



VIRGIN ISLANDS

PROGRESS REPORT

ON THE

IMPLEMENTATION OF THE RECOMMENDATIONS

FROM THE NATIONAL RISK ASSESSMENT



ABBREVIATIONS

AGC	-	Attorney General's Chambers
AML/CFT	-	Anti-money Laundering/Countering the Financing of Terrorism
ASP	-	Airport Security Programme
BVIAA	-	BVI Airports Authority
BVIPA	-	BVI Ports Authority
CAs	-	Competent Authorities
CDD	-	Customer Due Diligence
CJ(IC)A	-	Criminal Justice (International Cooperation) Act
CLEA	-	Committee of Law Enforcement Agencies
DNFBP	-	Designated Non-financial Businesses and Professionals
DTOA	-	Drug Trafficking Offences Act
FATF	-	Financial Action Task Force
FI	-	Financial Institutions
FIA	-	Financial Investigation Agency
FSC	-	Financial Services Commission
GO	-	Governor's Office
HMC	-	Her Majesty's Customs
HVG	-	High Value Goods Dealers
ID	-	Immigration Department
LEAs	-	Law Enforcement Agencies
MC	-	Magistrate's Court

ML	-	Money Laundering
MLA	-	Mutual Legal Assistance
MoU	-	Memorandum of Understanding
NRA	-	National Risk Assessment
NPO	-	Non-profit Organisations
ODPP	-	Office of the Director of Public Prosecutions
OECS	-	Organisation of Eastern Caribbean States
PCCA	-	Proceeds of Criminal Conduct Act
PF	-	Proliferation Financing
RVIPF	-	Royal Virgin Islands Police Force
SAR/STR	-	Suspicious Transaction Report/Suspicious Activity Report
TF	-	Terrorist Financing
USVI	-	United States Virgin Islands

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Introduction

Recommendation 1 of the Financial Action Task Force's (FATF) *International Standards on Combating Money laundering and the Financing of Terrorism & Proliferation* sets out that countries should identify, assess and understand money laundering ("ML") and terrorist financing ("TF") risks. It has been determined that the most practical way this work can be carried out is by way of a national risk assessment.

On Wednesday, 12th March, 2014, the Cabinet of the Virgin Islands approved the outline for the Territory's first National Risk Assessment (NRA) which commenced in September, 2014, and lasted two years, concluding in 2016. This NRA was aimed at assessing the ML/TF/PF risks to the Virgin Islands in order to enable the targeted application of a risk-based approach to AML/CFT. It was determined that the successful conduct of an NRA would help the Territory to identify and assess its ML/TF risks, and that the results of the NRA should provide a clear picture as to which sectors are most vulnerable to ML/TF.

The NRA was geared towards determining where resources should be allocated based on the level of identified risk, and provided the opportunity to identify required changes to the current AML/CFT regime. The period of assessment covered 2011 to 2014 inclusive and identified threats and vulnerabilities for a range of agencies and sectors including all of the Territory's CAs and its identified Law Enforcement (or enforcement related) Agencies, which are the focus of this report. With respect to the other sectors, i.e. the FIs, DNFBNs, NPOs and HVGs, the responsibility for ensuring that the recommendations identified in the NRA report are being implemented lies with the relevant regulators.

In general, it was found that the CAs are carrying out their respective functions at an appreciable level. Areas that require addressing included resources and expertise, the appropriate collection of statistical data in order to be able to assess effectiveness, their handling of Mutual Legal Assistance and other international cooperation requests, and their overall compliance with international standards. With respect to the LEAs, it was found that much room exists for these agencies to improve their staffing resources, staff training and understanding of ML/TF, as well as their overall ML/TF law enforcement capability. The LEAs could also benefit from having and adhering to policies against political and other interference and improve their inter-agency cooperation and handling of ML/TF investigations.

Emanating from the assessment was the need to establish a National Risk Assessment Implementation Unit (“the Unit”) to undertake and ensure effective implementation of the recommendations contained in the NRA Report.

