



The Turks & Caicos Islands

National Money
Laundering
and
Terrorist Financing
Risk Assessment

August 2017

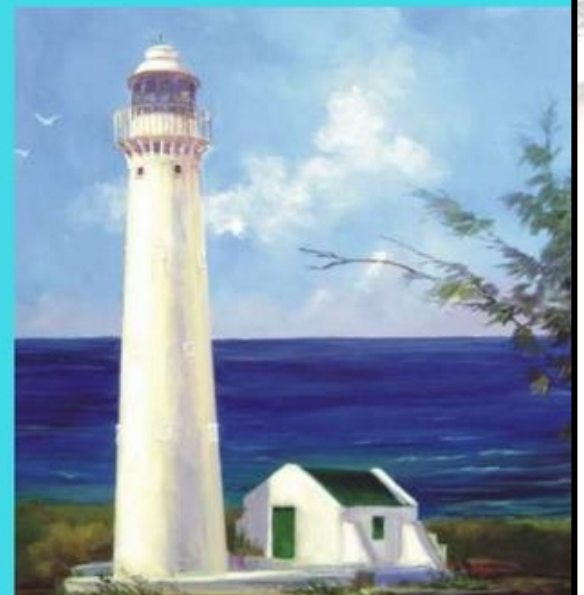



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Foreword by the Honourable Attorney General



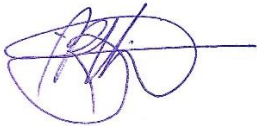
This is the first National Risk Assessment of money laundering and terrorist financing (NRA) conducted in the Turks and Caicos Islands. The National Risk Assessment reflects the commitment by the Government to uphold the highest international standards in protecting the jurisdiction against criminal abuse.

Money laundering and terrorist financing present global threats. In the context of our position as a small international financial services centre with first class electronic funds transfer and which uses the United States dollar, we cannot exclude ourselves from the responsibility of preventing, as far as possible, the use of the jurisdiction by criminals. The continued integrity and stability of the financial system provides strong support for our growth as a nation. The converse, being infiltration by the criminal fraternity, could seriously damage the economy. This is a responsibility the Turks and Caicos Islands Government takes particularly seriously.

The preparation and implementation of the NRA takes reference from the Financial Action Task Force, the body which sets the international standards on anti-money laundering and prevention of terrorist financing.

In completing this exercise, we will have gained a collective understanding of the money laundering and terrorist financing risks that we face and we will be in a strong position to enhance the existing framework and where necessary introduce new measures to provide further protection.

I am grateful for the assistance of the World Bank for providing their guidance and I recognize the hard work and determination of Mr. Paul Coleman from the Financial Services Commission and Ms. Khalila Astwood from my Chambers for their local coordination, on behalf of the AMLC, of vital input from both public and private sector stakeholders.



Hon. Rhondalee Braithwaite-Knowles OBE

Disclaimer

The National ML/TF Risk Assessment of the Turks and Caicos Islands has been conducted as a self-assessment by the Turks and Caicos Islands Authorities, using the National Money Laundering and Terrorist Financing Risk Assessment Tool that has been developed and provided by the World Bank. The World Bank team's role was limited to delivery of the tool; providing guidance on technical aspects of it and review/feedback to assist with the accurate use of it. The data, statistics, and information populated into National Money Laundering and Terrorist Financing Risk Assessment Tool templates, and any other finding, interpretation, and judgment under the scope of National Money Laundering Risk Assessment process completely belong to the Turks and Caicos Islands Authorities and do not reflect the views of World Bank, its Board of Executive Directors or the governments they represent. Nothing herein shall constitute or be a limitation upon or waiver of the privileges and immunities of The World Bank, all of which are specifically reserved.

EXECUTIVE SUMMARY

Executive Summary to the Turks and Caicos Islands National Risk Assessment.

Conclusion drawn from the National Risk Assessment

The National Risk Assessment which commenced in October 2014 and was completed and documented in this report in August 2017 has concluded that:

- 1) The risk of money laundering occurring within the Turks and Caicos Islands is Medium High**
- 2) The risk of terrorist financing occurring within the Turks and Caicos Islands is Low.**

Introduction

The National Risk Assessment (NRA) is a Turks and Caicos Islands Government sponsored exercise that seeks to deepen the collective understanding of the money laundering and terrorist financing risks (ML/TF) faced by the country. The NRA is conducted under the leadership of the Honourable Attorney General, as Chairman of the Turks and Caicos Islands Anti-Money Laundering Committee (AMLC).

The NRA takes reference from the Financial Action Task Force¹ Recommendations published in 2012 and the FATF Guidance on National Money Laundering and Terrorist Financing Risk Assessment published in February 2013.

The objective of this report is to identify the most significant risks at a national and strategic level. In conducting this process, a consultative approach was taken across law enforcement agencies, the Financial Intelligence Agency, the Financial Services Commission and private sector representatives. This process allows the Turks and Caicos Islands to identify the level of understanding of money laundering and terrorist financing risks, the level of implementation among agencies, gaps in the existing framework and the level of co-ordination on a national level.

This assessment is aimed at assisting the Turks and Caicos Islands in its efforts to mitigate the risks associated with money laundering and terrorist financing and to identifying those areas that are most vulnerable to such risk and which require a greater allocation of resources.

The Turks and Caicos Islands Government has adopted the Methodology offered by the World Bank² and guidance provided by the Caribbean Financial Action Task Force.³

The Turks and Caicos Islands is a small international financial centre which services both the resident population and the international market, which, in the case of the Turks and Caicos Islands, is largely from North America. The factors that make the Turks and Caicos Islands an attractive place for legitimate financial activity are – its status as a British Overseas Territory, political stability, proximity to North America, use of the US Dollar as the legal tender, high-end real estate market, absence of direct taxation and widely understood language and legal system. However, if in the future, concerns were to develop with the effectiveness of the regulated

¹ The FATF is an inter-governmental body established in 1989 currently comprising 36 members with the participation of over 180 countries through a global network of FATF style regional bodies. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating ML/TF and other related threats to the integrity of the international financial system.

² The World Bank is an international financial institution founded in 1944 that provides loans to developing countries for capital programmes. The World Bank's goal is to end extreme poverty within a generation and to boost shared prosperity. It currently comprises 188 member countries.

³ The Caribbean Financial Action Task Force (CFATF) is an organisation of twenty-seven states of the Caribbean Basin, which have agreed to implement common countermeasures to address the problem of criminal money laundering. It was established as the result of meetings convened in Aruba in May 1990 and Jamaica in November 1992.

financial sector, this could result in the country being seen as an attractive place through which to launder the proceeds of crime.

The scope of the NRA, is wide-ranging. The level of compliance with the AML/PTF regulation was considered along with the effectiveness of the dissuasive efforts, which commence with client on-boarding, to monitoring of trading activities, to suspicious activity reporting through to conviction and asset confiscation. The implementation of the critical area of international co-operation was also assessed.

This main report provides detailed outcomes of the work undertaken.

Threats and Vulnerabilities

Money Laundering

Notwithstanding that the archipelagic nature of the Turks and Caicos Islands makes it accessible by all types of watercraft, including small sail boats and power boats, susceptible to smuggling and moving bulk cash, available data goes against a conclusion that there is a high prevalence of these activities in the Turks and Caicos Islands. The threat due to drug trafficking and drug transshipment is recognized in the United States Department of State Report; *International Narcotics Control Strategy Report 2017 Volume 1*. The Turks and Caicos Islands engages in counter-narcotics activities with the United States under Operation Bahamas, Turks and Caicos (OPBAT).

Financial flows in and out of the Turks and Caicos Islands present an opportunity for funds to flow through the financial system from illicit sources. Data gathered and analysed by the Financial Intelligence Agency indicates cases where illicit funds were used to acquire property in the Turks and Caicos Islands or flowed through to other jurisdictions, both activities being recognized as typical stages of money laundering. Investigations by the relevant competent authorities in the Turks and Caicos Islands and legal assistance requests received has indicated significant exposure to funds emanating from North America and also that the predicate crimes were smuggling, tax evasion, drug trafficking and various forms of fraud.

Domestic threats have in the past been dominated by perceived corruption within the government of the Turks and Caicos Islands, which was initially investigated by way of a Commission of Enquiry in 2009. A Special Investigation and Prosecutions Team was appointed and nine people were charged with a total of twenty-four offences of money laundering. As at the date of this report, there were no convictions in this matter. There is no evidence of the threat of corruption continuing into the current time period (2017). However, the Integrity Commission continues to investigate reports received to determine whether allegations relate to criminality such as corruption should be pursued or whether they should be passed to the relevant authorities for other disciplinary action.

Domestic predicate crimes include:

- Burglary
- Possession of drugs with intent to supply
- Murder
- Robbery
- Firearms offences
- Corruption

Further statistics from and analysis by the Royal Turks and Caicos Islands Police Force and the Office of the Director of Public Prosecutions (ODPP) is necessary to provide greater details of predicate crimes. Current statistics do not provide any specific data on drug or human trafficking in the Turks and Caicos Islands. In summary, the threat of money laundering in the Turks and Caicos Islands is considered greater from international sources rather than domestically. The data maintained by the Financial Intelligence Agency and the Attorney General's Chambers supports this conclusion.

The possibility of domestic de-risking within the financial sector, may result in the critical area of cross border money transfer going "underground" and becoming unregulated; thereby depriving the jurisdiction of critical data on financial flows.

The Financial Services Commission has focussed its supervisory coverage on those financial sectors considered to be at greater ML/TF risk. Standards of compliance in the sectors examined were predominantly less than satisfactory. The focus towards higher risk sectors has resulted in other sectors needing more current examinations.

Considering the status of the Turks and Caicos Islands as an international financial services centre and its proximity to North American clientele, the level of suspicious activity reporting appears to be low for the risk profile of the jurisdiction. Actual suspicious activity reports submitted are dominated by the two sectors with the highest levels of client activity, being banking and money service businesses. A level of Suspicious Activity Reporting that is inconsistent with the risk of and threats to the jurisdiction exposes the jurisdiction to abuse by criminals.

Terrorist Financing.

The Turks and Caicos Islands is not close to any areas of conflict. There are no known ties to terrorist financing or support for terrorism in the Turks and Caicos Islands, whether human or financial or any known sympathies towards such organisations.

There is no significant business or trade relations with countries or regions with high terrorist threats and other circumstances which might generate a terrorist financing threat to the Turks and Caicos Islands.

No Suspicious Activity Reports have been submitted to the Financial Intelligence Agency, nor have there been any prosecutions.

It is recognized globally⁴ that Non-Profit Organisations are vulnerable to abuse by terrorist organisations, which often employ deception to mask their activities, but in the Turks and Caicos Islands this threat is considered low.

⁴ Financial Action Task Force Report: Risk of Terrorist Abuse in Non-Profit Organisations.
<http://www.fatf-gafi.org/publications/methodsandtrends/documents/risk-terrorist-abuse-non-profits.html>

The Financial Services Commission is the designated Supervisor of the Non-Profit sector under the Non-Profit Regulations 2014.

A high-level review of 181 registered Non-Profit Organisations has identified very few that fall into the high-risk category of having overseas remittances from and to countries or neighbouring countries related to known terrorist activity. Further detailed analysis is necessary in this area.

The Regulatory and Supervisory Framework

Since the Caribbean Financial Action Task Force Mutual Evaluation report in 2008, the Turks and Caicos Islands Government has progressively enhanced the legislative framework. Some 15 separate pieces of legislation have been implemented, most notably the Proceeds of Crime Ordinance Cap 3.15 which came into force in October 2007 and subsidiary legislation introduced in 2010 in the form of AML/PTF Regulations and the AML/PTF Code in 2011. More recently, legislation has been enacted in respect of emerging issues such as the Prevention of Terrorism Ordinance, the Trafficking in Persons Ordinance, and Bribery Ordinance.

An Anti- Money Laundering Committee (AMLC) was established in accordance with section 115 of the Proceeds of Crime Ordinance, to advise the Governor on matters related to the prevention of money laundering, terrorist financing and the financing of proliferation⁵.

The Regulated and Supervised Financial Sector

There is a range of financial business sectors in the Turks and Caicos Islands. Each of these sectors have their own money laundering and terrorist financing risks, all of which must be managed within the legislative framework based upon international standards.

Each of the financial sectors has been assessed for the risk of abuse by criminals by way of money laundering and terrorist financing. The assessed ratings were as follows.

⁵ Section 2 of the Proceeds of Crime Ordinance Cap 3.15 provides an interpretation of the financing of proliferation: “means the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons, and their means of delivery and related materials (including both technologies and dual use of goods for non-legitimate purposes), in contravention of any enactment, or where applicable, international obligations.”

Sector	Risk Rating: "Risk of money laundering"
Banking Sector	Medium High
Investments Sector	Medium
Corporate Services Providers	Medium High
DNFBP - Independent Legal Professionals	Medium High
Trust Company Business Sector	Medium High
DNFBP Real Estate Sector	Medium
Domestic Insurance Sector	Low
International Insurance Sector	Medium Low
Money Services Business Sector	Medium
DNFBP Accountants	Medium
DNFBP High Value Dealers	Medium
Gaming Sector	Medium High

Banking

Assessment – Medium High Risk

The banking sector is mature, with four of the seven banks having Head Office structures in countries with equivalent standards of AML/CFT regulation. The sector is regulated and supervised by the Financial Services Commission which rigorously vets new entrants to the sector by means of a robust licencing system.

The assessment has, however highlighted the need to undertake and develop a suitable frequency of on-site examinations aligned to inherent risk. Regarding off-site surveillance, it is considered that the use of internal audit and compliance reviews should continue and also be improved by the collection of data on the risk drivers to the sector.

The low number of suspicious activity reports disclosed to the Financial Intelligence Agency is of concern. The Financial Services Commission and the Financial Intelligence Agency should undertake an exercise to seek out the root cause and generally raise awareness.

Investment

Assessment – Medium Risk

As at 31 December 2016, the sector had \$864m under administration and management. The sector is mature and is closely associated with the banking sector by way of subsidiary or associated company structure.

This linkage has provided an inherently strong governance regime, which improves the overall management of ML/TF risk in the sector. The validation of the legislative framework by the International Organisation of Investments Commissions (IOSCO) is a further positive indicator of the quality of the AML/CFT regime.

The Financial Services Commission, as the designated supervisor of the sector, must validate the above indicators by way of a series of on-site examinations.

Corporate Service Providers

Assessment – Medium High Risk

The corporate service provider sector is the largest single sector by number of licensees, with some 37 licenses issued. The sector provides a critical gatekeeper role in the formation of companies.

There are 15,764 companies incorporated or registered in the Turks and Caicos Islands. Included in that figure of 15,764 are 10,169 exempted companies, which are those companies with operations mainly outside of the Turks and Caicos Islands.

Exempted companies are further divided by a subset of 6,856 Producer Owned Reinsurance Companies. (PORCs). PORCs provide a limited service and product offering, and are separately licensed by the Financial Services Commission. PORCs are therefore regarded to have a lower

level of ML/TF risk than the typical type of exempted company. (see separate section on international insurance in this report.)

The corporate service provider sector is acknowledged by the Financial Action Task Force to be one of high risk given the core activity of formation of legal persons.

The corporate service provider sector has recently experienced a series of on-site examinations by the Financial Services Commission as supervisor of the sector. An analysis of examinee's compliance standards reveals all at less than satisfactory levels. A repetitive compliance deficiency identified is the failure to effectively monitor client company transactions. It is the view of the Regulator that this deficiency, in the main, is the cause of the low levels of suspicious activity disclosures to the Financial Intelligence Agency.

Designated Non-Financial Businesses and Professions - Independent Legal Professionals

Assessment – Medium High Risk

The legal profession is an important gateway control in the Turks and Caicos Islands AML/CFT regime through the sectors' integral role in property transactions. Almost 50% of the law firms are linked by common shareholders/directors, and shared premises to licensed company formation activities through their associated Corporate Services Providers. This creates the potential for the legal profession to be abused by criminals using legal services and company formation designed to obscure ownership.

Recent typologies produced by the Financial Intelligence Agency have shown cases with criminals utilizing the lawyer's client account as a depository of funds, either to support property acquisition or to flow through the jurisdiction.

With the exception of registration by the DNFBP Supervisor, there have been no other supervisory actions taken in this sector. As a result, there is no clear understanding of the levels of compliance with AML/CFT responsibilities.

Trust Company Business

Assessment – Medium High Risk

The business consists of mature boutique operations. There have been no known issues with money laundering or terrorist financing matters in the trust business sector

It is considered that the level of supervision could be improved with more frequent examinations by the supervisor. A round of examinations would significantly inform the levels of compliance, and staff knowledge together with assessing the effectiveness of in-house compliance functions.

Designated Non-Financial Businesses and Professions - Real Estate Sector

Assessment – Medium Risk

The real estate sector is particularly vulnerable to abuse by criminals who are looking to acquire assets of value. Real estate agencies are registered and received training from the DNFBP Supervisor, however, understanding of the levels of compliance has not been ascertained. Further training is needed and more targeted compliance assessments should be undertaken to address the vulnerabilities identified in this NRA.

The registration of outlier businesses and individuals involved in real estate business, such as, developers should be pursued to close any legislative and supervisory gaps.

Domestic Insurance

Assessment – Low Risk

The domestic insurance market, relevant to money laundering and terrorist financing, is life and long-term investment business, which is small when assessed by volume of premiums collected, and client base.

International Insurance

Assessment – Medium Low

The Turks and Caicos Islands has developed a vibrant fast-growing product offering in the form of Producer Owned Re-Insurance Companies (PORCs) and to a much smaller degree the Captive Insurance Companies. As at 31 May 2017, there were 6,856 PORCs licensed by the Financial Services Commission. This number is increasing at the rate of approximately 700 per annum.

PORCs, which dominate the international insurance sector by number (6,856 PORCs against only 66 Captive Insurers) are considered to present a medium low level of inherent risk by virtue of the limited product and service offering, together with the additional licencing regime by the Financial Services Commission. Some steps have been taken to address ML/TF risks on PORCs and Captive Insurers, however more work is required to fully evaluate the ML/TF threats and vulnerabilities at the sector level.

Money Services Businesses

Assessment – Medium Risk

Money services businesses provide a critical service mainly to the significant expatriate community in the Turks and Caicos Islands.

All licensees operate with a strong ethos of achieving good compliance. Recent on-site examinations by the Supervisor revealed control weaknesses in certain areas all of which have been addressed with an enthusiastic commitment to achieve sustainable remediation. A further round of on-site examinations is in progress.

Designated Non-Financial Businesses and Professions – Accountants

Assessment – Medium Risk

There are no known money laundering or terrorist financing issues in the accountancy sector.

This assessment has identified that other than partial completion of the registration of accountants there has been no other supervisory actions taken. As a result, there is no clear understanding of the levels of compliance or of the levels of awareness of AML/CFT responsibilities. It is considered that the DNFBP supervisor implements a supervisory regime to inform the overall levels of compliance.

Designated Non-Financial Businesses and Professions – High Value Dealers

Assessment – Medium Risk

Items of high value such as luxury cars and jewellers are attractive to criminals at the integration stage of money laundering. In the Turks and Caicos Islands the context of the high value dealer sector as a component of the overall AML/CFT regime is small.

The high value dealers have not been fully identified, assessed or registered. A more detailed assessment of the sector should be undertaken by the DNFBP supervisor. Consideration should be given to whether in the Turks and Caicos Islands context the cash threshold of \$50,000 for high value dealers, other than jewellers, is too high and not meeting the objectives of identifying and reporting of suspicious activity by criminals wishing to purchase high value items.

Gaming

Assessment – Medium High

The critical shortcoming in this sector is the absence of a comprehensive regulatory framework reflecting changes made in the AML/CTF regulatory regime. This poses a significant risk of money laundering and organized criminal activities. The proposed updated and fit for purpose legislation, should be pursued and enacted with the minimum of delay.

Other Contributors to the AML/CFT framework

Both the departments of Customs and Border Control and Immigration have important roles to play regarding protecting the Turks and Caicos Islands from abuse and infiltration by criminals by way of money laundering and terrorist financing.

Customs Department

As a significant net importer of goods, the threat of the criminal movement of goods in and out of the country through the mispricing of invoices must be assessed. (referred to as Trade Based Money Laundering).

While there is a declaration system for cash coming into the country at present there is no system in place to track cash movements out of the country, although efforts are underway to rectify this.

There is no process in place to report suspicious activity to the Financial Intelligence Agency. However, the Customs Department would normally make reports to the Royal Turks and Caicos Islands Police Force and work in close conjunction with them.

Border Control and Immigration

There have been no prosecutions in respect of human trafficking despite suspicions that the country may be vulnerable to human trafficking mainly the Dominican Republic.

Further work on this area is necessary to determine the scale and to sensitise relevant authorities to actions which can be taken to prevent such crimes through enforcing money laundering measures.

Action Points

The main report and this executive summary document areas where further actions are necessary to improve the AML/CFT framework and reduce vulnerability to money laundering and terrorist financing. Such actions are assigned to specific individuals to develop and implement. Progress will be monitored through the Anti-Money Laundering Committee.

The priorities for the action plan will be:

- addressing the gaps in the supervisory regime that have been identified through this assessment
- determining the root cause for the low level of Suspicious Activity Reporting and generally raising awareness on the importance of this preventative measure.
- working with the sectors to improve knowledge of money laundering and terrorist financing risks in key parts of the regulated sector to help them avoid getting drawn into money laundering
- increasing information sharing between law enforcement agencies, the private sector and supervisors, and enhance data collection
- dedicating resources for the creation of a comprehensive regulatory framework for gaming, starting with new legislation

- sensitising the Immigration and Customs Departments to actions, including maintenance of statistics and creating an outbound declaration system, which can be taken to prevent such crimes through enforcing money laundering measures



Main Report

Main Report of the Turks and Caicos Islands National Risk Assessment.

Section 1 - Introduction to the Main Report

How this report is structured.

This report is divided into six sections.

Section 1 introduces the report and describes to which authorities the content is relevant.

Section 2 provides a general description of money laundering and terrorist financing.

Section 3 provides relevant information on the Turks and Caicos Islands, including the legal and regulatory framework and AML/CFT guidance issued to private sector practitioners. This section also describes the roles and contributions made by the various competent authorities⁶ in the Turks and Caicos Islands.

Section 4 looks in greater detail at the national level money laundering and terrorist financing threats and vulnerabilities.

Section 5 considers the threats and vulnerabilities of the financial business sector, including Designated Non-Financial Businesses and Professions, (DNFBPs) and includes where appropriate, recommendations where consideration may be made for further action.

Section 6 presents those bodies considered as being an integral part of the Turks and Caicos Islands AML/CFT regime but of which the precise role has not been established.

