



Anti-Money Laundering and Counter-Terrorist Financing Measures

Antigua and Barbuda

3rd Enhanced Follow-up Report &
Technical Compliance Re-Rating

November 2021



Antigua and Barbuda



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Antigua and Barbuda 3rd Enhanced Follow-up Report

1. Introduction

1. The Mutual Evaluation Report (MER) of Antigua and Barbuda was adopted on May 28, 2018. This FUR analyses Antigua and Barbuda’s progress in addressing some of its technical compliance deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. This report also analyses Antigua and Barbuda’s progress in implementing new requirements relating to FATF Recommendations that have changed since the end of the on-site visit to Antigua and Barbuda in June 2017. This report does not address what progress Antigua and Barbuda has made to improve its effectiveness.

2. Findings of the MER

2. The MER rated Antigua and Barbuda’s technical compliance as follows:

Table 1: Technical compliance ratings, June 2017

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

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

Source: Antigua and Barbuda Mutual Evaluation Report, July 2018: <https://cfatf-gafic.org/4th-round/4th-rd-meval-reports/10083-antigua-and-barbuda-4th-round-mer/file>

3. The following experts assessed Antigua and Barbuda’s request for technical compliance re-ratings:

- Mrs. Eugeline Cicilia, Supervision Specialist, Financial Risk Expert Supervision Sector, Centrale Bank van Curaçao en Sint Maarten; and
- Mrs. Chandni Nandlal, Legal Officer, Ministry of Justice and Police, Suriname.

4. Section 3 of this report summarises Antigua and Barbuda’s progress made in improving technical compliance. Section 4 sets out the conclusion and a table showing which Recommendations have been re-rated.

3. Overview of progress to improve Technical Compliance

5. This section summarises Antigua and Barbuda’s progress to improve its technical compliance by:

- a) addressing some of the technical compliance deficiencies identified in the MER; and
- b) implementing new requirements where the FATF Recommendations have changed since the on-site visit to Antigua and Barbuda (R. 2, 7, 15, 18 and 21).

3.1 Progress to address technical compliance deficiencies identified in the MER

6. Antigua and Barbuda has made progress to largely address the technical compliance deficiencies identified in the MER, in relation to R. 22, 28, 37 and 40, which were rated PC. Because of this progress Antigua and Barbuda has been re-rated on these Recommendations.

7. For revised Recommendations 2 and 21, which were both rated LC in the MER, Antigua and Barbuda has addressed the new requirements and existing deficiencies for Recommendation 2 resulting in an upgrade to C. However, for Recommendation 21, whilst the new requirements have been addressed and progress has been made to address one of the existing deficiencies, a minor MER deficiency has not been addressed resulting in the maintenance of the status quo for Recommendation 21.

8. R. 15 was rated C in the MER but was revised by the FATF after Antigua and Barbuda's onsite visit. Antigua and Barbuda has made significant progress to largely address the new requirements. However, there are deficiencies which warranted a downgrade to the rating.

9. R.18 was also rated C in the MER and subsequently revised by the FATF. Antigua and Barbuda has addressed the new requirement resulting in a maintenance of the C rating.

10. R.7 was rated NC in the MER and automatically assessed for re-rating because it was revised after Antigua and Barbuda's onsite visit in June 2017. Antigua has made some progress, but the requirements were not addressed.

11. Significant progress was achieved by Antigua and Barbuda to improve its technical compliance with R.35. However, in the context of the weight of the outstanding deficiencies an upgrade of this Recommendation could not be justified.

3.1.1 Recommendation 22 (originally rated PC)

12. R.22 was rated PC in the 4th round MER because: coverage of lawyers, notaries and accountants was limited to only when they conducted financial activity as a business; the then existing obligations under the Money Laundering (Prevention) Act (MLPA) did not address all scenarios of requests for information including requests for CDD information; the Money Laundering & The Financing of Terrorism Guidelines (MLFTG) prescribed a determination of source of funds or source of wealth; there was no requirements for financial institutions to determine whether the beneficiary of a life insurance policy, or the beneficial owner of a beneficiary, is a PEP; and there was no provision permitting financial institutions to not pursue the CDD process where there is a risk tipping- off.