This Unit was established in March 2017 and has been given the responsibility to follow up on the implementation of all recommendations noted in the 2016 NRA Report relative to the Government and quasi-government agencies, and to ensure the Territory’s readiness to undergo its Fourth Round Mutual Evaluation by the Caribbean Financial Action Task Force.

Since completion of the NRA exercise the agencies assessed have been striving towards addressing their deficiencies through the development of Action Plans outlining how they intend to do so. These Action Plans were required to be submitted to the Unit, and updated on a periodic basis. The Unit has used these Action Plans as a measure to track the progress of each agency. In addition, the Unit conducted on-site reviews to determine the level and effectiveness of implementation of the relevant recommendations, and whether each agency had effectively addressed its risks. These reviews were scheduled to be completed by September 2017. Unfortunately, due to the passage of Hurricanes Irma and Maria in September, 2017 there was some delay in completing these reviews prior to December 2017.

Improvements in AML/CFT Regime since NRA

The Virgin Islands has made notable progress in implementing the recommendations of the NRA and improving the effectiveness of its AML/CFT regime to combat ML, TF and related financial crimes. Progress has been made across relevant agencies and specifically the CAs and LEAs. The Implementation Unit has worked alongside each agency to identify and determine progress, and such progress has been verified by the Unit. This report provides a synopsis of the most significant improvements to date since the finalisation of the NRA Report. The findings of the Unit should be read as an addendum to the *British Virgin Islands: National Risk Assessment of Money Laundering and Terrorist Financing* Report of 3 July, 2017.

Review of Agencies

1. Governor's Office

Risks identified, including inadequate recordkeeping, staff training in AML/CFT, and security breaches, have been substantially addressed by the Governor's Office (GO). Updated Standard Operating Procedures for matters of Extradition, MLA, issuing of Licences for persons wishing to conduct business for, or on behalf of a listed person who is subject to sanctions, and publication of Sanctions Orders have been developed and implemented. These measures have helped to streamline processes, provide proper guidance, reduce timeframes and increase efficiency for dealing with such matters. All of the issues with regard to security highlighted in the NRA Report have been fully addressed. Furthermore, staff have received additional AML/CFT training.

2. Attorney General's Chambers (AGC)

The AGC has developed a Standard Operating Procedural Manual for processing both MLA and extradition requests. Additionally, an action plan, including a proposal for an electronic database of extradition records and the creation of an MLA Unit has been developed and will be implemented. This Plan would become the structure for successfully implementing an effective ML/TF/PF control system within the AGC. Once implemented this will help to streamline the relevant processes and provide a guide for proper administration of these matters.

In terms of improving the AGC's ability to assist with MLA requests, subsidiary legislation was passed to remove specific designations of countries in the DTOA, PCCA, and CJ(IC)A. These amendments allow AGC to provide assistance to a wider range of countries. With respect to security and confidentiality, the issues highlighted in the NRA Report have been fully addressed including improvements to the electronic records system. This has provided greater security and efficiency in the handling of records within the AGC.

3. Financial Investigation Agency (FIA)

The FIA continues to focus on its primary responsibilities of receiving, analysing and investigating SARs/STRs; and the supervision of the NPO and DNFBP sectors. Increased registrations have been noted in relation to supervised entities, and additional compliance inspections. Collaborative public awareness training with respect to the quality of SAR filings has also been conducted by the FIA for Money Services Businesses and the Bankers Association.

The FIA has fulfilled the FATF requirements and Egmont rules in relation to information security by ensuring that there is a distinct physical separation between its Compliance Unit and its Financial Investigations Unit which is responsible for the processing of SARs/STRs. It has also bolstered its Financial Investigations Unit by increasing the number of analysts assigned to receive and analyse SARs/STRs. This should aid in reducing the current response time. Additionally, Guidance Notes on SAR/STR reporting have been produced to assist FIs and DNFBPs in understanding how to properly file SARs/STRs. This should further increase the quality of SARs/STRs and provide better information to the FIA from which it can produce intelligence reports that lead to prosecutions and convictions.

