



Anti-money laundering and counter-terrorist financing measures

Mauritius

Mutual Evaluation Report

July 2018





The Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) was officially established in 1999 in Arusha, Tanzania through a Memorandum of Understanding (MOU). As at the date of this Report, ESAAMLG membership comprises of 18 countries and also includes a number of regional and international observers such as AUSTRAC, COMESA, Commonwealth Secretariat, East African Community, Egmont Group of Financial Intelligence Units, FATF, IMF, SADC, United Kingdom, United Nations, UNODC, United States of America, World Bank and World Customs Organization.

ESAAMLG's members and observers are committed to the effective implementation and enforcement of internationally accepted standards against money laundering and the financing of terrorism and proliferation, in particular the FATF Recommendations.

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Tel: +255 22 2667895/7679

Fax No: +255 22 2668745

Email: executivesec@esaamlg.or.tz

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TABLE OF ACRONYMS

ADSU	Anti- Drug & Smuggling Unit
AGO	Attorney General's Office
AML/CFT	Anti-Money Laundering/Combating Financing of Terrorism
ARA	Asset Recovery Act
ARID	Asset Recovery Investigation Division
BOM	Bank of Mauritius
CCID	Central Criminal Investigations Division
CDD	Customer Due Diligence
COMESA	Common Market for Eastern and Southern Africa
CTU	Counter Terrorism Unit
DDA	Dangerous Drugs Act
DNFBPS	Designated Non-Financial Businesses and Professions
DPP	Director of Public Prosecutions
EDD	Enhanced Due Diligence
FIAMLA	Financial Intelligence and Money Laundering Act
FIAMLR	Financial Intelligence and Money Laundering Regulations
FIU	Financial Intelligence Unit
FRC	Financial Reporting Council
FSC	Financial Services Commission
GBC	Global Business Company
GBL	Global Business Licence
GDP	Gross Domestic Product
GRA	Gambling Regulatory Authority
ICAC	Independent Commission against Corruption
IGCA	Interpretation and General Clause Act
IRSA	Integrity Reporting Services Agency
LEAS	Law Enforcement Agencies
MCS	Management Companies
MER	Mutual Evaluation Report
MIPA	Mauritius Institute of Professional Accountants
ML	Money Laundering
MRA	Mauritius Revenue Authority
MPF	Mauritius Police Force
NPOs	Non Profit Organisations
PoCA	Prevention of Corruption Act
PoTA	Prevention of Terrorism Act
ROA	Registrar of Associations
ROC	Registrar of Companies
UNSCRs	United Nations Security Council Resolutions

EXECUTIVE SUMMARY

1. This report provides a summary of the AML/CFT measures in place in Mauritius as at the date of the on-site visit [05 -16 June, 2017]. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Mauritius' AML/CFT system, and provides recommendations on how the system could be strengthened.

A. Key Findings

- Mauritius is one of the first countries in Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) Region to develop an anti-money laundering and the combating of terrorist financing (AML/CFT) regime. However, the regime has not kept pace with the evolving global AML/CFT environment and therefore it has several weaknesses that negatively affect its effectiveness.
- At the country level, there is no shared understanding of ML/TF risks facing the country. The National Risk Assessment (NRA) exercise started early 2017 and was still underway at the time of the onsite visit. Nevertheless, the majority of the agencies identified drug trafficking as a major proceeds generating crime. In addition, Mauritian authorities identified the real estate sector and the global business sector as vulnerable to abuse for ML/TF purposes.
- Financial institutions (FIs) demonstrated an understanding of ML/TF risks albeit at varying degrees, depending on size and level of sophistication of business operations. On the other hand, with the exception of management companies (MCs), majority of the designated non-financial businesses and professions (DNFBPs) had little or no understanding of ML/TF risks.
- Authorities have not assessed the vulnerabilities of the non-profit organisations (NPO) sector in order to identify which categories of the sector are exposed to TF risks and determine the nature and scope of action to mitigate the risks.
- FIs operating in the global business sector are legally subject to AML/CFT obligations. However, the compliance responsibilities for FIs lie almost wholly on MCs (except in the case of banks) which results in a significant concentration of risks. Apart from potential conflict of interests, the number of clients against the resources of the MCs is also a matter of concern.
- The banks lead the way on filing of suspicious transaction reports (STRs), distantly followed by MCs. However, the level of STR reporting, particularly from FIs in the global business sector and DNFBPs is very low which is a concern given the size of the sectors and ML/TF risk exposure.
- Supervisory authorities have not adopted robust systems to assess ML/TF risks in individual FIs and across sectors which would inform an integrated and comprehensive risk-based supervision consistent with the dynamics of the global business sector. The supervisors for DNFBPs were at the embryonic stages of commencing their regulatory activities and none have established a risk-based AML/CFT supervisory framework.

- The compliance monitoring through onsite inspections by Financial Services Commission (FSC) is considered to be low relative to the size of the global business sector and its perceived/related ML/TF risks.
- The legal and regulatory frameworks in relation to sanctions are limited in coverage and do not provide for a broad range of sanctions which are commensurate with the nature, severity and frequency of AML/CFT violations by all FIs and DNFBPs.
- The majority of specific requirements in relation to preventive measures particularly as regards CDD requirements on PEPs, legal persons and legal arrangements are contained in BoM Guidance Notes, FSC Code and FIU Guidelines (issued by BoM, FSC and FIU respectively). However, only the FSC's Code on AML/CFT meets the requirements of Other Enforceable Means.
- FIs apply a risk-based approach, and hence apply enhanced CDD measures for higher risk customers and have developed appropriate AML/CFT controls and processes, including CDD and transaction monitoring. The MCs, who carry out these functions for FIs in the global business sector, were also able to demonstrate these controls and processes, although feedback received indicated that there were varying levels of compliance within this sector.
- Although there is relatively a good number of investigations being carried out by the Independent Commission against Corruption (ICAC) on corruption related ML, the number of cases taken to court and conviction secured are relatively low. Also, of concern is the limitation of ICAC's powers to effect arrests.
- Law enforcement agencies (LEAs) do not conduct parallel financial investigations in a majority of cases, and particularly for offences such as drug trafficking which is a high risk offence in Mauritius. In addition, tax offences are not being investigated as a predicate offence and for purposes of ML.
- The LEAs do not have adequate capacity to carry out specific investigative techniques, although they were noted to be receiving a lot of training in other areas of investigations and also tended to rely on experienced officers in their respective units to assist in investigating complicated cases where some of the investigative techniques are needed.
- Authorities have focused more on gathering intelligence on persons suspected of terrorist activities and therefore assessors could not assess effectiveness of TF investigation and prosecution.
- Mauritius's implementation of targeted financial sanctions (TFS) against terrorist financing (TF) in terms of UNSCRs 1267 and 1373 and successor resolutions is ineffective, mainly because of serious technical deficiencies that are inherent within the legal frameworks and absence of appropriate mechanisms.

- Although Mauritius has generally adequate legal framework to enable provision of mutual legal assistance and extradition, this is affected by the inadequate criminalisation of TF and legal limitations in the scope of offences which LEAs can apply for a court order to access all information relating to trusts and Global Business licensees in terms of the FSA. These limitations restrict the information which can be exchanged under international co-operation, including beneficial ownership information. Effectiveness could not be determined due to absence of a case management system relating to mutual legal assistance matters.
- Mauritius has in place a legal framework relating to obtaining beneficial ownership of legal persons and arrangements which are customers of FIs. This is not comprehensive enough to cover all requirements on identification of beneficial owners and disclosure of such information when required by LEAs. Furthermore, Mauritius has not yet determined the risks associated with legal persons and arrangements making it difficult for the authorities to fully understand the ML/TF vulnerabilities associated with the sectors.

B. Risk and general situation

2. Mauritius is one of Africa's largest international financial centres and the global business sector is one of the key pillars of the economy. As at 31st December 2015, there were 21,443 global business entities, with total assets of USD660.2 billion¹, representing nearly 60 times the size of the GDP (2015). The financial and insurance services sector is one of the major drivers of GDP growth for the past four years and, at 10.7%, has become the largest contributor in 2016. Within the financial sector, the number of financial institutions in the Global Business Sector was 1,699 and accounted for more than 80% of the total financial sector assets.

3. The international dimension of the banking system is also visible from different fronts. Majority of the banks are subsidiaries of international banks and these banks draw a substantial amount of business from non-residents through global business corporates and on-lend the resources to the global network of customers. This externally generated business could be a potential source of ML/TF risks considering that a large part of the business is conducted on a non-face-to-face basis, largely relying on CDD carried out by third parties.

4. The assessors also considered open source reports on Mauritius. In the Transparency International Report Corruption Perception Survey for 2016, Mauritius is ranked 50th out of 176 countries. Apart from corruption, the various law enforcement authorities considered drug trafficking to be a major threat to Mauritius. The real estate sector in Mauritius is also very dynamic with property being highly desirable by foreign interests. This could also be a source of international money laundering.

¹ FSC Statistical Bulletin 2016 available at <https://www.fscmauritius.org/media/3679/fsc-mauritius-annual-statistical-bulletin-2016-09dec16.pdf> plus data from BoM.

C. Overall Level of Effectiveness and Technical Compliance

5. Mauritius has made a number of significant reforms since the mutual evaluation in 2007 in order to strengthen its AML/CFT system. For instance, the amendment of FIAMLA to include, among others, expansion of the scope of reporting entities; designation of relevant AML/CFT supervisory authorities; strengthening the operational independence of the FIU, establishment of National Committee for AML/CFT and promulgation of Asset Recovery Act. However, in terms of technical compliance, shortcomings were observed in relation to a number of FATF Recommendations on areas such as, ML/TF risk assessment and implementation of risk-based approach, obligations concerning implementation of targeted financial sanctions, oversight of NPOs at the risk of TF abuse, CDD measures, transparency of legal persons and arrangements and the preventive and supervisory measures applicable to DNFBPs. In terms of effectiveness, Mauritius achieves moderate effectiveness in four Immediate Outcomes: International Cooperation, Preventive Measures, Use of Financial Intelligence, ML investigation and prosecution. Fundamental and major improvements are needed with respect to areas such as understanding of ML/TF risks, risk-based supervision of FIs and DNFBPs, confiscation and implementation of preventive measures by DNFBPs.

C.1 Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

6. Mauritius is in the process of undertaking a national ML/TF risk assessment (NRA). As at the time of the onsite, there was a low understanding of ML/TF risks in the country. Whilst various parties have general ideas about risks arising from their activities, there is no shared understanding of the risks (on both the public and private sector sides). Authorities are nevertheless aware of the predicate offences likely to generate illicit proceeds.

7. The National Committee for AML/CFT has statutory responsibility for policy making, advisory and co-ordination functions. Its statutory mandate does not extend to PF. The Committee has only been recently reactivated and its activities have mainly centred on preparations for the NRA. Co-ordination between authorities through meetings and task forces appears to be on an ad hoc basis. Mauritius does not have AML/CFT policies which are commensurate with the identified ML/TF risks. In the absence of identified ML/TF risks and formal AML/CFT strategy in place at the national level, it is difficult to determine whether or not activities of the various competent authorities and SRBs address the country's ML/TF risks.

C.2 Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

8. In Mauritius, a large number of STRs emanate from the banking sector which is distantly followed by MCs. There is, however, a major concern in that the non-bank financial sector (including licensees doing global business), DNFBPs and the money changers (foreign exchange bureaus) are filing low level of STRs relative to the size of these sectors and their high ML/TF vulnerabilities.

9. The FIU produces relatively good financial intelligence and information which is disseminated to the relevant LEAs. The legal restriction on access to tax information and absence of cash threshold reports limit the FIU's ability to enrich intelligence reports relevant to identification and investigation of potential ML/TF cases particularly on tax crimes which are considered as high risk for ML. However, ICAC has used the financial intelligence reports and information from other sources to identify and commence ML investigations. LEAs carry out limited parallel financial investigations alongside investigations in relation to predicate offences such as corruption and drug trafficking. The LEAs appear to focus only on investigation of predicate offences. Tax evasion, as a predicate offence of money laundering, is rarely investigated and prosecuted in Mauritius.

10. The authorities have prioritised confiscation of proceeds in any form as a policy objective at a national level. They enacted the Asset Recovery Act (ARA) to enable the confiscation of the proceeds, property of corresponding value and instrumentalities of crime and established a dedicated Asset Recovery Investigations Division (ARID) to promote and coordinate confiscation measures pursuant to the ARA. However, ARID has a shortage of manpower and financial investigative skills to properly and competently execute their mandate. The process involved requires referral of cases from other law enforcement agencies for actioning by ARID whereby it has to start application of provisional and confiscation measures all over again resulting in duplication and apparent delays in the process of confiscation.

11. The confiscation of falsely and non-declared or disclosed cross border currencies and bearer negotiable instruments is rarely done, investigated and prosecuted. The authorities are mainly interested in imposing fines to the culprits and leaving the falsely and non-declared currency and bearer negotiable instruments (BNIs) with offenders. This means confiscation of such currencies is not being used as a way of applying effective, proportionate and dissuasive sanctions by the authorities. The sanctions for falsely and non-declared or disclosed cross border currencies and BNIs are not effective, proportionate and dissuasive.

C.3 Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)

12. The Mauritian authorities have demonstrated differing levels of understanding of TF risks facing the country. Although they generally consider TF risks to be low, this view is not based on a formal TF risk assessment. In the assessors' view, the level of TF risk as determined by Mauritian authorities is reasonable. Since the TF offence is not criminalised in a manner consistent with the TF Convention, Mauritius does not have the ability to fully apply measures to ensure that the entire scope of TF and associated predicate offences can be effectively prosecuted. Mauritius's implementation of targeted financial sanctions (TFS) against TF in terms of UNSCRs 1267 and 1373 is ineffective, mainly because of serious technical deficiencies that are inherent within the framework of applicable laws and regulations (as described under the discussion of R.6).

13. Mauritius does not have the legal and institutional framework and has not come up with any mechanism to implement targeted financial sanctions relating to proliferation. There is very

little awareness in regards to TFS relating to proliferation amongst the reporting entities in Mauritius.

C.4 Preventive Measures (Chapter 5 - IO4; R.9-23)

14. The preventative measures contained in the AML/CFT legal framework apply equally to both FIs and DNFBPs. However, the framework contains some exemptions on CDD obligations which are not supported by adequate analysis of ML/TF risks. The exemptions granted could undermine the effectiveness of the AML/CFT system. Banks, financial institutions (FIs) and MCs were generally able to display knowledge of AML/CFT requirements including measures for CDD, record-keeping and reporting suspicious transactions. Most of them explained special measures that were over and above the measures required by regulators to manage their risks. However, low levels of suspicious transactions reporting by FIs outside of the banking and MCs sub-sectors were a matter of concern.

15. FIs which conduct global business rely on MCs for managing ML and TF risks on their behalf as well as carrying out their compliance responsibilities which suggests a concentration of risks in the MCs sector. Weakness in the measures and protocols of one firm could affect the compliance of up to hundreds of licensees that they are administering. In addition, the resource capacity of some MCs seemed to be very limited relative to the number of licensees they serve. Also, some banks indicated that they would not accept business referred from MCs and advised that standards varied from one MC to another. Notably as well, the sanctions implemented by the FSC are dominated by MCs.

16. The banks interviewed indicated that they were able to leverage on group information in conducting their CDD activities. Some of them rely on third party introducers whenever they have a potential customer who is a non-resident. However, in some cases these introducers were from countries with AML/CFT deficiencies. In such cases, the Mauritian banking firms carry out their own due diligence on the introducers and the laws and policies to which they are subject. All banking firms indicated that they also leverage on technology like World Check as well as develop their own special CDD checklist and client approval procedures based on their assessment of the risk profile of the customer. The Assessors were concerned as to the standards used to treat an introducer as eligible.

C.5 Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)

17. Bank of Mauritius (BoM) and FSC have powers and procedures for preventing criminals and their associates from holding or being a beneficial owner of significant interest or holding a management function in institutions under the Banking Act and the FSA. However, some weaknesses were noted in the procedures for licensing FIs and in some cases changes in shareholdings were not subject to regulatory scrutiny. Regulatory authorities of some DNFBPs do not have powers and procedures to restrict market entry for AML/ CFT purposes. The procedures were rudimentary and focussed more on market conduct.

18. The FSC seeks to utilize a risk-based approach to settle its supervisory programme. The methodology utilized by the FSC has a wide range of factors of which AML/CFT is but one factor. The supervisory schedule is settled on this basis together with other information gathered. However, the scheduling or other special AML/CFT examinations to date did not focus on an assessment of ML/TF risk but rather on an aggregate of the several risks facing institutions or other factors. Thus, institutions are risk rated according to their aggregate risks as well as other factors such as press reports and complaints. The BoM's risk-based approach was less formal and not well documented. In addition, the fact that legally, banks must be subject to examination once every two years suggests that a truly risk-based approach would be difficult to implement. AML/CFT supervision for the DNFBPs (excluding MCs) had not yet started. The supervisory authorities are yet to develop capacity.

19. The FSC does not seem to have adequate capacity to fully carry out AML/CFT compliance monitoring responsibility given the large size of the GB financial sector. This is an area of concern in view of the perceived/related ML/TF risks in the global business sector. While the examination reports and the related follow up actions showed robust monitoring and enforcement mechanisms, the reports did not focus on issues relating to extremely low levels of suspicious transaction reporting.

20. The legal and regulatory frameworks do not provide for a broad range of sanctions to deal with AML/CFT violations, particularly on the part of DNFBPs. The framework does not provide for direct relationship between a violation and a sanction and therefore reporting institutions can not anticipate a sanction for a particular AML/CFT breach. In respect of the FSC, this is left to the discretion of the Enforcement Committee. In addition, The DNFBP regulators have not issued any sanction for AML/CFT non-compliance.

C.6 Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

21. Mauritius has legal frameworks for the establishment of legal persons and arrangements such as companies, Limited Partnerships, Foundations, Associations, Corporate Trusts, Trusts and Societies. The applicable legislation and the basic information (including basic ownership information) on the creation of the legal persons and arrangements are available online to the public through the various regulatory agencies in Mauritius. However, the laws do not require disclosure of beneficial ownership information and hence, such information is not available at the registries. In addition, the authorities have not assessed the risks associated with the use of legal persons and arrangements for ML/TF purposes.

22. For Global business companies (GBC), basic and beneficial ownership information is collected and held by the MCs, FSC and the FIs with whom the GBC transacts. Although basic shareholder information is publicly available for GBC, there are issues with the robustness of measures for capturing beneficial ownership information. There are also limits on LEAs ability to access information from GBC as this is subject to the Supreme Court Order which is limited to information related to drug trafficking, arms trafficking and ML offences.

23. The only sanctions applied for failing to keep information on the ownership of onshore companies up to date is available under the Companies Act and reliance is made on the compounding of offences without an assessment of whether other cases are of such gravity as to

require prosecution. The FSC considers the strength of a MC's measures to ascertain beneficial ownership information in its inspection reports and the assessors did note instances where the FSC found such information missing from the licensee's files.

C.7 International Cooperation (Chapter 8 - IO2; R. 36-40)

24. With the Mutual Assistance in Criminal and Related Matters Act 2003 (MACRM Act) and the Extradition Act 1970, Mauritius adopted comprehensive laws that enable it to provide a wide range of measures at the request of a foreign State. Mauritius has ratified all the international instruments (Vienna, Palermo, CFT and UNCAC) relevant to AML/CFT, which it has domesticated to support its international cooperation requirements. In addition, Mauritius has entered into bilateral and multilateral agreements (e.g. the Harare / Commonwealth MLA Scheme and SAPRCCO for regional police) with other countries to facilitate international cooperation. Both ML and TF are extraditable offenses. Further, the various domestic agencies namely the CCID, ICAC, FIU, MRA, FSC, ADSU and ARID are able to exchange information with foreign counterparts. However, the technical deficiency in the criminalisation of TF limits the scope of international cooperation that can be requested and provided.

25. Mauritius has demonstrated the ability to provide international legal assistance through the provision of mutual legal assistance and other forms of international cooperation based on multilateral and bilateral treaties and arrangements, memoranda of understanding, administrative arrangements and membership of law enforcement and sector and regulatory groupings. However, the effectiveness of the international cooperation framework for Mauritius is constrained by a general lack of a coherent system for the management and tracking of requests for international cooperation. The statistics provided by the Central Authority in relation to international cooperation are not comprehensive. Among others, in majority of the cases, the information does not indicate the kind of offence.

26. In view of the fact that Mauritius has not carried out an ML/TF risk assessment and in view of the weaknesses in statistical information described above, it was not possible to see a correlation between the assistance provided/requested and risk profile of the country. However, Mauritius being a jurisdiction that provides global business financial services that have a global reach as well as the drug trafficking problem in the country, assessors expected to see more statistics in relation to beneficial ownership and drug trafficking.

D. Priority Actions

27. Mauritius should-

- complete its NRA exercise and implement a National AML/CFT plan of action in a coordinated manner, involving both the public and private sector to address the key areas of risk identified.

- On the basis of the findings of the NRA and sectoral risk assessments, authorities should develop and implement risk-based supervision of the sectors to promote AML/CFT compliance.
- Take necessary legislative action to amend the FIAMLA to broaden the scope of preventive measures applicable to FIs and DNFBPs consistent with the FATF Standards. In addition, the authorities should issue regulations and other enforceable means within the scope of the FIAMLA to promote proper interpretation and implementation of the law by the FIs and DNFBPs.
- Considering the size of FIs in the global business sector, authorities should increase resources in order to ensure that there is optimal supervisory coverage of the sector in particular MCs. The FIU and other DNFBP regulators need to be given additional resources to enable them develop capacity and undertake supervisory activities in order to foster compliance by their entities.
- Take steps to ensure that adequate, accurate and current BO information of legal persons and legal arrangements in Mauritius is available to competent authorities in a timely manner.
- Develop a more comprehensive legal framework for MCs to have those firms perform at a standardized level and to ensure that they apply appropriate resources given the level of risk that resides in the global business sector.
- Enhance the legal provisions by including effective, proportionate administrative sanctions and mandating supervisory authorities to apply them against non-compliance with AML/CFT obligations.
- Remove all legislative impediments to law enforcement's accessing information directly from trusts and the global business sector.
- Revise its legal framework with regard to the TF offence in order to make it consistent with the TF Convention and develop proper mechanisms to implement measures related to targeted financial sanctions (TFSs), including allowing authorities to apply interim measures without undue delays and reliance on court orders.
- Establish a legal, regulatory, and institutional framework to monitor, supervise, and effectively implement targeted financial sanctions related to proliferation and ensure that reporting entities are complying with the obligations relating to implementation of targeted financial sanctions related to proliferation.
- Ensure that the FIU has access to information relating to tax and corruption held by MRA and ICAC respectively by repealing the statutory restrictions.
- Provide more resources to the FIU to enable it develop necessary capacity to execute its core functions and the other additional statutory mandates under FIAMLA and ARA such as confiscation and strategic analysis and produce ML/TF typologies and trends.
- Conduct parallel financial investigations in general, and particularly for offences such as drug trafficking which is a high-risk offence in Mauritius. In addition, investigate tax evasion as a predicate offence of ML.

- Establish an efficient case management system in the Attorney-General’s office for the collection and dissemination of MLA and extradition.
- Gain a clear understanding of the risks posed by the possible misuse of legal persons and arrangements through the conclusion of the national risk assessment.
- Conduct outreach to the various reporting entities in order to ensure better appreciation and understanding of the ML/TF risks associated with the functions they perform in relation to customer identification and suspicious transaction reporting.
- Revise the TF legislative framework by removing the requirement for terrorism offences to be connected to an act of terrorism in order to broaden the scope of international cooperation.
- Implement the mechanism for the sharing of assets confiscated in Mauritius with foreign countries that provide assistance especially where predicate offenses have been committed in those foreign jurisdictions.

E. Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

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

Technical Compliance Ratings

AML/CFT Policies and coordination

R.1	R.2
NC	PC

Money laundering and confiscation

R.3	R.4
LC	LC

Terrorist financing and financing of proliferation

R.5	R.6	R.7	R.8
PC	NC	NC	NC

Preventive measures

R.9	R.10	R.11	R.12	R.13	R.14
PC	NC	LC	PC	NC	PC
R.15	R.16	R.17	R.18	R.19	R.20
NC	NC	NC	PC	PC	C
R.21	R.22	R.23			
PC	NC	NC			

Transparency and beneficial ownership of legal persons and arrangements

R.24	R.25
NC	PC

Powers and responsibilities of competent authorities and other institutional measures

R.26	R.27	R.28	R.29	R.30	R.31
PC	LC	NC	LC	C	C
R.32	R.33	R.34	R.35		
PC	PC	LC	PC		

International cooperation

R.36	R.37	R.38	R.39	R.40
LC	LC	LC	LC	LC

MUTUAL EVALUATION REPORT

Preface

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

29. This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by Mauritius, and information obtained by the evaluation team during its on-site visit to Mauritius from 5- 16 June 2017.

30. The evaluation was conducted by an assessment team consisting of:

ESAAMLG Secretariat

- Tom Malikebu: Team Leader
- Joseph Jagada, Law Enforcement Expert
- Phineas Moloto, Technical Advisor
- Muluken Yirga, Legal Expert

Assessors

- Mr Andrew Nkunika, Permanent Secretary, Ministry of Justice, Zambia (Legal Expert);
- Mr Thomas Mongella, Manager- Banks Supervision, Bank of Tanzania (Financial Sector Expert);
- Mrs Palesa Khabele, Director, FIU- Lesotho (FIU/ Law Enforcement Expert);
- Ms Ntema Modongo, Director, Lending Entities, Non-Bank Financial Institutions Regulatory Authority, Botswana (Financial Sector Expert);
- Mr Mcsyd Chalunda, Deputy Director (Internal Affairs), Malawi Revenue Authority, Malawi (Law Enforcement Expert)-;
- Mr Robin Sykes, Chief Technical Director, Financial Investigations Division, Jamaica (International Financial Center Expert).

31. The report was reviewed by the FATF Secretariat, World Bank, Susan Mangori (DPP Chambers, Botswana) and Elizabeth Onyonka (Central Bank of Kenya).

32. Mauritius previously underwent an IMF Mutual Evaluation in 2007, conducted according to the 2004 FATF Methodology and the MER was adopted by ESAAMLG Council of Ministers in 2008. The Mutual Evaluation concluded that Mauritius was compliant with 5 Recommendations; Largely compliant with 18; Partially compliant with 20 Recommendations and non-compliant with 6 Recommendations. The MER was published and is available online at <http://www.esaamlg.org/reports/me.php>.

33. Mauritius entered the follow-up process in 2009 and exited the process in April 2017. The reason for exiting was that Mauritius' assessment under the 2nd Round of Mutual Evaluations commenced in October, 2016. At the time of exiting the follow-up process, Mauritius had outstanding deficiencies in relation to the former Recommendations 12, 13, 16, 21, 22, 23, 24, 31, 35 and Special Recommendations I, III, IV, VI and VIII.

CHAPTER 1. ML/TF RISKS AND CONTEXT

34. The Republic of Mauritius is an island nation in the Indian Ocean about 2,000 km off the southeast coast of Africa. It is made up of mainland Mauritius and other smaller islands, Rodrigues, Agalega, Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius. The size of the country is 2,040 sq km, with an estimated population of 1,264,000 as of December 2016. It is a member of several regional and international bodies such as the UN, Commonwealth of Nations, African Union, COMESA and SADC. Mauritius is a multi-lingual society but French and English are generally accepted as official languages. However, the constitution is written in English while some laws like the Civil Code are in French. Creole, a derivative of French, is spoken by all Mauritians. In addition, several other languages are spoken by different sections of the population.

35. The constitution provides for the establishment of an independent judiciary. The judiciary is responsible for the administration of justice in Mauritius and has a mission to maintain an independent and competent judicial system which upholds the rule of law, safeguards the rights and freedom of the individual and commands domestic and international confidence. The judicial system consists of two parts: the Supreme Court and the Subordinate Courts. The Supreme Court is the highest and final court of appeal in the Mauritian judicial system. It is headed by the Chief Justice, who is appointed by the President, in consultation with the Prime Minister. However, the ultimate court of appeal is the Privy Council in England. The Subordinate Courts consist of the Court of Rodrigues, the Intermediate Court, the Industrial Court, the District Courts, the Bail and Remand Court, the Criminal and Mediation Court, and the Commercial Court.

36. The country has established itself as one of the leading economic reformers in Africa, successfully transitioning from a Low Income into an upper Middle-Income Country (MIC). Strong institutions in a politically stable and thriving business environment and effective use of trade preferences particularly with Europe and India have been instrumental in driving growth and facilitating an impressive economic diversification. At independence, the small island economy was completely dependent on sugar. It has since diversified into tourism, textiles, financial services, and Information and Communication Technology (ICT). The GDP of Mauritius as at the end of 2016 was USD 12,164.21 million² and a GDP per capital of USD9,627.

Overview of the Global Business Sector in Mauritius

38. Mauritius established the global business sector (generally known as international financial centre) in 1992 and it has now become one of Africa's largest international financial centres.

² <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=MU>

Global Business (GB), regulated by the FSC under the FSA, is a regime available for corporations resident in Mauritius proposing to conduct business outside Mauritius. As an international financial centre, most of the customers and clients are foreign based and much of the financial business is conducted on a non-face-to-face basis via intermediaries/ third parties.

39. Global Business Companies (GBCs) are incorporated using the services of Management Companies (MCs), which are domestic companies licensed and regulated by the FSC to act as corporate service providers. MCs also administer, manage and provide nominee shareholding and other services to GBCs. MCs are designated DNFBPs subject to AML/CFT obligations. At a minimum, GBCs must, at all times, have 2 resident directors, a principal bank account must be in Mauritius and either have an office in Mauritius or at least 1 full time employee in Mauritius. GBCs holding financial services licences (that is FIs as per the FATF definition) are subject to licensing and ongoing monitoring under the FSA and the other relevant legislations (e.g. insurance/securities laws and anti-money laundering legislation). As at 31st December 2015, there were 21,443 global business entities, with total assets of USD660.225billion³, representing nearly 60 times the size of the GDP (2015).

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

(a) Overview of ML/TF Risks

40. Mauritius started its NRA in January 2017 and the exercise was not yet completed as at the date of the onsite visit. In addition, none of the agencies had carried out any sectoral ML/TF risk assessment. In view of this, no NRA or sectoral risk assessment findings were available to be used as a source of information about the nature and scale of proceeds generating crimes. However, based on interviews and, information gathered during the onsite visit and other credible third-party sources, assessors identified potential ML/TF threats and vulnerabilities as described in the subsequent paragraphs.

ML/TF Threats

41. Based on the interviews held with the authorities and private sector representatives, drug trafficking was identified as a major proceeds-generating crime in Mauritius. In addition, the country generates a huge volume of business from outside the country through the global business sector in form of deposits and investments. Most of the customers and investors are non-residents, corporates with sophisticated/ complex structures, politically exposed persons and high net worth individuals. The non-resident depositors and investors are attracted by the low taxes and exemptions. The large amount of financial flows into and out of Mauritius' global financial sector may present potential for ML threats as some of the financial flows could be

³ FSC Statistical Bulletin 2016 available at <https://www.fscmauritius.org/media/3679/fsc-mauritius-annual-statistical-bulletin-2016-09dec16.pdf> plus data from BoM.

emanating from tax evasion, public sector corruption and fraud crimes committed outside Mauritius.⁴

42. According to the authorities, the risk of terrorist financing is considered to be low. In relation to this, assessors noted that STRs received by the FIU on suspected terrorist financing have been low. No domestic terrorism has ever been reported. However, there have been reports of some Mauritians living outside the country who have been convicted of TF for sending funds to relatives in Syria. Mauritius has never received a mutual legal assistance (MLA) request on TF. On the face of it, these factors may support the views held by the authorities that there is a low risk of TF in Mauritius.

43. Notwithstanding the low level of STRs, assessors are of the view that Mauritius could be used as a channel for financial flows intended to finance terrorism, terrorist groups or individual terrorists in other countries in view of the fact that the country is an international financial centre, which bridges the African, European and Asian continents. Apart from analysis of physical cross border currency movement, assessors did not get any indication that authorities analyse the destination or beneficiaries of funds leaving the country. In addition to this, the authorities have not considered the possibility that funds managed by foreign NPOs may flow through Mauritius to support terrorist organisations in other countries.

ML/TF Vulnerabilities

44. The global business sector is considered to be vulnerable to ML/TF risks for various reasons. The market players in this sector source their business from outside Mauritius, relying on third parties or introducers to carry out customer due diligence (CDD) measures on their behalf, including establishing the source of funds, where necessary. Some players such as banks were able to clearly indicate special measures that they put in place to deal with non-face to face business (such as leveraging on their global contacts) or insisting on seeing the clients on a face to face basis. In addition, responsibility for AML/CFT compliance for financial services licensees in the global business sector is carried out by MCs. As a result, major compliance risk is concentrated in this sub-sector.

45. FIs licensed under the FSA as global business do not in the main maintain any significant operations in Mauritius. This was supported by the recent budget speech that announced new requirements for global business companies to establish more substantial operations in Mauritius. The concern is that FIs in the global business sector are not being monitored for compliance in the form of onsite inspections, where mind and management of these firms are present.

46. The AML/CFT regime exempts⁵ reporting entities from applying identification requirements in respect of customers which are banks, FIs and cash dealers [which includes

⁴ https://www.transparency.org/files/content/corruptionqas/Country_Profile_Mauritius_2014.pdf

money or value transfer service (MVTs) providers and money changers] based in Mauritius or equivalent jurisdictions without an adequate analysis of ML/TF risks. Some jurisdictions which have been classified as *'equivalent jurisdiction'* have AML/CFT deficiencies and therefore these exemptions do not rest on well-founded basis. The exemptions could weaken the AML/CFT framework as identification requirements provide first layers of defence and contribute in the analysis of suspicious transactions.

47. Apart from TCSPs (management companies and corporate trustees) which fall under the FSC, the DNFBP sector is vulnerable to ML/TF risks in view of the fact that majority of them are not being monitored for AML/CFT compliance as most of the supervisors have not yet started implementing their supervisory roles. Absence of compliance monitoring may create a disincentive to implement the AML/CFT requirements as the reporting entities know that their lack of action will not be detected and sanctioned. As a matter of fact, some of the designated supervisory authorities indicated that they do not have the resources to carry out AML/CFT supervision and have not developed the requisite AML/CFT supervisory capacity.

(b) Country's risk assessment & Scoping of Higher Risk Issues

48. Mauritius commenced its NRA in January 2017 with the support of the World Bank. The NRA process was still underway at the time of the onsite visit. The NRA was commissioned under the leadership of Ministry of Financial Services, Good Governance and Institutional Reforms. In terms of arrangements for the NRA, the authorities formed the following teams: (1) Threat Assessment Team, (2) National Vulnerability Team, (3) Banking Sector Team, (4) Securities Sector Team, (5) Insurance Sector Team, (6) Other Financial Sector Team, (7) DNFBP Sector Team and (8) TCSP Sector Team. The NRA Teams also include representatives from the private sector.

49. In view of the foregoing, assessors could not determine the adequacy of the NRA scope, the information used, the depth of analysis and reasonableness of the conclusions. Furthermore, since the NRA exercise had not yet been completed, assessors could not benefit from the results of the exercise for purposes of understanding the country's areas of higher or lower ML/TF risks. Therefore, in deciding what issues to prioritise, assessors relied on the information provided by the authorities before and during the onsite visit and information obtained from reliable third-party sources (e.g. reports by international organisations). Apart from issues of higher/lower ML/TF risks (including threats and vulnerabilities), assessors also planned to target the following issues which they considered to be of significant concern to the effectiveness of the Mauritian AML/CFT regime and requiring greater focus during the on-site visit of Mauritius:

- **Global Business Sector**– Shareholders and senior management of entities in the global business sector are mostly non-residents. For this purpose, assessors spent considerable amount of time to review the nature and scope of procedures which authorities employ to identify and verify the identity of significant shareholders, beneficial owners or those in

⁵ Regulation 5 of FIAMLA Regulations 2003 and Paragraph 6.96 of the BoM Guidance Notes, March 2017.

control, directors and senior management and satisfy themselves that the persons are fit and proper and that funds invested in this sector do not originate from illegitimate sources.

- **Beneficial Ownership** – The legal framework does not oblige competent authorities (e.g. Companies and Deeds Registries) to obtain information on beneficial ownership when registering legal persons and legal arrangements⁶. In addition, it is permissible to have nominee shareholders and the law does not require that sufficient information be provided on the nominators. While it was appreciated that management companies (MCs) and financial institutions (FIs) are required under the FSC's Code to obtain beneficial ownership information from clients/ customers, assessors wanted to determine (1) the scope of the information collected by MCs and FIs (2) whether the information is available in Mauritius particularly looking at 3rd party reliance arrangements and the extent of effective measures and supervision in respect of same (3) the level of compliance by MCs and FIs and (4) accessibility of the information by law enforcement agencies.
- **Implementation of CDD Measures by third parties**
Majority of customers of the global business sector are non-residents and/or most of the financial activities of the global business are conducted on non-face-to-face basis. The sector relies on third parties to carry out CDD measures or introduce business. Assessors focussed their attention to the procedures for identifying which third-party to use and what kind of CDD information they require the third party to collect and its reliability.
- **Scope and Adequacy of AML/CFT Supervision of the Global Business Sector**– As of December 2015, there were 1,699 FIs operating in the global business sector. Except for management companies and corporate trusts, almost all of the global business entities do not maintain substantial business presence in Mauritius. For this purpose, assessors paid attention to the resource capacity of FSC to cover all licencees (which fall within the definition of a financial institution), the scope and adequacy of AML/CFT supervision carried by FSC as a tool for monitoring AML/CFT compliance by the reporting institutions.
- **Consolidated AML/CFT Supervision of the Financial Sector**– There is a significant inter-connection between the GBC sector and the domestic sector, which may raise the spill over of ML/TF risks from the GBC Sector. This makes effective consolidated AML/CFT supervision and cooperation between these two regulatory agencies imperative. For this reason, assessors tried to establish the existence and scope of consolidated AML/CFT supervision across the sectors and level of cooperation between FSC and BoM.

⁶ During the Mutual Evaluation, measures for the capture of beneficial ownership information by the Office of the Companies Registrar were announced during the National Budget presentation.

- **International cooperation-** The bulk of business activities of the GBC sector takes place outside Mauritius, using Mauritius as a channel. As a result, there is a risk that some of the international/ transnational financial transactions may involve proceeds of crime. Therefore, in pursuing the suspicious or criminal activities, foreign competent authorities may need information from Mauritius or vice versa. Hence, assessors also sought to determine the extent to which Mauritius has provided or received assistance (formally and informally) to/from other foreign competent authorities.

1.2 Materiality

50. As highlighted in Par 39 above, the global business sector is one of the key pillars of the economy with significant number of players which contribute to the economy. The macroeconomic importance of the banking system is also visible from different fronts. The total assets of the banking sector were USD 35.5 billion as at end of June 2016⁷, up from USD 33.1 billion for the same period in 2015. This represents around 293 percent of GDP and accounted for around 80 percent of total assets of institutions under BoM. In addition, the market concentration of the banking system as measured by HHI has been revolving around 1,100 over the last 5 years which is below the benchmark (1,500- 2,500) for a moderately concentrated market. The four largest banks held 53.4 percent of total assets as at the end of December 2015⁸.

51. There is also a marked interlinkage between the global business and the domestic economy through cross-holdings, membership to the same financial group or mixed conglomerates with activities in other domestic sectors and, deposits of non-resident and global business sectors into the domestic banking system. In addition, under the single licence regime of BoM, banks can operate in both Segment A business (domestically source- income) and Segment B business (foreign-sourced income including global business entities and non-residents). According to the IMF report, large foreign banks tend to focus on Segment B, drawing deposits from the most reputable global business entities and lending them to the global network of customers⁹. This interlinkage may create a conduit for spill over of ML/TF risks. This would call for stronger mechanisms for cooperation and exchange of information between supervisory authorities, strengthened consolidated supervision and supervision of bank holding companies.

52. All DNFBPs designated by FATF operate in Mauritius and are very diverse in terms of numbers, size and activities (see Table 1.3 for more details). Accountants and lawyers are the largest groups among independent legal and accounting professionals. MCs and corporate trustees (TCSPs but licenced as FIs under the FSA) lie at the center of the global business sector in Mauritius. According to the FSA, all applications for global business licence have to be lodged

⁷ Bank of Mauritius, Annual Report (2016) available at https://www.bom.mu/sites/default/files/Annualreport_2016.pdf

⁸ Bank of Mauritius, Annual Report (2016) available at https://www.bom.mu/sites/default/files/Annualreport_2016.pdf

⁹ IMF Country Report No. 16/89 of Mauritius (March 2016)

through a MC and that the holders of global business licence 1 shall at all times be administered by a MC [ss 71(5) and 72 of FSA]. As reported above, MCs also perform compliance (including in some cases MLRO) functions for multiple client FIs. For example, one MC officer has a portfolio of 118 global business entities, whilst another MC indicated that they handled compliance functions for 2,000 entities (FIs and DNFBPs). There is a concern as to the depth and comprehensiveness with which a MC can handle the entire compliance duties of the clients under their portfolio considering that Compliance Departments of the MCs are lean (less than 5 persons in some MCs). Apart from size of the workload, the responsibilities of an MC that acts as a MLRO for its client but also has its own separate AML obligations could potentially raise issues of conflict of interests.

1.3 Structural Elements

53. Mauritius appears to have all the necessary structural pillars to support an effective AML/CFT system. The country enjoys a stable political environment, resting on democratic ideals. According to the Mo Ibrahim Index for Good Governance, the country was ranked position number 1 in Africa in 2014. In order to solidify its political commitment to fight illicit acquisition of wealth, promote good governance and ethical standards, Mauritius enacted the Good Governance and Integrity Reporting Act in 2015. The Act established the Integrity Reporting Services Agency which has a Board chaired by a retired judge.

54. The country has a strong, independent and efficient judicial system. The rule of law is well established and respected. The judicial system is highly rated at 58th in the world in terms of enforcement of contractual rights and obligations and the acceptance of the Rule of Law is also rated very highly by the World Bank with a score of 75 out of a 100¹⁰. According to the official statistics, the case disposal rate of the judicial system was at 96% in 2015¹¹.

55. Furthermore, Government has established necessary institutions involved in the AML/CFT effort and provides reasonable funding to support the AML/CFT systems. The authorities informed assessors that the country is considering creating a central 'financial crimes commission' which is intended to bring together all agencies involved in fighting financial crimes under one roof. The authorities are of the view that this will be an effective, efficient and seamless approach to dealing with financial crimes.

1.4 Background and other Contextual Factors

56. Mauritius was a member of the Group of International Finance Center Supervisors until 2016 but the authorities did not provide the reasons why the country is no longer a member. Some of the objectives of the Group are to cooperate with relevant international organisations in setting and promoting implementation of international standards for combating ML and TF and to improve international standards on combating ML and TF. The body established a Working Group on setting of international standards for the regulation of trust and company service

¹⁰ KPMG Mauritius Country Report available at:- www.sadcpppnetwork.org/wp-content/uploads/2015/02/Mauritius-NI.docx

¹¹ Statistics Mauritius: Digest of Crime, Justice and Security Statistics, 2015.

providers. In addition, Mauritius was ranked no 73 in the Global Financial Centers Index out of 86¹². The Index indicates ranking of competitiveness of the financial center.

57. In terms of global ranking, Mauritius is ranked 1st in the African region and 29th overall in the World Bank Doing Business Survey 2015. Also, Mauritius was ranked 1st by Forbes Survey of Best Countries for Business 2014 in Africa.

58. Access to banking and financial services in Mauritius is relatively high. According to Finmark Survey results of 2014¹³, the overall financial inclusion was 90%, putting Mauritius on top of all the SADC member states. The results further showed that 85% of the adult population was banked. However, mobile money penetration was low, with only 2% of the registered users, given that 84% of adults have mobile phones.

Overview of AML/CFT strategy

59. As at the date of the onsite visit, the country did not have documented AML/CFT policies or AML/CFT Strategy. The authorities established a National Committee for Anti-Money Laundering and Combating the Financing of Terrorism which is chaired by the Ministry of Financial Services, Good Governance and Institutional Reforms. Its membership is drawn from various key government agencies, including the Prime Minister's office. Functions of the National Committee include assessing the effectiveness of policies and measures to combat ML and TF and, making recommendations on policy reforms.

Overview of the legal & institutional framework

60. Mauritius has established various agencies which administer and oversee various areas of the AML/CFT regime. Some of them are as follows:

- (a) **Ministry of Financial Services, Good Governance and Institutional Reforms:** – chairs the National AML/CFT Committee, oversees implementation of AML/CFT activities and coordinates national AML/CFT legislative, administrative and policy reforms.
- (b) **Ministry of Foreign Affairs, Regional Integration and International Trade:** - is responsible for managing the country's diplomatic relations with other countries and international organizations. This mandate includes political, economic, and social/cultural relations. The Ministry is also responsible for sharing information with relevant stakeholders (The Prime Minister's Office, BoM, FIU, FSC etc.) on the UNSC sanctions list. The Ministry is also involved in signing MoUs' and agreements with different countries with a view to increasing international cooperation.
- (c) **Financial Intelligence Unit (FIU):** The FIU, which was established under FIAMLA, serves as a central agency for receiving, requesting, analyzing and disseminating information

¹² <http://www.longfinance.net/global-financial-centre-index-19/976-gfci-19-the-overall-rankings.html>

¹³ <http://www.finmark.org.za/wp-content/uploads/2016/08/FS-Mauritius-2014-Report.pdf>

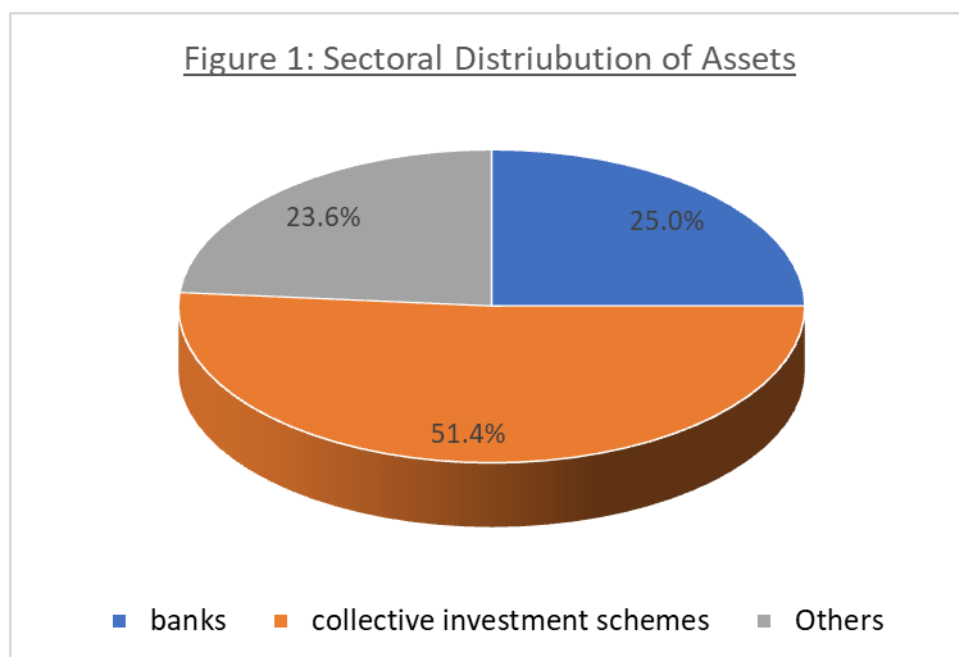
concerning suspected proceeds of crime, money laundering and terrorist financing. It is also the supervisory body for AML/CFT in relation to the real estate and jewellery sectors.

- (d) **Independent Commission Against Corruption (ICAC):** Its core function is to investigate and prosecute corruption and money laundering. It is also mandated to investigate TF as a predicate offence of ML. The ICAC starts investigations based on reports and information from government agencies and other sources. It may also start an investigation on its own initiative.
- (e) **Bank of Mauritius (BoM):** BoM is the supervisory body in relation to AML/CFT for the banks non-deposit taking financial institutions and cash dealers. It issues Guidance Notes for this sector and has powers under FIAMLA and the Banking Act to take regulatory sanctions for any breach of FIAMLA and its regulations by its licensed entities.
- (f) **Financial Services Commission (FSC):** The FSC is the integrated regulator and the supervisory body in relation to AML/CFT for the non-banking financial services and for global business. Established in 2001, the FSC is mandated under the Financial Services Act 2007 and has such enabling legislations as the Securities Act 2005, the Insurance Act 2005 and the Private Pension Schemes Act 2012 to license, regulate, monitor and supervise the conduct of business activities in these sectors. As mandated under the FIAMLA, the FSC has issued Code on the Prevention of Money Laundering and Terrorist Financing that applies to its Licensees as defined in the FS Act. It has powers under the FIAMLA and the FSA 2007 to take regulatory sanctions against its licensees.
- (g) **Enforcement Authority (Asset Recovery Investigation Division):** This body has the power to restrain and confiscate assets which are reasonably suspected to be proceeds of crime. The Asset Recovery Investigation Division (ARID) operates under the authority of the FIU.
- (h) **Police:** As law enforcement, the police, and its various specialized divisions investigate suspected ML and TF cases from FIU. This enables the gathering of admissible evidence for any prosecution which may follow.
- (i) **Director of Public Prosecutions (DPP):** The DPP is the authority which makes the decision on whether or not to prosecute any criminal offence, including any ML/TF offence in Mauritius.
- (j) **Gambling Regulatory Authority (GRA):** is mandated to ensure that its licensees comply with the AML/CFT guidelines issued by FIU, failing which it is entitled to take disciplinary measures against the offending licensee.
- (k) **Mauritius Institute of Professional Accountants (MIPA):** is responsible for the registration and AML/CFT supervision of accountants.

- (l) **The Financial Reporting Council (FRC)** is responsible for registration and supervision of auditors for AML/CFT compliance.
- (m) **Mauritius Law Society Council:** is responsible for supervising Attorneys for AML/CFT compliance.
- (n) **Chamber of Notaries:** is responsible for registration and supervision of Notaries for AML/CFT compliance.
- (o) **Bar Council:** is responsible for registration and supervision of barristers' AML/CFT compliance.
- (p) **The Attorney General's Office** is responsible for registration and supervision of law firms, foreign law firms, joint law ventures and foreign lawyers.

Overview of the financial sector and DNFBPs

61. The Mauritian financial system has evolved considerably over time. Initially, the system consisted mainly of the banking sector with two main banks. However, since mid-1980s the financial sector experienced a shift away from the domination of banks and insurance companies. In 2001, Mauritius established a steering committee which recognized that the Mauritian financial services industry had the potential to develop into a viable and dynamic sector capable of generating a large number of high value-added jobs. This led to introduction of enabling legislation. Now, a number of non-bank financial institutions have emerged, making Mauritius an international financial center with a developed banking and global business sectors. The range of services provided by financial institutions has also been growing in past years as explained below.



The securities sector forms the largest part of the Mauritian financial services sector and is considered as one of the important sectors by the authorities. It has a broad range of financial service providers including: securities exchanges, clearing and settlement facilities, asset management, treasury management, collective investment schemes and intermediary services. The sector manages.

Table 1.1: Financial Institutions subject to the AML/CFT Law

	Domestic Sector			Global Business Sector		
	No. of institutions	Licensing legislation	AML/CFT Supervisor	No. of institutions	Licensing Legislation	AML/CFT Supervisor
banks	23	Banking Act	Bank of Mauritius	20	Financial Services Act	Financial Services Commission
NBFIs Dec 2016	8			-		
Money changers	9			-		
MVTS providers	5			-		
sub-total	45			20		
Credit finance	5	Financial Services Act	Financial Services Commission	2		
Factoring	2			6		
Leasing	11			4		
Long term insurance	7			2		
General insurance	15			-		
Insurance brokers	33			24		
External insurance	0			6		
Professional Reinsurers	0			10		
Insurance managers	0			6		
Insurance agents: Company	175			3		
individual	41					
Private pension schemes	67			-		
Collective Investment schemes	29			899		
Investment dealer-excluding underwriting	10			17		
Investment dealer-Including underwriting	1			4		
Investment dealer-other	6			33		
Investment advisor	30			306		
Asset management	0			10		
CIS Administrator	6			1		

CIS Manager	24			358		
Registrar and Transfer Agent	9			0		
Treasury management	6			10		

nearly 1,000 investment schemes/funds with a total value of USD68.2 billion representing 51.4% of total financial sector assets (see Figure 1 above for more details).

62. **The banking sector**, with a total asset base of USD34.3 billion (USD 33.1 billion as at 31 Dec 2015) and total deposits of USD26.84 billion, is the second largest sub-sector of the financial sector. It consists of 23 banks which are predominantly foreign majority controlled as most of them are subsidiaries and branches of international banks- a common distinct feature of international financial centers. As at 31 December 2016, out of these banks, 3 were exclusively serving the domestic sector, 7 the global business sector while 13 were conducting both domestic and global business. BoM is the licensing and AML/CFT supervisory authority for banks.

63. **The insurance sector**: - The insurance market, which consists of 322 players, offers life and general insurance products. In terms of the size, the general insurance companies manage a negligible share of the insurance sector relative to the life insurance (99.9%). Out of the 9 companies which offer life insurance products, 2 operate on the global business sector. The domestic insurance market manages insurance assets amounting to USD2.4 billion while the global insurance market manages assets of USD 603.5 million. The insurance sector is regulated by FSC for AML/CFT purposes.

Table 1.2 Size and Composition of the Financial Sector as at 31 Dec 2015

	Type of Financial Institution					Percentage (%)
		Domestic Sector		Global Business Sector		
		No. of institutions	Total Assets (USD)	No. of institutions	Total Assets (USD)	
BoM	banks	23	13,430,608,787	20	19,680,811,874	25.0%
	Non-deposit taking institutions: Dec 2016	8	1,955,485,362	-	-	1.5%
	Money changers	9	2,933,449	-	-	0.0%
	MVTS providers	5	22,568,763	-	-	0.0%
	sub-total	45	15,411,596,361	20	19,680,811,874	
FSC	Credit finance	5	7,711,704	2	15,648,874	0.0%
	Factoring	2	27,750,494	6	31,434,147	0.0%

Leasing	11	554,094,725	4	227,130,486	0.6%
Long term insurance	7	2,366,026,492	2	603,482,641	2.2%
General insurance	15	454,634,473	-	-	0.3%
Insurance brokers	33	19,773,670	24	17,725,443	0.0%
External insurance	0	-	6	131,572,428	0.1%
Professional Reinsurers	0	-	10	329,895,702	0.2%
Insurance managers	0	-	6	309,951	0.0%
Insurance agents:					0.0%
company	175		3	1,480,882	0.0%
Insurance agents:					0.0%
Individuals	41	-	-	-	0.0%
Private pension schemes	67	978,167,704	-	-	0.7%
Collective Investment schemes	29	257,648,991	899	67,914,171,507	51.4%
Investment dealer-excluding underwriting	10	14,004,621	17	55,372,574	0.1%
Investment dealer-Including underwriting	1	4,587,887	4	179,943,860	0.1%
Investment dealer-other	6	88,500	33	64,412,226	0.0%
Investment advisor	30	3,951,030	306	17,367,992,390	13.1%
Asset management	0	-	10	1,095,054,746	0.8%
CIS Administrator	6	1,137,008	1	1,744,789	0.0%
CIS Manager	24	211,879,912	358	860,426,135	0.8%
Registrar and Transfer Agent	9	2,193,396	0	-	0.0%
Treasury management	6	56,783,303	10	667,758,035	2.8%
Sub-total	477	20,372,030,271	1,701	112,246,368,690	100%
GBC 1 Investment Holding	-	-	7,918	373,816,545,449	
Management	-	-	180	179,878,000	

	companies		-			
	Sub-Total	477	35,783,626,632		505,923,604,013	
	Grand Total			9,799	541,707,230,645	

Source: Information and data provided by Mauritian authorities

64. **Foreign Exchange Bureaus and MVTS-** As at end of 2015, there were 5 licensed money value transmission service providers and 8 foreign exchange bureaus (forex bureaus). Some foreign exchange bureaus also provide money transmission services. Mobile money financial services exist in Mauritius but are not very popular, probably because access to financial services is high. The forex bureaus and MVTS providers are licensed and supervised by BoM for AML/CFT purposes.

