# Executive Summary

1. This report summarises the anti-money laundering and counter-terrorist financing (AML/CFT) measures in place in the Kingdom of the Netherlands (hereafter referred to as the Netherlands) as at the date of the on-site visit (27 October – 18 November 2021). The report includes an assessment of Bonaire, St. Eustatius and Saba (hereafter referred to as the BES Islands) as these Caribbean islands form part of the Netherlands. This report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system, and provides recommendations on how the system could be strengthened.

## Key Findings

1. Overall, the Netherlands has a good understanding of its money laundering and terrorist financing (ML/TF) risks, as reflected in the National Risk Assessments (NRAs), Supranational Risk Assessments (SNRAs) and other sector assessments, policies, projects and cases. In continental Netherlands, fraud and drug related offences account for more than 90% of all proceeds of crime and ML risk manifests via the use of crypto currencies; trade-based services; underground banking, including unlicensed payment services; offshore companies; and services/goods of dealers of high-value goods. The methodology of the NRAs is generally sound and based on a structural process to collect and evaluate qualitative inputs from policy, supervisory, law enforcement and private sector authorities through extensive surveys, meetings and interviews. However, inputs into the NRAs can be strengthened by the inclusion of additional quantitative sources. A key strength of the Dutch system lies on its robust domestic co-ordination and co-operation on AML/CFT issues at both the policy and operational levels and it is a leader in public-private partnership and information sharing to combat ML/TF.

2. Competent authorities use a wide range of financial intelligence sources in their investigations, including data hubs, Financial Intelligence Unit (FIU) disseminations, inter-agency co-operation platforms and public-private partnerships. Law enforcement authorities (LEAs) increasingly access FIU disseminations and request information exchange on criminal and unexplained

wealth (iCOV) reports during their investigations into ML, TF and predicate offences. FIU products are of high quality, timely and targeted to law enforcement needs. Minor concerns exist on the lack of a feedback mechanism to the FIU on the follow-up given by LEAs to its disseminations and on the number of disseminations left unattended in the Police database; however, these issues are largely mitigated by the close operational co-operation between LEAs and FIU-NL.

3. LEAs initiated a significant number of ML investigations at both national and regional levels, and pursue different types of ML. The AML Strategic Programme and thematic investigation projects are two strengths of the Dutch system. Case studies on regional and national investigations are consistent with the ML channels and methods identified in the NRAs. The lack of statistics on predicate offences and on the type of ML pursued limits a comprehensive view of ML cases. The sanctions imposed in ML cases are low, including in complex and serious cases, and are therefore not considered dissuasive by the Assessment Team.

4. In the BES Islands, the expertise of LEAs to conduct financial investigations has improved, and a specialised ML Prosecutor role has been created. Nevertheless, LEAs are still reliant on the support from continental Netherlands for ML cases, especially for complex investigations. Authorities focus mainly on the prosecution of predicate offences, and the overall number of ML investigations and convictions is low.

5. The Netherlands pursues confiscation as a policy and strategic objective, supported by a solid legal and institutional framework and financial expertise. Competent authorities regularly seek object and value confiscation. The statistics available, even if not comprehensive, demonstrate that confiscation results are in line with national policies and the main proceeds-generating crimes. Confiscations in out of court settlements with legal persons account for the high majority of collected confiscation results. Netherlands has seized cash at the borders and initiated ML investigations, but some concerns remain in terms of the dissuasiveness of sanctions related to the cash declaration system.

6. The Netherlands has successfully detected, investigated and prosecuted TF generally in line with its risk profile, with a majority of cases involving the funding of foreign terrorist fighters (FTFs). While there have been some investigations of non-profit organisations (NPOs) possibly involved in TF, no conviction has been achieved, which is not in line with their high risk categorisation for TF in the NRA. Competent authorities co-operate closely on TF and terrorism investigations and regularly discuss any possible TF signal. Furthermore, partnerships with the private sector enable LEAs to gather additional insights into potential suspects. However, the level of sanctions imposed is generally low, which affects dissuasiveness. The authorities used various alternative measures when it was not practicable to obtain a TF conviction.