In terms of its supervisory responsibilities, the FIA has developed an NPO and DNFBP Procedures and Assessment Guide which now serves as its risk assessment framework manual for supervised entities. Draft Guidance Notes on AML/CFT compliance for DNFBPs and NPOs have also been developed and are in the process of being implemented. These Guidance Notes would help the entities under the FIA's supervisory charge to better understand their obligations with respect to AML/CFT.

4. Financial Services Commission (FSC)

The FSC has conducted a benchmarking exercise against the FATF Recommendations and Methodology in an effort to ensure that the AML/CFT regime fully satisfies the Recommendations, and where necessary changes will be made. The FSC is developing relevant amendments to satisfy any identified shortcomings with a view to making legislative changes by year's end.

In relation to its supervisory responsibilities, the FSC's *Risk Based Approach to Supervision* document was approved by its Board on January 10, 2017. This document outlines how to risk assess the entities the FSC supervises. The Risk Based Framework allows the FSC to take a more targeted approach to supervision and to improve its effectiveness as a supervisor. The FSC has also allocated more staff to compliance inspections and enforcement matters. Hence, statistics showed improvement in the time taken to conduct compliance inspections.

With respect to enforcement, the FSC has put measures in place to sanction its licensees for non-compliance with CDD and other AML/CFT related measures. This includes a process of escalating penalties for infractions based on severity, which is in line with international standards. Penalties range from simple warnings to monetary penalties and later to revocation of approvals. The FSC has also done a comprehensive assessment of the effectiveness and impact of administrative penalties imposed. This is geared towards ensuring that the penalties are proportionate and dissuasive.

5. Magistrate's Court (MC)

The Magistrate's Court has developed an action plan and has taken steps to address deficiencies. Of significant importance is the overarching effort to address its human resource needs by conducting a human resource needs assessment. Once this assessment has been agreed and the recommendations implemented the MC should see significant increases in efficiency. In the interim, the MC has proactively attempted to increase its court reporting staff through internal transfer of staff from the High Court where appropriate. It is hoped that this will assist in reducing the time taken to produce transcripts of court proceedings.

In relation to proper records management, including electronic data management, accessibility, security and timely updating of records, a new system was installed at the OECS courts system headquarters in St. Lucia which the MC is connected to that addresses most vulnerabilities in the current records management system. This system should help to facilitate the proper and more efficient tracking and management of all court records.

6. Immigration Department (ID)

Understanding its role in the fight against ML, TF and other related crimes including smuggling of migrants, human trafficking and border protection, the ID has conducted a full human resources assessment to determine optimal staffing levels, and is taking steps to fill the identified gaps in its human resources.

The ID has also been able to demonstrate a greater level of effective implementation of its AML/CFT obligations through greater use of inter-agency agreements (MoUs), including a shiprider agreement with USVI counterparts and with RVIPF. These agreements have allowed for greater effectiveness in border protection as the ID has been involved in various joint operations with other LEAs.

The ID has made strides in improving its records management systems, and its 2017 strategic plan included improvements to both administrative filing and procedures, and processing of immigration applications and procedures. An Office Procedures Manual has also been produced to provide clear guidance on how to carry out the various functions within the Department. These improvements should bring about greater efficiency within the ID.

7. Her Majesty's Customs (HMC)

HMC is primarily concerned with contraband smuggling, smuggling of migrants, and illegal movement of cash. HMC has developed a cash declaration and seizure policy for dealing with incoming and outgoing passengers once undeclared cash is detected. A "Bulk Cash Movement" log records both incoming and outgoing passengers found traveling with bulk cash. HMC also maintains a Report of International Transportation of Currency and Monetary Instruments.

HMC continues to be proactive in cooperating with other agencies and has signed various MOUs with other LEAs. HMC is a member of the Committee of Law Enforcement Agencies (CLEA), which has been established to assist law enforcement agencies in overcoming challenges faced in their interrelated functions.