⁶ *Competent authorities* refer to all public authorities with designated responsibilities for combating money laundering and/or terrorist financing. In particular, this includes the Financial Intelligence Unit (referred to as Agency in Turks and Caicos Islands); the authorities that have the function of investigating and/or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing/freezing and confiscating criminal assets; authorities receiving reports on cross-border transportation of currency; and authorities that have AML/CFT supervisory or monitoring responsibilities aimed at ensuring compliance by financial institutions and DNFBPs with AML/CFT requirements.(source: Financial Action Task Force Glossary to Recommendation, and amended. <http://www.fatf-gafi.org/glossary/>)

Users of this National Risk Assessment

This National Risk Assessment is of relevance to⁷:

- Policy makers and other authorities who formulate the national AML/CFT Policies, to enable reasonable decisions on the legal and regulatory framework and the allocation of resources to competent authorities based on FATF Recommendation 2⁸;
- Operational Agencies, including law enforcement, other investigative authorities, financial intelligence authority and relevant border control agencies;
- Regulators and Supervisors;
- Financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs) for which the national-level ML/TF risk assessment is a critical source of information contributing to business level ML/TF risk assessments and risk based obligations;
- International bodies and potential investors wishing to do business with the Turks and Caicos Islands; and
- Non-Profit Organisations.



⁷ Content adapted from FATF Guidance Feb 2013: National Money Laundering and Terrorist Financing Risk Assessment.

⁸ FATF Recommendation 2012 Recommendation 2: National Co-operation and Co-ordination

Section 2 – What is Money Laundering and Terrorist Financing?

Money Laundering

Money Laundering is the process by which funds derived from criminal activity (“dirty money”) are given the appearance of having been legitimately obtained, through a series of transactions in which the funds are ‘cleaned’. Its purpose is to allow criminals to maintain control over those proceeds and, ultimately, provide a legitimate cover for the source of their income.

For money laundering to take place, first, there must have been the commission of a crime⁹ which resulted in benefits/gains (illegal funds) to the perpetrator. The perpetrator will then try to disguise the fact that the funds were generated from criminal activity through various processes and transactions which may also involve other individuals, businesses and companies.

Methods of Money Laundering

In general, there are three main methods by which criminal organisations and terrorist financiers move money for disguising its origins or use for terrorist financing and integrating it back into the formal economy¹⁰.

1. The movement of value through the financial system using methods such as cheques and wire transfers.
2. The physical movement of cash, transportation of banknotes using methods such as cash couriers and cash smuggling.

⁹ Also referred to as a Predicate Crime

¹⁰ Financial Action Task Force Report June 2006: Trade Based Money Laundering

3. The movement of value using methods such as false documentation and declaration of traded goods and services. This is referred to as Trade Based Money Laundering.

Each of these methods involves the movement of enormous volumes of funds and can operate at a domestic or international level.

For many years the primary focus has been on the abuse of the financial system and the movement of cash. However, as control activities have improved criminals have sought out other methods to move and launder their ill-gotten gains. As mentioned elsewhere in this report the Turks and Caicos Islands must fully consider the risks faced using Trade Based Money Laundering.

The Stages of Money Laundering

The money laundering process is generally described as taking three stages.

Placement

Criminally derived funds are brought into the financial system. In the case of drug trafficking, and some other serious crimes, such as robbery, the proceeds usually take the form of cash which needs to enter the financial system. Examples of Placement are depositing cash into bank accounts or using cash to purchase assets. Techniques used include Structuring - breaking up a large deposit transaction into smaller cash deposits and Smurfing – using other people to deposit cash.

Layering

This takes place after the funds have entered into the financial system and involves the movement of the funds. Funds may be shuttled through a complex web of multiple accounts, companies, and countries to disguise their origins. The intention is to conceal, and obscure the money trail to deceive law enforcement agencies and to make the paper trail very difficult to follow.

Integration

The money comes back to criminals “cleaned”, as apparently legitimate funds. The laundered funds are used to fund further criminal activity or spent to enhance the criminal's lifestyle. Criminals may use financial and non-financial services to assist in investment in legitimate businesses or other forms of investment, to buy a property, set up a trust, acquire a company, or even settle litigation, among other activities.

Successful money laundering allows criminals to use and enjoy the income from the criminal activity without suspicion.

It is important to remember that the three stages are not necessarily sequential. For example, the laundering of the proceeds of corruption typically commences at the layering stage as the proceeds are already in the financial system and diverted through layering out of the hands of the rightful owner.

Terrorist Financing

Terrorist Financing is the process by which funds are provided to an individual or group to fund terrorist activities or organisations. Unlike money laundering, funds can come from both legitimate sources as well as from criminal activity. Funds may involve low dollar value transactions and give the appearance of innocence and a variety of sources. Funds may come from personal donations, profits from businesses and charitable organisations e.g., a charitable organisation may organise fundraising activities where the contributors to the fundraising activities believe that the funds will go to relief efforts abroad but the funds are transferred to a terrorist group. Funds may also come from criminal sources, such as the drug trade, the smuggling of weapons and other goods, fraud, kidnapping and extortion.

Money laundering follows criminal activity; the aim of the money launderer is to conceal the source of the funds, while a terrorist financier aims mainly to conceal the use of funds. Money

launderers and terrorism financiers both move funds to disguise their source, destination and purpose. The reason is to prevent leaving a trail of incriminating evidence - to distance the funds from the crime or the source, and to obscure the intended destination and purpose.



Section 3: Money Laundering and Terrorist Financing - Factors relevant to the Turks and Caicos Islands

The Turks and Caicos Islands: Economic, Geographical, and Political Environment.

The Turks and Caicos Islands, a British Overseas Territory, is located 575 miles south east of Miami, 66 miles southeast of Mayaguana, The Bahamas, and 90 miles north of Hispaniola. The Turks and Caicos Islands 2016 population estimate is 37,910¹¹ with the significant majority living on Providenciales. The country is an international financial services centre with no income and capital gains taxes.

As a British Territory, the sovereign of the Turks and Caicos Islands is Queen Elizabeth II of the United Kingdom represented by a governor appointed by the monarch, on the advice of the Foreign Office. The legal system is based upon English Common Law.

GDP of the Turks and Caicos Islands is projected for 2016 to be \$950m., with growth of 4.3% projected for 2017 and 5.4% for 2018. The overall growth forecast is underpinned by further growth in stay over tourism and real estate, with spill-overs into the wholesale and retail sectors. The financial services sector is the second major contributor. The United States Dollar is the legal tender. The Turks and Caicos Islands has no central bank.

In August 2009, after a Commission of Enquiry found evidence of “high probability of systemic corruption or other serious dishonesty” the Governor, on the instructions of the Foreign and Commonwealth Office, imposed direct rule on the Turks and Caicos Islands by authority of the 18th March 2009 Order in Council issued by the Queen. The Islands administration was suspended for three years, with power transferred to the Governor. In June 2012, the British Foreign Minister announced that fresh elections would be held in November 2012. A new Constitution

¹¹ The Turks & Caicos Islands Statistical Office- Latest Indicators: www.sppdtci.com/welcome

was approved in October 2012 with elections taking place in November 2012 and a government formed by the leader of the elected party.

The judicial branch of the government is headed by a Supreme Court; appeals are heard by the Court of Appeal and final appeals by the United Kingdom's Judicial Committee of the Privy Council.

Legislative and Regulatory Framework

Since the adoption of the Caribbean Financial Action Task Force Mutual Evaluation report in 2008, the Turks and Caicos Islands Government has progressively enhanced its legislative framework.

Significant legislation enacted include:

- The repeal of the Control of Drugs Trafficking Ordinance and the former Proceeds of Crime Ordinance;
- Chapter 3.15 Proceeds of Crime Ordinance which came into force on 8th October 2007;
- The Integrity Commission Ordinance Cap 1.09;
- The Financial Restrictions (Turks and Caicos Islands) Order, 2010, which was extended to the Turks and Caicos Islands by the UK;
- The Anti-Money Laundering and Prevention of Terrorist Financing Regulations, 2010 (AML/PTF Regulations);
- The Financial Services (Financial Penalties) Regulations, 2010;
- The Anti-Money Laundering and Prevention of Terrorist Financing Code, 2011, (AML/PTF Code);
- Partnership Ordinance, Cap 16.16;
- The Prevention of Terrorism Ordinance, Cap 3.21;
- The Financial Intelligence Agency Ordinance, 3.20;
- The Tax Information (Exchange and Mutual Administrative Assistance) (Convention on Mutual Administrative Assistance in Tax Matters) Order, 2014;
- The abolishment of Bearer Shares Ordinance, 2014;

- The Trafficking in Persons (Prevention) Ordinance, 2016; and
- The Bribery Ordinance 2017.

Proceeds of Crime Ordinance Cap 3.15

The Proceeds of Crime Ordinance Cap 3.15 contains the single set of money laundering offences applicable throughout the Turks and Caicos Islands to the proceeds of all crimes. It provides the framework for confiscation, cash seizure and forfeiture and civil asset recovery in the Turks and Caicos Islands, as well as a number of investigative powers to enable law enforcement agencies to investigate money laundering and develop cases to recover the proceeds of crime.

Money Laundering Offences

The money laundering offences in the Proceeds of Crime Ordinance Cap 3.15 are designed to cover all elements of money laundering and include:

- s. 124: An offence is committed if a person conceals, disguises, converts, transfers or removes from the jurisdiction property which is, or represents, the benefit of criminal conduct (i.e. the proceeds of crime) and the person knows or suspects represents such a benefit;
- s 125 An offence is committed when a person enters into or becomes concerned in an arrangement which he knows or suspects will facilitate another person to acquire, retain, use or control benefit from criminal conduct and the person knows or suspects that the property is benefit from criminal conduct; and
- s 126: An offence is committed when a person acquires, uses or has possession of property which he knows or suspects represents benefit from criminal conduct.

The Anti-Money Laundering and Prevention of Terrorist Financing Regulations 2010 ('the AML/PTF Regulations') and the Anti-Money Laundering and Prevention of Terrorist Financing Code 2011 ('the AML/PTF Code')

The AML/PTF Regulations place requirements on relevant persons for preventing and detecting money laundering and terrorist financing. Relevant persons subject to the regulations must have

systems and controls in place to identify, assess, manage and mitigate risk for the purposes of preventing and detecting money laundering and terrorist financing.

The AML/PTF regulations include (but are not limited to) the requirement for relevant persons to:

- conduct customer due diligence (CDD) and identify categories of higher risk customer including Politically Exposed Persons (PEPs)
- appoint a money laundering reporting officer to whom knowledge or suspicion of money laundering or terrorist financing must be reported
- have policies and procedures, including for risk assessment and management
- monitor and manage compliance with those policies and procedures
- ensure awareness and training of staff

The AML/PTF Regulations also contains provisions in respect of Designated Non-Financial Businesses and Professions. (DNFBPs)

The AML/PTF Code provides additional guidance and contains similar provisions as the AML/PTF Regulations. It also provides for reporting suspicious activity and transactions, correspondent banking and wire transfers.

Industry Guidance

Guidance was issued by the Financial Services Commission and made available to the industry and continues to be available on the Financial Services Commission website including:

- August 2009 Politically Exposed Persons
- August 2009 fit and proper Guidelines
- Jan 2015 Appointment of Money Laundering Compliance Officer, Money Laundering Reporting Officer, Compliance officer.
- Sector Specific Guidance had also been introduced for DNFBPs in 2014 (Legal Professionals, Real Estate Agents, Accountants and High Value Dealers).

The Integrity Commission has issued guidance to political parties under the Political Activities Ordinance and Integrity Commission Ordinance.

Taxation

There is no direct taxation such as income tax, in the Turks and Caicos Islands save for Customs duties and taxes related to the tourism section. Non- payment of duties/taxes on taxable goods and services are offences under the relevant Ordinances, including the offence of evasion of liability under the Theft Ordinance. Commission of such offences in other countries would amount to criminal conduct in the Turks and Caicos Islands. A person's income/receipts are not taxed in the Turks and Caicos Islands, however, the Tax Information Exchange Ordinance (TIEO) provides a regime for the exchange of information between competent authorities for tax matters. An Exchange of Information (EOI) Unit was created within the Ministry of Finance which includes the Competent Authority's delegate and which performs the administrative functions in relation to exchange of information for tax purposes pursuant to the TIEO and the EU Saving Directive. The Turks and Caicos Islands is also a participating jurisdiction under the Multilateral Convention on Mutual Administrative Assistance in Tax matters and the Multilateral Competent Authority Agreement (MCAA) under the Common Reporting Standards (CRS).

Additionally, evidence may be provided in respect of tax matters under the Evidence (Proceedings In Other Jurisdictions) (Turks And Caicos Islands) Order where:

- a request is issued by or on behalf of a court or tribunal ("the requesting court") exercising jurisdiction in a country or territory outside the Turks and Caicos Islands; and
- the evidence to which the request relates is to be obtained for the purposes of proceedings which either have been instituted before the requesting court or whose institution before that court is contemplated.

Terrorist Financing and Terrorism

The Prevention of Terrorism Ordinance, 2014 (PTO) provides for the criminalization of terrorism and terrorist financing (sections 3, 4 and 9-12). These measures are in keeping with the

International Convention for the Suppression of Terrorist Financing. Conviction for the offence of Terrorist Financing only occurs on indictment and carries a penalty of a fine or a term of imprisonment of fourteen (14) years, or both.

- Part 2 of the Ordinance deals with offences relating to membership in or support of a proscribed organisation (listed in Schedule 1) which is concerned with terrorism.
- Part 3 of the Ordinance makes it an offence to use or possess property or engage in fundraising for the purposes of terrorism and to money laundering. It also provides a procedure for forfeiture of terrorist property (Schedule 3) which includes the making of restraint orders and enforcement of an order made in the United Kingdom and its Overseas Territories and external orders made in other countries.
- Part 4 is concerned with investigating terrorism and includes powers to search premises, cordon an area, the ability to obtain orders production of materials, orders for explanations to be given, and orders to/against a financial institution to provide customer information or for account monitoring. It also provides that non-disclosure of information relating to terrorism, tipping off and interference with material would be offences.
- Part 5 of the Ordinance deals with the power to search, arrest, detain and stop and search. It also provides for the exercise of these powers at ports (Schedule 7). The treatment of persons detained is in Schedule 8 which covers, places of detention, the right to legal advice, identification, fingerprinting and the taking of intimate samples. It also provides a procedure for the review of the detention.
- Part 6 of the Ordinance covers further terrorist offences such as weapons training, directing terrorism, possession for terrorist purposes, and collection of information and inciting terrorism overseas.

Before the PTO, the sections of the UK Terrorist Financing Act relating to asset freezing was extended to the Turks and Caicos Islands by The Terrorist Asset-Freezing etc. Act 2010 (Overseas

Territories) Order 2011. Under the Order access to frozen funds and assets may be done by the issue of a license issued by the Governor under section 17.

Suspicious Activity Reports

The Financial Intelligence Agency has issued and updated guidance and forms in relation to both Suspicious Transaction Reports and Terrorist Property Reporting.

The Proceeds of Crime Ordinance and the Financial Intelligence Agency Ordinance (FIAO) require financial institutions and businesses in the regulated sector to report to the Financial Intelligence Agency suspicions about money laundering. Suspicious Activity reporters have a statutory defence from the money laundering offences if they submit a Suspicious Activity Report and receive consent from the Financial Intelligence Agency to undertake an activity which would otherwise constitute money laundering.

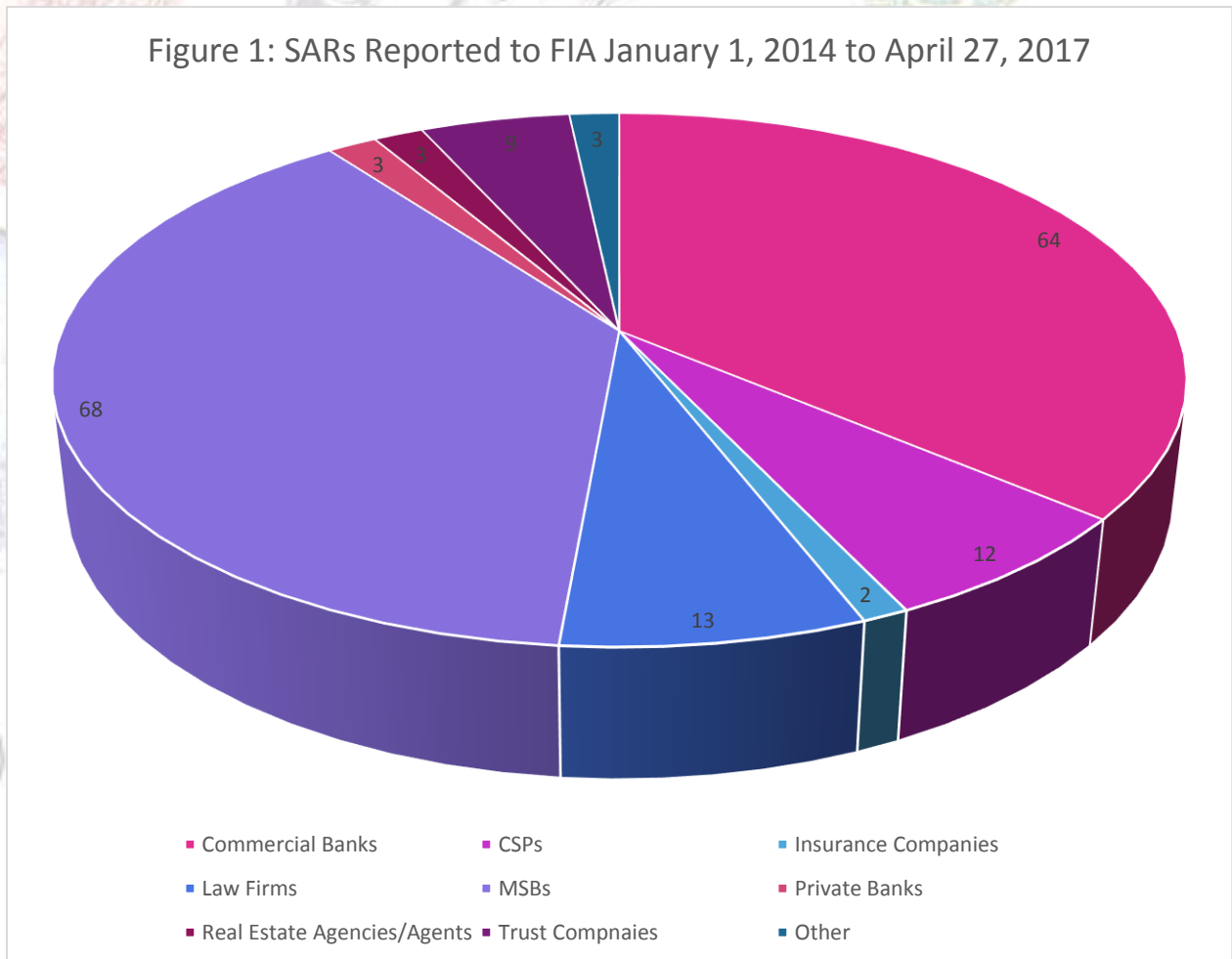
There are separate offences of failing to disclose money laundering in the Proceeds of Crime Ordinance, and include:

- s 127: An offence is committed by those working in financial business if they do not submit a Suspicious Transaction Report to a Money Laundering Reporting Officer or a Suspicious Activity Report to the Financial Intelligence Agency if they know or suspect, or have reasonable grounds to know or suspect, that another person is engaged in money laundering; and the information came to them in the course of a relevant financial business
- s 128: An offence is committed by the Money Laundering Reporting Officer in the financial business if they do not submit a Suspicious Activity Report if they know or suspect, or have reasonable grounds to know or suspect, that another person is engaged in money laundering; and the information came to them in the course of their role as money laundering reporting officer.

The Proceeds of Crime Ordinance gives reporters a defence when undertaking an activity which the reporter believes may constitute one of the three money laundering offences (sections 124-

126) if they have appropriate consent. This is achieved by submitting a suspicious activity report to the Financial Intelligence Agency or to the Money Laundering Reporting Officer, who must also get consent from the Financial Intelligence Agency. The reporter runs the risk of committing a money laundering offence if they proceed before having appropriate consent.

It is also a criminal offence for individuals within the regulated sector to 'tip off' a person that a Suspicious Activity Report has been submitted. There were over 177 Suspicious Activity Reports submitted between 2014 and the 1st four months of 2017, the vast majority of which came from the financial sector. (Figure 1)



The Anti-Money Laundering Committee

Section 115 of the Proceeds of Crime Ordinance provides the authority to establish a body known as The Anti-Money Laundering Committee (AMLC) under the Chairmanship of the Attorney General of the Turks and Caicos Islands.

Members of the AMLC are:

- The Attorney General, as Chairman;
- The Collector of Customs,
- The Managing Director of the Financial Services Commission;
- The Commissioner of Police;
- Director of the Financial Intelligence Agency;
- The Director of Public Prosecutions; and
- such other persons as the Committee shall agree, to assist it in the performance of its functions.

Section 116 of the Proceeds of Crime Ordinance provides for the functions of the AMLC¹² which include:

- To advise the Governor in relation to the prevention of money laundering, terrorist financing and the financing of proliferation;
 - on the development of a national plan of action to include effective mechanisms to enable competent authorities in the Islands to co-ordinate with each other;
 - on participation of the Islands in the international effort;
 - on the development of policies;
- To issue any needed Code and Guidance;
- To advise for the authorisation of payment out of the National Forfeiture Fund; and

¹² For a full version of functions refer to the *Proceeds of Crime Ordinance Cap 3.15 s116*

- Other functions as necessary for the purposes of the *Proceeds of Crime Ordinance*.

The AMLC is required to provide an annual report on its work to the Governor.

The Attorney General's Chambers

The Attorney General's Chambers is a Government of the Turks and Caicos entity, headed by the Attorney General. Section 41 of the Constitution states that the Attorney General "shall be the Legal Adviser to the Government and the House of Assembly." The Attorney General also advances and protects the interests of the Turks and Caicos Islands in the international arena and in international disputes. National coordination of the Turks and Caicos Islands' efforts for the prevention of money laundering, terrorist financing and the financing of proliferation is led by the Attorney General.

The Attorney General is responsible for the processing and handling of requests for assistance in accordance with Mutual Legal Assistance matters and applicable Conventions. External Requests and External Orders in accordance with Schedule 4 to Proceeds of Crime Ordinance are also processed by the Attorney General's Chambers.

The Attorney General is the Civil Recovery Authority under Part III of Proceeds of Crime Ordinance. Civil recovery allows recovery of the proceeds of unlawful conduct without the need for a conviction, through proceedings in the Supreme Court proved to a civil standard. Civil recovery proceedings are concerned with the property itself rather than (as in confiscation) the person responsible for the unlawful conduct. For property to be recoverable the unlawful conduct does not have to be proved but the property must be linked to the unlawful conduct.

The Turks and Caicos Islands Financial Services Commission

The Turks and Caicos Islands Financial Services Commission has a specific mandate under section 4(1)(d) of the Financial Services Commission Ordinance Cap 16.01, to monitor compliance by licensees with all laws, codes and guidance relating to money laundering or the financing of terrorism. This mandate is further reinforced in section 161(1) of the Proceeds of Crime Ordinance Cap 3.15 which states that the Financial Services Commission is the supervisory authority for regulated financial business.