13. Since its MER, through the amended section 2, First Schedule of the MLPA, Antigua and Barbuda's included coverage of lawyers, notaries and accountants when they prepare for, or carry out, transactions for their client concerning the specified activities described in R. 22.1(d).

14. Additionally, Antigua and Barbuda amended section 15 of the MLPA to allow for prompt access to all records by competent authorities, who have appropriate authority. Regulated entities are required to produce such records upon request.

15. The Money Laundering (Prevention) Regulations (MLPR), appropriately prescribes the determination of source of funds ***and*** source of wealth as a standard CDD measure for all clients, including PEPs. However, the minor deficiency still exists because the MLFTG, which, as ancillary legislation, should provide clear guidance in line with the overarching obligations prescribed in the MLPR, still prescribes the application of source of funds ***or*** source of wealth.

16. Antigua and Barbuda also amended the MLFTG to require financial institutions to determine if the beneficiary is a PEP, and where the beneficiary has a beneficial owner then determine if the beneficial owner is a PEP.

17. In addition, Antigua and Barbuda has amended the MLPA so that where a financial institution forms a suspicion of ML or TF and reasonably believes that carrying out the CDD process will tip off the customer, the financial institution may forego the CDD process and instead file a suspicious activity report.

18. Antigua and Barbuda has made significant amendments to address the legislative weaknesses discerned in the MER. Despite this, there is still the minor deficiency regarding the mismatch between

the MLPR and MLFTG about the determination of source of funds and source of wealth. Therefore, **R.22 is re-rated largely compliant.**

3.1.2 Recommendation 28 (originally rated PC)

19. In its 4th round MER, Antigua and Barbuda was rated PC with R.28 because: there were no specific measures in so far as preventing criminals from being the beneficial owner of an applicant for a licence under the Interactive Gaming and Interactive Wagering Regulations or holding specific positions within the applicant; obligations for lawyers and accountants were restricted to those who conduct financial activity as a business; restriction on persons who have been sentenced to a term of imprisonment from being eligible or licensed to carry on the business of a financial institution applied only as a bar to entry at the licensing stage and did not apply to subsequent governance changes; the applicable sanctions did not include powers of withdrawal, restriction or suspension of the FIs licence; the basis on which the Supervisory Authority determines when to conduct an examination of a financial institution was not established in law.

20. Antigua and Barbuda amended the MLPA which together with the Gambling Act now requires an examination of the suitability of the applicant for a casino operator's license. This suitability check also applies to any person who has significant influence including directors, senior management, and beneficial owners of the casino license.

21. Antigua and Barbuda amended the MLPA to include attorneys-at-law, notaries, and accountants when they engage in the activities described in R.22.1(d).

22. Additionally, Antigua and Barbuda amended the MLPR so that the Supervisory Authority must consider the ownership of the business by a beneficial owner and/or an ultimate beneficiary to ensure that ineligible or prohibited persons are prevented from being licensed to carry on the business of a financial institution.

23. Antigua and Barbuda also amended the MLPR to provide for the Supervisory Authority to be able to de-register a financial institution, which includes the DNFBPs. De-register means to revoke the registration of a financial institution. In addition, instead of de-registering, the Supervisory Authority may suspend the registration of a financial institution for a period considered necessary for the financial institution to become compliant with its AML/CFT/CFP obligations.

24. Finally for this Recommendation, Antigua and Barbuda amended the MLPR so that: the basis for the assessment of ML and FT risks and the frequency and scope of examinations is now coded in law; the Supervisory Authority in examining financial institutions for compliance with the country's AML/CFT requirements should do so using a risk-based approach; and TF is covered.