65. **Private Pension Funds** are licensed under the Private Pensions Act by the FSC and are designated as reporting institutions under the FIAMLA. Protected Cell Companies are similarly licensed by the FSC under the FSA. Pension Administrators and Protected Cell Companies are regulated by the FSC for AML/CFT purposes.

66. **Global Treasury Management and Global Head Quarters Administration** are also activities regulated by the FSC. These involve the provision of certain financial or business services to group companies situated outside Mauritius. Again, these entities are also licensed and supervised by the FSC for AML/CFT purposes. However, these activities do not appear to be included among the financial activities that the FATF requires to be subjected to AML/CFT obligations.

67. **TCSPs which service the global business sector** are divided into three broad categories: management companies (180), corporate trustees (27) and nominee companies (148). MCs carry out a number of activities as required by law and practice and may act as corporate trustees. They are empowered to (a) administer and manage the activities of GBCs in terms of the FSA; (b) carry out several other operations on behalf of FSC licensees including accounting and valuation services, executing transactions and trades as well as AML/CFT Compliance functions. As such, they are one of the prime gatekeepers of the Mauritian Global financial sectors as they assume the vast majority of the preventive AML/CFT measures on behalf of their clients. As a consequence, the major part of ML/TF risks within the Global Business Sector is concentrated in this group of professionals.

68. **Corporate Trustees**, which are generally MCs, carry out trustee business under the Trust Act. Trust business is deemed to be a category of financial services and therefore persons acting as trustees must be licensed under the FSA. Registered agents are referred to in the law but must be MCs if they work in the Global Financial sector.

69. **Casinos** are licensed and supervised by the Gambling Regulatory Authority (GRA) for compliance with AML/CFT requirements. There are 4 state owned casinos licensed under the

GRA Act and 20 gaming houses. According to the authorities, Government policy is that all casinos have to be state owned. Since 2009, Government took a policy decision not to issue new licenses for casino business.

70. **Dealers in Precious Stones** are licensed by the Assay's Office under the Jewellery Act. As at the end of 2016, there were 520 market players, out of which 371 were manufacturers. The rest were retailers, importers, and dealers in gemstones. For AML/CFT purposes, all licencees fall under the supervision of the FIU

Table: 1.3 Composition and size of the DNFBPs subject to AML/CFT law

Type of DNFBP		Number	Licensing/ Registration	AML/CFT Supervisor
Professional Accountants		350	Financial Reporting Act	Mauritius Institute of Professional Accountants
Auditors		206	Financial Reporting Act	Financial Reporting Council
Public Accountants		327	Financial Reporting Act	Mauritius Institute of Professional Accountants
Member firms		174	Financial Reporting Act	Mauritius Institute of Professional Accountants
Casinos		4	Gambling Regulatory Act	Gambling Regulatory Authority
Gaming Houses		20	Gambling Regulatory Act	Gambling Regulatory Authority
Dealers in Precious Stones		520	Jewellery Act	Financial Intelligence Unit
Real Estate Agents		384	Local Government Act	Financial Intelligence Unit
Legal Practitioners	Law firms	30	Law Practitioners Act	Attorney General
	Foreign law firm	3	Law Practitioners Act	Attorney General
	Joint law venture	5	Law Practitioners Act	Attorney General
	Foreign lawyers	20	Law Practitioners Act	Attorney General
	Notaries	60	Notaries Act	Chamber of Notaries
	Barrister	570	Mauritius Bar Association Act	Bar Council
	Attorney	176	Mauritius Law Society Act	Mauritius Law Society Council
Trust & Company	Management companies	180	Financial Services Act	Financial Services Commission

Service Providers	Corporate trustees	27	Trusts Act Financial Services Act	Financial Services Commission
	Nominee companies	148	Companies Act Financial Services Act	Financial Services Commission

Source: Information and data provided by Mauritian authorities

71. **Real Estate Agents-** Mauritius does not have a specific legislation which requires real estate agents to be registered. The only requirement is that anyone wishing to operate this business must obtain a general business registration certificate. The role of real estate agents is to facilitate transactions between sellers and buyers while the actual transactions relating to the sale, payment and transfer of ownership are carried out by notaries. As at the end of 2016, there were 384 real estate agents. These entities fall under the supervision of the FIU for AML/CFT purposes.

72. **Attorneys, Barristers, Law Firms, foreign lawyers, joint law venture, foreign lawyers** are licensed under various laws as indicated in Table 1.3 above. Under FIAMLA, all of these professions are designated as reporting institutions for AML/CFT purposes. Of these only notaries can have carriage of land transactions. However, there is no bar to any of these legal professionals providing corporate formation services. In practice, notaries generally also carry out those services with respect to companies, partnerships and societies. The other legal professions generally act with respect to litigation, advocacy or advisory services.

Overview of preventive measures

73. The legal and regulatory frameworks relating to AML/CFT preventive measures in Mauritius are set out in the Financial Intelligence and Anti-Money Laundering Act (FIAMLA), Financial Intelligence and Anti-Money Laundering Regulations (FIAMLR), Bank of Mauritius Guidance Notes (BoM GNs) and Code on the Prevention of Money Laundering and Terrorist Financing (FSC Codes), Guidelines on the Measures for Prevention of Money Laundering and Countering the Financing of Terrorism for Accountants, Auditors and Members Firms, Guidelines on the Measures for Prevention of Money Laundering and Countering the Financing of Terrorism for Agents in Land, Land Promoter and Property Developer, Guidelines on the Measures for Prevention of Money Laundering and Countering the Financing of Terrorism for Dealer under the Jewellery Act, Guidelines on the Measures for Prevention of Money Laundering and Countering the Financing of Terrorism for Persons Licensed to Operate a Casino, Guidelines on the Measures for Prevention of Money Laundering and Countering the Financing of Terrorism for Law Firm, Foreign Law Firm, Joint Law Firm and Foreign Lawyer and Guidelines on the Measures for Prevention of Money Laundering and Countering the Financing of Terrorism for Barrister, Attorney and Notaries. Some of the instruments suffer from various deficiencies as briefly discussed below.

74. The FIAMLA covers all institutions designated as reporting institutions by the FATF except TCSPs which serve the domestic market. The scope of the legal provisions contained in FIAMLA

is narrow as it leaves out some obligations which are supposed to be in law. In addition, the FIAML Regulations only apply to banks, financial institutions, MVTS and money changers. The Guidance Notes issued by BoM do not meet the criteria of an 'Other Enforceable Means' set out in the FATF Standards. S. 18(1)(a) of the FIAMLA gives Supervisory Authorities powers to issue guidelines as they consider appropriate to combat money laundering activities and terrorism financing (the BoM has issued Guidance Notes while FSC has issued Code). The Code and Guidance Notes set out specific obligations in a number of key areas including:

- (a) Detailed customer due diligence measures including CDD measures for PEPs, legal persons and arrangements as well as measures for enhanced and simplified due diligence;
- (b) Record-keeping obligations;
- (c) Detailed requirements for risk profiling of customers as well as the measures to control the risks arising from new products and delivery channels;
- (d) Internal controls to protect licensees from the risk of laundering, including staff training and screening, internal controls and audit;
- (e) Processes for the making of suspicious transaction reports.

75. The BOM has powers under section 50(2) of the Bank of Mauritius Act to issue instructions or guidelines relating to the operations of banks and other financial institutions for the "...efficient achievement of the purposes of that Act". Breaches of those Directions and Guidelines constitute an offence. The Guidance Notes issued by the BoM are said to be issued under FIAMLA, BoM Act and the Banking Act. The BoM also has powers under s 100 of the Banking Act to issue guidelines for the purposes of that Act. Given the wording of the BoM Act and the Banking Act (which seem to limit the effect of the Guidance for the purpose of these specific statute), there are doubts as to whether these could extend to the subject of anti-money laundering and countering the financing terrorism, which are the subject of another statute, namely FIAMLA. In addition, BoM Guidance Notes do not meet all criteria required for an enforceable means as set out in the FATF Standards. Based on s18(2) of FIAMLA, non-compliance with the BoM Guidance Notes does not attract sanctions. The section is limited to noncompliance with the FIAMLA and Regulations. In the circumstances, the BoM Guidance Notes do not constitute Enforceable Means. The legal status of the Guidance Notes has therefore affected the analysis of R. 1 and all Recommendations dealing with preventive measures in the TC Annex.

76. In addition, although the Guidelines issued by the FIU to DNFBPs cover obligations in relation to preventive measures, the section under which they were issued [s.10(2) of FIAMLA] is limited to STRs and additional information only. Furthermore, there is no legislation which empowers DNFBP regulators to issue subsidiary legislation on preventive measures.

Overview of legal persons and arrangements

77. Under the Companies Act 2001, Mauritius established the Corporate and Business Registration Department which is responsible for registration of different types of legal persons.

There are other statutes for legal persons such as the Business Registration Act 2002, the Limited Partnerships Act 2011 and the Foundations Act 2012. The most common types of legal persons that can be established in Mauritius are companies (company limited by shares which can be private or public companies, company limited by guarantee which can also be private or public companies, company limited by both shares and guarantee, unlimited company), sole proprietorship (one-person company), limited partnerships, foundations and *sociétés*. The act of registering a company is formalised once the prospective company submits to the Registrar of Companies, its memorandum and articles of association constitution and is issued with a certificate of incorporation by the Registrar.

78. It is also possible to register societies commercial (used for business purposes) and societies civil (used to hold real property or other assets), societies en participation, and societies de fait which can be created under the Civil Code of Mauritius. These societies may be created in one of three ways: individuals can retain a notary to prepare the deed; the individuals may create the deed themselves, or individuals can create a society commercial de fait where there is no document but the arrangement exists in practice. Whichever form of creation is chosen, all can be registered with the Company Registry so that the deed or interest is registered and recognized publicly. The societies are much less regulated than companies in that much less information is required to be disclosed. No shareholder or beneficial ownership information need be disclosed. Joint ventures, consortiums, foreign societies, or partnerships may also be registered by the Registrar but there is no legal requirement for them to register. In all cases, no shareholders, beneficial owners or beneficiaries, as may be applicable, need to be disclosed to the Registrar.

79. There were 74, 154 registered companies, 7,790 *sociétés*, 61,132 businesses, 83 Limited Partnerships and 345 foundations registered in terms of the aforesaid Acts at the time of the on-site visit.

80. The Trust Act 2001 governs trusts created by both residents and non-residents. There is no provision requiring a trust deed to be filed with a state or regulatory body. The instrument creating the trust must name the trustee and the beneficiaries or class of beneficiaries as the case may be and the identity of the property transferred on trust. All trusts are required to have at least one qualified trustee which must be licensed to act as such by the FSC under Section 77 of the FSA. The qualified trustee is issued with a management license and is thus required to undertake the verification of the identity of the applicant business and of the principals thereof and to keep records of the verification of identity documentation pursuant to the requirements of the FIAMLA and FSC's Code on the Prevention of Money Laundering and Terrorist Financing intended for MCs. At the time of the on-site visit, the number of trusts in Mauritius was unknown and information on creation and types of legal arrangements was not available. Only trusts that have a qualified trustee are known; trusts where the trustee is not a licensed qualified trustee are not known.

81. The legal framework in Mauritius in respect of legal persons and arrangements does not provide for requirements to obtain and maintain beneficial ownership information.

Overview of the NPO Sector

82. In Mauritius, there are over 9, 800 associations and 148 charitable foundations. Though charitable trusts exist, at the time of the on-site visit the exact number of charitable trusts was unknown. However, a list of 74 charitable trusts was shown on MRA's website for tax administration purposes. While the Registration of Associations Act provides for the registration of foreign associations, the Registrar registers all such organizations as local NPOs since they have a presence in Mauritius. The main objectives of NPOs in Mauritius are provision of poverty relief, the advancement of education, the advancement of religion, the protection of the environment, the advancement of human rights and fundamental freedoms, and any other purpose beneficial to the public in general.

Overview of supervisory arrangements

83. There are a number of regulators and supervisors responsible for monitoring and ensuring compliance with AML/CFT requirements of FIs and DNFBPs in Mauritius as highlighted in Tables 1.1 and 1.3 above. Under Section 2 (First Schedule) and 18 of the FIAMLA, the BoM carries out this responsibility with respect to its licensees under the Bank of Mauritius Act 2004 and the Banking Act 2004 which include banks, non-bank deposit taking institutions, foreign exchange bureaus, MVTS providers and money lenders. However, as at the date of onsite, BoM had not issued any money lender licence. Mauritius also established the FSC under the Financial Services Act 2007 and entrusted it with the task of bringing under a common roof the supervision of the insurance, securities market and global business sector activities in a bid to bring about integrated financial services supervision in a phased manner. Also, under the same sections in FIAMLA noted above, the FSC monitors and ensures compliance of its licencees with AML/CFT requirements.

84. AML/CFT supervision of the DNFBP sectors is spread amongst various agencies as indicated in Table 1.3 above. Casinos are licensed by the Gambling and Regulatory Authority (GRA) under Section 16 of the Gambling and Regulatory Authority Act 2007 (GRAA). The FIU is responsible for AML/CFT supervision of the real estate sector and dealers in precious stones. Other authorities or SRB responsible for monitoring and ensuring compliance of DNFBPs other than casinos with AML/CFT requirements are indicated in Table 1.3 above. All supervisory authorities for DNFBPs (except for the MCs and corporate trustees) have not started carrying out their responsibilities relating to AML/CFT supervision and most of them have indicated that they do not have the capacity or resources to undertake supervisory responsibilities.

Overview of international cooperation

85. Mauritius has ratified all the international instruments (Vienna, Palermo, CFT and UNCAC) relevant to AML/CFT, which it has domesticated to support its international cooperation requirements. The legal framework to facilitate cooperation and exchange of information with foreign counterparts include the Mutual Assistance in Criminal and Related

Matters Act 2003 (MACRM Act) and the Extradition Act 1970. In addition, Mauritius has entered into bilateral and multilateral agreements (e.g. the Harare / Commonwealth MLA Scheme and SAPRCCO (for regional police chiefs) with other countries to facilitate international cooperation. The LEAs and the AG (which handles MLA requests) have made and received requests on cases with their foreign counterparts but are not mostly related to ML/TF. The FIU has signed MoUs with both international FIUs and FIUs in the ESAAMLG region to facilitate exchange of information. Between 2014 and July 2017, the FIU Mauritius has exchanged information with counterparts such as in Botswana, France, UK, South Africa, Madagascar and Seychelles. Financial sector supervisory bodies also cooperate and exchange information with counterparts.

86. Both ML and TF are extraditable offenses. However, concerns were raised for not prosecuting a person for whom extradition request is refused except in the instances of drug trafficking and money laundering offences. Moreover, in terms of the MACRM Act (Section 5(2)(b)(iv)), the AGO may refuse a request from a foreign state on the ground of absence of dual criminality where the granting of the request would require a Mauritius court to make an order in respect of a conduct which does not constitute an offense nor gives rise to a confiscation or restraining order in Mauritius. It would appear that, although dual criminality is not a requirement in terms of the definition of serious offense, the absence of dual criminality could be a ground for refusal of a request. This may be an issue where certain designated category of predicate offenses are not predicate offence of ML (illicit trafficking in stolen and other goods and other material elements of TF which are not criminalized) in Mauritius.

CHAPTER 2. NATIONAL AML/CFT POLICIES AND COORDINATION

2.1 Key Findings and Recommended Actions

Key Findings

1. There is no shared understanding of the ML/TF risks at a national level largely because the jurisdiction has not carried out an ML/TF risk assessment.
2. Authorities are nevertheless aware of the predicate offences likely to generate illicit proceeds and the ML/TF vulnerabilities within the global business sector given the various features of that sector (for example reliance on third party introducers to carry out CDD measures, the concentration of ML/TF compliance functions in MCs, absence of reliable source of beneficial ownership information and the non-face to face nature of this type of business).
3. Since January 2017, Mauritius is engaged in the National Risk Assessment (NRA) exercise, with technical support from the World Bank. The exercise was not yet completed at the time of the onsite visit.
4. Mauritius does not have AML/CFT policies which are informed by the existing ML/TF risks. In the absence of identified ML/TF risks and a formal AML/CFT strategy in place at the national level, it is difficult to determine whether or not activities of the government

agencies and Self-Regulatory Bodies, and the legislative changes which the country has been making address the country's ML/TF risks.

5. Mauritius has exemptions embedded in its AML/CFT legal framework which are not informed by or supported by an adequate assessment of its ML/TF risks (including circumstances where identification requirements are relaxed). This can potentially heighten the vulnerability of the AML/CFT regime. On the other hand, the AML/CFT regime also covers entities that do not fall under the requisite FATF categories of FIs and DNFBPs. Authorities did not provide the basis of this inclusion.
6. While there is a mechanism to facilitate coordination and cooperation among domestic agencies in the development and implementation of AML/CFT policies, this does not occur on regular basis. The National AML Committee is focussed primarily on undertaking the NRA exercise.

Recommended Actions

Mauritius should:

1. Ensure that the scope of the NRA exercise includes a thorough analysis of both external and internal sources of ML/TF risks: for instance, ML/TF risks which arise from the non-resident customers, FIs which do not have physical presence in Mauritius, reliance on MCs to undertake compliance functions over FIs in the global business sector and use of CDD information by banks which has also been obtained from other third parties.
2. Develop policies and activities aimed at mitigating the existing ML/TF risks, with a specific focus on higher risk sectors and scenarios that it will identify in the NRA. This should include legislative and operational measures, allocation of adequate resources to relevant competent authorities and ensuring that authorities align their activities with policies to mitigate identified ML/TF risks.
3. Conduct an outreach for the reporting institutions with a view to share the results of the NRA (once the exercise is completed), promote a common understanding of the ML/TF risks at the national level, and with the objective of ensuring that relevant mitigating actions are taken and implemented.
4. Encourage key stakeholders within the private sector to conduct their own individual ML/TF risk assessments at the level of the customers, products/services provided and delivery channels and put in place appropriate mitigating policies and procedures.
5. Ensure that simplified measures and exemptions on the application of AML/CFT measures are based on a proper assessment and adequate analysis of ML/TF risks.
6. Develop coordination and cooperation within its institutional framework on ML/TF aspects and also on the combating of PF, both at the policy and operational levels.

The relevant Immediate Outcome considered and assessed in this chapter is IO1. The Recommendations relevant for the assessment of effectiveness under this section are R1-2.

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

(a) Country's understanding of its ML/TF risks

87. There is inadequate appreciation of key ML/TF risks (by both the public and private sector) largely because the jurisdiction has not carried out an ML/TF risk assessment. However, at the time of the onsite visit, Mauritius had already commenced its NRA exercise utilising the World Bank NRA tool (preparatory workshop was held in January 2017). Notwithstanding that the exercise is underway, some authorities demonstrated a general knowledge of ML and TF risks through various means – e.g. submitted STRs, ML investigations and typologies studies conducted at the regional level by ESAAMLG. This knowledge however does not cut across all the authorities present in Mauritius as some were more knowledgeable than others with regard to the various risks that the country faces.

88. As observed in Chapter 1, the country has a low crime rate with the most concerning crimes being drug trafficking. Furthermore, assessors are of the view that there are significant vulnerabilities in the global business sector arising from the non-face to face nature of the on boarding process in many, if not most, cases as well as the heavy reliance by licencees on the services of MCs to carry out vetting procedures on beneficial owners, promoters, controllers, directors and shareholders as well as carrying out all other AML/CFT compliance duties such as record keeping and making suspicious transaction reports.

89. In relation to TF risks, the Counter Terrorism Unit (CTU) appeared to have some understanding of the TF risks facing the country. They regarded the risk as low but this was not based on any comprehensive empirical analysis. Mauritius (as an international financial center bridging Asia and Africa), could be used as a conduit for channeling funds to finance terrorism, terrorist groups or individual terrorists in other countries. Besides, the authorities do not pay particular attention to source and destination of outgoing and incoming flow of funds in the global business sector. So, the TF risk may be higher than what the authorities think.

National policies to address identified ML/TF risks

90. Since the country has not identified and assessed its ML/TF risks (i.e. even at the sectoral level), there are no formal (documented) national AML/CFT policies developed to address the existing ML/TF risks. However, as reported earlier, the Ministry of Financial Services, Good Governance and Institutional Reforms is leading the NRA process through the National AML/CFT Committee. One of the responsibilities of the Committee is to assess effectiveness of policies and measures to combat ML and TF and making recommendations to the Minister for legislative, administrative and policy reforms in respect of AML/CFT. It is anticipated that once the NRA exercise is finalised, Mauritius will develop informed domestic AML/CFT strategy, policies and action plans.

91. Several steps such as the establishment of ICAC and the proposed establishment of a Financial Crimes Commission that would incorporate several of the players from the AML/CFT space under one overarching framework, indicate that there is significant thought and effort being put into improving the framework to address issues even in the absence of an NRA.

Exemptions, enhanced and simplified measures

92. The AML/CFT legal framework provides for various exemptions which are not supported by adequate analysis of ML/TF risks by the country. For instance, Regulation 5(1) of FIAMLR exempts reporting entities from carrying out identification procedures where the customer is (a) a bank, financial institution, money changer and MVTs provider based in Mauritius or equivalent jurisdictions (list annexed to BoM Guidance Notes, FSC Code) and (b) where that transactions involve life insurance with a maximum annual premium of MUR40,000. In addition, Paragraph 6.96 of the BoM Guidance Notes exempts reporting entities from carrying out verification of identity of directors or significant shareholders of public listed companies. Furthermore, one-off transactions below MUR 350,000 may be carried out without identification unless they are suspicious in nature. Authorities did not demonstrate that they fully took into account the conditions which are contained in the Interpretative Note to R.10 which, among others, require that (a) FIs and DNFBPs must have effectively implemented requirements which are consistent with the FATF Recommendations and are monitored to ensure compliance and (b) the public listed companies are subject to disclosure requirements of beneficial ownership.

93. There are some types of businesses covered by the Mauritian AML/CFT regime that are not strictly speaking FIs or DNFBPs as defined in the FATF Recommendations. The inclusion of these entities (e.g. funeral schemes, land developers and law firms that do not carry out trust or company secretarial services) appear not to be based on any documented assessment of ML/TF risks. This could lead to dedicating resources where not needed, especially if there is no identified ML/TF risk to justify these inclusions.

Objectives and activities of competent authorities

94. As highlighted above, Mauritius has not yet finalised its NRA exercise, or conducted any other risk assessments and there are no national formal AML/CFT strategy / policies in place which are informed by identified risks. This lack of national AML/CFT strategy makes it impossible to measure the extent to which policies and activities of various competent authorities and SBRs are commensurate with ML/TF risks of the country.

95. However, Mauritius has put in place various pieces of legislation to prevent the abuse of the global business and financial sectors for ML/TF purposes. There are also other examples where Government has demonstrated positive action to strengthen the AML regime such as: resuscitation of the National AML/CFT Committee; launch of the national ML/TF risk assessment; recent establishment of Joint Task Forces to investigate serious crimes.

National coordination and cooperation

96. Mauritius has a National AML/CFT Committee, whose membership is drawn from all relevant competent authorities. The legal mandate of the Committee is set out in the FIAMLA (see Rec. 2). which includes: *assessing effectiveness policies and measures to combat ML and TF, making recommendations for legislative, regulatory and policy reforms in respect of AML/CFT and, (c) promoting coordination among the FIU, investigatory authorities, supervisory authorities and other institutions with a view to improving the effectiveness of the existing policies.*

97. However, the Committee has not been active for some time until recently when it has been tasked with coordinating the on-going NRA exercise. There is no tangible evidence demonstrating that the Committee has been delivering on its mandate. It is assumed that after the NRA results, the Committee will be able to contribute in the development of AML/CFT policies and strategies.

98. The FIU, ARID and Central Criminal Investigations Division (CCID) have been cooperating when conducting investigations. Recently, joint and co-operative investigations have occurred in relation to investigations of drug trafficking cases and the related ML offences (see discussion under IO.7). At a bilateral level, co-ordination and co-operative efforts between agencies occur on an ad-hoc. Some domestic agencies have signed MOUs to facilitate exchange of information either manually or through access to computerised databases. The FSC and BoM have regular information sharing meetings and have carried out joint AML/CFT inspections. However, legal impediments exist in some legislations such as FSA, Trust Act, Income Tax Act and Prevention of Corruption Act (PoCA) which restrict/ prohibit some LEAs from accessing/ exchanging information. Other areas requiring improvement in the area of co-operation and co-ordination include the implementation of international financial sanctions and handling of cross-border currency and bearer negotiable instruments.

Private sector's awareness of risks

99. As explained above, the NRA exercise was still underway at the time of the on-site visit. Hence, the authorities do not yet have any results to share with the FIs, DNFBPs and other sectors. However, the private sector representatives are part of the Working Groups on NRA and therefore they will be expected to be aware of the ML/TF risks identified through the NRA process.

100. Banks, insurance companies, stockbrokers, CIS Managers and MCs appeared to have a reasonable awareness of ML/TF risks associated with their business activities, despite the absence of any guidance from the authorities on specific ML/TF risks. These entities generally demonstrated that they had measures to identify risks on a customer and country basis. Other than MCs, the rest of the DNFBP sector have very limited knowledge on the nature and level of ML/TF risks to which they are exposed.

Overall conclusion on Immediate Outcome 1

101. Mauritius does not have a holistic and shared understanding of ML/TF risks which it faces, largely because it has not yet completed its ML/TF risk assessment. As a result, the country does not have AML/CFT policies which are informed by existing ML/TF risks and it was not possible to determine whether the objectives and activities of competent authorities were risk-based. Exemptions contained in various statutes were not based on ML/TF risk assessment.

102. Based on the foregoing findings, **Mauritius achieved low level of effectiveness for Immediate Outcome 1.**

CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

3.1 Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

1. The FIU of Mauritius is well developed and structured to perform its core functions. However, the staff compliment is not adequate in view of the additional responsibilities such as AML/CFT supervision and asset forfeiture.
2. The FIU has access to a variety of databases which are being used to complement information from STRs to generate intelligence reports for use by LEAs to identify potential cases of ML, TF and associated predicate crimes. However, there is restriction on access of information related to tax and corruption held by Mauritius Revenue Authority (MRA) and Independent Commission Against Corruption (ICAC).
3. There is a major concern over the low levels of STRs filed by reporting entities considered to present higher ML/TF risks including global financial services licensees, forex money changers, real estate and casinos.
4. The FIU produces relatively good financial intelligence and other information which, to some extent, has been used by LEAs to pursue ML and associated predicated offences. However, the FIU does not carry out strategic analysis on a systematic basis which could have contributed positively to the effectiveness of the AML/CFT system in view of the fact that a deep, cross-sectoral understanding of ML/TF trends and typologies helps to identify ML/TF risks, inform policy, strategic initiatives and trainings.
5. The FIU does not provide regular feedback to reporting entities apart from acknowledgment of receipt of STRs. Absence of feedback to reporting entities undermines efforts to improve the quality of STRs of reporting entities.

Immediate Outcome 7

1. Potential cases of ML have been identified through various sources and are being investigated using different investigative techniques. However, there is no evidence of direct correlation between types of ML investigations and the risk profile of Mauritius which is mainly related to proceeds generated from drug crimes. From the information provided, although offences related to drugs were considered to pose the highest risk, corruption related ML cases were more frequently investigated.
2. LEAs carry out limited parallel financial investigations alongside investigations in relation to predicate offences such as corruption and drug trafficking. In addition, tax evasion as a predicate offence of ML is rarely investigated and prosecuted. This may have negative impact on effectiveness of potential ML investigations and confiscation of assets which can be a strong deterrent factor.

3. The LEAs informally provide feedback to the FIU on the financial intelligence reports referred to them and potential ML investigations arising from the reports.
4. The ICAC faces operational challenges since they do not have powers to arrest suspects at all times when carrying out investigations which leads to delays in concluding some cases as witnesses and suspects can refuse to appear before them when summoned. The problem is compounded when the police refuses to arrest people on their behalf.
5. The level of training and skills in the CCID/ADSU especially on formal undercover operation is inadequate to deal with the nature of investigations being carried out.
6. The effectiveness, proportionality and dissuasiveness of sanctions relating to both imprisonment and fines applied against natural persons and fines applied to legal persons convicted of ML offences respectively could not be determined due to lack of information on the amounts laundered.
7. The other criminal justice measures have not been properly and successfully applied in cases where a ML investigation has been pursued but where it was not possible, for justifiable reasons, to secure a ML conviction. The authorities apply administrative action and warnings as an alternative criminal justice measure.

Immediate Outcome 8

1. The authorities have prioritised confiscation of proceeds in any form as a policy objective at a national level. They enacted the Asset Recovery Act to enable the confiscation of the proceeds, property of corresponding value and instrumentalities of crime.
2. The authorities established a dedicated asset forfeiture division, the Asset Recovery Investigations Division to promote and coordinate confiscation measures pursuant to the Asset Recovery Act.
3. There is shortage of human resources in ARID to properly and competently execute their mandate. The entire ARID has only eight (8) police officers who conduct financial investigations leading to asset confiscation. The ARID officers lack financial analytical skills to competently conduct parallel financial investigations.
4. Processes involved in referring of cases from other LEAs for actioning by ARID often lead to duplication of work and delays as ARID has to start application of provisional and confiscation measures all over again.
5. Although there are mechanisms for sharing of the proceeds, property of corresponding value and instrumentalities of crime that the authorities have so far confiscated with foreign jurisdictions, this has not been put into practice.
6. The confiscation of falsely and non-declared or disclosed cross border currencies and bearer negotiable instruments and their sources is rarely done, investigated and prosecuted and the sanctions are not effective, proportionate and dissuasive.

Recommended Actions

Immediate Outcome 6

1. The Authorities should ensure that the FIU has access to, (i) information relating to tax and corruption held by MRA and ICAC respectively by repealing the statutory restriction and (ii) "live" transactions (real time) submitted to the BoM by bureaux de change, to enhance its analytical capability.
2. The Authorities should review the AML CFT legislative framework to enable the FIU to receive currency threshold transaction reports which is necessary for complementing analysis of STRs and other information.
3. The Authorities should provide more resources to the FIU to enable it develop necessary capacity to execute its core functions and the other additional statutory mandates under FIAMLA and ARA such as confiscation and strategic analysis and produce ML/TF typologies and trends reports.
4. The Authorities should implement an efficient system (such as using the goAML software) to enable timely transmission of BNI information to the FIU for combating high risks posed by illegal cash couriers.
5. The FIU should establish mechanisms to provide feedback to reporting entities on the one hand and to seek feedback on the extent of use of the intelligence reports disseminated to investigating authorities on the other hand. Furthermore, the FIU should develop a system to keep reliable statistics on requests and enquiries made by LEAs on the goAML platform.
6. The FIU should expeditiously investigate the reasons why FIs in the global business sector are not submitting STRs. In addition, the FIU and other DNFBP sector regulators should conduct outreach to the DNFBP sector, forex money changers and MCs to ensure that they have adequate internal procedures to detect, identify and report suspicious transactions.

Immediate Outcome 7

Mauritius should:

1. Make more effort to conduct parallel ML investigations alongside investigation of predicate offences.
2. Establish a formal feedback mechanism to inform the FIU the status of ML investigations initiated based on the intelligence reports referred to them by the FIU. This will enhance utilisation of financial intelligence and prioritisation of investigations.
3. Amend s. 81 of the Prevention of Corruption Act and s. 154 of the Income Tax Act to allow ICAC and MRA to share information with FIU which could assist them in enriching their intelligence packages.
4. Amend the FSA and the Trusts Act to allow LEAs access investigatory information from trusts and companies in the Global Business Sector as currently court orders are limited to drug tracking, arms trafficking and ML offences.
5. Amend the Prevention of Corruption Act to allow ICAC have powers to arrest so that they do not refer or request the police to arrest suspects on their behalf in order to give ICAC operational independence and speed up the investigations and prosecutions.

6. Investigate and prosecute tax evasion as a predicate offence of ML and not just concentrate on tax assessment and revenue collection.

Immediate Outcome 8

1. ARID should be properly and adequately resourced in terms of manpower and technical skills in order to competently identify, trace, freeze, seize and confiscate proceeds and instrumentalities of crime.
2. ARID should have an in-house legal expert to provide legal advice during investigations to recover illicit assets and expeditiously apply and obtain court orders when required.
3. Improve on the processes of identifying and confiscating proceeds of crimes so that other LEAs like ICAC and DPP can pursue criminal based forfeitures where appropriate instead of referring the same cases to ARID to start the process of confiscation all over again.
4. The authorities should implement mechanisms/ frameworks for sharing with foreign competent authorities proceeds and instrumentalities of crime that have been confiscated in Mauritius.
5. The authorities should investigate, prosecute and do ultimate confiscation of all falsely or non-declared or disclosed cross border currency and BNIs and application of effective, proportionate and dissuasive sanctions.

The relevant Immediate Outcomes considered and assessed in this chapter are IO6-8. The recommendations relevant for the assessment of effectiveness under this section are R.3, R4 & R29-32.

3.2 Immediate Outcome 6 (Financial intelligence ML/TF)

Background

103. Mauritius has a developed FIU which is charged with the responsibility for the receipt and analysis of STRs, and dissemination of financial intelligence and other information to investigative authorities to identify and pursue potential cases of ML, TF and associated predicate offences. In addition to its core mandate, the FIU is the AML/CFT supervisor for real estate and jewellery businesses. Furthermore, within the FIU there is an Asset Recovery Investigations Division (ARID), which is a statutory division with its own dedicated personnel, for instituting provisional and confiscation measures.

104. The funding allocated to the FIU is insufficient to enable it to perform its core mandate, in addition to performing the additional regulatory and forfeiture duties.

Use of financial intelligence and other information

105. The FIU and LEAs have access to a wide range of financial information. The FIU has direct and indirect access to information that may be used to enhance the quality of financial

intelligence products necessary to develop evidence for ML/TF and predicate offences and trace proceeds of crime. The FIU, by virtue of section 11 of FIAMLA, has access to the databases of the authorities listed in Table 2 below:

106. Due to the different formats in which the public databases are configured, the FIU uses Authorised Officers to access and retrieve the information from the databases which are not available online. The FIU indicated that it takes less than 5 working days to access the information but this timeframe is often exceeded in more complex cases. Information held by Police is requested through formal letters of request. It can take up to several weeks for such information to be availed to the FIU. The FIU has replica databases of the National Transport Register (vehicle ownership details) and the MRA Customs (imports and exports information) on its servers within the FIU. These replicas are updated on a monthly basis. The information accessed by FIU seems to be adequate to assist in conducting analysis but is challenged in having timely access to some public databases.

Table 2: FIU Access to databases and information

Public Entities Databases				
Source of information	Database	Use of Information		Access Time
Civil Status Department & National Identity Cards Office	Retrieved by FIU Authorised officers	Identity Links		Within 5 days
Social Security Office	Retrieved by FIU Authorised officers	Personal Information		Within 5 days
Registrar General	Retrieved by FIU Authorised officers	Immovable assets and secured loans		Within 5 days
National Transport Register	Replica	Vehicles ownership details		Data is updated every 30 days
MRA Customs	Replica Retrieved by FIU	BNI Import and export details	sent to goAML Stored in a CD-ROM	real time from outpost Replicated every 30 days
Registrar of Companies	Automated	Companies & other corporate vehicles register		Real time
Passport & Immigration	Authorised officers	movement control		Within 5 days
Population	Retrieved by FIU			Within 5 days

Registrar	authorised officers		
Police	Letter of Request	criminal history	Within 30 days
Privately Owned or Commercial Databases & Open Sources			
World Check	Automated	Links & associates and adverse information	Real time
Dunn & Bradstreet	Automated	Check links and associates	Real time
Internet monitoring	Internet search	General Information	Real time
Financial Credit Bureau	Automated	Check transacting behaviour	Real time

107. In general, there is reasonable timeliness of access of the information by the FIU even though the manner in which the information is stored and/or updated differs. The main concern is in respect of BNI information as it takes up to 30 days to make it available (stored in a CD-ROM) to the FIU. It has negatively affected the timeliness of access and analysis of the information by the FIU particularly as the authorities have identified illegal cash couriers as a method used to move proceeds from or pay for drug operations. The FIU has subscribed to private databases (e.g., World-Check) to access relevant information on, inter alia, PEPs, business associates/relationships and transactions, which may otherwise not be readily available in the public space, to augment its analysis.

108. The FIU is restricted in accessing data held by ICAC & Tax authorities which could be useful for enriching financial intelligence. Both the ICAC and FIU provided one example in which FIU required information held by ICAC and MRA which was relevant to potential drug related case but could not be availed.

STRs received and requested by competent authorities

109. The FIU receives STRs from some reporting entities through the goAML platform and BNI information (stored in CD-ROM) from the MRA. Whilst statistics on STRs demonstrate that the FIU received 1,496 STRs between 2012 to June 2017), there are no records kept for BNIs received by, or sent to, the FIU.

110. Given the size of the global financial services sector and MCs operating in Mauritius (as an international financial centre), the assessment team is of the view that the number of STRs received over a period of four years is low. Banks, file the most STRs while numbers related to the rest of the FIs and DNFBPs (excluding MCs) is negligible.

Table: 3: STRs Received

Sector	Number of STRs received						
	2012	2013	2014	2015	2016	Up to May 2017	Total
Bank	191	311	128	184	394	121	1,329
Corporate Trustee					1	1	2
Foreign Exchange Dealer		6	2		6	1	15
Funds (Including CIS & CEF)					1		1
Insurance Companies				1	3	1	5
Management Companies	22	25	28	12	11	10	108
Money Changer	11	9	1	1	2		24
Non-Bank deposit Taking Institution(s)	1	3	1			1	6
Accountants	1		1	1			3
Barrister				1	1		2
Law Firms						1	1
Total	226	354	161	200	419	136	1,496

111. Table 3 shows that the number of STRs filed by foreign exchange dealers (money changers and MVTs providers, casinos and high-value real estate entities are inconsistent with materiality and ML risks of these sectors (see Chapter 1 for details). For instance, while the authorities consider casinos and foreign exchange dealers as being vulnerable to proceeds from drugs-related crimes, reporting of suspicious transactions by them is very low.

112. One of the major reasons for the low numbers of STRs filed by the rest of the DNFs (bar MCs) is because they are yet to be supervised and monitored for implementation of AML/CFT obligations including transactions monitoring and reporting (see IO.3 for details).

113. Between 2012 and June 2017 the FIU received Four (4) STRs related to TF. This is considered to be consistent with the TF profile of the country. The FIU regularly uses World-check software when conducting transaction analysis to detect any related TF transactions of the subject under consideration. At the time of the on-site visit, no positive matches were found on World Check.

Table 4: Number of Sections 11 and 13 Requests

Type of Request	2014	2015	2016	Totals
S13(2)(a)	39	149	155	343
S13(2)(b)	34	102	89	225
S13 (3)	59	152	130	341

SECTION 11 REQUESTS				
Requests to Investigatory agencies	11	22	5	38
Requests to Supervisory Bodies	23	8	10	41
Other Requests (government agencies and regulators)	8	6	13	27
Totals	174	440	402	1,016

114. The FIU does not get formal feedback from LEAs either on the quality or usefulness of the financial intelligence shared with them. It currently relies on ad-hoc meetings. The lack of feedback denies the FIU the opportunity to improve its product and develop typologies guiding LEAs on ML/TF trends and patterns.

115. The FIU has made requests for additional information (see c.29.3) from reporting entities irrespective of whether or not an STR has been filed. **Table 4** above shows that the FIU makes requests for information to the banks, financial institutions, cash dealers and members of relevant professions or occupations. The FIU indicated that most of the Section 13 Requests are responded to within 15 days following the request. Where information requested involves complex transactions, the reporting entity would arrange with the FIU to submit readily available information while preparing the remaining. This helps the FIU, in the meantime, to prepare and disseminate preliminary intelligence reports promptly for action by LEAs instead of holding back analysis due to pending responses to Section 13 Requests. There were no case examples provided to demonstrate how the FIU used Section 11 requests to identify potential ML and TF and associated predicate crimes.

Operational needs supported by FIU analysis and dissemination

116. The operational analysis conducted by FIU incorporates all types of reports received depending on the relevance and complexity of the subject matter. In order to further enrich the analysis, the FIU supplements information from STRs by different kinds of information obtained through a variety of privately- and publicly-owned databases to produce intelligence reports for use by LEAs. The FIU uses its tools to prioritise reports for analysis and dissemination. The FIU produces financial intelligence reports for use by investigative authorities to support their operational needs in respect of identifying and investigating potential ML and associated predicate crimes. The dissemination of intelligence reports is guided by the type of the alleged criminality identified. Below is an example of type of information and its use by LEAs.

Box 1: Example of Usefulness of FIU reports

In March 2016, the FIU received a request for assistance from the ARID on a matter that involved a suspect who was sentenced in an overseas jurisdiction for fraud amounting to about GBP5.6 million. The ARID requested the FIU to assist trace assets the suspect had in Mauritius. The FIU used its powers under the FIAMLA to successfully trace the assets owned by the suspect in Mauritius, including money in bank accounts, shares held in companies, methods used to move the funds and the

destinations. The FIU discovered that GBP305, 000.00 and GBP 250, 000.00 were held in bank accounts and shares respectively.

ARID were granted a recovery order. The case is ongoing.

117. The case above indicates the value of the FIU's intelligence reports used by LEAs in tracing and restraining of assets of suspected criminals. The FIU also made disseminations to a number of LEAs as follows:

TABLE 5: DISSEMINATIONS

Type	Reported to	2013	2014	2015	2016	June 2017	Grand Total
Investigator	ADSU-Police	0	0	2	2	5	9
	ARID	70	71	33	11	8	193
	CCID-Police	0	0	0	0	1	1
	Customs	22	16	12	14	4	68
	ICAC	65	62	48	40	20	235
	Police-	0	36	16	29	6	68
	MRA	22	16	12	14	4	68
Grand Total		157	185	111	96	43	592

118. The LEAs regard the intelligence reports from the FIU to be of good quality and helpful in identifying and investigating potential cases of ML and associated predicate offences. Table 5 shows that there has been a decrease in the number of disseminations made to LEAs. The FIU attributes this trend to improved analysis of transaction reports which has led to better quality financial intelligence disseminations. The dissemination of reports to the Police is unnecessarily cumbersome and has resulted in unreasonable delay in initiating investigations. The FIU delivers the reports to the Commissioner of Police who in turn sends them to the officer in charge of the relevant department as required by the normal internal administrative channels.

119. All competent authorities interviewed shared that they make requests to and use FIU information to support their investigations. The LEAs made 460 requests during the period 2012 to June 2017. However, there is no available statistics on the breakdown by LEA and for what purpose. Further, the LEAs do not keep record of the requests made to the FIU and feedback received. As such, the Assessors could not determine the number of requests made by which institution and for what purpose in order to determine the extent to which such requests support operational needs of the LEAs.

120. The FIU does not conduct strategic analysis on a systematic basis due to a lack of human resources. However, it carried out a study in relation to drugs and produced a report in 2016

which informed government policy on drugs¹⁴. Other than this specific project, the FIU has not conducted strategic analysis to inform stakeholders, including investigative authorities of ML/TF related patterns and trends. The FIU does hold ad-hoc meetings during trainings with competent authorities to share information on trends and patterns of ML and TF. This has a significant impact on the effectiveness of the AML/CFT framework given that a deep, cross-sectoral understanding of ML/TF trends and typologies helps to identify ML/TF risks, inform policy, strategic initiatives and trainings.

Cooperation and exchange of information/financial intelligence

121. To some extent, the FIU and competent authorities in Mauritius cooperate, coordinate and exchange information to combat ML and associated predicate offences. The FIU provides information to LEAs and other relevant public bodies to support activities relating to detection and combating of ML. The conclusion is based on the nature and extent of: disseminations made by the FIU, requests for information made by the FIU to, and responses received from, the competent authorities, and requests for information made by the competent authorities to and responses received from the FIU; information from interviews with competent authorities; MoUs in place; presentations made by the FIU to competent authorities on general results of operational analysis; and participation in joint task forces. Further, the FIU assisted competent authorities to register and access goAML platform to enable competent authorities to exchange information. In that respect, most competent authorities indicated that they were using goAML platform to make requests and enquiries for information from the FIU.

TABLE 6: Intelligence/Information report type per year, 2012-2017

Type of Exchanges	2012	2013	2014	2015	2016	June 2017	Grand Total
Intelligence reports disseminated to competent authorities	226	354	161	200	419	136	1496
Request for information from LEAs	81	79	63	63	76	46	408
FIU requests to competent authorities	-	21	42	36	28	13	140
Total	307	454	266	299	523	195	2,044

¹⁴ Report of FIU on Drug Trafficking in Mauritius” dated 20/07/2016.

122. The FIU participated in joint investigations with ICAC and ADSU to investigate complex cases related to ML and associated predicate offences. Cooperation between agencies is demonstrated by the case example below.

Box 2: Example of Joint Investigations

In October 2007, a reporting institution filed an STR on an MC for deposits which were inconsistent with the MC's profile. The subject had been profiled as a house wife (subject) with an income of about USD15, 000 but fixed deposits of about USD800, 000.00 were being made into her account.

The findings of the analysis performed by the FIU indicated the following:

- The subject had a connection with a person (Suspect) who had incorporated a company in United States of America;
- The company was set up to sell financial products with very high returns to businessmen and individuals;
- The Suspect then set up complex financial schemes, used '*prete noms*', and set up many bogus overseas companies to defraud more than 500 individuals and misappropriated about EUR 30 million;
- The investigations also revealed that the Suspect was also arrested in Luxembourg;
- The FIU also identified that the MC was linked to the Suspect;
- The subject had about USD 589, 000.00 in her bank account;
- The subject had acquired properties to the value of about USD110, 000; and
- Funds had moved from the MC's account in Luxembourg prior to reaching her accounts in Mauritius.

The FIU shared the intelligence with ICAC and foreign counterparts. ICAC used FIU intelligence to guide its investigations. It then applied for and obtained attachment orders on accounts of MC and her properties and secured an order under section 62(1) of POCA on the accounts of the MC with certain derogations for payments of leases to banks and financial institutions in Mauritius. Since an ICAC order could be valid for a period of 60 days towards its expiry date, ARID applied for a restriction order against the same assets using its powers under the Asset Recovery Act.

123. Exchange of information with competent authorities is done in a secured way through goAML platform and dedicated personnel on either side. There are procedures and processes in place to safeguard and protect the information accessed, analysed, and disseminated for use by competent authorities. At the time of the on-site, there has not been instances where the confidentiality of the information exchange between the FIU and competent authorities had been compromised.

124. The FIU is a member of the Egmont Group of FIUs and exchanges information with other Egmont Group members using Egmont Secure Web System. It also shares information with other FIUs with which it has MoUs or other arrangements. It has shared information with most FIUs

within the ESAAMLG region and elsewhere in the world. The FIU receives feedback on requests made or information shared and also provides feedback to its counterparts on requests received.

125. In general, the FIU responds to requests it receives within 60 days depending on the urgency and complexity of the matter.

Table 7: Exchange of Information

Requesting Authority	2012	2013	2014	2015	216	June 2017
Requests from other FIUs	41	66	52	92	83	32
Requests to other FIUs	119	152	136	196	139	57
Totals	160	218	188	288	222	89

126. Information shared by FIU with other bodies is shared in terms of Egmont principles and or follow confidentiality arrangements such as use of encrypted emails contained in the information exchange mechanisms for non-Egmont members.

3.3 Overall conclusions on Immediate Outcome 6

127. The FIU receives STRs, and has access to information obtained through open sources, domestic competent authorities and foreign counterparts which is used to carry out analysis and produce financial intelligence and information for dissemination to LEAs. However, access to information held by ICAC and MRA is statutorily restricted and the FIU does not receive currency threshold reports. The quality of financial intelligence and other information disseminated to LEAs by the FIU is considered to be of reasonable quality to sufficiently contribute to identification and investigation of potential ML and TF cases. There are serious concerns with respect to the relatively small number of STRs from FIs operating on the global business sector, the MCs and Registered Agents and other DNFBPs. The FIU does not have resources to enable it to conduct strategic analysis on a systematic basis which could inform LEAs and other stakeholders ML/TF patterns and trends.

128. *Mauritius has achieved a moderate level of effectiveness for IO 6.*

3.4 Immediate Outcome 7 (ML investigation and prosecution)

Background

129. The authorities in Mauritius provided five LEAs responsible for investigating different types of crime:

The Independent Commission against Corruption (ICAC)

(a) The ICAC is statutorily mandated to investigate ML offences and TF offences (to the extent that it relates to ML as a predicate offence). The Department of Investigations in ICAC is headed by a Director and it is further divided into two Units, one to investigate ML & TF and the other one to investigate corruption cases. The two Units are led by Assistant Directors and have 10 chief investigators and other officers of lower ranks. The Investigations department has an establishment of 74 officers with 25 of them in the ML & TF Unit. The officers in the department have varying qualifications, including in banking, accounting and legal. The minimum experience required is ten years for those who are from the Police Force (and are without any qualifications). The officers also receive regular training in different aspects of ML. Based on this information, the assessors concluded that the ICAC had on average good resources to enable it to sufficiently identify and investigate ML cases, which in practice they do, as will be explained below.

(b) Mauritius Police Force

The MPF has the following departments relevant to ML/TF:

i. **The Central Criminal Investigations Division (CCID)** is the central investigative authority in Mauritius. It is a division in the Mauritius Police Force. It is composed of the following Units: Maritime Crimes; Scene Crimes; Cyber Crimes; Financial Crimes; Crimes Record; Special Cell, Land Fraud, DNA, Minor Brigade and INTERPOL. The CCID has an establishment of 312 officers. It is headed by an Assistant Commissioner of Police, who is assisted by three Superintendents. Of the Units mentioned, the Financial Crimes Unit is a specialised unit set-up in September 2016 to investigate crimes of fraud, embezzlement, theft, organised crime and ML. At the time of the on-site visit this Unit was still quite young to enable the assessors to determine its effectiveness in terms of identification and investigation of ML cases.

(ii) **Anti-Drug & Smuggling Unit (ADSU):** The Police, in order to fulfil this mandate to investigate drug and smuggling related cases, it formed the ADSU. ADSU is headed by a Deputy Commissioner of Police, who is supported by officers of various ranks, including 3 superintendents, 6 deputy superintendents, 10 chief inspectors, 21 inspectors. The Unit in total has 354 officers. ADSU has six teams with each team composed of 25 to 40 officers. The work of officers in the Unit is supervised by Superintendents and their Deputies. The work

is divided into three levels: First level which deals with simple operations is composed of one or two officers, the second level is composed of a full team under a Chief Inspector plus reinforcements of up to 70 – 100 from the other Units of the Police depending on the nature of operation, and the third level is commanded by the Deputy Commissioner or other senior officers of the Unit and carries out special operations using investigative techniques such as controlled delivery and targeting suspect houses. Officers in the Unit have received specialised training, including in intelligence gathering, criminal analysis operations, inquiries and investigations. Some of the officers are trained overseas and also continuously receive in-house training which is at times conducted by foreign institutions¹⁵. Although the Unit has powers to use specialised techniques including undercover operations, it acknowledged that it requires more training in this area as officers were relying on senior officers who were using their experience acquired from having served in the MPF for a long time. Despite some of these deficiencies, the assessors were satisfied that ADSU is well resourced to carry out its functions which is augmented by reinforcements from other Units of the Police when needed.

(c) **Mauritius Revenue Authority**

The Mauritius Revenue Authority (MRA) has the power to investigate and prosecute cases under the Revenue Laws. The Customs Department detects physical cross-border transportation of currency or bearer negotiable instruments.

ML Identification and Investigation

130. The ICAC and CCID use the primary sources of dissemination reports from the FIU; informants; other forms of intelligence; hotline, anonymous letters, whistle-blowers; social media; referrals from other LEAs and Ministries; the general public; and from their own initiative. In addition to the FIU, ARID also gets its information or cases from ICAC, CCID and ADSU. As earlier pointed out in IO 6 above, the statistics from the FIU and those from some of the LEAs (CCID and ADSU) did not match. There is a big discrepancy between FIU and LEAs provided statistics. It is therefore, likely that some of the reports from FIU are not investigated or acted upon by the LEA and if they are, there is poor retaining of such statistics by LEAs. The Table below shows the stated discrepancy:

Table 8: Discrepancies in Dissemination Reports from FIU to LEAs and Those Received by LEAs.

Institution	2012	2013	2014	2015	2016	2017	Total
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¹⁵ At the time of the on-site, the assessors were informed that some of the officers had just undergone a two-week in-house training conducted by the Canadian Royal Police on criminal analysis.

FIU	0	65	62	48	40	20	142
ICAC	27	48	27	18	12	10	142
FIU	0	0	0	0	0	1	1
CCID	0	0	36	16	29	6	87
FIU	0	0	0	2	2	5	9
ADSU	0	0	2	2	7	5	16
FIU	0	70	71	33	11	8	193
ARID	0	70	71	33	11	8	193
FIU	0	22	16	12	14	4	68
MRA/CUSTOMS	0	22	16	14	11	5	68

131. Though there is a discrepancy in the statistics, there is a good working relationship between FIU and all the LEAs in that the FIU sends dissemination reports to LEAs (especially to ICAC) that they have used to identify and initiate ML and other criminal investigations. The LEAs informed the assessors that the dissemination reports from the FIU are of good quality and that they are able to make a determination on whether they should initiate investigations or not and the type of investigations to be instituted. The dissemination reports are put to good use by ICAC as shown in Table 9 below.

132. Between 2012 and June 2017, CCID instituted 101 ML investigations based on the dissemination reports received from the FIU. Around 90 of the 101 reports were investigated for ML. Ten (10) cases were submitted to the DPP Chambers on predicate offences of drug trafficking, swindling (embezzlement) and Ponzi Schemes. The DPP declined prosecution on 3 cases. Seven (7) cases were prosecuted which resulted in 3 convictions (2 on drug trafficking and 1 on internet fraud charges). The 2 drug trafficking convictions involves the value of 300,000 and 200,000 rupees and attracted fines of 50,000 and 25,000 rupees respectively. The two conviction cases led to ML prosecutions whose outcome was not provided. The internet banking fraud conviction involved 7,000 US Dollars and the sanctions was not provided.

133. ADSU, on the other hand indicated that they instituted ML investigations based on the dissemination reports received from the FIU and that all the cases were still under investigations. A specific case of where an arrest had been made for drug dealing based on an investigation instituted from a dissemination report relating to a person found in possession of a 43g plastic sachet of heroin with a street value of MUR 795,000.00 was provided by the Authorities during the on-site visit. In addition to ML investigations instituted from FIU's dissemination reports, between 2012 and June 2017, ADSU investigated 29 cases of ML under the Dangerous Drugs Act. Only 5 of the 29 cases were concluded and no prosecution was initiated on any of the cases. The DPP advised that no further action should be taken due to lack of evidence on all the 5 concluded cases while in one (1) case, the suspect was allowed to go for reasons that were not provided. 23 cases were still pending enquiry. From the provided statistics, it could be concluded that, officers in ADSU lack capacity and skills to competently investigate and deal with ML investigations.