8. Royal Virgin Islands Police Force (RVIPF)

The RVIPF is primarily concerned with monitoring and investigating all crimes, including predicate offences to ML, as well as ML, TF and PF related crimes. Cooperation, both locally and internationally is key to the RVIPF being able to execute its mandate.

The RVIPF has developed an action plan with established timelines to address the deficiencies and implement changes. However, the challenges faced by the RVIPF were compounded by the devastation caused by the 2017 Hurricanes which caused a number of

their priorities to shift. Since that time their focus has been on ensuring predicate offences are adequately identified and arrests made. This in itself has been identified by the RVIPF as the first step in pursuing ML convictions. The RVIPF's action plan continues to be implemented as demonstrated by it being able to develop procedures for cash seizures, which should help to ensure the proper handling and processing of cash as evidence, and which would ensure transparency and prosecutions.

9. Office of the Director of Prosecutions (ODPP)

The ODPP plays a pivotal role in the prosecution of persons charged with predicate offences and those offences related to ML/TF. The ODPP has developed an action plan and has demonstrated progress in addressing its deficiencies. For example, the ODPP, in consultation with the RVIPF, has implemented a "vetting form" which outlines the broad areas that the RVIPF should take into account when filing charges to ensure that all proper procedures are followed. This form is used to assist the ODPP in ensuring proper charges are filed and sufficient evidence is in place to allow for a greater probability of securing a conviction. This process should also ensure that charges are more quickly and appropriately brought which should lead to an increased rate of satisfactory prosecutions.

The ODPP has also developed internal procedures relating to staff training including the need to involve other law enforcement agencies. In that regard, the ODPP has engaged in internal training and has involved the RVIPF in training sessions relative to case file preparation. Additionally, the DPP currently chairs the Committee of Law Enforcement Agencies (CLEA), which has been established to assist law enforcement agencies in overcoming challenges faced in their interrelated functions including investigations, prosecutions and convictions for money laundering, terrorism financing and related financial crimes. The meetings have proved to be a useful medium to ensure cooperation amongst local LEAs.

10. BVI Ports Authority (BVIPA)

BVIPA is primarily concerned with contraband smuggling, smuggling of migrants, and illegal movement of cash. The BVIPA has always been intensely security driven. Its membership in regional organisations which specialize in providing industry best practice, coupled with

sufficient monitoring by these organisations, has assisted the BVIPA's positive security posture, and as a result safety measures have been greatly enhanced. These organisations have also assisted in the review and testing of policies and procedures of port security.

Additionally, the BVIPA's Operational Manual is being finalised. The BVIPA has also made progress in setting up internal structures to address various vulnerabilities, including the development of a risk rating system for security breaches, as well as providing various training sessions for staff.

11. BVI Airports Authority (BVIAA)

BVIAA has implemented measures which have improved its physical security. A number of procedures have also been developed and implemented to assist the BVIAA in implementing its mandate. These procedures includes an Airport Security Program Manual, ("ASP"), which includes procedures of how breaches should be handled, including referring where necessary to the appropriate LEA. Additionally, procedures have been drafted for the detecting of prohibited items, but this is still a work in progress.

Inter-agency cooperation between BVIAA and other LEAs is vital to successfully detect and prosecute ML/TF related matters. Such cooperation has been enhanced in part with the creation of committees for inter-agency cooperation and the signing of various MOU between agencies.

Conclusion

The Virgin Islands continues to make progress on the implementation of the recommendations of the NRA Report with a view to addressing all of the identified deficiencies before its scheduled Mutual Evaluation. Progress of these agencies' ability to implement the recommendations and address their identified deficiencies will continue to be monitored by the Unit. This monitoring will include a focused assessment of each agency to determine how well they have each implemented their relevant recommendations. Upon completion of this assessment the Unit will generate a further report on the Virgin Islands' progress, the status of the implementations in respect of each agency, and the level of effectiveness of each agency. This should culminate in an updated NRA for the Virgin Islands.