Additionally, in accordance with section 161(2) of the Proceeds of Crime Ordinance Cap 3.15, the Governor, through regulation 23 of the Anti-Money Laundering and Prevention of Terrorist Financing Regulations 2010, has prescribed that the Financial Services Commission may be the supervisory authority for Designated Non-Financial Businesses and Professions. (DNFBPs). Section 163(1) of the Proceeds of Crime Ordinance Cap 3.15, further provides that the function of the supervisory authority is to monitor compliance by financial businesses with AML/CFT obligations and take appropriate enforcement action for breaches of AML/CFT obligations.

The Financial Services Commission is the designated Supervisor of the Non-Profit sector which is done under the Non-Profit Regulations 2014.

The Director of Public Prosecutions

The Director of Public Prosecutions (DPP) is charged under section 100(2) of the Constitution with the power to institute and undertake criminal proceedings against any person before any court in respect of any offence against any law in force in the Islands. Criminal confiscation (post-conviction) provided for under Part II of the Proceeds of Crime Ordinance is conducted by the Director of Public Prosecutions. These proceedings seek to recover the financial benefit that a person has gained because of having committed a criminal offence. Confiscation orders are available following a criminal conviction.

Royal Turks and Caicos Islands Police Force

The core duties of the Royal Turks and Caicos Islands Police Force (RTCIPF) includes internal security by preventing and detecting crime, protection of life and property and maintaining the peace. The RTCIPF investigates and develops ML/TF cases to lead to the prosecution of criminals before the court and to recover the proceeds of crime. A senior officer of the RTCIPF may apply for Production Orders under Proceeds of Crime Ordinance in relation to criminal conduct, criminal recovery investigations and money laundering investigations.

Customs Department

Collection of import and export duties on behalf of the Turks and Caicos Islands Government is performed by the Collector of Customs. Preventing and interdicting illegal drugs and other prohibited and restricted goods is one of the core functions of the Customs Department, in addition to facilitating legitimate trade and international travel.

The Financial Intelligence Agency

The Financial Intelligence Agency plays a central role in the Turks and Caicos Islands anti- money laundering regime and serves as the unit to receive Suspicious Activity Reports made by Financial Businesses and DNFBPs.

Previously operating as the Financial Intelligence Unit within the Royal Turks and Caicos Islands Police Force, operational independence was provided by the Financial Intelligence Agency Ordinance Cap 3.20.

Upon receipt of Suspicious Activity Reports/Suspicious Transaction Reports the Financial Intelligence Agency conducts enquiries to develop the information. This information is also assessed for its relevance and usefulness to other Financial Intelligence Units or law enforcement agencies (LEAs). From these efforts, various products¹³ may be developed following the Agency's analysis and its findings. Some of these products include intelligence reports, spontaneous disseminations and financial profiles.

During the three-year period 2014 to 2016 the Financial Intelligence Agency:

- Produced and distributed to local and international law enforcement partners 52 intelligence disseminations. These related to reports on subjects where the Financial Intelligence Agency provided enhanced information that it received or gathered and where there was a significant indication that the subjects named within may have been involved in some activity linked to ML/TF.

¹³ These products are distinct from the responses to requests received from FIUs and other LEAs which numbered 113 from 2014 to 2016 (2014=27; 2015=26; 2016=60) except for the financial profiles which were produced following requests from local law enforcement entities.

- Provided five spontaneous disseminations during the review period. Spontaneous disseminations may be in the form of information where there is no link of the subjects to the islands but where the information may be considered by the Agency to be of interest to their international counterparts.
- Produced two financial profiles which were prepared for local law enforcement entities in 2016.

Figure 2 below shows the type of product and the number produced and disseminated by the Financial Intelligence Agency during the review period.

Figure 2						
Product	2014		2015		2016	
	Local	International	Local	International	Local	International
Intelligence Dissemination	4	24	9	7	4	4
Sub Total	28		16		8	
Spontaneous Dissemination	0	3	1	1	0	0
Sub Total	3		2		0	
Financial Profile	0	0	0	0	2	0
Sub Total	0		0		2	
Grand Total	31		18		10	

The Financial Intelligence Agency has successfully supported requests for information by law enforcement agencies overseas and provided analyses to the Financial Services Commission in terms of risks, methods and typologies. Outcomes of these analyses are included in Section 5 of this report The Regulated and Supervised Financial Sector: Sector Reports.

Section 4 National Level Threats and Vulnerabilities

Summary Conclusion

The National Risk Assessment which commenced in October 2014 and was completed and documented in this report in August 2017 has concluded that:

- 1) The risk of money laundering occurring within the Turks and Caicos Islands is Medium High
- 2) The risk of terrorist financing occurring within the Turks and Caicos Islands is Low.

Money Laundering Threat- National Level

A threat is a person or group of people, object or activity with the potential to cause harm to, for example, the state, society, the economy etc. In the ML/TF context this includes criminals, terrorist groups and their facilitators, their funds, as well as past, present and future ML and TF activities. Threat is one of the factors related to risk, and typically it serves as an essential starting point in developing and understanding ML/TF risk. For this reason, understanding the environment in which predicate offences are committed and the proceeds of crime are generated to identify their nature, (and if possible the size or volume) is important to carry out an ML/TF risk assessment¹⁴.

¹⁴ FATF GUIDANCE National Money Laundering and Terrorist Financing Risk February 2013.

International Threats

Background

The Turks and Caicos Islands is close geographically to the chain of islands that make up the Islands of the Commonwealth of the Bahamas. The archipelagic nature of both the Bahamas and the Turks and Caicos Islands make both countries accessible by all types of watercraft, including small sail boats and power boats, which means that there is a potential for smuggling and moving bulk cash. While the Turks and Caicos Islands does face challenges in respect of human smuggling, particularly from illegal migrants leaving Haiti, the available data suggests that the prevalence of smuggling of bulk cash or arms in the Turks and Caicos Islands is low.

The Turks and Caicos Islands engages in counter-narcotics activities in cooperation with the United States under Operation Bahamas, Turks and Caicos (OPBAT). Under OPBAT, United States law enforcement agencies integrate with the Royal Turks and Caicos Islands Police Force (RTCIPF) to gather intelligence, conduct investigations, and execute interdictions. These operations are supported by marine, technical, and training resources provided through United States assistance programs. The United States Department of State¹⁵ report *International Narcotics Control Strategy Report 2017, Volume 1* states:

“Investigations also reveal that Bahamian drug trafficking organisations use the Turks and Caicos Islands as a trans-shipment point. Strong familial connections between the Turks and Caicos Islands and the Bahamas coupled with direct flights between Haiti and the Turks and Caicos Islands, result in many Bahamian smugglers traveling to Haiti via the Turks and Caicos Islands with large amounts of cash for future smuggling ventures.”

The Department of State report goes on to say, *“The Turks and Caicos Islands represent a regional vulnerability due to a lack of sufficient law enforcement resources”*. *“Law enforcement information suggests that drug trafficking organisations utilise airdrops and remote airfields to deliver cocaine shipments to the Turks and Caicos Islands and to the Bahamas from Venezuela*

¹⁵ The United States Department of State International Narcotics Control Strategy Report Volume 1 March 2017 pg. 100

and Colombia.” The RTCIPF utilises its very small fleet of vessels to police its marine areas. In 2017, two new vessels will be commissioned to assist its patrol efforts.

International financial services centres are attractive to investors, which generates significant income for these countries. The Turks and Caicos Islands is no exception, it’s attraction to investors includes no income or capital gains taxes and good communications, both physically and electronically. The United States dollar as the islands domestic currency adds to this attraction particularly for North American investors.

Tourism is the significant contributor to the Turks and Caicos Island’s GDP contributing 36% of the projected GDP for 2016. Previously voted the top beach destination in the world by the travel guide *Trip Advisor*, the tourism profile of the Turks and Caicos Islands has continued to rise. The increasing tourist population is likely to be attractive to the high-end property market to acquire assets of value.

The two income generating drivers, tourism (36% of GDP) and finance (8% of GDP), are sourced predominantly from North America, with the larger share, in both sectors coming from the United States of America. Based upon requests for information from overseas law enforcement agencies reported elsewhere in this assessment North America generates the two main threats in terms of money laundering being the use of the country in the layering stage by passing value through the Turks and Caicos Islands financial sector and secondly the integration stage of buying assets of value, mainly in the form of desirable property.

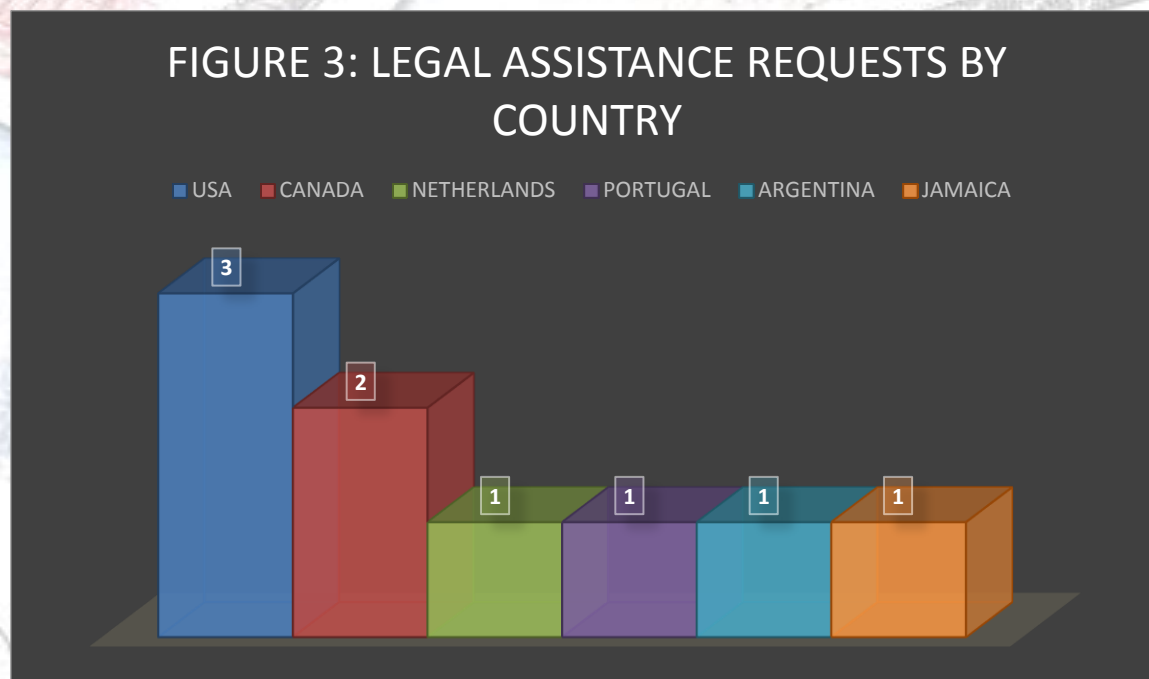
Country exposure to ML/TF risks faced by both the licensed and regulated financial institution sector and the DNFBP sector supervised by the DNFBP supervisor is, in the main dominated by United States of America and Canada, both of which have AML/CFT regimes equivalent to the Turks and Caicos Islands. There is therefore a degree of comfort, but not entirely, in the legitimacy of funds flowing from the geographic source of North America.

Financial Flows

The financial flows in and out of the Turks and Caicos Islands present an opportunity for the introduction and subsequent exit through the financial system of funds from illicit sources. The layering stage of money laundering is therefore possible.

Criminal Activity Indicators

Since 2010, the Attorney General's Chambers have processed nine (9) legal assistance requests. The Attorney General's Chambers have made three (3) restraint orders under the Proceeds of Crime Ordinance resulting from requests, all from the U.S.A. Prosecution having now been completed in the requesting country, one order in relation to US\$594,346 has been discharged. The remaining restraint orders are in respect of the amount of approximately US\$12,000,000. The underlying offence in all matters related to fraud and in two instances also included money laundering.



The Turks and Caicos Islands has also received requests during the period 2010-2017 for production orders under Section 5 of the Evidence (Proceedings In Other Jurisdictions) (Turks And Caicos Islands) Order. These matters all related to the offences of wire fraud, health care

fraud, tax fraud, tax evasion and money laundering and originated from the Netherlands, Portugal, Jamaica, Canada, Argentina and the U.S.A. (Figure 3)

Predicate Crimes – International.

There is data available from investigations by the relevant competent authorities in the Turks and Caicos Islands and legal assistance requests received, to assess the predicate crimes of money laundering through the Turks and Caicos Islands. Based upon information provided by the Financial Intelligence Agency and the Attorney General’s Chambers, predicate crimes committed overseas are:

- Smuggling
- Tax evasion
- Health Care Fraud
- Tax fraud
- Wire fraud and other fraudulent actions.
- Drug Trafficking and other drug related crimes.

The above list is derived from records maintained by the Attorney General’s Chambers and the Financial Intelligence Agency covering requests received from overseas law enforcement authorities, over the period 2012 to 2017. Enquiries recorded were based upon those leading to prosecution and/or confiscation.

The greater threat is seen to be predicate offences committed internationally and the resultant funds flowing through the jurisdiction or remaining in the country as the criminal acquires items of value e.g. high-end property.

Records held in respect of both international and domestic predicate crimes, can benefit from greater granularity and consistent across all agencies.

Summary

Despite the dominance of North American countries with an equivalent AML/CFT regime, there is no reason to believe the Turks and Caicos Islands is immune to the typologies identified by FATF and similar bodies. The data maintained by the Financial Intelligence Agency and the Attorney General's Chambers confirm that assumption.

The Turks and Caicos Islands has a number of characteristics that indicate that the threat of money laundering from international sources is real. The most common characteristics being an international financial services centres and a high-end Caribbean residential property market attractive to those wishing to acquire desirable assets of value.

Domestic Threats

Predicate Crimes - Domestic

The domestic threat of internally generated money laundering is mainly based on low level drug crimes. Over the last 5 years there were 1,955 acquisitive crimes committed such as petty theft and burglary. More specifically 462 offences and 649 prosecutions¹⁶ have occurred for drug trafficking. There have been no investigations and/or prosecutions into offenses related to human trafficking, arms trafficking or directing terrorism.

The Turks and Caicos Islands has commenced twenty-five (25) ML investigations, resulting in eleven (11) prosecutions and one (1) conviction, the remaining prosecutions are ongoing. The investigations and prosecutions have resulted in several restraint orders in relation to both property and money; one (1) confiscation of approximately US\$10,000,000 and three (3) civil recovery forfeitures of real property (Figure 4).

Figure 4: 2009 – 2016 Money Laundering Statistics

Number of cases reported to law enforcement	25
Number of cases prosecuted	11

¹⁶ Prosecutions exceed offences as persons may have been charged more than once for one or more offences. Source: TCI Police.

Number of completed prosecutions	2
Number of on-going prosecutions	9
Number of convictions (cases)	1
Number of person convicted	1
Number of Cases resulting in confiscations	1
Amount of proceeds confiscated	Approximately \$10,000,000.00
Number of Cases resulting in restraint orders	4
Number of civil recovery forfeitures	3

The United States Department of State report “The International Narcotics Control Strategy Report Volume 1 March 2016” (INCSR) mentioned that the Turks and Caicos Islands are used for a trans-shipment point for drug trafficking and consequently, although not specifically stated in the INCSR, it is considered likely that some of the local population will be engaged in providing assistance to aid the trans-shipment of drugs.

The recently released 2016/2017 Crime Statistics¹⁷ revealed that all crime in the Turks and Caicos Islands was down this year by 14%. The main domestic predicate crimes for the past year were:

- Burglary - 703 Burglaries and 45 Aggravated Burglaries
- Possession of drugs with intent to supply - 24 cases
- Murder – 7 cases
- Robbery – 134 (96 of these Robberies involved the use of a firearm)
- Firearms offences – 126

Information from the Office of the Director of Public Prosecutions (ODPP) relating to its 1st quarter 2017 statistics (Figure 5) supports the data provided by Royal Turks and Caicos Islands Police Force.

¹⁷ Royal Turks and Caicos Islands Police Force; <http://www.tcipolice.tc/20162017-crime-stats-release0d/>

Figure 5: ODPP 1st Quarter 2017 Statistics

	Number of Cases reported to law enforcement	Number of case withdrawn	Number of cases Prosecuted	Number of convictions	Number of Cases dismissed	Number of Not Guilty Pleas
Possession of Drugs	38	8	30	25	5	0
Possession of Drugs with intent to supply	4	2	2	2	0	0
Concealing Criminal Property	0	0	0	0	0	0
Burglary and attempts	16	0	16	10	6	0
Fisheries matters	7	0	7	5	2	0
Robbery	5	0	5	5	0	0
Corruption & Bribery	0	0	0	0	0	0
Handling Stolen Goods	4	1	2	2	1	1
Forgery	3	0	3	3	0	0
Theft	0	0		0	0	0

Further statistics and analysis is necessary by the Royal Turks and Caicos Islands Police Force and Office of the Director of Public Prosecutions to provide greater details of predicate crimes. The statistics do not provide any specific data on drug or human trafficking in the Turks and Caicos Islands.

Corruption

In 2009, in light of perceived widespread corruption within the then government of the Turks and Caicos Islands, a Commission of Inquiry took place, established by the United Kingdom Foreign and Commonwealth Office (FCO). The Commission of Inquiry concluded that there was the likelihood of widespread corruption. In response, the FCO set up an ad hoc Special Investigations

and Prosecutions Team to consider whether criminal offences had been committed and whether prosecution was justified.

The investigation by the Special Investigation and Prosecution Team into the allegations of corruption identified by the Commission of Inquiry resulted in 9 people being charged with 24 offences of money laundering. Of the charges, 14 included activity involving the banking and legal sectors. The trial against those charged commenced in December 2015 and is now anticipated to be concluded sometime in 2017.

Summary

Discounting the allegations of money laundering alleged which forms part of the 2009 Commission of Inquiry, the number and types of crimes committed, as reported by the RTCIPF and the ODPP, suggest that the domestic threat of money laundering is lower than the international threat. It is acknowledged that more data is necessary to fully substantiate this conclusion.

Money Laundering Vulnerabilities – National Level

*The concept of vulnerabilities as used in risk assessment comprises those things that can be exploited by the threat or that may support or facilitate its activities. In the ML/TF risk assessment concept, looking at vulnerabilities as distinct from threat means focusing on, for example, the factors that represent weaknesses in AML/CFT systems or controls or certain features of a country. They may also include the features of a sector, a financial product or type of service that make it attractive for ML/TF purposes.*¹⁸

National Strategy and Data Collection

The work undertaken in the context of this National Risk Assessment has highlighted the accessibility of critical data, which in some instances is not available or somewhat disjointed across departments and relevant regulated entities. Examples of absence of meaningful data:

¹⁸ FATF GUIDANCE National Money Laundering and Terrorist Financing February 2013.

- Other than data reported to the Financial Services Commission by the money services businesses there is limited knowledge of levels of cash movements in and out of the jurisdiction.
- There is no consolidated record of incoming requests for information across all competent authorities.
- There is no complete record of ML/TF confiscations and asset seizures.

The absence of data required to underpin the conclusions of the National Risk Assessment is also of considerable concern to the Anti-Money Laundering Committee. Without meaningful data, the Anti-Money Laundering Committee, as the strategic and policymaking body, is considered to be insufficiently informed to make prudent policy decisions aligned to the ML/TF risks faced by the country.

De-Risking

In a paper¹⁹ prepared by the World Bank in October 2016, de-risking is described as the increasing practice of terminating or restricting business relationships by global financial institutions. Factors driving de-risking tend to be a combination of cost/benefit and concern about AML/CFT risks.

Concerns over the impact of de-risking on the integrity of the financial sector have attracted the attention of a number of global bodies such as the Financial Stability Board (FSB) and the G20 group of countries. Both the FSB and the G20 have undertaken surveys to determine the extent of the problem. Conclusions were that de-risking is happening in pockets around the world – but its effects are unevenly distributed, with some regions more affected than others. Significantly, the conclusion was drawn that *“Smaller countries with limited financial markets are particularly vulnerable to de-risking practices and we are seeing evidence of this, notably in the Caribbean region”*

¹⁹ <http://www.worldbank.org/en/topic/financialmarketintegrity/brief/de-risking-in-the-financial-sector>

The World Bank report goes on to say;

“De-risking can frustrate AML/CFT objectives and may not be an effective way to fight financial crime and terrorist financing. By pushing higher risk transactions out of the regulated system into opaque informal channels they become harder to monitor”

“Financial integrity and financial inclusion are complimentary. Financial inclusion is a necessary precondition to effectively mitigate risks and combat financial crimes. The Financial Action Task force recognizes financial exclusion as a risk to financial integrity”.

The Turks and Caicos Islands is therefore considered to be vulnerable to the impact of de-risking.

There is no evidence of unauthorised money transmission in the form of Hawala or similar activities. However, there is a real risk of money transfers “going underground” should wholesale de-risking occur in the money services business sector.

Transparency and Beneficial Ownership

Recent global initiatives on transparency and beneficial ownership information has impacted the Turks and Caicos Islands financial sector. Implementation of the initiatives stated below have the potential to improve transparency and recording of beneficial ownership information thereby contributing to an improvement of the AML/CFT regime of the country. With the passage of the new Companies Ordinance²⁰, all legal persons will be required to provide beneficial ownership information to a central registry to be maintained by the Commission.

The following initiatives are relevant;

- United States legislation referred to as The Foreign Account Tax Compliance Act (FATCA) requires United States persons, including those living outside of the United States to file yearly reports on their non-US financial accounts. The legislation also requires foreign financial institutions to report directly to the Inland Revenue Service certain information held by US taxpayers.

²⁰ Companies Ordinance 2017. – passed by the House of Assembly on 20th June 2017, and which will come into force on 30th September 2017.

- British Overseas Territories must provide information relating to the financial affairs of UK resident clients. (Referred to as United Kingdom FATCA as it is based upon the United States FATCA regime).
- The Common Reporting Standard (CRS) developed by the Global Forum, Organisation for Economic Cooperation and Development (OECD), is a global reporting standard for the automatic exchange of information to allow tax authorities to obtain a clearer understanding of financial assets held abroad by their residents for tax purposes.
- The Turks and Caicos Islands has also enacted legislation setting up a confidential beneficial ownership register for all legal persons.