7. The Netherlands implements proliferation financing (PF) and TF targeted financial sanctions (TFS) without delay. As there is no supervision of the implementation of TFS without delay for DNFBPs other than trust offices, the authorities cannot determine to which extent these entities implement TFS obligations. Supervisors are not mandated to supervise the implementation of TFS obligations by these obliged entities and cannot impose sanctions or remedial actions. Similar deficiencies exist in the BES Islands for DNFBPs and VASPs. The understanding of TFS obligations is strong amongst financial institutions (FIs). TF

domestic designations have targeted mostly FTFs, resulting in small amounts frozen consistent with the risk profile.

8.   Self-regulation is a key feature of the Dutch NPO sector. The Netherlands has proactively and extensively engaged NPOs to raise awareness on TF risks. The Netherlands has a robust understanding of the subset of NPOs most vulnerable to TF risk. This understanding could be improved by a specific sectoral risk assessment. Good faith NPOs which, by virtue of their activities, are more exposed to TF threats are well aware of the risks and already implement mitigating measures. However, the limited visibility on NPOs' financial activities is an obstacle in detecting and investigating NPOs that willingly sponsor terrorism.

9.   Understanding of ML risk for FIs and virtual asset service providers (VASPs) is generally good, and policies and procedures are in place commensurate to risks. The same applies to trust offices, which are supervised by the Dutch Central Bank (DNB). For other designated non-financial businesses and professions (DNFBPs), understanding of ML risk and obligations varies and is generally more limited. The understanding of TF risk is lower across all obliged entities.

10.  Where a legal person has no beneficial owner (BO) (e.g., in the case of some foundations and associations) or in exceptional circumstances where it is not possible to identify the ultimate BO, Dutch legislation allows the registration of senior managing directors as 'pseudo' BOs[1]. Some FIs and most DNFBPs struggle to identify the ultimate BOs of legal persons that are part of complex structures or have international components. In such circumstances, the obliged entities can fall back too quickly on the legally permitted option to register the 'pseudo-BOs'.

11.  In some cases, FIs—including larger banks—tend to classify too many customers as low risk without adequate justification. Obliged entities in most sectors generally understand and implement their reporting obligations, but unusual transaction reports (UTRs) filed in some sectors, such as lawyers and real estate, are low.

12.  The Netherlands has a strong licensing and registration framework for FIs, some VASPs and trust offices, which consists of robust checks to ensure criminals and their associates are prevented from operating in these sectors. However, while underground banking, unlicensed payment services and non-regulated providers of trust services are identified as high risk, there are insufficient resources allocated to mitigating these risks.

13.  DNB and the Dutch Authority for the Financial Markets (AFM) have a good understanding of risk and apply a risk based approach, which is increasingly informed by robust data analysis. Understanding of risk by DNFBP supervisors is less developed and although some elements of a risk based approach are starting to be applied in some sectors, supervision is generally reactive and limited due to resource constraints. Despite two recent high profile out-of-court settlements involving major Dutch banks, some supervisors heavily rely on informal enforcement actions and warning letters. While informal measures can be

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1   Dutch legislation allows the registration of senior managing officials as BOs. These are sometimes referred to as 'pseudo-BOs'. Pseudo BOs can be natural persons that belong to the senior management staff or the company, but can also be independent directors, or directors provided by trust offices that are senior management officials.

effective, they can also be slower to address significant issues, including unlicensed activity.

14. Most trusts cannot be established in the Netherlands (with the exception of Mutual Funds). Although nominee directors and shareholders are not recognised concepts in the Netherlands, they do exist in practice and are used in the management of conduit companies, which have no real presence in the Netherlands. Sanctions for failing to provide correct or up-to-date basic information are rarely imposed and no cases of providing incorrect BO information have been detected to date. At the time of the onsite, the Netherland's BO register was only 27% populated.