134. Since 2012, the ICAC has instituted 135 ML investigations from the dissemination reports received, which represents 95% of the total reports received from the FIU (see Table 9 below). Out of this number, 16 cases were suggested for prosecution resulting in four (4) convictions. The number of suggested prosecutions (16) and convictions (4) is relatively lower compared to the number of investigations (135) that were instituted. Eighty-One (over 60%) cases were discontinued after preliminary or further investigations, while some were discontinued based on the advice of the DPP. This also could be an indicator that ICAC, though having adequate human resources, could be lacking in-depth skills to investigate and prosecute ML offences.

135. In addition to the ML investigations initiated from the dissemination reports, ICAC received 732 ML reports and 4,034 corruption reports from information they obtained from other LEAs (22 reports) and other sources (710 reports) between 2012 and 2017. Out of the 732 reports, ICAC instituted 583 ML investigations of which 210 cases were concluded and only 54 went for prosecution or are pending prosecutions resulting in 38 convictions. The total number of ML convictions by ICAC between 2012 and June 2017 is therefore, 42. However, this number is different from another set of detailed statistics that ICAC provided indicating that they had 65 ML convictions involving a total of MUR84,308,053.50 laundered money. The courts imposed fines as sanctions on all cases except on five (5) cases where the convicts were given a custodial sentence. The fines range from MUR2,000.00 to MUR1,000,000.00. From the convicted ML cases, the authorities provided that there were 66 cases that had related predicate offences of swindling, embezzlement, drug trafficking, forgery, larceny in receipt of wages and illegal bookmaking. However, this number (66) is different from the number of convictions (65) which is also different from the 42 convictions that the authorities provided as convictions from cases initiated from FIU dissemination reports and other sources. It is difficult therefore, for the

assessors to determine as to which set of statistics is correct and on which to base the assessment. This may be an indication of poor record keeping.

136. There has never been any TF investigation that ICAC has carried out. However, the authorities indicated that the investigators in ICAC are well capacitated with skills to carry out a successful TF and related financial investigations.

137. All cases that are not corruption & related ML, are referred to the Police. In such cases, there is need to consult the complainant for consent due to the confidentiality clause (s. 81) and ICAC cannot proceed with the transfer if the complainant refuses to consent which happened in one case.

Table 9: Number of ML and Corruption Investigations by ICAC from FIU Disseminations and Other Sources

	2012	2013	2014	2015	2016	2017	Total
ML Investigations (Other Sources)	64	87	62	102	148	120	583
Concluded (PI & FI Discontinued)	0	17	43	74	76	0	210
Prosecuted/Pending Prosecution	0	16	13	12	13	0	54
Convictions	11 ¹⁶	9	5	6	5	2	38
FIU Disseminations	27	48	27	18	12	10	142
ML Investigations	25	47	26	16	11	10	135
Discontinuations after PI and FI/NFA by DPP	20	25	20	12	03	01	81
Cases suggested Prosecutions	04	09	03	0	0	0	16
Convictions	0	03	01	0	0	0	04
Corruption Investigations	556	521	475	469	500	260	2,781
Concluded (PI & FI Discontinued)	0	486	433	459	465	0	1,843
Prosecuted/Pending	0	22	25	18	17	0	82

¹⁶ The number of prosecutions (11) are likely those coming from previous years prior to 2012.

Prosecution							
Convictions	7	7	5	9	17	5	50
Convictions	7	7	5	9	17	5	50

138. ICAC has the power to gain access to information from data base of Registrar of Companies, Registrar of Associations, Mauritius Revenue Authority, National Transport Authority, Registrar General and Civil State Office during investigation. In addition, ICAC also uses other investigative techniques such as domestic controlled delivery and undercover operations, which also include surveillance. However, ICAC does not have general powers of arrest, it can only do so relating to specific cases. In most of the cases, it engages the Police to do arrests on its behalf and the authorities confirmed that this arrangement does not always work out for the best interests of ICAC as in one case, the Police refused to carry out the request. The present arrangement causes operational challenges to ICAC.

139. From the Tables above, there are indications that from 2012, ICAC is using financial intelligence reports from the FIU to identify and investigate ML cases. The reports from the FIU also support on-going ML investigations and associated predicate crime involved, especially by ICAC and ARID (see IO. 8). However, as earlier stated in I.O 6, the LEAs do not have a clear feedback mechanism to FIU or the other LEAs on the status or results of the cases they had referred to them. The feedback mechanism is ad hoc. Between 2012 to June 2017, FIU referred 92 cases to the DPP from which 70 were lodged in court for prosecution while 22 were not lodged in court for prosecution for various reasons ranging from No Further Action was advised (11 cases), further enquiry was needed (2 cases), warnings were issued (4 cases) and still under the DPP consideration (5 cases).

140. All the LEAs with investigative powers (ICAC, CCID, ADSU and MRA) have not adopted a prosecution-led investigation approach to ML and predicate offences. In this regard, there is no prosecutor assigned to the investigators to assist in evidence-gathering throughout the life-span of a case. However, the authorities stated that they do seek legal advice and direction from the DPP and in-house attorneys during investigations when needed. Assessors are of the view that a more prosecution-led investigation approach would have the potential to enhance cooperation among the investigative authorities and the prosecution office, and would contribute to efficient use of scarce resources and enhancement of the quality of the evidence obtained.

141. The MRA identify tax evasion and fraud cases which they investigate. Some of the cases are referred to them from other agencies or from informants. MRA does not normally focus on the criminal part of tax evasion and fraud as predicate offences of ML in their investigation. Instead, they focus on the assessment of the tax and collecting revenue. Once the assessed taxes and fines are imposed and collected, the case is closed. However, in a situation where the Director- General has reasonable ground to suspect that a person has acquired unexplained

wealth of 10 million rupees or more, he makes a written report to the Integrity Reporting Services Agency in accordance with s. 9 of the Good Governance and Integrity Reporting Act 2015, specifying the full name and address of the person and the sum of the unexplained wealth. This is done under Section 4A of the Income Tax Act. The reporting is not on the tax evasion but suspected unexplained wealth. However, the data provided to the assessors (as indicated in Table 18 in IO 8 below) shows that between 2012 and June 2017, MRA conducted 1,210 tax evasion investigations which yielded 2,958,000,000.00 tax yield and using their delegated prosecutorial powers lodged 386 cases for prosecution. Out of the 386 cases, 48 cases were dismissed, 25 cases were struck out while 286 resulted in convictions and fines of a total 44,785,153 rupees. There is no single case that resulted in a custodial sentence or ML investigation. Between 2014 and 2017, MRA referred 142 cases of tax evasion to the DPP which MRA indicated that they were prosecuted but their outcomes not provided.

142. The information provided by the authorities during the on-site show that there are no impediments when it comes to the timeliness in which competent authorities can obtain or access relevant financial intelligence and other information required for their ML investigations. Joint investigations between different competent authorities are possible and have been carried out though not so often. In these investigations, several available investigative techniques have been used. The authorities provided five cases (three cases involved joint investigations among domestic LEAs while the other two cases involved joint investigations between domestic and foreign LEAs) where LEAs came together to conduct big and complex investigations. One of the cases involving a joint domestic investigation by the ICAC, ADSU and FIU is summarised in Box 3 below:

Box 3: Gro Derek Case

The subject was arrested in a controlled delivery exercise. 12kg of Heroin valued at MUR 180 million was involved. The subject was used as a principal witness in the case against 10 other individuals involved in the drug ring. He explained the modus operandi of the drug importation i.e. that drugs from Madagascar are thrown in the high seas and collected by rapid interceptor boats and then buried until delivery and distribution. Some of the subjects were convicted and their cases finalised while others have lodged an appeal against the conviction.

There were coordination meetings organised to define the role of each authority in line with powers conferred to them under their respective legislations. Financial information was promptly secured by FIU and forwarded to LEAs as part of profiling and assets tracing exercise. Prompt restraint of assets was made by LEAs based on the defined roles each authority was given in the Task Force meetings.



143. The authorities also provided two other cases that involved joint investigations between the domestic LEAs and International Agencies. One of the cases summarised in Box 4 below involved joint investigations and cooperation of four jurisdictions, Mauritius, UK, Lithuania and Spain. It involved the Attorney General’s Office, Police, FIU, ARID and DPP’s Office in Mauritius and Overseas LEAs from UK, Lithuania and Spain.

Box 4: Operation Sassak Case

In July 2015, the Mauritian FIU received information from a representative of the National Crime Agency (UK) that a major drug trafficker operating between the mainland Europe and the United Kingdom was laundering proceeds of crime through the global business sector. The FIU gathered all information on the suspects (including but not limited to financial information, company information, travel movements etc.) The information gathered was shared with the UK authorities. In December 2015, the FIU received a visit from the UK investigators to share information and details about the investigation. A meeting was also organized with the Attorney General, who is the Central Authority for Mutual Legal Assistance in Mauritius. More information was shared in 2016. Lawyers from the Crown Prosecution Service visited Mauritius to work with the local authorities on the request for mutual legal assistance.

In early 2017, all requests for mutual legal assistance were officially received and the ‘day of action’ was set for 28 March 2017. On March 2017, an operation consisting about 300 police officers in four jurisdictions was conducted. It entailed simultaneous arrests, restraining orders, execution of search warrants in four jurisdictions in order to take down the entire organized crime group and prevent any dissipation of assets. Premises were searched and several persons were arrested in the UK and the drug leader was arrested in Lithuania. Search warrants were also executed in Mauritius and bank accounts restrained. Properties were also restrained in Spain. The different authorities are still continuing to deal with the case in their own different jurisdictions.

144. The Mauritian competent authorities do seek and provide international co-operation to enable ML investigations. The assistance is sometimes obtained through bilateral arrangements between agencies but normally it is obtained through MLA requests.

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

145. Due to the absence of the NRA, Mauritius has not come-up with a National AML/CFT strategy for coordination and implementation of investigation and prosecution strategies against ML and associated predicate crimes. All LEAs indicated that the major risk facing the country is drug trafficking which poses a huge threat to the youth. The ADSU gets additional support from the NSS, SSU, SMF, NCG, Helicopter Squadron, Drug Section, Marcos of the NCG and GIPM to deal with some of the major drug situations and ADSU is reasonably equipped to deal with the problem although they would welcome more resources if availed. ADSU also indicated that the drug traffickers use the ports and the sea routes outside the ports to bring the drugs into Mauritius. With the latter one, the authorities explained that the drugs are thrown out of the cargo ships whilst they are still at sea and the traffickers use small boats to go and pick the drugs. The authorities have concerns with the importation of heroine, in particular. The authorities noted evidence that some of the youths and students are using the heroin at domestic level. It has been established that Mauritius is not a transit point but a final destination of the drugs for local consumption. It was the common understanding of all LEAs met that drugs are of high value in Mauritius.

146. The authorities provided statistics that show that more cases relating to dealing in drugs and drug trafficking are being investigated in line with country’s threat and risk profile identified. Between 2012 and 2015, ADSU investigated 10,858 cases relating to drugs from which 884 prosecutions were lodged by ADSU resulting in 6,092 convictions were made as shown in the table below. However, there are no sanctions provided for the convictions making it difficult for the assessors to determine their effectiveness, dissuasiveness and proportionality.

147. During the same period (2012 – 2017), ADSU refereed 47 cases to DPP on drug offences (importation/possession of heroin and cannabis) on which 31 convictions were made and all given custodial sentences ranging from a minimum of 8 years to a maximum of 30 years. ADSU indicated that they have conducted and concluded 54 ML investigations over the past 5 years. However, the authorities did not provide further information regarding the said 54 ML investigations and their subsequent prosecutions. The statistics therefore, could not decisively indicate that the type of ML investigations and prosecutions are consistent with the perceived risk profile of Mauritius.

Table 10: Number of Cases for Possession, Dealing and Importation of Drugs by ADSU

Year	Cases Investigated	Cases Awaiting Trial / Judgment	Convictions ¹⁷	Dismissed	NFA	Struck Out	Pending Enquiry

¹⁷ The number of people convicted on one drug offence case can be more than one since most drug cases involve several people. As such, the number of convictions (counted per person) is more than the number of cases prosecuted. There is more than one accused person per each case. Secondly, some convictions were obtained on cases that were not lodged and prosecuted that year.

2012	1,612	76	1,395	9	43	1	87
2013	1,448	128	1,166	12	51	2	85
2014	1,781	107	1,508	8	55	4	93
2015	1,805	188	1,351	1	40	5	220
2016	1,889	312	642	1	21	6	904
2017	2,323	73	30	0	2	0	2,218
Total	10,858	884	6,092	31	212	18	3,607

148. ADSU stated that the five (5) main types of drugs being trafficked in Mauritius are Buprenorphine, Cannabis, Hashish, Heroin and Cocaine. In the period six (6) years (2012-2017), the investigated cases related to Buprenorphine, Cannabis, Hashish, Heroin and Cocaine led to the seizure of 91,813.459 grams and 16,956 tablets/seeds of drugs with an approximate street value of MUR 812,152,372.5 as shown in Table 11 below. However, the provided data is inconclusive as it does not indicate whether the cases were eventually prosecuted, cases where there was conviction and the sanctions imposed or are part and parcel of the cases provided in Table 10 above.

Table 11: Street Value of Drugs (Buprenorphine, Cannabis, Hashish, Heroin and Cocaine) seized by ADSU between 2012 and 2017.

Year	Quantity (Grams)	Quantity (Tablets/Seeds)	Street Value (MUR)	Number of Arrest Made
2012	897.999	6,951	22,824,747.50	24
2013	22,828.79	5,919	226,716,235.00	40
2014	14,630.08	1,950	178,295,130.00	34
2015	19,944.96	0	158,995,392.00	21
2016	7,700.33	2,136	95,712,894.00	24
2017	12,905.65	0	129,607,974.00	15
Total	91,813.459	16,956	812,152,372.50	158

149. Other prevalent cases investigated by CCID are: Theft, Fraud and Robbery. In a period of three years (between 2012 and 2015), 53,650 cases involving the above offenses were reported leading to 20,011 convictions. However, these cases did not lead to ML investigation as the value of the prejudice in most larceny cases is usually very small and would not justify an ML investigation (eg theft of mobile phones). As such, the authorities did not provide a breakdown of how many ML investigations/prosecutions/convictions by these predicate crime

type and how these cases are prioritised in terms of the risk profile of the country other than the drug cases.

Types of ML cases pursued

150. ICAC has developed and shown an interest and demonstrated a fair ability to pursue prosecution of all three types of ML cases and the predicate offences of corruption. Based on the results of the investigations and confiscations, most of the proceeds being laundered in their various forms in Mauritius are generated from local predicate offences. Particularly, these are proceeds from drug trafficking and Ponzi schemes. Mauritius pursues all three types of ML investigations and prosecutions. ICAC has a fair idea and understanding of the different types of ML cases they prosecute and they have prosecuted two cases of foreign predicate offences. They provided statistics to demonstrate that they prosecute and obtain convictions for a range of different types of ML including third party offences, stand-alone offences and self-laundering. Although the DPP's chambers had a general knowledge of money laundering they did not have any cases to demonstrate that they were able to determine and prosecute the various types of money laundering and they had not prosecuted any foreign predicate offences.

Effectiveness, proportionality and dissuasiveness of sanctions

151. Only ICAC provided comprehensive statistics on the sentencing such as the amount laundered, fine imposed and prison terms on the ML cases they prosecuted and secured convictions on. Out of 65 ML convictions involving a total of MUR84,308,053.50 laundered money, the courts imposed fines as sanctions on all cases except five (5) whereby the convicts were given a custodial sentence. The fines range from R2,000.00 to R1,000,000.00. The sanctions which were mainly fines do not appear effective, proportionate and dissuasive. Though MRA provided data on the sanctions for the tax evasion cases, they were not on ML neither did the cases lead to any ML case. Similarly, though the DPP secured 31 convictions on drug offences and all given custodial sentences ranging from a minimum of 8 years to a maximum of 30 years which on the face of it appear effective, proportionate and dissuasive, there are no indications that the cases were linked to ML. ADSU had not prosecuted and secured any conviction on ML while CCID did not provide any statistics on ML convictions and sanctions to determine their effectiveness. This presents a challenge for determining whether the overall ML sanctions are effective, proportionate and dissuasive.

Other criminal justice measures where it is not possible to secure a ML conviction.

152. Mauritius has not demonstrated that it has properly and successfully applied other criminal justice measures in cases where a ML investigation has been pursued but where it was not possible, for justifiable reasons, to secure a ML conviction. However, authorities provided examples where other measures were used in situations related to investigation and prosecution of predicate offences. In 2 cases, the DPP advised that disciplinary action had been taken against public officials pertaining to corruption offences where the investigation had not revealed the serious offence of corruption but rather breach of duties by the public official in the course of his/her functions. In addition to other criminal justice measures, alternative sanctions were applied in two cases where the DPP instructed that warnings be administered against the

concerned individuals because the cases involved minor corruption offences and in other four cases, a breach of s. 5 of FIAMLA relating to limitation of payment in cash.

3.5 Overall conclusions on Immediate Outcome 7

153. Mauritius has used its legal and institutional framework to investigate and prosecute ML offences. However, the outcome of ML investigations and prosecutions did not appear to be in line with the risk profile of the country. In addition, there was no evidence that authorities (except in ICAC) regularly pursue ML in conjunction with the predicate offence, third party ML or self-laundering. Although the DPP's chambers had a general knowledge of money laundering they did not have any cases to demonstrate that they were able to determine and prosecute the various types of money laundering and they had not prosecuted any foreign predicate offences. The authorities did not provide comprehensive statistics to support conclusions on the effectiveness of the sanctions applied against convicted persons on ML offences. LEAs especially the CCID and ADSU lack skills and some training in investigating the different types of ML cases especially on how to effectively use the financial intelligence received from the FIU to initiate parallel financial investigations and ML investigations. There are no prosecution-led investigations in all the LEAs (ICAC, CCID, ADSU and ARID) that could timely and properly guide the investigators on the evidence needed to prove each case. Except in ICAC, there is no formal feedback mechanism by ADSU, CCID, ARID and other law enforcement agencies to FIU on the progress of ML cases referred to it.

154. Mauritius has achieved a moderate level of effectiveness for Immediate Outcome 7.

3.6 Immediate Outcome 8 (Confiscation)

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

155. In general, Mauritius has a relatively sound legal framework for provisional and confiscation measures related to ML, TF and associated predicate crimes. It provides adequate tools for detection, restraint and confiscation of instrumentalities and proceeds of crime especially for domestic criminal offences. It also provides for a sound non-conviction based civil recovery regime.

156. The ARID is formed in terms of the Asset Recovery Act and it is headed by the Director of the FIU, who in terms of the Act is the Enforcement Authority. Under the Director, there is a Chief Investigations Officer, who is assisted by 7 officers and they are all police officers from the CCID. ARID is responsible for dealing with asset recovery matters. At the time of the on-site, ARID was fully operational and executing its mandate as per the law. However, ARID does not

have adequate resources to sufficiently exercise this mandate. At the time of the on-site visit, it was outsourcing the services of attorneys either from the Attorney General's Office or from private practice to make provisional and confiscation applications in court on its behalf. It also does not have an Asset Manager, to manage the recovered assets or disposal of the assets. When it wants to dispose some of the confiscated assets it has to contract the services of MRA to do the auctioning of the assets. Further, ARID officers do not have the necessary skills/ expertise to enable them to competently conduct a forensic financial investigation. Given the amount of work which ARID is seized with, it was concluded that it does not have adequate resources to effectively carry out its mandate.

157. ARID referrals for asset recovery investigations are received from the Police, DPP, ICAC and FIU. The cases are referred to ARID following enquiry from LEAs and FIU as per the criteria (a) all offences committed for benefit involving a total amount of 100,000 rupees or above; (b) all drug dealing cases involving amount of 100,000 rupees or above; (c) all cases where the police have seized money amounting to 100,000 rupees or more in circumstances which are deemed suspicious; (d) instrumentality cases where a vehicle, house or other valuable property was used in the commission of the offence; and (e) any other cases which the Division/Branch/Unit deems fit for referral to the Enforcement Authority.

158. Once LEAs have referred cases to ARID, upon receipt ARID re-starts its own investigations to trace all the assets involved with the case. This includes checking records at the banks and registries and interviewing and recording statements (this is regardless of whether the LEAs referring the cases had earlier recorded statements) from both witnesses and suspects in order to determine the Net Worth of the individual and link of the property to crime. The process raises concern as it results in possible duplication of gathering of information which might have been obtained already by other LEAs during their investigation of the criminal case leading to unnecessary delays in the confiscation process. ARID would benefit more and recover proceeds of crime more efficiently, if it also inherited the information which will have been gathered already by the other LEAs during their investigations before handing over the recovery cases to it. This would also lead to efficient use of resources which ARID scarcely has.

159. It was noted that once ARID has conducted their investigations and found out that the property is linked to the ML or predicate offence being investigated by LEAs, they apply to a Judge in chambers for a Restraining (where forfeiture is going to be conviction based) or Restriction Order (where forfeiture is going to be civil based) on the property to prevent the flight and disposal of the asset. The court can take two months before it grants the order. If the forfeiture is going to be conviction based, once the order is granted, ARID does nothing apart from waiting for the conclusion of the prosecution and conviction of the suspect on the ML or predicate offence. If the suspect is convicted, ARID goes ahead to make a separate application for

a Confiscation Order of the property involved with the criminal case. However, if there is no conviction, ARID returns the property to the owner. ARID highlighted that since most of the cases relate to conviction-based forfeiture and require that it has to wait until the person is convicted to commence forfeiture proceedings on assets involved, which often takes time, it at times sells the assets involved in order for them not to lose value and then keep the money. In the event of the person being later acquitted they give back to the person the amount realised from the disposal of the assets. There is also a Recovered Asset Committee to properly monitor the funds generated from the disposal of such assets.

160. With the enactment of the Asset Recovery Act, ARID had started to pursue civil recoveries. The powers in relation to civil confiscation can be applied to any property, including cash, whether or not any proceedings have been brought for an offence in connection with the property. There are some cases that the authorities provided to indicate that they pursue, as a policy objective, confiscation of proceeds and instrumentalities of crime.

Table 12: Number of Cases Referred to ARID from 2012-2017

Year	ICAC	Police	FIU	ARINSA	DAFO*	Total
2012	1	57	0	0	0	58
2013	8	103	14	0	0	125
2014	1	127	4	1	0	133
2015	5	100	16	0	0	121
2016	1	80	1	0	0	82
2017**	-	37	5	0	75	117
Total	16	504	40	1	75	636

* The defunct Drug Asset Forfeiture Office. All its cases were passed over to ARID when it ceased to function.

** Data up to June 2017

161. The statistics show that in the period 2012 and June 2017, 636 cases which were referred to ARID resulted in only 55 ML cases being pursued. Out of 55 ML cases, there were only nine (9) conviction-based confiscations by ARID and property or assets valued at MUR 6,908,244.77 was confiscated. The number of ML cases (55) and confiscations (9) are too low compared to the number of cases (636) referred to ARID. The proceeds of the confiscation included cash, moveable and immovable property. Effective measures are in place to ensure that the restrained and confiscated property are preserved and managed adequately. Once cash is confiscated, it is

transferred into the Recovered Assets Fund while moveable property are looked after by either the Recovery Manager or a Trustee. The immovable property is left at its location until it is sold and the funds deposited into the Consolidated Account. Table 13 below shows the trends of confiscations between 2012 and the time of on-site.

162. Apart from the confiscations involving ML cases, between 2012 and 2017, ARID restrained and restricted property involved with drug dealing cases. ARID obtained 8 Recovery Orders, 103 Restraining Orders and 6 Restrictions orders in 392 drug dealing cases it dealt with. The restrained and restricted properties included 12 portions of land, 2 houses/apartments, 12 cars, MUR 15, 140,233.46 and other monies in various foreign currencies.

Table 13: ML Confiscations by ARID between 2012 and 2017

Year	Number of Cases Referred to ARID	Number of Resultant ML Cases	No. of Confiscations	Value of Confiscated Property (MUR)
2012	58	1	0	0
2013	125	23	1	993,000.000
2014	133	5	4	4,869,715.00
2015	121	18	1	59,433.75
2016	82	5	3	986,096.02
2017	117	3	0	0
Total	636	55	9	6,908,244.77

163. However, during the face-to-face meeting with the authorities, ARID provided a different and detailed case by case set of statistics that showed that between 2012 and 2015, they received 438 cases from LEAs. There were no statistics for 2016 and 2017. Out of the 438 cases, only 26 are in under restraining orders pending court judgments and 48 are still under investigations. The majority of the cases (367) have been closed and no further action has been taken. There has been only 1 confiscation in 2013 on an electronic fraud case, the value of the confiscation was not indicated. This shows that there is poor record keeping and ARID lacks capacity and skills to handle and deal with a huge number of cases referred to them from LEAs and the confiscation regime in Mauritius is operationally lacking which hampers the effectiveness of the whole regime. Table 14 below shows the statistics.

Table 14 Number of cases referred to ARID

Year	No. of Cases	Cases Pending Judgements / Under Restraining Orders	Cases Under Investigations	Cases for No Further Action (NFA)	Confiscations
2012	55	5	1	49	0
2013	126	12	11	102	1 ¹⁸
2014	136	1	10	125	0
2015	121 ¹⁹	8	16	91	0
Total	438	26	48	367	1

164. Following successful prosecutions, ICAC has confiscated cash and, land and a house valued at MUR3,591,908.12. The confiscation was on a total of eleven (11) cases. Ten (10) forfeitures were on predicate offences (6 drug dealing offences, 3 larceny offences and 1 swindling). Only one forfeiture was on ML under section 5 of FIAMLA

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

165. There have been no cases where the Mauritian authorities initiated seizure or confiscation of assets which were in or had been moved to other countries. However, the authorities coordinate with ARINSA whenever they need information in a foreign jurisdiction regarding any proceeds of crime. Mauritius has not yet seized and confiscated proceeds of crime based a request from foreign jurisdictions. At the time of the on-site visit, there was a case that the authorities were investigating in conjunction with a foreign jurisdiction that is likely to lead to confiscation of proceeds and instrumentalities of crime in Mauritius. Restitution of property does happen especially when the case has been concluded in court and the accused has been acquitted. However, the situation of such cases has not yet occurred in practice.

166. No formal arrangements for asset sharing are in place in relation to the proceeds and instrumentalities of crime, property of an equivalent value, involving domestic offences.

Table 15: Number of Investigations/Prosecutions Conducted and Completed by MRA

	2012	2013	2014	2015	2016	2017	Total
No. of Investigations Completed	105	169	192	229	211	304	1210
No. of Cases Lodged for	97	95	80	79	9	26	386

¹⁸ The confiscation was on Electronic Fraud Case and the value of confiscation was not indicated.

¹⁹ There are six (6) cases which status was not indicated.

Prosecution							
No. of Cases that Fines after Prosecution	77	81	55	51	3	19	286
No. of Cases Dismissed	12	4	12	13	5	2	48
No. of Cases Struck Out	8	6	6	4	1	0	25
No. of Cases Still in Court	0	4	7	11	0	5	27

167. MRA concluded the below tax evasion investigations and audits between 2012 and 2017. Some of the cases were lodged for prosecution. Between 2012 and 2017, MRA recovered through court fines a total of 44,785,153 rupees from the tax evasion investigations and prosecutions that were conducted. Out of 386 cases that went for prosecution between 2012 and June 2017, 286 resulted in convictions/fines while 48 were dismissed and 25 were struck out. 27 cases were still in court. None of the 286 convictions resulted in any confiscation. The confiscation on tax evasion as a predicate offence of ML is therefore non-existent in Mauritius.

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

168. Mauritius has a legal framework to implement cross-border currency and BNI requirements albeit with some deficiencies. Travellers leaving or entering Mauritius are required to declare cross-border currency and BNIs above 500,000 rupees and any undeclared excess found after searching the traveller is subject to a fine. In practice, however, if someone is found not to have declared cash but there are no other substantive reasons to suspect that either the origin or intended use of the cash is linked to unlawful conduct, MRA neither confiscates nor forfeits the cash. The authorities indicated that without a suspicion, there may not be sufficient *prima facie* grounds for confiscation of the cash. The assessors were informed that even in those rare cases where a substantial amount of undeclared or falsely declared cash is detected, it would not be confiscated. The traveller is just charged a penalty of 500,000 rupees under section 131A(5) of the Customs Act ²⁰ and left with the undeclared or falsely declared currency or BNIs and neither is a criminal case opened against the traveller. Between 2013 and 2017, there were 186 inbound and 54 outbound cases where the undeclared or falsely declared funds at SSR

²⁰ ²⁰ The Customs Act was recently amended in July 2017 after the onsite and Section 131A (4) of the customs states that: Where a proper officer reasonably suspects that the amount of currency or bearer negotiable instruments declared under subsection (1) or (1A) and detected, if any, pursuant to subsection (3), may involve money laundering, the financing of terrorism or any other criminal offence, he shall forthwith –(a) refer the matter to the Police and, at the same time, where required, pass on the relevant information to the FIU;(b) in the case of an outgoing passenger –(i) detain the amount of currency or bearer negotiable instruments in his possession; and (ii) remit the amount of currency or bearer negotiable instruments detained to the Police.

International Airport were not confiscated as depicted in Table 16 below. The total amount of money was equivalent to 169,856,643 rupees and 46,591,717 rupees for inbound and outbound respectively. The money was in different currencies like US Dollars, Australian Dollars, Euros, Pound Sterling among the major currencies.

Table 16: Number of cases where Undeclared and Falsely declared funds were not confiscated between 2013 -2017.

	2013	2014	2015	2016	2017	Total	Amount Involved (MR)
Inbound Cases	37	40	42	41	26	186	169,856,643
Outbound cases	22	5	10	7	10	54	46,591,717

169. The authorities explained that a mere non-declaration of cross-border currency and BNIs does not warrant a confiscation as it is not provided for in the Customs Act. Confiscation of the undeclared currency and BNIs can only be done if there is an ongoing investigation on the travellers. It is only in rare cases where it is suspected that there may be issues of money laundering that the matter is reported to Police. For a period of 10 years (2007-2017), there were only eight (8) cases that MRA referred to Police for investigation due to failure to declare and false declaration of cross-border currency. In 4 of the 8 cases, the accused were convicted and fined 50,000 rupees. Three (3) cases were dismissed, while one (1) case is still under investigation for possible ML. All the cases involved the outbound of currency involving 5 Mauritians and 3 other foreigners. All the cases were detected at SSR International Airport.

170. The available information does not demonstrate that the confiscation measures regarding falsely or undeclared cross-border movement of currency and BNIs that are suspected to relate to ML/TF or associated predicate offences currently applied in Mauritius are effective. There is also a very limited application of the powers to detain cash or BNIs that are subject to non-declaration or false declaration for further investigation. Although Customs is mandated as part of its duties to request travellers to declare cross-border currency and BNIs, these powers are hardly used effectively. Cases related to instances where travellers had not declared cross-border movement of funds and BNIs and were just fined and not investigated or prosecuted were confirmed by the authorities. This regardless of the fact that there are high values of inbound and outbound cash showing the potential risk Mauritius is exposing itself to ML/TF risks by failing to temporarily detain some of false/non-declared amounts to determine whether they might be associated with ML. The amounts of cash coming into or going out of Mauritius were quite high requiring the authorities to give more attention to cross-border transportation of cash to ensure that it is not abused.

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

171. There is evidence through statistics to suggest existence of national policies making confiscation of proceeds of crime in many forms, a priority and objective of the country despite the absence of the NRA results. However, there is no evidence to support that the authorities put enough or considerable effort on the confiscation of cross-border currency and BNIs that have not been declared or falsely declared. From the statistics on major predicate offences provided to

the assessors, it is apparent that the authorities despite having not conducted the NRA, are aware of the offences likely to generate proceeds that can be laundered and the authorities demonstrated to the assessors the policies and strategies which have been developed to prioritise these offences as means of mitigating the ML/TF risks associated with them. There is no breakdown of the confiscations by predicate offence provided despite the assessors requesting for the data. All the institutions mentioned drugs and drug trafficking as the main threat and risk to the country and in mitigation of the risk, the authorities established the ADSU within the Police to investigate all drug related offences. It further established ARID which is mandated to confiscate any proceeds and instrumentalities of crime linked to drug and other predicate offences. As narrated above, the authorities through ARID have initiated the confiscation process of proceeds and instrumentalities of crime on a number of properties involved in drug dealing offences, which is the main ML threat and risk in Mauritius.

3.7 Overall conclusions on Immediate Outcome 8

172. While Mauritius has a sound legal framework for freezing and confiscation of criminal property, in general the implementation of the measures is not extended to undeclared or falsely declared cross-border currency and BNIs. There is lack of adequate human resource and technical skills in ARID to enable timely asset tracing and confiscation. ARID has successfully done much on confiscation since its establishment. The referring of cases to ARID by ICAC, CCID and ADSU to initiate provisional measures and confiscation of proceeds and instrumentalities of crime delays the confiscation process and leads to duplication of work and inefficient use of resources which can be channelled to other law enforcement activities. There is average retention of statistics relating to both provisional and confiscation measures taken by competent authorities. Of the major proceed generating offences that have been identified, there are inadequate measures which have been taken to mitigate the ML/TF risks which they pose.

173. **Mauritius has achieved a low level of effectiveness on Immediate Outcome 8.**

CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

4.1 Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9: TF Offence

1. The authorities demonstrated different levels of understanding of TF risk, which appeared to be generally low. The main emphasis of the authorities appeared to be more related to terrorism than TF offences. There did not appear to be much focus on parallel financial investigations.
2. Authorities did not provide evidence of TF being identified or investigated and no assets were identified or seized in relation to TF. Consequently, there have been no prosecutions for TF. This was despite CTU demonstrating a general understanding of the TF risks.

3. Mauritius is not able to effect interim freezing measures without a court order being obtained and some reporting entities indicated that they would use their discretion to freeze assets suspected to be assets associated with TF.
4. The CTU appeared to have the minimum capacity required to gather intelligence for the purposes of combating Terrorism and TF offences and a good knowledge of the risks associated with TF. Mauritius however does not have sufficient capacity among the Police that would be able to disrupt a TF offence or identify, track or seize assets connected with a TF offence.
5. Since the TF offence is not criminalised in a manner consistent with the TF Convention, Mauritius does not have the ability to fully apply measures to ensure that the entire scope of TF and associated predicate offences can be effectively prosecuted.

Immediate Outcome 10: Targeted Financial Sanctions Related to TF

1. Mauritius does not effectively implement targeted financial sanctions (TFS) in terms of UNSCR 1267 and 1373, mainly because of serious technical deficiencies that are inherent within the framework of applicable laws and regulations (as described under the discussion of R.6).
2. Mauritius does not have effective mechanisms to make its own designations of individual terrorists pursuant to UNSCR 1373.
3. The mechanisms for dissemination of the UN sanctions list to the concerned entities is ineffective leading to considerable delays. The circulation of the List is for information purposes since specified entities lack guidance and legal basis to implement TFS.
4. Mauritius has not yet identified the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse. As a result, no targeted oversight is undertaken in relation to NPOs at the risk of TF abuse and authorities are not conducting any outreach on TF risks to the NPO sector.

Immediate Outcome IO. 11: Targeted Financial Sanctions Related to PF

1. Mauritius does not have both a legal and institutional framework, nor has it come up with any mechanism to implement TFS relating to proliferation.
2. There is very little awareness in regards to implementation of TFS relating to proliferation amongst the reporting entities in Mauritius.

Recommended Actions

Immediate Outcome IO. 9

Mauritius should:

1. Revise its legal framework with regard to the TF offence in order to make it consistent with the TF Convention and allow authorities to be able to detect and disrupt the full scope of TF and associated predicate offences.

2. Revise its legal framework and implement measures to ensure that it is able to apply interim measures without undue reliance on court orders which leads to delays.
3. Ensure greater collaboration among the various LEAs in relation to the combating of terrorism and the detection and prosecution of TF offences, and establish a clear strategy for dealing with TF matters in line with the risk profile, including as an international financial center.
4. Carry out parallel financial investigations in addition to all counter-terrorism investigations.

Immediate Outcome IO.10: Targeted Financial Sanctions Related to TF

Mauritius should:

1. Amend and implement a legal framework and have mechanisms for the implementation of UNSCRs 1267 and 1373 in terms of the Revised FATF Standards.
2. As a matter of priority, develop adequate systems and procedures to enable implementation of targeted financial sanctions (TFS) without delay and issue guidance to FIs/DNFBPs on how to implement TFS requirements in practice.
3. Develop a system of circulating the Sanctions Lists which does not result in the duplication of the function by different competent authorities to avoid confusing the reporting entities in terms of reporting in case of positive match.
4. Carry out TF risk assessment in the NPO sector including the charitable trusts to determine which of the NPOs might be exposed to TF risk.
5. Take measures to assist the NPOs which may be at high risk of being abused for TF purposes without necessarily interfering with their legitimate activities and make the NPOs aware of the possible risk of them being abused for TF by carrying out targeted TF related outreach.

Immediate Outcome IO.11: Targeted Financial Sanctions Related to PF

1. The authorities should establish a legal, regulatory, and institutional framework to monitor, supervise, and effectively implement TFS related to proliferation.
2. The authorities should build awareness and provide guidance on targeted financial sanctions related to proliferation to reporting entities, specifically with regards to sanctions evasions.
3. Competent authorities should monitor and ensure that reporting entities are complying with the obligations relating to implementation of targeted financial sanctions related to proliferation.

The relevant Immediate Outcomes considered and assessed in this chapter are IO9-11. The Recommendations relevant for the assessment of effectiveness under this section are R.5-8.

4.2 Immediate Outcome 9 (TF investigation and prosecution)

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

174. Mauritius, at the time of the on-site visit, had not yet carried out TF risk assessment but from the interaction with the different LEAs and other competent authorities, the assessors got the impression that there was a low understanding of the TF risk. In addition, the Police and the other competent authorities did not place much emphasis on the TF risks compared to that of the terrorism offence. TF as an offence is not criminalised in a manner consistent with the FATF Standards and as a result the different types of TF activity do not apply to individuals and terrorist organisations as required by the FATF Standards.

175. The competent authorities, other than the Counter Terrorism Unit (CTU) as will be described below, have not determined the TF risks posed by TF activities connected to individuals and terrorist organisations. The situation is further complicated by the Authorities' belief that TF is of low risk in Mauritius due to the absence of any known terrorist activity having occurred before. However, this understanding is not based on any TF risk assessment. There is a potential threat of using the financial sector to collect funds from different sources abroad and using them to serve terrorist activities outside Mauritius, using the Mauritian financial sector as a transit point. There had not been prosecutions of any type of TF activity in Mauritius at the time of the on-site visit. The assessors could therefore not determine the consistency of prosecution and convictions with the country's TF risk-profile or that if TF was to happen it would be successfully prosecuted.

TF identification and investigation

176. The Special Cell which is under the CCID is specifically designated to investigate complex crimes including terrorism and TF cases. Within the Special Cell, there is a team of 5 officers headed by a Chief Inspector that is dedicated to investigate TF. Only 3 of the 5 officers have been trained on TF investigations. At the time of the on-site visit, the Cell had not investigated any cases related to either Terrorism or TF but the authorities indicated that it was carrying out inquiries based on four intelligence reports received from the FIU to determine whether the cases were connected to terrorism or TF. The assessors therefore could not determine whether the Cell was sufficiently resourced and trained to identify and investigate terrorism and TF cases. Although ICAC had powers to investigate TF in terms of the Act establishing it, such powers can only be exercised where the TF offence is a predicate offence or ancillary offence to a ML offence. At the time of the on-site visit, ICAC had not investigated any TF offence.

177. The CTU is responsible for gathering, analysing terrorism and TF intelligence and disseminating the information to the investigating authorities and the FIU. The Unit was formed in 2009 and at the time of the on-site visit it had 20 officers, which were described as adequate to carry out its work. The Unit is further aided by the National Security Service (NSS), which is a branch of the Police meant to gather information on any threats to Mauritius. The NSS provides the information it gathers to the Prime Minister's Office through the Commissioner of Police and also to the CTU and FIU. The NSS had 172 staff at the time of the on-site visit. However, the NSS

was of the view that although proceeds generated from dealing in drugs could be high, such proceeds are not linked to TF. Since the creation of the CTU, the NSS dealt less with TF intelligence as these were then directly being dealt with by the CTU.

178. The CTU uses secure communication mechanisms with counterpart intelligence agencies. It has a wide range of sources for obtaining information including from other intelligence networks it shares information with. It has a data base of people coming in and going out of Mauritius, data base of the criminal activities in Mauritius and those involved and it also receives the UN Sanctions List, which it uses to check through its data base to see whether or not the indicated individuals have ever visited Mauritius. For purposes of preventing or disrupting TF, the CTU does risk profiling of visitors based on their places of origin and destinations and targeted surveillance, where necessary. Where the CTU sees the possibility of violent extremism, it monitors the identified people for any escalating levels of radicalisation, which it said it was still able to control and that it is able to track their movements. The CTU cooperates with LEAs and supervisory bodies in Mauritius in order to disrupt the transmission of suspected terrorist funds although they had not had occasion to do so. They further indicated that they were able to identify suspected terrorists and provided a gazette notice indicating a local designation by the Prime Minister. Further, the CTU is also aware of the vulnerabilities associated with the NPO sector relating to TF and where it sees potential risks it does checks relating to the NPO's funding and passes on the information to the FIU. Although, the CTU had not yet come across a case of TF other than the cases of Mauritians living outside Mauritius, who had been associated with terror activities, it was able to demonstrate that if it was to come across a TF case it would be able to identify it and take necessary action.

179. Mauritius has a Security Intelligence Committee which deals with the national security of Mauritius and has membership from the Ministry of Home Affairs and the Police and the Anti-Drug and Smuggling Unit (ADSU). The Committee shares information with various intelligence institutions within governments in the SADC region as well as the Indian Ocean and Asian Region. Mauritius signed an agreement on intelligence sharing with Indonesia which resulted in the broadening of the number of intelligence agencies that Mauritius can collaborate with. The authorities emphasised that the arrangements they were entering into were meant to ensure that they can share information in a timely and informal manner without having the need to go through formal MLA processes.²¹

180. Although the Special Cell in the CCID is responsible for identifying and investigating TF, assessors observed no connection between it and all the other Agencies especially CTU, NSS, FIU and ICAC as the authorities confirmed during the onsite visit that no TF cases were referred to it (Cell) to investigate though there were some incidents of TF. There was also no information that

1. ²¹ The authorities also indicated that they were also in the process of developing a draft national counter terrorism strategy and action plan, which would be a public document for use by the law enforcement agencies and various stakeholders.

the Cell receives any of the intelligence on TF gathered by the other competent authorities to carry out its investigations. Overall, Mauritius is not effective in identifying and investigating TF cases.

181. TF is generally subject to STR reporting requirements to the FIU. The CTU, ICAC, ARID and the Police receive lists of UN designations and indicated that they are able to track asset movement and identify assets held in Mauritius or transiting through Mauritius. TF offences are generally not criminalised in the absence of a specific terrorist act and, as a consequence, Mauritius is not able to identify and investigate TF in relation to individual terrorists and terrorist organisations where there is no terrorist act involved. The legal framework does not allow for the identification of the specific role of a terrorist financier as a result of the limited scope of coverage of the TF offence. The prosecution of terrorism and TF is the responsibility of the DPP.

182. With respect to the Global Financial sector, the Assessors noted important structures in both the FSA and the Trusts Act which limit law enforcement agencies' ability to investigate GBC licensees with respect to TF and terrorism offences. Under the FSA s. 83(3), the Supreme Court has limited powers to make an order for the disclosure or production of confidential information in relation to a corporation holding a GBL 1 or a GBL 2 licence except on the application of the DPP and then on being satisfied that the information is bona fide required for the purpose of any enquiry or trial relating to the trafficking of narcotics and dangerous drugs, arms trafficking or money laundering under FIAMLA. The Trusts Act has an identical provision as regards information relating to a trust (Section 33). This suggests that an investigation into terrorism financing or other major crimes not referred to in the section could not be pursued against a GBL or the parties to a trust. Under subsection 83(7) of the FSA, the exemption in (6) operates notwithstanding Mauritius' obligations under international treaties or other international obligations.

TF investigation integrated with -and supportive of- national strategies

183. TF investigations were not being carried out in Mauritius, at the time of the on-site visit. In addition, Mauritius did not have a national counter terrorism strategy. The risk of TF in Mauritius has not yet been assessed for it to be understood, and measures implemented to integrate with or support any national strategies.

Effectiveness, proportionality and dissuasiveness of sanctions

184. Mauritius has not successfully prosecuted and convicted any person of terrorism or TF charges. The authorities also did not provide information on any other measures, such as deportations, which have been taken against persons suspected of being connected to TF. At the time of the on-site visit, Mauritius had not designated any domestic individuals or groups to any of the UN bodies. The effectiveness, proportionality and dissuasiveness of the sanctions and any other measures which could be implemented by the authorities to deter TF activities could therefore not be determined.

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

185. There are no alternative measures being applied to deal with TF and there have been no prosecutions. As already discussed in the above paragraph, Mauritius has not deported anyone with the aim to disrupt TF or a terror activity. Although, the CTU uses techniques such as surveillance and data profiling of visitors, the authorities did not indicate that such information was being used for purposes of carrying out alternative measures to deal with TF.

4.3 Overall conclusions on Immediate Outcome 9

186. Mauritius has generally established institutional arrangements in order to prevent financing of terrorism as well as prevent actual terrorism acts. The focus of the various agencies appears to be on terrorist acts and predicate offences for ML while not much emphasis has been placed on the prevention of TF. As a result, TF is not investigated and no prosecutions have occurred. Overall the system in Mauritius does not appear effective in dealing with TF.

187. Mauritius has achieved a low level of effectiveness for Immediate Outcome 9.

4.4 Immediate Outcome 10 (TF preventive measures and financial sanctions)

Background and context

188. Mauritius has enacted several pieces of legislation over the last years to fight against terrorism and its financing, the most relevant of which are the Prevention of Terrorism Act of 2002 (POTA) and the Convention for the Suppression of the Financing of Terrorism Act of 2003 (CSFT Act). The Prime Minister also issued implementing regulations in 2003 (Regulations no. 14 and 36 of 2003, the Prevention of Terrorism (Special Measures) Regulations 2003 and the Prevention of Terrorism (Special Measures) (Amendments) Regulations 2003), which provide the framework for freezing measures. However, the laws are not broad enough to cover all the elements of TF and properties linked to TF. In addition, the mechanisms to implement the UNSCRs relating to targeted financial sanctions on TF are not sufficient. The legislative and regulatory frameworks have never been implemented and tested before the courts.

Implementation of targeted financial sanctions for TF without delay

189. The UN Sanctions list of designation made pursuant to UNSCR 1267 and its successor Resolutions is sent to Mauritius through its Ministry of Foreign Affairs (MoFA). The MoFA then forwards it to the Prime Minister's Office, with copy to the Ministry of Finance (MoF). The Prime Minister's office in turn sends the list and updates to the Commissioner of the Police, the National Security Service, the Passport and Immigration Office, Customs and the FIU, while the MoF sends them to the BoM and the FSC. This dissemination procedure is not set in law or regulation or is it set up as a clear written mechanism but is merely the result of the authorities' practice. The UN Sanctions List is received by authorities at least a week after it has been released by the UN Sanctions Committees. This is attributed to the authorities lacking a clear transmission procedure of the UN Sanctions Lists from the moment they are issued by the UN Sanctions Committees down to the stage when they are supposed to reach the reporting entities

in Mauritius. Though this was indicated by the authorities as the actual practice during the onsite visit, a declaration on terrorist entities was also made through a Gazette Notice No. 145/2016 issued by the Prime Minister on 09 February 2016 in accordance with s.10(1)(b) of the PoTA. Twenty days after the issuance of the Declaration (i.e., on 29 February 2016), the BoM issued a letter requesting all financial institutions to take actions with respect to the freezing requirements under Regulation 3 of the Prevention of Terrorism (Special Measures) Regulations 2003. However, it was found that the letter was issued after a considerable delay. Other supervisory authorities did not provide evidence that they write similar letters to institutions under their purview. Moreover, while the freezing measures can only be initiated upon the Prime Minister's declaration, they may be revoked at any time by either of the regulators (Regulation 6).

190. The mechanisms described above apply also to UNSCR 1373. The procedure to give effect to designations made pursuant to UNSCR 1373 and to the actions initiated by another country should, according to the authorities, be similar to the procedure applied in the implementation of UNSCR 1267. The situation is, nevertheless, entirely different in practice as the authorities maintained that no request had ever been made to Mauritius and no person's names (except some entities' names) were ever circulated under UNSCR 1373 or as a consequence of another country's freezing actions. Consequently, no measures have been taken to examine and, if appropriate, give effect to actions initiated under the freezing mechanisms of other countries. While it is difficult for the assessors to establish precisely whether this is indeed the case, considering other countries' experience, including that of other small jurisdictions around the world, it is possible that no request was ever made to Mauritius to freeze terrorist funds targeted under UNSCR 1373 or under another country's actions.

191. Dissemination to the private sector differs from one Regulator to the other. Only BoM and FSC indicated that they distributed the sanctions lists to their respective reporting entities. BoM forwards all amendments to the list to the FIs under its purview via email addressed to the institutions' compliance officers. It also sends the full updated UN Sanctions list where the latest amendments are highlighted. The lists and updates are sent to the financial institutions within a period ranging from a few days to three weeks after the UNSC has updated the UN Sanctions list. In its communication, the BoM requests the financial institutions to report back to the central bank, within one week, whether the persons and entities mentioned in the updates hold any account with the financial institution, and to seek the approval of the BoM before executing any request for transactions in respect of the identified persons and entities. The FSC initially used to send the UN Sanctions list and the updates to its licensees, with a request to review their files against the lists and to inform the FSC of the result of their review, but subsequently issued a circular letter which indicated the link to the UN website and an instruction that any transactions linked to the names on the list should be immediately reported to the FSC.

192. Some reporting entities indicated that they were using various software for names of designated persons and entities and that according to their procedures, if they were to detect that a transaction that was being conducted by a designated person or entity in contravention of the UNSCR, they would not immediately freeze such a transaction but would instead make a determination as to whether or not to process such a transaction. The reporting entities further

indicated that they had not recorded any transactions by designated persons or entities at the time of the on-site. Further, apart from entities under BoM and FSC, there has been no guidance provided to reporting entities on what action to take in case of a positive match. Some FIs and MCs were of the view that in case of a positive match, they would initiate a process to terminate their business relationship with the customer followed by returning the funds held to the customer while others were of the view that they would write to their regulators including the FIU to seek for instructions on what action to take. The lack of a comprehensive legal framework and guidance on how to implement UNSC Sanctions Lists undermines the effective implementation of the UNSCRs.

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

193. Mauritius has not adequately reviewed its NPO sector, including gathering of information of its size, activities, and an assessment of TF risks, as well as the adequacy of laws and other relevant features. While no risk-based approach regarding TF has been applied for the frequency of onsite visits, there is a checklist of special circumstances when associations can be subjected to inspections. These special circumstances are: (1) when a complaint is received on a charity; (2) when annual returns have not been submitted for two years; (3) when the annual accounts have not been correct for the last three years; (4) mutual aid associations given the amount of money that many of them hold (some of them hold 15–20 million rupees on behalf of members); (5) associations experiencing repeated problems (accounting, member disputes, or complaints); and (6) religious and sports associations experiencing repeated difficulties. The annual financial returns of NPOs are not analysed for purposes of identifying irregular transactions or which of the NPOs might be exposed to the TF risk. Therefore, resource allocation is not based on NPOs identified to be exposed to high TF risk. The oversight powers that supervisory authorities of the NPO sector have on the accountability and transparency of the funds being received by the NPOs are therefore not being adequately used.

194. Common matters to be resolved for associations are irregularities with the election of management boards, failure to file proper reports and some irregularities with accounting for funds received. While the above instances can be the basis to account for a significant portion of the financial resources under the control of the sector, the staff of the Registry of Associations and charitable foundations have no means of knowing which NPOs may be conducting international activities. While the NPOs are required by Section 23(1)(d) of the Registration of Associations Act to update the Registry with details of changes to their rules as part of the annual reporting process, this does not always occur. Although onsite inspections include a review of the type of association, no more detailed review is undertaken in the half-day inspection.

195. Mauritius' NPO sector is traditionally lightly regulated, with very little ongoing oversight of individual NPOs after their initial registration. Instead, Mauritius relies primarily on NPO's initiatives to ensure the good governance of the NPO sector. While these are focused on general good governance they do not include measures to prevent misuse of funds for TF purposes or look at the exposure to TF risks. The Registrars have not conducted outreach for NPOs with a

view to protecting the sector from TF abuse, nor is there any systematic outreach for promoting transparency, integrity, accountability or public confidence in the sector. There is a limited knowledge in relation to the UN list targeting financial sanctions against individuals and entities. The Registrars would welcome receiving training themselves and training for their respective sectors.

196. There are limited sanctions available to the Registrars of Associations and Charitable Foundations which also include cancellation of the registration certificate and compounding of offenses. In practice, they use their particular laws to take limited remedial actions and do not use any other sanctions against the NPOs.

197. There are no mechanisms for the sharing of non-public information with other authorities. In practice, the registry does not share information with other authorities. The Registrars of Associations and Charitable Foundations may refer a matter to the Police if they are of the view that a criminal offense has been committed. As at the date of the onsite, no case in relation to TF was referred to the Police. The preventative and investigative actions are not being taken regarding the prevention of TF.

198. The MoFA is the contact point for international requests. On occasion, the Ministry has forwarded such requests to the Registrar of Associations and he has provided information to the MoFA. Mauritius has entered into bilateral arrangements with the Government of the Republic of India, thereby facilitating the exchange of information between the Registrar of Associations of Mauritius and the High Commission of India. These requests have not been related to ML or TF in the Registrars' opinion.

199. Based on the above analysis, Mauritius has limited oversight of major fundraising NPOs. There may be scope to further develop awareness and oversight of all NPOs - for example through effective coordination and cooperation between the CTU and the Registrars. In view of this, Mauritius has not implemented a targeted approach in doing so for what appears to be two main reasons: (1) a lack of a comprehensive understanding of the TF risks faced by NPOs in Mauritius; and (2) a lack of expertise within the competent authorities to identify and address potential cases of TF abuse.

Deprivation of TF assets and instrumentalities

200. Mauritius has not found any assets of designated persons and has therefore not had an opportunity to apply in practice the mechanisms for freezing assets related to the UNSCRs. FIs and some of the DNFBPs are generally aware of their obligations to implement TFS when they encounter a transaction or assets belonging to a designated person or entity. Some FIs and MCs do receive the UNSC Sanction Lists from their supervisors based on which they would check against their data-bases to determine whether they have business relationships with listed entities. In any case, these reporting entities in the event of a positive match, would not have a legal basis to implement any sanctions or take any other action. In addition, the provisions under these laws do not cover the funds and other financial assets of those who finance terrorism.

201. The authorities and the reporting entities indicated that they were able to freeze assets and funds of designated persons and entities upon identifying the funds or assets and upon

obtaining a court order. The authorities further indicated that they were in the process of promulgating regulations for the implementation of targeted financial sanctions relating to UNSCRs 1267 and 1373 and their successor Resolutions pursuant to the Mauritian United Nations Act. The competent authorities did not share with the assessors any specific approach they have adopted to target terrorist assets. The authorities have not yet used tracing of assets and provisional measures to complement targeting of terrorist assets.