Levels of AML and CFT Knowledge: Training and guidance

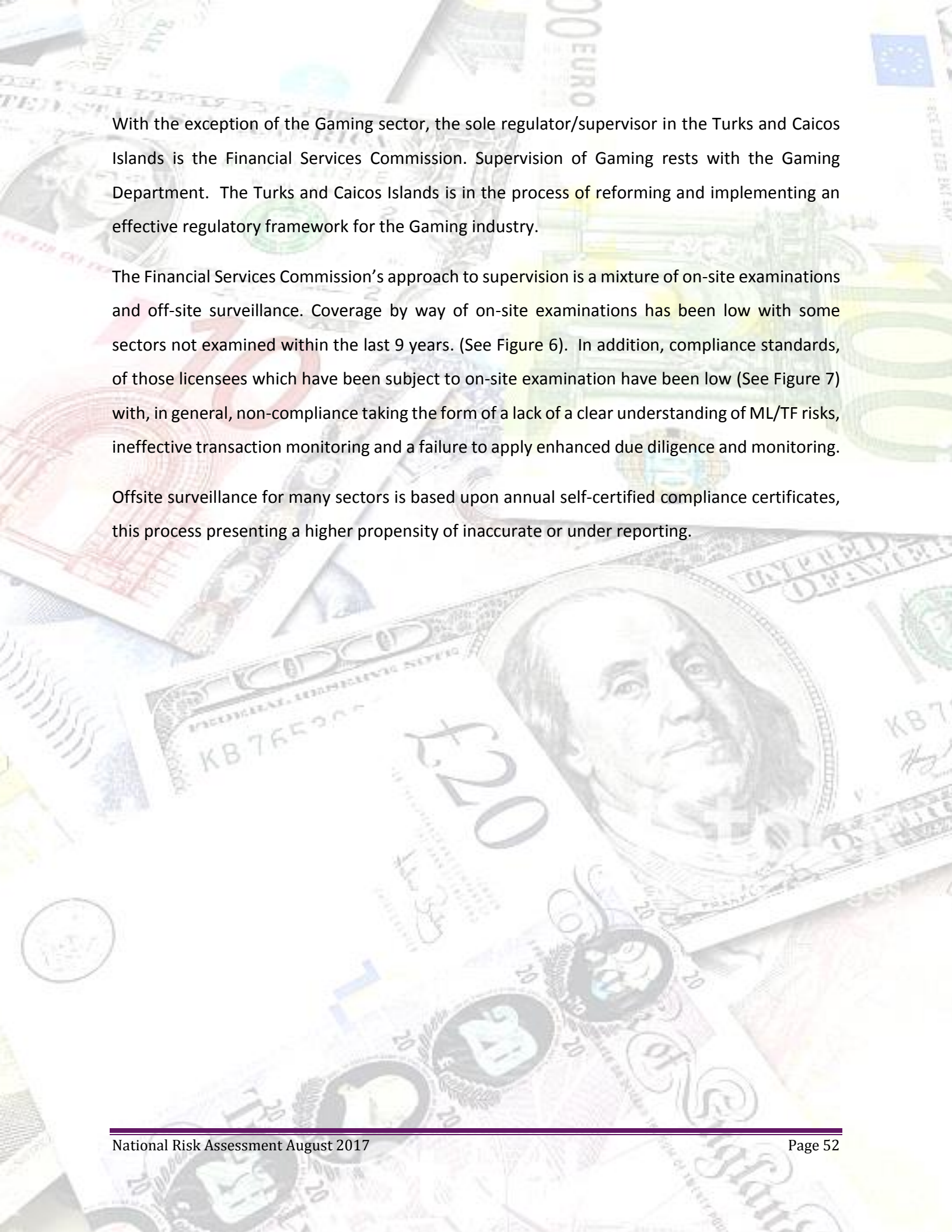
The Turks and Caicos Islands is a small country with limited opportunities to raise awareness and knowledge of Money Laundering and Terrorist Financing matters. Professional qualification through recognised associations such as the Association of Certified Anti-Money Laundering Specialists and the International Compliance Association are costly. Consequently, very few individuals in the key roles of Money Laundering Reporting Officer and Money Laundering Compliance Officer are qualified in such specialist areas.

Training largely falls to the Financial Services Commission and the Financial Intelligence Agency, who hosts an annual seminar to cover standard issues. Periodic training targeted to specific financial business sectors is also provided by both the Financial Services Commission and the Financial Intelligence Agency.

The local Turks and Caicos Islands Compliance Association has conducted one fully day seminar since its launch in October 2013.

Regulation and Supervision

Good supervision is a critical factor in determining the effectiveness of licensees in implementing their AML/CFT responsibilities.



With the exception of the Gaming sector, the sole regulator/supervisor in the Turks and Caicos Islands is the Financial Services Commission. Supervision of Gaming rests with the Gaming Department. The Turks and Caicos Islands is in the process of reforming and implementing an effective regulatory framework for the Gaming industry.

The Financial Services Commission's approach to supervision is a mixture of on-site examinations and off-site surveillance. Coverage by way of on-site examinations has been low with some sectors not examined within the last 9 years. (See Figure 6). In addition, compliance standards, of those licensees which have been subject to on-site examination have been low (See Figure 7) with, in general, non-compliance taking the form of a lack of a clear understanding of ML/TF risks, ineffective transaction monitoring and a failure to apply enhanced due diligence and monitoring.

Offsite surveillance for many sectors is based upon annual self-certified compliance certificates, this process presenting a higher propensity of inaccurate or under reporting.

FIGURE 6
NUMBERS OF ONSITE EXAMINATIONS BY
SECTOR COVERING AML/CFT HAS BEEN LOW
BUT IS INCREASING

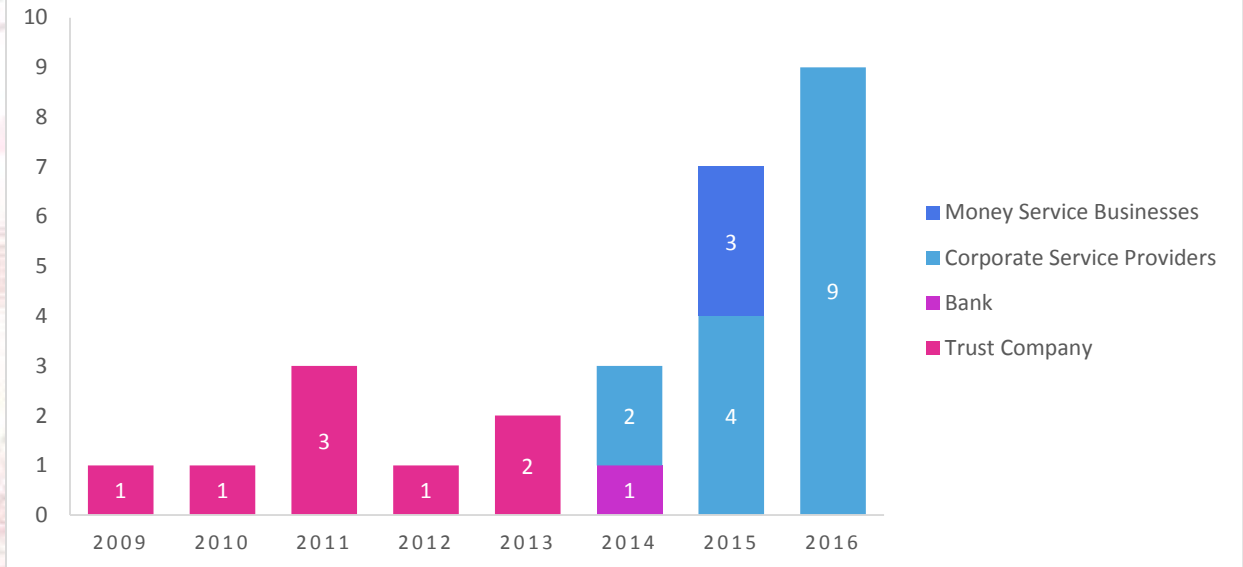
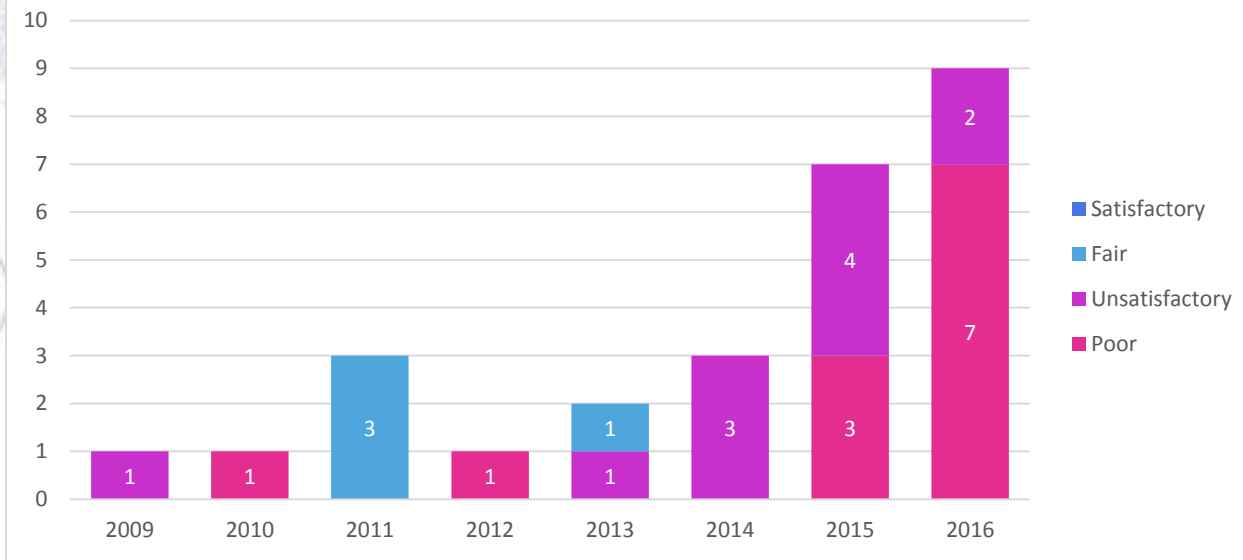



Figure 7
Compliance ratings are dominated by less than satisfactory
outcomes





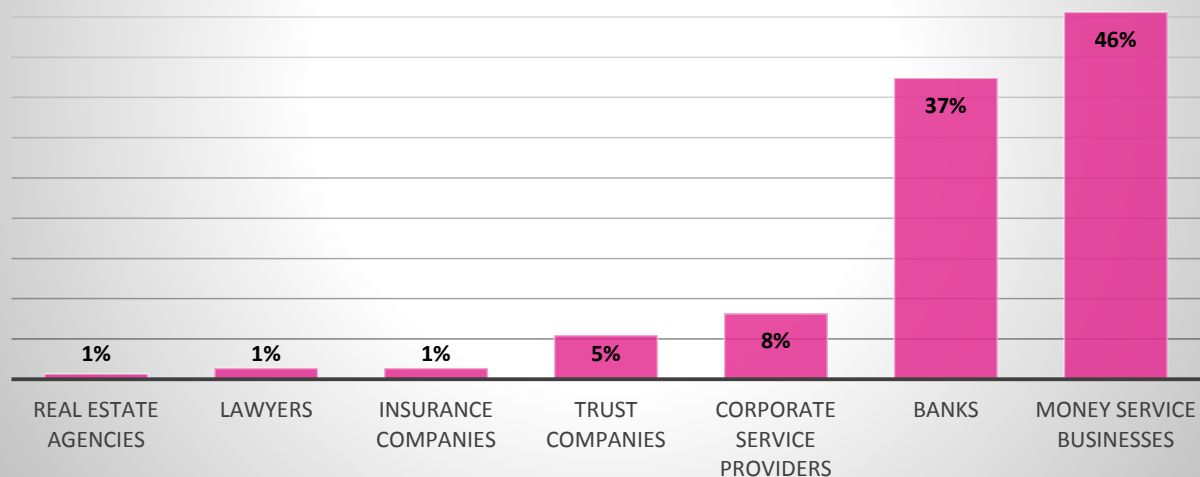
Based on the sample of onsite examinations conducted, it is concluded that the country is vulnerable to abuse by criminals in the form of money laundering within the regulated and supervised sectors.

Suspicious Activity Reporting and Prosecutions through to Conviction.

Studies into activities of a criminal has concluded that a criminal is most vulnerable when he is either moving the illicit funds or acquiring assets. This vulnerability of the criminal underpins the importance of suspicious activity reporting. Effective suspicious activity reporting is therefore seen to contribute significantly as a deterrent to criminal activity.


Analysis of Suspicious Activity Reports statistics indicate low numbers of Suspicious Activity Reports submitted to the Financial Intelligence Agency. It is acknowledged that it may be difficult to conclude, based upon numbers only, that there is a weak reporting regime. However more significant to the country is the lack of spread of Suspicious Activity Reports across all financial institutions. The chart shows the dominance of suspicious activity reporting with the banking sector and the money services sector, which contributed 83% of Suspicious Activity Reports reported for the period analysed (2014 – 2017) (See Figure 8). Further it is noted that two financial business sectors did not submit any Suspicious Activity Reports during the three-year period.

Figure 8
For the period 2014 to 2016 the banking sector and the MSB sector dominated SARs with 83% of all SARs submitted



Investigations, Prosecutions and Freezing

In the Turks and Caicos Islands, efforts in this area require the collaboration of various agencies. Intelligence may be received or gathered by the Financial Intelligence Agency which is then analysed and disseminated to law enforcement agencies such as the Financial Crimes Unit (FCU) of the RTCIPF, who will conduct investigations. Depending on the outcome of investigations, the matters are then forwarded to the ODPP for prosecution before the Courts. The Proceeds of Crime Ordinance provides that the Attorney General's Chambers are responsible for non-conviction based civil asset forfeiture. In respect of international requests, the Proceeds of Crime Ordinance also provides that applications in respect of external requests and orders are processed by the Attorney General's Chambers.



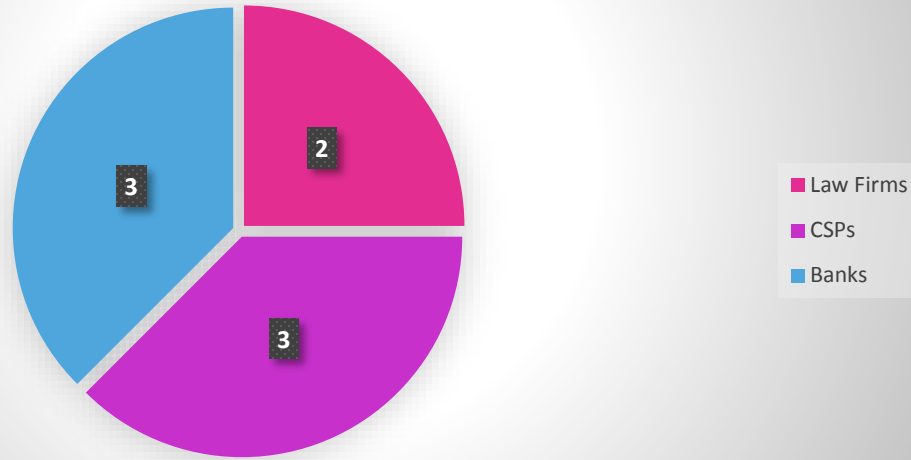
As a deterrent to criminals, it is essential that money laundering activities, and in particular major proceeds-generating crimes, are successfully prosecuted and that courts apply effective, proportionate and dissuasive sanctions to those convicted²¹.

The number of prosecutions and the successful conviction is one out of two cases that have been completed to date (Figure 4); this suggests an environment to deter criminal activity through money laundering. This view is supported by the number of assets frozen and seized as result of domestic investigations and pursuant to legal assistance requests.

The legal assistance matters where criminal property was located in the jurisdiction all included monies held in bank accounts and in one case included several real properties. To conceal the proceeds of their criminal conduct, the subjects of legal assistance requests have utilised the accounts of law firms and corporate service providers, and in two instances the accounts were in the subject's own name, as shown in Figure 9. It is important to note that the corporate service providers were all associated with or subsidiaries of law firms. The information suggests that two of the gatekeepers in the Turks and Caicos Islands, law firms and corporate service providers, are vulnerable to abuse or misuse by criminals. More work needs to be done to determine why this is so.

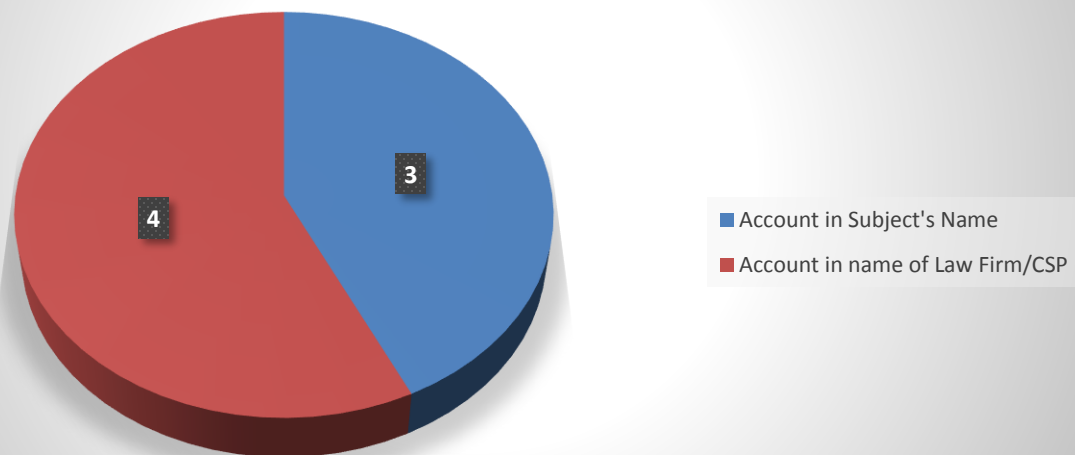
²¹ Extract from Characteristics of Immediate Outcome 7 of the FATF Methodology for Assessing Technical Compliance with the FATF Recommendations and the effectiveness of AML/CFT Systems.

Figure 9: Institutions Utilised By Subjects of Legal Assistance Requests



As mentioned previously, the money laundering threat from international sources is high. The data available show that criminals make use of the banking sector to get the proceeds of their criminal conduct committed internationally into the Turks and Caicos Islands. Figure 10 shows that in respect of legal assistance requests received, the accounts of law firms and corporate service providers are most often used to deposit the criminal property.

Figure 10: Depository of Monies subject to Legal Assistance Requests



There is no evidence of attempts to hinder, restrict or limit the capacities, resources and abilities of investigative, prosecutorial or judicial processes.

Proposed Actions: Investigation and Prosecutions

- Further data gathering is necessary to determine how well and in what circumstances potential cases of money laundering are identified and investigated, and where appropriate prosecuted and offenders convicted.

Products and Services

As a small international financial services centre, the Turks and Caicos Islands provides the facility to incorporate companies and nominee services to ensure that the ultimate beneficial owners were not disclosed. Such a facility attracts legitimate funds to satisfy privacy issues, estate and tax planning for example. However, the same products are also attractive to the criminal elements looking to conceal ownership but at the same time retain control of their illicit funds.

All banks offer international money transfer arrangements which encourages use of the country in the layering stage of money laundering.

Legislative Matters requiring attention.

Work on this assessment has identified a number of areas in which it is evident that further attention and consideration is necessary;

- As at the 31st December 2014, the Attorney General’s Chambers revised edition of the laws which consolidated the various amendments which had been made prior to 31st December 2014.

The Proceeds of Crime Ordinance Cap 3.15 was one such Ordinance which now contains the Ordinance, The Regulations and those parts of the Code which are enforceable by law. A consequence of this consolidation has been the exclusion of the Guidance element of the Code, and which therefore is no longer available to all interested parties.

A revised and separately issued Guidance to the Anti-Money Laundering and Prevention of Terrorist Financing Code must be prepared and issued.

- High Value Dealers – cash threshold is \$50,000 and in the Turks and Caicos Islands context this is considered too high, and the sector has indicated a low on the likelihood of a purchaser proffering that amount of cash.
- Gaming – the absence of an up-to-date and effective legislative supervisory framework. However, the much need overhaul of the regime has started and it is expected that the new regime will greatly strengthen the Turks and Caicos Islands’ AML/CFT effort. The new legislation will address cash transaction thresholds, record keeping and will include provisions for protection against money laundering such as CDD.

Terrorist Financing Threat – National Level

The Turks and Caicos Islands, due to its location is not close to any areas of conflict. It is a UK Overseas Territory with close economic ties to North America. There are no known ties to terrorist financing or support for terrorism, whether human or financial.

There is no significant business or trade relations with countries or regions with high terrorist threats and other circumstances which might generate a terrorist financing threat to the Turks and Caicos Islands.

The enactment of the Prevention of Terrorism Ordinance Cap 3.21 (PTO) resulted in the inclusion of the offence of terrorist financing under section 9 of the Ordinance. Conviction for the offence of terrorist financing only occurs on indictment and carries a penalty of a fine or a term of imprisonment of fourteen (14) years or both.

Domestically, there are no proscribed organisations in the Turks and Caicos Islands under section 5 of the Prevention of Terrorism Ordinance, no known ties to terrorist financing, local membership in a terrorist organisation or support for terrorism. There is no intelligence to suggest that within the Turks and Caicos Islands there are terrorist organisations or individuals who may be sympathetic towards such organisations.

Non-Profit Organisations.

Non-Profit Organisations are vulnerable to abuse by terrorist organisations, which often employ deception to mask their activities.²² On this basis, the threat of Terrorist Financing to the Turks and Caicos Islands is through the abuse of Non-Profit Organisations. (NPOs)

One method of abuse is diversion of funds collected or raised by NPOs. Nonfinancial abuse may be in the form of abuse of programmes or support for recruitment. NPOs that engages in “service” activities and that operate in a close proximity to an active terrorist threat appear to be particularly susceptible. Key to the detection of cases of abuse or the identification of substantial risks is cooperation among various agencies and the sharing of information which when put together points to areas of abuse and risk. Many NPOs have worked to prevent abuse by strengthening internal controls and risk mitigation measures. However, many NPOs will not have the resources necessary to prevent abuse, which makes oversight by the government critical.

²² Risk of Terrorist Abuse in Non-Profit Organisation. FATF June 2014

Criminal prosecution, administrative enforcement, financial penalties and targeted sanctions may be utilized in order to disrupt abuse and mitigate against substantial risk.

There is no evidence or intelligence of the Turks and Caicos Islands having been at risk from terrorist financing. In respect of terrorist financing, no Suspicious Activity Reports have been submitted to the Financial Intelligence Agency, nor have there been any prosecutions.

On the above basis, the threat of terrorist financing or other involvement with terrorism internally or external to the Turks and Caicos Islands is considered low.

Terrorist Financing Vulnerabilities- National Level

The Financial Action Task Force recognizes that some Non-Profit Organisations may be vulnerable to terrorist financing abuse for a number of reasons.

The Interpretative Note (Section 3) of the FATF Recommendation 8 says;

NPO's enjoy the public trust, have access to considerable sources of funds, and are often cash intensive. Furthermore, some NPOs have a global presence that provides a framework for national and international operations and financial transactions, often within or near those areas that are most exposed to terrorist activity. In some cases, terrorist organisations have taken advantage of these and other characteristics to infiltrate some NPOs and misuse funds and operations to cover for, or support terrorist activity.

The legislative framework for the supervision of Non-Profit Organisations is detailed in the Non-Profit Regulations 2014. The Financial Services Commission is the designated Supervisor of the Non-Profit sector.

PART V of the Non-Profit Organisation Regulations 2014 which provides for enforcement action is not in force as it was not brought into force with the other parts of the Regulations due to consultation regarding proposed amendments to the Companies Ordinance in respect of Non-

Profit Companies. This matter is addressed in the Companies Ordinance 2017, passed by the House of Assembly on 20th June 2017 and which will come into force on 30th September 2017 after which time the necessary steps can be taken to bring Part V of the Regulations into operation.

