with S. 5 to 10 of CARO.
14. Money or value transfer services	**LC**	c.14.2: Brunei has taken actions to identify illegal MVTS and but the application of proportionate and dissuasive sanctions is yet to be seen. c.14.3: gaps in the legal basis to supervise MVTS providers for AML/CFT.
15. New technologies	**PC**	c.15.1: limited steps by Brunei or FIs to assess risks from new technologies c.15.2: FIs are not required to assess and manage risks of new products, business practices or technologies. 15.3: No risk-based approach to responding to identified ML/TF risks arising from VA/VASPs. There are no requirements for VASPs to take appropriate steps to identify, assess, manage, and mitigate ML/TF risks. c.15.4: limited requirements for VASPs that are legal persons to be licensed/registered in the jurisdiction they are created, or for VASPs that are natural persons to be licensed/registered in the jurisdiction their place of business is located. c.15.5: No actions to identify unlicensed or unregistered VASPs beyond initial efforts to map VASP sector. No sanctions applied to unlicensed or unregistered VASPs c.15.6: No risk-based supervision or monitoring for VASPs, nor systems for ensuring compliance with national AML/CFT requirements c.15.7: No AML/CFT guidelines or feedback for VASPs. c.15.8: limited sanctions available to enforce compliance c.15.9: AML/CFT preventive measures apply to the limited range of VASPs would are REs, but no other VASPs are subject to c.15.10: no communication mechanism or reporting obligations on VASPs beyond the narrow set of VASPs that are REs c.15.11: cooperation with foreign VASP supervisors is not supported
16. Wire transfers	**PC**	c.16.3: No obligations for FIs—with exception of remittance companies—to ensure cross-border wire transfers below the BND 1,500 threshold are accompanied by originator and beneficiary information c.16.8: No requirement for ordering FIs to take reasonable measures to obtain and verify missing beneficiary information prior to executing wire transfers, or to otherwise refuse the transaction c.16.11: Intermediary FIs are not required to perform reasonable measures to identify cross-border transfers that lack required beneficiary information

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
		c.16.12: No obligations for intermediary FIs to have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information, nor to determine the appropriate follow-up action c.16.13: No requirements for FIs to take reasonable measures to identify cross-border wire transfers that lack required beneficiary information. (TC analysis for c.16.13 exceeds this criterion's threshold, by stating Brunei does not require *verification* as well as identification) c.16.15: No obligations for beneficiary FIs to have risk-based policies and procedures for determining when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information, nor to determine the appropriate follow-up action c.16.17: No explicit requirement for an MVTS provider to take into account all information from ordering and beneficiary sides to determine if an STR must be filed; no explicit obligation for MVTS providers to file STRs in any jurisdiction affected by a suspicious wire transfer
17. Reliance on third parties	**LC**	c.17.1: information on nature of business not required to be available immediately
18. Internal controls and foreign branches and subsidiaries	**PC**	c.18.2: No enforceable obligations for financial groups to establish consolidated AML/CFT programs covering subsidiary entities; group-wide policies and procedures for sharing information for the purpose of CDD and ML/TF risk management; to implement group-wide safeguards that adequately protect confidentiality and use of information exchanged 18.3: No requirement for financial groups to apply appropriate measures to manage ML/TF risks if the host country does not permit the proper implementation of AML/CFT measures consistent with home country requirements
19. Higher-risk countries	**PC**	c.19.1 & 19.2: No statutory basis for competent authorities to apply countermeasures proportionate to the risks 19.3: no measures beyond the FATF ICRG statements
20. Reporting of suspicious transaction	**LC**	c.20.1: there is a minor scope of coverage of ML (predicates of Foreign personal income tax offences and market manipulation)
21. Tipping-off and confidentiality	**LC**	c.21.1: It is not clear that safe harbour protections include situations where the person filing the report did not know precisely what the underlying criminal activity was, and regardless of whether the illegal activity actually occurred
22. DNFBPs: Customer due diligence	**PC**	c.22.1: relevant gaps identified in R.10 apply equally to DNFBPs c.22.2: Gaps identified in R.11 apply equally to DNFBPs c.22.3: Gaps identified in R.12 apply equally to DNFBPs c.22.4: Gaps identified in R.15 apply equally to DNFBPs c.22.5: Gaps identified in R.17 apply equally to DNFBPs
23. DNFBPs: Other measures	**LC**	c.23.1: Gaps identified in R.20 apply equally to DNFBPs. c.23.2: Gaps identified in R.18 apply equally to DNFBP c.23.3: Gaps identified in R.19 apply equally to DNFBPs c.23.4: the gap identified in R.21 applies equally to DNFBPs
24. Transparency and beneficial ownership of legal persons	**PC**	c.24.5: there are no clear mechanisms that ensure that the information filed with registrars is accurate and updated on a timely basis c.24.6: The companies and registry mechanisms are not yet well implemented to ensure that up to date and accurate BO information is available upon request. CDD mechanisms provide only limited BO information c.24.7: obligations on companies to keep BO information were not being enforced at the time of the onsite visit. CDD obligations do not ensure the most accurate an up to date BO information is maintained absent a risk event c.24.9: no record keeping obligations on companies to maintain their register of controllers (BO information) c.24.9: No obligations on persons who are not FIs or DNFBPs to maintain legal persons' beneficial ownership information c.24.12: Information on nominee shareholders and directors is not required to be filed with the Registrar c.24.13: Sanctions for failing to maintain register of members or directors, or to fail annual returns, are not dissuasive or proportionate