Consistency of measures with overall TF risk profile

202. The measures described by the CTU discussed under IO. 9 above, seem to indicate some of the TF risks that Mauritius might be exposed to. And some of the measures taken like categorisation of countries by their TF and terrorism risks and applying certain conditions of visa requirements and monitoring of movement of persons from some of the categorised jurisdictions, seem to show general implementation of measures related to TFS. While some competent authorities are implementing these measures, the main objective is to maintain law and order and not to prevent TF. As discussed under IO.9, apart from CTU, the LEAs did not appear to have adequate understanding of TF risks. Therefore, the assessors are of the view that measures being taken are not consistent with TF risk profile of Mauritius.

4.4 Overall Conclusions on Immediate outcome 10

203. Mauritius does not have a comprehensive legal framework and procedures to implement the UNSCRs, a situation which has led to delays in circulating the UNSC Sanctions Lists to FIs and DNFBPs. The authorities are not in a position to act with the expediency required to fight effectively against terrorism and TF. The current freezing mechanism is therefore considered ineffective. The authorities and reporting entities do not seem to have sufficient awareness to the procedures that should apply with respect to UNSCR 1267 and 1373. Authorities have not reviewed the NPO sector to identify members which are at risk of abuse for TF purposes. Lack of monitoring of the NPO sector for TF is aggravated by the lack of measures by authorities to understand TF risks associated with the sector.

204. *Mauritius has achieved a low level of effectiveness for Immediate Outcome 10.*

4.5 Immediate Outcome 11 (PF financial sanctions)

Implementation of targeted financial sanctions related to proliferation financing without delay

205. Generally, the same weaknesses pertaining to implementation of TFS relating to UNSCR 1267 and 1373, also apply to implementation of TFS relating to UNSCRs on proliferation financing (PF). Mauritius does not have legal and institutional frameworks in place as well as mechanisms to facilitate the implementation of TFS related to PF without delay in Mauritius. There are no guiding principles for competent authorities and reporting entities in Mauritius on how to deal with their obligations in relation to the financing of proliferation.

206. In contrast to the UNSCRs relating to the implementation of TFS with respect to TF, where there is some level of general awareness and some voluntary implementation measures are in place, this is not the same for PF.

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

205. Mauritius is vulnerable to PF due to the absence of any framework to identify assets or funds of designated persons and entities and to prevent PF transactions from being carried out. There are no administrative or voluntary mechanisms in place for reporting entities to apply measures relating to identified assets and funds held by designated persons or entities and prevent them from operating or executing financial transactions related to PF.

206. The authorities view identification of assets and funds held by designated persons or entities relating to PF and application of the appropriate measures as a new area which they still need to build expertise on, more or less along the same lines with the assets and instrumentalities relating to TF.

FIs and DNFBPs' understanding of and compliance with obligations

207. The FIs and DNFBPs' understanding of, and compliance with PF obligations cannot be determined as there is no legal framework setting obligations for them to comply with the implementation of targeted financial sanctions relating to PF. None of the reporting entities in Mauritius are guided by any framework to build on internal measures allowing implementation of targeted financial sanctions related to PF. The institutional framework to check on compliance with the implementation of such measures will need to be included in the current supervisory framework on AML/CFT. The DNFBPs have not started complying with other obligations of the AML/CFT legal framework in general, therefore they have not yet taken any initiative to comply with the UNSCRs relating to the combating of financing of proliferation on their own.

Competent authorities ensuring and monitoring compliance

208. Though the assessors observed that there were limited actions in practice with respect to the DPRK List, various competent authorities in Mauritius such as the FSC, FIU and BoM were not undertaking compliance monitoring for PF due to the absence of the appropriate legal and institutional frameworks for the implementation of TFS relating to the financing of proliferation. An appropriate institutional and supervisory framework to implement the compliance with the UNSCRs relating to PF will need to be incorporated into the existing supervisory framework on AML/CFT.

209. Although some of the DNFBPs have been complying with some of their obligations under the AML/CFT legal framework in general, they have not yet taken steps to comply with the UNSCRs relating to the combating of financing of proliferation.

210. Since there is an apparent lack of action taken by the authorities regarding the monitoring and assessment of the exposure of Mauritius' trade or possible financial connections to proliferation related sanctions contravention, the assessors are unable to determine the extent of risk of PF to Mauritius, especially given that it provides global financial services. There is no

mechanism for monitoring compliance with the implementation of TFS relating to PF. Mauritius provided action taken relating to relations with North Korea.

4.6 Overall Conclusions on Immediate Outcome 11

211. There is no legal or institutional framework in Mauritius to enable implementation of TFS relating to financing of proliferation by reporting entities. The authorities and reporting entities are not implementing their obligations on proliferation financing. There is generally very little awareness on TFS relating to financing of proliferation by some of the competent authorities and the reporting entities.

212. *Mauritius has achieved a low level of effectiveness for Immediate Outcome 11.*

CHAPTER 5. PREVENTIVE MEASURES

5.1 Key Findings and Recommended Actions

Key Findings

1. In general, FIs have a better understanding of ML/TF risks and application of AML/CFT controls than the DNFBP sector (with the exception of the MCs) mainly due to a lack of sustained outreach, training and supervision for compliance with AML/CFT measures.
2. For FIs, the level of understanding of ML/TF risks is largely dependent on the degree of international focus, sophistication and size of the business operations with the entities having these features demonstrating a high level of understanding of the risks that apply to them.
3. Many key obligations on preventive measures (including key CDD requirements on beneficial ownership, legal persons and arrangements among others) are not contained in the law or regulations but in Guidance Notes or FSC Code. In addition, exemptions to CDD are not supported by any analysis of risk and, in some cases, the exemptions that relied on a counterpart country's perceived level of compliance with FATF Standards were not borne out by FATF reports.
4. FIs in the global business sector place a strong reliance on the MCs to conduct CDD and other AML measures with respect to the operations of these licensees. ML/TF risk management and compliance is therefore concentrated in the MC sector. This means that compliance lapses by MCs have a ripple effect on the licensees whose compliance functions are administered by them. Further, MCs providing AML/CFT compliance functions to global business clients do not have sufficient capacity to carry out this function.
5. Commercial banks and MCs (where they are part of a larger group) leverage off the extensive global network and use of modern technology-driven tools to conduct CDD measures such as enhanced due diligence and monitoring and institutional ML/TF risk assessment used to risk rate the clients, transactions and delivery channels. The other MCs rely on customer declarations to ascertain beneficial ownership.

6. FIs and MCs demonstrated a good awareness of the salient features of legal arrangements and their use in corporate structures. More importantly, the majority of FIs and MCs demonstrated a good understanding of beneficial ownership obligations to identify the natural person behind the customer who ultimately benefits from the business relationship or transaction. However, banks indicated that there were varying standards among MCs on CDD and that they would not rely on a MC's CDD measures. The FSC compliance reports often cited MCs for weaknesses in their CDD procedures.
7. Most FIs employ automated transaction monitoring systems to detect and monitor transactions for purposes of reporting suspicious transactions to the FIU. The banking sector file the most STRs (distantly followed by MCs) whilst there is negligible reporting by the other reporting entities in the financial sector and the DNFBP sector.
8. The FIs interviewed have in place internal AML/CFT procedures and processes consistent with the size and risk of the businesses. However, there are concerns in respect of the size and resources of MCs which have compliance functions which are not commensurate with portfolio of business that they handle (which can include hundreds of individual licensees). MLROs appears to have adequate access to customer and transaction information across the business units of the FIs and DNFBPs which enables them to execute their functions.
9. Large FIs have automated systems to facilitate sanctions screening when onboarding customers and carrying out transactions. However, banks are instructed to report a positive match to supervisory authorities for further instructions. DNFBPs do not implement the requirements of TFS.

Recommended Actions

The authorities should take the following actions:

1. Take necessary legislative action to amend the FIAMLA to broaden the scope of preventive measures applicable to FIs and DNFBPs consistent with the FATF Standards. In addition, the authorities should issue regulations and enforceable guidelines within the scope of the FIAMLA to promote proper interpretation and implementation of the law by the FIs and DNFBPs.
2. Ensure that domestic FIs (other than large domestic FIs) and DNFBPs (other than MCs) conduct institutional ML/TF risk assessment to understand ML/TF risks posed by business relationships and transactions they engage in and implement AML/CFT obligations that apply to them taking into account the results of the ML/TF risk assessment once completed.
3. Take necessary measures, including outreach and compliance programmes, to ensure that DNFBPs identify and file STRs consistent with high risk consideration such as types of customers, transactions, jurisdictions and delivery channels. Ensure that players in the global business sector have systems to detect and file STRs to the FIU reflect the materiality and risk of the sector.
4. Ensure that the compliance functions of MCs providing AML/CFT compliance services to global business are commensurate with the ML/TF risks, materiality and complexity of the business operations.

5. On the basis of the findings of the NRA, revise all exemptions to reflect the findings of the NRA. In addition, other exemptions such as those relating to Eligible Introducers should be reviewed periodically to ascertain whether the countries in question are still compliant with FATF requirements.
6. Develop a statutory framework for MCs that would ensure that they have necessary resources commensurate with the size of their business and that they apply uniform standards. The framework should also seek to deal with conflict of interest situations that arise.
7. Regulators together with the FIU should conduct joint work with the Global financial sector to ascertain the reasons for the low levels of reporting in that sector. The FSC should be paying greater attention to the reporting levels of entities in the Global financial sector and deal with these issues in their inspection reports.

The relevant Immediate Outcome considered and assessed in this chapter is I04. The recommendations relevant for the assessment of effectiveness under this section are R9-23.

5.2 Immediate Outcome 4 (Preventive Measures)

213. The global financial services sector in Mauritius is one of the most developed in the region. Due to the nature of the financial services and products offered by the different types of FIs and DNFBPs in Mauritius, the country remains one of the preferred investment destination for high-net-worth non-resident customers. To this extent, the financial services and products offered in the country have a high degree of international dimension and therefore expose Mauritius to a substantial risk of attracting cross-border illicit financial flows for laundering and terrorist financing purposes. The assessors have identified that proceeds arising from drugs, cross-border cash couriers and politically exposed persons from outside of Mauritius pose a significant risk for laundering. It was further observed that complex multi-national company structures and cash-intensive businesses make the country vulnerable to ML risks.

Introduced business

214. Non-face-to-face customers and transactions are conducted mainly through group financial entities and DNFBPs using intermediaries such as MCs and Eligible Introducers (third parties) in respect of non-resident customers. Most of major international banks use eligible Group Introducers to carry out CDD on their behalf. FIs, in line with the FSC Code and BoM GNs, only dealt strictly with clients and transactions from the list of jurisdictions with equivalent AML/CFT implementation as determined by the supervisors. Some FIs indicated that they updated the 'equivalence status' based on their own internal risk ratings which resulted in some listed countries being internally classified as high risk and, as such, did not accept clients from those jurisdictions.

215. Mauritius subjects FIs and DNFBPs to AML/CFT obligations set out in the FIAMLA, the FSC Code, the BoM Guidance Notes and FIU Guidelines to mitigate ML and TF risks posed by both domestic and international business activities.

Understanding of ML/TF risks and AML/CTF obligations

216. The AML/CFT legal and regulatory framework requires FIs and DNFBPs to implement AML/CFT obligations when establishing business relationships and conducting transactions and to apply a risk-sensitive approach when doing so. As a result, FIs and MCs are generally aware of these obligations. In general, FIs demonstrated a better understanding of the ML/TF risks and AML/CFT obligations that apply to them than the DNFBP sector. Within the DNFBP sector, the MCs fared better.

217. In respect of appreciation of ML/TF risks, the assessors observed that the FIs had conducted institutional risk assessments on the financial services and products they offered. It was further observed that these FIs showed a significantly higher understanding of their risk relative to the DNFBPs (with the exception of the MCs). It was also observed that even within the financial sector, there is variance in the level of understanding of inherent ML/TF risks by the FIs. As for the DNFBPs (excluding MCs), it was found that only a very few of them demonstrated a reasonable level of understanding of risks.

Financial Institutions – ML/TF risks

218. Generally, all FIs interviewed displayed an understanding of the ML and TF risks facing them, albeit at a varying degree due mainly to the sophistication and size of the regulated entity. In particular, large domestic and foreign-owned or controlled banks have developed comprehensive institutional level risk assessments driven by technologically advanced risk models consistent with the group-wide requirements. This was also observed for securities firm with a regional group network. As a result, these entities implemented mitigating measures derived from detailed consideration of all relevant ML/TF risk factors to the nature of their business. These include lines of business, products, services, delivery channels, type of obligated business introducers, customer profiles and method of delivery channel. Money changers and foreign exchange dealers tended to set their parameters on the basis of volumes /value of transactions and the nationality of the person conducting the transaction. In general, FIs had set an overall risk appetite which assists in providing a strong basis for the application of a risk-based approach to the business relationships and transactions and risk-rated their customers, transactions and delivery channels as high, medium and low, usually using computer generated models.

219. This approach has led to these FIs taking into account their risk categorization to inform their risk appetite in respect of customer acceptance procedures, as well as the degree of the specific mitigating measures which should be applied. In some cases, banks were clear that they would not accept certain types of business outside of their risk appetite.

220. The majority of the DNFBP sector participants demonstrated little or no understanding of their ML/TF risks and AML/CFT obligations. The law firms interviewed indicated that they considered their international business activities as posing a low ML/TF risk since they do not handle cash. In addition, the firms take copious identification information and keep meticulous records for business purposes. However, they do not comply with specific AML/CFT measures such as those relating to beneficial ownership and source of funds. Furthermore, the view of the lawyers is not informed by any risk assessment. In the absence of a risk assessment at sectoral or a national level, the assessors could not verify the position of the lawyers in this regard.

221. The accountants, casinos, real estate agents and the dealers in precious stones displayed very little to no understanding of their ML/TF risks and AML/CFT obligations. The majority of DNFBPs were not aware of ML/TF vulnerability arising from the particular characteristics of their business activities. This is despite the fact that the FIU had issued guidance on application of risk-based approach to the DNFBPs for use as the basis for determination of inherent institutional ML/TF risks by focusing on types of clients, products/services, delivery channel, and geographical locations. The DNFBPs as a whole expressed an earnest need for guidance on promoting understanding of ML/TF risks facing their sector and understanding of AML/CFT requirements. (See IO.3 for further details).

222. By contrast, the MCs (who provide TCSPs services) demonstrated a higher understanding of ML/TF risks than the rest of the DNFBPs. This was due to the fact that MCs are legally classified as FIs in Mauritius and are therefore subject to licensing and AML/CFT regulation and supervision by the FSC and that they are the primary intermediaries between Mauritian financial institutions and non-resident clients. Some MCs had risk rating software which considered variables such as client location, source of funds and wealth, destination of transactions, type of client and nature and purpose of the business relationship or transaction to determine the risk categorisation. MCs have criteria (e.g., from a jurisdiction on a sanctions list, incomplete CDD information or use of an eligible introducer which has not provided the required CDD information) that would automatically rate a customer or transaction as high risk and thus require extra CDD measures. Based on the absence of the required records/information, the risk model will require the MCs to disengage the relationship.

223. In respect of TF risks, FIs and MCs demonstrated somewhat uniform alertness of the urgency with which instances of TF must be treated by following known mitigating procedures including informing the relevant competent authorities when identified. Furthermore, they gave a view that TF risk is low in Mauritius, but remained aware of the TF risks largely emanating from the region including making references to the fact that more stringent measures are being applied to customers and transactions emanating from countries identified as posing high risk for TF.

Application of risk mitigating measures

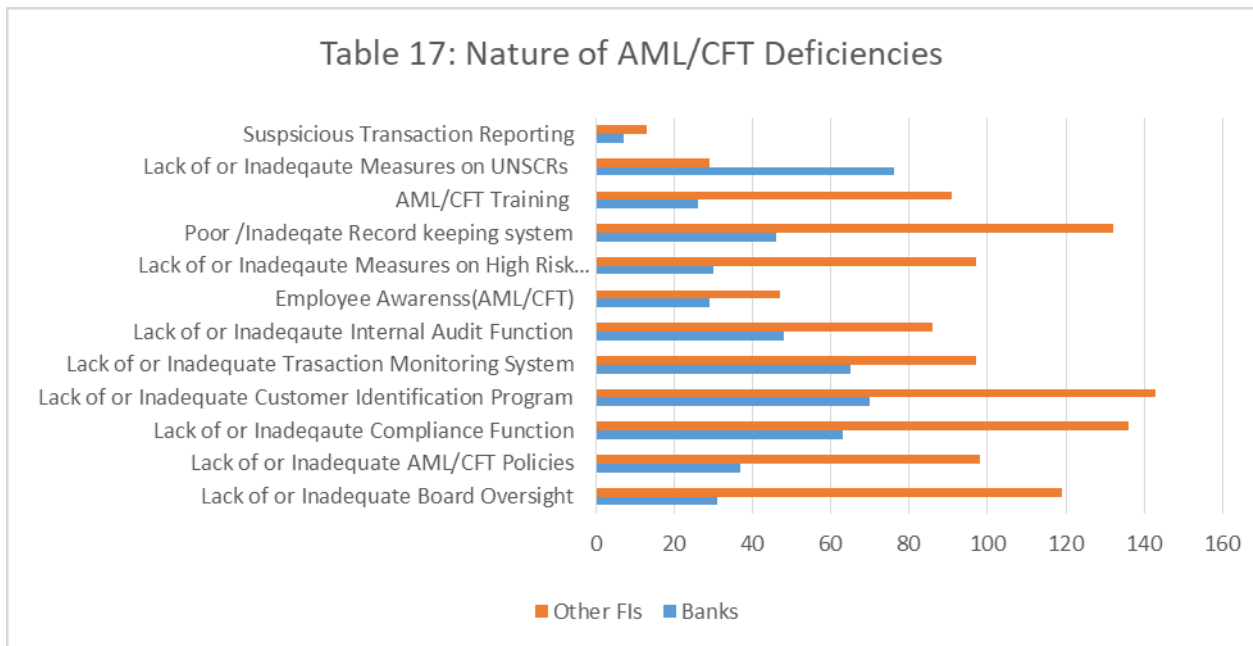
224. Assessors found that the practical application of the mitigating controls vastly differs between various FIs and DNFBPs. The regulators have provided guidance on what would

constitute high risk as a strong basis for the businesses to take into account when interacting with specific customers depending on the characteristics of the business activity engaged in. The most prominent high risk red flags relate to politically exposed persons, non-face-to-face customers and persons acting on behalf of a principal. The assessors noted that licensees including banks and MCs engaging in the Global Business sector often went above and beyond the prescribed mitigating controls in accordance with each entity's risk appetite. The assessors further observed that high risk industries such as the gaming industry (casinos), foreign exchange dealers (MVTs) and money changers were subjected to stricter due diligence conditions. The measures that were observed included several layers of scrutiny, approvals before and after accepting the business as well as on-going monitoring of the business relationship.

225. The majority of FIs in the global financial sector placed a strong reliance on MCs for carrying out CDD on international clients. A number of banks raised a general concern about the AML/CFT deficiencies in the MCs industry and differing standards in that industry. Compliance lapses by the MCs have a cascading effect on the overall compliance levels of their portfolio of financial sector clients. To address this concern, the FSC issued a specific guidance note in December 2013; Effective Customer Risk Assessment to serve as minimum standards in this area for MCs. Some banks made it very clear that based on their ranking of risk levels of the MCs and the AML/CFT in the MC industry, they do not accept business from all MCs.

226. In Mauritius, MCs play a dual role in respect of compliance with AML/CFT by the entities which may also raise conflict of interest issues. On the one hand, an officer of an MC may be appointed as its MLRO and, on the other hand, act as MLRO of the MCs' clients. In this regard, the assessors observed that there was a substantial concentration of the AML/CFT compliance risk management in the hands of the MCs as they were effectively carrying out the compliance function of the global financial sector. This exposed the non-bank financial institutions to ML/TF risks particularly as some MCs themselves have been identified (both by banks and in the FSC's examinations) as not having robust AML/CFT procedures in place.

Table 17: Nature of AML/CFT Deficiencies



227. The Table above indicates the AML/CFT deficiencies by the FIs (including MCs) based on the information gleaned from the inspection reports conducted by the FSC and BoM. As already observed, other than MCs, the other DNFBPs have not been inspected for compliance with the AML/CFT obligations. The GRA conducted a fact-finding exercise to get an impression on casinos' appreciation of AML/CFT obligations. Inspection reports availed to and analysed by the assessors also revealed that FIs (including MCs) understood and implemented AML/CFT obligations when establishing business relationships and conducting transactions. However, supervisory bodies confirmed breaches of CDD obligations as the most common occurrence based on inspections reports conducted between 2012 and 2016. The inspection reports also revealed positive trends in respect of compliance with CDD compliance requirements particularly adequacy of identification of customers and determination of source of funds. As for the FSC regulated entities, the assessors observed the inspection reports and interaction with the FSC and its regulated entities that there were major deficiencies in respect of verification of sources of income and wealth. Of concern was the fact that examination reports almost never cited low level of suspicious transaction reporting, when the data from the FIU indicates that non-bank FIs generally have weak records of making reports.

Application of enhanced or specific CDD and record keeping requirements

Customer Due Diligence measures

228. There is a high degree of consistency of the FSC Code and BoM Guidance Notes with the FATF Standards in respect of adoption of CDD measures. This has promoted understanding and application of the CDD obligations by the FIs. FIs and MCs demonstrated a good understanding of the CDD and record keeping requirements as set out by the BoM and FSC. With the exception of MCs, most DNFBPs demonstrated very little understanding of CDD requirements and some expressed the view that some of the requirements relating to CDD of beneficial owners or

principal were not possible to implement given the nature of their operations. There was clear evidence that casinos were seeking to implement CDD by putting customers on notice that identification would be required for entry.

229. The private sector uses various forms of identification documents for the identification of clients such as the national identity card, passport and driver's license. The private sector relied primarily on the National Identification Card to identify citizen clients as this was considered to be a reliable document as it does not expire. In Mauritius, it is a requirement for all citizens to obtain the National Identification Card (NIC) from the age of 18 years and the card is widely available to nationals. Further, evidence of address is obtained through various documents such as the utility bill, bank statement, and bank reference. FIs can carry out additional verification of identity through the telephone directory, voter's registry and visiting the applicant's permanent residential address. The small size of the country makes it relatively easy to access the clients for verification purposes. FIs licensed under the FSC can alternatively obtain a reference from a professional person who knows the natural person to verify an address.

230. FIs and MCs used commercial databases (such as World-Check) to verify customer identification as an independent source. The assessors observed that, in general, DNFBPs have little understanding and application of the requirements for verification of identity documentation using an independent source or by the issuing authority.

231. All FIs interviewed were aware of the need to refuse or terminate business if unable to obtain complete CDD information and many gave instances of where this had been done. However, few of the entities do not consider making a suspicious transaction report to the FIU.

232. Beneficial ownership (BO) requirements in the AML/CFT Guidance Notes/ Codes are generally well understood and all FIs and MCs interviewed confirmed that they would request information leading to the ultimate natural person behind the customer. Banks with international connections leverage off the group's central BO databases. MCs on the other hand tended to rely on client declarations and corporate structure charts which are expressly verified by clients. The FIs and MCs indicated that they would consider the source of wealth for a business relationship in order to satisfy themselves that they have found out the real beneficial owner of a legal person or legal arrangement. As allowed by the FSC Code, most FIs would seek a written declaration of the identity and details of the beneficial owner from the client. Some FI indicated that they would verify this information from additional written declaration from other reliable documentation such as articles of association, bank reference letters, minutes from meetings of shareholders, etc.

Enhanced EDD

233 FIs and MCs apply enhanced CDD measures on customers and transactions identified as posing high risk (e.g., money changers and politically exposed persons). The categories of persons assessed as posing high risks includes those named in supervisory guidance as well as those parties identified by licensees in their own institutional risk assessment exercises. Further, it was revealed that the private sector would apply various forms of information/data, risk

matrix formulation and software platforms such as World-check to determine the appropriate risk level for the application of enhanced CDD measures. The banks indicated that they employ automated transaction monitoring systems, while both banks and MCs have dedicated staff to manually check the relationships and transactions undertaken at every stage of the customer interaction which includes conducting a thorough investigation of alerts generated by the automated tools. They also applied more stringent measures such as increased account monitoring and senior management approval and scrutiny where EDD measures were warranted. It should be noted that other DNFBPs were unaware of enhanced due diligence requirements and viewed these measures with suspicion.

234. The assessors observed that the casino industry had limited understanding of ML/TF risks and therefore were unable to demonstrate an understanding of the appropriate treatment of high risk customers. As a result, the casino industry had no procedures to apply EDD measures despite agreeing with the assessors, the authorities and the private sector, that they pose a high risk to ML especially from drug operations.

On-going due diligence

235. Most FIs and MCs that were interviewed demonstrated a good understanding of the importance of on-going customer due diligence. Most invested in automated monitoring systems for purposes of fulfilling on-going due diligence requirements. The entities regulated by the BoM have implemented the installation of automated monitoring systems to monitor on a continuous basis all customers and transactions. The primary considerations for application of the automated system requirement are the materiality of the business (e.g., banks), cash-intensive nature of the business (e.g., money changers) and the delivery channel for the transactions (e.g., cross-border wire transfers through MVTs providers). Therefore, the measures for on-going due diligence are based on the relevant risk factors.

236. Information relating to adverse media on a customer, country risks, sanctions designations and FATF negative country statements are generally used to continuously monitor the customer. In the event that the system notices inconsistent customer behaviour, an alert will be generated and forwarded to dedicated staff to independently assess the validity of the concern. If necessary, the customer profile will be amended or a suspicious transaction report will be filed with the FIU. If the alert is found to be negative, the alert and any other information considered during this process will be kept in the record of the customer for possible future use and as evidence that the alert was looked into.

237. The assessors were informed by the FIs and MCs interviewed that the review of customers is done at regular intervals based on risk classification. For high risk customers, the review is once a year, or as and when a need arises. By contrast, low and medium customers are reviewed less frequently, ranging from two to three years, again unless there is a significant change in the profile of the customer. The constant reviews are undertaken by the FIs and the MCs to ensure that the business activities of the business relationship are consistent with the known profile of

the customer. Any changes in this regard will necessitate review and possible risk categorisation and thereafter determination for regular or high on-going monitoring.

238. Apart from banks and cash dealers, most of the FIs with a domestic focus (such as insurers, stockbrokers and credit unions) were using manual systems to conduct ongoing monitoring. The Insurance and Securities sectors was less sophisticated, with some being in the process of updating their systems for ongoing monitoring.

239. Money changers and foreign exchange dealers tended to set their parameters on the basis of volumes /value of transactions only. In July 2014, the BoM launched the implementation of the *XBRL-based online Reporting System*. Cash dealers are required to maintain centralized automated systems whereby all transactions conducted during the day are captured real time and submitted twice daily on the platform to the BoM. This enables the monitoring of large cash split transactions and suspicious transactions. The BoM has recently acquired a transaction monitoring tool, namely SWIFT Scope, which enables the BoM to conduct ongoing monitoring of transactions effected through SWIFT by financial institutions. The assessors observed that the measures put in place by BoM significantly improved the ability of the regulated entities to adequately apply on-going monitoring measures especially on the high risk customers and transactions in a uniform manner.

Application of EDD measures

(a) PEPs

Application of enhanced or specific measures

240. As stated above, the interviewed FIs apply enhanced CDD measures to all clients categorised as high risk. The requirements of the AML/CFT Guidance Notes/ Codes apply to both foreign PEPs and domestic PEPs. The FIs and MCs were generally aware of the requirements related to PEPs and would automatically treat them as high risk. Customers are required to execute as part of the on-boarding procedures a declaration as to whether the person or any of his associates is a PEP. Larger entities (in particular those with foreign focus) use commercial databases for the identification of PEPs. Banks were very confident in their measures to check whether a customer is a PEP or not, and they undertake such checks also for beneficial owners and apply all the enhanced CDD measures as required by the legislation.

241. Some non-bank financial institutions and less sophisticated MCs reported that they rely on the written statement of the customer and reported that whilst it was relatively easy to identify local PEPs they would welcome additional guidance on list of associates of domestic PEPs and advice on how to identify foreign PEPs. It appears very few FIs conduct the necessary checks to determine whether the beneficial owner of a customer is a PEP.

(b) Correspondent banking and Wire transfer

242. Commercial banks are aware and comply with the standards on wire transfers. Banks interviewed did not highlight any major difficulties in implementing requirements for

correspondent banking under the AML/CFT rules. Banks indicated that their transaction processing systems require all information on both outbound and inbound transactions and have attributed this compliance to the stringent requirements of the BoM for all banks to have in place automated transaction processing systems. In some instances, the banks carried out enhanced measures where risk was assessed to be high. They further explained their internal processes and experiences on how they deal with cross-border transactions which may lack the required information. In general, such transactions would not be processed as it will be against the cross-border wire transfer rules of the BoM. One bank indicated that they did not provide wire transfer services to walk-in clients.

(c) New technologies

243. All banks, FIs and MCs interviewed informed the assessors during the on-site visit that before introducing a new financial service/product, delivery method or technology, they normally conduct a product risk assessment that includes ML/TF risk factors, and determine the controls needed to mitigate any identified risk. This was further confirmed by the supervisors. Other DNFBPs did not have any requirement in their guidance to take the risks of new technologies into account.

(d) Targeted financial sanctions relating to TF

244. The legal framework for freezing for TF purposes is not clear nor comprehensive and the law does not contain clear procedures for freezing by FIs or DNFBPs and related concepts of de-listing and provisions for living expenses etc. The FIs and MCs interviewed were aware of their obligations concerning TFS relating to TF and have measures in place to comply and screen before the establishment of a business relationship, as well as during the course of the business relationship, for potential hits. Majority of the FIs, especially the large and well-resourced ones have commercial sanction screening software (such as World Check and RCD) acquired to enable them to screen transactions and customers on a regular basis. Banks and other FIs indicated that their contract documentation allowed them to carry out freezing. The smaller entities used manual systems to conduct sanction screening. In the event of a positive hit, FIs under BoM and FSC are advised to report to their respective supervisors. As for the rest of the FIs and DNFBPs, there is lack of clarity on the process and actions that should be taken such as freezing of the assets by the reporting (see IO.10 for more details).

(e) Higher risk countries identified by the FATF

245. All FIs and MCs met advised that they would not accept (or continue) business relationships with customers (or beneficial owners thereof) connected to countries on lists published by the FATF as having weak AML/CFT requirements. There appears to be confusion amongst the entities between the identified high risk countries on the list under the FSC Code and the FATF List. Furthermore, there were instances in which the FIs conflated the FATF list with countries falling outside the list of equivalent jurisdictions. There is a need for the authorities to implement robust measures in place to ensure FIs are advised of the jurisdictions that are currently categorised as high risk as the list on the Codes was outdated.

Reporting obligations and tipping off

246. FIs and MCs interviewed displayed a sound understanding of their reporting obligations. Table 3 (under IO.6) shows the breakdown of STRs submitted by the different categories of Reporting Entities, during the period between 2012 and May 2017. Most of the STR filed with the FIU were from FIs with over 88% coming from banks for the period under review. The reporting entities interviewed indicated that the STRs they reported were mainly related to drug trafficking and tax evasion. All banks and cash dealers were using the goAML platform to submit STRs and the authorities believe this has contributed to the increase in STRs from 184 in 2015 to 394 in 2016. The authorities attribute the low STR levels by DNFBPs (excluding MCs) to the lack of understanding of AML/CFT requirements by the sector and compliance monitoring by the respective supervisory authorities. However, the Assessors were concerned with the low levels of reporting from FSC licensed GBCs, which was substantially disproportionate compared to the size of this sector. MCs who carry out compliance function for these firms are the second highest reporters of suspicious transactions. There is therefore some disconnect as presumably the reports made by the MCs relate to transactions conducted with their FSC GBC licensees' clients.

247. The FIU has issued a list of indicators for each sector of reporting entities, which are tailored to the peculiarities of the sector and the business it undertakes. The BoM gives further guidance on examples of suspicious transaction in relation to ML and TF. Overall, the FIU reported that the quality of the STR was sufficient and that there was improved quality of the reports submitted over the past years. Authorities indicated that there were instances of defensive reporting especially from the smaller banks. About 40 to 50 % of MCs, 25 to 30% of accountants and only one law firm were registered on goAML as at the time of the onsite. The automated reported system made it easier for a validation of reports. Incomplete information, incomplete transactions, incorrect account information and missing KYC details were classified as the most common errors. The FIU had taken steps to training which had led to improvements in recent years.

248. Some large banks and MCs, appear to apply a high test when considering whether the particular circumstance of a case provide reasonable grounds for suspecting ML/TF. They would require clear and definite confirmation of suspicion before making a STR. The obligation to report suspicious of TF was well understood by banks and money remitters. Although other FIs were clear on their obligations, they were unable to explain the low levels of reporting outside of the banking and MC sectors.

249. It was not clear whether the requirement to report attempted transactions is sufficiently understood. Several representatives of reporting entities indicated that they would refuse business when unable to comply fully either CDD requirements, but only a few indicated that they would consider filing an STR.

250. Some DNFBPs indicated the reluctance to report suspicious transactions citing that in a small community it was difficult to get assurance of confidentiality. Most entities interviewed indicated that they did not receive feedback from the FIU regarding the submitted STR. The majority of STR were filed within the 15 days as prescribed by the FIAMLA. There have been no concerns in relation to tipping –off. Reporting entities were familiar with the legal requirement in relation to tipping off.

Internal controls and legal/regulatory requirements impending implementation

251. FIs are aware of the requirement to have a documented and approved AML/CFT compliance programme. All FIs interviewed had internal monitoring units/functions which monitor compliance with AML/CFT obligations. The compliance officers met on-site were generally knowledgeable and confident when discussing AML/CFT issues.

252. Banks appear to increase the resources they apply to implement AML/CFT policies and controls relative to their size, complexity, business activities and risk profile. All banks met on-site apply three –levels of risk management. The business units, namely the front office, customer-facing activity, are the first line of defence in charge of identifying, assessing and controlling the risks of their business. The second line of defence includes the Compliance function which is responsible for AML/CFT. The third line of defence is ensured by the internal audit function. AML/CFT systems in all banks are subjected to independent internal audit. Not all other FIs interviewed expressly stated that audit formed part of the internal AML/CFT procedures.

253. All FIs interviewed and MCs have AML/CFT procedures which contain the requirement for periodic AML/CFT training of all staff as well as introductory training for new staff. This internal education is generally provided by compliance officers. FIs interviewed confirmed that there are screening procedures for hiring staff which included a certificate of character. It wasn't clear if continuous screening was conducted on employees following their recruitment.

254. Compliance personnel of the FIs and MCs interviewed have adequate access to customer information which enables them to monitor transactions and business activities of customers. There are procedures for the internal submission of STRs which are then reviewed by the MLRO and or the Head of Compliance.

255. Of major concern was the MCs who generally have overstretched resources as they are serving as MLROs for too many financial entities. For example, in one MC a staff of six persons were responsible for AML/CFT compliance for 60 to 70 CIS, 50 investment managers and 50 GBL 2 entities. The MC indicated that there were on-going recruitment processes to strengthen the capacity. Some MCs were found to apply a too strict STR reporting test where investigations were carried out by more senior officials to determine if an STR should be reported or not.

256. The BoM has recently amended its AML/CFT Guidance Notes (March 2017) to include requirements with regard to internal controls and foreign branches and subsidiaries. Financial

groups are required to have group –wide programmes and measures against AML/CFT which include additional measures against ML/TF risks in case the host country does not permit implementation of home country AML/CFT measures.

257. The banks and cash dealers (money changers and foreign exchange dealers) indicated that where they are part of a group, the stricter requirements between the group requirements and Mauritius requirements would be applied. Other FIs exercised their own discretion and judgement based on their own ML/TF assessment to deal with such issues but that cannot be said to be full effective across all segments of the market.

5.3 Overall conclusions on Immediate Outcome 4

258. Notwithstanding the lack of a National Risk Assessment, FIs and MCs demonstrated a good appreciation of the risks faced by their operations and have implemented measures to address these risks. These include leveraging on international group information and technology to address risks relating to ascertaining and verifying CDD information relating to beneficial ownership, enhanced due diligence on PEPs. In addition, in some cases technology is also used to risk-rate clients, and to deal with on-going transaction monitoring. The FIs and MCs were also able to demonstrate the implementation of key compliance measures such as record keeping, internal controls, employee screening, wire transfers, new technologies and training. The foregoing has to be contrasted with the fact that the preventive measures set out in the law have several technical deficiencies and many are contained only in Guidance Notes or Code (which vary in terms of enforceability). FIs and MCs are implementing the UNSCRs requirements when engaging with customers and transaction using commercial databases. In addition, most DNFBPs (with the exception of MCs) were unaware of or had not implemented preventive measures to mitigate the risks of ML. Low levels of suspicious transaction reporting by firms in the global business sector and the DNFBP sector indicated a lack of effectiveness of the suspicious transaction reporting regime. MCs which carry the compliance responsibilities for most of the global business sector have difficulties in obtaining key information about clients, including beneficial ownership information.

259. In light of the foregoing, Mauritius has achieved a moderate level of effectiveness on Immediate Outcome 4.

CHAPTER 6. SUPERVISION

6.1 Key Findings and Recommended Actions

Key Findings

1. BoM and FSC have powers and procedures for preventing criminals and their associates from holding or being a beneficial owner of significant interest or holding a management function in institutions under the Banking Act and the FSA.

2. With respect to DNFBPs, supervisory authorities obtain a 'certificate of character' from the DPP to facilitate their assessment of fitness and propriety of the individuals in the legal and accounting professions. However, it is not clear how they deal with foreign based individuals. Regulatory authorities of the rest of the DNFBPs do not have powers and procedures to restrict market entry for AML/ CFT purposes.
3. Authorities did not demonstrate adequate understanding of ML/TF risks to which Mauritius is exposed in view of the unique nature and characteristics of Mauritius as an international financial center, particularly in the absence of a NRA.
4. Supervisory authorities do not have a dynamic methodology to assess ML/TF risks in individual FIs and DNFBPs, and across sectors which would inform an integrated and comprehensive risk-based supervision consistent with the nature and types of institutions and products as well as the impact of international dimension of the global business.
5. The compliance monitoring through onsite inspections by FSC appears to be low relative to the size of the FIs operating in the global business sector and its perceived/related ML/TF risks (in particular, the CIS sector). The FSC does not seem to have adequate capacity to fully carry out the monitoring responsibility given the large size of the GB financial sector.
6. Generally, examination reports and follow up actions by the FSC showed a reasonable level of analysis that has led to enforcement actions. The only major concern was that the examination reports have not focussed on issues relating to extremely low levels of suspicious transaction reporting.
7. The important role of MCs in carrying out due diligence on applicants in the licensing process raises questions given the fact that the MCs themselves also have AML/CFT deficiencies and limited capacity. In addition, except for MCs and casinos (which were subjected to one onsite inspection), there has not been any form of compliance monitoring for the rest of the DNFBPs over the last 5 years.
8. The legal and regulatory frameworks do not provide for a broad range of sanctions to deal with AML/CFT violations particularly on the part of the BoM and the DNFBP regulators. Notwithstanding the legal impediments, BoM has applied sanctions including suspension and revocation of licences. The DNFBP regulators have not issued sanctions for AML/CFT breaches.

Recommended Actions

1. Authorities should undertake an integrated ML/TF risk assessment of the sectors under their supervision in order to develop a well-founded understanding of risks to which these sectors are exposed.
2. On the basis of the findings of the NRA and sectoral risk assessments, authorities should develop and implement a system of risk-based supervision of the sectors to promote compliance.
3. Considering the size of the institutions in the global business sector, authorities should increase resources in order to ensure that there is optimal supervisory coverage of the sector in particular, the CIS sub-sector whose levels of inspections are very low.

4. The FIU and other DNFBP regulators need to develop capacity and undertake supervisory activities in order to foster compliance by their entities.
5. Authorities should increase resources to the FIU and other regulators for DNFBPs to enable them develop supervisory capacity for monitoring compliance of the DNFBPs.
6. Supervisory authorities should have adequate legal provisions for enforcement, including administrative sanctions for AML and CFT breaches in respect of institutions. Furthermore, supervisory authorities should develop a framework to support the appropriate use of sanctions in accordance with the severity of the AML/CFT control failing, to ensure sanctions are proportionate and dissuasive.

The relevant Immediate Outcome considered and assessed in this chapter is IO3. The recommendations relevant for the assessment of effectiveness under this section are R26-28 & R.34 & 35.

6.2 Immediate Outcome 3 (Supervision)

260. The AML/CFT supervisory function in the financial and DNFBP sectors is spread amongst various agencies as set out in Chapter 1. The AML/CFT capacity of these regulatory agencies and implementation of their responsibilities are at various levels. It is important to note that the AML/CFT supervision by the authorities extends beyond the scope of financial institutions and DNFBPs designated by the FATF as it covers all holders of global business licences. In addition, TCSPs (management companies and corporate trustees) which serve the global business sector are licensed and supervised under the FSA as FIs.

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

Bank of Mauritius and Financial Services Commission

261. The BoM has some measures in place to prevent criminals and their associates from holding, or being the beneficial owner of a significant or controlling interest or holding a management function in financial institutions under its supervision. This involves assessment of fitness and propriety of proposed significant shareholders (holding 10% or more shareholding), beneficial owners, directors and senior management of the applicant using information provided in the 'Fit and Proper Person Questionnaire' which is accompanied by either a 'Certificate of Good Conduct, Police Clearance or a 'Certificate of Morality' certified by a competent court or Authority. BoM conducts fit and proper checks for shareholders and senior management, both at entry stage as well for significant changes following entry, including post-licence acquisition of a significant interest in the entity.

262. In order to determine suitability of the applicants, BoM conducts background checks of the proposed persons from reliable sources, including consultation with domestic and/or foreign regulators, World Check, Company Registries amongst others to verify the information submitted in the Fit and Proper Questionnaire or in the application form. The BoM also requests

and assesses documents ascertaining the source of funds of the beneficial owners and significant shareholders. However, the Procedures Manual: Regulation, Policy and Licensing' do not provide for a search on World Check on beneficial owners or verification of information with respect to identities of directors and senior management and therefore it is difficult to establish whether this is done in practice.

263. BoM rejected over 60% of applications (8 of which were applications for a banking licence) between 2012 and 2016 due to various reasons, including negative information relating to money laundering and fraudulent behavior (see Table 18 below for details). Whenever BoM receives reports of unauthorized deposit taking business, money changing or money transfer services, it refers the matter to the Police who carry out investigations and prosecute the suspects under the Banking Act. Assessors were provided with referral letters from BoM to the MPS and some court cases whereby people were convicted for carrying out unauthorized financial activities. The measures taken are considered to be effective.

Table 18: Applications for Licence

Year	Received	Granted	Rejected	Reasons for rejecting
2012	3	2	1	Application lapsed
2013	6	2	4	<ul style="list-style-type: none"> • Application withdrawn. • Inability to meet licensing Conditions.
2014	4	0	4	<ul style="list-style-type: none"> • Negative information (money laundering). • Negative information (adequacy of capital). • Inability to meet licensing Conditions.
2015	3	2	1	Inability to meet licensing Conditions
2016	3	1	2	<ul style="list-style-type: none"> • Business model is not appropriate for the local jurisdiction. • Negative information (fraudulent behaviour)
Total	19	7	12	

264. In relation to institutions under the FSC, the licensing requirements and procedures are set out in the Insurance Act, Securities Act and FSA. FSC obtains and reviews information on shareholders, ultimate beneficial owners, directors and senior management to determine their suitability.

265. Applicants for GBL submit their applications to the FSC through MCs which carry out vetting procedures on beneficial owners, promoters, controllers, directors and shareholders. After the assessment, MCs submit to the FSC a confirmation that due diligence checks have been carried out, that they hold records on the 'due diligence' documents and that the documents will be made available to FSC upon request [*refer to 'Guide to Global Business' and 'GBC1 Conducting Financial Services'*]. MCs also rely to a large extent on declarations from applicants and signed copies of corporate ownership charts (which are not verified by independent means). This arrangement is not effective because MCs may not have the capacity to carry out an effective vetting process of the shareholders, directors and management since applicants are generally foreign based which may require obtaining information from foreign supervisory authorities. Moreover, the MCs themselves do have AML/CFT deficiencies. However, the FSC did demonstrate that they also applied their own procedures including independent verification measures in their assessments of licensees. In addition to this, the recently enacted regulations issued by the FSC which allow for the issue and sale of shares (including in regulated entities) without the need for supervisory scrutiny may result in a criminal party having the beneficial ownership in a FSC licensee.

266. The FSC rejected a total of 52 applications out of 14,672 (representing 0.3% rejections) between 2012 and 2016 on the basis that the proposed activities were considered risky, applicants were not fit & proper and that the applications might cause prejudice to the good reputation of Mauritius as a financial services center. The reasons are not directly linked to AML/CFT matters. Whenever the FSC receives information about an entity carrying out financial services without a license, it carries out investigations and reports to the Police for further investigation and prosecution.

DNFBP Regulators

267. ***Casinos***- The Gambling Regulatory Authority (GRA) does not have adequate measures in place to prevent criminals or their associates from holding or being a beneficial owner of significant interest or management function in a casino. The Application Form (Annex A2) does not require disclosure of particulars of shareholders (or beneficial owner), directors or senior management of the applicant but requires an applicant to disclose whether or not a proposed 'director, manager or officer has been convicted of an offence involving fraud or dishonesty within the last 10 years'. The authorities indicated that, apart from the requirements set out in the Application Form, they also require an application to submit (a) a list of shareholders, and directors, and (b) a certificate of character' issued by the Director of Prosecutions certifying whether any individual had previous convictions. They did not explain the reasons why the additional information does not appear in the Application Form- required outside the Application Form- and how they ensure uniform application of the requirements when the information is not in the procedures. GRA shared with the assessors a sample letter dated 5 June 2017 to be sent to licencees asking them to provide details of beneficial owners, directors, managers and officers. Since 2009, a total of 34 applications for licenses were rejected between

2012 and 2016 due to the Government policy not to issue new licenses. The fact that casinos are currently government run may be considered to be a mitigant, however, this does not obviate the need for fit and proper requirements.

Other DNFBPs-

268. Notaries and public accountants have entry requirements regulating the professions which include a declaration that they have not been convicted of any criminal offence and members are subjected to on-going oversight and monitoring of conduct. The authorities obtain a ‘certificate of character’ from the office of DPP to verify the information provided by the applicant with respect to criminal record. On the other hand, with respect to real estate agents and dealers in precious stones, there are no specific measures in place to prevent criminals and their associates from entering the market and being beneficial owners or holding a management function in this sector.

269. Statistics provided to the assessors indicated zero applications received for license in relation to law firms, foreign law firms, joint law ventures, foreign lawyers were rejected between 2012 and 2016, in which a total of 53 were received and granted. In relation to the Mauritius Institute of Professional Accountants (MIPA) and the Financial Reporting Council, two applications for a licence were rejected because the applicants lacked auditing experience.

Supervisors’ understanding and identification of ML/TF risks

270. At the time of the onsite visit, Mauritius was in the process of undertaking a National Risk Assessment and the financial sector supervisory authorities were part of the Working Groups. In addition, the supervisory authorities had not carried out any formal sectoral ML/TF risk assessment in order to develop an integrated understanding of the ML/TF risks within the sectors, individual entities, products and delivery channels. In discussing with the authorities, it became apparent that they have a general understanding of ML/TF risks but there was no documented evidence of a common understanding of the risks and the understanding of ML/TF risks across or within sub-sectors of the financial and non-financial sector.

271. Notwithstanding absence of a formal ML/TF risk assessment, BoM informed the assessors that it identifies and maintains some understanding of ML/TF risks through its off-site surveillance, onsite examinations, discussions held with bankers during the Banking Committee chaired by the Governor and during the regular meetings held with Compliance Officers of banks, statutory dissemination reports from the FIU, as well as trilateral meetings held with the FIU and the FSC. Through this process, BoM intimated that it is able to have a fair understanding of ML/TF risks facing the individual financial institutions, and ML/TF risk profile between sectors. According to BoM, the institutions under its purview are categorized as follows in terms of ML/TF risk profile:

Table 19: ML/TF Risk Rating by BoM

ML/TF Risk rate	Type of Institution
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Low risk	Non-deposit taking financial institution
Low to Medium risk	Small locally owned banks
Low to Medium risk	International banks
Medium to High risk	Medium and Large locally-owned banks
High risk	Money changers and Foreign exchange dealers

272. Assessors consider the method and matrices (factors/ elements) used in coming up with an understanding of ML/TF risks to be narrow. Grouping institutions together and assign a risk rating on the basis of its class/type of FI is inadequate. In addition, the BoM aggregates ML/TF together with prudential risks that it takes into account in assigning a risk rating. Thus, the effect of high ML/TF risks could be diluted because of other factors relating to prudential or other types of risks. One would have also expected a deeper analysis of individual institutions using integrated risk matrices such as, the nature and complexity of the products, inherent risks associated with the use of third parties to conduct CDD/ collect CDD information, delivery channels, type of customers, ML/TF risks inherent in the customers' geographical area especially considering that Mauritius is an international financial center, possible spill-over of risks from the global business sector, concentration of management companies (as customers) etc. Ordinarily, such an exercise should also take into account the quality of AML/CFT measures being implemented by the supervised entity and level of compliance, etc.

273. In addition to the foregoing, it was observed that the risk rating did not correspond with the frequency and depth of the compliance monitoring process conducted (frequency of offsite and onsite examinations). In fact, the Banking Act requires that all banks must be inspected at least every two years, which clearly limits the ability of the Bank to adjust its supervisory activities according to assessments of risks. These observations call into question the assertion that BoM applies a risk-based approach to AML/CFT supervision.

274. The FSC indicated that, in addition to the general understanding of ML/TF risks in Mauritius, it also understands the level of ML/TF risks facing its licensees and the risks in their sectors of business. The FSC relies on software utilizing 15 risk parameters to establish a risk matrix. This information is used to inform inspections and other regulatory action. However, FSC would benefit from understanding other risks and threats as seen from the perspectives of other players including law enforcement. The completion of the NRA will assist the supervisors in this regard. Again, ML/FT risk is just one of the subfactors used in this model and as a result the ML/FT risks are aggregated with many others and could be conceivably be overshadowed by other risk factors.

275. Recent inspections and sanctions carried out by the FSC suggest that it is focusing on the MCs, which entities are in the view of the Assessors a key area of risk in the Mauritian Global finance sector (see details of onsite inspections and sanctions below). The Authorities should continue their focus on that sector to seek remedy to the identified vulnerabilities. The Assessors also took note of the Government stated intention to encourage greater physical presence of

global business licensees to reduce the overconcentration of AML/CFT compliance risk that has become centralized in the MC sector.

DNFBPs Regulators

276. With respect to the DNFBP Regulators, the FIU appeared to have a general understanding of ML/TF risks facing its regulated entities i.e. the jewelry dealers, land promoter and property developers, and real estate agents. Discussions with the FIU showed that it has identified risks coming from drug trafficking and the possibility of laundering the funds through the real estate sector. However, since it has not yet started implementing AML/CFT supervision within the sectors which fall under its purview, the FIU may not have a complete picture of the nature and depth of vulnerabilities and resulting ML/TF risks. In relation to the rest of the AML/CFT regulators, assessors established that they have not identified the ML/TF risks facing the entities which fall under their supervision and therefore they don't have any understanding of the relevant ML/TF risks. Other regulators (including those for the legal and accounting professions) were only now coming to grips with the AML/CFT regime and had not fully developed their supervisory programmes. Many indicated that they were lacking in resources and capacity to carry out these duties.

277. Generally, authorities did not demonstrate a full understanding that, in view of its nature and unique characteristics as an international financial center, Mauritius is exposed to significant ML/TF risks. Mauritian authorities do not have a dynamic methodology to assess ML/TF risks which should take into account factors such as the high level of non-face to face financial activity that occurs in the sector, the centralization of AML/CFT compliance risks in the MC sector; origin and destination cross-border funds which pass through Mauritius; inherent risks embedded in products such as pooled accounts; reliance by FIs on third parties to carry out CDD measures; reliance on MCs to vet applications for global business, the use of eligible introducers that may not be from jurisdictions in compliance with FATF requirements.

Risk-based supervision of compliance with AML/CTF requirements

278. BoM and FSC are mandated under FIAMLA to supervise and ensure compliance with AML/CFT requirements by banks, non-bank deposit taking institutions and cash dealers. These supervisory authorities are also mandated under their respective legislations to conduct regular prudential examinations of the operations and affairs of licencees. Both of them have adopted a model whereby AML/CFT supervision is an integral part of the broader supervisory function (prudential supervision). In this regard, the scope of the on-site examination comprises prudential and AML/CFT. Specific to BoM, it can also conduct Special Examinations under section 43 of the Banking Act and the examinations may also include a coverage of AML/CFT issues. The authorities had difficulties in providing accurate statistics of onsite AML/CFT examinations.

279. As discussed above, the risk based supervisory programme described by the BoM was very broad and the assessors were advised that ML/TF risks were considered together with a multitude of other risks in ascertaining an institution's risk rating. Also, this risk rating seemed

to be informed by a very limited off-site surveillance mechanism (namely annual meetings held with the institution). Also, it does not appear that the frequency of AML/CFT examinations is determined by nature and level of ML/TF risks but the program of regular prudential examinations. Moreover, the examination reports which assessors reviewed do not indicate in which risk category a particular institution falls and the corresponding frequency of offsite/onsite inspections. However, in terms of determining the scope of AML/CFT examination, BoM conducts risk scoping exercise prior to an on-site examination and reviews the extent of compliance during the examinations with respect to the requirements imposed under FIAMLA. The flexibility of the BoM in designing a truly risk-based framework is constrained by the fact that the Banking Act requires that banks be inspected every 2 years. The onsite inspections that were conducted by BoM over the period 2012-2016 are indicated in the Table below:

Table 20 – BOM AML/CFT On-site Examinations

Type of Financial Institution	Number of AML/CFT on-site examinations					
	2012	2013	2014	2015	2016	Total
Banks	7	7	7	7	8	36
Non-Bank Deposit Taking Institutions	2	4	3	4	2	15
Money changer	5	5	5	5	3	23
Foreign Exchange Dealer	1	5	-	4	1	11
Total	15	21	15	20	14	

280. The sample examination reports which assessors reviewed consisted of reporting by exception whereby only deficiencies identified during the inspection were reported. Assessors were not provided with a sample of full scope report in order to appreciate the intensity/depth of coverage of the AML/CFT compliance reviews. BoM issues a management report to the financial institution concerned, highlighting the deficiencies noted during the examination and also making appropriate recommendations. Once a final report has been prepared, it is sent to the management of the institution with a transmittal letter indicating timeframes within which the examined entity should remedy the deficiencies, which varies with the seriousness of each deficiency.

281. In its supervisory approach, FSC uses a software with 15 risk parameters to establish a risk matrix. Of these risk factors AML/CFT is a sub-factor. This information is used to inform inspections, determine the scope of its inspections and other regulatory action. FSC has also developed Risk Based Supervision Manual that guides its supervisory staff in carrying out ML/TF risk assessment and compliance during onsite examinations. However, the model used does not provide for a focused consideration of ML/TF risk as that risk is aggregated with several

others in coming to the institution's final risk profile. In addition, the FSC's offsite surveillance is limited to an annual questionnaire of the licensee's activities. The Supervisors would benefit from obtaining a more consistent flow of information on their licensee's activities and also understanding other risks and threats as seen from the perspectives of other players including LEAs. The completion of the NRA will assist the supervisors in this regard.