15. The Netherlands provides timely and constructive responses to mutual legal assistance (MLA) and extradition requests. Responses received by the FATF global network indicate that the provision of MLA is of high-quality, and properly prioritised. Simplified procedures within the European Union (EU) enhance co-operation with EU member states, which account for the vast majority of the Netherlands' MLA requests. The Netherlands' international co-operation on major international cases involving virtual assets (VA) is significant. However, pursuant to the international co-operation feedback received, the FIU-NL should seek a dialogue on how the quality of cross-border dissemination reports between EU FIUs can further improve their utility by recipient FIUs from the EU.

## Risks and General Situation

2. The Netherlands is a financial centre with a large and globally interconnected financial system. It has one of the most concentrated banking sectors in the EU, with three Dutch banks controlling 82% of the sector's assets. Two of these banks have recently been part of a settlement with the office of the Public Prosecutor (OM) for significant AML/CFT failings and culpable ML and both banks have substantial presences abroad. The DNFBP sector includes approximately 162 TCSP providers in 2020, which are involved in activities including providing legal persons to manage the capital and business income of internationally operating companies, approximately 9 000 real estate agents and approximately 3 400 notaries and 790 notary offices. Notaries are required for most real estate transactions and incorporation of public or private limited-liability companies or the amendment of their articles of association, the formation of foundations or associations (including cooperatives). There is one state owned casino, approximately 4 000 dealers in precious metals and stone, who also trade in high value items such as watches and approximately 18 000 lawyers, although the authorities report that the majority of these do not carry out activities in scope of Dutch AML/CFT regulations. The Assessment Team therefore weighted most heavily the positive and negative aspects of supervision for FIs, as opposed to the DNFBP sector.

3. The Port of Rotterdam is the largest port in Europe and is vital for European import and export activities. This port acts as a gateway to Europe for people and goods, including significant volumes of illegal drugs, particularly cocaine from South America. A socio-cultural factor that is characteristic of the Netherlands is the culture of tolerance, in which tolerance with regard to soft[2] drugs has been identified by the Government as a contributing factor for the prevalence of drug crime and associated organised criminality.[3] Indeed, the Netherlands estimates that fraud and drug-related offences account for more than 90% of all Dutch proceeds of crime. Criminals use a variety of methods to launder their illegal proceeds, including licensed banks, dealers in high-value goods, intermediaries, purchasing real estate, or using companies or underground banking and unlicensed payment service providers. Terrorism related to religious extremism presents the main TF risk, but other terrorism threats exist, including right-wing terrorism.

## Overall Level of Compliance and Effectiveness

### *Assessment of risk, co-ordination and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)*

4. Overall, the Netherlands has a good understanding of its ML/TF risks, as reflected in the NRAs and other sectoral assessments, policies, projects and cases. Many of the FIs and firms met by the Assessment Team were aware of the NRA's conclusions but noted that the NRAs and SNRAs are high-level policy documents that do not provide sufficient granularity on their specific sectoral risks. For example, the NRA does not provide a detailed assessment of the risks associated with the types of legal persons and arrangements in the Netherlands. National AML/CFT policies, strategies and activities generally seek to address the risks identified in the NRA, such as: risk-based thematic projects for criminal investigations; dedicated resources to countering organised criminal groups; and requiring payment service providers to make available all transaction data to the regulator.

5. The key strength of the Dutch system lies in its robust domestic co-ordination and co-operation on AML/CFT issues at both the policy and operational levels. The Netherlands is also seeking to explore and expand measures to intensify this domestic co-ordination. The Netherlands leverages a number of platforms to facilitate public-public, public-private and private-private partnerships to coordinate on AML/CFT and public-public partnerships to counter proliferation financing (CPF). There is room for improving the risk understanding, by including more relevant information in the NRAs. Some exemptions are inconsistent with the BES Islands' risk profile.

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2. The *Opium Act* sets out the rules pertaining to drugs, and defines "soft drugs" as cannabis products (hash and marijuana), sleeping pills and sedatives. According to the government, these drugs carry less serious risks than hard drugs (e.g., heroin, cocaine, amphetamine, ecstasy and GHB) (see: www.government.nl/topics/drugs/difference-between-hard-and-soft-drugs).
3. NL ML NRA 2019-2020, p. 46.