25. Antigua and Barbuda has made significant amendments to address the legislative weaknesses discerned in the MER. Therefore, **R.28 is re-rated compliant.**

3.1.3 Recommendation 35 (originally rated PC)

26. In its 4th round MER, Antigua and Barbuda was rated PC with R.35 because: the penalties under the MLPR did not provide a range of proportionate options and may not be adequately dissuasive to legal persons; there was an inability to meet sanctions relative to Recommendations 6 and 8; sanctions under the MLPR were restricted to breaches in relation to Regulations 4-6.

27. Antigua and Barbuda amended the MLPR to provide for graduated sanctions to be imposed by the Supervisory Authority. Such sanctions range from issuing a written warning to revocation of registration or recommendation for revocation of licence. For each breach resulting from failure to remedy the original breach the Supervisory Authority can also impose a penalty not exceeding EC\$ 15,000 (US\$6000) per day.

28. Antigua and Barbuda has however not addressed the deficiency in the MER relating to the inability to meet sanctions relative to Recommendations 6 and 8. According to the MER, terrorism has been identified as low risk in the NRA. However, the risks associated with the NPO sector were not adequately understood and mitigated. The country has been unable to identify whether there are NPOs, as defined by the FATF Standards, that pose a threat of TF and ensure that appropriate measures are in place to mitigate this risk.

29. Therefore, **Antigua and Barbuda's progress is noted, however the rating for R. 35 remains partially compliant.**

3.1.4 Recommendation 37 (originally rated PC)

30. In its 4th round MER, Antigua and Barbuda was rated PC with R.37 because: no case management system was evidenced; and the requirement that countries should not make dual criminality a condition for rendering assistance in cases where requests do not involve coercive actions was not addressed.

31. Antigua and Barbuda has evidenced a manual case management system supported by a policy document from the Attorney General. The case management system is established for the prioritization of the execution of mutual legal assistance requests by assessing the degree of urgency and setting benchmarks for timing the various stages in the process of execution and by monitoring execution of each stage of the process.

32. Antigua and Barbuda has amended the Mutual Assistance in Criminal Matters Act (MACMA) to give effect to the requirement of not making dual criminality a condition for rendering assistance in cases where requests do not involve coercive actions.

33. These actions by Antigua and Barbuda has addressed the deficiencies of the MER. Therefore, **R.37 is re-rated compliant.**

3.1.5 Recommendation 40 (originally PC)

34. In its 4th round MER, Antigua and Barbuda was rated PC with R.40. The noted deficiencies and manner in which Antigua and Barbuda addressed them are detailed below:

35. *The Egmont Secure web was the only clear and secure gateway evidenced* – All competent authorities in Antigua and Barbuda have evidenced the communication channels used to facilitate clear and secure channels transmission and execution of requests. The Inland Revenue Department uses a standalone IT system accessed by one person only and it links into an international portal known as the Transmittal Portal. The Royal Police Force of Antigua and Barbuda (RPFAB) uses the Interpol Secure System to which requests are sent and received. To access the system there is a dedicated terminal with assigned username and password. Customs uses the JRCC, CARICOM IMPACS and WCO as intelligence networks to communicate in a secure manner. Customs has a secured account with the JRCC which is hosted jointly by US CBP and CARICOM IMPACS for real time intelligence alerts. A secure partitioned system is used to maintain FSRC data, where persons can only access data from specific aspects of the FSRC. All FSRC requests for information are processed electronically or physically and sent directly to the requesting agency.

36. *No information was provided as to the processes for prioritization and timely execution of requests by other competent authorities other than the ONDCP* – Antigua and Barbuda has demonstrated that Competent authorities have processes in place to prioritise and execute requests in a timely manner. For the exchange of information of the Customs, the prioritization is set by the joint local liaison officer of the Caribbean Customs Law Enforcement and on average requests are processed within 6 hours. The Financial Services Regulatory Commission (FSRC) has a written standard regarding the process of information requests whereby acknowledgments of receipt of requests must be made within 24 hours and requests must be processed within 14 days of receipt. The RPFAB has no formal policy for requests of information, but all requests are processed with urgency upon receipt. Officers of the RPFAB also

participate in Arin-Carib and information requested via this channel is processed with urgency. Prioritization is centralised and addressed by the Office of the Commissioner of Police. The Commissioner of the Inland Revenue Department is the authority designated to exercise the powers and perform the duties of the competent authority for international exchange of information in tax matters. The TIE Act covers access to and exchange of information in respect of requests made pursuant to all EOI agreements that Antigua and Barbuda has entered into. *A minor deficiency still exists.*