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
		c.24.15: Only the FIU monitors the quality of assistance received from other countries in response to basic and beneficial information requests, or requests for assistance in locating beneficial owners residing abroad
25. Transparency and beneficial ownership of legal arrangements	**NC**	c.25.1: No requirement on trustees to obtain and hold adequate, accurate, and current information on settlor/trustee/protector or beneficiaries' identity, beyond obtaining/verifying their name when. No requirement for trustees to hold basic information on regulated agents of, and service-providers to a trust c.25.2: Trustees that are REs in particular are required to maintain current information on a legal arrangement's beneficiary, but the appropriate thresholds of informational accuracy and currency is unclear c.25.3: No requirements for trustees of an express trust to inform REs of their status when forming a business relationship or conducting an occasional transaction above the threshold c.25.4: Scope of information held by REs is limited, and thereby affects what information can be disclosed to competent authorities c.25.5: Authorities are unlikely able to obtain timely access to information, particularly those held by non-professional trustees c.25.6: Unclear whether rapid international co-operation can be provided through LEAs' production of information including beneficial ownership from REs c.25.7: There are no sanctions nor legal liability for trustees that fail to perform their duties relevant to meeting their obligations c.25.8: Cascade from c.25.1, as S.23 of CARO cannot be enforced without express legal requirement for REs to hold the necessary information required by c.25.1
26. Regulation and supervision of financial institutions	**PC**	c.26.1: while BDCB performs the role of AML/CFT supervisor, there is no formal designation of their status c.26.3: No controls ensuring criminal associates do not own or control FIs. Uneven range of fit and proper controls across different types of FIs. Limited measures for checking fitness and propriety on an ongoing basis c.26.4: gaps in group supervision c.26.6: BDCB has only limited documentation and information to support institution specific ML/TF risk assessments, including the ML/TF risk profile of individual FIs
27. Powers of supervisors	**PC**	c.27.1: Competent authorities do not have explicit powers to supervise/monitor FIs' compliance with AML/CFT requirements. c.27.2: Unclear whether supervisors have authority to inspect pawnbrokers (N.B. only one licensed pawnbroker, part of a local bank and is therefore subject to banking supervision); TAIB not subject to supervision. c.27.3: Limited authority for supervisors to require production of information relevant to AML/CFT compliance.
28. Regulation and supervision of DNFBPs	**PC**	c.28.2 while BDCB performs the role of AML/CFT supervisor, there is no formal designation of their status c.28.4: Limited authority for supervisors to require production of information relevant to AML/CFT compliance.; limited fit and proper controls for DNFBPs including insufficient market entry controls for valuers and real estate agents; nil market entry requirements for TCSPs, precious metals/stones dealers, and jewellers; unclear whether there are financial sanctions available to supervisors c.28.5: the frequency and intensity of DNFBP supervision is determined by risk assessment findings only to some extent.
29. FIU	**C**	
30. Responsibilities of LEAs	**C**	
31. Powers of LEAs	**LC**	c.31.2: no express provisions permitting undercover operations or controlled delivery.
32. Cash couriers	**C**	
33. Statistics	**LC**	The statistics related to categorisation of ML investigations are not sufficiently comprehensive. The categorisation of asset seizure and confiscation statistics requires improvement.
34. Guidance and feedback	**LC**	c.34.1: Sector specific DNFBP guidance is still being developed.
35. Sanctions	**LC**	c.35.1: Some deficiencies with the lack of administrative fines for non-compliance with AML/CFT preventive measures