282. The coverage of supervisory oversight does not appear to be adequate. While the supervisory coverage of MCs is commendable, assessors noted that only 4% of the collective investment schemes which represent 51% of total assets of the financial sector (USD 67.9 billion) was subjected to onsite inspection over the period 2012-2016 (see Table 21 below) while other equally significant institutions have not been subjected to onsite inspections during the last 5 years. Moreover, in view of the fact that the bulk of collective investment funds emanate from pooled accounts from foreign third-party investors and that the individual beneficial owners are not known, the ML/TF risk is likely to be significant. In view of this, assessors expected this sector to be under close scrutiny through onsite inspections unless the authorities provide justifiable reasons to the contrary. It should be clear that examinations of MCs should not be equated with examinations of their clients. As such the limited coverage of licensees in the Global Business Sector is a cause for concern as the nature and volumes of activities passing through these licensees makes them highly vulnerable to laundering and other financial crimes.

283. Considering that the number of FSC supervised entities were over 1,700 (see Table 1.2 , the number of onsite examinations carried out every year is considered to be low which calls to question the adequacy of compliance monitoring given that, by its nature global business, has inherent risks. At the same time, it sounds unrealistic that FSC managed to inspect 92 entities in 2015- which gives an average of 2 days per institution assuming onsite inspections were conducted non-stop. If indeed the statistics are correct, then assessors have strong doubts about the scope and depth of the onsite inspections.

Table 21 – FSC AML/CFT On-site examinations

Type of Financial Institution	Number of AML/CFT on-site examinations					Total inspections	Total No. of Players in the Sub-sector
	2012	2013	2014	2015	2016		
Credit finance	0	2	1	1	2	6	7
Factoring	0	0	0	1	1	2	8
Leasing			4	1	4	9	15
Pension Funds	0	0	0	0	0	0	67

Collective Portfolio management	0	10	5	14	11	40	928
Investment dealer (excluding underwriting)	0	4	7	3	5	19	27
Investment dealer (including underwriting)	0	0	0	0	1	1	5
Investment Advisor	0	6	7	10	12	35	336
Safekeeping- (Custodian)	2	4	3	1	7	17	18
CIS Administrator	1	2	-	2	1	6	7
CIS Manager	14	12	10	11	6	53	382
Trust and company Service Providers	159	46	55	46	34	340	180

284. For the Global Financial Services sector, the FSC generally risk rates its licensees using a variety of factors to place these licensees into risk buckets. This assessment will assist in preparing the inspection schedule and other regulatory actions. In terms of the examination reports, these were in the main, adequate in terms of the areas covered, follow up and ultimate enforcement, where necessary.

285. Examination findings confirm the Assessor's view that the Global Financial sector is a prime source of ML risk. The table below indicates the central role of MCs in the AML/CFT arena, but also highlights the fact that there are a growing number of ML and TF issues in FSC licensees such as Collective Investment Schemes and Investment Advisors and Dealers.

286. The assessors also noted that little or no deficiencies were noted as regards suspicious transaction reporting. The very low levels of reporting in the financial sector should be a significant red flag to supervisors. This suggests a fundamental problem with the efficacy of the preventive measures applicable to Mauritius' financial system and the system of monitoring compliance.

287. Although FSC and BoM provide supervisory oversight for the financial sector, proper sector specific ML/TF risk assessments would have provided focused supervisory activities in terms of priorities and allocation of resources. Both regulators indicated that they have measures to assess risks in settling their supervisory programmes, however, the Authorities did not provide the risk assessment reports and were not able to demonstrate the robustness of these measures nor how the results were used to impact the supervisory programmes.

Table 22: Common AML/CFT Deficiencies: 2012-2015

Deficiency	2012	2013	2014	2015
Inadequate AML/CFT policies	1 Category 2 GBC	3 MCs 1 CIS Manager	2 MC 2 Investment Advisors 1 Type GBC 1 1 CIS	6 MC 10 CIS 15 Type 1 GBCs 1 Treasury Manager 1 Insurance Broker 1 Investment Advisor 1 Financial services distributor 1 Dealer
Inadequate compliance function	1 Type 2 GBC	1 MC 1 CIS 1 CIS Manager	2 MCs 2 Investment Advisor 1 Type 1 GBC 2 CIS	6MCs 10 CIS 1 GBC
Inadequate CDD	1 Type 2 GBC	3 MC 1 CIS 1 CIS Manager	2 MC 2 Investment Managers 2 Type 1 GBCs 2 CIS	6 MC CIS 10 15 Type 1 GBCs
Inadequate transaction monitoring	1 Type 2 GBC	2 MCs 1 CIS	2 MCs 2 Investment	6 MC CIS 10

		1 CIS Manager	Managers 1 GBC 1 CIS	15 Type 1 GLCs
Inadequate internal audit		1 MC 1 CIS 1 CIS Manager	2 MCs 1 Investment Advisor 1 Type 1 GBC 1 CIS	6 MCs 10 CIS 5 Investment Advisors 1 Treasury Manager
Lack of measures for high risk countries	2 Type 1 GBC	3 MC 1 CIS 1 CIS Manager	2 MC 2 investment Advisors 1 Type 1 GBC	1 Treasury manager 1 Distributor of financial products
Recordkeeping		1 MC 1 CIS 1 CIS Manager	2 MC 1 Investment advisor 1 Type 1 GBC 1 CIS	6 MCs 10 CIS 5 Dealers 1 Treasury Manager 1 financial product distributor

DNFBPs Regulators

288. Regulators of DNFBPs have not started effectively monitoring AML/CFT compliance of entities under their domain. Interviews with these regulators revealed that their understanding of AML/CFT issues and responsibilities is low with the exception of the FIU. Assessors also noted that some of them don't have the resources to carry out the responsibilities conferred on them under the FIAMLA. For example, statistics provided indicated that DNFBP supervisors did not carry out any onsite inspections from 2012 to 2016, except for one inspection conducted in 2016 relating to a Casino.

Remedial actions and effective, proportionate, and dissuasive sanctions

289. Supervisory authorities have a broad range of supervisory and enforcement measures at their disposal on the basis of the FIAMLA, FIAML Regulations and sectoral legislation. However, the legal framework does not establish administrative sanctions against FIs and DNFBPs except

institutions licensed under FSA²². Broadly, these include warnings, the issuance of directions, impose variation of licences, require an institution to take remedial steps, direct the appointment of an individual to advise the entity to achieve compliance, as well as suspension of licences. Practical implementation of the sanctions varies across the sectors due to differences in the legal provisions in sectoral legislation. In all cases, there is no written sanctions policy that describes specific corrective and sanctions measures to be taken for specific deficiencies identified. In case of FSC, it has an Enforcement Committee which assesses infringements and decides what type of sanctions to apply. This makes it difficult to determine the extent to which sanctions applied in practice are effective, proportionate and dissuasive.

290. In practice, BoM has been imposing monetary penalties on non-compliance to AML/CFT requirements. The following table presents examples of monetary penalty applied since 2012:

Table 23 – Monetary Penalties on AML/CFT Breaches²³

S#	Financial Institution	Amount of Penalty	Date of Payment	Reason for imposition of penalty
1.	Bank 1	Rs100,000	2012	Failed to comply with the provisions of the Guidance Notes on AML/CFT, more specifically paragraphs 5.01 to 5.05 and 6.53
2.	Bank 2	Rs100,000	2013	Breach of Section 4.14 of the Guidance Notes on AML/CFT relating to limitation on payments in cash.
3.	Bank 2	Rs100,000	2013	Breach of Section 4.14 of the Guidance Notes on AML/CFT relating to limitation on payments in cash.
4.	Bank 2	Rs500,000	2013	Failed to comply with sections 6.15 and 6.112 of the Guidance Notes on AML/CFT
5.	Bank 2	Rs500,000	2013	Failed to secure proper Know Your Customer (KYC) documents relating to the <i>proof of address</i> of company and the <i>proof of address</i> of the

²² Please refer to the Assessors' analysis and conclusions of Recommendation 35 i.e. Sanctions

²³ The information in the table is purposely sanitized and hence the names of the banks are not indicated

				<p>director of company.</p> <p>Bank had not carried out CDD to ascertain that the level of activities conducted commensurate with the volume of business reported by the company</p>
6.	Bank 3	Rs500,000	2013	<p>Failed to secure proper Know Your Customer (KYC) documents relating to the <i>proof of address</i> of company and the <i>proof of address</i> of the director of company.</p> <p>Bank had not carried out CDD to ascertain that the level of activities conducted commensurate with the volume of business reported by the company</p>
7.	Bank 4	Rs100,000	2013	<p>Alleged case of arm trafficking</p> <p>Breach of section 6.15 of the Bank's Guidance Notes on AML/CFT and failure to maintain a reliable system for tracking suspicious transactions thereby preventing or mitigating operational risk events.</p>
8.	Bank 4	Rs500,000	2013	<p>Failure to comply with sections 6.15 and 6.112 of the Guidance Notes on AML/CFT with regards to the accounts held by customers which were cited in an alleged case of drug trafficking.</p>
9.	Bank 4	Rs100,000	2013	<p>Breach of Section 4.14 of the Guidance Notes on AML/CFT relating to limitation on payments in cash.</p>
10.	Bank 5	Rs500,000	2013	<p>Alleged case of arm trafficking</p>

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291. In addition to the above, BoM applied sanctions when it noted breaches, for example BoM had revoked three licenses and suspended one licensee between 2012 and 2016 in the money changers due to AML/CFT breaches. Over the same period, BoM had penalized its banks over MURs. 3 million on ten (10) institutions following noted non-compliances as cited above. Other than this, a review of examination reports noted some serious deficiencies which should have attracted severe penalties. The authorities did not apply monetary fines imposed on banks between 2014 and 2016, allegedly giving the regulated entities time to address the shortcomings.

292. However, assessors are of the view that there are fundamental limitations in the effectiveness of the sanctions regime as BoM needs to obtain the consent of the Director of Public Prosecutions when it wishes to compound an offence under section 69 of the Bank of Mauritius Act or Section 99 of the Banking Act. This process normally takes long, which may also lead to breaches not being punished in time or the DPP may decide to withhold his consent. This could potentially lead to ineffectiveness in dealing with non-compliance behavior of supervised institutions. However, this has to be balanced by the fact that compounding amounts to a waiver of prosecution which is the prerogative of the DPP constitutionally.

293. The FSC vide s. 18(3) of FIAMLA as read together with s.7 of FSA has a broad range of sanctions against violation of FIAMLA, regulations and FSC Code, including powers to impose administrative penalties.

294. The FSC imposed a range of sanctions (mainly on MCs and CIS) over the last 3 years which were mainly license revocations and suspensions, disqualifying officers from holding positions in its licensees, warnings and directives to correct the noted non-compliances. In 2015 alone, FSC suspended 15 licences and revoked 14 licences. However, there was no indication that FSC had applied monetary penalty as a means of sanctioning. The information provided did not outline the types of AML/CFT breaches that were being sanctioned and therefore it is difficult to see whether the sanctions were commensurate with the severity of the infringements. Ordinarily, supervisors use discretion in order to preserve the professional relation with their licensees and take into account several factors when arriving at the decision to suspend or revoke a licence. Revocation of a licence may affect customers adversely and can cause reputational damage to the financial sector.

295. The FSC did not have the power to compound financial penalties as is the case with the BoM. In the case of officers of licensees in breach, these officers are usually disqualified. However, in the main, these offences and breaches related to non-AML breaches. The Assessors noted that in some cases the state sought to proceed criminally against entities in the Global Finance sector. However, the assessors also noted that the efforts of enforcement against global businesses would be hampered by section 83(6) of the FSC, which limits the method of accessing information from Global Business Companies (via Supreme Court Order on the application of the DPP) as well as the grounds on which such access can be granted (drug trafficking, arms trafficking or money laundering). It was noted that the grounds under which such information can be accessed under this provision does not include investigations into terrorism financing.

Box 7 FSC Enforcement Action on a Management Company

Based on an on-site examination, the FSC identified the following breaches (among others):

- (a) Breach of obligations to advise of appointment of alternative MLRO and;
- (b) Breach of obligations to apply CDD measures.

The failure to take prompt ameliorative action triggered a special investigation to review the MC's discharge of AML obligations on behalf of its clients. Further breaches were uncovered including:

- (a) Lack of ongoing CDD;
- (b) Failure to establish source of wealth of client companies;
- (c) Lack of system and policies of internal controls to assess and control AML risk;
- (d) Failure to risk profile its client companies;
- (e) Lack of ongoing monitoring.

Within a month of the special investigation, the licence of the MC was suspended. The representations of the MC were evasive and not satisfactory and the case was referred to the Enforcement Committee (EC). Almost a year later, the EC advised the Company of the referral. The MC and its officers did not make any representations and the EC determined that the MC's licence should be revoked and that 2 key officers should be disqualified.

Other DNFBP

296. In the professional regulator of professional assessors

The MC sought to appeal to the Financial Services Review Panel, but the appeal was dismissed for being out of time.

The matter is now before the courts for judicial review of the EC's decision.

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assessors are of the view that the scope of sanctions is generally narrow.

297. Given that all the DNFBP regulators have not yet started their supervisory activities and no mechanisms in place for monitoring compliance, statistics on sanctions which could have provided a basis for assessing their effectiveness were not available. No breaches against the AML/CFT laws and regulations were noted and therefore no enforcement actions were taken.

Impact of supervisory actions on compliance

298. Licensees of BoM and FSC are all aware of the role played by the regulators of both prudential and AML/CFT requirements as per the AML/CFT legal and regulatory frameworks. The licensees are also aware of powers of the regulatory authorities to sanction non-compliances, including AML/CFT breaches, for which BoM has demonstrated as per statistics provided. Assessors also noted the respected position towards BoM and FSC by their licensees as capable and professional in carrying out their responsibilities. Both regulatory agencies undertake onsite examinations that are expected to improve compliance by its licensees. The FIs and MCs were all familiar with the BoM and FSC's inspection methodologies and the implications for sanctions in cases of breaches. However, the wide breadth of the licensees supervised by the FSC and the

Commission’s inability to adequately cover the global sector on a fully risk- based approach, would in the view of the Assessors affect the licensees’ perceptions as regards the likelihood of detecting breaches or other aspects of noncompliance.

Table 24 – STRs filed by Institutions under BoM (2012-2016)

Institutions	2012	2013	2014	2015	2016
Bank	191	313	128	184	394
Cash Dealers	11	15	3	1	8
Non-Bank Deposit Taking Institutions	1	1	1	0	0
Total	203	329	132	185	402

Table 25 – STRs filed by Institutions under FSC (2012-2016)

Institutions	2012	2013	2014	2015	2016
Management Companies	22	25	28	12	11
Insurance Companies	0	0	0	1	3
Leasing Company	1	1	1	0	0
Licensees under Securities Act	0	0	0	0	2
Total	23	26	29	13	16

299. Relative to the number of institutions under the FSC and the size/nature of transactions, the STRs have been low over the period under reference (see discussion under IO.6. Also note that the statistics presented in Table 3 are slightly different from those in Tables 24 and 25 above. The discrepancies could not be explained). In the context of onsite report findings, except for the international banks, most of the institutions do not have adequate systems for identification/detection of suspicious transactions. Generally, it is evident that efforts are needed to develop capacity of FIs for identifying suspicious transactions. Nevertheless, the impression of the assessors is that the FSC is tightening its enforcement efforts on licensees, particularly within the MC sub-sector. The materials presented suggest that MCs and other parties in the global business sector still are experiencing difficulties in compliance, leading to banks refusing to do business with some entities.

DNFBPs Regulators

300. As noted above, DNFBP regulators have not yet started carrying out supervisory activities and therefore the level of AML/CFT compliance monitoring and supervision is virtually non-existent. The low number of STR filing made to the FIU as indicated in the Table below could be attributed to the absence of supervisory outreach, sensitization, monitoring and enforcement.

From discussions made with the authorities, there were no STRs with respect to the casinos, real estate sector as well as the jewellery sectors:

Table 26 – STRs filed by DNFBPs (2012-2016)

Institutions	2012	2013	2014	2015	2016	Total
Accountants	1	0	1	1	0	3
Barristers	0	0	0	1	1	2
Casinos	0	0	0	0	0	0
Dealers in Precious Metals	0	0	0	0	0	0
Real estate agents	0	0	0	0	0	0
Total	1	0	1	2	1	5

Promoting a clear understanding of AML/CTF obligations and ML/TF risks

301. There is a good level of understanding of AML/CFT obligations by the FIs interviewed under the supervision of BoM and FSC. There are various forums which authorities use to engage with reporting entities. BoM holds trilateral meetings on an annual basis with the senior management and external auditors of the institutions under its purview to discuss AML/CFT compliance issues, among others. There are also quarterly Banking Committee meetings chaired by the Governor of BoM which are also attended by all Chief Executives of banks, and the meetings also cover AML/CFT compliance. Further, there are meetings between BoM and compliance officers of banks which are held on a quarterly basis whose key agendas include a discussion of AML/CFT compliance.

302. As mandated under s. 18(1)(a) of the FIAMLA, BoM has issued the BoM Guidance Notes to facilitate a clear understanding of AML/CTF obligations and ML/TF risks of its regulated entities. Other regulators have also issued guidelines to their regulated entities, such as the FSC Code on the Prevention of Money Laundering and Terrorist Financing, which all licensees are required to comply with. FSC has also issued an Information Booklet on Effective Customer Risk Assessment in December 2013 to provide guidance to its licensees (management companies) on risk-based approach.

303. For the Global Financial sector, the entities interviewed (MCs) appeared to have a good understanding of their AML/CFT obligations and tried to manage ML/FT risks to the extent that they had the relevant information and resources to assess these risks. The NRA will allow these licensees to have a more comprehensive view of the ML/FT risks facing the jurisdiction. Other guidelines issued include: Guidelines on the Measures for the Prevention of Money Laundering and Countering the Financing of Terrorism in Gambling Business' relating to Casinos; Guidelines on the Measures for the Prevention of Money Laundering and Countering the Financing of Terrorism for in Land and/or Building or Estate Agency, Land Promoter and Property Developers; Guidelines on the Measures for the Prevention of Money Laundering and

Countering the Financing of Terrorism for Dealers under the Jewelry Act; Guidelines on the Measures for the Prevention of Money Laundering and Countering the Financing of Terrorism for Law Firm, Foreign Law Firm, Joint Law Venture and Foreign Lawyers and Guidelines on the Measures for the Prevention of Money Laundering and Countering the Financing for Accountants and Auditors. However, effectiveness of these guidelines could not be determined since the respective regulators have not yet started compliance monitoring.

304. Statistics provided indicated that there has been significant training activities to both the supervisors and licensees between 2012 and 2016. A number of awareness programs have also been carried out by the FIU, inviting and attracting players across different sectors i.e. regulators, FIs and DNFBPs. However, stronger efforts still need to be undertaken to further raise awareness of the DNFBPs sector, including trainings, awareness programs and conducting of onsite examinations and issuing sanctions for non-compliances to AML/CFT requirements. Additionally, all DNFBP regulators required resources, training and capacity building to effectively carry out their functions. As noted in this report, there are very little or no AML/CFT non-compliance sanctions applied yet to the DNFBPs and that the regulators were yet to embark on onsite examinations of the sector.

6.3 Overall conclusions on Immediate Outcome 3

305. The FSC and the BoM apply fit and proper criteria in their licensing processes which extend to beneficial owners. There are less in-depth licensing measures applicable to most classes of professional DNFBPs. Although the FSC indicated that it has a RBA model utilizing 15 parameters to develop its supervisory programme, the Assessors did not see how it operated in practice. BoM and FSC conduct onsite examinations, however AML/CFT reviews are included as part of **the prudential inspections**. The BoM's risk-based approach was not as well developed nor was it demonstrably put into practice. The supervisory resources of the FSC in respect of the global business sector are insufficient relative to the size and the perceived ML/TF risks inherent in this sector. In the case of the FSC, the examination reports showed quality analysis and clear links to enforcement actions. This was not seen in the case of the BoM. However, there was evidence that both financial service supervisors apply sanctions for AML and licensees under BoM and FSC are aware of the regulators' powers to sanction them, even though there is a lack of legal certainty as regards the legal basis for sanctions for breaches of the BoM's Guidance Notes. Efforts have to be employed to strengthen the sanctions regime in order to register positive impact on compliance levels. The DNFBP sector (excluding MCs) is largely unregulated for AML/CFT purposes and the majority of the DNFBP regulators do not have AML/CFT capacity to carry out their responsibilities. The non-engagement of this sector has contributed to the lack of understanding of ML/TF risks by the entities, implementation of their obligations and low STR statistics which could potential heighten ML/TF risks.

306. **Mauritius has achieved a low level of effectiveness for IO 3.**

CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

7.1 Key Findings and Recommended Actions

Key Findings

1. Information on creation of legal persons and legal arrangements is available online through the various agencies which administer the laws. Basic ownership information in relation to legal persons is also available to the public. However, this is not the case with information concerning legal arrangements.
2. FIs and MCs obtain beneficial ownership information from their customers/clients. However, the FIs do not have an independent source which they can use to verify the information since the existing legal framework does not require the Registrar of Companies to obtain and keep such information. MCs rely on third parties to provide the information in relation to foreign based clients which becomes difficult to verify independently.
3. Mauritius has in place arrangements for the collection of beneficial ownership information for legal persons and legal arrangements through third parties such as MCs, that are entrusted to do so by Supervisory authorities such as the FSC.
4. Mauritius has not identified and assessed ML/TF risks associated with legal persons and legal arrangements. Although through their work some authorities were aware of how legal persons have been misused for ML purposes, there was no complete and consistent understanding by the public and private sectors of these vulnerabilities and risks.
5. LEAs have access to information from global business companies through a court order issued by the Supreme Court in a timely manner. However, such orders are only limited to drug trafficking, arms trafficking and ML offences.
6. Notaries, who are solely responsible for the registration of Corporate Trusts use varying methods for the collection and verification of beneficial ownership information including the use of databases that provide name search services. The Mauritian authorities conceded however that in practice it is not always possible to collect beneficial ownership information.
7. The sanctions applied by the various Supervisory authorities for non-compliance with identification and verification requirements relating to beneficial ownership are limited in scope and as a consequence are not sufficiently proportionate and dissuasive.

Recommended Actions

Mauritius should:

1. Assess and develop an understanding of the ML/TF risks posed by the possible misuse of legal persons and legal arrangements.
2. Amend the relevant laws in order to require disclosure of beneficial ownership information when incorporating legal persons and legal arrangements.
3. Provide and implement an appropriate legal framework to ensure that FIs and DNFBPs collect and maintain up-to-date information on beneficial ownership information relating to legal persons and legal arrangements.
4. Ensure that the sanctions for non-compliance with requirements for identification of beneficial owners are applied in an effective manner.

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| <p>5. Ensure that competent authorities have timely access to beneficial ownership information from global business companies when investigating offences other than those set out in s. 83(7) of the FSA.</p> |
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The relevant Immediate Outcome considered and assessed in this chapter is IO5. The recommendations relevant for the assessment of effectiveness under this section are R24 & 25.

7.2 Immediate Outcome 5 (Legal Persons and Arrangements)

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

307. As explained under R.24 and R.25, Mauritius has different types of legal persons and arrangements which are established in accordance with different laws. These are companies, Limited Partnerships, Foundations, Associations, Corporate Trusts, Trusts and Societies. Information on the applicable pieces of legislation for the establishment of these entities is available online through the relevant agencies which administer the legislations. Basic information on the creation of the legal persons and arrangements is therefore available in the public domain.

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

308. Mauritian authorities have not yet carried out a formal assessment with a view to identify, assess and understand the vulnerabilities and the extent to which legal persons pose a risk of being misused for ML/TF purposes. The Registrar of Companies, Registrar of Foundations and the Registrar of Societies did not appear to appreciate the ML/TF risks associated with beneficial ownership of legal persons and arrangements. Further, an analysis of the role of notaries in the registration of trusts revealed that not all trusts are required to be registered in Mauritius and as a result, the full extent of the risk associated with trusts could not be fully determined. Authorities have not carried out typology studies to provide examples of how legal persons have been misused for ML/TF purposes. There is no express mechanism for ensuring that the vulnerabilities are adequately identified, assessed and understood especially in relation to foreign companies that are able to register online without the need to undergo a risk-based registration process.

309. Notwithstanding the absence of formal efforts to identify, assess and understand the vulnerabilities, numerous sources have provided an opportunity for the authorities to see the vulnerabilities associated with legal persons. For instance, when carrying out ML investigations (and through analysis of tax returns, financial statements, properties and records), LEAs have an experience on how legal persons have been abused for the accomplishment of ML offences. Similarly, through analysis of STRs, the FIU is able to see how legal persons are abused for ML purposes. However, the information in the custody of the agencies has not been shared through a detailed and consolidated report which would allow the authorities to have a complete understanding of how legal persons have been misused for ML purposes. The authorities are nonetheless aware of the need to assess and have a complete understanding of the exposure of legal persons to ML/TF risks.

Mitigating measures to prevent the misuse of legal persons and arrangements

310. The Registrar of Companies has a publicly available and searchable company registry which has namecheck facilities and allows for cross matching of names. The Act requires companies to maintain a register of shareholders and notify any changes in the details of shareholders or principal officers of companies. However, in respect of legal arrangements such as trusts, the information is not readily available in public. The FSC Code and BoM Guidance Notes set out obligations for FIs to identify shareholders, directors and senior management of legal persons and legal arrangements. In particular, the FSC requires financial service providers and Corporate Trusts providing Company Secretarial services to global business companies to maintain beneficial ownership information. Notaries providing trust services are also required to keep beneficial ownership information under the Trusts Act and do so through the use of electronic databases in some instances and are also able to use online tools for purpose of conducting name searches.

311. Measures which have been implemented by the FSC to prevent Global Business Companies from being abused also include GBL1 companies having at least two directors, who are of sufficient calibre to exercise independence to be resident in Mauritius and not allow corporate directors. In addition, all global business companies must keep a register of directors containing: (i) the names and addresses of the persons who are directors of the company; (ii) the date on which each person whose name is entered on the register was appointed as a director of the company; and (iii) the date on which each person named as a director ceased to be a director. The Registrar of Companies is notified of any change in the directors of a company. A global business company is further required to have at all times a registered office in Mauritius. The MC is also expected to retain all the above information.

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

312. Access to basic information on legal persons in Mauritius is possible through the records maintained by the Registrar of Companies. In practice, the Registrar ensures that the information kept in these records is adequate, accurate and current based on the returns and updates that are provided by the companies through the various requirements of the Companies Act, including ensuring that annual returns by legal persons are submitted on time, as well as information on any changes to the legal person structures including shareholding. The basic information on legal persons which is maintained by the Registrar of Companies can be made available to competent authorities and the public in timely manner.

313. The FIs and MCs retain information on beneficial ownership of legal persons. This information is accessible to competent authorities through a (court order) with the exception of the supervisory authorities to these reporting entities who can simply request for the information from the reporting entity. The BoM obtains beneficial ownership information at the licensing stage although the requirements for the identification and verification of beneficial owners are generally weak. Notaries that provide Trust registration services and facilitate purchase and transfer of land transactions are able to collect beneficial ownership information in relation to the trusts that they register and the land transactions that they facilitate.

314. In order to access confidential information from Global Business Companies for investigations, LEAs have to make an application to the Supreme Court through the DPP, who has to show that the information is bona fide required to support an investigation relating to drug trafficking, arms trafficking, or ML. The Supreme Court takes on average 2 – 3 days to issue such orders, which has worked for law enforcement to access the required information.²⁴ The categorisation of limited specific cases where such an application can be made limits LEAs' ability to obtain information in relation to other serious offences including terrorism and the financing of terrorism or to enter into bilateral arrangements with other competent authorities to access information on Global Business Companies for purposes of investigations.

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

315. The Registrar of Foundations is able to obtain information on legal arrangements that is provided by the persons registering the legal arrangements themselves. The office however does not have specific mechanisms for independent verification of the information provided. In addition, information obtained in relation to global businesses is not available to law enforcement agencies and other competent authorities as the court order which has to be acquired will only be limited to *drug trafficking, arms trafficking, or ML offences, leaving out the other serious offences*. This means that competent authorities are not able to obtain adequate, accurate and current beneficial ownership information when investigating the other offences not specified under the FSA. As it is not a requirement for Private Trusts to be registered it means that information relating to private trusts is not captured anywhere by any competent authorities.

316. Under the Trusts Act, trustees are required to maintain information on beneficiaries but not ultimate beneficial owners. The FSC Code does however require that ultimate beneficial owner information should be maintained as well as information on all the parties to the trusts. The FSC has access to this information. The authorities asserted that the process of obtaining a court order is not a complicated one and that they have not encountered any challenges in doing so as it takes on average 2-3 days to get the order. However, the selected offences on which law enforcement agencies can obtain court orders to access information unduly limits their powers to investigate trusts as they cannot not use the same process in all serious offences.

Effectiveness, proportionality and dissuasiveness of sanctions

317. Statistics on the sanctions applied with respect to non-compliance with the requirements to obtain and maintain accurate and current basic and beneficial ownership information were not available. The authorities did not provide any sanctions that have been applied in relation to beneficial ownership information and reliance is made on the compounding of offences without

²⁴ Under the section 83(7) of the FSA, law enforcement cannot access confidential information from a Global Business company for investigations unless the application is made in the Supreme Court by the DPP and it is shown that the information is bona fide required to support investigations relating to drug dealing arms trafficking or money laundering and an order enabling access to that information is granted.

an assessment of whether other cases are of such gravity as to require prosecution. This approach is taken by both the Registrar of Companies and the BoM. The FSC has the power to apply administrative sanctions independently in cases where there has been a breach or default by any of its regulated entities. However, at the time of the on-site visit, it had not yet exercised such powers.

7.3 Overall conclusions on Immediate Outcome 5

318. The authorities have very good systems of obtaining and maintaining basic information on legal persons and arrangements to facilitate access by the public. Although some agencies have an appreciation of how legal persons can be misused for ML/TF purposes, authorities have not yet assessed vulnerabilities and risks connected legal persons in order to promote a complete and wider understanding of the risks. Whilst LEAs can access beneficial ownership information from global business companies upon getting a court order, it is not in all serious offences that they can apply for such an order which hampers their investigations. Beneficial ownership information on private trusts is not easily available and proper guidance could not be provided by the authorities on obligations of trustees in such matters as there are also no court judgments properly laying out such obligations. The authorities have not applied sanctions in cases where accurate records have not been kept as most of the cases are sent for compounding at the DPP's office regardless of whether the gravity of offence warrants prosecution.

319. **Mauritius has achieved a low level of effectiveness for Immediate Outcome 5.**

CHAPTER 8. INTERNATIONAL COOPERATION

8.1 Key Findings and Recommended Actions

Key Findings

1. Mauritius has a comprehensive legal framework relating to international cooperation and has a number of bilateral and multilateral agreements relating to the provision of international cooperation. However, the requirement for a terrorism offence to be related to an actual act of terrorism limits the scope of availability of cooperation and assistance.
2. The effectiveness of the international cooperation framework for Mauritius is constrained by a general lack of a coherent system for managing and tracking requests for international cooperation. The statistics provided by the Central Authority in relation to formal international cooperation and other agencies (except the FIU) in relation to informal cooperation are not comprehensive.
3. Supervisory authorities (BoM and FSC), FIU and law enforcement agencies such as ICAC, MRA, ARID and ADSU have systems of cooperation with their international counterparts and are able to render assistance informally both on an individual basis and through

associations for cooperation such as INTERPOL, ARINSA and EGMONT. However, they do not provide spontaneous information as frequently as they should commensurate with risk.

4. Mauritius has a legal framework for sharing assets with foreign jurisdictions but the mechanism for implementing the sharing arrangements has not yet been put in place.
5. Law enforcement agencies are able to obtain court orders in a timely manner, authorising them to obtain necessary information required in international cooperation.

Recommended Actions

Mauritius should:

1. Establish an efficient case management system in the Attorney-General's office for the collection and dissemination of MLA and extradition information including requests made, requests received, actions taken and quality of the information obtained as well as the duration of the response in order to improve collection of statistics on international cooperation.
2. Revise its legislative framework in order to broaden the scope of international cooperation that would become available as a result of the removal of the requirement for terrorism offences to be connected to an act of terrorism.
3. Spontaneously exchange information with foreign supervisory authorities for AML/CFT purposes commensurate to the risks where such information is available for sharing.
4. Ensure timely response to requests from other countries to identify and exchange information on the beneficial owners of legal persons and arrangements.
5. Implement the mechanism for the sharing of assets confiscated in Mauritius with foreign countries that provide assistance especially where predicate offenses have been committed in those foreign jurisdictions.

The relevant Immediate Outcome considered and assessed in this chapter is IO2. The recommendations relevant for the assessment of effectiveness under this section are R.36-40.

8.2 Immediate Outcome 2 (International Cooperation)

320. Mauritius, being a jurisdiction that provides global financial services that have a global reach as well as being a drug consuming country, faces significant risk of being abused by various criminal elements that seek to exploit vulnerabilities in the global financial system hence there is a great need for international cooperation.

321. Mauritius partly demonstrated the ability to provide international legal assistance through the provision of mutual legal assistance and other forms of international cooperation based on multilateral and bilateral treaties and arrangements, memoranda of understanding,

administrative arrangements and membership of law enforcement and sector and regulatory groupings.

Providing and seeking constructive and timely legal assistance to pursue ML, associated predicate, TF cases with transnational elements and extradition

322. The Attorney General is the Central Authority for mutual legal assistance (MLA) and extradition. This is done in various ways. For example, the authorities indicated that the procedure adopted to ensure that MLA requests were granted in a timely manner that avoided legal hurdles resulting from a lack of understanding of Mauritian law or the laws of that jurisdiction was to liaise with the foreign Central Authority informally in order to share the facts of the case and jointly draft the request which the authorities would then review for factual and legal accuracy. The authorities further indicated that on two occasions, representatives of both Central Authorities met in person in Mauritius to go over the requests and ensure that they were legally acceptable before they were officially sent. The representatives of the foreign jurisdictions then returned to their jurisdiction with a complete draft of the final reviewed MLA requests and then simply signed the MLA requests and sent them officially through diplomatic channels. The authorities indicated that this approach is taken as often as possible although it is not a requirement or a standard approach for dealing with such requests.

323. Requests for MLA received by the Attorney General’s (AG’s) Office are kept as hard copies in files as the system is not computerised and there is no centralised reporting system. However, the attorneys in the AG’s Office handling MLA requests have briefings with the Deputy Chief Attorney every Monday on the progress of the matters. The absence of well-kept records confirming the process followed in handling MLA requests in the AG’s Office made it difficult for the assessors to determine how long it took on average for MLA requests to be attended to by the Authorities. This also created difficulties in verifying the actual number of MLA requests received by the AG’s Office for MLA during the period of 2012 – 2017. The problem of retaining proper statistics in MLA requests received is evident in the discrepancy of the numbers of the MLA requests received by the AG’s Office and those received by the Ministry of Foreign Affairs (MoFA) and forwarded to the AG’s Office (see Table 27 below for details).

Table 27: Requests Received by Ministry of Foreign Affairs and AG’s Office

Year	No. of Requests received by the Ministry of Foreign Affairs and forwarded to the AG’s Office	No. of Requests received by the AG’s Office (Not indicated whether they were from the Ministry of Foreign Affairs or whether received direct from other Central Authorities)
2012	31	Nil
2013	30	8
2014	30	6
2015	44	6

2016	27	4
2017	16	Nil

324. Of the requests received by the AG's Office as shown in Table 27 above, it dealt with the requests as follows: out of the 8 requests it received in 2013, one was received on the 8th of January and thereafter there is no record of what happened to the request; 2nd request was received on the 16th of January and the information requested was provided on the 8th of July; 3rd request was received on the 21st of June and was declined on the 22nd of June on the basis that the request did not meet the legal requirements of Mauritius; 4th request was received on the 23rd of September and was declined on the basis that Mauritian laws did not provide for the kind of disclosure requested but the dates of refusal and when this information was provided to the requesting state are not provided; 5th request was received on the 19th of November and the order to execute the report (not described from the information provided by the authorities) was obtained on the 18th of July 2014 and a response was provided to the requesting state on the 18th of September 2014, the requesting state gave feedback but the date and the kind of feedback provided is not explained; 6th request was received on the 10th of December and a response was provided to the requesting state on the 25th of May 2015, 7th request was received on the 30th of August and the requesting state was informed of the request having been declined as it was not in compliance with the Mauritian laws on 13 November 2013; and the 8th request was received on the 13th of August and a response was provided to the requesting state on the 24th of September 2014. The following table illustrates how the rest of the requests were attended to by the AG's Office.

Table 28: Details of MLA Requests

File Ref	Date of Receipt	Date case lodged	Date order obtained	Date the requesting state was notified	Feedback from the requesting state	Remarks by the Authorities where applicable
CSA/MA6/2014	14/03/2014	No information provided	No information provided.	24/10/2014		
CSA/MA7/2014	19/05/2014					Declined as the request was not in accordance with the Mauritian laws.
CSA/MA13/2014	11/07/2014					Responded by a letter requesting for translated documents. However, date of when the letter was sent not provided.

CSA/MA14/2014	12/7/2016 (request sent directly to the Central Authority of Mauritius)	25/7/2016				Supplementary information was requested in order to execute the request. Information requested was obtained in form of an affidavit but there is no date provided as to when the affidavit was provided for onward transmission to the requesting state.
CSA/MA18/2014	27/08/2014					Letter sent to the Registrar of Companies requesting for information as to whether the company was incorporated in Mauritius. However, there is no information provided by the Authorities as to what happened after the letter and when exactly the letter was sent to the Registrar.
CSA/MA19/2014	4/9/2014					Letter sent to the requesting state asking for more information but no response was received by the authorities. No date of when the letter was sent.
CSA/MA7/2015	4/2/2015	19/05/2016	31/05/16 (information on kind of order not provided)	7/7/2016		
CSA/MA29/2015	2/9/2015	10/2/2016	2/3/2016 (no details of the kind of order provided by the authorities)	20/07/2016		

CSA/MA32/2015	22/09/2015	10/02/2016	2/03/2016	20/07/2016		
CSA/MA35/2015	23/10/2015			No information provided by the authorities		Reply sent to the requesting state. No date of when the reply was provided.
CSA/MA42/2015	29/10/2015					Judgment in the case forwarded for information to the requesting state. Date of sending the judgment not provided.
CSA/MA47/2015	9/12/2016				21/07/2016- Nature of feedback not provided by the authorities	The authorities just indicated unfavourable, Therefore, it is not clear what the comment is referring to exactly.
CSA/MA/01/2016	3/12/15 & 17/12/15					Request could not be processed as the original request had to be sent via the diplomatic channel.
CSA/MA/07/2016	23/03/16 (Note Verbal)					Authorities responded on the 25/05/16 informing the requesting state to make a formal request for assistance to the Mauritian Central Authority.
CSA/MA/33/2016	10/10/16 (Note Verbal)					Authorities only indicate that replies were made on the 16/01/17 and 27/03/17. No other information is provided.
CSA/MA/35/2016	19/12/16	10/6/2017	1/13/2017	12/04/17		

325. The information provided above on MLA requests received by the Authorities shows that the AG's Office does not have a proper system of managing the requests and that there is no

consistency in keeping adequate information on the requests received- how the requests are attended to, the nature of the requests and timelines to attend to the requests. The statistics of the few requests provided information on by the AG's Office (compared to the number of requests recorded by the MoFA to have been referred to the AG's Office) in a majority of cases only indicates the date of receipt with only one out of the 24 requests providing information on the nature of the request²⁵ and another one showing that information was requested from the Passport and Immigration Office but the nature of the request/information requested was not disclosed. Due to the absence of adequate information kept by the AG's Office on the requests received for information, it is not possible to determine the complexity of the cases and that in the very few cases where actual assistance was provided, it was done a timely and constructive way and that such information was of good quality. However, in the few cases where responses were provided to the requesting states and there are dates showing when the information was sent, the responses took an average of about six months, which can be said to be reasonable although it cannot be determined in which area of co-operation the assistance was provided. Further, although the statistics provided by the Authorities from the MoFA show that it referred 16 requests for MLA to the AG's Office in 2017 until the time of the on-site visit in June 2017, the statistics provided by the AG's Office showed nothing having been received by that Office for this period.

326. The statistics received from the MoFA on cases of extradition indicates that since 2013 there have been only three requests on extradition as illustrated in the following Table 29:

Table 29: Requests for Extradition

Date extradition request was received by the MoFA	Date of dispatch to the AG's Office	Nature of the extradition request	Extradition authorised or refused	Position with the request
31 July 2013	Not provided	No information provided		Case was still under consideration by the State L Office at the time of the on-s visit.
2 October 2013	Not provided	No information provided		Case was still under consideration by the State L Office
20 February 2015	Not provided	No information provided		The person was deported (d of deportation not provided

²⁵ The request which was referred to the Companies Registrar requesting for information on whether the company was incorporated in Mauritius or not is the only request where precise information was provided by the Authorities on the nature of the request.

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327. Of the cases illustrated in Table 29 above, there were no statistics received from the AG's Office relating to the same cases. It was noted that the first two cases, up to the time of the on-site visit were still under consideration by the State Law Office (AG's Office) which did not provide information on the current position of the two cases. In addition to the above cases, the Mauritian authorities provided the case of *Danche D vs The Commissioner of Police & Ors*²⁶. Whilst the case shows that there might not be any impediments to extradite fugitives from Mauritius in terms of the extradition legal framework which is in place, the period which was taken to finalise the two cases provided in Table 29 above is relatively long and there was no update given by the AG's Office as to what is the position with the cases.

Box 8 Danche v The Commissioner of police 2002 MR 194 (Brief Facts)

The brief facts of the case are that the applicant, a French National, moved the Court for the issue of a writ of habeas corpus directed against the Commissioner of Prisons so that the applicant's release would be ordered after the learned District Magistrate of Port Louis had issued a warrant for the arrest of the applicant under the Extradition Act after having found that there was sufficient evidence adduced by the Attorney-General to justify the committal to prison of the applicant who was accused of having committed in the United States of America the offences of mail fraud, interstate transportation of stolen property and wire fraud. The ground relied on for the application at the hearing was that there was no binding extradition treaty between Mauritius and the U.S.A. The court held that a binding extradition treaty has existed before and since the independence of Mauritius between Mauritius and the U.S.A. and the extradition order was accordingly upheld

328. The authorities submitted that they had made 22 MLA requests during the period between 2013 – 2016. However, they did not provide statistics/ information on the following: the nature of the information requested, the countries involved, the cases the statistics related to, the quality of the information received and its timeliness, and whether all the requests made were responded to. Therefore, no specific examples of requests made relating to ML and associated predicate offences were provided by the authorities. The lack of a proper case management system relating to international cooperation matters could also have contributed to the absence of specific cases being provided where the authorities sought legal assistance.

Providing and seeking other forms of International Cooperation for AML/CFT purposes

FIU

²⁶ Danche D. v The Commissioner of Police & Others, 2002 SCJ171 2002MR194

329. The Financial Intelligence Unit in Mauritius performs a dual function of providing financial intelligence and being a regulator of some DNFBP's. The Director of the FIU is also the Enforcement Authority for the purposes of asset recovery under the Asset Recovery Act.

330. The FIU demonstrated that it was able to provide assistance informally and directly to other jurisdictions through the EGMONT Group Secure Web system. The nature of the cooperation relates mainly to the provision of information and identification, tracing and freezing of assets. A case in point is where the FIU provided such assistance is illustrated in Box 9. below.

Box 9 Case example of informal cooperation in a major drug syndicate and money laundering case

In July 2015, the FIU received information from a jurisdiction that a major drug trafficker operating between that jurisdiction and another was laundering proceeds of crime through the global business sector. The FIU gathered all relevant information on the subjects, which was shared with the authorities in the other jurisdiction. In December 2015, the FIU received a visit from the investigators from the jurisdiction to share information and details about the intended investigation. The FIU also assisted in organising a meeting between the Central Authority of Mauritius regarding MLA and lawyers from the other jurisdiction who came to Mauritius to work with the local authorities on drafting a request for mutual legal assistance. In early 2017, all requests for mutual legal assistance were officially received in Mauritius and the date of enforcement was set, which entailed simultaneous arrests, restraining orders, execution of search warrants in four jurisdictions in order to take down the entire organized crime group and prevent any dissipation of assets. Search warrants were executed in Mauritius by the Asset Recovery Unit and bank accounts were restrained. Documents and IT equipment was also seized at the premises of the Management Company (its license was subsequently suspended by the FSC). This case demonstrated the operational capacity of the FIU and the other authorities in Mauritius to collaborate with foreign LEAs. Further, since the whole process took over two years, confidentiality was maintained for the entire duration of the preparatory work, despite the fact that a large number of law enforcement officers were involved in several countries.

331. The following Tables illustrate informal legal assistance which has been provided and sought by the FIU:

TABLE 30: INTERNATIONAL REQUESTS TO MAURITIUS FIU

Requests for Information received from other FIU
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Year	2012	2013	2014	2015	2016	2017 up to the time of the on-site visit
Number of requests received from other FIUs	41	66	52	92	83	32
Number of requests granted	All request granted					
Number of requests refused	None refused					
Average time required to respond to a request	40 Days	60 days	40 days	50 days	60 Days	

TABLE 31: INTERNATIONAL REQUESTS FROM MAURITIUS FIU

	Requests for Information sent to other FIUs					
Year	2012	2013	2014	2015	2016	2017 -up to the time of the on-site visit
Number of requests sent to other FIUs	119	152	136	196	139	57
Number of requests granted						
Number of requests refused						
Average time required to respond to a request	25 days	35 days	35 days	40 days	40 days	22 days

332. The various competent authorities in Mauritius are able to provide other forms of international cooperation and financial intelligence on request. The MRA and the FIU are empowered by law to disseminate information both on request and spontaneously while the ICAC, FSC, ARID, CCID, and ADSU did not appear to be able to provide spontaneous forms of international cooperation. The authorities did not provide statistics on informal requests received and sought relating to LEAs and other competent authorities. As a result, it was not possible to confirm the extent to which informal requests are acted upon in a timely manner. Further, the statistics provided by the FIU only specified the average times taken in any given year and not the range of timing from the earliest to the longest period and as a result, the statistics provided do not give a comprehensive view on how long it takes to process requests in a manner that would allow the assessors to determine whether such responses were timely, based on the nature of the request made.

333. Despite the lack of proper statistics, specific competent authorities were able to demonstrate informal exchange information they have undertaken:

- a) ARID – which is the Asset Recovery Investigation Division under the supervision of the Director of the FIU demonstrated that it is able to cooperate with other LEAs from other jurisdictions in the identification, tracing and freezing of assets based on requests for international cooperation (see the case described in Box 9 discussed under the FIU above). However, it was realised that although Mauritius, in terms of the Asset Recovery Act which creates ARID, is able to share assets seized on behalf of a foreign jurisdiction ARID had not yet put in place measures to enable such sharing to be done in practice and this has not yet been done.
- b) CCID, ICAC, ADSU – which have powers to investigate complex crimes are able to deal with requests for information informally through other forms of cooperation such as facilitation of joint investigations. The authorities provided two cases where initially informal sharing of information on a planned joint investigation between the domestic LEAs and International Agencies was to be carried out. One of the cases is summarised in Box 4 under IO 7. This case involved joint investigations and cooperation of four jurisdictions, Mauritius, UK, Lithuania and Spain.
- c) MRA - for the period from March 2014 to March 2016, under the Double Taxation Avoidance Agreement, it informally exchanged information with 13 countries giving a total of 85 cases in 2014, 201 in 2015 and 194 in 2016. The bulk of the exchange of information was made with India (a total of 401 cases during the three-year period). Other than the total number of requests received per year over the three years, the Authorities did not provide any further information making it difficult to determine whether the information requested was provided in a timely and constructive manner.
- d) FSC – provided and requested informal international assistance as illustrated in Table 32 from 2013 – 2016. However, no further information was provided by FSC beyond the year and the number of requests. This makes it difficult to determine whether the requests made/received related to AML/CFT, whether constructive and timely assistance was provided and

whether there was any feedback from the requesting country or by the FSC where it had itself made requests.

Table 32: Requests Received by FSC

Requests received by the FSC				
Year	2013	2014	2015	2016
Number of Requests received	190	152	95	116
Requests made by the FSC				
Year	2013	2014	2015	
Number of requests made	70	84	104	

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

334. Release of beneficial ownership information in Mauritius to other competent authorities, like law enforcement agencies is controlled by specific statutes. Please refer to Chapter 7, above for a more detailed discussion on beneficial ownership in Mauritius. In relation to international cooperation regarding the provision of basic ownership information, Mauritius is able to share such information with foreign jurisdictions based on the various agreements for information exchange that it has with other jurisdictions as well as through MLA. The Companies Registry maintains the information it obtains in electronic form and therefore, easily searchable for basic information, and for beneficial ownership information, where shareholders registered under the Companies Registry are the ultimate natural persons owning or in control of the shares. However, the Registrar of Companies at the time of the onsite visit was not required to obtain beneficial ownership information but basic information during registration of legal persons.

335. Beneficial ownership information is regarded as confidential in Mauritius, therefore access to such information relating to GBCs and trusts by LEAs, can only be done after obtaining a court order in limited circumstances (see IO.5 and IO.7 for more details). However, LEAs in Mauritius can acquire such orders from the courts and they take on average two days to be issued. As indicated in Table 28, request referenced CSA/MA18/2014 above, at the time of the onsite visit the AG's Office which is the Central Authority on MLA had only received one request where information confirming incorporation of particular company in Mauritius was being requested. The assistance provided by the authorities in this case could not be determined as the AG's Office simply forwarded the request to the Registrar of Companies' Office to check and

from the information provided by the authorities, there is no indication of what happened to the request after it was referred to the Registrar of Companies and neither was there a follow-up or monitoring of the request by the AG's Office to ensure that the information requested was provided to the requesting jurisdiction. Authorities did not provide statistics in relation to access to beneficial ownership information maintained by FIs and MCs and exchanging such information through MLA or other forms of international cooperation.

8.3 Overall conclusions on Immediate Outcome 2

336. Mauritius has demonstrated an effective system of international information sharing in some of the sectors, particularly where informal international cooperation is concerned. The FIU and other LEAs have cooperated with their international counterparts effectively. However, the MLA regime of Mauritius would be stronger, if the Central Authority for MLA, the AG's Office had proper case management system for both requests received and made. The system used by the Central Authority does not enable prioritisation of requests and full information on the timely disposal of the requests and the quality of the assistance provided as well as the requests made by the Central Authority to other jurisdictions. Although, the MoFA appears to have a good case management system pertaining to both MLA and extradition, the system is not being complemented by the management of the cases when they are referred to the AG's Office. It was clear from the records kept by the MoFA that there were extradition cases which had been referred to the AG's Office. However, it could not be determined how these extradition cases were handled by the AG's Office as no information was provided on any of the extradition cases by the AG's Office. The absence of proper management of MLA matters by the AG's Office as the Central Authority mandated to deal with such requests over shadows the informal assistance which is being provided by the other sectors such as the FIU and LEAs.

337. **Mauritius has achieved a Moderate Level of effectiveness for Immediate Outcome 2.**

TECHNICAL COMPLIANCE ANNEX

1. This annex provides detailed analysis of Mauritius' level of compliance with the FATF 40 Recommendations. It does not describe the country situation or risks, and it focusses on the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report (MER).
2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2007 which is available from www.esaamlg.org.

Recommendation 1 - Assessing Risks and applying a Risk-Based Approach

This is a new Recommendation which came into force after completion of the First Round of Mutual Evaluations and therefore there was no requirement to assess Mauritius on this in 2007.

Risk Assessment

Criterion 1.1 (Not met) Mauritius has not yet identified and assessed ML/TF risks to which it is exposed. However, in June 2016, the country decided to undertake a national risk assessment using the World Bank National Risk Assessment Tool. The preparatory workshop was held mid-January 2017 and the exercise had not yet been completed at the time of the onsite visit.

Criterion 1.2 (Met) The National Committee on AML/CFT, established pursuant to s. 19A of FIAMLA, has been designated to coordinate actions to assess risks. This National Committee formed a National Risk Assessment Working Group in July 2016 under the leadership of the FIU to undertake the NRA exercise.

Criteria 1.3 (Not met) Since the country has not yet carried out ML/TF risk assessment, this criterion is not met. However, authorities anticipate that the National Risk Assessment (NRA) Working Group will keep the risk assessments up-to-date.

Criterion 1.4 (Not met) The country has not yet put in place mechanisms to provide information on the results of the risk assessments to all relevant competent authorities, self-regulatory bodies, FIs and DNFBBs. Authorities have indicated that the NRA Working Group will be responsible for providing information to relevant stakeholders.

Risk mitigation

Criterion 1.5 (Not met) Mauritius does not apply a risk-based approach guided by an understanding of its ML/TF risks for purposes of allocating resources and implementation of measures to prevent or mitigate ML/TF risks.

Criterion 1.6(a) (Not met) The legal framework in Mauritius provides for exemptions from application of the identification requirements in respect of some entities and transactions (see R10 for details of these exemptions) described in Regulation 5 of FIAML Regulations. However, these are not supported by adequate analysis of ML/TF risks and therefore there is no basis to demonstrate existence of low risk.

Criterion 1.6(b) (Not met) Mauritius has not demonstrated that life insurance policies and proceeds of one-off transactions described in Regulation 5 of FIAML Regulations are of low ML/TF risk.

Criterion 1.7 (Not met) The country has not yet carried out ML/TF risk assessment and therefore it has not identified higher risks which could be used to give informed direction to reporting entities and require them to consider those risks in their own risk assessments, and to take enhanced measures to manage and mitigate those risks.

Criterion 1.8 (Not met) FIs licenced under FSA are permitted to apply simplified or reduced CDD measures where ML or TF risk is lower and where information of the identity of the customer is publicly available or where adequate checks and controls exist. In particular, simplified measures are applicable where the customer is (a) a regulated institution in Mauritius or in an equivalent jurisdiction, (b) a public company listed on the Stock Exchange of Mauritius or on recognised, designated and approved Stock Exchanges or subsidiaries thereof (Paragraphs 5.4 and 5.5 of the FSC Code). However, these simplified measures are not supported by an adequate analysis of risks by FSC or the FIs and are not consistent with the country's assessment of risk considering that Mauritius has not yet carried out national or sectoral ML/TF risk assessment. Other FIs and DNFBPs are not legally bound under similar requirements.

Criterion 1.9 (Not met) S. 18 of FIAMA mandates supervisory authorities to supervise and enforce compliance with the requirements imposed by FIAMLA, regulations and guidelines. However, there is no explicit obligation for FIs to carry out ML/TF risk assessments. FIAMLA Regulations 9 (a) requires FIs and DNFBPs *to implement internal controls and other procedures to combat ML and TF which include programmes for assessing risks related to ML and TF*. However, this is considered to be inadequate as it does not impose a direct and explicit obligation for the FIs to assess ML/TF risks and develop measures to mitigate those risks. Besides, supervisory authorities have not demonstrated that they have developed tools and methodologies which integrate risk-based supervision, including review of risk assessment and the related mitigating measures carried out by the supervised institutions. For this purpose, assessors are of the view that supervisors and SRBs in Mauritius do not have measures in place to ensure that FIs and DNFBPs are implementing their obligations under R.1.