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

6. LEAs, including the Police and the Fiscal Information and Investigation Service (FIOD), have access to a broad range of financial intelligence and information to conduct their investigations into ML, TF and predicate offences and to trace criminal proceeds. Parallel financial investigations are a common practice for LEAs and OM. Datahubs such as iCOV, AMLC Suite, JustisTRACK, and the CT Infobox are a strong feature of the Dutch data-driven investigative model. Public-private partnerships, such as Financial Expertise Centre (FEC) including TF Task Force and the Serious Crime Task Force and the Fintell Alliance, as well as the close operational co-operation between FIU-NL and LEAs are additional strengths of the Dutch system to gather financial evidence, share best practices and discuss operational activities.

7. FIU-NL plays a major role in the production and dissemination of financial intelligence to LEAs, both proactively and upon request. It receives a significant amount of information from obliged entities on subjective and objective indicators. It has access to a large number of datasets, which allows it to enrich its analysis. These sources are an important added-value for the analysis performed by the FIU. FIU-NL's analytical products are of high quality and targeted to the needs of LEAs. In recent years, approximately 60% of FIOD investigations made use of STR information, and half of all TF investigations were triggered by FIU-NL's analytical products. The lack of comprehensive statistics on the usage of FIU disseminations in Police investigations and on the number of disseminations left unattended in the Police database is a minor concern, which is largely mitigated by the extensive co-operation between FIU-NL and LEAs and the frequent use of datahubs by the Police.

8. The Netherlands has a solid legal and institutional framework to investigate ML effectively. Financial specialists with the necessary expertise operate at both national and regional levels. There is sound co-operation and co-ordination between all competent authorities involved in ML investigations and combined teams merging police and FIOD expertise, are often deployed for complex investigations.

9. The Netherlands does not rely on the establishment of a predicate offence to investigate and prosecute ML. The authorities detect signals to initiate ML investigations from thematic projects involving all relevant authorities based on the NRA results, and on the national AML programme. The authorities do not maintain statistics on the types of ML and associated predicate offences investigated, prosecuted and convicted. However, case studies demonstrate that the authorities pursue a wide range of investigations, from self-laundering to complex cases, including offshore companies, professional money launderers and VAs, and that there is a general alignment between ML investigations and ML risks. Overall, the low level of sentencing for ML—including in some high-profile cases presented by the authorities—raises concerns on the dissuasiveness of the sanctions imposed for ML. ML investigations in the BES Islands mainly focus on predicate offences. While BES LEA expertise to conduct financial investigations has improved in recent years, the overall number of ML investigations and convictions remains low.

10. The Netherlands prioritises confiscation as a policy objective. Financial investigations into criminal assets and money-flows are a standard practice in all criminal investigations. Each LEA, as well as the OM, set annual seizure targets. Major multi-million confiscations imposed in out of court settlements involving legal persons account for the majority of the collected confiscation results. While not comprehensive, the statistics show that confiscation results are generally in line with the country's risk profile. The authorities actively pursue the tracing of VAs related to criminal activities as demonstrated by case studies, and the increasing amount of VAs seized annually. The Netherlands also pursues restitution, but no statistics are available.

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

11. The Netherlands has a robust framework to detect, investigate and prosecute TF. The types of TF investigated and prosecuted are generally in line with the country's risks, with a majority of cases involving the funding to FTFs. However, the lack of any TF conviction for NPOs appears not in line with their high-risk categorisation in the TF NRA. The Netherlands also makes use of specific TF related public-public (FEC) and public-private TF Task Force (TFTF) partnerships. The authorities are aware of possible new emerging TF threats, such as right-wing terrorism. No TF case has been detected in the BES Islands, which is consistent with its TF risk profile. A CFT component is incorporated into the National Counter-Terrorism Strategy and the National Coordinator for Counterterrorism and Security cooperates closely with CFT authorities. The Netherlands has a good conviction rate in TF cases (70%), but the level of sentencing imposed is generally low. The Netherlands uses alternative measures where it is not possible to achieve a TF conviction, including alternative criminal charges, or administrative measures such as introducing community interventions at the local level.