As at the 30th June 2017 there were 181 Non-Profit Organisations registered and subject to supervision by the NPO Supervisor. Religious Non-Profit Organisations in the form of churches and their various organisations comprise the largest NPO grouping (54, registered representing 32% of all Non-Profit Organisations registered). Funding for the activities of these organisations is often raised through collections from the public, fairs, cook/bake sales and personal donations. Monies raised is generally used to defray operational expenses and support charitable activities within the various communities in which they operate. As explained below, it is unusual for funds to be used internationally, except as part of mandated annual remittances to parent organisations and where catastrophic events occur internationally to assist in charitable work being undertaken.

A high-level risk assessment has been undertaken by the Supervisor and has revealed:

- A significant percentage of Non-Profit Organisations raise funds in the Turks and Caicos Islands for spending locally. Such activity is monitored through the annual submission of financial statements to the NPO Supervisor.
- NPOs that submit funds overseas are invariably religious organisations which submit funds to “sister” churches typically based in the United States.
- NPOs that have a likelihood of raising funds which may be distributed to war torn countries, areas of conflict or where there is a risk of terrorist acts are considered to be restricted to global charitable organisations. In such cases transfer of funds will not be directly from the Turks and Caicos Islands to the destination but will be sent to the parent office of the charity for consolidation.

There is no evidence of abuse by Non-Profit Organisations to support terrorist activity however supervision by way of monitoring and analysis is ongoing.

Proposed Actions : Non-Profit Organisations.

- Part V of the Non-Profit Organisation Regulations must be brought into force. This can be on or after 30th September 2017, being the date when the Companies Ordinance 2017 comes into force. **Responsible Party: The Attorney General's Chambers.**
- The revised interpretative note supporting FATF recommendation 8 must be fully considered to develop a streamlined and risk focused approach to the supervision of Non-Profit Organisations. This should include a deeper analysis of those organisations which remit funds outside of the Turks and Caicos Islands. **Responsible Party the Financial Services Commission.**

Section 5: The Regulated and Supervised Financial Sector: Sector Reports

Banking

Assessment – Medium High Risk

There are seven licensed Banks in the Turks and Caicos Islands. Banking services are provided to local and international personal and corporate customers.

A wide range of products are provided including savings, current accounts, private and premier banking, investments, lending and foreign current accounts. A small number of banks offer wealth management services.

The banking sector in the Turks and Caicos Islands is supervised by the Financial Services Commission which addresses both prudential and ML/TF risks. Of the seven banks based in the Turks and Caicos Islands, five are part of wider group structures with parent companies in jurisdictions considered to be equivalent for AML/CFT purposes. This assessment therefore takes into consideration that, to a large extent, the sector is also subject to consolidated supervision. The assessment also considered the impact of strong entry controls by way of a robust licencing process, together with the insistence by the regulator to apply strong governance processes including strong oversight using compliance and internal audit functions.

The banking sector is the largest financial business sector by assets. As at 31st December 2016, total assets, net of provisions amounted to \$1,657m. (December 2015 - \$1.655m.) Total deposits were \$1.06m as at 31st December 2016 (at 31st December 2015 \$1,17m)²³

Through its wide-ranging role, the banking sector is well placed to protect the financial sector as a whole from abuse by criminals. In addition to rigorous new customer acceptance controls and activity monitoring of personal and business customers, the banking sector provides banking services to Designated Non-Financial Businesses and Professions which themselves act as

²³ The Financial Services Commission Quarterly Financial Statistics Digest December 2016.

gatekeepers to the financial sector. The banking sector, in monitoring financial activity of DNFBPs through their respective bank accounts undertakes the role of “Gatekeeper to the Gatekeepers”.

Regulation and Supervision

The banking sector in the Turks and Caicos Islands is regulated and supervised by the Turks and Caicos Islands Financial Services Commission. In undertaking this assessment, full consideration has been given to the fact that banks are generally subject to wider consolidated supervision with AML/CFT policies procedures driven by home countries with similar and equivalent standards.

The Financial Services Commission has a strong entry control through the supervisory licencing process with two classes of license;²⁴

- i. National Banking License which permits the conduct of banking services within the Islands.
- ii. Overseas Banking License which permits the conduct of international banking activities with non-residents.

Threats to the Banking Sector

This section of the report considers the inherent threat from the market in which the sector operates.

Criminals may seek to use the banking system to abuse the services provided by the Banks. It is considered that secure and fast international transfers are attractive to genuine investors as well as criminals wishing to abuse the financial system.

- As a small international financial services centre, the banking sector in the Turks and Caicos Islands is able to provide;
 - Non-resident accounts, with non-face to face activity.
 - A safe and secure environment with access to international markets.
 - Geographically well positioned (closeness to Miami and other North American centres).

²⁴ The Banking Ordinance ss 4 (2)

- The use of the United States dollar as the base currency.

It is generally accepted that the core market segments of the banking sector are i) the domestic business provided to Turks and Caicos Islands residents, including the expatriate population, and ii) customers attracted to the Turks and Caicos Islands because of its position as an international financial services centre. Geographical sources of international clients are dominated by those from North America.

The Turks and Caicos Islands, like many international financial services centres with a small local population, consider the greatest threat of abuse by criminals to be from overseas. Such abuse, in the context of the banking sector, is by way of the flow through of funds in and out of the jurisdiction as part of the layering stage. In addition, the banks play an integral role in the acquisition of property in the Turks and Caicos both as the facilitator of transfer of value but also by providing banking facilities for the settling parties. As mentioned previously, in the legal assistance matters where criminal property was located in the jurisdiction, they all included monies held in bank accounts.

The above assessment of ML/TF threats to the Turks and Caicos Islands is supported by analysis of requests received from overseas law enforcement offices and legal authorities into the Financial Intelligence Agency and the Attorney General's Chambers.

The analysis which covers all eleven requests to the Financial Intelligence Agency for information during the period to 2012 to 2017 has identified that:

- Six requests were received from USA law enforcement authorities and a further three from Canada.
- The banking sector was involved with ten cases with five merely a 'pass through' of funds sent on to other countries within a short period of receipt.
- Three cases involved property acquisition.

Vulnerabilities of the Banking Sector

Vulnerability is considered to stem from a number of areas:

Suspicious Activity reporting as a deterrent to criminals.

1. Given the size and mix of the banking sector (with three large retail banks with both domestic and international customers and two private banks) Suspicious Activity reporting is considered low by number. The absence of dissuasive evidence leads to vulnerability as criminals have reasons to believe that they may not be caught. (See Figures 11 and 12)

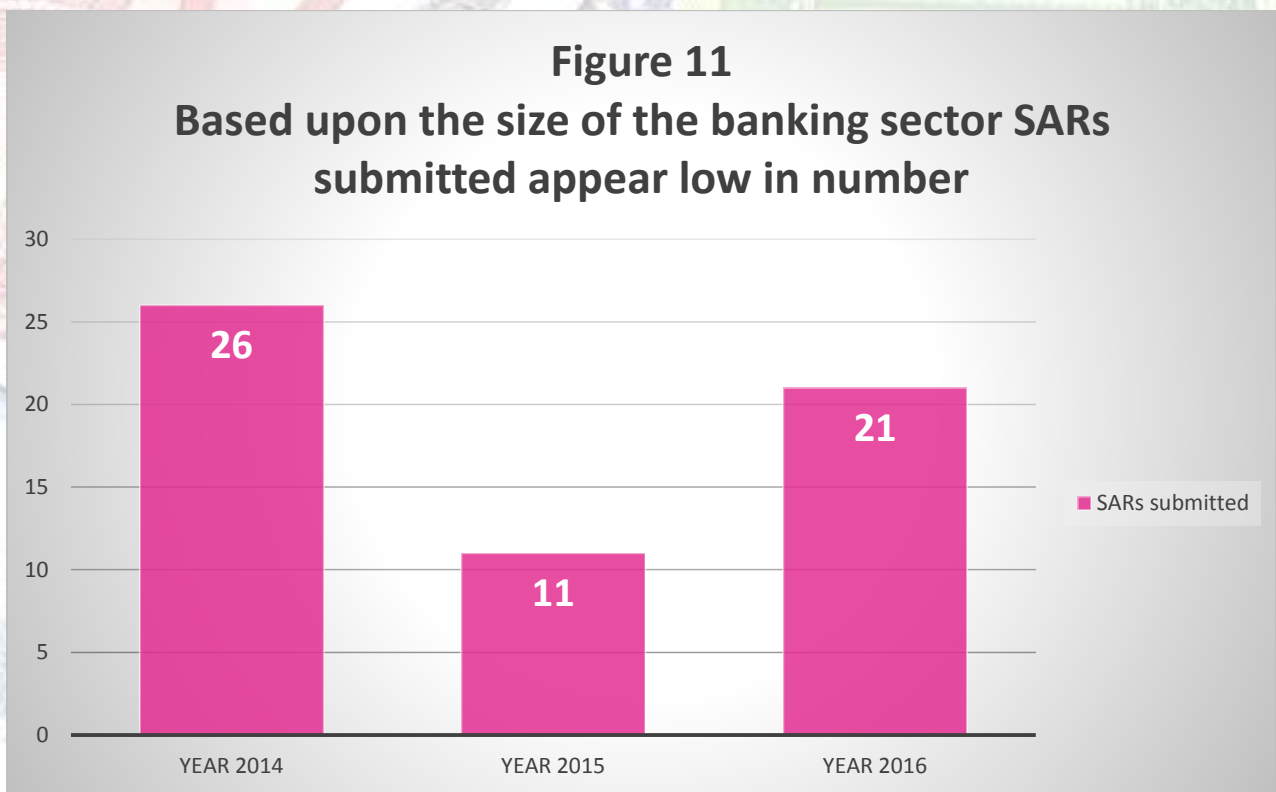
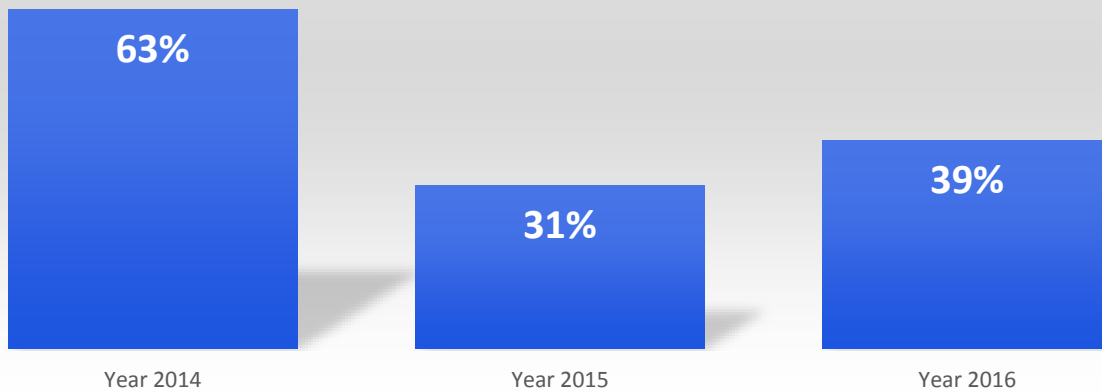


Figure 12
Suspicious Activity Reports by the Banking Sector
as a percentage of total SARs in the Turks and
Caicos Islands have reduced since 2014



2. As recorded elsewhere in this Report the Special Investigation and Prosecution Team has charged 9 people with 24 alleged offences of money laundering. Of the investigations, 14 alleged offences included activity involving the banking and legal sectors. This fact may lead to an indication that the ability within the banking sector to identify and disclose suspicious activity may not be wholly effective. It is, however appropriate to treat this indication of ineffective suspicious activity reporting with caution as the trial addressing the alleged corruption is still underway at the time of writing this report. Additionally, the regulatory framework has changed since the alleged events and activities upon which those alleged investigations and prosecution were based and took place prior to 2009.
3. The low frequency of on-site examinations over recent years has led to an unclear knowledge of the levels of compliance. Off-site surveillance relies heavily on compliance and internal audit assessments by the major banks.

Summary - The Banking Sector

In evaluating the assessments of threats and vulnerability described above, the overall ML/TF risk for the banking sector arising out of the NRA is Medium High.

- The banking sector is a significant contributor to the GDP of the country and plays a key Gatekeeper role in the Turks and Caicos Islands AML/CFT regime. The sector is mature operating with four banks, with Head Office structures in countries with equivalent standards of AML/CFT Regulation.
- The sector is regulated and supervised by the Turks and Caicos Islands Financial Services Commission which strongly vets new entrants to the sector by means of a robust licencing system.
- The assessment has highlighted that the supervisor should undertake a round of on-site examinations and develop a suitable frequency of repeating examinations aligned to inherent risk. Regarding off-site surveillance, it is considered that use of internal audit and compliance reviews should continue and also be improved by the collection of data on the risk drivers to the sector.
- Concerns have been expressed in the assessment of the low level in the number of suspicious activity reports disclosed to the Financial Intelligence Agency. The cause of low reporting may be either the absence of suspicion or less than rigorous transaction monitoring. It is felt that the Supervisor and the Financial Intelligence Agency should undertake an exercise to seek out the root cause and generally raise awareness.

Proposed Actions – The Banking Sector

- The NRA has highlighted that the supervisor should undertake a round of on-site examinations and develop a suitable frequency of repeating examinations aligned to inherent risk. Regarding off-site surveillance, it is considered that use of internal audit and compliance reviews should continue and also be improved by the collection of data on the risk drivers to the sector. **Responsible Party The Financial Services Commission**
- The cause of low reporting of suspicious activity may be either the absence of suspicion or less than rigorous transaction monitoring. It is felt that the Supervisor and the Financial Intelligence Agency should undertake an exercise to seek out the root cause and generally raise awareness. **Responsible Party The Financial Services Commission and the Financial Intelligence Agency**

Money Service Businesses

Assessment – Medium Risk

Introduction

Unlike other countries in the Caribbean the Money Service Business sector is a net remitter of funds by expatriate workers desiring to send money to their home countries. To a lesser extent monies are received from the expatriate's home country.

There are three licensed Money Service Businesses in the Turks and Caicos Islands, the most recent addition took place in early 2016. All money service businesses provide the core business of money transmission. No other services, such as cheque cashing, are provided.

Outflow and inflow activity.

Activity through the money services businesses is heavily skewed towards remittances compared to inflows.

Remittances amounted to close to US\$95m in 2016 (2015 - \$88m). The most common countries, to which remittances were sent were Haiti, Dominican Republic, Jamaica and the Philippines, which together accounted for 75% of the total remittances. While official figures were not available, the spread of outbound payments is reflective of the countries of origin of the lower income expatriate workers based in the Turks and Caicos Islands.

In addition, some 12% of payments to the United States were considered likely to be payments to Turks and Caicos Islands students studying in the United States, lower value medical payments and importation of foodstuffs and general consumer goods.

Inflows to the Turks and Caicos Islands through the Money Service Businesses were modest by comparison to remittances with some US\$7.4m received 2016 (2015 \$6m). Inflows were dominated by the United States of America, with 44% of the inflows in 2016 (US\$ 3.25m); the remainder was spread similar to remittances, amongst neighbouring countries, Haiti, Dominican

Republic, Jamaica and the Philippines. Approximately 20% (\$1.55m) of inflows was from “other countries”.

Remittance and inflow activities were concentrated at the two long established money transmitters who maintain an equal share of the market. As expected, the impact of the new entrant into the market in early 2016 did not produce increased levels of activity but merely an adjustment in the mix of market share.

Regulation and Supervision

The Financial Services Commission is the appointed regulator and licencing body.

Entry controls are strong with licencing in accordance with the Money Transmitters Ordinance Cap 16.04. Licencing of entrants into the money services business sector is carried out by the Financial Services Commission through its appointed licencing committee. The licencing due diligence process includes the conduct of fit and proper test of owners, directors and other key individuals including the money laundering reporting officer. Supporting effective business plans are also a requirement.

The Financial Services Commission has placed money services businesses on a frequent cycle of on-site examinations, based upon the general accepted international perception that they carry a high level of inherent risk of money laundering and terrorist financing. The most recent examinations, which took place in 2015, revealed less than satisfactory standards of compliance. However, money service businesses have responded positively to the examination findings and there is strong expectation of improved assessments at the next round of examinations. A further round of examinations commenced in early 2017, however at the time of concluding this report assessments of compliance have not yet been completed by the Supervisor.

Between examinations, the Financial Services Commission undertake monitoring of licensees which includes review of volumes of activity and mix of destination and remitting countries. It is noted however from the information collected that there are un-specified countries recorded as “other.” Supervisory examinations in 2015 revealed remittance to and receipts from Eastern Europe and Asian countries (refer to the Proposed Action Box below).

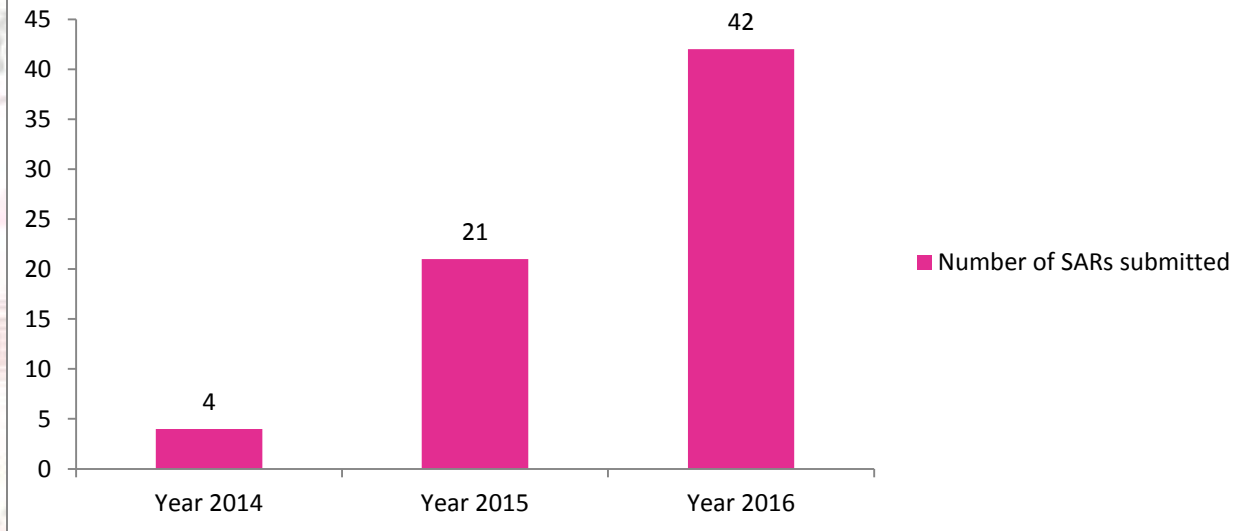
Threats to the Money Service Business Sector

Based upon the position as a net remitter, the threat to the money service business sector is considered greater from internally generated funds rather than the international market. Consequently, the threat of abuse to the money service business by the remittance of funds to be applied in countries overseas for illicit purposes is possible. There are however no local typologies to support such an assumption.

A greater level of analysis is required, regarding those “other” countries recorded as receivers of funds from the Turks and Caicos Islands. Further work is also required to monitor the receipt of funds from the United States.

The money services business sector is the highest contributor to Suspicious Activity Reports submitted to the Financial Intelligence Agency. In the period January 2014 to December 2016, 67 Suspicious Activity Reports were submitted by money service businesses (see Figure 13), which amounts to 45% of the total Suspicious Activity Reports submitted to the Financial Intelligence Agency for the three-year period. The period covering the steady increase in suspicious activity reports coincided with the series of onsite examinations which took place for all three money services businesses in early 2015. It is considered likely that the increasing level of SARs submitted in the same period was reflective of the increased levels of scrutiny of transactions, rather than any deterioration in the risk profile in the money services business sector.

Figure 13
Money Services Businesses
Record a consistent increase in SARs submitted



Analysis of the Suspicious Activity Reports submitted do not indicate one single prevalent typology or customer profile. At the time of writing this report no charges of money laundering have been served as a result of the suspicious activity reported. There is no intelligence information available to suggest that the Turks and Caicos Islands are a base for terrorist activity.

The threat of exploitation in the form of human trafficking is real considering the high numbers of expatriate workers in the Turks and Caicos Islands.

The money services business sector has regular interaction with many expatriate workers, some of whom may be victims of human trafficking. At the time of engagement with the financial sector, warning signs that an individual is a trafficked person may become evident. To raise awareness in the financial sector to detect such warning signs the Financial Services Commission, as Regulator, issued *Guidance to Financial Institutions to recognize the Financial Red Flags of Human Trafficking and Human Smuggling*. The Guidance focused on red flags relative to victims, owners of businesses recognized through generally known typologies most likely to employ trafficked or smuggled workers, and the “masterminds” behind trafficking and/or smuggling organisations.

There are no known Turks and Caicos Islands typologies of such crimes of Human Trafficking and Human Smuggling and since the enactment of the Trafficking in Persons (Prevention) Ordinance in 2016 there has been no investigations or prosecutions relating to human trafficking.

Vulnerabilities of the Money Services Business Sector.

De-risking

Commentary²⁵ has been made elsewhere in this report, that the level of money laundering and terrorist financing vulnerability in the Turks and Caicos Islands is likely to be further impacted in the event of extensive de-risking²⁶ by financial institutions.

In common with other countries throughout the world, including the Caribbean, the money services business sector in the Turks and Caicos Islands has experienced de-risking actions by the banking sector.

Based upon general typologies and FATF guidance, vulnerabilities to the money service business sector can be:

- Unauthorized money transmission businesses.
- De-risking; failure of the banking sector to provide adequate banking facilities.
- Infiltration and abuse by Principal Agents together with inadequate vetting and monitoring of sub agents.
- Inadequate systems made available to agents to monitor transactional activity.
- Inadequate supervision exercised by the regulator.

The first generic vulnerability stated above, namely the operation of unauthorized money transmitter businesses, is addressed by way of legislation. Section 4 of the Money Transmitters Ordinance Cap 16.04 makes it an offence to operate a money services business without a licence. A person who commits such an offence is liable on summary conviction to a fine of \$10,000 and

²⁵ See Section II Money Laundering Vulnerabilities – National level.

²⁶ See section II of this Report; and, the World Bank paper issued in October 2016, which describes de-risking as “the increasing practice of terminating or restricting business relationships by global financial institutions. Factors driving de-risking tend to be a combination of cost/benefit and concern about AML/CFT risks.”

to a term of imprisonment of one year and in the case of a continuing offence, to a fine of \$1,000 for each day during which the offence occurs. There has been no known unauthorized operation of money services businesses in the Turks and Caicos Islands.

The remaining vulnerabilities have been addressed in the Section above – Regulation and Supervision, however for ease the below table summarises the position.

Vulnerability	Response
Infiltration and abuse by Principal Agents together with inadequate vetting and monitoring of sub agents.	There is a strong vetting process by the host money service business by way of agent vetting. In addition, the Financial Services Commission as regulator undertakes assessment and grants approval through an extensive fit and proper test regime.
Inadequate systems made available to agents to monitor transactional activity.	All licensed money service businesses have centralised transaction interrogation systems which support the Turks and Caicos Islands based monitoring of activity. In addition, each money services business has its own compliance/internal audit department which provide a level of oversight.
Inadequate supervision exercised by the regulator.	Onsite and Offsite is covered in the commentary of regulation and supervision in this section of the Report.