Risk assessment

Criterion 1.10 (Not met) The FIAMLR requires a relevant person to put in place internal controls and have procedures to assess ML/TF risks. There is no direct obligation for FIs to identify, assess and understand their ML/TF risks as well as document their risk assessments, consider relevant risk factors, keep assessments up-to-date, and have appropriate mechanisms to provide risk assessment information. In addition, the FSC Codes have inadequate obligations. For instance, Chapter 5 of the FSC Code obliges FIs to consider potential risks in the context of CDD and the list of risks doesn't include TF.

Risk mitigation

Criterion 1.11 (Partly met) There are no comprehensive provisions which outline obligations required under c.1.11. The FIAMLIR requires relevant persons (which does not include DNFBPs) to put in place internal controls and have procedures to assess ML/TF risks including enhanced due diligence measures on high risk persons. However, there is no specific requirement for the policies, controls and procedures to be approved by senior management.

Criterion 1.12 (Not met) Mauritius permits simplified measures to manage or mitigate ML/TF risks, however, this is not supported by proven low risk and the pre-conditions under the standard have not been met (see c.1.8-1.11 for more discussion). Paragraph 5.5 of the FSC Code prohibits use of simplified measures whenever there is suspicion of ML/TF or specific higher risk scenario.

Weighting and Conclusion

Mauritius has not yet identified and assessed its ML/TF risks. As a consequence, the country has not developed a risk-based approach to implementation of the AML/CFT measures, including by allocation of resources according to the nature and level of the identified risks. The legal framework provides for exemptions of some customers and transactions from FATF Recommendations as well as application of simplified measures for some FATF Recommendations without an adequate analysis of ML/TF risks. Considering that Mauritius is an international financial center absence of risk assessment and risk-based implementation of AML/CFT measures is a major deficiency and therefore the country is **rated non-compliant with R.1.**

Recommendation 2 - National Cooperation and Coordination

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with this Recommendation (formerly R 31). The main deficiencies were that formal cooperation and communication between ICAC and other relevant authorities such as FIU was prohibited by s.81 of POCA and lack of regular engagement by the FIU with other supervisory or professional bodies other than the FSC and BoM.

Criterion 2.1 (Not met) Mauritius does not have national AML/CFT policies which are informed by the identified risks and are reviewed regularly.

Criterion 2.2 (Met) Mauritius established a National Committee for AML/CFT under s.19A of FIAMLA. Some of the functions of the Committee are to: (a) assess effectiveness of AML/CFT policies, (b) advise the Minister on legislative, regulatory and policy reforms in relation to AML/CFT and (c) promote coordination among the key stakeholders.

Criterion 2.3 (Met) The National Committee provides a platform for policy makers, LEAs, supervisors and other relevant competent authorities to cooperate in the development and implementation of AML/CFT policies and activities. Furthermore, at the operational level numerous arrangements for coordination and information sharing are in place between/amongst competent authorities to facilitate exchange of information, spontaneously or upon request.

Criterion 2.4 (Not met) Currently, Mauritius does not have similar mechanisms or structures to combat the financing of proliferation of weapons of mass destruction.

Weighting and Conclusion

Mauritius established a National Committee for AML/CFT which is responsible for AML/CFT policies. Coordination at an operation level is noted among several agencies albeit at a minimal level. Absence of policies which are informed by identified risks and lack of mechanisms to facilitate coordination for purposes of combatting the financing of proliferation of weapons of mass destruction are considered to be fundamental deficiencies. In view of these deficiencies Mauritius is ***rated partially compliant with R. 2.***

Recommendation 3 - Money laundering offence

In the MER under the First Round of MEs, Mauritius was rated Partially Compliant (formerly R.1) and Largely Compliant (formerly R.2). The main technical deficiencies were that: some of the relevant requirements of the Vienna and Palermo Conventions had not been implemented; some (8 out of 20) categories of designated offences were not predicate offences for ML; conviction for ML under the DDA required prior conviction for the predicate offence. Another deficiency related to effectiveness which is not part of technical compliance under the 2013 FATF Methodology.

Criterion 3.1 - (Met) Mauritius has criminalised the offence of ML under section 3 of the FIAMLA and section 15 of the Finance (Miscellaneous Provisions) Act No.14 of 2009 consistent with Article 3(1)(b) and (c) of the Vienna Convention, 1988 and Article 6(1) of the Palermo Convention. Section 39 of the Act was repealed and replaced by a new section in 2009 to cover all the elements listed in the Conventions. Section 39 of the DDA includes the concealment or disguise of the genuine nature, source, location, disposition, movement or ownership of or rights with respect to proceeds as required by the Conventions. The criminalization of ML in section 39 of the DDA is only related to drug offences.

Criterion 3.2 - (Mostly Met) Predicate offences for ML cover all offenses including the serious offences under section 3 of the FIAMLA as required by the Standards. The ML offence under section 3 of the FIAMLA refers to “the proceeds of any crime”. Predicate offences are described by reference to the penalty applicable to the predicate offence. The definition of “crime” in the FIAMLA was amended in 2009 to encompass both crimes and misdemeanours as defined in the Criminal Code (sections 4 and 5 of the Criminal Code) in order to have the widest range of predicate offences. “Crime” is defined under section 2 of the FIAMLA. It -

- (a) means an offence punishable by –
 - (i) penal servitude;
 - (ii) imprisonment for a term exceeding 10 days;

- (iii) a fine exceeding 5,000 rupees;
- (b) includes an activity carried on outside Mauritius and which, had it taken place in Mauritius, would have constituted a crime; and
- (c) includes an act or omission which occurred outside Mauritius but which, had it taken place in Mauritius, would have constituted a crime;

The designated categories of predicate offences are provided for in several legal provisions except in the case of the elements of TF in relation to the financing of terrorist individual and organization and illicit trafficking in stolen and other goods

Criterion 3.3 (Met) Mauritius applies a combined approach encompassing an all crimes approach as well as a serious offences approach to predicate offences for the ML offence. The term “crime” is encompassed to cover all serious offences. The term “crime” under section 2 of the FIAMLA includes an offence punishable by (a) penal servitude, (b) imprisonment for a term exceeding 10 days, and (c) a fine exceeding 5000 rupees. Section 11(1) of the Criminal Code defines penal servitude as a sentence which can be imposed for life or for a minimum term of 3 years and s. 11(2) provides that where in any enactment the punishment of penal servitude is imposed without a term being specified, the maximum term for which the punishment may be imposed is 40 years. Under section 12 of the Criminal Code, provides that where in any enactment the punishment of imprisonment is provided for an offence without a term being specified, the term for which imprisonment may be imposed may exceed 10 days but shall not exceed 10 years. Under section 4 of the Criminal Code, “crimes” are offences punishable by penal servitude and/or a fine exceeding 5000 rupees.

In terms of the definition of crime, s. 2 as read together with s. 11(2) of the Criminal Code, all other crimes where a penal servitude is provided without a term being specified become serious offences due to the term of imprisonment imposed by the courts as long as it is below 40 years as required by s. 11(2) of the Criminal Code. This provision adequately covers all other crimes to justify an all crimes approach.

Criterion 3.4 – (Met) The offence of ML in Mauritius extends to all types of property, which directly or indirectly represents proceeds of crime, regardless of the value. The ML offence under section 3(1) of FIAMLA refers to “property which is, or in whole or in part directly or indirectly represents, the proceeds of any crime”. The definitions of property under s. 2 of the FIAMLA and possessions under s. 2 of the DDA are wide enough to cover all types of property regardless of its value.

Criterion 3.5 – (Met) In order to prove that property is the proceeds of crime, section 6(3) of the FIAMLA, adequately provides that when proving that the property is the proceeds of crime, it is not necessary that a person be convicted of a predicate offence.

Criterion 3.6 – (Met) The jurisdiction of predicate offences for ML in Mauritius extends to conduct that occurred in another jurisdiction, which constitutes a crime in Mauritius. The

provision is even broader to cover an act or omission which would have occurred outside Mauritius which, if it had taken place in Mauritius would have constituted a crime.

Furthermore, section 29(2) of the DDA criminalises any act outside Mauritius which is preparatory to or in furtherance of the commission of a drug related offence in Mauritius.

Criterion 3.7 – (Met) S. 6(2) of the FIAMLA provides for conviction of persons who will have committed the predicate offence from which they later launder the proceeds and for the ML offence arising out of the laundering of the proceeds (self-laundering).

Criterion 3.8 – (Met) Section 3(1) of the FIAMLA provides for the intent and knowledge required to prove the offence of ML to be inferred from objective factual circumstances as it provides that a person can be charged with the offence of ML in circumstances where the person had reasonable grounds to suspect that the property is derived or realised, in whole or in part, directly or indirectly from any crime.

Criterion 3.9 – (Met) Upon conviction for a ML offence a person is liable to a fine not exceeding 2 million rupees (approximately US\$57 000) and a penal servitude for a term exceeding 10 years (s. 8 of the FIAMLA).²⁷In terms of s. 39 of the DDA, to a fine not exceeding 1 million rupees and to imprisonment for a term not exceeding 20 years. The sanctions are sufficiently proportionate and dissuasive.

Criterion 3.10 – (Met) A legal person can be prosecuted for a ML offence under section 3(2) of FIAMLA in addition to section 44 of the IGCA. Under section 2 of the IGCA, "person" and words applied to a person or individual shall apply to and include a group of persons, whether corporate or unincorporate. Section 8 of the FIAMLA allows for the imposition of a fine not exceeding 2 million rupees to legal person. Section 44 of the IGCA allows for the prosecution of senior management alongside the legal person which has committed an offence.

Criterion 3.11 – (Met) Mauritius has a broad range of ancillary offences to the ML offence. The ML offence can be coupled with the following inchoate offences: association with or conspiracy to commit (section 4 of the FIAMLA); attempt (section 45 of the IGCA, aiding and abetting (section 38 of the Criminal Code), facilitating (section 38 of the Criminal Code), counselling which is covered by the notions of aiding and abetting mentioned above.

Weighting and Conclusion

Mauritius does not criminalise the elements of TF in relation to the financing of a terrorist individual and terrorist organisation, and illicit trafficking in stolen and other goods which are

²⁷ Under Mauritian penalties in terms of s. 47 of the Interpretation and General Clause Act, where several penalties are provided for an offence, the use of the word "or" means that the penalties are to be inflicted alternatively, the use word "and" means that the penalties may be inflicted alternatively or cumulatively, and the use of the word "together with" means that the penalties are to be inflicted cumulatively.

not major risks to Mauritius. The major risk in Mauritius are drugs and drug related offences. ***Mauritius is Largely Compliant with R.3.***

Recommendation 4 - Confiscation and provisional measures

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R.3). The main technical deficiencies were that: no provisions were made under the DDA and Acts dealing with the fight against terrorism or terrorist financing for the confiscation of property of corresponding value; no clear provision on confiscation of instrumentalities; no provision under DDA to ensure protection of the rights of bonafide third parties. Another deficiency related to effectiveness which is not part of technical compliance under the 2013 FATF Methodology.

Criterion 4.1(a)– (Met) Under section 17 of the ARA and Section 8(2) of the FIAMLA, the ARID under the FIU is empowered to confiscate property laundered by applying to a Judge of the Supreme Court for a Confiscation Order.

Criterion 4.1(b)– (Partly Met) s.3 and 17 of the ARA envisages the Act to be applicable to confiscation of any proceeds derived from any offense. Although s.3 of the ARA envisages the Act to apply to any instrumentality used or intended to be used, the confiscation order provided for under Section 17 of the same Act does not include the instrumentalities in such confiscations due to the limitation on the definition of ‘benefit’ under s.2 of the same Act.

Criterion 4.1(c)– (Met) Section 6 of the Convention for the Suppression of the Financing of Terrorism Act 2003 (CSFTA) provides that terrorist property which includes proceeds and property intended to be used for acts of terrorism or by a terrorist organisation may be forfeited to the state. Proceeds and instrumentalities linked to TF may also be forfeited in terms of s. 4(4) of the CSFTA.

Criterion 4.1(d)– (Met) In Mauritius, the recovery of property of equivalent value is done at the confiscation stage. The confiscation of property of equivalent value is done under section 19(1) of the ARA. The value of the property to be recovered is determined by the Courts according to the procedure set out in sections 20 and 21 of the ARA before the Courts make an order for the defendant to pay a sum equivalent to the value of the property. Should the defendant be unable to pay the sum ordered by the Court, a trustee may be appointed under section 25 of the ARA to realize property in which the defendant has an interest.

Criterion 4.2- (Met) The legal framework covers investigative orders to identify, trace and evaluate property subject to confiscation. Assets may be traced by the ARID according to the powers conferred upon it under sections 40, 41, 42 and 43 of the ARA and ICAC as provided by Section 52 of PoCA. The ARID may also identify property such as money held in bank accounts and accounts with financial institutions through Customer Information Order under section 48, Production Orders under section 45 and Disclosure Orders under section 47 of the ARA. The ARID can also apply for Account Monitoring Orders under section 49 of the ARA. ICAC has powers to conduct search to identify and to ascertain owners of properties/assets at the Registrar General, at the Registrar of Companies and at the National Transport Authority. Furthermore,

the ICAC, through bank disclosures has powers to obtain bank statements of person and companies, following which investigation can be carried out to identify and trace the money used or received from the properties/ assets bought or sold. Investigatory authorities can also seek assistance from the Valuation Department and other relevant bodies to evaluate the property that has been identified and traced. Investigatory authorities can also apply to a Judge in Chambers for appointment of Quantity Surveyors under Section 71(1)(l) of the Courts Act and Article 806 du Code de Procedure Civile. The ARID may apply for a Restraining Order under section 9 of the ARA if a person who is the subject of a criminal investigation, has been charged with a crime or has been convicted in order to prevent any dealing, transfer or disposal of property subject to confiscation. In the case of civil-based recovery, the ARID may apply for a Restriction Order under section 27 of the ARA. Coupled with that the ICAC can attach properties in the possession of the offender or any other third party as provided by section 56 of the POCA. If the Director-General of the ICAC is satisfied that a property is the subject matter or related to an offence, he may seize that property, as provided by section 58 of the Prevention of Corruption Act.

The law under ARA criminalises “dealing with property”, defined under section 2 of the Act, regarding property which is the subject of a Restraining Order (section 15 of ARA) or the subject of a Restriction Order (section 27 of the ARA). Dealing in property which is the subject of a restraining order or the subject of a restriction order is an offence under section 15(1) and 32(1) respectively. The Enforcement Authority (EA) may apply to a judge for any dealing with property to be set aside (voiding actions) under sections 15(2) and 32(2) respectively).

Mauritius has measures in place that enables their competent authorities to take appropriate investigative measures. The ARID is an investigatory authority set up under section 5 of the ARA and made up of law enforcement officers. As such, the ARID has all the investigatory powers of a law enforcement body. Any interference with an investigation carried out by the ARID can constitute an offence under section 43 of the ARA. The ICAC is free to take any appropriate legal and investigative measures. The ICAC has an array of investigative tools that its officers can use, for example, controlled remittance/sting operation, identification parade, surveillance, intelligence gathering. ICAC also have a Cyber-unit with two specialised and qualified officers to analyse any electronic material.

Criterion 4.3 – (Met) Mauritius provides for protection of the rights of bona fide third parties by the court making any order it considers necessary to protect that person’s interest in the property where it considers that a person is a legitimate owner. Any person affected by a Restraining Order or a Restriction Order obtained by the ARID may apply for his property to be excluded from the order under sections 13 or 29 of the ARA as appropriate. Where a person has suffered a loss due to the operation of an order obtained by the ARID, that person may obtain a Compensation Order under section 60 of the ARA.

Criterion 4.4 – (Met) The Enforcement Authority has mechanisms for managing and disposing of frozen, seized or confiscated property. The ARID is empowered to apply to the Court for the appointment of an Asset Manager under section 27(2) of the ARA. Under section 28 of the ARA, the Asset Manager is mandated to manage and dispose of property seized and/or confiscated.

Weighting and Conclusion.

Mauritius has substantially meets most of the requirements of Rec 4. The key deficiencies noted are that the confiscation order provided for under Section 17 of ARA does not include instrumentalities with respect to ML and associated predicate offences in such confiscations due to the limitation on the definition of 'benefit' under Section 2. In view of these shortcomings, ***Mauritius is Largely Compliant with R.4.***

Recommendation 5 - Terrorist financing offence

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly SR II). The main technical deficiencies were that: not all the relevant TF Conventions had been ratified and implemented; the TF offence didn't cover funding of individual terrorists; a link with a specific terrorist act seemed necessary to apply the TF offence and lack of effectiveness which is not part of technical compliance under the 2013 FATF Methodology.

Criterion 5.1 – (Met) S.3 of the CSFT Act provides that the ICSFT has the force of law in Mauritius, subject to the other provisions of the CSFT Act. S.3 of the POT(IO) Act provides that the Conventions specified in the schedule²⁸ have the force of law.

Criterion 5.2- (Not Met) The PoTA does not criminalise the provision of funds to and collection of funds for individual terrorists and terrorist organizations, when a terrorist act has not occurred. Mauritius does not have a sufficient legal framework for suppressing financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training.

Criterion 5.3- (Met) S.2 of the CSFT Act defines funds in the same manner as the term is defined in the TF Convention to include both those from a legitimate and illegitimate source.

Criterion 5.4- (Met) s.4(2) of the CSFT Act explicitly provides that for an act to constitute the financing of terrorism offense, it is not necessary that the funds were actually used to carry out the act of terrorism and does not require that the provision of funds should be linked to specific terrorist acts.

Criterion 5.5- (Met) S.162 of the Courts Act applies English law of evidence except where it is otherwise provided by special laws. A judge may therefore infer the intent from objective factual circumstances of a case. This is further apparent from the wording of s. 4 of the CSFT Act which uses the terms "wilfully" and "unlawfully", which inherently require the mental element to be inferred from the objective factual circumstances. S. 4(1) of the CSFT Act provides for intent and knowledge of TF offences to be inferred from objective factual circumstances as it provides for

²⁸ The Conventions referred to in the schedule are the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980; the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991 and the International Convention for the Suppression of Acts of Nuclear Terrorism, signed in New York on 14 September 2005.

someone to have committed the offence if the person had reasonable grounds to believe that the funds would be used in whole or in part to commit a TF offence.

Criterion 5.6- (Met) S.4(3) of the CSFT Act provides that a person convicted of the offence of terrorist financing is liable to imprisonment with hard labour for a term of not less than 3 years. Additionally, the Court may order the forfeiture of the funds which used or intended to be used for or in connection with the offense, or which are the proceeds of the offense. (S. 4(4)).

Criterion 5.7- (Met) S.2 of the IGCA, provides that the term "person" and words applied to a person or individual shall apply to and include a group of persons, whether corporate or unincorporate. S.44 of the IGCA allows for the prosecution of a person concerned in the management of the body corporate purporting to act in that capacity in relation to a legal person which commits an offence. There is no provision that precludes parallel civil and administrative liability and sanctions.

Criterion 5.8- (Met) S. 45 of the IGCA criminalises attempts to commit the offence of TF. Further, s.37 of the Criminal Code and s.45 of the IGCA criminalise participation in an offence or attempted offence of TF as an accomplice and have the same penalty as for the offence. S.38 of the Criminal Code criminalises aiding and abetting in various forms including directing and giving instructions to people to commit offences. S. 6 of the POTA criminalises the contribution to the commission of one or more TF offences.

Criterion 5.9- (Met) TF is criminalised under Mauritian law and is consequently a predicate offence to the offence of money laundering as Mauritius also has an all crimes approach.

Criterion 5.10- (Met) S.4 of the CSFTA criminalises the financing of a terrorist act which takes place in Mauritius or outside the territorial jurisdiction of Mauritius (s.7).

Weighting and Conclusion

Mauritius does not have a sufficient legal framework for suppressing financing of terrorist individuals and organizations as well as financing the travel of individuals to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training. In view of the moderate shortcomings, **Mauritius is rated Partially Compliant with R.5.**

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

In its MER under the First Round of MEs, Mauritius was rated Non-Compliant with requirements of this Recommendation (formerly SR III). The main technical deficiencies were that: procedures in place could not effectively facilitate freezing without delay funds and other assets of persons designated under UNSCR 1267 and 1373; no effective procedures to give effect to freezing actions initiated by other jurisdictions; no provisions or procedures for considering requests for unfreezing and de-listing; nor provisions or procedures to ensure protection of rights of bonafide third parties and lack of effectiveness which is not part of technical compliance under the 2013 FATF Methodology.

Criteria 6.1 and 6.2- (Not Met) S.10 of the POTA provides that the Minister is responsible for proposing the designation of persons or entities to the appropriate UN Committees as international terrorists. This designation only applies to non-citizens or Mauritian citizens holding dual citizenship [s.10(8)] and to “international terrorist” organisations. Mauritian law does not explicitly specify the mechanisms for identifying targets for designation, based on the designation criteria set out in the relevant United Nations Security Council Resolutions (UNSCRs) apart from conferring the discretion on the Minister responsible for national security to declare a person to be a suspected international terrorist where the Minister reasonably suspects the person to be “concerned in the commission, preparation or instigation of acts of international terrorism; is a member of, or belongs to, an international terrorist group; has links with an international terrorist group, and he reasonably believes that the person is a risk to national security or is considered as a person involved in terrorist acts by such State or other organisation as the Minister may approve” [s.10(1)].

The Minister may further declare a group to be a proscribed group “if the group is subject to the control or influence of persons outside Mauritius, and the Minister reasonably suspects that it is concerned in the commission, preparation or instigation of acts of international terrorism; is listed as a group or entity involved in terrorist acts in any Resolution of the United Nations Security Council or in any instrument of the Council of the European Union; or is considered as a group or entity involved in terrorist acts by such competent authority of such State as the Minister may approve.” The applicable evidentiary standard of proof used by the Minister in the designation of a person or organisation is that of “reasonable suspicion”. There is no legal provision that makes proposals for designation conditional upon the existence of a criminal proceeding; Mauritius does not have specific procedures and standard forms for listing, as adopted by the relevant UN Committees. There are no specified procedures for the provision of as much relevant information as possible on the proposed name; statement of case which contains as much detail as possible on the basis for the listing; and whether the status as a designating state may be made known.

Criterion 6.3- (Not Met) Mauritius does not have legal authority and procedures or mechanisms to collect or solicit information to identify persons and entities that, based on reasonable grounds, or a reasonable basis to suspect or believe, meet the criteria for designation and to operate *ex parte* against a person or entity identified and whose proposal for designation is being considered.

Criterion 6.4- (Not Met) Mauritius does not have sufficient mechanisms to implement targeted financial sanctions without delay. The POTA does not provide for adequate measures which empowers the Minister to make regulations to provide for the freezing of any funds, financial assets or other economic resources, including funds derived from property, owned or controlled directly or indirectly, by a terrorist or terrorist group, by persons acting on the terrorist’s or group’s behalf or at the terrorist’s or group’s direction.

Criterion 6.5- (Not Met) Mauritius does not have provisions for the grant of legal authority to, and the identification of domestic competent authorities responsible for implementing and enforcing targeted financial sanctions.

Criterion 6.6- (Not Met) Mauritius does not have specific and publicly known procedures to de-list and unfreeze the funds or other assets of persons and entities which do not, or no longer, meet the criteria for designation.

Criterion 6.7- (Not Met) Mauritius does not include access to frozen funds or other assets which have been determined to be necessary for basic expenses, for the payment of certain types of fees, expenses and service charges, or for extraordinary expenses, the scope of this provision is significantly limited in the sense that the Regulations is applicable only to FIs and UNSCR 1267.

Weighting and Conclusion

Mauritius does not meet all criteria under this Recommendation and is therefore rated **Non-Compliant with R. 6.**

Recommendation 7 – Targeted financial sanctions related to proliferation

These obligations were added during the revision of the FATF Recommendations in 2012 and were thus not considered in the framework of the evaluation of Mauritius in 2007 under the First Round of MEs.

Criteria 7.1 to 7.5 (Not Met) Mauritius does not have in place a framework for the implementation of targeted financial sanctions without delay to comply with United Nations Security Council Resolutions, adopted under Chapter VII of the Charter of the United Nations, relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing.

Weighting and Conclusion

Mauritius does not meet all criteria under this Recommendation and is therefore rated **Non-Compliant with R. 7.**

Recommendation 8 – Non-profit organisations

In its MER under the First Round of MEs, Mauritius was rated Non-Compliant with requirements of this Recommendation (formerly SR VIII). The main technical deficiencies were that: no review of adequacy of laws to ensure that NPOs are not being misused for terrorist financing; no outreach had been conducted to NPOs; no sanctions applied to NPOs for failure to comply with provisions of the relevant laws; record keeping requirement was for a period of three years only and no gateways for sharing non-public information with domestic ministries and authorities. The FATF has revised the new Recommendation to require countries implement the obligations on the basis of risk.

Taking a risk-based approach

Criterion 8.1- (Not Met)

Sub-criteria (a) and (b) Mauritius registers and governs NPOs through the Registration of Associations Act, which defines an association as “an organisation made up of not less than 7 persons having a formal structure with a common purpose, other than that of pecuniary gain to its members” but excludes a political party. The Act, however, does not apply to a youth club, an association incorporated under any other enactment and a co-operative society. Charitable foundations and trusts are established in terms of Section 7 of the Foundations Act (2012) and S. 20 of Trusts Act (2001). Charitable foundations are registered by the Registrar of Foundations within the Corporate and Business Registration Department (CBRD) but they are not subject to oversight for TF purposes. Charitable trusts do not fall under the purview of the Registrar of Associations and CBRD; rather qualified trustees are registered by the FSC and must hold a license in terms of the Trust Act.

Mauritius has not adequately reviewed its NPO sector, including a mapping of its size, features and activities with a view to identify features and types of NPOs which by virtue of their activities or characteristics, are likely to be at the risk of terrorist financing abuse. In addition, the authorities have not identified any threats of NPO abuse emanating from terrorist entities or the manner in which such abuse is done²⁹.

Sub-criterion (c) and (d) Mauritius has not carried out any review to determine adequacy of measures, including laws and regulations targeting a subset of NPOs that may be abused for terrorist financing to guide application of appropriate risk-based measures. Although, ss. 7(1)d) and 15(1)(b) of the Act provides for refusal to register an association and cancellation of registration by the Registrar in circumstances, “where the association is or has engaged, or is about to engage, in activities likely to cause a serious threat to public safety, or order or has made, is making or is likely to make, available any resources, directly or indirectly, to a terrorist organisation, or for the purpose of terrorism”, there is no evidence that these provisions are being used on a risk basis by the authorities to determine which organisations are likely to be exposed to such activities. Furthermore, the country does not have any framework in place or capacity to obtain timely information on the activities of the NPOs, their size and other relevant features which would help in identifying characteristics which would potentially make them vulnerable to TF risks.

Sustained outreach concerning terrorist financing issues

Criterion 8.2- (Not met) Sections 19-24 of the Registration of Associations Act prescribe duties and requirements as well as procedures in relation to use of funds, preparation and retention of financial records, audit and filing of annual returns by associations. To a large extent, these promote accountability and integrity in the management and administration of NPOs. However, apart from these legal provisions Mauritius does not have specific policies to promote

²⁹ The Mauritian authorities advised assessors that they were reviewing their laws to address the AML/CFT deficiencies regarding the NPO sector and that a draft Bill is being finalised by the AG’s Office²⁹. The draft Bill was not made available to the assessors to determine whether in its preliminary form it covers the requirements of R. 8. Moreover, the Bill was not drafted on the basis of a risk informed policy as Mauritius has started undertaking its NRA recently.

transparency, integrity, and public confidence in the administration and management of NPOs, let alone for terrorist financing purposes. In addition, no measures are in place to implement sustained outreach and educational programmes concerning TF issues and there has not been any engagement of the NPO sector with a view to (a) develop best practices to address TF risks and vulnerabilities or (b) encourage them to conduct transactions through regulated financial institutions.

Targeted risk-based supervision of monitoring of NPOs

Criterion 8.3 (Not met) Since Mauritius has not assessed risks and vulnerabilities facing the NPO sector, it has not developed any risk-based measures for supervision and monitoring the NPOs which may be at risk of being abused for terrorist financing purposes.

Criterion 8.4 (Not Met) Most of the requirements of this Recommendation are not contained in the existing laws for the NPO sector. In view of this, the NPOs are not under obligation to comply with them and the authorities cannot monitor their compliance. In terms of s.37 of the Registration of Associations Act, violation against all provisions attracts a fine not exceeding 500 rupees (USD 14) and an imprisonment not exceeding 3 months. The sanctions don't appear to be proportionate and dissuasive.

Effective information gathering and investigations

Criterion 8.5- (Not Met)

Sub-criteria (a) (not met) Mauritius does not have in place measures to ensure effective co-operation, co-ordination and information-sharing to the extent possible among all levels of appropriate authorities or organisations that hold relevant information on NPOs;

Sub-criteria (b) (not met) The Registrar in terms of s. 31 of the Act has got powers to inspect and audit the books of a registered association and its bank and cash balances. Further, in terms of s. 32(1), the Registrar, where there is reasonable ground to believe that the provisions specified in s. 15(1) (which include an association making or likely to make resources directly or indirectly available to a terrorist or terrorist organisation or for purposes of terrorism) may call for all accounts and documents relating to the association and institute an inquiry into the affairs and conduct of the association. However, there are no similar legal provisions for charitable foundations and trusts. Apart from existence of the legal provisions, Mauritian authorities did not appear to have specific investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations;

Sub-criteria (c) (met) S.24 of the Registration of Associations Act requires associations to retain all books, statements of account, and auditors reports as well as all registers of members and their payments to the association for a period of three years, which are required to be made available to the Registrar and accessible to the association's members. Additionally, s.118 of the Courts Act empowers magistrates to issue search warrants to LEAs. Financial and programmatic information may therefore be obtained during the course of an investigation.

Sections 36 and 37 of the Foundation Act require charitable foundations to retain all books, statements of account, and auditors reports as well as all registers of members and their payments to the association for a period of seven years, which in terms of s. 31(2) of the Act should be produced to Registrar of Foundations and FSC upon notice and a place and time specified in the notice.

The records to be kept by trustees for charitable trusts in terms of Section 38 of the Trust Act includes proper books, registers, accounts, records such as receipts, invoices and vouchers and documents such as contracts and agreements representing a full and true record of all transactions and other acts engaged in by the trust and shall be kept for a period of not less than 5 years after the completion of the transactions to which they relate. However, there is a limitation on accessing information by various agencies other than FSC (s.33 of the Trust Act).

Sub-criteria (d) Mauritius does not have appropriate mechanisms to ensure that information is promptly shared with competent authorities, in order to take preventive or investigative action when there is suspicion or reasonable grounds to suspect that a particular NPO is involved in terrorist financing abuse and/or is a front for fundraising by a terrorist organisation; is being exploited as a conduit for terrorist financing, including for the purpose of escaping asset freezing measures, or other forms of terrorist support; or is concealing or obscuring the clandestine diversion of funds intended for legitimate purposes, but redirected for the benefit of terrorists or terrorist organisations.

Criterion 8.6- (Not Met) Mauritius does not have points of contact and procedures to facilitate prompt sharing of information with competent authorities in order to take preventive or investigative action regarding particular NPOs suspected of terrorist financing or involvement in other forms of terrorist support.

Weighting and Conclusion

Mauritius does not meet all the criteria under this Recommendation. Although the Registration of Associations and Foundations Acts have licensing/ registration requirements and the Registrar of Associations and Foundations has powers to ask for a wide range of information from the NPOs when necessary, all the measures regulating the activities of NPOs in Mauritius under the Acts are not for purposes of dealing with the possible exposure of the NPO sector to abuse for TF activities. Authorities have not undertaken a comprehensive review of the NPO sector to appropriately understand TF risks and have not taken steps to promote targeted risk-based supervision or monitoring of NPOs. The NPO sector has not been engaged to raise awareness about potential vulnerabilities to TF abuse and risks. In view of the foregoing deficiencies, Mauritius has been **rated Non-Compliant with R 8.**

Recommendation 9 – Financial institution secrecy laws

In its MER under the First Round of MEs, Mauritius was rated Compliant with requirements of this Recommendation (formerly R 4). The new R. 9 has not modified FATF requirements. However, there are some legal provisions which impact on compliance of Mauritius with this Recommendation.

Criterion 9.1 (Partly met) FIs in Mauritius are subject to confidentiality provisions as part of widely acceptable principles/ ethics governing relationship with their customers. However, the confidentiality requirements are not absolute as there are gateways for accessing and sharing information or data for purposes of complying with laws and regulations. Although the FIAMLA does not contain any confidentiality overriding provisions, to some extent, the sectoral laws provide for frameworks to facilitate access to and exchange of information or data. For instance, there are statutory confidentiality requirements for FIs under the purview of the BoM [s. 64 (2) of the Banking Act]. However, the duty of confidentiality does not apply where a FI is required to make a report or provide additional information to the FIU under FIAMLA [s. 64(3) of the Banking Act]. Therefore, to a certain degree, laws and regulations in Mauritius do not inhibit the implementation of the FATF Recommendations. However, there are some gaps as discussed below based on examples of specific areas highlighted in the Methodology.

Access of information by competent authorities

BoM and FSC have powers to access or require an institution to provide information or data, such information or data for purposes of performing its functions and responsibilities under the Banking Act (s. 51 of the BoM Act and s. 87 of FSA).

Exchange of information with domestic and international competent authorities

S. 64(14) of the Banking Act permits disclosure of information by the central bank to a central bank or any other entity which performs the functions of a central bank in a foreign country. This may pose challenges where a supervisory body which is not a central bank needs information from BoM.

Exchange of information between financial institutions

With respect to exchange of information between FIs licensed under the Banking Act, s. 64 prohibits disclosure of information by every person employed by a financial institution. The exception is limited to information required by another financial institution for purposes of assessing credit-worthiness.

Weighting and conclusion

There are gaps in the legal provisions in relation to exchange of information. BoM can only exchange information with agencies which are central banks or perform the functions of central banks. Furthermore, FIs licensed under the Banking Act are only allowed to disclose information to each other if it is related to credit-worthiness of their customers/ clients. The deficiencies are considered to be moderate and therefore **Mauritius is rated partially compliant with R 9.**

Recommendation 10 – Customer due diligence

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R. 5). The main technical deficiencies were that: not all FIs were covered as reporting institutions; some institutions regulated by FSC had not

implemented the Code fully; some provisions such as those in relation to beneficial owner and ongoing CDD were not included in law or regulation as required; no requirement to keep CDD information up to date and no requirement to consider filing an STR when an institution is not able to obtain CDD information. The new FATF Recommendation imposes more detailed requirements, particularly concerning the identification of legal persons, legal arrangements and beneficiaries of insurance policies.

The FATF Standards require that obligations in relation to the principle of conducting CDD must be set out in law and that other requirements within R10 can either be in law or other enforceable means. In terms of the Mauritian legislation, the only provision which deals with part of CDD measures (verification of customers) is s.17(a) of FIAMLA. The BoM Guidance Notes do not meet all the requirements of 'other enforceable means' set out in the FATF Standards. In addition, Paragraphs 6.96-99 of BoM Guidance Notes provide that (a) FIs based in Mauritius and in jurisdictions which have legislation equivalent to Mauritius are exempted from verification of identity; (b) public listed companies on designated stock exchanges in other countries and their subsidiaries (mentioned in Appendix A) are exempted from having the identity of their directors verified. The FATF Standards provide for application of simplified CDD measures / exemptions and set out conditions which must be satisfied to justify the simplified CDD measures or exemptions. Mauritius has not demonstrated that it has satisfied these conditions. Therefore, assessment of Mauritius' compliance with the requirements of R.10 takes into account the foregoing deficiencies.

It should be noted that several of the key preventive measures are contained in Guidance or Codes which vary in terms of their meeting the Standards. It should also be noted that the main provision in the law relating to CDD is considered not to meet the FATF Standards insofar as it only refers to an obligation to verify identity. The following table seeks to outline the main contents of the Code and Guidance Notes and their status under the Standards.

Issue/Areas covered	FSC Code	BOM Guidance	FIU Guidance
Issued pursuant to	s. 18 of FIAMLA	s. 18 of FIAMLA	FIAMLA s. 10
Applies to	All FSC Licensees	BoM Licensees	Accountants/Attorneys/Casinos/ Real Estate/Jewellers
Enforceable means	Yes. Wide range of sanctions apply for breaches. Also court decision speaks to enforceability.	No. No specific AML/CFT sanctions apply.	No. Limited range of sanctions. Also power to issue guidance limited to suspicious transactions.
Appointment of MLRO+	Yes	Yes	No
Internal Controls+	Yes	Yes	Yes
CDD Natural Persons+	Yes	Yes	No
CDD Legal persons	Yes	Yes	No

or arrangements+			
Source of funds/wealth	Yes	Yes	Yes on wealth not income
Eligible/ Group Introducers+	Yes	Yes	No
Risk Profiling+	Yes	Yes	Yes
High Risk Customers (PEPs, Non face to face, high risk jurisdictions+)	Yes	Yes	No PEPs No non face to face No high risk jurisdictions
Technological Developments	No	Yes	No
Wire transfers	No	Yes	No
Correspondent banking	No	Yes	No
Low Risk Relationships	Yes	No	Yes
Reduced due diligence measures	yes	No	No
On going monitoring+	Yes	Yes	Yes
Suspicious transaction reporting*	Yes	Yes	Yes
Tipping Off*	Yes	Yes	Yes
Employee Screening*	Yes	Yes	Yes
Employing Training	Yes	Yes	Yes
Record keeping (CDD and transactions)*	Yes	Yes	Yes
* Referenced in FIAMLA			
+ Referenced in FIAMLR			

Criterion 10.1 (Mostly met) Regulation 3 of FIAMLA Regulations prohibits FIs from opening of an anonymous or fictitious account. However, the Regulations do not cover existing accounts.

When CDD is required

Criterion 10.2 (Mostly met) FIs under FSC are required to undertake CDD measures when: establishing business relations; carrying out occasional transactions above MUR 350,000; there is a

suspicion of ML/TF and they become aware that they lack sufficient CDD information about their customers. There are no obligations to carry out CDD in respect of occasional wire transfers for Rec 16.

Required CDD measures for all customers

Criterion 10.3 (Partly met) There is no express provision in law which requires FIs to carry out CDD measures for customers. On the other hand, s.17 (a) of FIAMLA obliges every bank, financial institution, cash dealer or member of a relevant profession or occupation to verify, in such manner as prescribed, the true identity of all customers and other persons with whom they conduct transactions. In case of individuals, verification shall be carried out using original or certified official valid documents whereas identity of legal persons shall be verified using registration documents, copies of board resolutions, power of attorney and official valid documents of managers/ officers appointed to act on behalf of the legal person. These verification documents can be said to constitute reliable and independent source documents (FIAML Regulation 4.4 and 4.5).

Criterion 10.4 (Partly met) The legal framework in Mauritius does not have an obligation for FIs to ensure that persons purporting to act on behalf of customers are so authorised nor is there an obligation for the FIs to identify and verify the identity of that person. However, in the process of fulfilling an obligation to verify the identity of customers which are legal persons, FIs are required to establish that managers, officers and employees of the legal persons which purport to act on behalf of the legal persons have been so authorized by requiring them to produce a relevant board resolution and power of attorney [s.17 of FIAMLA and FIAMLA Regulations 4(5)]. There is no similar obligation in respect of customers which are individuals.

Criterion 10.5 (Not met) There is no provision in law which requires FIs to identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner, using the relevant information or data obtained from a reliable source.

Criterion 10.6 (Not met) There is no provision in law which obliges FIs to understand and obtain information on the purpose and intend nature of the business relationship.

Criterion 10.7 (Not met) There is no provision in law which obliges FIs to carry out ongoing due diligence on the business relationship, including (a) scrutinizing transactions undertaken throughout the course of the business relationship to ensure that the transactions are in line with their knowledge of the customers, business profile, risk profile and, source of funds; and (b) ensuring that documents, data and information collected under the CDD process is kept update and relevant by undertaking reviews of existing records, particularly of higher risk categories of customers.

Specific CDD measures required for legal persons and legal arrangements

Criterion 10.8 (Partly met) Apart from the requirement for FIs under the purview of FSC to understand the ownership and control structure (FSC Code 4.1.2), there is no legal requirement

for other FIs to satisfy requirements set out in c10.8. The requirement does not oblige FIs to understand the nature of business for legal persons and legal arrangements.

Criterion 10.9 (Partly met) In terms of the FSC Code 4.1.2, FIs under the FSC are required to identify the customer and verify the identity of a customer that is a legal person or arrangement, through the following information:

- (a) its name, legal form and proof of residence through the certificate of incorporation and a trust deed in case of legal arrangements and, if the trust is registered, by checking with the relevant registry.

- (c) the address of the registered office by getting the details from the customer.

There are no similar requirements in respect of FIs under BoM. Furthermore, there are no obligations in Mauritius for FIs to verify the powers that regulate and bind the legal persons and legal arrangements.

Criterion 10.10 (Partly met) FIs regulated by FSC are required to identify and take reasonable measures to verify the identity of the beneficial owner of legal persons by obtaining the identity of the natural persons who have controlling interest or exercises effective control of the legal person or arrangement and identity of the senior management officials (FSC Code 4.1.2.1). There are no similar requirements in respect of FIs under BoM.

Criterion 10.11 (Partly met) FIs regulated by FSC are obliged to identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner of legal arrangements by obtaining identities of settlors, trustees, protector, beneficiaries (if possible) and enforcers (FSC Code 4.1.2.2).

CDD for beneficiaries of Life Insurance Policies

Criterion 10.12 (Partly met) In relation to life insurance, FIs under FSC are required to identify the beneficiary by taking the name of the beneficiary (if already identified at the time of entering into business) and verify the identity before or at the time of payout (FSC Codes 4.6 and 9.3). However, there is no specific obligation for FIs to obtain sufficient information concerning the beneficiary to satisfying themselves that they will be able to establish the identity of the beneficiary at the time of payout.

Criterion 10.13 (Not met) There is no provision in law or other enforceable means which requires FIs to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable, including the need to take enhance measures to identify and verify the identity of the beneficial owner of the beneficiary, in the case where the beneficiary is a legal person.

Timing of verification

Criterion 10.14 (Partly met) Under FIAMLR reporting entities are required to establish and verify the identity of customers as soon as practicable with a view to carrying out an initial transaction or reaching an understanding with the applicant regarding future transaction. FIs which are licensed by the FSC are required to verify the identity of their customers prior to the establishment of a new customer relationship and prior to providing any financial service. The institutions are further permitted to delay the verification provided (a) it is carried out as soon as reasonably practicable, (b) it is essential not to interrupt normal conduct of business and (c) the ML risks are effectively managed [Paragraph 4.6 of the FSC Code]. TF risk are not included and the obligations have not been extended to include beneficial owners. There are no similar requirements in respect of FIs under BoM.

Criterion 10.15 (Mostly Met) In relation to FIs licensed by the FSC, those wishing to defer verification of the customer are required to have appropriate and effective policies, procedures and controls in place to manage the risk which must include (a) establishing that the transaction is not of high risk relationship, (b) monitoring by senior management (c) ensuring funds received are not passed on to third parties (d) establishing procedures to limit the number, type and/or amount of transactions that can be undertaken and (e) monitoring large and complex transactions. There are no similar requirements in respect of FIs under BoM.

Existing customers

Criterion 10.16 (Mostly met) FIs regulated by FSC are required to apply CDD requirements to existing customers on the basis of materiality and risk [Paragraph 4.7 of the FSC Code]. Examples of instances prompting CDD on existing customers has been provided in the FSC Code. There are no similar requirements for FIs licensed by BoM.

Criterion 10.17 (Met) FIs are required to apply enhanced due diligence procedures with respect to persons and business relations and transactions carrying higher ML/TF risks [s.17(a) of FIAMLA, FIAMLA Regulation 9(d)].

Criterion 10.18 (Not met) Mauritius permits FIs to apply simplified identification and verification measures (Paragraph 5.4 of the FSC Code) However, these are not supported by outcome of adequate analysis of risks by Mauritius or FIs in Mauritius. Simplified due diligence measures in the BOM Guidance are not legal requirements.

Failure to satisfactorily complete CDD

Criterion 10.19 (Partly met) In the event that FIs are not able to obtain satisfactory CDD information they are required not to open the account, commence the business relations or perform the transaction [Regulation 4(12) and FSC Code 4.6]. However, there is no requirement to consider submitting an STR.

CDD and tipping off

Criterion 10.20 (Not met) There is no provision in law or other enforceable means which states that if FIs form a suspicion of ML or TF in the course of carrying out the CDD and they

reasonably believe that continuing the process will tip off the customer, they should be permitted not to proceed with the CDD process but instead, they should submit an STR.

Weighting and conclusion

The absence of legal provisions in the FIAMLA and the Regulations thereto in relation to a full range of CDD measures are considered to be significant deficiencies as CDD measures feed into the rest of AML/CFT efforts. Although BoM Guidance Notes contain some requirements of R10, they do not meet the criteria to qualify as other enforceable means. In addition, provisions set out in FIAMLA Regulation 5(1) in relation to exemptions which are not supported by results of ML/TF risk assessment provide significant weaknesses in the AML/CFT regime. **In view of these significant deficiencies, Mauritius is rated noncompliant with R.10.**

Recommendation 11 – Record-keeping

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R. 10). The main technical deficiencies were that: not all FIs were covered as reporting institutions; some obligations were not covered in law or regulations; no requirement to keep account files or business correspondence; except for institutions regulated by BoM, no requirements to keep records for more than 5 years if requested to do so by competent authorities and there was no requirement for FIs to ensure that the records are available on a timely basis.

Criterion 11.1 (Met) FIs are required to keep records of transactions carried out for customers, for not less than 5 years after completion of the transactions [s.17((b) of FIAMLA and FIAMLA Regulation 8(1)(b)].

Criterion 11.2 (Met) FIs are under an obligation to keep records obtained through CDD measures, account files, business correspondence and records of reports made to and by the MLRO [s.17(b) of FIAMLA, s. 33(1), 33(2)(c) and 33(3)(b) of the Banking Act, (s.29(1) and 29(2) of FSA) and FIAMLA Regulation 8(1)(a). Reports of the MLRO are considered to include results of any analysis undertaken.

Criterion 11.3 met) FIs are under obligations to keep transaction records sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity (see legislation cited under 11.1).

Criterion 11.4 (Not met) There is no clear legal provision which requires FIs to ensure that all CDD information and transaction records are available swiftly to domestic competent authorities with the exception of the FIU under s.13 of the FIAMLA.

Weighting and conclusion

The legal provisions on record keeping don't have a clear obligation to make the information on CDD and transaction records available swiftly to competent authorities. These are considered to be minor deficiencies and therefore **Mauritius is rated largely compliant with R11.**

Recommendation 12 – Politically exposed persons

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R 6). The main technical deficiencies were that: not all financial institutions were covered; the Guidance Notes did not apply the definition of PEPs in all circumstances; no requirement for senior management approval for persons who become PEPs after commencement of relationship; definition of PEPs included family member of close associates only in relation to senior political figure of a country; no requirement to establish source of wealth of beneficial owner; In 2012 the FATF introduced new requirements for national PEPs and PEPs from international organisations.

Criterion 12.1 (Mostly met) Paragraph 5.3.1 of the FSC Code largely outlines the four steps set out in the FATF Standards for FIs to comply with in identifying and managing their relationship with foreign PEPs. However, the FSC Code doesn't include persons entrusted with a prominent function by an international organisation within the definition of a PEP.

Criterion 12.2 (Partly met) Paragraph 5.3.1 of the FSC Code doesn't suggest that the obligations cover financial institutions' relationship with individuals holding prominent functions in international organisations. So, in relation to FIs under FSC, there is no provision in law or other enforceable means which requires FIs to take reasonable measures to determine whether a customer or beneficial owner is an individual who holds a prominent function in an international organisation.

Criterion 12.3 (Partly met) In terms of Paragraph 5.3.1 of the FSC Code, FIs are required to apply the same standards set out in c.12.1 to family members and close associates of PEPs. However, as noted under c.12.2, the FSC Code doesn't seem to apply to- individuals holding prominent functions in international organisations. The obligations set out in c12.1 and c.12.2 also apply family members and close associates of PEPs.

Criterion 12.4 (Not met) There is no specific provision in law or any instrument of 'enforceable means' which requires FIs to determine whether the beneficiary or beneficial owner of a beneficiary of a life insurance policy is a PEP. Related to this, there are no legal provisions guiding the FIs on what they should do in the event that they have established existence of higher risks.

Weighting and conclusion

The legal provisions related to institutions under FSC don't extend the scope of PEPs to include individuals holding prominent functions in international organisations. In addition, there are no provisions in relation to beneficiaries or beneficial owners of beneficiaries of insurance policies who could be PEPs. The PEP provisions in the BoM Guidance Notes do not meet the criteria for other enforceable means Hence, the legal framework does not extend to FIs under BoM. **Mauritius is therefore partially compliant with R.12.**

Recommendation 13 – Correspondent banking

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R 7). The main technical deficiencies were that: the Guidance Notes did not require FIs to determine the respondent's reputation from publicly available information; no requirement to gather information on whether a respondent has been subjected to an investigation or regulatory action; no obligation to obtain senior management approval before establishing new correspondent relationships; no requirements to document respective AML/CFT responsibilities and no obligation for institutions to satisfy themselves that adequate CDD requirements have been performed on customers with direct access to accounts of a correspondent financial institution. The new FATF Recommendation has added a requirement to prohibit relationships with shell banks.

Criteria 13.1 – 3 (Not Met) There are no specific legal obligations for FIs in Mauritius to apply specific measures when engaging in correspondent banking relationships and transactions as set out in R.13.

Weighting and Conclusion

Mauritius has not met the criteria relating to this Recommendation as it does not require FIs to apply AML/CFT requirements on correspondent banking relationships and transactions. Mauritius is rated ***non-compliant*** with R13.

Recommendation 14 – Money or value transfer services

In its MER under the First Round of MEs, Mauritius was rated Non-Compliant with requirements of this Recommendation (formerly SR VI). The main technical deficiencies were that: no legal framework covering money value transfer service providers; no explicit legal provisions covering money transfer services and the sanctions framework was ambiguous with respect to MVT service operators. The FATF introduced new requirements concerning the identification of providers of money or value transfer services who are not authorised or registered, and the application of sanctions for failure to comply with these obligations and additional obligations for MVTS providers which use agents.

Criterion 14.1 (Met) Section 13 of the Banking Act states that any person proposing to carry out the business of a cash dealer requires to be licenced by the Bank of Mauritius. The definition of 'cash dealer' as read together with the definition of 'foreign exchange dealer' includes money or value transfer services. The applicant must be a corporate body.

Criterion 14.2 (Met) Section .97(1) of the Banking Act provides that any person who transacts money or value transfer services commit an offence and shall, on conviction, be liable to a fine of not exceeding one million rupees and to imprisonment of not exceeding 5 years. On a number of occasions, the BoM has reported cases to the Police following receipt of intelligence what some entities had been carrying out services without a licence.

Criterion 14.3 (Met) Money or value transfer service providers are reporting institutions under FIAMLA and subject to AML/CFT supervision in terms of s.18(1)(b) of FIAMLA. They are required to comply with AML/CFT laws, regulations, guidelines and subject to sanctions for non-compliance.

Criterion 14.4 (Not Met)

There is no provision in law or regulation which requires agents of MVTS providers to be licensed or registered by a competent authority nor is there a requirement for the MVTS providers to maintain a current list of its agents accessible by competent authorities in the countries in which the MVTS provider and its agents operate.

Criterion 14.5 (Not met)

There is no requirement in law or other enforceable means which requires FIs to include agents in their AML/CFT programmes and monitor them for compliance with the programmes.

Weighting and Conclusion

MVTS are subject to licensing and supervision requirements in Mauritius. Persons carrying out the services without authorisation can be prosecuted. However, there are no 'enforceable means' in relation to the use of agents. In view of the deficiencies, **Mauritius has been rated Partially Compliant.**

Recommendation 15 – New technologies

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R 8). The main technical deficiencies were that: not all FIs were covered and no obligations requiring institutions to have policies in place to prevent the misuse of technological developments. The new R. 15 focuses on assessing risks related to new products, new business practices and new delivery channels and the use of new technologies for both new and existing products.

Criteria 15.1- 15.2 (Not Met) There are no specific requirements for competent authorities and FIs to identify and assess the ML/TF risks that may arise in relation to the development of new products or new business practices, and the use of new or developing technologies for both new and existing products. There is reference to these requirements in the BoM Guidance Notes which do not meet the criteria for other enforceable means.

Weighting and Conclusion

Mauritius does not meet all criteria 15.1 and 15.2 **and is therefore rated non-compliant with R15.**

Recommendation 16 – Wire transfers

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly SR VII). The main technical deficiencies were that: the legislative framework did not cover all non-banks nor did it contain provisions for sanctions; no requirement for beneficiary financial institution to consider restricting or

terminating business relations with financial institutions which fail to meet the requirements of SRVII. The FATF requirements in this area have since been expanded to include requirements relating to beneficiary information, identification of parties to transfers and the obligations incumbent on the financial institutions involved, including intermediary financial institutions.

The legal frameworks in respect of wire transfers are set out in BoM Guidance Notes, issued under s. 50(2) of the BoM Act, s.100 of the Banking Act and s.18(1)(a) of FIAMLA. For this purpose, the GN are applicable to institutions licensed by BoM only. Therefore, the discussion below does not extend to institutions licensed by other competent authorities such as FSA.

Ordering financial institutions

Criteria 16.1-16.6 (Not met) There are no specific legal obligations for FIs in Mauritius to apply specific measures when engaging in wire transfers as set out in R.16.

Criterion 16.7 (Met) In terms of section 33 of the Banking Act, a FI is required to maintain a full and true written record of every transaction it conducts for a period of at least 7 years. This provision is interpreted to include wire transfers.

Criteria 16.8-16.18 (Not met) -There are no specific legal obligations for FIs in Mauritius to apply specific measures when engaging in wire transfers as set out in R.16.

Weighting and Conclusion

Requirements of R.16 do not apply to all FIs but are limited to institutions which are licensed under the Banking Act only. Except for c.16.7, Mauritius has not met the criteria relating to this Recommendation as it does not require FIs to apply AML/CFT requirements to wire transfers. These deficiencies increase vulnerabilities of wire transfers to ML/TF risks. **Mauritius is therefore rated non-compliant with R16.**

Recommendation 17 – Reliance on third parties

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R 9). The main technical deficiencies were that: not all financial institutions were covered (some institutions regulated by FSC had not implemented the Codes fully) and that the Guidance Notes and Code did not require the necessary information to be obtained by financial institutions or that all introducers should be regulated and subject to the FATF Recommendations. The FATF's new requirements emphasise on the country risk of the third party required to perform due diligence on the customer.

Criterion 17.1 (Partly met) Obligations governing reliance of FIs on third parties are set out in FIAMLA Regulation 4(6) and Paragraph 4.4. of the FSC Code). However, each of these instruments have varying deficiencies. In broad terms, FIs are obliged to take measures which are largely consistent with R.17 in that where reliance on third party FIs is permitted, ultimate responsibility for completing CDD measures (identification of the customer, identification of beneficial owner, and understanding the nature of business) remains with the relying FI. Under

the law the FI has to be satisfied that the introducer is regulated for ML and TF and that the introducers procedures meet the requirements of Mauritian laws and that the institution can obtain copies of the identification materials upon request. The Regulations make no reference to an obligation to immediately get information concerning elements (a) to (c) in Recommendation 10. The FSC Code does not not require FIs to understand the nature of business- it simply requires Licensee to obtain information on the nature of business; (b) take steps to satisfy itself that identification data and other documents relating to CDD requirements will be made available from the third party upon request without delay Par 4.4 of FSC Code) and, (c) FIs are also required to ascertain that the third party is regulated and has measures in place for compliance with FIAMLA, which includes CDD and record keeping requirements.