12. The Netherlands implements TFS without delay, through a combination of EU and national provisions. Any new UN designation is immediately applicable in the Netherlands through a bridging provision, overcoming the delays with EU transposition. The Netherlands has a mechanism in place to identify targets for designation, and implements domestic designations pursuant to UNSCR 1373, in line with its risks. The communication of TFS lists to obliged entities may in some cases occur with delay. With the exception of trust offices, DNFBPs implementation of TFS without delay is not supervised. The same deficiency applies to DNFBPs in the BES Islands. This may impact their ability to implement TFS without delay.

13.     The Netherlands has a robust understanding of the TF risks associated with the misuse of NPOs. Self-regulation is a key feature of the Dutch non-profit sector. The Netherlands has no supervisory authority to monitor NPOs and relies on voluntary certification mechanisms, such as the ANBI status and CBF seal, to promote transparency and accountability. The authorities have undertaken extensive outreach to the categories of good faith NPOs vulnerable to potential TF abuse. Good faith NPOs are aware of the risk of TF abuse, and are already implementing mitigating measures. The Assessment Team has some concerns as to whether the existing voluntary regulatory framework would be sufficient to detect bad faith NPOs[4] willingly sponsoring terrorism. The lack of supervision and transparency obligations for certain NPOs could be a challenge in detecting organisations raising funds without appropriate controls on the final beneficiaries or the intended use of the funds.

14.     The Dutch authorities have a good understanding of contextual elements, risks and vulnerabilities linked to proliferation financing (PF). In particular, the authorities are aware of the possible exposure to PF, due to the country's position as a trade hub and its large financial sector, even if the overall risk is considered low. There is no supervision in place on the implementation of TFS obligations by DNFBPs other than trust offices. The Netherlands applies the same system in relation to TF, to implement PF TFS without delay, and the same issues relating to communication and supervision of the implementation of TFS obligations apply. Understanding of TFS obligations is strong in the financial sector, where DNB and AFM have provided guidance on sanctions implementation. In the absence of any supervision, it is unclear whether the DNFBP sector in the continental Netherlands, and DNFBPs in the BES Islands, are implementing TFS obligations at a satisfactory level.

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

15.     FIs and VASPs demonstrate a strong understanding of their ML risks and obligations. DNFBPs have a reasonable understanding of ML risk. Understanding of TF risk is lower in all sectors. FIs and VASPs understand their CDD obligations, but the understanding of record-keeping requirements is varied. DNFBPs have a basic understanding of CDD and record-keeping requirements.

16.     Some obliged entities find it difficult to determine BOs of complex structures, especially if these structures have international components. In these cases, obliged entities fall back on the legal option to identify pseudo BOs. Some DNFBPs rely on self-certification to identify BOs. However, they have limited options to verify this information and are unable to use the BO register as a source of information, given it is only partially populated. Implementation of EDD measures is generally comprehensive by FIs and VASPs. DNFBPs generally understand EDD obligations, but it is unclear how well these measures are applied in practice. Although most obliged entities were able to explain their obligations in relation to TFS, it was not clear if the DNFBPs implement TFS without delay, with the exception of trust offices, as most DNFBP supervisors do not review this as part of their supervision (see also IO.3).

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4     NPOs that deliberately give up tax advantages to avoid any transparency and accountability requirements linked to the voluntary certification systems, such as the ANBI status or CBF seal.

17.     While obliged entities met by the Assessment Team generally understand and adequately implement their reporting obligations, it is not clear that this applies equally across all firms and sectors. For example, UTRs filed by some sectors, such as lawyers and real estate are low. Moreover, the overall quality of UTRs is unclear as there is little feedback provided by FIU-NL, other than to larger credit institutions (see also IO.6). Notaries are not able to submit UTRs until a business relationship has been established, which is inconsistent with other sectors and noted as a deficiency by the Assessment Team.