Summary: The Money Services Business Sector.

Considering the threats and vulnerabilities to the sector included in this report the overall ML/TF risk of the money services business is assessed as Medium.

- The money services business in the Turks and Caicos is made up of three licensees, two of which are well known brand names. The third money services business whilst not operating with such a large global network applies similar processes to the larger businesses, a central automated transaction monitoring system as well as strong agent vetting. Money services businesses provide a critical service mainly to the significant expatriate community in the Islands. All money services businesses operate under the threat of de-risking actions taken by the banking sector.
- All licensees operate with a strong ethos of achieving good compliance. Recent on-site examinations by the Supervisor revealed control weaknesses in certain areas, all of which have been addressed with an enthusiastic commitment to achieve sustainable remediation. A further round of on-site examinations, is in progress.

Proposed Actions: The Money Services Business Sector.

- In terms of offsite surveillance by the Supervisor and the overall threat to the Turks and Caicos Islands, it is the conclusion in this report that surveillance could be enhanced by a deeper analysis of the geographical spread beyond the obvious destinations and incoming payments. **Responsible Party: The Money Services Business Sector.**
- The money service business sector to contribute to the discussions on the impact and solutions of de-risking of the sector, involving the Bankers Association, the Regulator and the government policy makers. **Responsible Party: The Financial Services Commission to co-ordinate.**

Investments Sector

Assessment – Medium Risk

The sector consists of 7 Investment Dealers and 11 Mutual Funds administered through 3 Mutual Funds Administrators. There was approximately US\$864 million under administration and management as at 31st December 2016. There was a concentration of 63% of the funds vested with one practitioner.

License holders of Investments business are primarily banks and businesses holding other regulatory licenses. The involvement of the banking sector brings with it a mature governance framework.

The Financial Services Commission's recent (2015) acceptance for membership by the International Organisation of Investments Commissions (IOSCO) is a validation of the improvements Commission's regulatory infrastructure and the jurisdiction's legal framework for the regulating investment business.

Regulation and Supervision

The Financial Services Commission is the appointed supervisor of the Investment sector.

The Investments sector in the Turks and Caicos Islands comprises investment businesses which are licensed under the provisions of the Mutual Funds Ordinance and the Investment Dealers (Licencing) Ordinance.

Entry controls to the sector are through the licencing committee of the Financial Services Commission. This includes a fit and proper test of key individuals, review of business plans and assessment of risk management frameworks.

The Financial Services Commission has not undertaken any bespoke AML/CFT onsite examinations of this sector.

Threats to the Investments Sector

Characteristics of the Investments sector, described by the FATF, include the speed in executing transactions, the global reach and the adaptability through evolving products and services. It must be further considered that illicit funds may be used to enter the system by criminals.

The majority of investors are from North America.

Threats to the Investments sector in the Turks and Caicos Islands are similar to those experienced in other sectors. The positioning of the Turks and Caicos Islands as an international financial services centre with the ability to move funds across borders quickly, on a non-face to face basis and with a layer of opaqueness, if desired, leads to an attractive proposition for criminals.

Vulnerabilities of the Investments Sector

The most significant concern is access to the sector by international clients attracted by the status of the Turks and Caicos Islands as an international financial services centre.

By discussions with sector representatives it is however apparent that:

- Client portfolios are typically mature by way of client relationships covering lengthy timespans and also most are relatively in-active.

- Most of the licensees are banks which have established group governance structures which thereby increases the likelihood of soundly based risk management frameworks.
- There is no evidence of money laundering occurring in the investments sector in the Turks and Caicos Islands.
- Investments are made through counterparties which strongly vet the local Turks and Caicos Islands firms prior to undertaking the relationship.

The absence of on-site examination and offsite surveillance has left the country without a tested view of the effectiveness of the factors stated above.

Summary: The Investments Sector.

Considering the assessments of vulnerability and threat the overall ML/TF risk of the Investments sector is considered Medium.

- The sector is mature and is closely associated with the banking sector by way of subsidiary or group status. As at 31st December 2016, \$864m was held under administration and management. Notwithstanding the validation of the legislative framework, by the International Organisation of Investments Commissions (IOSCO), there is no clear line of site on the quality of compliance with the AML/CFT Regulations and the AML/CFT regime, due to the lack of on-site examinations.
- The assessment is based upon maturity of the client base and the limited activity by clients in the market.

Proposed Actions: The Investments Sector.

- On-site examinations should be undertaken by the Supervisor and be followed by the development of off-site monitoring based upon suitable metrics to indicate the scale and trends of the ML/TF risk drivers and to track effectiveness of the mitigating controls. **Responsible Party: The Financial Services Commission**
- Awareness by compliance officers and investment advisors, must be raised to improve the identification of underlying sector specific predicate crimes, such as insider and fraudulent trading which may lead to money laundering. **Responsible Party: Investment Sector leaders in conjunction with the Financial Services Commission.**
- Enhanced levels of AML/CFT training must be delivered to improve the practical implementation of AML/CFT controls such as ascertaining source of funds and wealth. **Responsible Party: The Investment Sector augmented by the Financial Services Commission**

Domestic Insurance Sector

Assessment – Low Risk

AML/CFT Regulations²⁷ for insurance in the Turks and Caicos Islands apply only to:

- a) long term insurance business: or
- b) any form of life insurance business or investment related insurance business that may be classified as general insurance business.

General insurance business, referred to in this report as “non-life” insurance, is excluded from the AML/CFT Regulations. Some non-life insurers are subject to ML/TF supervision based upon the jurisdiction in which the parent is located and this supervision is leveraged by the Turks and Caicos Islands regulator by annual communication with the home regulator.

During 2016, non-life insurance business was the dominant area of the insurance market with annual premiums of some \$32m or 93% of total insurance premiums. Life insurance is extremely small in comparison to non-life, with annual premiums of \$2.5m. Similar figures were evident for 2015.

Within the annual premiums of \$2.5m collected for life insurance, only \$0.5m was in respect ordinary life insurance, the remaining \$2m being for low premium creditor and group life products.

The largest part of insurance business, consisting of 13 licensees and 93% share of premiums collected in the Turks and Caicos Islands is beyond the reach of the AML/CFT regulations. However products offered in the non-life sector do not hold characteristics which would be attractive to criminals to launder money. The exclusion of the non-life sector, because of the features of the products on offer, is not considered a deficiency in the AML/CFT regime in the Turks and Caicos Islands.

Consequently, this section of the report has focused on the “life” sector of the business.

²⁷ The Turks and Caicos Islands AML/PTF Regulations 2010 Schedule 2 (2).

Threats to the Domestic Insurance Sector

Companies selling life insurance products in the Turks and Caicos Islands are mainly agents for larger Caribbean based life insurers and therefore can leverage the control culture desired by the head offices which are subject to their own standards of equivalent regulation.

Domestic business is stated in the Insurance Ordinance²⁸ to relate to the person who at the time of affecting the contract is ordinarily resident in the Islands. With the restriction of the market to local policyholders only the threat of ML/TF is reduced.

Vulnerabilities of the Insurance Sector.

Assessment of vulnerabilities presents a knowledge gap as there is limited view on the levels of compliance with the Anti-Money Laundering Regulations. The Financial Services Commission is the appointed supervisor and regulator. Guidance papers on related matters such as Risk Management and Governance have been issued to the industry; however, there is no specific focus on the management of ML/TF risks due to the limited number of AML/CFT focused on-site examinations over recent years.

Off-site surveillance in the context of AML/CFT is restricted to the submission by the licensee of a limited self-certified compliance certificate and the involvement of overseas parent companies which undertake periodic compliance visits. The Financial Services Commission receive copies of the relevant report. The same level of oversight by overseas parent companies cannot be said for brokers and insurance managers who typically operate independently and who are obliged to undertake due diligence in accordance with the AML/CFT Regulations. The broker is however expected to onboard the client based upon the AML/CFT standards set by the relative insurance company and the Turks and Caicos Islands legislation.

²⁸ *The Insurance Ordinance 1989 Part 1 Section 2*

The greatest attraction to abuse by criminals in the life insurance sector is high value investment leading to high value benefits by way of maturity of the life policy. As mentioned in the opening paragraph of this section of the report, annual premiums for that particular product for 2016 was only 0.5m in total. Ordinary life insurance is not very popular in the Turks and Caicos Islands.

Summary: Domestic Insurance Sector

The overall ML/TF risk for the domestic insurance sector is Low.

- The domestic insurance market, relevant to money laundering and terrorist financing, being life and long-term investment business is small when assessed by volume of premiums collected resulting from the lack of appetite in the country for long term life insurance. Annual life insurance premiums at \$2.5m represent only 7% of annual premiums collected for the total insurance sector.
- Within the annual premiums of \$2.5m collected for life insurance only \$0.5m was in respect ordinary life insurance, the remaining \$2m being for low premium, creditor and group life products.
- By virtue of the very small level of life insurance products sold and premiums collected, the domestic insurance market could be assessed as low risk of money laundering and terrorist financing.

Proposed Actions: Domestic Insurance Sector

- AML/CFT supervisory oversight should be enhanced in the context of the low level of ML/TF risk identified compared to the other sectors in this assessment and also with regard to available resource. **Responsible Party: The Financial Services Commission.**

International Insurance Sector

Assessment – Low Medium Risk

The Turks and Caicos Islands has developed a niche market for the incorporation and licencing of Producer Owned Reinsurance Companies “PORCs²⁹. PORCs are small reinsurance companies that reinsure risks of customers of select service providers, lenders and/or retailers. Section 9 of the Insurance Ordinance³⁰ describes a PORC as a company

- Which carries on the business of reinsurance;
- Whose affairs are under control of a direct writer
- Which is beneficially owned by the producers of the business reinsured.

The direct writers referred to above are themselves licensed, rated and regulated insurance companies.

The demand for PORCs is driven by the desire of the owners of the entities which produce the insurance business to participate in the potential underwriting profit and net investment income earned on the products they sell and reinsure.

²⁹ Also referred to as Producer Affiliated Reinsurance Companies (PARCs)

³⁰ Cap 16.06 Insurance Ordinance

Regulation and Supervision

The Financial Services Commission has licensed 6,856 PORCs as at 31st May 2017. This number has been increasing at the rate of approximately 700 per annum.

The Financial Services Commission, has responsibility for licencing and supervision of PORCs. Steps have been taken by the Financial Services Commission to mitigate the risk of PORCs being used for money laundering and terrorist financing and/or abuse by criminals.

- Within the previous twelve months a fit and proper” test of shareholders, directors and key officers has been introduced with a view to ensuring that only persons of good character are permitted to act as directors, shareholders and managers of PORCs.
- As part of the application process, PORCs are required to produce and adopt a satisfactory anti-money laundering and prevention of terrorist financing strategy policy

At the time of writing this report, compliance by licensed PORCs with the Turks and Caicos Islands Anti-Money Laundering Regulations had not been assessed.

The Financial Services Commission has issued licenses for 66 Captive insurance Companies and this type of insurance company is included in the International Insurance Sector.

Threats and Vulnerabilities of the International Insurance Sector.

ML/TF threats and vulnerabilities of the sector for PORCs and the Captive Insurance Companies have not been fully evaluated.

In terms of PORCs, the products and services provided present a low level of vulnerability to money laundering. Other relevant characteristics include:

- The value of insurance premiums related to a single underlying contract/customer reinsured by PORCs is typically quite small
- Any refund of premium via a Direct Writer for any reason, can only be made to the insured.
- There is no investment element to the policies reinsured by the company and therefore no surrender value attached to such policy.

The risk however of abuse by criminals, in using the company formed for illicit purposes has not been fully assessed. The ML/TF risk must be assessed separately for captive insurers.

Summary: International Insurance Sector

The overall ML/TF risk for the international insurance sector is Medium Low.

- The Financial Services Commission has licensed 6,856 PORCs and 66 licensed Captive Insurers as at 31st May 2017. The Financial Services Commission is the designated supervisory authority in both types of insurer.
- PORCs have been considered to present a lower level of inherent ML/TF risk by the limited product and service offering.
- Steps have been taken in the previous 12 months to provide a stronger framework to mitigate the ML/TF risks in the PORCs group of licensed companies.
- The ML/TF risks presented by the 66 licensed captive insurers have not been fully assessed.
- The above factors, which include the significant dominance of PORCs by number of licenses issued, have supported the Medium Low ML/TF risk in the International Insurance Sector.

However, more work is necessary with both types of Insurers as the ML/TF threats and vulnerabilities have not been fully identified and evaluated.

Proposed Actions: International Insurance Sector

Further work is necessary in respect of the International Insurance sector in respect of PORCs and Captive Insurance Companies, to deepen the steps taken so far to manage ML/TF risks. This work should commence with an assessment of the ML/TF threats and vulnerabilities at the sector level. **Responsible Party: The Financial Services Commission and the International Insurance sector.**

Trust Company Business

Assessment – Medium High Risk

The Turks and Caicos Islands has nine licensed Trust Companies with total assets under management of \$800m at the 31st December 2016. The sector's assets comprised primarily of liquid assets together with loans and investments. 77% of assets were held by four trust companies, with the remaining 23% widely dispersed.

The trust sector comprises small boutique types of firms that operate in three distinct sub-sectors, namely; prepaid credit cards, mortgage funds and boutique trust businesses. Standard type of trust business is provided by 7 of the 9 licensed trust businesses. Over recent years, business has been in steady decline. The reason for this is the maturing of long standing trust portfolios which following the death of the settlor(s) has resulted in distributions of assets. Recent changes introducing new Trust Legislation and the Turks and Caicos Islands' excellent brand as a high-end tourist and high net worth destination give causes for optimism; the sector is confident of growth.

Regulation and Supervision.

The Financial Services Commission is the designated regulator with responsibility for licencing and supervision.

Entry controls are included in the relatively new Trust Companies (Licencing and Supervision Ordinance 2016 enacted September 2016 (previously the *Trustees Licencing Ordinance 1992*) and the Trustees Licencing Regulations provide for restricted and unrestricted licences to be granted. The legislation is modern and provides for a risk based and modern approach to regulation and supervision of Trust Companies.

A restricted licence may be issued subject to the provision that the trustee only acts on behalf of a named trust or trusts. Unrestricted licensees are not subject to this provision.

There is a fit and proper test for applicants and key individuals to satisfy the regulator that management are fit and proper in all respects to act as a trustee.

Supervision is undertaken by a mix of onsite examinations and offsite surveillance. With the exception of three recent onsite examinations, other on-site examinations are somewhat historic with the most recent examinations taking place in 2013. Offsite surveillance is by way of a self-certification compliance report.

Threats to the Trust Business Sector

The client profile of trust business is likely to be high net worth clients looking for wealth, estate and tax planning. A trust arrangement may also be attractive to clients wishing to have anonymity and an asset shield, for reasons of protection from the risk of kidnap, extortion, civil litigation, regulatory, criminal action, and divorce and bankruptcy proceedings. Criminals, and their criminally derived wealth, will have similar demands for the anonymity that trusts can provide.

Geographic source of the Turks and Caicos Islands Trust business is dominated by the Caribbean and North America. There is however exposure at lower levels, by number, to Asia, Eastern Europe, South America and the Middle East. Within those broad geographical regions, the propensity for exposure to high risk countries is very real. Trusts can have global reach and as a matter of concept it is possible to have settlors, trustees and beneficiaries located in different countries.

Vulnerabilities of the Trust Business Sector

A key vulnerability for the Trust sector is any failure by licensees to ensure that they have robust and transparent systems in place to identify beneficiaries, settlors, co-trustees and other related parties, and that ownership of trust assets is clear.

An analysis of self-certified compliance reports shows that all the reporting trust companies, except for one, reported the total absence of high risk clients. The significant majority of clients were assessed in the low risk category. This low risk outcome of the reported risk profile of the client base may be a consequence of the mature trust portfolio or it could be a lack of understanding by licensees of the risks faced by their respective businesses. This metric is considered at odds with the inherent risk of the sector as described in the FATF Report³¹ undertaken in 2010. The conclusion of this metric being that more scrutiny is necessary by the regulator to challenge the outcome of client level risk assessment and to ensure a full understanding of the ML/TF risks are understood.

Over the three-year period 2014 to 2017 some eight suspicious activity reports have been submitted, and at the time of writing this report there is no information available to determine if cases were prosecuted. These two factors suggest that despite the mature and declining trust business in the Turks and Caicos Islands the abuse by criminals is possible, but infrequent.

³¹ Money Laundering using Trust and Company Service Providers. FATF October 2010.

Summary: Trust Company Business.

Considering the assessments of vulnerability and threat, the overall ML/TF risk for the trust business sector is assessed as Medium High.

- Given the globally reported inherent risk of money laundering through legal arrangements, it is considered that the overall level of supervision could be improved with more frequent examinations by the supervisor. A round of examinations would significantly inform the levels of compliance, and staff knowledge together with assessing the effectiveness of in-house compliance functions. It is appropriate to grade objectively the risk factors and prioritise the supervisory investment to the higher areas of risk.

Proposed Actions: Trust Company Business.

- Initially by way of desk-top reviews the regulator to formulate the supervisory approach based upon the levels of risk identified. All risk factors, including age/longevity of the structures under management geography, products and services, delivery channels and client types must be considered. **Responsible Party: Financial Services Commission with information from the trust business sector.**
- The level of supervision could be improved with more frequent examinations by the supervisor. **Responsible Party: Financial Services Commission**

Corporate Service Providers

Assessment – Medium High Risk

Corporate service providers comprise 37 firms, the majority of which are small, with only one or two employees. Thirty-one corporate service provider firms are in common ownership with other firms such as legal professionals, trust services, and accounting firms. Only six businesses operate as stand-alone corporate service providers. The corporate service providers sector provides the services of the formation, management and registered agent of companies.

The risk of exposure globally, to abuse of corporate service providers by criminals is well documented.³²

As at the 31st May 2017, there were 15,764 companies incorporated or registered in the Turks and Caicos Islands.

Companies which do not do business within the Turks and Caicos Islands are referred to as Exempted Companies³³ (To be referred to as International Companies³⁴). Due to the extent of the global reach of exempted companies, this grouping of companies is regarded to have a greater level of inherent risk compared to those operating within the Turks and Caicos Islands. Exempted companies account for 10,169 (65%) of all companies formed. A feature of exempted companies, is the limited amount of interaction between the Companies Registry and the principals of the business, other than the payment of fees coupled with an annual assertion by the company that the operation since the last return has been mainly outside the islands.³⁵ The Companies Ordinance 2017 passed by the House of Assembly on 20th June 2017 and which will

³² Money Laundering Using Trust and Company Service Providers” FATF October 2010; “The Puppet Masters How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do about it” The International Bank for Reconstruction and Development / The World Bank October 2011; Secret Structures, Hidden Crimes European Network on Debt and Development.

³³ “A company may apply to be a registered company, if its objects are to be carried out mainly outside the Turks and Caicos Islands.” Turks and Caicos Islands Chapter 16.08 Companies Ordinance” S 210.

³⁴ The Companies Ordinance 2017 S12. – passed by the House of Assembly on 20th June 2017, and to come into force 30th September 2017

³⁵ Companies Ordinance Chapter 16.08 Section 218.

come into force on 30th September 2017 will address some of the shortcomings attributable to exempted companies.

Within the overall number of exempted companies, there is a subset of 6,856 Producer Owned Reinsurance Companies ('PORCS'). PORCs provide a limited purpose and service offering, and are separately licensed by the Financial Services Commission. Therefore, PORCs are regarded to have a lower level of risk than the typical type of exempted company. (See separate section on International Insurance in this report.)

The remaining portfolio of companies, 5,116, were largely locally incorporated companies, which involved indigenous businesses or holders of property situated in the Turks and Caicos Islands and which are beneficially owned by mainly overseas investors.

Regulation and Supervision

Corporate service providers operating in the Turks and Caicos Islands must be licensed under the Company Management (Licencing) Ordinance Cap 16.10 (CMLO), which came into force in 2000. The Anti-Money Laundering Regulations 2010 and the Code 2011 apply in full to corporate service providers. Licencing and supervision is undertaken by the Financial Services Commission.

Entry barriers are strong, with licencing undertaken by the Financial Services Commission. Key individuals are subject to a transparent fit and proper test on shareholders, beneficial owners and directors. All firms must operate with an approved Money Laundering Reporting Officer³⁶ and Money Laundering Compliance Officer³⁷.

Over recent years the rate of growth in incorporations of exempted companies, other than PORCs, has slowed resulting in an increasing number within the overall portfolio of companies, of mature companies, say over 15 years since incorporation. It is considered that there is a greater likelihood of a lower level of inherent ML/TF risk in the mature section of the portfolio.

Commencing in 2014 and continuing into early 2017 the Financial Services Commission embarked on a programme of onsite examinations of corporate service providers to assess the levels of

³⁶ See Glossary

³⁷ *ibid*

compliance with the Regulations. Almost 50% of all licensed corporate service providers have been examined during that period. Standards of compliance have been determined to be low throughout all those licensees examined. This low standard of compliance heightens the vulnerability of misuse of underlying companies by criminals.

A few licensees have made reasonable efforts to remediate deficient controls identified because of the on-site examinations. More action however is needed to ensure that the current progress in relation to addressing key ML/TF risk exposures is improved and continued.

There has been recent improved willingness between the corporate service provider industry and the Financial Services Commission to formulate and agree upon best practice guidelines in areas where licensees have found it difficult to meet examiner expectations, notably the monitoring of client activity. This improved interaction between the regulator and the industry is an extremely positive step to improve the control environment throughout the sector.

Threats to the Corporate Service Providers sector.

Corporate service providers are one of several gatekeepers to the financial system. Services provided, mainly company incorporations, can be used by criminals seeking to conceal the origin of criminal funds or to move criminal funds overseas.

The main threat, like the other financial institutions in the Turks and Caicos Islands, is by way of operating in the global market of clients. Statistically, however, the global reach is dominated by North American clients. Typical activity in the sector involves overseas clients who acquire property or undeveloped land in the Turks and Caicos Islands. Clients request a company to be formed which becomes the legal owner of the property. In addition, there is a strong, albeit slowing market for exempted companies incorporated in the Turks and Caicos Islands and operating outside of the jurisdiction. Such arrangements amplify the possibilities of global reach.

Vulnerabilities of the Corporate Service Providers sector

As mentioned earlier in the section on Regulation and Supervision, the low levels of compliance will increase the risk of failure to identify the misuse of companies.

Many corporate service providers operate in conjunction with a law firm which is under common ownership and operating from the same premises. In a few cases the corporate service provider also has an ownership linkage with a trust company, often because the trust company uses corporate vehicles to hold trust assets. If not well coordinated, the provision of this “one stop” service offering can increase the group’s vulnerability to ML/TF risk, as typically the firms depend on each other for onboarding and monitoring checks. In many cases, the first point of contact with the client is through the associated law firm which may have a different onboarding approach. It has been evident that due diligence in the context of the purpose and activity of the company being formed has been at times insufficiently reflected in the files of the corporate service providers due to the relationship of the individual with a related law firm.