Compliance with FATF Recommendations		
Recommendation	**Rating**	**Factor(s) underlying the rating**
36. International instruments	**LC**	c.36.1: Brunei is party to each of the required conventions and has taken a range of measures to implement, albeit with some requirements not fully implemented
37. Mutual legal assistance	**LC**	c.37.1: Minor gaps in the scope of coverage of predicate offences may undermine the ability to provide assistance c.37.2: Minor gap in the process for timely prioritisation and execution of MLA requests c.37.3: Possibly unduly restrictive provisions to allow for refusal without any definition in law or any internal guide for its application c.37.6: dual criminality may be applied, depending on the AG's discretion, even in non-coercive actions c.37.8: minor gaps in the availability of controlled delivery and undercover operations in MLA matters.
38. Mutual legal assistance: freezing and confiscation	**LC**	c.38.1: The exact scope of application is unclear in relation to laundered property from; proceeds from; instrumentalities use/intended for use in ML, predicate offences TF or property of corresponding value c.38.3: It is unclear how the asset management provisions in criterion 4.4 also applies to property subject to foreign orders
39. Extradition	**LC**	c.39.1: minor scope gap with ML may have an effect on extradition. There is no statute or SOP that sets out the timely execution of extradition requests including prioritisation where appropriate
40. Other forms of international cooperation	**LC**	c.40.1: no express provisions for competent authorities to ensure the rapid provision of assistance c.40.2(d): no clear processes for the prioritisation and timely execution of requests beyond the FIU c.40.4: besides the FIU, there is no documented basis or statistics to show that feedback for the use and usefulness for the information obtained has been provided and in a timely manner for LEAs and BDCB c.40.8: There are no explicit provisions for competent authorities other than the FIU and BDCB to conduct inquires on behalf of foreign counterparts and exchange with their counterparts all information that would be obtainable by them if such inquiries were being carried out domestically c.40.12 - 14: there is no explicit legal basis for FIU as DNFBP AML/CFT supervisor to exchange information with foreign counterparts c.40.15: Besides the banking and securities sectors, there are no explicit provisions for the insurance sector for conducting inquiries on behalf of foreign counterparts c.40.17: no express provisions allowing LEAs to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF c.40.18: gaps identified in c.31.2 related to controlled delivery and undercover operations constitute minor deficiency c.40.20: no express provisions allowing competent authorities to share information indirectly with non-counterparts

Glossary

ACB - Anti Corruption Bureau
AGC - Attorney General's Chambers
ATO – anti terrorism order
BDCB - Brunei Darussalam Central Bank
BICPA - Brunei Institute of Certified Public Accountants
BO – beneficial ownership
BoVEA - Board of Valuers and Estate Agents
CARO – Criminal Asset Recovery Order
CBNI - cash and bearer negotiable instruments
CPC – Criminal Procedure Code
CPF - combating proliferation financing
CTIWG - Counter Terrorism Intelligence Working Group
DNFBPs – designated financial businesses and professions
FCA - Finance Companies Act
IBC - international business companies
IFIS - Integrated Financial Intelligence System
INRD - Immigration and National Registration Department
ISD - Internal Security Department
IWC - Intelligence Working Committee
KRP – key responsible person
LEA – law enforcement agency
LEWC - Law Enforcement Working Committee
LSBD - Law Society of Brunei Darussalam
MACMO - Mutual Assistance in Criminal Matters Order
MCBRA - Money Changing and Remittance Businesses Act
MDA - Misuse of Drugs Act
MOFE - Ministry of Finance and Economy
MSBs - money service businesses (remitters and money changers)
MVTS - money or value transfer service
NAMLC - National AML/CFT Committee
NCB - Narcotics Control Bureau
NPOs – non-profit organisations
NSC - National Security Committee
PF TFS - targeted financial sanctions against proliferation of weapons of mass destruction
RA – risk assessment
RBPF - Royal Brunei Police
RCED - Royal Customs and Excise Department
ROCBN - Registry of Companies and Business Names
ROS - Registrar of Societies
SMO - Securities Markets Order
TF TFS – targeted financial sanctions against terrorism and terrorist financing
WMD – weapons of mass destruction