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

18.     In the financial sector, there are strong systems in place to assess the fitness and propriety of persons performing regulated activities. Many DNFBPs are not subject to licencing and registration, and where they are, it is often limited to professional body registration (e.g., Bar Association) and not fitness and propriety. The lack of access to BO information for most supervisors is a weakness. DNB and AFM have a strong understanding of sectoral risks and a robust risk model for categorising the risks of individual firms. Most DNFBP supervisors understand their sectoral risks. At the time of the onsite, some DNFBP supervisors were developing measures to improve risk understanding and help embed a risk-based approach to supervision.

19.     DNB and AFM use a range of supervisory tools, including on and offsite supervision. DNB is harnessing data to deliver supervision more efficiently and this helped it respond to the challenges of the COVID-19 global pandemic. DNFBP supervisors use thematic investigations to some extent to address emerging issues. However, the frequency, scope and intensity of AML/CFT supervision and monitoring for DNFBPs is impacted by a lack of resources.

20.     The recent high profile fines against two of the largest FIs in the Netherlands has had a significant impact on the prioritisation of AML/CFT compliance across the banking sector in particular. This has also had positive cascading effects in other sectors. While this is a noteworthy development, the duration of these AML/CFT failings suggests that previous actions were not sufficiently proportionate or dissuasive to change the culture within these large organisations and address long-term systemic AML/CFT failings. Some supervisors rely heavily on informal measures, such as warning notices, and do not use the full range of sanctions available to them in a consistent and proportionate way. A strength of the system is that in most cases remedial action plans are put in place and monitored by the regulators to ensure that issues have been addressed. The NRA highlights underground banking, unlicensed payment services and non-regulated providers of trust services as high risk for ML. However, the authorities do not currently allocate appropriate levels of resources to address these risks.

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

21.     The Netherlands has launched various initiatives aimed at identifying and assessing ML/TF risks of legal persons, but these do not provide a clear and coherent overview of these risks. Most trusts cannot be established in the Netherlands (with the exception of Mutual Funds). However, the Netherlands recognises foreign trusts and acknowledges there are a number in operation. The Dutch authorities do maintain information on foreign trusts holding real estate in the Netherlands. Supervision of TCSP also provides the authorities with some understanding of the types of investments the foreign legal trusts are engaged in.

22. All legal persons and other legal entities need to register basic information with the Chamber of Commerce (CoC) and most must also register BO information in the BO register. This information is publicly available, but currently the BO register is approximately 27% populated. The Netherlands mainly relies on FIs and DNFBPs to act as gatekeepers in order to mitigate the misuse of legal persons and arrangements for ML/TF. This is particularly important for notaries who play a key role in real estate transactions and company formation, and for the trust sector that service a large percentage of conduit companies for customers located in different jurisdictions seeking financial, tax, legal or other benefits.[5] While conduit companies are generally set up for legitimate financial tax or legal benefits, their international nature and often complex ownership structure makes it difficult to identify the ultimate BO, leading many obliged entities to settle for pseudo BOs (i.e., senior managing officials). This risk is intensified by the fact that 15% of trust services provided to conduit companies are offered by entities that have restructured their business models to circumvent stricter regulation (so-called "illegal trust offices"). The Dutch authorities recognise this problem, but are still struggling to identify solutions to address it, despite strengthening regulations in this area in 2018.

### *International co-operation (Chapter 8; IO.2; R.36–40)*

23. In general, the Netherlands makes and responds to requests for international co-operation, aided by a broad range of international instruments, treaties and the use of Memorandum of Understandings (MoUs) which guarantee that legal and non-legal assistance is sought and provided to the fullest extent possible, and in line with risks. The centralisation of incoming/outgoing legal requests ensures that requests are tracked, prioritised and executed in a timely and coordinated manner. These legal requests are delivering results as evidenced through the numerous ML/TF case studies provided. Furthermore, feedback from the FATF global network on the Netherlands' provision of MLA was generally positive.