37. *There were no clear processes highlighted for safeguarding information received* – All competent authorities have measures for safeguarding information received. MLATs are processed by the ONDCP and all members of the ONDCP are subject to section 32 of the ONDCP Act. Information possessed by any member of the ONDCP may not be disclosed to another person other than in the proper exercise of their duties. For the Inland Revenue Department, subject to section 10 of the Tax Administration Act, every person having a duty under the said Act or employed in the administration of the Act, is duty bound to keep all documents and information they receive as secret and confidential. Also, these provisions impose confidentiality obligations owed to law enforcement agencies and tax authorities of a foreign country in accordance with an international agreement. The Inland Revenue Department has an IT system, which is used to facilitate the sharing of requested information. Regarding onward communication, the information received from financial institutions are encrypted and the information submitted through the transmittal portal is also encrypted. The RPFAB uses the Interpol Secure system. Information to be shared by the Customs Department is maintained by a small unit within the department. The information is handled by a liaison officer of the Caribbean Customs Law Council. Additionally, information held by Customs is protected through section 7 (2) of the Customs (Control and Management) Act whereby every person exercising any power under the said Act is barred from disclosing information to any unauthorised person any information or document obtained.

38. *Feedback by competent authorities other than the ONDCP was not addressed* - Feedback regarding the use and usefulness of the information obtained, by the IRD, is addressed in the Exchange of Information manual. There is a broad range of procedures regarding responding to a request for information in a timely manner. The FSRC has implemented feedback to competent authorities for information received into its SOPs. There is a standard feedback template used for information on the timeliness and quality of the information provided. Feedback on the usefulness of the information used is not formally incorporated into the written SOPs of the RPFAB, ECCB and Customs. However, these practices are embedded in the processes of these agencies and a requested country is informed of the receipt and usefulness of the information as soon as possible. *A minor deficiency still exists.*

39. *There is no indication as to how Antigua and Barbuda would address the provision of exchange of information or assistance related to fiscal matters.* - Antigua & Barbuda has many bilateral international agreements for the exchange of information with foreign counterparts. There is also a Multilateral Convention for Mutual Administrative Assistance in Tax Matters which was developed jointly by the OECD and the Council of Europe. Antigua & Barbuda is part of this Convention and can exchange information with all other Parties to the Multilateral Convention. The Inland Revenue Department is the competent authority for exchange of tax information with foreign counterparts. There is an Exchange of Information Manual with procedures for handling outgoing and incoming requests for information.

40. *No information was provided to substantiate the authorities' assertion that mutual investigations of the same offence have been conducted and there is no law prohibiting it* - Antigua & Barbuda has no law that prohibits the competent authorities from aiding requesting countries when there is a mutual investigation being conducted of the same offence. To substantiate this, two cases of parallel investigations and criminal proceedings were provided to the Group of Experts.

41. *Whilst there were no legislative measures prohibiting the exchange of information where the requesting counterpart authority was different from that of its foreign counterpart, the on-site case was cited where assistance was provided did not necessarily meet all the legal standards of Antigua and*

Barbuda and the positions of all competent authorities, other than the ONDCP were not addressed. - Antigua and Barbuda has provided legislation for the ONDCP, FSRC and the Department of Customs, which contains expressed provisions for exchange of information and assistance to foreign counterparts with either the same status as the competent authority or related function. Regarding the RPFAB there are no written procedures, although it routinely receives and provides assistance to foreign counterparts. The IRD is administered by the Commissioner, who is the Competent Authority empowered to exchange information with other authorities beyond tax authorities, pursuant to the Tax Administration and Procedure Act. the Eastern Caribbean Central Banking Agreement which provides access to any officer of a foreign authority who is responsible for the supervision and regulation of licensed FIs to assess the security and soundness of a foreign financial institution, on a reciprocal basis and subject to an agreement for confidentiality and Memorandum of Understanding. The nature or status of the foreign authority is not a hindrance to this provision.