Criterion 17.2 (Not met) There is no provision in law or any other enforceable means which clearly points out to the requirement to consider information available on the level of country risk. Instead, Appendix IV of FSC Code provides a list of 'equivalent jurisdictions'- countries which have legislation equivalent to Mauritius. All third parties based in countries on the list are acceptable. However, country risk may be affected by factors other than an adequate legislation, e.g. weaknesses in effectiveness in the implementation of the legislation. Some of the countries on the list have weak AML/CFT systems.

Criterion 17.3 (Not met) The procedures outlined in FSC Code in relation to c.17.1 and c.17.2 are also applicable to FIs which rely on a third party which is part of the same group. However, as discussed under the above criteria, these procedures are not entirely consistent with the FATF standards. In particular, FIs are not under obligation to ensure that: (a) the group applies CDD and record keeping requirements in line with Recommendations 10 and 11 and programmes against ML/TF in accordance with Rec18- but rather requirements specified in FIAMLA and FSC Code, (b) implementation of those CDD and record keeping requirements and AML/CFT programmes is supervised at a group level by a competent authority and, any higher country risk is adequately mitigated by the group's AML/CFT policies.

Weighting and Conclusion

FIs which use of a third party to perform CDD measures are obliged to use the Mauritian AML/CFT regime which, as described under Recommendations 10 and 11, has significant deficiencies. In addition, the benchmark for foreign third party FIs which are to be relied on is the Mauritian legislation which, again, has deficiencies. Besides, no consideration is given to country risks of the third party (introducer) and the effective implementation of the legislation by the individual third parties. These deficiencies are considered significant because global business sector, which serves a material sector in Mauritius, place high reliance on third parties.

Mauritius is rated non-compliant with R.17

Recommendation 18 – Internal controls and foreign branches and subsidiaries

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R 15) and Non-Compliant with former R 22.

The main technical deficiencies were that: not all financial institutions were covered; no requirement for an adequately resourced and independent audit function, on-going training, screening procedures for hiring new employees or application of AML/CFT measures to foreign subsidiaries and branches. The new Recommendation introduces some new requirements on implementing AML/CFT programmes for financial groups.

Criterion 18.1 (Partly met) There are no provisions in law or regulation which require FIs to implement programmes against ML/TF which have regard to ML/TF risks and the size of the business. However, FIAMLA Regulations 6 and 9 require FIs to implement internal controls and other procedures to combat ML/TF, including establishing and maintaining a manual of compliance procedures in relation to ML (TF not mentioned), appoint a MLRO of a 'sufficiently senior level' with relevant competence, authority and independence (FSC Code).

FIs are under an obligation to put in place appropriate screening procedures to ensure high standards when recruiting employees and to provide training to employees from time to time in the recognition and handling of suspicious transactions [s. 17(d) of FIAMLA and FIAMLA Regulation 9(e)]. FSC Code (Par 7.4) elaborate on the scope of the training beyond recognition of suspicious transactions and explain that the training shall be ongoing. FIs under the FSC are further required to have an adequately resourced and independent audit functions (Par 3.1 of FSC Code).

Criterion 18.2 (Not met) There are no specific provisions in law or other enforceable means which require financial groups to implement group wide programmes against ML/TF risks including the requirements in respect of (a) policies and procedures for sharing information required for purposes of CDD and ML/TF risk assessment (b) provision of customer, account and transaction information from branches and subsidiaries when necessary for AML/CFT purposes and, (c) adequate safeguards on confidentiality and use of information exchanged as well as requirements set out in c.18.1.

Criterion 18.3 (Not met) There are no requirements in law or other enforceable means which requires FIs to ensure that their overseas branches or subsidiaries to apply AML/CFT measures consistent with those of Mauritius where the host country requirements are less strict.

Weighting and Conclusion

Implementation of programmes against ML/TF are not required to be commensurate with ML/TF risks and size of the business. In addition to this, there are no requirements in law or other enforceable means relating to implementation of AML/CFT measures by overseas subsidiaries and branches of Mauritian FIs. In view of the deficiencies discussed above, **Mauritius is rated partially compliant with R.18.**

Recommendation 19 – Higher-risk countries

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R21). The main technical deficiencies were that:

not all financial institutions were covered and that there was no requirement to examine the background and purpose of transactions which have no apparent or lawful purpose. R.19 strengthens the requirements to be met by countries and FIs in respect of higher-risk countries.

Criterion 19.1 (Partly met) FIs are required to apply enhanced due diligence procedures with respect to persons, business relationships and transactions carrying high risk and with persons established in jurisdictions that do not have adequate systems in place against ML/TF [FIAMLA Regulation 9(d)]. In addition, FIs under BoM are required to conduct an enterprise-wide risk assessment, including of countries/ jurisdictions and taking into account countries which have been identified by the FATF. In respect of FIs under the FSC, there is no requirement that this be applied to customers and transaction from countries for which it is called for by the FATF. Although FIs may on their own accord assess that a country (which is also named by the FATF) is high risk, that would depend on the risk-assessment conducted by the FI.

Criterion 19.2 (Not met) There are no provisions in law or operational mechanisms which indicate that Mauritius applies countermeasures proportionate to the risks (a) when called upon to do so by the FATF; and independent of any call by the FATF to do so.

Criterion 19.3 (Met) FIs under BoM are provided with public statements issued by the FATF and FSRBs for information and action as appropriate. For the non-banking financial sector, licensees are required to verify the FATF website for updates on the list of countries subject to FATF monitoring.

Weighting and Conclusion

Mauritius meets c.19.3, partly meets c.19.1 but does not meet c.19.2. The legal/ regulatory provisions in relation to how FIs should handle business relationships and transactions with natural or legal persons determined to be high risk do not meet the FATF standards. In addition, there are no mechanisms in place to facilitate implementation of counter-measures. **Mauritius is rated partially compliant with R19.**

Recommendation 20 – Reporting of suspicious transaction

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R13 and SRIV). The main technical deficiencies were that: not all categories of financial institutions were subject to STR reporting obligations and, low level of reporting and delays in reporting.

Criterion 20.1 ((Met) Section 14 of the FIAMLA requires FIs to file suspicious transactions reports on any proceed of crime, ML and TF to the FIU as soon as practicable, but not later than 15 working days.

Criterion 20.2 (Met) Section 14 requires reporting institutions to report attempted transactions.

Weighting and conclusion

Mauritius is rated **Compliant with R 20**.

Recommendation 21 – Tipping-off and confidentiality

In its MER under the First Round of MEs, Mauritius was rated Compliant with requirements of this Recommendation (formerly R14). The new R. 21 has not modified FATF requirements and the detailed analysis set out in paragraphs 718-720 still apply.

Criterion 21.1 (Met) S. 16(2) of FIAMLA provides that no proceedings shall lie against any person for having reported to the FIU in good faith any suspicion he may have had whether or not the suspicion proves to be well founded.

Criterion 21.2 (Partly Met) Every person directly or indirectly involved in the reporting of a suspicious transaction is prohibited from informing any person involved in the transaction or unauthorised third party that the transaction has been reported or that any related information has been supplied to the FIU [s.16(1) of FIAMLA]. Considering that directors of FIs are not normally involved in the reporting of suspicious transactions, the provision does not seem to include them in the list of persons prohibited from making disclosure about STRs. In addition, non-compliance with this provision becomes an offence only if the person warns or informs the owner of the funds related to the transaction in respect of which a report has been made [s.19(1) (c) of FIAMLA], which is a deficiency.

Weighting and conclusion

Mauritius meets c.21.1 and partly meets c.21.2. The existing legal provisions do not suggest that directors of FIs are covered by the provision which prohibits disclosure of information. It also seems that it would not be an offence if the disclosure is made to any person apart from the owner of the funds. In view of these deficiencies, **Mauritius is rated partially compliant with R.21**.

Recommendation 22 – DNFBPs: Customer due diligence

In its MER under the First Round of MEs, Mauritius was rated Non-Compliant with requirements of this Recommendation (formerly R12). The main technical deficiencies were: lack of practical effect in the FIAMLA Regulations or other regulatory requirements; other DNFBPs not subject to requirements related to CDD, PEPs, non-face-to-face transactions, use of intermediaries, complex or unusual transactions; real estate agents not subject to sufficient obligations to undertake appropriate CDD or record keeping measures and the GRA had not yet issued Regulatory Guidance pursuant to its rules making powers.

Criterion 22.1: CDD Measures (Not met) The FIAMLA extends the scope of CDD requirements to the DNFBPs. Therefore, refer to R.10 for full analysis of the deficiencies identified with respect to R.10. A full range of CDD is not covered in FIAMLA and in terms of the FATF Standards, although Mauritius has developed sectoral guidelines which cover substantially the CDD measures envisaged in R.10, these do not meet the standard of ‘law and other enforceable means’ (see chapter 1, paragraphs 80 and 81). The FIAML Regulations do not apply to the DNFBPs. The analysis below, highlights issues specific to each sub-sector.

- (a) *Casinos*: There are no provisions in law or other enforceable means which require casinos to comply with CDD requirements set out in R.10 when their customers engage in financial transactions equal to or above USD3,000.
- (b) *Real Estate Agents*: There are no provisions in law or other enforceable means which require real estate agents to comply with CDD requirements set out in R.10 when they are involved in transactions for clients concerning the buying and selling of real estate.
- (c) *Dealers in Precious Metals and Dealers in Precious Stones*: There are no provisions in law or other enforceable means which require dealers in precious metals and precious stones to comply with CDD requirements set out in R.10 when engaged in cash transactions equal to or above USD15,000.
- (d) *Lawyers, notaries, & other legal professionals and accountants*: There are no provisions in law or other enforceable means which require these professionals to comply with CDD requirements set out in R.10 when they are involved in activities described in c.22.1(d).
- (e) *TCSPs*: TCSPs which serve holders of Global Business License are licensed as management companies and are considered to be financial institutions and, they fall under the supervisory purview of FSC. Therefore, the analysis under R.10 also applies to TCSPs. However, it seems that TCSPs which handle domestic clients are not subjected to AML/CFT obligations.

Criterion 22.2 (Not met) See R.11 (Record keeping) for an analysis of these deficiencies, as s.17 of FIAMLA extend these provisions to the DNFBPs. However, FIAMLA Regulation 8 which sets out details of records to be maintained does not apply to DNFBPs. On the other hand, all Dealers in Jewellery are advised to keep records of all the transactions in which they are involved in for at least five years after the business relationship has ended [s.22(1) (c) of the Jewelry Act].

Criterion 22.3 PEPs (Not met) There are no specific provisions in FIAMLA which set out requirements contained in R.12 in relation to PEPs and DNFBP Sectoral Guidelines do not meet criteria required for 'other enforceable means'.

Criterion 22.4 New technologies (Partly met) Analysis of provisions relating to how TCSPs should deal with new technologies are covered under R.15 since TCSPs are carried out by management companies which are considered as FIs under the FSA. There are no provisions in law or other enforceable means which require the rest of the DNFBPs to comply with requirements under R.15.

Criterion 22.5 Reliance on Third Parties (Not met) In relation to management companies and corporate trustees, see the analysis of deficiencies under c.17 since these are considered as FIs under the FSA. Except for casinos, the rest of the DNFBPs can handle transactions (including opening and account) on behalf of clients outside Mauritius and therefore rely on third parties to

carry out CDD measures and other functions on their behalf. However, there are no provisions in law or other enforceable means which require other DNFBPs to comply with requirements covered by R17.

Weighting and conclusion

There are major deficiencies in relation to CDD measures, PEPs, new technologies and reliance on third parties. In view of this, **Mauritius is rated Non-compliant with R. 22.**

Recommendation 23 – DNFBPs: Other measures

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R16). The main technical deficiencies were that: real estate agents not subject to reporting obligations; absence of requirements for ongoing training, recruitment and audit; shortcomings in CDD requirements for non-FSC supervised DNFBPs weaken the capacity to identify suspicious transactions and no mechanism to advise DNFBPs not under FSC about high risk jurisdictions.

Criterion 23.1- STR (Met) The reporting obligations with respect to suspicious transactions set out in s.14 of FIAMLA apply to all reporting entities, including DNFBPs. See R.20 (Suspicious Transaction Reporting) for an analysis of these requirements. In addition to this, all DNFBPs are covered (see details under c.22.1 above).

Criterion 23.2-Internal controls (Not met) There are no requirements in law or other enforceable means which oblige DNFBPs to implement internal control obligations.

Criterion 23.3- High risk countries (Not met) There are no requirements in law or other enforceable means which oblige DNFBPs to apply enhanced due diligence procedures proportionate to risks, business relationships and transactions with persons from countries for which this is called for by the FATF. In addition, there is no requirement to apply counter measures proportionate to the risks and there are no measures to ensure that DNFBPs are informed of concerns about weaknesses in the AML/CFT systems of other countries.

Criterion 23.4- Tipping off (partly met) The tipping-off and confidentiality requirements set out in relation to R.21 equally apply to DNFBPs in Mauritius. These have been addressed in s.16(1) and (2) of FIAMLA and therefore deficiencies discussed under R21 are also applicable to DNFBPs.

Weighting and Conclusion

Mauritius meets c.23.1, partly meets c.23.4 but does not meet c.23.2 and c.23.3. There are deficiencies which have been discussed under relevant Recommendation of each criterion. The combined effect of these deficiencies may potentially increase vulnerability of the DNFBPs to ML/TF risks. In view of this, **Mauritius is rated non-compliant with R. 23.**

Recommendation 24 – Transparency and beneficial ownership of legal persons

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R. 33). The main technical deficiency was that

timely access to beneficial ownership and control information was not available for Category 1 and 2 Global Business holders through law enforcement as court orders could take up to 4 weeks to obtain in an urgent case. The new FATF Recommendation and the accompanying Interpretive Note, contains more detailed requirements particularly with respect to the information to be collected about beneficial owners.

Criterion 24.1 (Partly Met) Creation of legal persons in Mauritius is provided under four separate laws³⁰. The main types of legal persons that can be created are private or public companies limited by shares or guarantee, company limited by both shares and guarantee, unlimited company), sole proprietorship, limited partnerships, foundations and societies. Companies are created in terms of s. 23 of the Companies Act, whilst limited partnerships are created in terms of s. 19 of the Limited Partnership Act and foundations in terms of s. 23 of the Foundations Act. The Companies Act provides that every company unless stated in its application for incorporation or constitution that it is a private company shall be a public company (s. 21(5)) and a company of any of the types created under this Act may be registered as a limited life company (s. 21(7)), and a company limited by shares or guarantee, shall include a company limited both by shares and by guarantee unless the context applied dictates otherwise (s. 21(3)). The different laws have provisions on processes for obtaining and recording of basic information of the legal persons to be registered under each of the specific laws (s. 28 of the Foundations Act, s. 21 of the Limited Partnership Act, ss. 21, 23, & 24 of the Companies Act).

The public has access to basic information held by both Registrars of Companies and Limited Partnerships upon payment of a fee (s. 14 of the Companies Act and s. 21 of the Limited Partnership Act). As for Foundations, any person who has been authorised by the Secretary of a Foundation or Commission upon payment of the prescribed fee, can have access to basic information pertaining to the Foundation (s. 29 of the Foundations Act). In all cases, there are no processes for obtaining and recording of beneficial ownership information. Incorporation of legal persons in Mauritius is governed by different statutes including the Companies Act of 2001 ('the Companies Act'), Limited Partnership Act 2011, Foundations Act 2012, the Financial Services Act 2007 (the "Financial Services Act") and the Code de Commerce (Amendment Act).

Under the Companies Act, which is the main Act regulating formation of companies, three types of companies can be formed: domestic, category 1 global business ('GBL1')³¹ and category 2

³⁰ The Companies Act, Limited Partnership Act, Foundations Act, Code de Commerce (Amendment Act)

³¹ In summary, a GBL1 is allowed to undertake any business activity which is not illegal or against public policy including those involving capital raising from the public. A GBL1 may be structured as a protected cell company under the Protected Cell Companies Act 1999, as an investment company, a fund (a collective investment scheme or a closed-end fund) under the Securities Act 2005, and a limited partnership under the Limited Partnerships Act 2011. A GBL1 has access to Mauritius' network of double taxation avoidance treaties. It may be a private company or a public company, and if a company's constitution does not state that it is a private company, it will be considered a public company in terms of Section 21(5) of the Companies Act. Business companies proposing to carry on certain types of business, such as insurance or mutual funds (i.e. financial services as defined by the Financial Services Act) must apply for a Category 1 Global Business Licence and are regulated by additional statutes.

global businesses ('GBL2')³². Limited partnerships are incorporated and registered under Section 19 of the Limited Partnerships Act 2011; while foundations under Section 23 of the Foundations Act 2012. A company will be incorporated by the delivery of an application form for incorporation of a company to the Registrar, along with a certified copy of the constitution and a law practitioner's certificate certifying that the application complies with the laws of Mauritius.

Criterion 24.2 (Not Met) The ML/TF risks posed by legal persons in Mauritius have not been assessed.

Criterion 24.3 (Mostly Met) Domestic companies have different registration requirements and the requirements are discussed below.

Companies:- An application for incorporation of a company is made to the Registrar on a prescribed form indicating the proposed name, particulars and residential address of each shareholder, name and residential address of each director, description of whether it will be a public or private company and the registered office, and the constitution of the company. The Registrar upon being satisfied that the application complies with the Companies Act and payment of a prescribed fee, will enter particulars of the company into a register, issue a unique number as the company number and a certificate of incorporation as conclusive evidence of the company having been registered in terms of the Act (ss.23 & 24 of the Companies Act). The information retained by the Registrar is publicly available on payment of a fee [s. 14(1)(a) of the Companies Act]. However, information on private companies which hold a Category 1 Global Business Licence or a Category 2 Global Business is not made available to the public unless the person is a shareholder, officer, management company or registered agent, of that company [s.14(7) of the Companies Act]. This also includes basic information of these types of licence holders.

Limited Partnerships: - Section 21 (3) provides that the Registrar shall maintain a register which contains: (a) the name of the limited partnership; (b) address of its registered office; (c) where a partner is a natural person, his full name and his respective assignee's full name and address; and (d) where a partner is a body corporate or unincorporated body, the address of its registered office or principal place of business. However, there is no requirement for a limited partnership to submit to the registry a copy of a partnership agreement or partnership deed of a document indicating basic regulating powers. Any person is allowed to inspect the register, make a copy or an extract from any document in any registry. However, in respect of a limited partnership or having at least one partner holding a Global Business License, the register can only be inspected by an officer, management company or registered agent of that limited partnership [s.21 (9)].

³² A GBL2 is suited for trading (non-financial), holding and managing private assets and cannot engage in certain activities such as financial services. A GBL2 bears many of the same characteristics as other offshore exempted or international companies. A GBL2 is not resident for tax purposes and therefore is debarred from benefiting from double taxation relief under the Mauritius double taxation avoidance treaties. Only a private company may apply for a Category 2 Global Business Licence.

Foundations: - In terms of s.28 of the Foundations Act, the Registrar shall maintain a record of every foundation registered under the Act and all documents submitted to support an application for registration. The register shall contain (a) the name of the foundation, (b) the address of its registered office, (c) name and address of its founder, (d) name and address of members of the Council (the equivalent of trustees). However, there is no requirement to submit a charter of the foundation (just an extract from the charter is required) and therefore the document is not available for inspection at the registry. Inspection of the register by the public is subject to authorisation by the secretary of the Foundation or Commission upon payment of a prescribed fee (s.29 of the Foundations Act).

Criterion 24.4 (Mostly met) Companies are required to maintain company records which include information on the constitution of the company, minutes of meetings and resolutions of both shareholders and directors and their committees, full names and addresses of current directors, financial statements, accounting records and share registers at their registered office in Mauritius. If the records have to be kept at any other place in Mauritius then the company has to notify the Registrar within 14 days (s. 190 of the Companies Act).

In terms of s. 91 of the Companies Act, companies are required to maintain a share register where all information on shares issued by the company shall be recorded and indicate whether in terms of the company's constitution there are limitations or restrictions on the transfer of the shares and if that is the case, where a document outlining such limitations and restrictions can be inspected. The share register is expected to have the following information in relation to each class of shares: the names and last known address of each shareholder; where such shares are held by a nominee, the names and last known addresses of the persons giving to the shareholder instructions to exercise a right in relation to a share either directly or through the agency of one or more persons; number of shares held by each shareholder; and date of issue, repurchase, redemption or transfer of the shares to each shareholder .

S. 92 of the Companies Act provides for the principal share register³³ to be kept in Mauritius. In the event of a share register being divided into 2 or more registers (branch registers³⁴), which are kept at different places the company within 14 days of dividing the share register shall inform the Registrar in writing of the places where the registers are being kept.

Limited partnerships are required to keep the following information at their registered offices .: the partnership agreement and any subsequent amendments; a register of all the partners which specify the type of partnership (general or limited) and in the case of an individual, the full name and address, or in the case of a body corporate or incorporated body, its full name,

³³ Principal register – means in cases where the share register is not divided, the share register; and in cases where its divided into one or more share registers, the principal share register is the last notice sent to the Registrar.

³⁴Branch register –means a register other than the principal register.

registered office or, if none, its principal place of business; the amount of capital contribution of each limited partner; accounting records; minutes of all meetings of the general partners; and all the documents should be filed with the Registrar from time to time (S. 39 of the Limited Partnership Act). If the documents are maintained outside Mauritius, then the accounting records have to be sent to and kept at a place in Mauritius where subject to the partnership agreement will be available for inspection by any of the partners (s. 40(3) of the Limited Partnership Act).

Criterion 24.5 (Met) Mechanisms to ensure that basic information required under criteria 24.3 and 24.4 is kept accurate and updated are in place in Mauritius. The Companies Act has provisions allowing for change of company name and processes on how the change of name becomes effective (ss. 36 & 37). S. 92(3)(b) requires a company which has altered the place where its share register is kept to inform the Registrar of the alteration by way of a written notice within 14 days of the alteration. When there is change in the directors or secretary of the company, name of a director or secretary, usual residential address, service address, or other particulars of a director or secretary of the company, s. 142 of the Companies Act requires that the Board through a prescribed form delivers to the Registrar a notice for registration of the changes within 28 days of the changes taking place.

The Board of a company which has changed its registered office is required to file notice of the change with the Registrar in a form approved by the Registrar which only takes effect 7 days after the notice has been registered (s. 188 of the Companies Act). The Registrar, in terms of s. 189 of the Companies Act may equally require a company to change the registered office through a written notice issued to the company at its existing registered office. S. 190(5) requires a company when it changes the place where its records are kept, to notify the Registrar in writing of the change and the new place where the records are being kept within 14 days of the change.

In terms of s. 278 of the Companies Act and s. 22 (1) of the Limited Partnership Act, foreign companies and limited partnerships are required to notify the Registrar of Companies of any change in company directorship, its secretary or any other particulars contained in its register within 30 days for companies and 21 days for limited partnership after the change.

Criterion 24.6 (Not met) There is no obligation for companies or the Registrar to obtain and hold up-to-date information on companies' beneficial ownership, as shares may exist in the name of another company or a nominee and not necessarily in the name of the ultimate natural person who owns the shares or has control over the shares. Refer also to observations made under Criterion 10.5 and Rec. 22. There is no provision in law which requires financial institutions and DNFBPs to identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner, using the relevant information or data obtained from a reliable source (a

major shortcoming) and therefore does not comply with criterion 24.6(c)(i) and (iv). In addition, Mauritius has another deficiency created by the absence of a legal requirement for companies to obtain and keep beneficial ownership information as required under criterion 24.6(c)(iii). The authorities did not provide any information on whether any other competent authorities, such as the Mauritius Revenue Authority, are obliged to obtain information on beneficial ownership to enable a determination to be made whether there is compliance with criterion 24.6(c)(ii). There is no specific provision under the Companies Act of Mauritius which requires companies to hold up-to-date information on the companies' BO.

Criterion 24.7 (Not met) The same deficiencies as in c.24.6 apply here. There is no obligation under the Mauritian law that requires FIs and DNFBPs to conduct ongoing due diligence, and keep documents, data, and CDD information up to date (see Recommendations 10 and 22) which would enable BO information to be kept accurate and up-to-date. The Companies Act also does not require that information on BO be kept accurate and up-to-date. Although it is acknowledged that in some cases beneficial owners may also be the same as shareholders, this is not always the case.

Criterion 24.8 (Not Met) There is no specific requirement for one or more natural persons resident in Mauritius to be authorised by the company and be accountable to provide information on beneficial ownership and other assistance to the authorities. The same applies to DNFBPs. However, Paragraph 4.1 of the FSC Code has obligations for reporting entities under the FSA to identify beneficial ownership which are enforceable in terms of the Act.

Criterion 24.9 (Not Met) The information provided to the Registrar of Companies, in terms of S.190 of the Companies Act, is required to be kept for 7 years. Section 162 of the Insolvency Act provides for company records to be kept by the Liquidator of the company for 6 years from the date of dissolution of the company. However, such records and documents are only limited to basic information and not related to beneficial ownership information as there is no requirement under the Companies Act for companies to obtain and keep such information.

The obligation under s.29(1) and 29(2) of FSA does not apply to holders of Global Business License which do not conduct financial service activities. Although such GBLs would be covered under the Companies Act, the Act does not provide obligations for GBLs to disclose or obtain beneficial ownership information (only basic information is required). With respect to the DNFBPs, except for reporting entities under the Jewellery Act, the provisions in the sectoral Guidelines do not meet the FATF standard of 'law'. In addition, this criterion is also affected by scope issues identified in c.22.1.

Criterion 24.10 (Partly Met) The ICAC, FSC, the Police, the Mauritius Revenue Authority and the Enforcement Authority are empowered to apply to the Judge in Chambers for disclosure orders to obtain any information from a financial institution relating to the transactions and accounts of any person [64 (9) of Banking Act]. In addition, the ICAC has powers to issue warrants to enter and search, at all reasonable times, premises or place of business and remove there from any document or material which may provide evidence relevant to an investigation being conducted by the Commission (s.52 of PoCA). Furthermore, the Mauritian Revenue Authority has the power to require information under section 123 of the Income Tax Act in respect of offences under the Revenue Laws (see also ss. 127A and 127B of the Customs Act). Lastly, the FSC has the power to request information under sections 42 and 44 of the Financial Services Act. As discussed under c.24.3 above, competent authorities can inspect documents at the company registry and obtain information for investigations. Despite the existence of the power to access the information, information on beneficial ownership is not collected by the company registry and DNFBPs.

Criterion 24.11 (not applicable Met) Mauritian laws do not allow for the issuance of bearer shares or bearer share warrants. Section 91(3) of the Companies Act 2001 requires that all companies keep a share register with respect to each class of shares and that the name of each person who holds shares be registered in the share register. The share register is prima facie evidence of legal title pursuant to Section 93.

Criterion 24.12 (Partly Met) In terms of Section 91(3)(a)(ii) of the Companies Act, a company shall maintain a share register which states where the shares are held by a nominee, the names in alphabetical order and the last known addresses of the persons giving to the shareholder instructions to exercise a right in relation to a share either directly or through the agency of one or more persons. TSCPs in Mauritius are known as management companies. Management companies are licensed by the FSC under section 77 of the Financial Services Act 2007 to set up and manage global business companies and to provide nominee and other services to the global business companies.

Criterion 24.13 (Partly Met) In relation to documents required at the time of registration, the Registrar has powers to call for production or inspect any book required to be kept by the company to ascertain whether a company is complying with the Companies Act. Any person who fails to produce any document or obstructs or hinders the Registrar shall commit an offence and shall be liable to a fine of MUR 200,000 on conviction (s15 of the Companies Act). From ss.339-342A, the Companies Act provides a range of offences. However, for all offences set out in these sections, the maximum penalty provided is a fine not exceeding MUR 200,000 (around USD6,000). The maximum amount of the fine prescribed does not take into account the type of legal person being dealt with considering that to some companies a fine of USD 6,000 might be dissuasive, effective and proportionate, but for medium to big corporate companies such a fine might not be dissuasive enough. In addition, the areas of ML/TF risks related to companies have

not been identified, so depending on the nature of the violation the maximum fine of USD200,000 might not be appropriate.

Criterion 24.14 (Met) Refer to discussion in Recs 37-40 on exchange of information. As highlighted under c.24.3 and c.24.10, the company registry collects basic information including that on shareholders and this information, the Registrar can share with other competent authorities and some of it is publicly available on the Registrar of Companies website. Law enforcement can use its investigative powers to obtain beneficial ownership information on behalf of foreign counterparts where such information is available.

Criterion 24.15 (Not Met) Mauritius does not monitor the quality of assistance it receives from other countries in response to requests on basic and beneficial ownership information (see analysis under IO.2).

Weighting and conclusion

The absence of risk assessment on vulnerable companies, legal requirement and process to obtain and keep up-to-date beneficial ownership information and, liability and proportionate and dissuasive sanctions represent the greatest deficiencies. **Mauritius is rated non-compliant with R.24.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R 34). The main technical deficiencies were that: timely access to beneficial ownership and control information was not available to Category 1 and 2 Global Business licence holders through law enforcement as court orders could take up to 4 weeks to obtain in an urgent case; FSC was not reviewing information on trusts held by management companies in certain circumstances. The applicable laws have not changed.

Criterion 25.1 (Mostly met) The creation of trusts is governed by the Trusts Act 2001. S. 6 of the Act provides for the creation of express trusts in Mauritius and such trusts exclude unit trusts, constructive or a resulting trust or any trust arising by operation of the law or judicial decision. The section further provides that an express trust shall be created by an instrument in writing and the instrument shall be void unless it provides: the name of the trustee; the intention of the settlor in creating the trust, or the declaration by the trustee that he holds the property on trust; the object of the trust, the beneficiaries or class of beneficiaries; the property transferred or held on trust; and the duration of the trust. S. 38(3) proceeds to require a trustee to keep up-to-date and accurate records of his trusteeship and maintain a register of the names and the last known address of each beneficiary and settlor of the trust, including a non-resident foreign trust administered by the trustee. The records to be kept by the trustee shall include: proper books, registers, accounts, records such as receipts, invoices and vouchers and documents including

contracts and agreements showing full and true record of transactions and other acts conducted by the trust. In terms of the same subsection, the records have to be kept for a period of not less than 5 years after the date of completion of the transaction. S. 24 provides for the appointment of a Protector, where the terms of a trust so dictate but there is no requirement under the Act for the trustee to obtain and hold adequate, accurate and current information on the identity of the protector relating to such trusts. The requirements on a trustee to obtain and keep proper records provided in s. 38(3) are wide enough to require the trustee to keep basic information of other regulated agents or service providers such as accountants, lawyers, bankers, brokers, nominees and property agents or other professionals engaged to act in relation to the affairs of the trust (which the trustee is empowered to do in terms of s. 43(2)(b)).

Companies providing Trust and Company Services (TCSP) in Mauritius have to apply for a management licence to the FSA in terms of s. 77 of the Financial Services Act and in terms of the same section are categorised as financial institutions and regulated by the FSC for compliance with the FIAMLA. TCSPs are obliged under the FSC Code 4.1.2.2. issued in terms of s. 7(1)(a) of the Financial Services Act and s. 18(1)(a) of the FIAMLA to identify the principals to a trust, which include the parties that control the trusts and have the ultimate beneficial interest. Principals include: settlors or contributors, trustees, beneficiaries, protectors and enforcers as well as natural persons with a controlling interest and who comprise the management. However, TCSPs do not have the obligation to maintain information on agents and service providers to the Trust under the FSC Code, although they must maintain transaction records under the FIAMLR and the FSC Code.

Criterion 25.2 (Met) Trustees are required to keep accurate and up-to-date information consistent with the requirements of c. 25.1 (please see analysis provided in c.25.1 above).

Criterion 25.3 (Not Met) There is no requirement for trustees themselves (professional or otherwise) to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. The deficiencies regarding customers that are legal arrangements described in R.10 are also relevant here.

Criterion 25.4 (Not Met) Refer to the discussion under Rec.9 and Criterion 25.3 above.

Criterion 25.5 (Partly Met) Law enforcement (ARID, ICAC, MRA, FIU and Customs Department) is able to obtain information held by trustees in the course of their investigations through investigative measures (s. 17(c) of the FIAMLA). Information on beneficial ownership can easily be accessed through a court order which takes on average 2-3 days to obtain subject to the limitations set out in s. 83(5) and (6) of the FSA (see description under c. 25.6 below). The FSC's supervisory powers of s. 7 of the Financial Services Act enable them to obtain information from TCSPs (management companies) with respect to GBLs.

Criterion 25.6 (Partly Met) S. 87(4) of the FSA adequately provides for accessing by foreign competent authorities of similar supervisory powers basic information held by the FSC through entering into agreements or arrangements. However, such powers are not extended to accessing of such information by foreign competent authorities from registries and other domestic authorities. S. 87(1) of the FSA provides for the domestic exchange of available information on trusts and other legal arrangements by the Commission. However, in terms of s. 83(5), (6) of the FSA, the Commission cannot provide such assistance where it involves Category 1 Global Business Licence or a Category 2 Global Business Licence in the absence of a court order of the Supreme Court and such information can only be issued upon application by the DPP when it is required for an inquiry, or trial into, or relating to the trafficking of narcotics and dangerous drugs, arms trafficking or ML under the Financial Intelligence and Money Laundering Act 2002. This limits the scope of serious offences upon such orders can be obtained. In addition, there are no provisions enabling the use of competent authorities' investigative powers as provided by the domestic laws to obtain beneficial ownership information on behalf of foreign counterparts.

Criterion 25.7 (Mostly met) In terms of s. 50 of the Trust Act, trustees are legally liable for breach of trust and where such a breach is committed or concurs with occurrence of a breach, a trustee shall be liable for any loss or depreciation of the trust property or any profit which might have accrued to the trust had the breach not occurred. In addition, nothing in terms of a trust shall exonerate a trustee of liability for breach of trust arising from fraud, wilful misconduct or gross negligence committed by him. In terms of sections 53 and 90 of the FSA, TCSPs which are corporate or qualified trustees are administratively and/or criminally liable for any failure to perform the duties relevant to meeting their obligations and appropriate proportionate and dissuasive sanctions can be applied. FSC has a wide range of sanctions available to deal with failures to comply with AML/CFT requirements including the power to commence disciplinary proceedings, issue directions, suspend licences and revocation.

Criterion 25.8 (Partly Met) The power to require information relevant for criminal proceedings by LEAs from any person under the criminal procedure would apply also in this respect, subject to punishment for lack of compliance with the request. Should the information on a trust be held by a reporting entity, provisions of the AML/CFT Law would apply. The sanctions in both scenarios would be proportionate and dissuasive but they are only limited to criminal sanctions and the scope of application is limited as there is no requirement for trustees to disclose themselves when engaging in a transaction with a FIs. The other limitations are set out in the analysis to Rec. 10, 22, 24 and 25.3.

Weighting and conclusion

Mauritian law does not go far enough to impose enforceable obligations on trustees (including professional trustees) to collect beneficial ownership information relating to a trust beyond holders of GBLs. Although timely access to beneficial ownership and control information of trusts relating to GBLs is possible for LEAs through obtaining a court order from the Supreme Court, the scope of offences relating to such orders is limited. **Mauritius is rated partially compliant with R.25.**

Recommendation 26 – Regulation and supervision of financial institutions

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R23). The main technical deficiencies were that: insurance intermediaries were not subject to onsite inspections sanction available to the FSC; provisions relating to licencing and onsite inspections of providers of money transfer services and money or currency changing services were not explicit; the legal framework did not include value transfer services; some types of financial activities such as lending were not covered by the AML/CFT legal framework. The new FATF Recommendation strengthens the principle of supervision and controls using a risk-based approach.

Criterion 26.1 – (Met) Section 18(1) (b) & (c) of FIAMLA has designated Bank of Mauritius to be responsible for supervising and enforcing compliance by banks and cash dealers with the requirements of the Act, Regulations and Guidelines issued by the Bank. Similarly, the same section has given the same responsibilities to the Financial Services Commission over its licensees- entities which carry out the following activities: insurance and pensions, capital market activities, leasing, credit finance, management company services, corporate trust services and global business activities.

Criterion 26.2- (Mostly met) The Core principles financial institutions in Mauritius are subject to licensing. Section 14 of the FSA prohibits the carrying out of any financial services business in Mauritius without a licence issued by the FSC. Any person who contravenes the requirement is liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 8 years. The FSA, lists financial services businesses as:- Assets Management, Credit Finance Custodian services (non-CIS), Distribution of financial products, Factoring Funeral Scheme, Management Global headquarters administration, Global treasury activities, Leasing, Pension scheme administrator, Registrar and Transfer Agent Treasury management. Insurance market players are licensed under Sections 10 & 70 of the Insurance Act. Securities exchange players are licensed under Sections 9 & 29 of the Securities Act. Pension funds are licensed under Section 9 of the Private Pension Schemes Act.

In the banking sector, Section 5 of the Banking Act states that no person shall engage in banking business, Islamic banking business or private banking business in Mauritius without a banking licence issued by the Bank of Mauritius. In addition, cash dealers are licensed under section 14 of the Banking Act. Institutions which provide money or value transfer services and money or currency changing services fall within the definition of a cash dealer” [s.2 of the Banking Act]. There is no explicit prohibition against establishment or continued operation of shell banks, however, the licensing procedures would exclude them.

Criterion 26.3 (Mostly met) In respect of applications to carry out banking business, applicants are required to submit a list of directors, beneficial owners, chief executive officer and other senior officers and, a list of shareholders intending to own 10% or more shareholding to the BoM.

Except for beneficial owners, the list is accompanied by an identification and a certificate of good conduct from a competent authority or a sworn affidavit stating any convictions for crimes (s.5 of the Banking Act). If the shareholder is a corporate body, it is required to provide the list described in s. 5. In determining the application, BoM considers the fitness and propriety of the shareholders, directors, senior management (s.7 of the Banking Act). After approval of the application, any changes in significant shareholding, directors, senior management is subject to approval by BoM (ss. 19, 31, 46 and 47 of the Banking Act). Section 19(1)(b) of the Banking Act provides that any changes in shareholding either held directly or indirectly is subject to the central bank's approval. Section 46 (3) sets out the fit and proper criteria which includes background checks determining lack of any conviction of an offence involving fraud or other dishonesty by directors, significant shareholders and management.

NBFI are required under section 18 of the FSA to have persons appointed as controllers and beneficial owners to be fit and proper. S.2 defines a controller as a person who is in a position to control or exert significant influence over the business or financial operations of the relevant person including a person that holds or controls at least 20% of the shares of the body corporate and a person that has the power to control at least 20% of the voting rights. Section 20 sets out the fit and proper criteria which includes an assessment of persons financial standing, character, financial integrity, diligence, competence and ability to perform the relevant functions properly, efficiently, honestly and fairly. The same standards are also applied on new shareholders, controllers and ultimate beneficial owners who wish to join or acquire significant shareholding in a financial institution subsequent to the licensing stage. However, it is not clear how FSC prevents criminals or their associates from holding or being beneficial owners of significant interest in FIs. Moreover, the fit and proper criteria do make any reference to criminal record.

Criterion 26.4 (Not met) Core Principle Institutions fall under the supervision of BoM and FSC, including institutions which provide money or value transfer services. The legal and operational frameworks in respect of prudential supervision covers majority of the elements of the Core Principles. However, it is not clear to what extent consideration is given to AML/CFT issues when carrying out prudential supervisory activities such as approval/ vetting changes in significant shareholding, directors, senior management etc. There are no legal provision/mechanism to apply consolidated group supervision for AML/CFT purposes. In addition, regulatory/ supervisory authorities in Mauritius have not yet adopted a comprehensive risk-based supervision framework- the frequency and scope of AML/CFT activities are not carried on the basis of the nature and level of risks based on an integrated ML/TF risk assessment.

Criterion 26.5 (Not met) Mauritius has not yet completed its national ML/TF risk assessment and the supervisory authorities have not carried out sectoral ML/TF risk assessment which would have been the basis of a risk-based AML/CFT supervisory framework. Authorities are yet to develop risk assessment tools and processes to enable them define an institution's risk profile and identify AML/CFT supervisory priorities, in respect of an individual institution or financial group and, for the various sectors. Hence, currently the supervisory strategy and activities, in terms of the frequency and intensity of onsite and off-site supervision are not guided by or

commensurate with the nature and level of ML/TF risks at the individual, sectoral or country level.

Criterion 26.6 (Not Met) There is no provision in law or operational mechanisms which requires or demonstrates that supervisory authorities periodically review the assessment of the ML/TF risk profile of a financial institution or group and, where there are major events or developments in the management and operations of the financial institution or group. Authorities review the ML/TF risk profile of FIs whenever they are planning for an onsite examination as part of the scoping exercise.

Weighting and Conclusion

Mauritius meets c.26.1, mostly meets c.26.2, partly meets 26.3 but does not meet c26.4-26.6. Mauritius has designated agencies to supervise FIs for compliance with FIAMLA, regulations and guidelines. However, there are deficiencies with respect to consolidated supervision and risk-based supervision. For instance, the laws, other instruments or mechanisms do not indicate that supervisory authorities use a consolidated supervision approach for assessment of AML/CFT group risks; Authorities do not review ML/TF risk profile of FIs or group periodically or whenever major events occur. **Mauritius is rated partially compliant with R.26.**

Recommendation 27 – Powers of supervisors

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R29). The main technical deficiencies were that: onsite inspection and sanctions powers available to FSC were narrow and not all financial institutions were regulated for AML/CFT purposes and subject to onsite inspections.

Criterion 27.1 (Met) Supervisory authorities have been vested with necessary powers to supervise and enforce compliance by FIs with the FIAMLA, regulations and guidelines issued from time to time [s 18(1)(b) and (c) of FIAMLA]. In addition, they are mandated to issue codes and guidelines to the reporting entities as they may consider appropriate to combat ML and TF activities.

Criterion 27.2 (Met) Section 43 of FSA authorises the FSC to carry out onsite inspections on licensees to assess compliance with the requirements of any applicable enactment, or guidelines or the conditions of its license, authorization or registration. This is considered to include assessing compliance with FIAMLA and AML/CFT Code issued by the FSC since these instruments apply to the licencees. With respect to FIs licensed under the Banking Act, s.43 empowers BoM to conduct *special examinations* in order to determine whether the FI is in compliance with laws related to anti-money laundering or prevention of terrorism or guidelines and instructions issued by the central bank.

Criterion 27.3 Met) Section 44 (a) and (b) of the Banking Act empowers any officer appointed by the BoM to conduct the special examination to compel production of any information and copies of all relevant documents concerning its business in Mauritius and/or business of its branches or affiliates outside Mauritius necessary for monitoring compliance with AML/CFT requirements.

In addition, Section 42 (2)(b) and 43(2) of FSA provide similar requirements for institutions under the regulation and supervision of the FSC. In both cases, a court order is not required.

Criterion 27.4 (Mostly met) Section 18(1) of FIAMLA gives powers to BoM and FSC to issue such codes and guidelines as they consider appropriate to combat money laundering activities and terrorism financing, institutions subject to their supervision and enforce compliance with requirements imposed by the Act, regulations made under this Act and such guidelines. However, ss. 18(2) and (3) provides that when BoM or FSC notes a reporting entity has failed to comply with any requirement imposed by the FIAMLA or any regulation applicable to it the BoM (or FSC) may have their licenses suspended or revoked [s.18(2) and (3) of FIAMLA, ss.11 and 17 of the Banking Act; s.7 of FSA]. The Section does not include Guidance Notes which contain most of the requirements on preventive measures. In addition, it is not possible to determine whether or not the sanctions would be proportionate (see R35 for details).

Weighting and Conclusion

The legal framework does not provide for sanctions provisions which have a direct link between breaches and sanctions and the sanctions regime is not in line with R.35. In addition, FIs under BoM are not subject to sanctions for non-compliance with obligations in relation to most preventive measures. In view of these deficiencies, **Mauritius is rated largely compliant with R.27.**

Recommendation 28 – Regulation and supervision of DNFBPs

In its MER under the First Round of MEs, Mauritius was rated Non-Compliant with requirements of this Recommendation (formerly R24). The main technical deficiencies were that: lack of designated supervisory authority or monitoring authority for AML/CFT purposes for non-FSC and GRA supervised sectors.

Casinos

Criterion 28.1 (Mostly met) All casino operators in Mauritius are required to be licensed under the Gambling Regulatory Authority Act (ss 16 and 23 of the Act) In addition, FIAMLA designates the Gambling Regulatory Authority as a supervisory authority for AML/CFT purposes, and as such casinos are inspected by the Licensing and Inspectorate Unit of GRA. Further, section 93(b) of the GRAA provides that no license shall be issued to a person unless the person, or in the case of a company, any director, manager or officer of that company, is a fit and proper person. However, the legal provision and the Application Form for a Casino licence does not require disclosure of shareholders and beneficial owners.

DNFBPs other than casinos

Criterion 28.2 (Mostly met) All covered DNFBPs have been assigned a competent authority to be responsible for monitoring and enforcing compliance with FIAMLA and such guidelines as may be issued by the FIU [Section 18(3A) and 2 of the FIAMLA]. Part I of the First Schedule of the FIAMLA also lists the Regulatory Bodies for the respective sectors of DNFBPs. However, TCSPs which serve the domestic market do not have a supervisory authority for AML/CFT purposes.

Criterion 28.3 – (Not met) Section 18(3A) of FIAMLA states that a regulatory body shall supervise and enforce compliance by members of a relevant profession or occupation with AML/CFT requirements and the guidelines issued under section 10(2) (ba) of the FIAMLA. As at the date of the onsite, only casino had been inspected for AML/CFT purposes out of the DNFBBs.

Criterion 28.4 (Mostly met)

- (a) In terms of s. 18(3)(A) of FIAMLA, regulatory bodies have powers to supervise and enforce compliance of DNFBBs with FIAMLA. In addition, s.10(6) of the FIAMLA provides powers to require presentation of information, records or documents necessary for the regulatory bodies to perform their functions. However, there is no explicit provision which mandates them to conduct inspections to monitor compliance.
- (b) S.33(4)(b) of the Financial Reporting Act stipulates that anybody seeking to be licensed as an auditor must be a 'fit and proper person' and the Application Form prescribes elements are used in order to determine whether or not a person is fit and proper. As for the rest of the DNFBBs, there is no indication that authorities carry out measures to prevent criminals from being professionally accredited, or holding (or being a beneficial owner of) a significant/ controlling interest or holding a management position in a DNFBB.
- (c) Although s.18(4) of FIAMLA provides that a regulatory body can take action against a non-complying institution, the provision does not include non-compliance with Guidelines (see analysis in chapter 1 and R35).

All DNFBBs

Criterion 28.5 (Not met) DNFBBs under the Global Business sector (management companies, global legal advisory services) are regulated in the same manner as FIs under the FSA and are therefore subject to the same type of supervision by the FSA as other types of FIs. Deficiencies noted previously in relation to the supervision of FIs such as the lack of a risk sensitive approach to supervision would equally apply to TSCPs.

Currently, except for GRA, all regulatory bodies of DNFBBs have not yet started conducting AML/CFT supervision, let alone risk-based supervision. As reported elsewhere, Mauritius and sectoral regulatory bodies have not carried out ML/TF risk assessment. In this case, in the absence an outcome of risk assessment, there is no basis for developing and implementing a risk-based AML/CFT supervisory framework.

Weighting and Conclusion

Although Mauritius legal framework has designated various regulatory bodies to perform AML/CFT supervision over DNFBBs, compliance monitoring has not yet started in the DNFBB sectors, except for institutions under GRA. In addition, there are no mechanisms to prevent criminals or their associates from holding (or being beneficial owners of) significant interest or management positions in the DNFBB sectors and noncompliance with the Guidelines do not attract sanctions. **In view of these deficiencies, Mauritius is rated non-compliant with R.28.**

Recommendation 29 - Financial intelligence units

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R26). The main technical deficiencies were that: potential limits to the operational autonomy of the FIU Director; legal obstacles prevent the FIU from obtaining further information in respect of non-STR related requests from authorities; absence of written guidance from the FIU to other categories of institutions, businesses and professions; no gateway for disclosure of information of Customs Currency Disclosure information to the FIU. Majority of the deficiencies have been addressed through amendments to the FIAMLA as discussed below.

Criterion 29.1 (Met) Mauritius established a Financial Intelligence Unit (FIU) in June 2002 responsible for receiving, requesting, analysing and disseminating to the investigatory and supervisory authorities disclosures of information (a) *concerning suspected proceeds of crime and alleged money laundering offences; (b) required by or under any enactment in order to counter money laundering; or (c) concerning the financing of any activities or transactions related to terrorism* (FIAMLA, Sections 9(1) and 10(1)).

Criterion 29.2(a) (met) In accordance with ss.14 & 15 of FIAMLA, Mauritian FIU is the central agency responsible for receipt and analysis of suspicious transaction reports from reporting entities and disseminate financial intelligence to authorised competent authorities.

Criterion 29.2(b) The FIU is also empowered under s.131(A)(1A)(a) of the Customs Act to receive declarations of cross border currency and bearer negotiable instruments in excess of 500,000 rupees.

Criterion 29.3 (a) (Mostly met) Section 13 of the FIAMLA gives the FIU power to request further information from reporting institutions related to an STR from the entity that made the report and/or any other reporting institution.

Criterion 29.3(b) (Mostly met) The FIU has access to a wide range of financial, administrative and law enforcement information (Sections 13(2) and 13(3) of FIAMLA). It can access information from public, administrative and private databases. The concern is that the FIU is not able to access information held by ICAC and tax information due to statutory limitations (section 154 of Income Tax Act and 81 of POCA).

Criterion 29.4 (Mostly met)

Sub-criterion 29.4(a) The FIU analyses STRs, cross-border currency declaration reports and other additional information received from reporting entities, other competent authorities, foreign FIUs and open source. It uses go-AML platform which is a specialised analytical tool for automated and integrated assessment of the data and information to identify specific target areas, particular activities, follow the trail of transactions and determine possible links to proceeds of crime, ML or TF.

Sub-criterion 29.4(b) S. 10(2)(g) of FIAMLA provides that the FIU shall undertake, and assist in, research projects to identify the causes of ML and TF and its consequences. The FIU is yet to carry out strategic analysis to produce typologies reports.

Criterion 29.5 (Met) Section 13 of the FIAMLA authorises the FIU to disseminate the results of its analysis to relevant competent authorities. The FIU sends the reports and information through its drivers and goAML platform in a secured and protected manner. The use of goAML for dissemination of reports started in July 2017. The requests are largely made through the goAML platform, which provides adequate protection/confidentiality of the information being exchanged.

Criterion 29.6(Met) All information received by, and in the custody of, the FIU is classified as confidential and is protected by the provision in section 30(1) of the FIAMLA. Section 30(2) of the FIAMLA prohibits disclosure of FIU information, except in cases specified in the FIAMLA. Specifically, the FIU protects information in the following ways:

- a) There are multiple rules, guidelines and principles in place governing information security and confidentiality, including procedures for access, handling, storage, dissemination of information. Members of staff are sensitised on these procedures through training.
- b) The FIU conducts security vetting on all its officers before they assume their duties with the FIU.
- c) The FIU has put in place several measures to ensure that there is limited access to its facilities and information, including information technology systems. An access control system is installed at the office with readers installed at strategic places. Staff have to swipe access cards in order to access FIU premises. Visitors and members of the public do not have access in the office except if allowed/accompanied. In relation to information technology systems, the FIU uses (a) username and password to access information systems, (b) implementation of access rights and (c) user control features on IT systems and infrastructure security (Firewall, Traffic Filter and zoning). All this is contained in the FIU Security policies in force at the FIU which consists of a handbook of policies and procedures.

Criterion 29.7 (Met)

- *Sub-criterion 29.7(a)* Mauritian FIU is an autonomous entity headed by a Director who is appointed by the President. He discharges his responsibilities and carries out the functions of the FIU, including the decision-making process in relation to analysis of STRs and dissemination of results of that analysis to competent authorities or other overseas FIUs without the direction or control of any person, as he/she possesses full authority, powers, and duties to administer the affairs and to perform the functions of FIU freely [ss. 9(1-4) and 12(6) of FIAMLA].
- *Sub-criteria 29.7(b)* The FIU can make arrangements or engage independently on the exchange of information with domestic competent authorities and foreign counterparts subject to agreed terms of confidentiality [s.10(2)(b) and (f) and s.20 of FIAMLA]. The

decision to engage with other domestic competent authorities or foreign counter-parts rests solely with the Director or such persons appointed by the Director under section 9(3) of the FIAMLA) as the Director may determine [section 11(1) of the FIAMLA).

- *Sub-criteria 29.7(c) and (d)* FIU is an independent entity- not located within an existing institution or government agency. It is financed mainly with money appropriated by Parliament and it is able to spend its budgetary appropriations, deploy necessary resources and make operational decisions to carry out its functions as it sees fit [s. 33(1) of FIAMLA]. All decisions are made within the FIU without any undue political, government or industry influence or interference.

Criterion 29.8 (met). The FIU is a member of Egmont group since July 2003.

Weighting and Conclusion

The concern is that the FIU is not able to access information held by ICAC and tax information due to statutory limitations (section 154 of Income Tax Act and 81 of POCA). In view of this deficiency, **Mauritius is rated largely compliant with R. 29.**

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R27). The main technical deficiency was that the role of the Fiscal Unit was not entirely clear and the relevance of the Unit in the AML framework was not established. The FATF standards in this area have been strengthened considerably by including, among other things, requirements for parallel financial investigations and role of anti-corruption enforcement authorities.

Criteria 30.1 (Met) Mauritius has several law enforcement authorities that are responsible for fighting ML. The ICAC is statutorily mandated to investigate ML and TF offences to the extent that it relates to ML as a predicate offence. Otherwise, the Police (Special Cell is responsible for investigating TF.

The Central Crime Investigation Division (CCID) and the Anti-Drug Smuggling Unit (ADSU) under the Mauritius Police Force can investigate ML cases. The main responsibilities of the ADSU are to suppress the supply of illicit drugs, arrest drug offenders (Consumers and Traffickers) and have them prosecuted, locate and destroy illicit cannabis plantations, prevent the entry of illicit drugs at the airport/seaport and through Postal Services, and prevent and detect smuggling. It is also responsible for the investigation of money laundering offenses under the Dangerous Drugs Act.

The Mauritius Revenue Authority has, under sections 15 and 16 of the Mauritius Revenue Authority Act, the power to investigate and prosecute cases under the Revenue Laws. The Customs Department is responsible for detecting physical cross-border transportation of currency or bearer negotiable instruments (Section 131A of the Customs Act) and smuggling (Section 156 of the Customs Act).

Criteria 30.2 (Met) The institutional arrangement for LEAs in Mauritius is that most predicate offences are investigated by the Police Force and notwithstanding the provision of the PoCA and of the FIAMLA, they retain their powers to investigate any offence. However, the Commissioner of Police has also the possibility to refer the matter to the ICAC as per the provisions of Section 45(2) of the PoCA. In such circumstances, the police continue investigating in relation to the predicate offence whilst the ICAC investigates on the money laundering aspect. The ICAC also carries out a financial investigation.

In Mauritius, parallel investigations are conducted by the Police, the FSC, the ICAC and the ADSU. The Customs can refer cases to the FIU and the Police in cases of physical cross-border transportation of currency or bearer negotiable instruments as per section 131A of the Customs Act. The FSC refers criminal offences to the police under the FSA for criminal prosecution. FSC refers matters to ICAC for onward investigation/prosecution.