The low number of Suspicious Activity Reports filed (2014 - 3 disclosures; 2015 - 2 disclosures; and 2016 - 7 disclosures) is a source of concern. Such concern being considered in the context of the inherent risk profile of the sector, notwithstanding the relatively small size of its operations compared to other jurisdictions, and the dominance of the lower risk PORC entities within the number of exempt companies.

Summary: The Corporate Services Provider Sector

Considering the assessments of vulnerability and threats, the overall ML/TF risk for the Corporate Services Provider sector is Medium High.

- The corporate service providers sector is acknowledged by the Financial Action Task Force to be one of high risk given the core activity of formation of legal persons.
- The corporate services provider sector is the largest single financial institutions sector by number of licensees, with some 37 licenses issued. The sector operates as a critical gatekeeper role when assisting client to form companies. The market for clients is global, however the sector is dominated by clients from North America.
- Approximately 65% of all exempt companies are additionally individually regulated and licensed as PORCS by the Financial Services Commission. The regulatory control environment is therefore enhanced for those group of companies.
- The Turks and Caicos Islands based corporate service provider sector has recently experienced during 2014 – 2017 a series of on-site examinations by the supervisor, the Financial Services Commission. Approximately 50% of corporate service providers licenced entities have been examined. An analysis of examinee’s compliance standards reveals all at less than satisfactory levels.
- Suspicious activity disclosures to the Financial Intelligence Agency, are considered low when viewed in the context of high levels of inherent risk within the sector.

Proposed Actions: Corporate Service Providers sector

- It is considered that to mitigate the existing vulnerability, the regulator should increase active engagement with the sector to support remediation to acceptable standards, and where necessary take appropriate enforcement action if progress is not made at an acceptable pace. **Responsible Party: Financial Services Commission**
- Corporate service providers must establish protocols/agreements with relevant Corporate Service Providers to formalize intermediary/introducer relationship and to agree on an approach to monitoring client company activity. **Responsible Party: Financial Services Commission, in conjunction with business leaders in the sector.**
- Increased interaction between the regulator and the industry sector to continue with a view providing specific guidance to meet examiner expectations. **Responsible Party: Financial Services Commission, in conjunction with the corporate providers sector.**
- Increased training and guidance is necessary for practitioners. **Responsible party: Financial Services Commission**
 - Licensees required to submit annual training plans to the regulator.
 - Consideration to be given to engaging a subject matter expert.
 - the regulator to issue detailed guidance on the approach to client activity monitoring and where appropriate consider an enhancement to the Ordinance in collaboration with licensees.

Designated Non-Financial Businesses and Professions (DNFBPs)

The specific non-financial sector referred to as Designated Non-Financial Businesses and Professions (DNFBPs) was introduced in the Proceeds of Crime Ordinance Cap 3.15 and given greater impetus by the introduction of the Turks and Caicos Islands Anti-Money Laundering and Prevention of Terrorist Financing Regulations 2010, and further supported by The Code issued in 2011.

The AML/PTF Regulations 2010 states that a Designated Non-Financial Business and Profession mean a financial business that is not a regulated financial business³⁸. Schedule 2 of the Regulations provides a schedule of businesses regarded as financial businesses that are not regulated³⁹. Financial Businesses in this context include, not only professions such as lawyers and accountants, but also real estate agents, jewellers, and other dealers in high value goods.⁴⁰

The AML/PTF Regulations 2010 provided for the designated DNFBP supervisor to be the Financial Services Commission⁴¹.

Recommendation 28 of the FATF Recommendations 2012 refers to those categories of DNFBPs, which must be subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements and which should be undertaken on a risk sensitive basis by either a designated supervisor or a self-regulatory body (SRB). There are no SRBs supervising DNFBPs in the Turks and Caicos Islands. Except for Casinos, the sole designated supervisor of DNFBPs is the Financial Services Commission. Casinos are supervised by the Turks and Caicos Islands Gaming Department.

Trust and Corporate Service Providers are also included as DNFBPs in FATF Recommendation 22. However, because of the size and importance of the Trust and Corporate Service Providers

³⁸ Regulation 2

³⁹ Schedule 2 (1) (c) – (i)

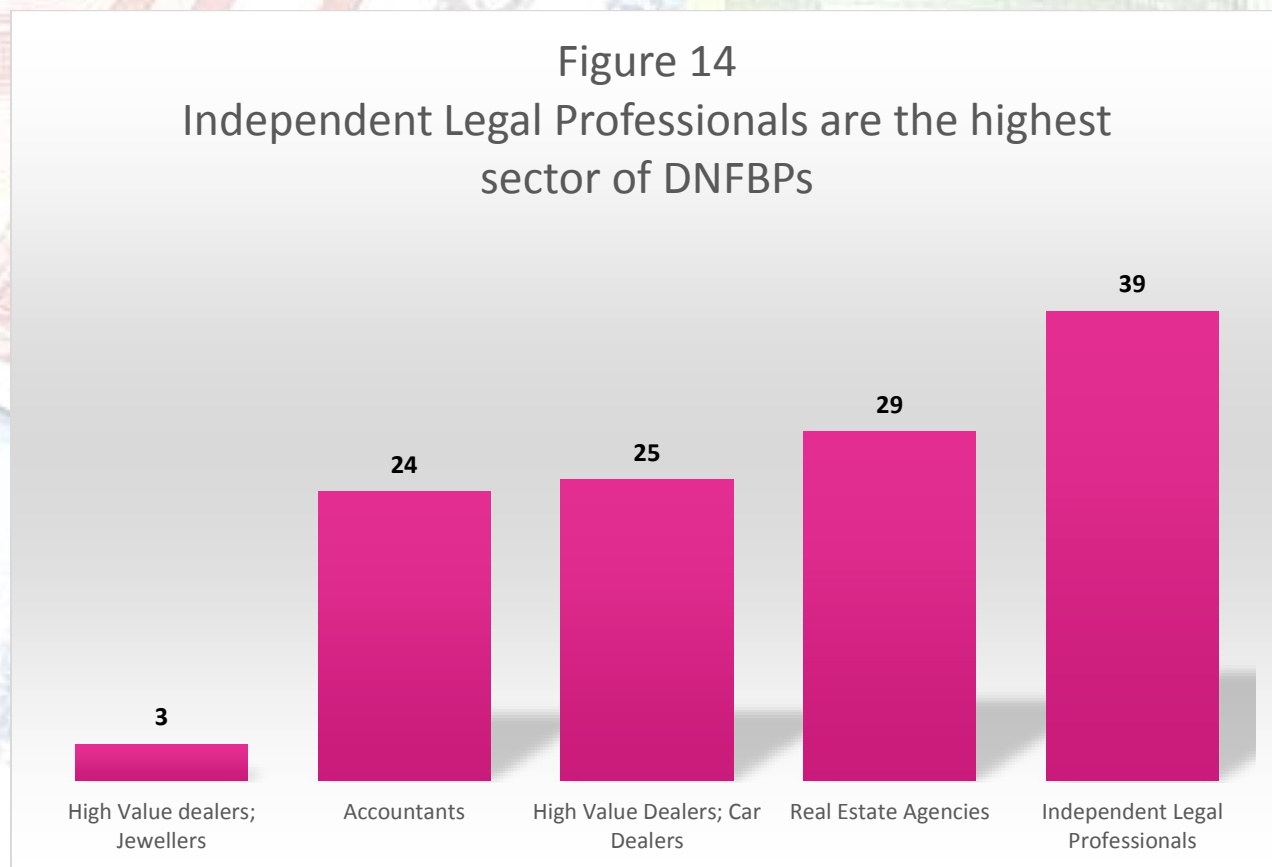
⁴⁰ Ibid for a full description of relevant “financial businesses”.

⁴¹ Regulation 23

sectors to the jurisdiction both disciplines are separately licensed and regulated by the Financial Services Commission.

Vulnerabilities of the DNFBP Sector - General

This section of the report covers four distinct groups of DNFBPs, namely the independent legal professional sector, accountancy services, real estate agencies and high value dealers. Independent Legal Professionals are the largest DNFBP sector by number, followed by the real estate sector. (See Figure 14).



Commentary is provided on each specific DNFBP group member however there are a series of common structural vulnerabilities to money laundering and terrorist financing which run through the DNFBP sector:

- Apart from referring to the adoption of a risk sensitive approach the FATF Recommendations 2012 do not describe the difference between registration and

supervision compared to licencing and regulation. However, it is generally accepted that in this context supervision calls for a lighter touch than regulation. On this basis, the Financial Services Commission as the designated DNFBP Supervisor has adopted the following approach.

- There is no fit and proper test for key owners, including beneficial owners, directors and senior management.
- The appointment of the Money Laundering Reporting Officer or the Money Laundering Compliance Officer is not subjected to a fit and proper test nor is the quality of AML/CFT expertise and experience a determining factor prior to the Supervisor accepting the proposed Money Laundering Reporting Officer/ Money Laundering Compliance Officer at the time of registration.
- Regarding the Real Estate Sector, High Value Dealers and the bookkeeper type of accountant, registrants have had no experience of operating in a regulated AML/CFT environment. This situation being in direct contrast to the legal profession and the larger accountancy firms which have either regulated experience through their associated businesses of Trust and Corporate Service Providers or, particularly in the case of global accountancy firms, an oversight regime applied through their corporate structure.

Consequently, there is a greater vulnerability in the DNFBP sectors of Real Estate, High Value Dealers and the bookkeeper type of accountant, as relevant staff are on a steep learning curve to grasp both the requirements of implementing the AML/PTF Regulations as well as confronting their clients with appropriate due diligence type of enquiries.

- Access to sources of training is limited in the Turks and Caicos Islands. The requirement to travel overseas to gain professional accreditation is expensive. The impact of such limited opportunity creates a further vulnerability which is partially evidenced by the total absence of suspicious activity reports submitted.



Accountants

Assessment – Medium Risk

The accountancy sector in Turks and Caicos Islands operates in a somewhat unstructured environment. There is neither a regulatory body, statutory or otherwise, nor a body which sets professional and ethical standards.

Registration with the DNFBP supervisor was completed in the latter part of 2013, and there are now 18 accountancy businesses registered. Five of the registrants are in the business licencing class designated as “professional accountants” which encompasses those larger firms some of which include the global accountancy practices. The remaining registrants almost exclusively undertake local bookkeeping type work.

There have been no instances of criminal action against professional accountants either in the form of professional malfeasance or of committing money laundering or terrorist financing offences.

Supervision

Supervision has, to date, been restricted to the registration of known accountants as a DNFBP. This registration has not been wholly successful as evidenced by the unquantified number of international auditors of regulated entities approved by the Financial Services Commission but not registered as DNFBP’s. In addition, there are auditors of non-regulated entities, the extent of which has not been established.

Threats to the Accountancy Sector

As stated above the range and size of firms within the accountancy sector is large. There are three “major global brand” accountancy firms which by their geographical spread will be exposed to most countries in the world. At the time of registration, the three global firms indicated a minimum of 90% of their business was with main stream countries with equivalent AML/CFT regimes such as the United States of America and Canada and member countries of the European

Union. There is however no up to date country exposure detail subsequent to the registration date of 2013.

The remaining DNFBP registered accountants operate within Turks and Caicos Islands and as such the significant majority of business will be from locally based businesses which avail themselves of locally based bookkeeping services. No further current information is available to determine to an acceptable level detail the ML/TF threats faced by the accountancy sector.

Vulnerabilities of the Accountancy Sector

1. Since completion of Registration, the Financial Services Commission has not introduced any supervisory or surveillance type activity and therefore compliance by the accountancy sector with the AML/CFT Regulations has not been assessed.
2. In the period from 1st January 2014 to 31st March 2017 no Suspicious Activity Reports have been submitted by accountants (in their role as accountants). The underlying reason for this is unknown due to the absence of oversight by the DNFBP Supervisor however it may mean ineffective implementation of the Regulations regarding activity monitoring.
3. The larger firms operating in Turks and Caicos Islands are subject to the internal quality control procedures of their associated network. However, it is unlikely that the smaller non-networked firms and the small practitioners will have any internal or external quality control procedures examining their work.
4. An unquantified group of accountants referred to as “international auditors” undertake annual audits of licensed financial businesses under approval of the respective regulatory department of the Financial Services Commission. These accountants, geographically based in the United States, are obliged to obtain a Turks and Caicos Islands business license but they have not registered as a DNFBP. Consequently, adherence to the Turks and Caicos Islands AML/PTF Regulations of this group of accountants has not been fully assessed.
5. There is no specific form of accreditation required to practice as an insolvency practitioner in the Turks and Caicos Islands. The choice and approval of an individual or firm to

undertake insolvency work is usually at the behest of the court faced with a winding up petition. There is no understanding, for the purposes of this risk assessment, of the extent to which competency and experience in the appointment of a liquidator regarding money laundering and terrorist financing and the extent to which supervision is applied. Further work is required in this area.

Summary of the DNFBP Accountancy Sector

Considering the assessments of vulnerability and threat, the overall ML/TF risk for the Accountancy Sector is Medium.

There are no known money laundering or terrorist financing issues in the accountancy sector.

This assessment has identified that other than partial completion of the registration of accountants there has been no other supervisory actions taken. As a result, there is no clear understanding of the levels of compliance or of the levels of awareness of AML/CFT responsibilities. It is considered that the DNFBP supervisor implements a supervisory regime to inform the overall levels of compliance.

Proposed Actions of the DNFBP Accountancy Sector

- The DNFBP supervisor must assess the risk of the differing levels of accountancy service provided within the sector and implement a risk proportionate supervisory regime to inform the overall levels of compliance. **Responsible Party: DNFBP Supervisor.**
- The DNFBP supervisor must make efforts to ensure registration and subsequent supervision of all accountants operating in the country and which must include non-resident accountants which operate on a temporary basis in the Turks and Caicos Islands with temporary work permits and business licenses. **Responsible Party DNFBP Supervisor**

Independent Legal Professionals

Assessment – Medium High Risk

The legal profession in Turks and Caicos Islands consists of 114 practicing attorneys, operating through 32 firms. Firms range from sole practitioner to multi-partnered firms.

Independent legal professional is defined⁴² as a firm or sole practitioner who, by way of business, provides legal or notarial services to other persons, when preparing or carrying out transactions for a customer in relation to –

- The buying and selling of real estate and business entities.
- The managing of client money
- The opening or management of bank, savings or Investments accounts.

The legal profession also provides the expertise to create trusts, companies or similar structures. However, any activity that requires a license under the Trustees Licencing Ordinance or the Company Management (Licencing) Ordinance is excluded from the coverage of the legal profession as regards the responsibilities as a DNFBP.

Threats to the Independent Legal Professionals sector

Threats to the legal sector reflect the threat faced by the jurisdiction given its status as a small international financial services centre and an attractive jurisdiction for investment in high value real estate, developed and undeveloped.

There is evidence from local typologies that the threat is from individuals from overseas who intend to abuse the financial system by way of leveraging the gatekeeper position of lawyers. The legal profession has been targeted to facilitate the entry of funds into the financial system by way of the witting or unwitting contribution of lawyers.

- Law enforcement requests for information made to the Financial Intelligence Agency covering the period 2012 to 2017, included seven instances which involved the use of

⁴² Regulation 2 Turks and Caicos Islands AML/PTF Regulations 2010.

lawyer client accounts to receive funds. The clients involved in these seven cases were subsequently convicted in either Canada or the United States of America for money laundering and underlying predicate crimes of funds.

- Figures 9 and 10 of this report show that 25% of the subjects of legal assistance requests have utilised the accounts of law firms.


The information suggests that Independent Legal Professionals are one of the gatekeepers in the Turks and Caicos Islands; they are also vulnerable to abuse or misuse by external criminals.

The threat from within the islands has also been evidenced through the nine trials underway for alleged corruption prosecuted by The Special Investigation and Prosecution Team which included 24 charges of alleged money laundering, several relating to activity involving the banking and legal sectors. The trials into the alleged money laundering are ongoing at the time of writing this report.

Vulnerabilities of the Independent Legal Professional Sector

Practitioners in the legal sector have specialized knowledge and expertise that may make them vulnerable to being exploited, wittingly or unwittingly, for illicit purposes. In the legal sector, many practitioners have expertise in establishing trusts and similar structures, as well as company formations. Such professional services are generally undertaken through their associated and licensed trust companies and company formation/management companies, in most cases operating from the same premises and having common ownership and directors. The one-stop facility providing linked services to a single client is considered attractive to the criminal given the delivery of products which provide distance from illicit funds but with continued control. To a lesser extent in terms of coverage, five law firms provide trust services which are linked to licensed trustee businesses.

The legal profession is also inextricably linked with the real estate sector by way of offering conveyancing services and transaction settlement through “client” or “trust” bank accounts. Lawyers provide significant gravitas to the validity of property transactions and in doing so have become the focus of criminals’ intent on piercing the AML/CFT regime of the Turks and Caicos Islands.



The organizational structure of the legal firms creates a vulnerability to the sector. Of the 32 law firms, 15 operate as sole practitioners. It is considered that the sole practitioner presents a “single point of failure” risk thereby creating a greater vulnerability of failure to implement a rigorous AML/CFT programme due to the lack of objectivity by a sole proprietor.

Other than registration as Designated Non-Financial Businesses and Professionals there have been no supervisory activities by the DNFBP Supervisor. The Bar Association undertakes the role of a supervisory body, but this does not include any regulatory oversight in respect of Anti-Money Laundering or Prevention of Terrorist Financing. There is therefore no line of sight to assess the effective implementation of the AML/CFT Regulations.

Summary – The DNFBP Independent Legal Professionals sector

Considering the assessments of vulnerability and threat, the overall ML/TF risk for the DNFBP Legal Professional Sector is Medium High.

- The legal profession is an important gateway control in the Turks and Caicos Islands AML/CFT regime through the sector’s integral role in property transactions. Almost 50% of the law firms are linked to licensed company formation activities through their associated Corporate Services Providers. In the main by common shareholders, directors and shared premises. This “one stop service” provides a gateway for criminal abuse using legal services and company formation designed to obscure ownership.
- Recent typologies produced by the Financial Intelligence Agency has shown a number of cases with criminals utilizing the lawyer’s client account as a depository of funds, either to support property acquisition or to flow through the jurisdiction.
- Registration by the DNFBP Supervisor has been completed however there have been no other supervisory actions taken. As a result, the levels of compliance with AML/CFT responsibilities has not been fully assessed.

Proposed Actions – The DNFBP Independent Legal Professionals sector

- The DNFBP supervisor must implement a supervisory regime through on-site examinations to inform the overall levels of compliance. **Responsible Party: Financial Services Commission.**
- Increased targeted training to be provided to groups commensurate with assessed levels of experience. The development of a library of manuals, proformas and other key documents available to all practitioners is recommended to support implementation of training/learning. **Responsible Party: Financial Services Commission.**
- Assessment of the practical implementation of supervision caused by the conflict between confidentiality occasioned by legal privilege and the need for transparency of information for the supervisor. **Responsible Party: The Bar Council and Association**

Real Estate Sector

Assessment – Medium Risk

Activity within the Turks and Caicos Islands real estate sector reflects the positioning of the Turks and Caicos Islands as a high-end tourist destination. After the recession in the late 2000's the property sector has seen strong recovery. 2016 has seen average condominium values at US\$0.94m., and the stronger growing homes and villas sector, for the same period, averaging at US\$1.37m. Across the sector, average values disguise the levels of high end stand-alone beachfront properties with, for example one Villa sale reaching US\$27.5m., in early 2016.

The Turks and Caicos Islands Real Estate Association (TCREA) is a self-governing association of some 17 years standing. TCREA is made up of 16 brokerages (also referred to as agencies) and 95 active agents all of which are expected to operate within high ethical standards.

TCREA has been proactive in addressing its member's responsibilities under the AML/PTF Regulations to the extent of holding training sessions with presentations provided by the Financial Services Commission. In addition, TCREA commissioned a major firm of accountants to prepare a generic Policies and Procedures manual, and which was distributed to all TCREA agencies with the directive of customizing policies and procedures relevant to the agency.

There are a further eight real estate agents, registered as DNFBPs, operating but are not members of TCREA.

Like other countries, real estate is not a standalone industry in the Turks and Caicos Islands. For each transaction to conclude successfully, several other key regulated or supervised financial business sectors must be employed which are also obligated to apply an AML/CFT regime covering such activity as:

- The legal sector undertakes the final sale and purchase agreement and conveyance.
- When required, the legal title in the name of a company is facilitated by the corporate service provider.

- The banking sector facilitates the transfer of value as well as providing in many cases lending services.

Supervision

As DNFBP Supervisor, the Financial Services Commission is the designated supervisor of the real estate sector. Registration of all existing real estate businesses was completed by late 2013.

- Entry controls by the DNFBP supervisor do not include a fit and proper test for estate agency businesses, thereby increasing the possibility of negligent or complicit gatekeepers entering the real estate market.
- There is also evidence of involvement of other professionals able to facilitate property transactions:
 - Condominium developers, or similar, who often employ their own staff to sell condominiums particularly during the construction and early completion stages.
 - Auctioneers acting on behalf of the banks and other mortgage providers.
 - Lawyers who arrange property transaction through matching clients' assets with another's needs.

Consequently, there are challenges in ensuring that all professionals and similar involved in property transactions are registered with the DNFBP Supervisor.

- All known traditional type real estate agencies have registered with the DNFBP supervisor. Supervision by the DNFBP supervisor has however been limited. Assessment of compliance with the Regulations and the Code has taken the form of a thematic review of the handling of high risk clients, and training of agents. This thematic review took place in late 2016 and early 2017. The Report has not yet been finalized.

Threats to the Real Estate Sector.