24. Informal co-operation is facilitated through extensive networks of international Liaison Officers posted to jurisdictions based on risk. In particular, proactive assistance with EU member states is facilitated by a wide range of regional co-operation tools and information-sharing gateways, which streamline and expedite the process. This is an important feature as the majority of the Netherlands' international co-operation is with other EU member states. FIU-NL actively cooperates at operational and strategic levels with a wide range of FIUs through the Egmont Group. Co-operation with European FIUs is robust with exchanges also occurring via the FIU.net.

25. In relation to FIU exchanges of cross-border dissemination reports, feedback from EU member states indicates that FIU-NL disseminations are numerous and that this type of disseminations can benefit from more context.

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5    The term "conduit company" does not refer to the strict legal definition of conduit company in the Wtt 2018, but to companies with features that are typical for a conduit company. The relevant factors are whether a company has international structures, conducts transactions with related parties, has little or no real presence in the Netherlands, and has tax, financial or legal motives and/or substantial international money flows or balance sheet positions.

**Priority Actions**

1.  The Netherlands should require all categories of DNFBPs and FIs, to take adequate measures to implement TFS without delay and to report frozen assets and ensure the implementation of TFS is supervised.

2.  The Netherlands should take appropriate steps to ensure obliged entities, particularly notaries, take all reasonable measures to obtain and hold BO information and refuse their services when the ownership structure of their clients is so complex or opaque that they pose a genuine ML/TF risk.

3.  Supervisory authorities should continue to make full use of the powers available and rely less on informal measures when significant AML/CFT violations are identified. All DNFBP supervisors should ensure they have appropriate enforcement policies so there is clarity when specific interventions should be applied.

4.  The Netherlands should increase supervisory resources to improve risk-based supervision with varying levels of intensity. Resources should also be enhanced to tackle unlicensed activity, including underground banking and the provision of illegal trust services.

5.  The Netherlands should enhance efforts to ensure the BO register is populated with accurate information on the BOs of legal persons active in the Netherlands and ensure that 'pseudo' BOs are only used in limited circumstances and not as an alternative to carrying out checks to identify ultimate BOs.

6.  The Netherlands should further develop its understanding of the risks of conduit companies and take mitigating measures to reduce these risks. The Netherlands should also develop an understanding of the activities of foreign trusts operating within the jurisdiction and consider measures to mitigate risks in relation to high risk activities, such as real estate transactions.

7.  The Netherlands should review the ML sentencing regime for natural and legal persons to ensure the penalties applied are sufficiently dissuasive and develop specific ML orientation points, including factors to consider when determining the penalty, based on the gravity of the offence. The OM should ensure that a larger and wider range of penalties is demanded in practice.

8.  The Dutch authorities should amend BES legislation to address some technical deficiencies noted in the TC Annex. Moreover, BES LEAs should prioritise the investigation and prosecution of ML cases, in line with the risks and pursue stand-alone ML investigations.

## Effectiveness & Technical Compliance Ratings

### Table 1. Effectiveness Ratings

| IO.1 - Risk, policy and co-ordination | IO.2 International co-operation | IO.3 - Supervision | IO.4 - Preventive measures | IO.5 - Legal persons and arrangements | IO.6 - Financial intelligence |
|---|---|---|---|---|---|
| Substantial | High | Moderate | Moderate | Moderate | High |

| 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 | |
|---|---|---|---|---|---|
| Substantial | Substantial | Substantial | Substantial | Moderate | |

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

### Table 2. Technical Compliance Ratings

| R.1 - assessing risk & applying risk-based approach | R.2 - national co-operation and co-ordination | R.3 - money laundering offence | R.4 - confiscation & provisional measures | R.5 - terrorist financing offence | R.6 - targeted financial sanctions – terrorism & terrorist financing |
|---|---|---|---|---|---|
| LC | C | 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 |
| LC | LC | C | LC | C | 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 |
| PC | C | PC | LC | LC | LC |
| 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 |
| LC | C | LC | LC | LC | LC |
| 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 |
| LC | LC | C | LC | 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 | LC | 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 co-operation | | |
| C | LC | LC | LC | | |

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