42. *No information was provided in relation to established controls and safeguards or the stated wording and warnings to ensure that information exchanged is only used for the purpose sought or provided* - As noted in the MER, Antigua and Barbuda prepared a National AML/CFT Policy document with stated objective that included: to provide a central source of information where the Government can give effect to the FATF Recommendations within the country's legal and regulatory framework. Based on this Policy, any competent authority is authorised to use the most efficient means to co-operate including through bilateral or multilateral arrangements or agreements such as MOUs to facilitate international co-operation. The competent authorities enter into MOUs prior to the information sharing with foreign counterparts. The MOUs stipulate that the information exchanged can only be used for the purpose sought in a request. Use for any other purpose is only permitted with the written consent of the counterpart authority. The treaties which Antigua & Barbuda has ratified, also contain expressed provisions regarding the confidentiality of the information being requested and the restriction on the use of the treaty. There are also stipulations in the MLAT case management document regarding the restrictions on use of assistance provided, including those relating to documents and records.

43. *For competent authorities in Antigua and Barbuda, other than the ONDCP, there is no reference to how they maintain appropriate confidentiality for any request for cooperation and information exchange, or how confidentiality is preserved in this regard or mechanisms for refusal to provide information if the requesting competent authority cannot protect the information effectively* - As previously stated in this Report, the MER articulated the objectives of Antigua and Barbuda's National AML/CFT Policy which authorises competent authorities to use the most efficient means to co-operate including through bilateral or multilateral arrangements or agreements such as MOUs to facilitate international co-operation. Regarding the exchange of information, the MOUs with foreign counterparts obligates the Competent Authorities to maintain the confidentiality of information exchanged. The FSRC, RPFAB, IRD and Customs safeguard the confidentiality of information by controlled access to their databases through encryption with personnel having designated access through password protection.

44. *It was not indicated whether information held by financial institutions is included in the provisions of section 31(3) of the FSRC Act which permits the Commission to disclose information upon request* - In Antigua and Barbuda the financial supervisors are able to exchange information, domestically available to them, with foreign counterparts including information held by FIs proportionate to their respective needs. Information held by the financial institutions may be shared by the FSRC when there is an MOU with the foreign regulatory and supervisory bodies. The ECCB is empowered to exchange information, submitted by the financial institutions, with foreign counterparts. Pursuant to the MLPA, the ONDCP as the Supervisory Authority for all financial institutions, except the domestic banks, is authorized to request information held by the financial institutions. The ONDCP Act authorizes the ONDCP to share information with regulatory and statutory bodies, locally, regionally, and internationally.

45. Whilst section 31(8)(b) of the FSRC Act debars the Commission from aiding an overseas regulatory authority unless the Commission has been given an undertaking by the said overseas regulatory authority that it will not disclose the information provided, it does not address the requirement for the Commission to obtain prior authorization before the Commission itself discloses information it receives in similar circumstances - Regarding the exchange of information, the FSRC is party to MOUs with other international authorities from the African nations, Europe to North America as well as the Caribbean, including Caribbean Group of Banking Supervisors the Group of International Financial Centre Supervisors. Each MOU contains provisions to seek consent of a requested authority to share information provided and has a section entitled “Permissible Uses and Confidentiality of Information”.

46. Antigua and Barbuda has provided significant information, which was not available to the Assessors at the time of the onsite, to show how the deficiencies noted in the MER are addressed. There are however minor shortcomings in relation to there not being any written formal policies for providing feedback by the RPFAB, ECCB and the Customs, and the RPFAB does not have a formal policy for the exchange of information. Therefore, **R.40 is re-rated largely compliant.**

3.2 Progress on Recommendations which have changed since adoption of the MER

47. Since the adoption of Antigua and Barbuda’s MER, the FATF amended R.2, 7, 15, 18 and 21. This section considers Antigua and Barbuda’s compliance with the new requirements.