Criteria 30.3 (Met) There are measures in place that provide for the LEAs including the Asset Recovery Investigation Division (ARID) under the FIU to identify, trace, and initiate freezing and seizing of tainted property relying on powers under their own statutes. The ARID is responsible for freezing and seizing of property. On top of ARID, during an investigation or a person has been charged, the ICAC with the consent of the DPP, imparts information to the Asset Recovery Investigation Division, with respect to properties that are reasonably believed to be proceeds or instrumentalities of an offence, or terrorist property.

Criteria 30.4 (Met) In Mauritius apart from LEAs, the Ministry of Finance does provide analysts and accountants to assist the Police in financial investigation cases. A Financial Crime Unit was set up at CCID in September 2016 with a view to enquire into cases of financial fraud, money laundering, swindling etc.

Criteria 30.5 (Met) The ICAC has powers to identify and trace property for freezing and seizure proceedings. Under section 81(5) of the PoCA, during an investigation or a person has been charged, the ICAC with the consent of the DPP, imparts information to the Asset Recovery Investigatory Division, with respect to properties that are reasonably believed to be proceeds or instrumentalities of an offence, or terrorist property. The ICAC by way of search orders, trace and identify assets as provided by section 52 of the PoCA. The ICAC conducts search to identify properties at the Registrar General, at the Registrar of Companies and the National Transport Authority to identify the assets. Further, the ICAC through bank disclosures do trace when the assets have been bought or from whom the asset have been bought. The bank documents also enable the ICAC to perform money trails which is important in the process of identifying and tracing the assets. The ICAC also seek assistance from the Evaluation Department, under the aegis of the Ministry of Finance to evaluate the property that has identified and traced.

Weighting and Conclusion

Mauritius meets all criteria and is therefore rated Compliant with R.30.

Recommendation 31 - Powers of law enforcement and investigative authorities

In its MER under the First Round of MEs, Mauritius was rated Mostly Compliant with requirements of this Recommendation (formerly R 28). The main technical deficiencies were that: the process by which the investigative authorities may be granted orders for disclosure seemed unnecessarily long and the timing of attachment measures did not always seem to be appropriate. This Recommendation was expanded and now requires countries to have, among

other provisions, mechanisms for determining in a timely manner whether natural or legal persons hold or manage accounts.

Criteria 31.1(a) (Met) There is legal basis for competent authorities to obtain access in a timely manner to all necessary documents and information to assist them with conducting their investigations. In terms of section 64(9) of Banking Act the Independent Commission Against Corruption, the Financial Services Commission, the Police, the Mauritius Revenue Authority and the Enforcement Authority are empowered to apply to the Judge in Chambers for disclosure orders to obtain any information from a financial institution relating to the transactions and accounts of any person.

The Asset Recovery Investigation Division (ARID) has the following powers under the Asset Recovery Act 2011:

- Power to require for production and disclosure order (Section 47)
- Power to require for Customer Information Order (Section 48)
- Account Monitoring Order (Section 49)

In terms of section 52 of PoCA, the ICAC has powers to issue warrants to enter and search, at all reasonable times, premises or place of business and remove there from any document or material which may provide evidence relevant to an investigation being conducted by the Commission. The Mauritius Revenue Authority has the power to require information under section 123 of the Income Tax Act in respect of offences under the Revenue Laws. The Customs Department has the power to require the production of books and records as well as the power to access computers and other electronic devices under sections 127A and 127B of the Customs Act. Lastly, the Financial Services Commission has the power to request information under sections 42 and 44 of the Financial Services Act.

Criteria 31.1(b) (Met) The LEAs in Mauritius have adequate powers of search of persons and premises. Under section of the Asset Recovery Act 2011, the ARID may enter any premises, search for, examine or seize any property. Section 52 of the PoCA, empowers ICAC to seize and take possession of any book, document, computer disk or other article and other objects (other than the proceeds of crime). Furthermore, the Police officers are empowered by the Police Act under section 16(2)(b) of the MRA Act to search persons and premises. Under section 132 and 135 of the Customs Act, the Customs Department are empowered to search persons and premises and detain and search suspected persons. The FSC has the powers of search under sections 42 and 44 of the FSA.

Criteria 31.1(c) - (Met) The Asset Recovery Investigation Division is comprised of Law Enforcement Officers and as per section 5(2) of the Asset Recovery Act 2011, they are empowered to take witness statements. Under section 50 of the PoCA, the Commission may order any person to attend the ICAC for the purpose of furnishing a written witness statement. Witness statements are also taken by Police officers who are empowered by the Police Act under section 16 of the MRA Act. The MRA has the power to take witness statements under section 15(b) of the MRA Act.

Criteria 31.1(d) - (Met) Under section 46 (1) of the Asset Recovery Act 2011, the ARID is allowed to seize any property or other material. Furthermore, the ICAC under Sections 51 and 52 of the PoCA seize and obtain evidence. An order of the Judge in Chambers is necessary to enter premises belonging to or, in the possession or control of, the bank, financial institution, cash dealer or member of a relevant profession or occupation and to search the premises and remove therefrom any document or material. Additionally, the Customs Department has the powers to seize goods under section 143 of the Customs Act. The FSC has the powers under sections 42 and 44(3) of the FSA.

Criteria 31.2(a) - (Met) There is a package of legislations which provides for the legal basis for competent authorities to apply special investigative techniques for purposes of ML, TF and associated predicate crimes in Mauritius. The ADSU can conduct undercover operations under section 30(2) of the Dangerous Drugs Act.

Criteria 31.2(b) - (Met) The law under section 32(6) of the Information and Communication Technologies Act allows the ICAC to seek the assistance of the Police to make an application for the relevant Judges' Order.

Criteria 31.2(c) - (Met) The ARID has the power to access any information held in a computer under section 46 (4) of the Asset Recovery Act 2011. Secondly, the ADSU has power to access computer systems under section 56(1)(b) of the Dangerous Drugs Act. The ICAC may seek the assistance of the Police to disclose communication under section 32(6) of the Information and Communication Technologies Act 2001.

Criteria 31.2(d) - (Met) In terms of section 55 of the Dangerous Drugs Act 2000, the ADSU is empowered to conduct controlled deliveries. Even though the PoCA does not specifically provide for control delivery, the ICAC is empowered to conduct control delivery operation, the Supreme Court has confirmed that in the case of **Parayag v ICAC 2011 SCJ 309**.

Criteria 31.3(a) - (Met)- The competent authorities have mechanisms or arrangements to identify whether natural or legal persons hold or control accounts or have ownership of property. Section 64(9) of Banking Act empowers the Independent Commission Against Corruption, the Financial Services Commission, the Police, the Mauritius Revenue Authority and the Enforcement Authority in Mauritius or outside Mauritius to apply to the Judge in Chambers for disclosure orders to obtain any information from a financial institution relating to the transactions and accounts of any person. The ARID may by a written notice require customer information from a financial institution under section 48 of ARA and has the power to require production or disclosure of customer information under section 47 of the same act. The MRA has also the power to require information from a financial institution under section 123 of the Income Tax Act. The ADSU have powers to have access to all bank, financial and commercial records under section 56(1) of the Dangerous Drugs Act. In addition to all these laws, the FSC can request details of whether an entity holds or controls accounts from the Bank of Mauritius under the Memorandum of Understanding ("MoU") signed between both institutions.

Criteria 31.3(b) – (Met)- Mauritius has laws in place to ensure that competent authorities have a process to identify assets without prior notification to the owner. The ARID is empowered under section 48 of the Asset Recovery Act to issue a customer information order on all banks and financial institutions in order to identify money held in accounts in the name of suspects without prior notification of the owner. On top of that the ARID has access to the National Motor Vehicle Registration Database and the Land Registry Database to identify assets without prior notification of the owner. In addition to the above, the ICAC can order property tracking and monitoring under section 54 of PoCA. Furthermore, the MRA has the power to require information about any money, funds or other assets which may be held by that person under Section 123 of the Income Tax Act without prior knowledge of the owner.

Criteria 31.4 – (Met) There is a legal mandate that any investigatory or supervisory authority, Government agency or overseas financial intelligence unit or comparable body to request information from the FIU under Section 13(3)(b) of the FIAMLA. In addition to its involvement in the works of the National Committee on AML/CFT, the FIU has established MOUs with domestic partners: Bank of Mauritius (2009), the Mauritius Revenue Authority (2007), the Registrar of Companies (2006) and the Financial Services Commission (2004) which helps in sharing of information on money laundering, associated predicate offences and terrorist financing.

Weighting and Conclusion

Mauritius meets all criteria and is therefore rated compliant with R.31.

Recommendation 32 – Cash Couriers

In its MER under the First Round of MEs, Mauritius was rated Partly Compliant with requirements of this Recommendation (formerly SR IX). The main technical deficiencies were that: very limited outbound disclosure system; no gateways for disclosure of information to the FIU or foreign customs services and no ability to check passengers against the UN 1267 lists.

Criterion 32.1: (Met). Mauritius has established a declaration system under section 131A of the Customs Act, as amended which requires every person making a physical cross-border transportation of currency or bearer negotiable instrument in his possession of more than 500,000 rupees to make a declaration, in such manner as may be prescribed, to the proper officer. A 'proper officer' means the officer instructed by the Director-General to be the proper officer to carry out any specific provision of customs laws and of any other enactment, as the case may be. The obligations to declare includes currency or BNIs being transported through mail or containerized cargo (s. 131A (6) of the Act).

Criterion 32.2: (met) All persons are required to make a written declaration concerning the amounts of cash and BNIs equal to or higher than 500,000 rupees in a prescribed form [131 A (1) of the Customs Act and Regulation 81 of Customs Regulations].

Criterion 32.3: (Not applicable) This criterion is not applicable since Mauritius has adopted a declaration system to implement requirements of Rec. 32.

Criterion 32.4: [Met] In terms of s.131A (1) of the Customs Act, all declarations must include a statement on origin and intended use of the currency or BNIs. This automatically includes false declarations and situations where the person failed to declare.

Criterion 32.5: (Mostly met). Although there appears to be an omission of a word in section 131(5)(c) of the Customs Act the reading of that paragraph indicates that Mauritius makes it an offence to make a false or misleading declaration and this attracts a criminal penalty of a fine not exceeding 500,000 or to imprisonment for a term not exceeding three years. The currency is not detained or confiscated.

Criterion 32.6: (Met). In terms of s. 131A(1)(a) of the Customs Act, the proper officer is required to forward forthwith the declaration to the FIU.

Criterion 32.7: (Partly met) Domestic coordination related to cross-border currency controls is a one-way traffic: (a) submission of declaration forms from MRA Customs to the FIU; (b) transmission of detained currency and related information to the Police in case of false declarations or suspicion of ML and TF. There is an agreement between the Passport and Immigration Office (PIO) and MRA Customs for the former to inform the later in respect of targeted passenger whose name was previously submitted to them. There are no mechanisms or arrangements in place with regard to currency or BNIs detected by the PIO in all other circumstances.

Criterion 32.8: (Partly met) S. 131A(4) of the Customs Act states that if a proper officer suspects currency or BNI may involve money laundering or terrorist financing, MRA Customs should refer the matter to the Police and pass on the relevant information to the FIU. The Police hold the suspected currency/ BNIs as evidence. In the case of false declarations, MRA Customs can detain and search the person [s 131A (3) (b)]. However, the legal provision does not say that the currency/BNI will be detained for purposes of ascertaining evidence of ML/TF.

Criterion 32.9: (Partly met) Although Mauritius is able to provide international cooperation and assistance under its Mutual Assistance and Criminal Matters Act, authorities have not provided evidence on how information of declaration exceeding threshold, or where there is falsely declared or involves money laundering or terrorist financing is retained.

Criterion 32.10: (Met) There are provisions, policies and procedures with respect to safeguarding confidentiality information to be observed by FIU staff. Unauthorised dissemination of information is prohibited and sanctions are applied against any violation (see discussion under c.29.6).

Criterion 32.11 (Met) In the event that there is a confirmed suspicion of ML/TF activity, the person involved in cross-border physical transportation of currency or BNIs will be subject to sanctions as discussed under Recommendation 3 and 5. With respect to seized currency or BNIs, confiscation measures will be taken as discussed under Recommendation 5

Weighting and Conclusion

Mauritius meets c.32.1, c.32.2, c.32.4, c.32.6, c.32.10 and c.32.11, mostly meets 32.5 partly meets c.32.7, c32.8 and c.32.9. Mauritius has established a declaration system for incoming/outgoing cross-border transportation of currency or BNIs in excess of 500,000 rupees. However, there is no provision in law mandating authorities to stop or restrain currency or BNIs to ascertain evidence

of ML/TF in situations where there is suspicion or false declaration. In view of these deficiencies, **Mauritius is rated partially compliant with R. 32.**

Recommendation 33 – Statistics

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R 32). The main technical deficiency was that no statistics were available from the DPP.

Criterion 33.1 (a) (Partly Met) Mauritius maintains and has provided statistics on STRs received and reports disseminated to LEAs for the period 2012 to 2016). The statistics show that STRs were received from banks, management companies, cash dealers and other entities, which have not been specified. However, the statistics also show discrepancies in the dissemination reports to investigatory bodies, supervisory bodies and other bodies (see details under IO. 7).

Criterion 33.1 (b) (Mostly met) The ICAC keeps statistics on the investigations, prosecutions and convictions in respect of Money Laundering. The authorities indicated that the police had prosecuted 16 cases and secured 13 convictions but did not indicate the type of offences and the breakdown of the cases per year. Statistics from the office of the Director of Public Prosecutions were however not provided and no statistics available in relation to TF investigations, prosecutions and convictions.

Criterion 33.1 (c) – (Mostly Met) Mauritius provided substantial statistics relating to freezing, seizing and confiscation over the year 2012-2016; statistics relating to property frozen, seized and confiscated, giving a total of 492 cases. The statistics also provided a breakdown between moveable and immovable property, including land, motor vehicles, currency and shares.

Criterion 33.1 (d) (mostly met) Between 2008-2016, Mauritius through the Attorney General's Office provided and requested 160 Mutual Legal Assistance (MLA) and dealt with 13 extradition cases. There was however no specification as to how many requests made to or received from foreign competent authorities. The Mauritian authorities also indicated that they dealt with 13 extradition cases but no breakdown was provided. There have been requests from Asset Recovery Inter-Agency Network for Southern Africa (ARINSA)/Camden Asset Recovery Inter-Agency Network (CARIN) in 2015 totalling to 11 through the Asset Recovery Investigation Division (ARID) and 2 MLAs.

Weighting and Conclusion

Mauritius maintains adequate statistics on STRs. However, there were discrepancies in statistics between the FIU and LEAs in relation to dissemination reports. In addition, the information on MLAs provided does not indicate as to which foreign authorities were the MLAs provided to or requested from. In view of these deficiencies, **Mauritius is rated partially compliant with R. 33.**

Recommendation 34 – Guidance and feedback

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R. 25). The main technical deficiencies were

that: no guidance issued to DNFBPs apart from TCSP and that the FIU provided limited, value adding feedback to the reporting sectors.

Criterion 34 (Mostly met) S.18(1)(a) of FIAMLA provides that supervisory authorities may issue codes and guidelines to institutions under their supervision as they consider appropriate to combat money laundering activities and terrorism financing. The overarching objective of the guidelines is to provide greater clarity and consistency in these sectors' understanding of their AML/CFT obligations, ML/TF risks and supervisory expectations. In addition, the FIU is mandated by section 10(2)(c) of the FIAMLA to issue guidelines to all reporting institutions in relation to reporting of suspicious transactions and other information related to the STRs. The GRA has also powers to issue guidelines on AML/CFT specifically under section 7(1)(d) of the GRA Act. Furthermore, there is a specific obligation to comply with FIU guidelines under section 97A of the GRAA. So far, on the basis of the legal provisions, authorities have issued (1) *BoM Guidance Notes*, (2) *FSC Code on Prevention of Money Laundering and Terrorist Financing*, (3) *Guidelines to Accountants, Auditors and Member Firms*, (4) *Guidelines to Agents in Land, Land Promoters and Property Developers*, (5) *Guidelines to Dealers under the Jewellery Act*, (6) *Guidelines to Gambling Business*, (7) *Guidelines to Law Firms*, (8) *Guidelines to Legal Practitioners* and (9) *Guidance Note 3 (Suspicious Transaction Report)*. The guideline on suspicious transaction reports includes general indicators of ML/TF as well as specific sector indicators to assist reporting institutions in detecting suspicious transaction reports. The rest of the guidelines are tailored to different reporting sectors but generally cover issues such as CDD, reporting, training, internal controls etc.

With regard to feedback, the FIU is empowered under section 14(1A) of FIAMLA to provide feedback on the outcome of the STR made under section 14(1) of this Act. However, authorities have not indicated that the FIU actually implements this section. In addition, there is a Committee comprising of the BoM and Compliance Officers in respect of reporting entities under BoM. This forms a platform for interaction on AML/CFT and other compliance issues. At this meeting, the Committee also discuss FATF Typologies Reports issued from time to time. The rest of supervisory authorities for DNFBPs do not provide feedback to entities under their purview.

Weighting and Conclusion

Mauritian authorities have issued guidelines to designated reporting entities except credit unions. According to the setup, apart from assisting reporting institutions in applying the AML/CFT measures, they are supposed to comply with them. The scope of the guidelines is wide and includes detecting and reporting suspicious transactions. In terms of feedback, not all supervisory authorities provide feedback to the institutions they supervise. Although FIAMLA requires the FIU to provide feedback on the outcome of an STR, authorities have not indicated that this indeed happens in practice. **Mauritius is rated largely compliant with R.34.**

Recommendation 35 – Sanctions

In its MER under the First Round of MEs, Mauritius was rated Largely Compliant with requirements of this Recommendation (formerly R17). The main technical deficiency was that the

sanctions regime in existence at the time of the onsite was not considered to be effective, proportionate and dissuasive.

Section 19 of FIAMLA sets out criminal sanctions for non-compliance with obligations to identify and verify identity of customers, keep records, file STR and supply additional information related to and STR. Furthermore, Sections 18(2), 18(3) and (4) confer powers on the BoM, the FSC and the other supervisory bodies to apply sanctions in relation to breaches of the FIAMLA, regulations and Guidelines issued under S.10(2)(ba) and (c) of FIAMLA. These sections exclude FSC Codes and BoM Guidance Notes. This raises a fundamental issue of the enforceability of these Codes and Guidance Notes. Notably though, the FSC Code is stated to also be issued under section 7(1) of the FSA. The Commission can under that Act issue directions to ensure compliance with these guidelines. Breach of these directions constitute an offence under the FSA carrying a penalty of a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years. It should be noted that there is a decided court case which indicated that the FSC Code constitutes minimum standards and can be visited by regulatory sanctions. The FSC has regularly issued sanctions under section 7 of the FSA for breaches of the Code.

Criterion 35.1 (Partly met) Sanctions for Recommendations 6 and 8- Currently, there is no legal or regulatory framework to implement R6. In view of this, no sanctions exist in respect of violation of requirements of R6. With respect to R 8, the revised version of this Recommendation does not place obligations on NPOs but on the countries as such there are no related sanctions. However, in terms of s.37 of the Registration of Associations Act, violation against all provisions attracts a fine not exceeding 500 rupees (USD 14) and an imprisonment not exceeding 3 months.

Sanctions for failure to comply with preventive measures in Recommendations 9 to 21: all reporting entities

AML/CFT requirements and the related sanctions which apply to all reporting entities are set out in the FIAMLA and FIAMLA Regulations. S.19 (1) of FIAMLA provides that if a reporting entity or any director, employee, agent or other legal representative fails to (a) submit an STR (b) supply additional information in relation to an STR, (c) verify, identify or keep records, registers or documents, or (d) tips off a customer, shall commit an offence and, on conviction, shall be liable to a fine not exceeding one million rupees (about USD 28,500) and to an imprisonment for a term not exceeding 5 years. In respect of all obligations in the FIAMLA Regulations, violations attract a fine of an amount not exceeding 100,000 rupees (USD 2,850) and a prison term not exceeding 2 years, on conviction. There is no provision for administrative sanctions, meaning the range of sanctions is extremely narrow as the sanctions are not commensurate with the nature, severity and frequency of violations.

Sanctions for failure to comply with preventive measures in Recommendations 9 to 21: financial institutions

In relation to reporting entities licensed by BoM, failure to comply with BoM Guidance Notes does not attract sanctions because they do not have a legal basis and S 18(2) of FIAMLA which

refers to sanctions does not include them. On the other hand, s. 18(3) of FIAMLA as read together with s.7 of FSA has a broad range of sanctions against violation of FIAMLA, regulations and FSC directions. Breach of the FSC directions constitute an offence under the FSA carrying a penalty of a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years. It should be noted that there is a decided court case which indicated that the FSC Code constitutes minimum standards and can be visited by regulatory sanctions. The FSC has regularly issued sanctions under section 7 of the FSA for breaches of the Code. However, the framework does not have direct sanctions provisions.

Sanctions for failure to comply with preventive measures in Recommendations 22 & 23: DNFBPs

S.10(4) of FIAMLA provides that if an institution does not comply with guidelines issued by the FIU it shall be liable to a penalty not exceeding 50,000 MUR for each day that it is in compliance. Furthermore, s.18(4) states that if a member of relevant profession or occupation has not complied with the requirements of this Act or regulations, its regulatory body may take action against the institution which it is empowered to take in the case of professional misconduct, or dishonesty, malpractice or fraud. Different sectors of DNFBPs are subjected to different forms of disciplinary sanctions but the sanctions are generally narrow. For instance, s.99(ka) of the Gambling Authority Act provides that if any licensee fails to comply with relevant guidelines issued by the FIU under FIAMLA, the GRA may refuse to renew, or suspend, revoke or cancel its license. The key deficiency of the Guidelines is that they were issued under sections 10(2) (ba) and (c) of FIAMLA which is limited to STRs- but excludes the rest of the preventive measures.

Criteria 35.2 (Met) Under the Mauritian laws, sanctions which are applicable to a financial institution or a DNFBP are also applicable to its directors, and senior management if it is established that the breach and offence were committed with the consent or negligence of the person. S. 44 of the Interpretation and General Clauses Act states that a crime committed by a body corporate also imposes criminal liability on every person involved in the management of the entity or was purporting to act in that capacity at that time unless he can prove that the offence was committed without his knowledge or consent and that he took all reasonable steps to prevent the commission of the offence.

Weighting and conclusion

Mauritius partly meets criterion 35.1 and meets criterion 35.2. The country does not have sanctions for breach of requirements set out in R.6. FIAMLA limits sanctions to non-compliance with FIAMLA and regulations and, in relation to DNFBPs, non-compliance with filing STRs only. The sanctions which meet the standard are narrow as they are not commensurate with the nature, severity and frequency of violations. In view of these deficiencies, **Mauritius is rated partially compliant with R.35.**

Recommendation 36 – International instruments

In its MER under the First Round of MEs, Mauritius was rated Partially Compliant with requirements of this Recommendation (formerly R35 and SR I). The main technical deficiencies were that: the relevant provisions of the Vienna, Palermo and the Terrorist Financing Conventions had not been fully implemented. The deficiency concerning implementation of targeted financial sanctions is no longer assessed under this Recommendation but is now covered in R. 6.

Criterion 36.1 (Met) Mauritius became a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) on 20th December 1988, ratified the United Nations Convention against Transnational Organised Crime (the Palermo Convention) on 18th April, 2003, ratified the United Nations Convention against Corruption (the Merida Convention) on 14 December 2004 and the International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention) on 11th December, 2004.

Criterion 36.2 (Mostly Met) Mauritius has not fully implemented the Merida Convention since the Prevention of Corruption Act does not provide for offences involving foreign public officials.

Weighting and Conclusion

Mauritius meets criterion 36.1 and mostly meets criterion 36.2 and **is therefore rated largely compliant with R.36.**

Recommendation 37 - Mutual legal assistance

In its MER under the First Round of MEs, Mauritius was rated Mostly Compliant with requirements of this Recommendation (formerly R36 & SR V). The main technical deficiencies were that: there were concerns that Mauritian authorities had not appointed dedicated and appropriately trained staff in AML/CFT issues to handle mutual legal assistance requests and no provision for avoiding conflict of jurisdiction.

Criterion 37.1- (Met) Mutual Legal Assistance in Mauritius in relation to ML, associated predicate offences and TF investigations, prosecutions and related proceedings is mainly provided for under s.3 of the MACRMA. Further additional cooperation is provided for under other laws including s.94(1A) of the Insurance Act, Part VI of the ARA, s.3 of the CSFTA, s. 87 of the FSA and s. 20 of the FIAMLA.

Criterion 37.2- (Partly Met) Although Mauritius has designated the Attorney-General as the central authority for the transmission and execution of requests under s.2 the MACRMA there are no clear processes for timely prioritization and execution of MLA requests. In addition, there are no processes to monitor progress on requests or properly functioning case management system (for full analysis see IO.2).

37.3 (Met) S.5 of the MACRMA provides grounds for refusal of a request. Mauritius may therefore refuse a request if-

- (a) compliance with the request would be contrary to the Constitution;
- (b) prejudice to the sovereignty, international relations, security, public order, or other public interest of Mauritius would result;
- (c) there is reasonable belief that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions, or that a person's position may be prejudiced for any of those reasons;
- (d) in the absence of dual criminality, granting the request would require a Court in Mauritius to make an order in respect of any person or property in respect of conduct which does not constitute an offence, nor gives rise to a confiscation or restraining order, in Mauritius;
- (e) the request relates to an offence under military law, or a law relating to military obligations, which would not be an offence under ordinary criminal law; or
- (f) the request relates to a political offence or an offence of a political character.

The MLA available is not subject to unreasonable or unduly restrictive conditions.

Criterion 37.4- (Met) Mauritius does not refuse MLA requests on the on the sole ground that the offence is also considered to involve fiscal matters or on the grounds of secrecy or confidentiality requirements on financial institutions or DNFBPs, except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies.

Criterion 37.5- (Met) S.20(1) of the MACRMA provides that a foreign document is privileged and may not be disclosed before the document is made public, or disclosed, in the course of and for the purpose of any proceedings.

Criterion 37.6- (Not Met) S.5(2)(b)(iv) of the MACRMA requires that in the absence of dual criminality, the Central Authority has to get an order from the Court if the MLA required relates to any person or property in respect of conduct which does not constitute an offence, nor gives rise to a confiscation or restraining order in Mauritius. **Criterion 37.7- (Met)** S.5(2) (b) (iv) of MACRMA provides for dual criminality to be satisfied if the conduct upon which the request is being made is also criminalised in Mauritius and placing the offence within the same category offence or denominating the offence by the same terminology is not a determinant for such assistance.

Criterion- 37.8 (Mostly Met) S.6(1) of the MLACRMA provides for the grant by a Judge in Chambers of a search warrant or an evidence-gathering order. The powers that are required under Recommendation 31 or are otherwise available to domestic competent authorities, including all of the specific powers required under Recommendation 31 relating to the production, search and seizure of information, documents, or evidence (including financial records) from financial institutions, or other natural or legal persons, and the taking of witness statements are available under MLA though the use of an evidence-gathering order. Controlled and under cover operations are carried out in terms of the general powers of the Police and s55

of the DDA specifically empowers the ADSU to carry out controlled delivery and there is also a court judgement confirming that ICAC can also do controlled delivery³⁵.

Weighting and Conclusion

Mauritius meets criteria 37.1-37.6 and mostly meets 37.7-37.8 **and is therefore rated largely compliant with R.37.**

Recommendation 38 – Mutual legal assistance: freezing and confiscation

In its MER under the First Round of MEs, Mauritius was rated Mostly Compliant with requirements of this Recommendation (formerly R. 38). The main technical deficiency was that there was no provision for establishment of an Asset Forfeiture Fund. The status appears to remain the same to date.

Criterion 38.1 (Partly Met) Mauritius has authority to take action in respect of requests made by foreign states to identify, freeze, seize or confiscate property from or proceeds of serious crime in accordance with Section 12 MACRMA and Section 54 of ARA. It is not clear whether it can take action for instrumentalities or property of corresponding value.

Criterion 38.2 (Met) Mauritius has authority to take action on the basis of non-conviction based confiscation under section 27 of the ARA. Section 54 of this act also empowers the authorities to provide assistance on foreign requests. However, section 54 (2) authorises the court to grant restriction order for in rem property on the basis of section 30 which caters for immovable property.

Criterion 38.3 (Met) The Enforcement Authority can use its powers under ss 34 and 35 of ARA to seize any property which is believed to be tainted or proceeds of crime above the value of MUR 500,000. Domestic processes on confiscation provided under Part III Sub-Part (B) of the ARA applies to foreign requests for confiscation. Once the order is granted, provisions of ss57 and 58, which empower the AG to manage the process, coordinating the seizure and confiscation actions relating to requests made by other countries will apply. S.25 of the ARA provides for appointment of a trustee to manage and dispose a conviction-based confiscated property and s27 (2)(b) of the ARA provides for the appointment of an Asset Manager relating to civil asset recovery to take custody and manage tainted property.

Criterion 38.4: (Met) The ARID can share confiscated property with other states in terms of Section 58 of the ARA.

Weighting and Conclusion

Mauritius partially meets Criterion 38.1 and meets criteria 38.2., 38.3 and 38.4. Mauritius has authority to take action in respect of requests made by foreign states to identify, freeze, seize or confiscate property from or proceeds of serious crime. **Mauritius is rated largely compliant with R38.**

³⁵ Cite case

Recommendation 39 – Extradition

In its MER under the First Round of MEs, Mauritius was rated Mostly Compliant with requirements of this Recommendation (formerly R. 39). The main technical deficiency was that there were concerns about the ability of the Mauritian authorities to handle extradition requests in a timely and effective manner.

Criteria 39.1 (Met) ML and TF offences are extraditable offences under Section 29 of the FIAMLA and Section 8 of CSFTA. Mauritius does not place unreasonable or unduly restrictive conditions on the execution of extradition requests in terms of the Extradition Act.

Criterion 39.2: (Met) Nationality does not seem to constitute grounds to refuse to extradite under Extradition Act. Section 2 is couched in general term to cater for any offender who is accused or convicted of an offence in a foreign state.

Criterion 39.3: (Met) Although Mauritius appears to require dual criminality for extradition this does not seem to be *conditio sine qua non* to execute extradition requests as the underlying offence can be inferred from description based on intention or state of the mind of the offender pursuant to section 2 of the Extradition Act.

Criterion 39.4: (Not Met) Mauritius has not demonstrated whether it has simplified extradition mechanisms in place.

Weighting and Conclusion

Mauritius meets c.39.1-39.3 but does not meet c.39.4. Failure to have simplified extradition mechanisms is considered to be minor and therefore **Mauritius is rated largely compliant with R. 39.**

Recommendation 40 – Other forms of international cooperation

In its MER under the First Round of MEs, Mauritius was rated Mostly Compliant with requirements of this Recommendation (formerly R. 40) The main technical deficiency was that no information was provided by the criminal justice area.

The assessors have noted that MACRAM provides for the legal basis to provide for other forms of cooperation, in addition to mutual legal assistance (s.3(4)).

Criterion 40.1- (Met) The Mauritian FIU can exchange information spontaneously and upon request to FIUs under s. 10(2)(f) and 20 of the FIAMLA. The FIU can also provide information to investigatory and supervisory authorities. ARID exchanges information through ARINSA/CARIN. ICAC is empowered under s.20(1)(l) of the PoCA to co-operate and collaborate with international institutions, agencies or organisations in the fight against money laundering and corruption. The MRA can exchange information through the INTERPOL Channel. MRA has the power to exchange information through Double Taxation Agreements (DTAs) in relation to tax matters, which may be predicate offences to ML and TF. The information exchange is however only possible upon request. Mauritius has entered into Customs Mutual Administrative Agreements (CMAAs). The Mauritian Customs Authority is also a member of the World Customs Organization (WCO). FSC can provide international cooperation with foreign

counterparts in terms of s.87(1) of FSA. Memoranda of Understanding between the FSC and various competent authorities are used as basis for co-operation/exchange of information.

Criterion 40.2- (Mostly Met)

(a) the various competent authorities have different lawful bases for providing co-operation. The FIU can provide information based on s.10(2)(f) and s.20 of the FIAMLA and on memoranda of understanding with various entities. ARID exchanges information under sections 53 and 57 of the ARA, while the Independent Commission against Corruption provides information to foreign LEAs under Section 81(5) of the PoCA. Mauritius Police can exchange information under the MACRMA and the Mauritius Revenue Authority can exchange information under section 76 of Income Tax Act and Article 26 of Double Taxation Agreements (DTAs) – ‘Exchange of Information or Document’ and has signed DTAs with 43 countries so far. The Customs Department of Mauritius has Customs Mutual Administrative Agreements (CMAAs) with a number of countries. The Financial Services Commission has agreements and arrangements with foreign supervisory bodies which provide that the Commission shall provide such assistance to the foreign supervisory institution as may be required for the purposes of its regulatory and supervisory functions (s.87 (1) of FSA).

(b) The information sharing available to the various competent authorities in Mauritius is both formal and informal when provided under the MACRMA and other statutes, which allow for direct interaction. *The use of the Egmont, ARINSA/CARIN and Interpol systems ensures that assistance is provided as quickly and as efficiently as possible.*

(c) There are clear and secure gateways, mechanisms or channels that will facilitate and allow for the transmission and execution of requests. An example is the FIU, which shares information instantly with Egmont Group members through the Egmont Secure Web (ESW) and uses encrypted emails to share information efficiently with non-Egmont FIU and ARID, which share information through secured emails.

(d) Competent authorities have clear processes for the prioritisation and timely execution of requests. The FIU has in place internal procedures and instructions in relation to the handling and prioritisation of requests. The ICAC has put up Standing Orders in relation to procedures to allow for receipt, transmission and execution of requests. The Mauritius Revenue Authority has an internal procedure manual on Exchange of Information. Further the Customs Department has clear processes for attending to request for information from bilateral/ regional/ international organisations embodied in the document SOP:TFC-INT-02 – PROCESS: ATTENDING TO REQUEST FOR INFORMATION. The FSC has a manual of Exchange of Information which properly defines the processes.

(e) Information received under the MACRMA is privileged and is not permitted to be disclosed. The other competent authorities though their various laws and procedures manuals have requirements for confidentiality of information.

Criterion 40.3- (Met) Mauritius has demonstrated the ability to negotiate and sign, in a timely way, and with the widest range of foreign counterparts. In addition to the exiting MoUs which Mauritius was a party to at the time of its last assessment, Mauritius has entered into various arrangements. The Financial Intelligence Unit can exchange information without bilateral agreements. In addition, the FIU has been signing MoUs with both Egmont and Non-Egmont FIUs which cannot legally exchange information unless a MoU has been signed. The FIU

Mauritius has MoUs with South Africa, Australia, Principality of Monaco, Kingdom of Thailand, Belgium, Canada, France, Cayman Islands, Netherlands Antilles, United Kingdom, Republic of Indonesia, India, Nigeria, Senegal, Malaysia, Egypt, Qatar, Luxembourg, USA, Bermuda, Malawi, Seychelles, United Kingdom, Poland, Japan, Zimbabwe, Zambia and Ethiopia. The Asset Recovery Investigation Division has multilateral arrangements through the ARINSA/CARIN networks. The Independent Commission against Corruption is authorised to enter into agreements and Memorandum of Understanding with other entities with a view to enhance co-operation and has signed MoUs with the Integrity and Anti-Corruption Department of the African Development Bank Group, in relation to practical modalities of work relations and co-operation, and Le Bureau Independent Anti- Corruption de Madagascar, mainly in relation to the enforcement of bilateral co-operation and enhance exchange of information.

The ICAC is also a member of the Association of Anti-Corruption Agencies in Commonwealth Africa which is a platform sharing experiences in the fight against corruption and the promotion of good practices and also to deepen co-operation in areas of corruption prevention and public education, investigation and prosecution. The Customs Department of Mauritius has entered into Customs Mutual Administrative Agreements (CMAAs) with a number of countries including the Kingdom of Belgium, the Islamic Republic of Pakistan, the Republic of Madagascar, France, the United States and the Netherlands. The Customs Authority is also a member of the World Customs Organization (WCO). The Financial Services Commission has 52 MoUs with international counterparts.

Criterion 40.4- (Met) the Mauritian authorities indicated that upon request, requesting competent authorities are able to provide feedback in a timely manner to competent authorities from which they have received assistance, on the use and usefulness of the information obtained. The Financial Intelligence Unit provides feedback upon request and usually requests feedback from its counterparts. The Asset Recovery Investigation Division also provides feedback upon request. The Financial Services Commission with regards to requests under the IOSCO MMOU, provides feedback on an annual basis from all IOSCO members as to whether assistance provided have been useful and satisfactory. The Independent Commission against Corruption if required, can provide feedback to competent authorities from which they have received assistance, on the use and usefulness of the information obtained. The Customs Department is able to provide feedback as and when requested by competent authorities.

Criterion 40.5- (Met) Mauritius does not prohibit, or place unreasonable or unduly restrictive conditions on, the provision of exchange of information or assistance. In particular, competent authorities do not refuse a request for assistance on the grounds that the request is also considered to involve fiscal matters (s. 5(2)(b) of MACRMA) or that laws require financial institutions or DNFBPs to maintain secrecy or confidentiality, except where the relevant information that is sought is held in circumstances where legal professional privilege or legal professional secrecy applies or there is an inquiry, investigation or proceeding underway in the requested country, unless the assistance would impede that inquiry, investigation or proceeding. Mauritius does not prohibit exchange of information or place restrictive conditions on it because the nature or status of the requesting counterpart authority is different from that of its foreign counterpart.

Criterion 40.6- (Met) Mauritius has in place controls and safeguards to ensure that information exchanged by competent authorities is used only for the purpose for, and by the authorities, for

which the information was sought or provided, unless prior authorisation has been given by the requested competent authority. For instance, any information obtained by the FIU is subject to section 30 of FIAMLA and accordingly privileged. The Mauritian authorities indicated that Information obtained by the ARID is subject to the same conditions as the FIU. Additionally, there are safeguards and control at the ICAC to ensure that information provided is used only for the purposes for which the information was provided.

Criterion 40.7- (Met) The Mauritian authorities indicated that LEAs are all subject to the Data Protection Act and that all information is received is subject the confidentiality requirements under the appropriate laws, such as section 30 of the FIAMLA and section 20 of the MACRMA

Criterion 40.8- (Met) The Mauritian authorities are able to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts all information that would be obtainable by them if such inquiries were being carried out domestically. The FIU may seek and obtain information in Mauritius following a request received from a foreign counterpart. The Asset Recovery Investigation Division may trace assets following a request received from ARINSA/CARIN where the foreign counterpart has supplied sufficient evidence that the property to be traced is proceeds of crime. The Police Force is able to carry out an investigation on behalf of a counterpart if a request for information is made by a foreign counterpart. The FSC may exchange information relating to its regulated entities with foreign counterparts. The ICAC is able to conduct enquiries on behalf of its foreign counterparts.

Exchange of information of between FIUs

Criterion 40.9 [Met] Pursuant to s.20 of FIAMLA, Mauritius FIU has adequate legal basis for sharing information with other foreign FIUs and other comparable bodies-both members and non-members of the EGMONT Group of FIUs.

Criterion 40.10 [Met] The FIU provides feedback on the usefulness of information when requested by foreign FIUs.

Criterion 40.11 [Partly met] Mauritius FIU has the power to exchange:

- a) the information held in its database (c. 40.8). However, the scope of the information accessible or obtainable directly or indirectly under R.29, is limited (see c.10 and c29.3 for details).
- b) the information Mauritius FIU has the power to obtain or access directly or indirectly at the domestic level (c. 40.8), subject to the principle of reciprocity.

Exchange of Information Between Financial Supervisors

Criterion 40.12 – (Met) Section 26(4)(a) of the Bank of Mauritius Act 2004 empowers the BoM to exchange or disclose any information, under conditions of confidentiality, with any other foreign regulatory agency performing functions similar to those of the Bank under the Bank of Mauritius Act, pursuant to any existing or future treaty, or agreement or memorandum of understanding entered into by the Bank or the State of Mauritius. Section 64(14)(a) of the Banking Act 2004 further provides for the disclosure of information by the Bank of Mauritius, under conditions of confidentiality to a central bank or any other entity or agency, by whatever name called, which performs the functions of a central bank in a foreign country for the purpose of assisting it in

exercising functions corresponding to those of the central bank under the Banking Act. The FSC can exchange information with its foreign counterparts under Section 87 of the FSA.

Criterion 40.13 – (Met) BoM and FSC can exchange information pursuant to the Banking Act, FSA and/or bilateral arrangements. In addition, Section 64(15) of the Banking Act further provides that the duty of confidentiality imposed under section 64 of the Banking Act, shall be without prejudice to the obligations of Mauritius under any international treaty, convention or agreement and to the obligations of the central bank under any concordat or arrangement or under any existing or future memorandum of understanding for cooperation and exchange of information between the central and any other foreign regulatory agency performing functions similar to those of the central bank.

Criterion 40.14 – (Met) Section 26 of the Bank of Mauritius Act and Section 64 of the Banking Act allows the sharing and exchange of any information with foreign regulators. The FSC exchanges information on the domestic regulatory system, and general information on the financial sectors with its counterparts. The FSC can exchange information with its foreign counterparts under Section 87 of the FSA.

Criterion 40.15 – (Mostly met) Section 64(8) of the Banking Act further provides that the BOM can conduct inquiries on behalf of foreign counterparts, and as appropriate, also authorise or facilitate the foreign counterparts to conduct inquiries subject to obtaining the prior written authorisation of the central bank and also subject to the duty of confidentiality. However, the FSC is not empowered to authorise foreign counterparts to conduct inquiries themselves in the Mauritius.

Criterion 40.16 – (Mostly met) Any information exchanged with foreign counterparts under section 26(4)(a) of the Bank of Mauritius Act or section 64(8) or (14) of the Banking Act are under conditions of confidentiality. However, the confidentiality clause is not enough to meet the requirement of this criterion. There is a need to provide for express authorization from the requested party to the requesting party in cases where the requesting party shall need to disseminate information received from the requested party to a third party. For non-banking financial sector supervised by the FSC, there is no clear legal basis that provides for prior authorisation for dissemination of exchange information.

Exchange of Information Between Law Enforcement Authorities

Criteria 40.17 – (Met) Law enforcement authorities can exchange domestically available information with foreign counterparts for intelligence or investigative purposes in respect of ML, TF and predicate crimes including identification and tracing of assets and instrumentalities of crime on the basis of that Mauritius is a member of the Interpol which enables provision of information to its counterparts in a secured manner. ICAC uses this platform through the police for intelligence and investigative purposes. The Mauritius Revenue Authority exchange information under Article 26 of the DTAs. Through the Prime Minister's Office, the CTU share information with its foreign counterparts. In terms of section 57 of the ARA covers the

identification and tracing of the proceeds and instrumentalities of crime where a foreign State requests an Enforcement Authority to assist in locating property believed to be proceeds, an instrumentality or terrorist. Information exchanged is also done through the CMAAs which is for intelligence purposes only. For this information to be used for investigative purposes, the requested foreign counterpart may avail itself of the Mutual Legal Assistance.

In addition to the above, the FSC facilitates the sharing of intelligence through the FIU. The FSC shares information to its IAIS/IOSCO MMOU counterparts.

Criteria 40.18 – (Met) LEAs in Mauritius can use their respective powers, including investigative techniques available within national laws, to carry out inquiries and gather information on behalf of foreign counterparts. The FSC is empowered under the FSA to conduct inquiries, the findings of which may be shared with foreign counterparts and shares the information in accordance with the agreement in place with the foreign counterparts with restricted use clauses or agreements. The ICAC can conduct enquiries on behalf of its foreign counterparts although exchange of information is subject to the consent of the Director of Public Prosecutions. In practice, the CTU has shared information with foreign counterparts involved in intelligence gathering in terrorism. The MRA can require any person, under section 124 Income Tax Act, to furnish information to comply with any request for the exchange of information under an arrangement made pursuant to section 76(1)(b) of the Act. All information disclosed through CMAAs is to the requesting Law Enforcement Authorities for intelligence purpose only.

Criteria 40.19 – (Met) LEAs in Mauritius have no legal impediment for the forming special law enforcement task forces in specific cases to enter into and participate in joint investigative teams in relation to ML, TF and predicate crimes. However, there is no provision for Joint Investigative teams to conduct cooperative investigation in Mauritius present CMAAs. The ICAC do conduct enquiries on behalf of its foreign counterparts although exchange of information is subject to the consent of the Director of Public Prosecutions.

Exchange of information between non-counterparts

Criterion 40.20 (Met) Mauritius permits competent authorities to exchange information indirectly with non-counterparts. Information may be disclosed for the prevention and detection of crime under section 30(2)(b) of the FIAMLA. This section has been used to disclose information to non-counterparts. A request from non-counterpart is considered and information provided on the same basis that FSC has no concerns about recipients of information or concerns about use of information. MRA under section 124(1)(b) Income Tax Act and Art 26 DTAs can also exchange information with non-counterparts. Coupled with the above, information may be shared with non-counterparts where the Law so provides or when authorized to do so by the Minister of Finance under section 13(2)(c) of MRA Act.

Weighting and Conclusion

Mauritius meets criteria 40.1, 40.3-40.10, 40.12-40.14, 40.17-40.20, and mostly meets 40.2, 40.15 and 40.16, and partly meets 40.11. In view of the minor deficiencies, **Mauritius is rated Largely Compliant with R 40.**

SUMMARY OF TECHNICAL COMPLIANCE – KEY DEFICIENCIES

Recommendation	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	NC	<ul style="list-style-type: none"> • Mauritius has not assessed all ML / TF risks to which the country is exposed. • Mauritius has not developed a risk-based approach to implementation of the AML/CFT measures. • FIs under BoM and DNFBPs are not required to assess their ML / TF risks, and take mitigating means.
2. National cooperation and coordination	PC	<ul style="list-style-type: none"> • Mauritius does not have AML/CFT policies which are informed by identified ML/TF risks. • Mauritius does not have mechanisms for cooperation to fight the financing of the proliferation of weapons of mass destruction.
3. Money laundering offence	LC	<ul style="list-style-type: none"> • Mauritius does not criminalise the elements of TF in relation to the financing of a terrorist individual and terrorist organisation. • Illicit trafficking in stolen and other goods is not designated as a predicate offence of ML.
4. Confiscation and provisional measures	LC	<ul style="list-style-type: none"> • The legal framework does not include confiscation of instrumentalities.
5. Terrorist financing offence	PC	<ul style="list-style-type: none"> • Mauritius does not criminalise the provision of funds to and collection of funds for individual terrorists and terrorist organizations, when a terrorist act has not occurred. • The legal framework for suppressing financing does not include the travel of individuals who travel to a State other than their States of residence or nationality.
6. Targeted financial sanctions related to terrorism & TF	NC	<ul style="list-style-type: none"> • Mauritius does not have the identification and designation mechanisms provided for in UNSCRs 1267/1989 and 1373. • Incomplete definition of the notion of 'funds'. • No general prohibition on making funds available to individuals and entities subject to financial sanctions. • Insufficient means of communication to financial institutions and designated non-financial businesses

Recommendation	Rating	Factor(s) underlying the rating
		<p>and professions.</p> <ul style="list-style-type: none"> • Absence of protective measures for good faith third parties. • Absence of procedures (i) governing requests to the relevant United Nations Committee when a person fails to meet or no longer meets the designation criteria; (ii) relating to the designations and de-listings under UNSC Resolution 1373; and (iii) for communicating de-listings to the private sector.
7. Targeted financial sanctions related to proliferation	NC	<ul style="list-style-type: none"> • Absence of frameworks for implementation of targeted financial sanctions relating to the prevention suppression and disruption of proliferation of mass weapons of mass destruction and its financing.
8. Non-profit organisations	NC	<ul style="list-style-type: none"> • Absence of review of the NPO sector to identify sub-sectors vulnerable to TF abuse. • No action to raise awareness in the sector has been carried out. • Absence of measures to ensure effective cooperation, coordination and information sharing among authorities.
9. Financial institution secrecy laws	PC	<ul style="list-style-type: none"> • There are restrictions in relation to sharing of information between competent authorities. • Disclosure of information between FIs limited to information related to assessing credit-worthiness.
10. Customer due diligence	NC	<ul style="list-style-type: none"> • Absence of legal obligation to implement a full range of CDD measures provided for in R.10 and for all categories of FIs; • Absence of legal obligation in relation to identification of persons purporting to act on behalf of customers. • Absence of legal requirement to identify and verify identity of beneficial owners. • Absence of legal requirement for FIs to understand the purpose and intended nature of business relationship. • Absence of legal requirement for FIs to carry out

Recommendation	Rating	Factor(s) underlying the rating
		<p>ongoing CDD on business relationships.</p> <ul style="list-style-type: none"> • Absence of a legal requirement for FIs under Bank of Mauritius to understand the nature of business, ownership and control structure of legal persons and legal arrangements. • Permitting exemptions and simplified measures not supported by adequate analysis of ML/TF risks.
11.Record keeping	LC	<ul style="list-style-type: none"> • Absence of legal provision for FIs to keep records in relation to results of any analysis undertaken.
12.Politically exposed persons	PC	<ul style="list-style-type: none"> • No legal provisions requiring FIs under BoM to comply with obligations relating to PEPs. • Absence of specific measures applicable to beneficiaries of life insurance contracts. • FIs under FSC are not obliged to apply requirements related to PEPs in relation to individuals holding prominent functions in international organisations • Some deficiencies in R.10 (relating to beneficial owners and enhanced supervision) are also applicable under R.12.
13.Correspondent banking	NC	<ul style="list-style-type: none"> • No legal obligations for FIs in Mauritius to apply specific measures when engaging in correspondent banking relationships and transactions as set out in R.13.
14.Money or value transfer services	PC	<ul style="list-style-type: none"> • No provision in law or regulation which requires agents of MVTs providers to be licensed or registered by a competent authority. • No requirement in law or other enforceable means which requires FIs to include agents in their AML/CFT programmes and monitor them for compliance with the programmes.
15.New technologies	NC	<ul style="list-style-type: none"> • No specific requirements for competent authorities and FIs to identify and assess the ML/TF risks that may arise in relation to the development of new products or new business practices, and the use of new or developing technologies for both new and existing products.

Recommendation	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> • FIs are not required to take appropriate measures to manage and mitigate risks.
16.Wire transfers	NC	<ul style="list-style-type: none"> • No specific legal obligations for FIs in Mauritius to apply specific measures when engaging in wire transfers as set out in R.16.
17.Reliance on third parties	NC	<ul style="list-style-type: none"> • No provision in law or any other enforceable means which clearly points out to the requirement to consider information available on the level of country risk. • FIs are not under obligation to ensure that: (a) the group applies CDD and record keeping requirements in line with Recs 10 and 11 and programmes against ML/TF in accordance with R. 18.
18.Internal controls and foreign branches and subsidiaries	PC	<ul style="list-style-type: none"> • No specific provisions in law or other enforceable means which require financial groups to implement group wide programmes against ML/TF risks. • No requirements in law or other enforceable means which require FIs to ensure that their overseas branches or subsidiaries to apply AML/CFT measures consistent with those of Mauritius where the host country requirements are less strict.
19.Higher-risk countries	PC	<ul style="list-style-type: none"> • No legal requirement or operational mechanisms indicating that Mauritius applies countermeasures proportional to the risks when called upon by FATF or independent of any call by the FATF.
20.Reporting of suspicious transaction	C	
21.Tipping-off and confidentiality	PC	<ul style="list-style-type: none"> • Non-compliance with the provision which prohibits disclosure becomes an offence only if the disclosure is made to some other person apart from the owner. • The provision which prohibits disclosure does not include directors.
22.DNFBPs: Customer due diligence	NC	<ul style="list-style-type: none"> • No requirement in law for DNFBPs to apply full range of CDD measures (except the obligation to verify customers identity). • No provision in enforceable means which sets out

Recommendation	Rating	Factor(s) underlying the rating
		<p>details of records to be kept by DNFBPs.</p> <ul style="list-style-type: none"> • No requirements in enforceable means which apply to PEPs • No requirements in enforceable means which apply to new technologies. • No requirements in enforceable means which apply to third-parties.
23.DNFBPs: Other measures	NC	<ul style="list-style-type: none"> • No obligation in enforceable means to comply with internal control requirements set out in Rec 18. • No obligation in enforceable means to comply with higher risk requirements set out in Rec 19. • Inadequate legal provisions in relation to tipping off and confidentiality requirements as set out in Rec 21.
24. Transparency and beneficial ownership of legal persons	NC	<ul style="list-style-type: none"> • ML/TF risks posed by legal persons have not been assessed. • Except for institutions under FSC, there is no provision in law or other enforceable means which requires companies, FIs, DNFBPs and company registry to obtain information on beneficial ownership • No legal requirement to ensure the information on beneficial ownership is accurate and up-to-date .
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> • There is no requirement for trustees themselves (professional or otherwise) to disclose their status to FIs and DNFBPs when forming a business relationship or carrying out an occasional transaction above the threshold. • There are legal restrictions on access to beneficial ownership information from trusts.
26.Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> • Frequency of onsite inspections are not determined on the basis of risk identified by the supervisors and the country. • No periodic review of ML/TF risk profile of FIs. • FIs are not subjected to consolidated group supervision for AML/CFT purposes.

Recommendation	Rating	Factor(s) underlying the rating
27.Powers of supervisors	LC	<ul style="list-style-type: none"> • FIs under BoM are not subject to sanctions for non-compliance with obligations in relation to most preventive measures. • The legal framework does not provide for sanctions provisions which have a direct link between breaches and sanctions and the sanctions regime is not in line with R.35.
28.Regulation and supervision of DNFBPs	NC	<ul style="list-style-type: none"> • Supervisory authorities have not yet started carrying out monitoring DNFBPS for compliance. • Supervisory authorities have not developed and implemented risk-based AML/CTT supervision. • No specific provision in relation to inspections for AML/CFT purposes.
29.Financial intelligence units	LC	<ul style="list-style-type: none"> • Powers of the FIU to request additional information is limited to FIs involved in the transactions.
30.Responsibilities of law enforcement and investigative authorities	C	
31.Powers of law enforcement and investigative authorities	C	
32.Cash couriers	PC	<ul style="list-style-type: none"> • False or non declaration of currency or BNIs is not subject to confiscation.
33.Statistics	PC	<ul style="list-style-type: none"> • Inconsistent statistics on disseminations made by the FIU and received by LEAs except ICAC. • Inadequate statistics maintained by the central authority in relation to MLA.
34.Guidance and feedback	LC	<ul style="list-style-type: none"> • Absence of feedback to FIs and DNFBPs.
35.Sanctions	PC	<ul style="list-style-type: none"> • No sanctions for breach of requirements in relation to R.6. • No sanctions for non-compliance with BoM Guidance Notes and Guidelines. • In relation to requirements under the FSC Code, the framework does not provide a direct link between obligations and sanctions.

Recommendation	Rating	Factor(s) underlying the rating
36. International instruments	LC	<ul style="list-style-type: none"> The legal framework does not provide for offences involving foreign public officials.
37. Mutual legal assistance	LC	<ul style="list-style-type: none"> No clear processes for the timely provision and execution of MLA requests.
38. Mutual legal assistance: freezing and confiscation	LC	<ul style="list-style-type: none"> No clear provision on taking action in relation to instrumentalities and property of corresponding value.
39. Extradition	LC	<ul style="list-style-type: none"> Absence of case management system and processes for timely execution of extradition requests.
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> The scope of information accessible by the FIU is limited due to legal restrictions related to tax and corruption.