- The Turks and Caicos Islands is the fastest growing destination in the Caribbean according to the latest report from the Caribbean Tourist Association, with tourist arrivals reaching

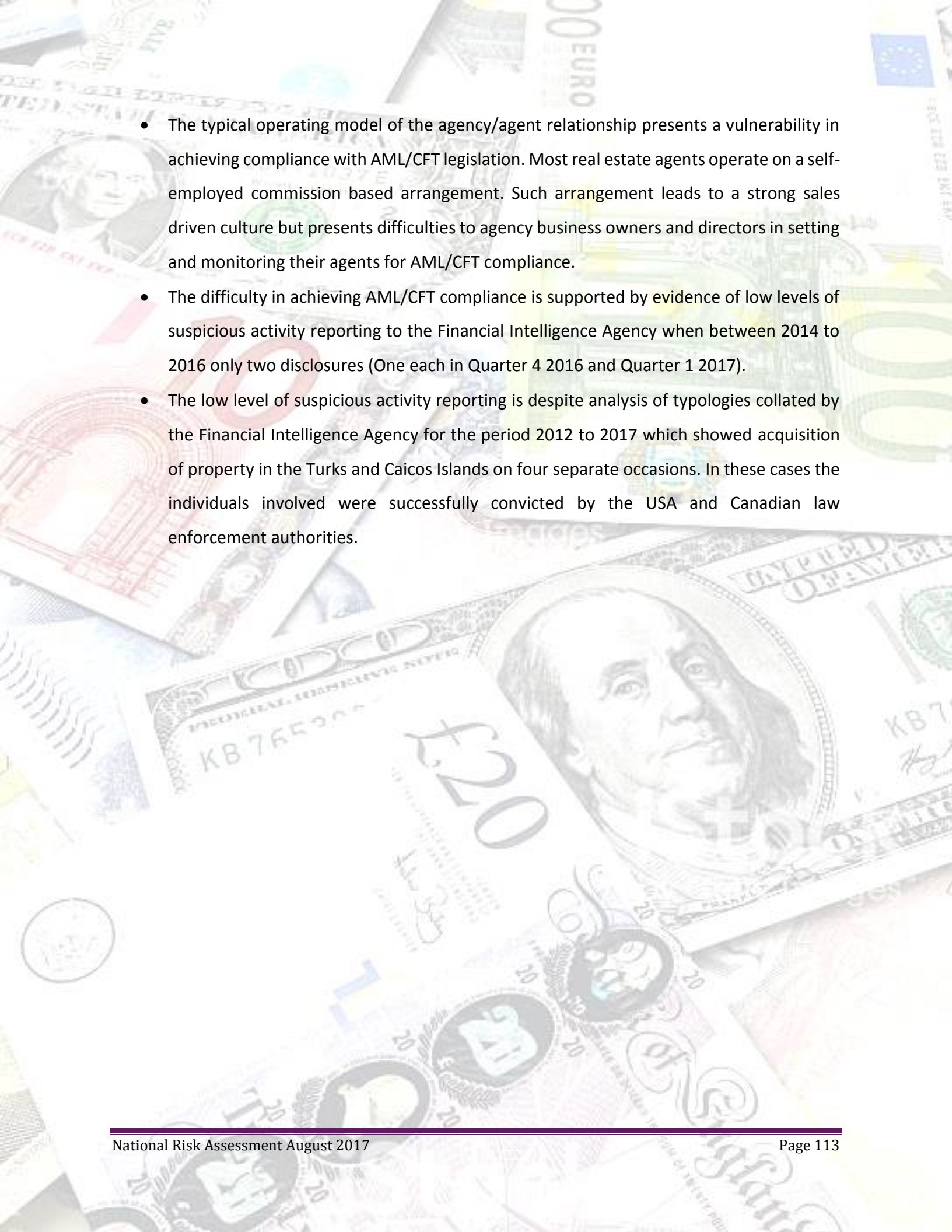
1.3m in 2016⁴³. The majority of the 1.3m of tourist arrivals was in respect of cruise based visitors, however 2016 showed an impressive fifth consecutive year of growth in stop over arrivals, reaching a figure of 453,000. Stop over arrivals were dominated by visitors from the United States which amounted to some 80% of the total. Growth in arrivals is evident from both the Canadian and European markets. Also during 2016 improved connectivity in air travel resulted in a 21% increase in arrivals from other Caribbean countries.

- The Turks and Caicos Islands have been awarded the accolade of the world's best beach destination by the travel business *Trip Advisor* in successive years since 2011. The strong property has elevated the islands position as a destination of choice with property of significant value.
- Increasing arrivals from, North America, Europe and the Caribbean indicates a similar increase in exposure to the property market. While encouraging in terms of developing the Turks and Caicos Islands economy it must be recognized that the real estate market, is also attractive to bad actors, particularly at the integration stage of money laundering with strong growth of high end attractive properties.

Vulnerabilities of the Real Estate Sector

- There are limited entry barriers for individuals who wish to trade as a real estate agent. The Real Estate (Brokers and Salespersons) Ordinance 2004 does not restrict by a form of "qualification" the ability of a real estate agent to undertake property transactions. The only entry control is the requirement to obtain a business license for which there is no vetting for suitability. Membership of firms in TCREA is not mandatory although an individual tied to a particular TCREA member agent will become an individual member. There are eight real estate agents which operate outside of the umbrella of TCREA. In operating outside the TCREA umbrella it is considered there is a significant vulnerability created by a reduced level of expertise, supervision and guidance in AML/CFT responsibilities.

⁴³ Turks and Caicos Islands Tourist Board – Tourism Statistics 2016.

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- The typical operating model of the agency/agent relationship presents a vulnerability in achieving compliance with AML/CFT legislation. Most real estate agents operate on a self-employed commission based arrangement. Such arrangement leads to a strong sales driven culture but presents difficulties to agency business owners and directors in setting and monitoring their agents for AML/CFT compliance.
 - The difficulty in achieving AML/CFT compliance is supported by evidence of low levels of suspicious activity reporting to the Financial Intelligence Agency when between 2014 to 2016 only two disclosures (One each in Quarter 4 2016 and Quarter 1 2017).
 - The low level of suspicious activity reporting is despite analysis of typologies collated by the Financial Intelligence Agency for the period 2012 to 2017 which showed acquisition of property in the Turks and Caicos Islands on four separate occasions. In these cases the individuals involved were successfully convicted by the USA and Canadian law enforcement authorities.

Summary - DNFBP Real Estate Sector.

Considering the assessments of vulnerability and threat, the overall ML/TF risk for the DNFBP Real Estate Sector is Medium High.

- The real estate sector is particularly vulnerable to abuse by criminals who are looking to acquire assets of value. The vulnerability is further exacerbated by the lack of experience that now exists by the practitioners who are new to the world of anti-money laundering and prevention of terrorist financing. Initial training has been provided by the DNFBP Supervisor, and real estate agencies are registered. However, to date there has been limited supervisory activities and as a result there is a limited substantiated understanding of the levels of compliance. It is considered that the supervisor should provide further training and undertake more targeted compliance assessments to inform the vulnerabilities identified in this NRA.
- The registration of those outlier businesses and individuals involved in real estate business, such as, for example, real estate developers should be pursued to close any legislative and supervisory gaps.
- Whether all real estate agents must become a member of the Turks and Caicos Islands Real Estate Association should be considered and may need appropriate legislation.

Proposed Actions: DNFBP Real Estate Sector.

- The DNFBP supervisor must undertake further training and targeted compliance assessments to inform the vulnerabilities of the real estate sector identified in this NRA.

Responsible Party: DNFBP Supervisor

- The registration of those outlier businesses and individuals involved in real estate business, such as, for example, developers and auctioneers should be pursued to close any legislative and supervisory gaps. **Responsible Party: Initially the DNFBP Supervisor in conjunction with sector representatives to be followed by the Attorney General's Chambers should legislative change be necessary.**
- Improved entry requirements to operate a real estate agency or as an individual real estate agent must be considered with the objective of raising capacity to comply with AML/CFT legislation. **Responsible Party: The DNFBP Supervisor to benchmark supervisory and legislative positions of other countries.**

High Value Dealers

Assessment – Medium Risk

A high value dealer means a person who, by way of business, trades in goods, precious metals, or precious stones, when he receives, in respect of any transaction, whether the transaction is executed in a single operation or in several linked operations, a payment or payments in cash of more than \$15,000 for jewellers and \$50,000 for high value dealers⁴⁴.

There are 3 jewellers and 14 motor dealers registered as DNFBPs. Supervision has been restricted to registration and the issue by the DNFBP Supervisor of sector specific Guidance Notes on the responsibilities of high value dealer registrants.

Threats of the High Value Dealer Sector

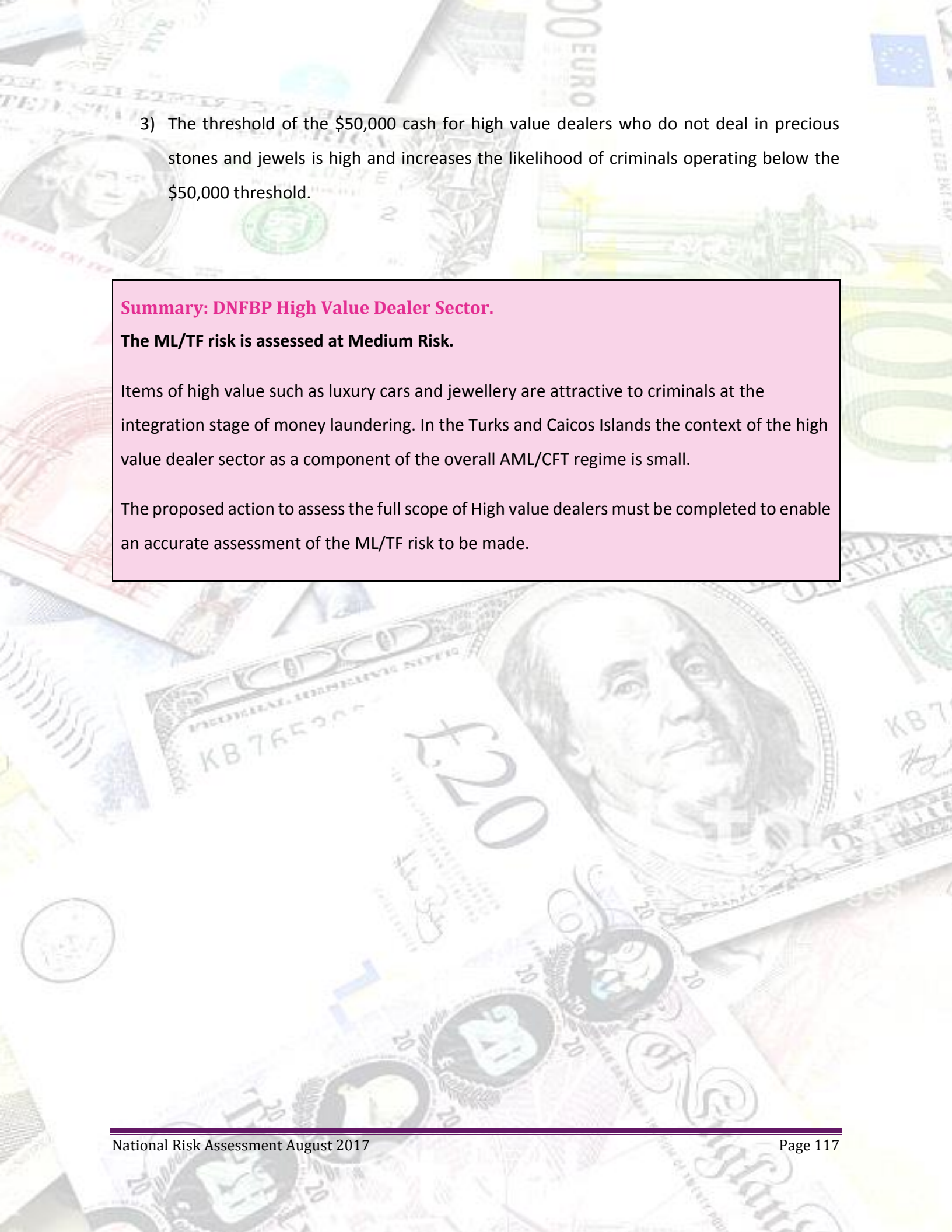
Threats to the jewellers' sub-section of high value dealers embrace both the customers of the local market and the international market. "Tax free" pricing is used as a competitive advantage by local jewellers to attract international business and tourist visitors to the Turks and Caicos Islands, who may attempt to integrate illicit funds by the purchase of assets of value.

Vulnerabilities of the High Value Dealer Sector

The vulnerabilities to the sector leading to the failure to identify possible use of illicit funds used to acquire assets of value are:

- 1) The absence of any experience by high value dealers of the requirements to comply with the AML/PTF regulations and indeed operate in such a supervised environment.
- 2) Both jewellers and car dealers will operate in business terms of a very sales driven environment, and hence the propensity to "secure the deal" is heightened.

⁴⁴ Regulation 2 The Turks and Caicos Islands AML/PTF Regulation 2010

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- 3) The threshold of the \$50,000 cash for high value dealers who do not deal in precious stones and jewels is high and increases the likelihood of criminals operating below the \$50,000 threshold.

Summary: DNFBP High Value Dealer Sector.

The ML/TF risk is assessed at Medium Risk.

Items of high value such as luxury cars and jewellery are attractive to criminals at the integration stage of money laundering. In the Turks and Caicos Islands the context of the high value dealer sector as a component of the overall AML/CFT regime is small.

The proposed action to assess the full scope of High value dealers must be completed to enable an accurate assessment of the ML/TF risk to be made.

Proposed Actions: DNFBP High Value Dealer Sector.

- A more detailed assessment of the scope of the sector should be undertaken by the DNFBP supervisor to ensure all applicable high value dealers are registered and supervised. **Responsible Party The DNFBP Supervisor**
- Appropriate ML/TF awareness and relevant detailed training must be delivered to registrants together with implementation of oversight arrangements. **Responsible Party The DNFBP Supervisor.**
- The cash threshold of \$50,000 for high value dealers, other than jewellers, should be considered to determine whether it meets the objectives of identifying and reporting of suspicious activity by criminals wishing to purchase high value items. **Responsible Party: The DNFBP Supervisor.**

Gaming

Assessment – Medium High Risk

Recommendation 28 of the FATF Recommendations 2012⁴⁵ calls for a comprehensive regulatory and supervisory regime. Measures must be taken by competent authorities to prevent criminals from using, holding or owning casinos.

The Turks and Caicos Islands AML/PTF Regulations 2010 includes Casinos as Designated Non-Financial Businesses and Professions (DNFBPs). Unlike all other DNFBPs which are supervised by the Financial Services Commission, Gaming is supervised by the Gaming Inspectorate.

The Gaming Inspectorate Department has issued licenses for the following operations;

- 1) Two Casinos: one stand-alone and one hotel based.
- 2) Slot parlours: their license is dependent upon the numbers of machine; 8 licenses are issued for slot parlours with between 1 to 100 machines. A further sub-section referred to as route locations has 77 issued licenses; sites which have up to 10 machines.

The Turks and Caicos Islands 3rd round mutual evaluation report and subsequent follow ups.

Progress towards the development of a comprehensive framework in respect of Gaming has been acknowledged for some time through follow up reports with the Caribbean Financial Action Task Force.

The existing regulatory framework provided by the current Gaming Ordinance has not kept pace with changes made in the AML/CTF regime and poses a significant risk of money laundering and organized criminal activities.

⁴⁵ pages 23, 24

As a part of the review of the Gaming Sector the consultants, Gaming Laboratories International LLC (GLI), were retained by the Turks and Caicos Islands Ministry of Tourism to assist with the development of a modern gaming regulatory structure.

The report has identified a number of areas which evidence a weakened regulatory environment and which according to the report heightens the risk of money laundering.

Key vulnerabilities stated in the report were:

- Weaknesses in the existing legislation which results in the Gaming Inspectorate unable to exercise effective supervisory powers;
- The risk of infiltration by the criminal element; and
- Inadequate due diligence into the owners and operators of the businesses.

The Gaming Department has identified that there is the possibility of gaming machines at licensed bars being used to clean criminal proceeds or dirty money, by feeding money into a machine and then cashing out the bar. However, the payout limit is \$1,200 that can be made at the bar. For amounts greater than \$1,200 a gaming attendant is called. In practice, the gaming attendant would gather identification information and the payment would be issued by cheque. When monthly inspections are done, the inspection would be able to detect any regular cashing out of money and make further investigations. The Gaming Department has reported that there has been no recent instance of use of “cashing out” to clean dirty money. However, that absence of updated laws and regulatory regime where there are mandatory reporting and CDD obligations means that these vulnerabilities could be exploited.

As is the case with money service businesses the gaming industry also faces the challenge of de-risking by the banking sector. Many gaming parlours are unable to retain banking services.

The Turks and Caicos Islands is in the process of reforming and implementing an effective regulatory framework for the Gaming Industry and continues to train inspectors in AML. The new

legislation will address cash transaction thresholds, record keeping and will include provisions for protection against money laundering such as CDD. The absence of mandatory AML safeguards in the gaming industry leaves it vulnerable to abuse.

Summary - The Gaming Sector

- Development of an effective supervisory approach in the Gaming sector, which is subject to the adoption of updated and fit for purpose legislation, should be pursued with the minimum of delay.
- Gaming operators are faced with the threat of de-risking actions taken by the banking sector, which increases the industry's vulnerability to abuse
- Given the vulnerability of the Gaming sector consideration should be given to whether it is appropriate to co-opt the Gaming Inspectorate as a member of the AMLC. This may require legislative change.

Proposed Actions – The Gaming Sector

- Development of an effective supervisory approach in the Gaming sector, which is subject to the adoption of updated and fit for purpose legislation, should be pursued with the minimum of delay. **Responsible Party: The Gaming Department**
- Given the vulnerability of the Gaming sector and the fact that it is an “outlier” supervisory body consideration should be given to whether it is appropriate to co-opt the Gaming Inspectorate as a member of the AMLC. This may require legislative change. **Responsible Party: The Anti-Money Laundering Committee.**

Section 6 - Other Contributors to the AML/CFT framework

Customs Department

This report has focused significantly on the abuse of the financial sector (both financial and non-financial institutions) by moving value to enable money laundering.

In general, however there are two other main methods by which criminals and terrorist financiers move money for disguising origins and integrating it back into the formal economy. These were considered in Financial Action Task Force Report on Trade Based Money Laundering issued in 2006⁴⁶:

1. The physical movement of cash; transportation of banknotes using methods such as cash couriers and cash smuggling.
2. The movement of value using methods such as the false documentation and declaration of traded goods and services. This is referred to as Trade Based Money Laundering.

Each of these methods involves the movement of enormous volumes of funds and can operate at both the national and international levels.

The Financial Action Task Force Report *"Money Laundering Through the Physical Transportation of Cash"*⁴⁷ Issued in October 2015 refers to the challenges and opportunities in the role of Customs Department in linking with the Financial Intelligence Agency of the country to collate and analyse records of cash declarations and cash seizures.

In the absence of direct taxation, the receipt of import duties provides the significant contribution to government revenue. The Turks and Caicos Islands is a net importer of goods and there is the threat of illicit value being moved through Trade based Money Laundering.

⁴⁶ Page 1 Introduction

⁴⁷ Section 5 Page 94 Challenges to the detection and control of cross border-border transportation of cash.

The Customs Declaration card (form C105 (6/95), airports, and the Pleasure Craft Report of Arrival and Temporary Importation Declaration (form C108 (2006), Sea ports, makes provision for a proper and formal declaration of cash or negotiable instruments over \$10,000 upon arrival into the Turks and Caicos Islands. Failing to make such declaration constitutes an offence under the Customs Ordinance (section 129) and carries a penalty of up to \$20,000 or two years imprisonment, or both. In addition to the use of the above mentioned prescribed forms, a verbal declaration is also accepted. There have not been many cases of cash declaration or detections at the Seaports but whenever there is, in each case the Customs Investigation Unit is immediately contacted and briefed and an Intelligence Cash Detection Report form is completed. Even in the event where the Customs Department is satisfied with information provided, such information is forwarded to Financial Crimes Unit of the Royal Turks and Caicos Islands Police Force for further analysis if deemed necessary. Cooperation between the Immigration Department, Customs Department and Police has been excellent over the years and is continuing to improve. There is an existing Joint Intelligence Unit comprising the makeup of all three agencies. Where there have been incidences of cash detections carried by passengers in excess of \$10,000 attempting to leave the Turks and Caicos Islands, the Airport Authority officers have been instrumental in detaining these individuals at security check points and notifying Senior Customs Officers and the Investigation Unit in order to properly question and document these instances. The information subsequently turned over to Financial Crimes Unit where customs was satisfied it should be investigated further. Where arriving passengers are concerned, Border Control (Immigration) has been essential in identifying persons of interest or whom they suspect to need further scrutiny. In all these cases, there is still a need for greater improvement in communication, feedback and collaboration. Implementation of an outbound cash declaration system may also assist in the monitoring of cash movements.

The extent to which the Customs Department in the Turks and Caicos Islands collects maintains and shares of data which may identify suspicious activity is unclear, although there is detection and investigation into such activities. There is no regular reporting to the Anti-Money Laundering

Committee of relevant information and activities related to movement of cash into and out of the country together with the surveillance undertaken to detect trade based money laundering.

Summary: Customs Department

- During the completion of this assessment it has been determined that there is no complete and full evidence or understanding of the role played by officials within the Customs department as a preventative measure against money laundering and terrorist financing.
- The threats mentioned in the body of this section, namely the movement of cash, and the opportunity to move value by way of Trade Based Money Laundering coupled with the absence of data to determine the scale by value and volumes, means that it is not possible to assess the extent of the vulnerability of enabling money laundering or terrorist financing.
- In addition, there is an absence of defined procedures to report suspicious activity thereby restricting the opportunity to provide intelligence to the Financial Intelligence Agency or the Financial Crime Unit.
- In the absence of data, it has been determined that it is not possible to assess the level of Money Laundering and Terrorist Risk faced by the Customs department.

Proposed Actions : Customs.

- The Customs department must maintain and monitor statistics of cash movement in and out of the country to determine the scale of activity and the reasonableness of these levels.
- Develop a mechanism for the reporting of outbound cash movements.
- The threat of criminal abuse through the avenue of Trade Based Money Laundering must be assessed.
- A formal process must be put in place to report suspicious activity to the Financial Intelligence Agency.

Border Control and Immigration

As previously mentioned, there have been no prosecutions in respect of human trafficking but there are suspicions that the country is vulnerable to human trafficking, mainly from the Dominican Republic.

Both people smuggling and human trafficking are predicate offences of money laundering. It is unclear whether the local population is involved as there is evidence of information sharing on these two important areas of crime, recognised globally as an emerging issue.

Border Control can also provide useful data to collate and track arrivals and departures through the border of the Turks and Caicos to enable monitoring of trends of countries and potential changes in external and overseas threats.

Further work on this area is necessary to determine the scale and to sensitise relevant parties to actions which can be taken to prevent such crimes through enforcing money laundering measures.




Proposed Actions: Border Control and Immigration

- The Border Control and Immigration department must develop key indicators to enable them to track possible relevant predicate crimes and implement information sharing arrangements with members of the Anti-Money Laundering Committee.

APPENDIX A Acronyms

AMLC	The Turks and Caicos Islands Anti-Money Laundering Committee
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism. The acronym CFT is the most used acronym and refers to Combating the Financing of Terrorism. Other Acronyms are CTF – Countering Terrorist Financing and PTF - Prevention of Terrorist Financing. The Turks and Caicos Islands legislation refers to AML/PTF All acronyms are interchangeable and have the same meaning
CFATF	Caribbean Financial Action Task Force
DNFBP	Designated Non-Financial Businesses and Professions
FATF	Financial Action Task Force
FCO	United Kingdom Foreign and Commonwealth Office.
INCSR	International Narcotics Control Strategy Report
LEA	Law Enforcement Agency
MLCO	Money Laundering Compliance Officer
MLRO	Money Laundering Reporting Officer
ML/TF	Money Laundering and Terrorist Financing
MSB	Money Service Business
NRA	National Risk Assessment
POCO ⁴⁸	Proceeds of Crime Ordinance Chapter 3.15 and amendments thereto Referred to as <i>Proceeds of Crime Ordinance</i>

⁴⁸ **Turks and Caicos Islands** Legislation. (similar comment regarding The Regulations and The AML/PTF Code)



SAR	Suspicious Activity Report
STR	Suspicious Transaction Report
The Regulations	The Anti-Money Laundering and Prevention of Terrorist Financing Regulations 2010
The AML/PTF Code	The Anti-Money Laundering and Prevention of Terrorist Financing Code 2011