3.1.6 Recommendation 2 (originally rated LC)

48. In October 2018, R.2 was amended to require countries to have cooperation and coordination between relevant authorities to ensure compatibility of AML/CFT requirements with Data Protection and Privacy rules. The amended Recommendation further requires a domestic mechanism for exchange of information.

49. In its 4th Round MER, Antigua and Barbuda was rated LC with R.2. At the time, the requirement to review the Government of Antigua and Barbuda National AML/CFT Policy was lacking; and there was need for Antigua and Barbuda to formulate the legal framework and implement the domestic coordination mechanisms specifically regarding the financing or proliferation of weapons of mass destruction.

50. Antigua and Barbuda complies with the revised requirements of R.2. The Data Protection Act provides security of personal data and prescribes the purposes and circumstances for which personal data may be disclosed. Further, an MMOU has been established among the members of the National Oversight Committee on Financial Action (NOCFA) requiring its members to keep all non-public information related to the provisions of co-operation arrangements or information exchange confidential. Domestic mechanisms for the exchange of information are specifically addressed through an MMOU which provides for co-operation and co-ordination between the competent authorities.

51. The National Anti-Money Laundering Oversight Committee (NAMLOC), now NOFCA, was established by the Cabinet of Ministers in Antigua and Barbuda and mandated to review the national AML/CFT Policy. The policy reviews are a part of the ongoing process of the working groups. Currently all policies are under review. The NOCFA is responsible for reviewing and approving changes of AML/CFT/CPF policies. The NOCFA has a broad range of measures according to its Terms of Reference, which prescribes how the review of the national AML/CFT/CPF Policy shall be conducted. Antigua & Barbuda has made several changes to the AML/CFT policies since the NRA of 2017.

52. The NOCFA, as the lead committee, operates at both the policy and operational levels and has the mandate to deal with matters of co-operation, co-ordination and exchange of information domestically, between the members of the NOCFA and the competent authorities, regarding the development and implementation of AML/CFT/CPF policies and activities. Specific to the revised standard of C. 2.3, Article 2 of the MMOU addressed the exchange of information related to AML/CFT/CPF. Antigua &

Barbuda has made several amendments in the PTA regarding the financing or proliferation of WMD. The PTA has provisions regarding the declaration of an entity as a proliferation entity, the action regarding the financial sanctions, procedures to revoke a freezing order, prohibition for engaging with designated entities and proliferation entities, measures regarding the duty to disclose information. Members of the NOCFA have entered into an MMOU with other competent authorities within the country. This MMOU enables the NOCFA and the other competent authorities to coordinate, cooperate and exchange information related to AML/CFT/CPF.

53. Antigua and Barbuda has made the changes necessary to specifically address the new requirements of R.2 and the deficiency noted in its MER. Therefore, **R.2 is re-rated to compliant.**

3.1.7 Recommendation 7 (originally rated NC)

54. In November 2017, R.7 was amended to mirror amendments to the FATF Standards (INR.7 and the Glossary) made in June 2017, which reflected changes to the UN Security Council Resolutions on proliferation financing.

55. In its 4th Round MER, Antigua and Barbuda was rated NC with R.7 because there is no legislation addressing targeted financial sanctions related to proliferation.

56. Since the MER, Antigua and Barbuda amended the PTA to address targeted sanctions related to proliferation and identified the Minister of Foreign Affairs as the legal authority who declares a proliferation entity and the Attorney General as the competent authority responsible for giving effect to the related Order. Other significant actions taken include the establishment of legal and competent authorities responsible for implementing and enforcing targeted financial sanctions and ensuring that there are measures for monitoring and enforcing compliance by the financial institutions and DNFBPs. The action regarding the financial sanctions, procedures to revoke a freezing order, prohibition from engaging with designated entities and proliferation entities and measures regarding the duty to disclose information have also been addressed.

57. There are however significant deficiencies which are yet to be addressed, including among others: the ability to freeze without prior notice; no clear guidance to the financial institutions and DNFBPs that may be holding targeted funds or other assets, on their obligations in taking actions under the freezing mechanisms. Therefore, **R.7 is re-rated partially compliant.**

3.1.8 Recommendation 15 (originally rated C)

58. In June 2019, R.15 was amended to include obligations related to virtual assets (VA) and virtual asset service providers (VASPs). These new requirements include identifying, assessing and understanding ML/TF risks associated with VASPs, licensing and supervising VASPs and applying preventive measures and international co-operation.

59. In its 4th Round MER, Antigua and Barbuda C with R.15.

60. Since the MER, Antigua and Barbuda has conducted a risk assessment of its VASP sector conducted by a working group of all relevant governmental stakeholders in Antigua and Barbuda and using a new methodology: the McDonnell-Nadeau Consultants model for inherent risk assessment. Antigua and Barbuda has developed an AML/CFT framework for the sector which provides for licensing, regulatory and AML/CFT supervisory oversight by the Financial Services Regulatory Commission through the Digital Business Assets Act (DABA), and pursuant to section 6 (1) of the DABA all persons must comply with licencing requirements. The Digital Business Assets Act empowers the Financial Services Regulatory Commission to grant or revoke a license based on the fit and proper test and any person who is, or is about to be a controller of an undertaking, is subject to a fit and proper determination by the Financial Services Regulatory Commission. According to section 27 (5) of the DABA an operator is bound to provide the Commission with the documents and information which the Commission requires to make that determination. Failure to do so is an offence. Antigua and Barbuda

has included VASPs in the First Schedule of the MLPA and as such they are bound by the identical obligations imposed on financial institutions, inclusive of the need to conduct a risk assessment. The country has also taken specific deliberate actions to identify natural or legal persons that carry out VASP activities without the requisite license or registration. This action included: holding meetings with persons who were seeking to carry on the business in the country and requesting from other public bodies whether they had any information on any person, natural or legal, carrying on digital/virtual asset business within or from Antigua and Barbuda. Antigua and Barbuda has also taken¹ action, which has not been included in this Report because it fell outside the timeframe for including actions taken. Guidance has been issued to the sector which is subject to the same sanctions as financial institutions in line with R.35.

61. However, despite the significant progress at implementing the new requirements of R.15 there are deficiencies in that the data used to identify the inherent risks of the sector needs some refinement and a cascading deficiency from C.7.2 (d) regarding there being no clear guidance to the financial institutions and DNFBPs that may be holding targeted funds or other assets, on their obligations in taking actions under the freezing mechanisms. Also, minor deficiencies in relation to R.38 - 40 apply to VASPs. Considering the size of the sector, which is insignificant, the deficiencies have not been heavily weighted. On this basis **R.15 is re-rated largely compliant**.

3.1.9 Recommendation 18 (originally rated C)

62. In February 2018, R.18 was amended to reflect the November 2017 amendments to the FATF Standards (INR.18 and R.21). This clarified the requirements on sharing of information related to unusual or suspicious transactions within financial groups and the interaction of these requirements with tipping-off provisions.

63. In its 4th Round MER, Antigua and Barbuda was rated C with R.18.

64. Antigua and Barbuda amended the MLPR to provide for the implementation of group-wide programmes against money laundering and terrorist financing, which are applicable, and appropriate to all branches and majority-owned subsidiaries of the financial group. These programmes shall include, amongst others, the provision, at group-level, of compliance, audit, and AML/CFT functions, of customer, account, and transaction information from branches and subsidiaries when necessary for AML/CFT purposes, including information on, and if applicable, analysis of transactions or activities which appear unusual. Safeguards on the confidentiality and use of information exchanged, including safeguards to prevent tipping-off have also been addressed.

65. Antigua and Barbuda complies with the new requirements **and as such R.18 remains compliant**.

3.1.10 Recommendation 21 (originally rated LC)

66. In February 2018, R.21 was amended to clarify the interaction of R.18 requirements with tipping-off provisions. In its 4th Round MER, Antigua and Barbuda was rated LC with R.21. Antigua and Barbuda complied with the new requirements described above by amending the MLPR to ensure that tipping off provision would not inhibit information sharing under R.18. Consequently, sharing at the group level does not constitute a breach.

67. The country has also demonstrated that indemnity, in circumstances whereby persons file TF-related STRs, is available to financial institution, directors, officers and employees, in accordance with section 34(5) of the PTA. This closes the MER deficiency whereby safeguards noted in the MLPA were not mirrored in the PTA specifically as they relate to the filing of TF-related STRs. The country has

¹ <https://antiguanewsroom.com/all-persons-carrying-on-a-digital-assets-business-must-be-licensed-fsrc/>

however not made any progress towards remedying the one remaining minor deficiencies existing in the MER *and as such R.21 remains as LC.*

3.3 Brief overview of progress on other Recommendations rated NC/PC

3.3.1 Recommendation 6 (rated PC)

68. Antigua and Barbuda amended the PTA thereby identifying the Minister of Foreign Affairs as the competent authority responsible for proposing designation to the appropriate Security Council Committee for listing as a specified entity. The amended PTA also addresses measures regarding designations requested by other countries and captures natural persons under the existing freezing requirement. Additionally, the freezing obligations now extends to: all funds or other assets that are owned or controlled by the specified entity; those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly by the specified entity; those funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by the specified entity; and funds or other assets of persons and entities acting on behalf of, or at the direction of the specified entity. The amended PTA also makes it an offence for anyone to make funds available to specified entities. The country has amended the definition of financial institution to include DNFBPs thereby ensuring that they, DNFBPs, can now receive immediate communications on designations. The obligation to report the actions which financial institutions and DNFBPs have taken in compliance with the prohibition requirements of the relevant UNSCRs is fulfilled, as these institutions must report in writing to the Attorney General through the Director of the ONDC. The rights of bona fide third parties relating to the obligations involving the designation of persons or entities is fixed. The amended PTA addresses delisting by requiring the gazetted revocations to be communicated to all financial institutions.

3.3.1 Recommendation 8 (rated PC)

69. An NPO Sector Review is currently underway with the collection and collation of data relating to NPOs, their activities, and statuses. To date, approximately 600 entities categorized as NPOs or Friendly Societies have been identified. The exercise continues with the identification and exclusion of NPOs that are no longer active. The Sector Review will identify those NPOs that fall within the FATF definition of an NPO and identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse.

4. Conclusion

70. Overall, Antigua and Barbuda has made progress in addressing most of the technical compliance deficiencies identified in its MER and has been upgraded on R.7, 22, 28, 37 and 40. Antigua and Barbuda meets the new requirements for 18 and 21 and the ratings for these Recommendations remain unchanged (21 largely compliant and R. 18 compliant). R.2 has been upgraded to C, R. 35 remains PC and R.15 has been downgraded to LC.

71. Considering the progress made by Antigua and Barbuda since the adoption of its MER, its technical compliance with the FATF Recommendations has been re-evaluated in the following manner:

Table 2. Technical compliance ratings, November 2021

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

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

72. Antigua and Barbuda will remain in enhanced follow-up on the basis that it had a low or moderate level of effectiveness for 7 or more of the 11 effectiveness outcomes (CFATF Procedures, para. 85(a)) and will continue to inform the CFATF of progress achieved on improving the implementation of its AML/CFT measures.



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November 2021

Anti-Money Laundering and Counter-Terrorist Financing Measures in Antigua and Barbuda

3rd Enhanced Follow-up Report & Technical Compliance Re-Rating

This report analyses Antigua and Barbuda's progress in addressing the technical compliance deficiencies identified in the CFATF assessment of their measures to combat money laundering and terrorist financing of July 2018.

The report also looks at whether Antigua and Barbuda has implemented new measures to meet the requirements of FATF Recommendations that changed since 2018.

Follow-Up Report



Antigua and Barbuda